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Thesis Title

Organised networks in Serbia: Crime control and state capture in a country undergoing democratic transition and EU accession

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Abstract

This thesis explores whether the extent of criminal networks in Serbia and their impact upon the country as it undergoes EU accession indicates a phenomenon that has been termed ‘state capture’. Through an analysis of Serbia’s stalled democratic transition and its association with the EU accession process, conditions for state capture in the field of crime control are found to have been established. Given recurrent references in international monitoring reports to organised crime as one of the key obstacles to accession, the impact of organised criminal networks on the crime control system is examined to understand their potential to act as captors. For the purpose of this exploration, the effectiveness of state institutions responsible for suppression of organised crime and drug trafficking, conceptualised as a state response network, is investigated. The findings of this research identified particular opportunities and mechanisms of capture, which involve systemic gaps or structural holes in the network of state institutions responsible for crime control. The positioning of these systemic loopholes creates points of arbitrage through a symbiosis of state actors, corruption and criminal networks, which hinders effective suppression of organized crime and eventually leads to state capture.

The findings are based on a comprehensive review of official reports, international assessments and elite interviews with a sample of 65 state officials and civil society. Two methodological approaches were combined. First, a content analysis was used to identify the key issues hindering the effectiveness of crime control in this field. The identified issues were subsequently analysed using Social Network Analysis to increase the validity of the findings through quantitative assessment. Social network analysis was implemented in an innovative manner to map the state response network and quantitatively detect potential loopholes in its functioning, not all of which had been fully recognised in their extent or form in the first, qualitative, approach. On the basis of these analyses, this research proposes that state capture can be defined as a set of seemingly inexplicable system deficiencies involving patterns of structural omissions and covert practices that have the potential to disrupt legitimate institutional behaviour and exert influence by using corruption and other forms of personal linkage and exchange.

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Chapter I Introduction

"A phantom ship that sails in the sea ... helpless but still alive"

...A judge, about the state of affairs in fighting organised crime in Serbia...

The process of democratic transition has been ongoing in the Western Balkans for almost two decades. The haste of transition varied in different states, but has overall resulted in approximation to the European Union. In pursuing the EU membership, the Western Balkan states have initiated comprehensive reforms which are closely monitored by the Member States.

As one of the Western Balkan countries, Serbia has also been implementing extensive reforms associated with EU accession for a number of years, which resulted in the status of an EU candidate country. Nevertheless, despite broad legislative and institutional reforms, the velocity of its progress towards becoming the EU member state remains slow. Various factors hindering EU accession have been cited in the literature to explain this scarce progress, but some of those factors appear to be persistent throughout a number of years.

This thesis endeavours to explore the causes of insufficient progress in the fight against organised crime, as one of the most severe factors continuously referred to as a key obstacle to EU accession, lately labelled 'state capture'. In view of the evidence that Serbia lies on the Balkan route, as one of the key paths in international drug trafficking, reference to enduring organised crime remains a concern. Moreover, taking into account the severity of consequences of organised crime in Serbia, such as the murder of Prime minister in 2003, the lack of progress in the fight against organised crime is an issue of concern at the national level as well.

Contemporary organized crime literature commonly comes to an understanding that these links between the legitimate and illegal actors entail an inherent feature of organized crime.

To this end, this complex alliance between the ‘underworld’ and the ‘upperworld’ i.e. the partnership between the state actors (law enforcement, politics and business) and criminal actors is perceived in this thesis as an environment that has the potential to enable the endurance of criminal networks despite suppression efforts. As it will be discussed, such partnership was established during the process of transition and appears to have sustained.

Concurrently, the problem of state capture is frequently referred to in the literature and international documents as an important obstacle to EU accession. The European Commission recently stated that the Western Balkan countries “*show clear elements of state capture, including links with organized crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests*” (COM 2018, 65).

Even though the phenomenon of state capture is recurrently used in discussions on Western Balkans, there is insufficient literature focusing on comprehensive understanding of its nature and roots. The understanding of state capture is usually associated with specific situation of the countries analysed, but its key ingredients are rarely discussed, except in the field of economics. Perry and Keil (2018, p.2) note there is a lack of “robust literature on state capture in the region”. Given that the structure of organised crime involves “...a concentration of illegal power in society that can significantly influence political, economic and social life” (Williams, 2002, p.165), discussing state capture without this element would be unreliable.

As it will be thoroughly discussed in the literature review, contemporary analyses of the Western Balkans often use the concept of state capture to describe different interconnected phenomena of corruption, organised crime and patronage based systems. As Popivikij (2018) and Weber (2017) notice, the term has become a buzzword or a “catchphrase” used by analysts, academics and eventually the media. However, there is still limited empirical support for the concept of state capture. This may be attributed to the lack of measures and objective indicators and significant fragmentation of empirical tools, resulting in decreased possibilities of replication and statistical validation of empirical network patterns.

In discussing whether the concept of state capture represents an added value in assessing the progress of the Western Balkan countries’ in EU integration, Priebe (2018) argues that it is still not unambiguously clear what this concept implies and how can it be clearly

differentiated from corruption or the concept of “failed states”. Acknowledging that these phenomena may be inter-related, Priebe maintains that the concept of state capture points to “systemic” shortcomings in the functioning of the state. Different aspects of such shortcomings in the system of crime control in Serbia are in the focus of this research, as they represent serious obstacles in the accession process.

Following this line of opinion, this research attempts to add to contemporary literature by exploring organised crime related state capture in the field of crime control in Serbia, as one of the Western Balkan countries that aspires to join the EU. In the course of addressing this issue, I make the case that certain social and political conditions in Serbia have contributed to the development of strong ties between organised crime and the state, thus creating systemic deficiencies which hinder effective crime suppression. Such conclusions rely on strong indications of structural and social difficulties in Serbia, common for other transitional states to a similar extent.

As will be explained, in an effort to assess the potential ‘state capture’, this research takes an in-depth look at one specific country, as a case study, through examination of the effectiveness of efforts of the institutions as relevant actors in crime suppression.

This research seeks to improve our knowledge of the state capture by focusing on one of the elements of the state i.e. crime control system. In doing so, it examines the obstacles to successful suppression of organised crime and explores whether the state institutions’ functioning contributes to sustainability of organised crime. This is scrutinized with a view to stalled transition and EU accession of Serbia, given that efficient suppression of organised crime is one of the key factors related to accession.

By state institutions’ functioning, this research implies the activities of the institutions competent for suppressing organised crime and drug trafficking i.e. the crime control system and the effects of these activities. Hence, the phenomenon of state capture is explored as a result of embeddedness of organised criminal networks in a country undergoing EU accession. This is performed through examination of the effectiveness of state institutions in suppressing organised crime and drug trafficking in an attempt to identify potential structural holes that hinder the results of such efforts.

Aiming to bridge interdisciplinary literature on criminal networks, accession and state capture, this research adopts a network approach, to detect loopholes in which criminal networks manage to take benefit from the settings that lead to state capture. Identification of such loopholes is performed on the basis of official data and interviews, enabling deeper insight of the mechanisms that facilitate criminal networks operations and dynamics of state capture in the field of crime control. In addition, identification of the structural holes in the crime control system through a network based analysis introduces objective measurable indicators and increases the chances of replication and statistical validation of empirical network patterns.

Notwithstanding several studies in relatively similar fields (see Chapter V), the literature has not offered a transferable model that can be used to understand and compare the effectiveness of actions undertaken by the state to suppress organised crime. The structure of these empirical network patterns may provide a clearer picture of what the deficiencies of the system really are in practice. This raises questions related to governance and crime control and the dynamics between state governance and the impact of crime. Hence, implementation of a network approach may provide a more complex conceptualization of state capture.

Despite these conceptual differences, it appears that analogous problems related to EU accession progress are often identified in various countries in the region. There is an impression that the extent of these similar problems has the capacity to impact the institutions' functioning, thus leading to conclusions of state capture. Given that the processes of economic and democratic transition in the region had been widely researched, as well as post-conflict developments, it seems that there is a gap left in the understanding of the unresolved structural problems preventing finalisation of democratic consolidation and creating long-term consequences. The relations between these processes and unresolved issues accompanying them have been less examined, leaving a gap in the literature and potentially decreasing the importance of the perpetual problems.

At the same time, the debate about the effects of EU conditionality approach towards the candidate countries show that its successfulness might have decreased. Questions arise whether the EU still has the power to set the conditions, or it has also given up or neglected the importance of its values? There is a perception that the EU has somewhat ignored these

aspects of states' functioning which has over time resulted in slow progress or 'relapse' of the stakeholders' behaviour in the candidate countries. To address these enduring issues, the EU might need to develop an innovative, issue specific approach to eliminate the roots of an accumulation of serious shortcomings.

This thesis is structured as follows. Chapter I involves an introductory part, familiarising the reader with the focus of the research. Chapter II lays out the research background, including the main organized crime conceptions and the implications of this phenomenon in Serbia. Chapter III entails a comprehensive literature review, consisted of three sections. Initially, it offers a review of the current knowledge on democratic transition and discusses its association with the EU accession in the Serbian context. It then explains the framework of crime control in Serbia through a review of the network of state institutions responsible for organized crime suppression. The final section addresses the phenomenon of state capture and indications of its presence in Serbia, which have stimulated the main exploration in this research.

Chapter IV focuses on methodology utilised in this research. It involves the conceptualisation of the research and key research questions. The combination of content analysis as a qualitative approach and Social Network Analysis as an additional methodological approach is addressed. The key analytic procedures are described. Finally, ethical considerations are addressed.

Chapter V entails the key findings and discussion on the four sub-questions. It is divided into two parts, separating the two methodological approaches. The first part includes the results of the content analysis. The second part is consisted of the results of the Social Network Analysis. It addresses each of the questions in detail, including interview excerpts and conclusions arising from the analysis.

Chapter VI summarises the responses to the four sub-questions and provides response to the main research question. It demonstrates state capture mechanisms arising from the loopholes of the crime control system, which have the capacity to enable the endurance of organised criminal networks in a country undergoing EU accession.

This is followed by Chapter VII which entails the main conclusions, contributions and suggestions for further research.

Chapter II Research background – the contextual environment for organised crime in Serbia

2.1. Introduction

This Chapter provides the basic background information for this research i.e. the phenomenon of organised crime and its particularities in Serbia. In addition, given that this research explores organised crime related state capture in the field of crime control in Serbia, it is important to understand the contextual environment within which capture potentially takes place. Depicting organised crime in Serbia may be a key to understanding its interaction with the state.

Initially, an overview of the main conceptualizations of organized crime and the conditions under which transnational and national criminal networks are developed and sustained is presented. Subsequently, the causes of the long standing problem of organized crime in Serbia are explored. This is followed by a brief review of drug trafficking as the key source of income of criminal networks in Serbia.

2.2. Organised crime – a global phenomenon

2.2.1. The crime problem: global policy on the subject of organised crime and trafficking

The United Nations Sustainable Development Goals represent a historical landmark in the global awareness that criminal activities are not only detrimental to their direct victims but they represent a serious threat to countries, communities and their legitimate governments (United Nations, 2015). This awareness has been supported by a broad corpus of research worldwide that has shown the negative impact of criminal activities on sustainable development. One of the Sustainable Development Goals indicates that serious crime, both violent and nonviolent, needs to be addressed as it threatens peace, security, justice and the rule of law at large. According to the Global Initiative against Transnational Organized Crime

(2015), the international development community has delayed in enforcing an adequate response to address the issue of organised crime.

Serious and organised crime in the EU involves a wide range of criminal activities, generating enormous profits. Data provided by the EU serious and organised crime threat assessment (SOCTA, 2017) indicate that more than 5,000 organized criminal groups operating on an international level are currently under investigation in the EU, highlighting the substantial impact of serious and organised crime on the EU. SOCTA 2017 also notes that international organized criminal groups are typically active in more than three countries (70%).

As proposed by Schultze-Kraft (2016), organised crime promotes “non-development” in the fields of: a) economy, by extracting proceeds from illicit activities from the legitimate economy, and distorting lawful markets; b) governance, by involving state and non-state in criminal activities, thus transforming economic, political and social institutions; c) society, by undermining social cohesion through emergence of criminal subcultures, and d) security, by endangering security of citizens and states. This is more evident in contexts where crime is violent and has a direct impact on personal security and rule of law, as demonstrated by experiences of recent decades in a number of countries in Latin America, Africa and Asia, which have indicated that violent crime is closely associated with weak rule of law, thus causing a negative impact on economic and development performance of countries and communities (World Bank, 2011; UNODC, 2014; UNDP, 2013). Although there is no general consensus on the concept of organised crime, there is an agreement among scholars that it is a distinct type of criminal offence, an “extremely dangerous, *sui generis* and complex form of delinquent behaviour, which undermines the foundations of modern state and the main principles of democratic system” (Grubac, 2008). Grubac argues that organized crime is established as a system parallel to the state, and it can be marked as an association operating outside control of the public and the government.

Most attempts to measure organised crime are made by governments and law enforcement agencies, rather than scholars (von Lampe, 2004). According to Savona, Dugato, and Garofalo (2013), measurement challenges include the conceptual difficulty to precisely define the

object of research through operationally feasible terms and the poor availability of objective data, given the hidden nature of actors and activities of interest. Organized criminal groups vary in terms of service and the activities they engage in, concurrently reflecting the societies, cultures and value systems they originate from. The EU serious and organised crime threat assessment (SOCTA, 2017) articulates that:

organized criminal groups operate in a criminal economy dictated by the laws of supply and demand and are favoured by social tolerance for certain types of crime, such as the trade in counterfeit goods and specific frauds against public authorities or large companies.

(SOCTA, 2017, p13)

It may be expected that these factors, along with the social context, flexibility of criminal groups and global development, will continue to shape the organised crime landscape, resulting in evasion of law enforcement efforts and identification of new criminal opportunities. As stated in SOCTA (2017), given that societies across Europe become increasingly interconnected and internationalised, organised crime is also more connected and internationally active than ever before. Simultaneously, scholars argue that the study of organized crime is still in its infant stages (von Lampe, 2016) and has not yet yielded a cohesive and cumulative body of knowledge (Schultze-Kraft, 2016).

2.2.2. The concept of organized crime: definitions and the question of organisation

The reference to the concept of organized crime brings into question the actual phenomena described by this term. The importance of defining the phenomenon of organized crime lies in the fact that it represents a serious threat to social order, rule of law, institutions and the economy, which delineates it from criminal offences perpetrated by individual offenders.

A number of formal or legal definitions exist worldwide, mainly since the international organizations utilise a variety of classifications of organized crime. The UN Convention

against Transnational Organized Crime (UNTOC) does not define organized crime *per se* (or transnational organized crime) but it provides a definition of organized criminal group as a 'structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit' (cfr. UNTOC, Art. 2 - a).

This definition is considered a well framework for describing the phenomenon of organized crime and sufficiently adaptable to diverse conditions in states worldwide. Nevertheless, critiques refer to is over generalization, as it does not provide sufficient details which could distinguish different groups through their *modus operandi*, nature, and scope of activities. To address these shortcomings, an advanced analytical framework for defining the diversity of existing organized criminal groups was proposed by Bisogno (2016). The proposed framework would include additional determinants, such as: a) local/national/international group, b) hierarchical/network model of group functioning, c) types of illegal activities undertaken by the group: drugs/firearms/human trafficking, d) modus operandi: use of violence and/or intimidation, corruption of officials, and e) affiliation background: geographical origin/family/clan/nationality. Hence, the concept of organized crime is usually not defined in terms of criminal offences with specific characteristics - but rather in terms of the type of offender i.e. a group that is perpetrating it.

Moreover, in terms of the *acquis*, Article 1 of the EU Framework Decision on the Fight against Organised Crime defines a criminal organisation as: a structured association, established over a period of time, of more than two persons acting together with a view to committing offences punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit (Council of the European Union, 2008). Similarly, a review of academic research indicates that the topic of organized crime has always been a challenging issue for academics and criminal justice practitioners, possibly due to its secrecy. Despite numerous debates, there is no single definition of organized crime in criminology and criminal

procedural law. In an effort to summarize these diverse definitions, Von Lampe (2015) identified over 180 different definitions proposed by scholars.

A number of authors proposed conceptual definition of organized crime, usually endeavouring to define the key characteristics of this concept. Abadinsky (1988) defined organized crime as a non-ideological activity, organized on a hierarchical basis including a large number of (relatively replaceable) persons in a close interaction, inclined to use violence and bribery, who attempt to eliminate competition and realize monopoly over certain activities. This term was also described as execution of serious crimes, by at least three interrelated offenders united in a criminal association, aiming to acquire financial gain and social power, through secret activities and use of violence, intimidation or corruption, without respecting international borders (Sačić, 1997). Despite the diversity, the proposed definitions offer certain constituent elements of the concept of organized crime, such as: it is a lasting organization; it rationally works for profit; involves the use of force or threats, and utilizes corruption to preserve immunity from law enforcement (Albanese, 2000).

In order to characterize a certain criminal enterprise as an organized criminal group, a number of conditions have been proposed in the literature. Nevertheless, several conditions prevail among diverse authors (Albanese, 2000; Finckenauer, 2005; Hagan, 2006;), as classified by Bisogno (2015) including: a) group structure: hierarchical or network based, members characteristics such as ethnic/geographical background, family relationship, b) group's modus operandi: use of violence or intimidation (traditionally), corruption, geographical territory where they operate, exercise of social or political control, lack of interaction or camouflage (Sallusti, 2014), c) group purpose: variety of illegal activities, illegal trafficking, either of goods or services, and d) group continuity: existence of the group beyond individual members. Varese (2010) has noted that, since the 1990s, an increasing number of definitions of organised crime have started to include the term 'network'. Two different perspectives have been identified in proposed definitions of networks creating a long-standing source of ambiguity and misunderstanding among scholars and practitioners (Morselli, 2009, Von Lampe, 2009, Varese, 2010).

In spite of the differences in proposed definitions, the concept of organized crime is widely used in reference to different phenomena, ranging from mafia-type organizations to criminal enterprises perpetrating financial crimes (Varese 2010). Previous investigations on the structure of organized crime groups have usually focused on traditional hierarchical forms (Cressey, 1972, Boskovic, 1998). These principally included the analysis of Italian, Colombian or Mexican organized crime groups and other similar organizations worldwide.

Nevertheless, it appears that the traditional perception of hierarchically structured criminal groups has been challenged. Modern conceptualizations support that traditional structure of organized crime groups such as the top-down hierarchy of mafia, has been replaced by business-like structures that operate as loosely-organized networks of cells (Finckenauer, 2005; Morseli, 2009; Paoli and Fijanoau, 2004; Shelley, 2005; Varese, 2010). Contemporary research on organized crime characterizes many organizations as inherently complex, yet there are major inconsistencies among authors in comprehending this complexity. These inconsistencies mainly arise from the fact that there is no single global criminal organization (Galeotti, 2004), rather there are numerous separate organizations operating worldwide in a variety of illegal markets, such as drug (Shelley, 2005; Morselli, 2006), human (Bjelajac, 2003; Kleemans and van de Bunt, 2003; Zhang and Chin, 2002), weapons trafficking (Castells, 2000; Paoli, 2004) and the like. This illegal trade involves different actors in a range of countries, who appear to function similarly to legal business organizations. Transnational criminal networks also appear to be major beneficiaries of globalization and the use of IT in international financial exchange, since these processes allow free transfer of individuals, goods and finances (Shelley, 2002; Williams, 2001). There are important indicators suggesting that the majority of powerful organised crime groups are far more cellular in structure, with less obvious chains of command and numerous loose affiliations that are formed or broken on a regular basis and interrelated through diverse transnational networks (Europol, 2013; Williams, 2001 Costa, 2010).

The evidence suggesting that criminal groups nowadays function as networks could be perceived as a description of *modus operandi* at the external level, while their internal structure may still remain hierarchical. For instance, a systematic review of previous studies

using social network analysis by Bichler, Malm and Cooper (2017) examined 34 studies that describe the structure of 54 illicit drug trafficking networks. One of the results indicated that “drug trafficking networks are more apt to be sparse with central individuals connecting the group” (Bichler, Malm and Cooper, 2017, p. 15). The review therefore confirmed that there are individuals who are ‘central players’ i.e. those with important roles who are identifiable through centrality analysis, while diverse other ‘contacts’ are established for the market purposes (such as importing drugs, money laundering). Concurrently, the cited review found that in the context of the market operations of criminal groups, cooperation links between different groups are loose.

Some scholars conceptualize networks as a form of organisation which is “pervasive and ubiquitous” (Williams, 2001, p.64) hence hierarchy-free, whereas others (Borgatti et al. 2013; Robins, 2015; Wasserman and Faust, 1994) support that networks are based on the presence of two constitutive sets of elements: actors (nodes) and relationships (ties). One of the initial studies utilizing the perspective of organised crime groups as social networks was focused on a threat analysis of organised crime in the Netherlands (Fijnaut, et al., 1998). The 'Fijnaut Group' conducted the study by analysing a large amount of confidential police intelligence reports nationwide, and offered an important critique of the organized crime groups as semi-stable criminal structures with determined leaders. The results indicated the fluidity of organised crime, the importance of improvisation and the fact that illegal drug trade in particular allows rapid promotion of individuals on the basis of a few successful drug imports. The study emphasized the importance of "criminal cooperatives" rather than 'organisations', or 'groups', implying fluid network relations with occasional 'nodes' as the main form of criminal enterprise functioning. Other studies on criminal networks reported similar findings (Garay Salamanca, Salcedo-Albarán, and de León-Beltrán, 2010; Garay and Villaveces 2009, van Duyne, 2003).

Considerations of the types of structure of organised crime groups are particularly relevant for the field of crime control, given the need to develop effective suppression policies. Williams (2001) supported that networks have greater capacity to exploit new modes of communication and international collaboration than state actors whose activities are based on

hierarchical models. Research has confirmed that fluid network structure provides criminal groups with numerous advantages including adaptability, wide-scale recruitment, resilience, as well as capacity for quick learning and innovation (Ayling, 2009; Shelley, 2005). This type of organization provides greater efficiency, organizational flexibility and hinders law enforcement efforts to identify and position group members (Shelley and Picarelli, 2005). Furthermore, networks' resilience refers to the system's capacity to absorb disturbance and reorganize while undergoing change so to preserve fundamentally the same structure, functions and identity (Bichler, Malm and Cooper, 2017; Walker et al., 2004).

Elusive quality of networks comes from their ability to increase market efficiency, coexist within hierarchical structures or without them and be modelled in different ways (Williams, 2001). Moreover, criminal networks lack specific ideology and often use political corruption as a tool for their ends, infiltrating in this way into the political system (Morselli and Giguere, 2006; Shelley, 2005). Organised crime constantly uses corruption to infiltrate into public sector through bribery, conflicts of interest, trading in influence and collusion in order to facilitate criminal activities (SOCTA, 2017). In this way, organised crime groups are able to invest major profits in the legitimate economy, as well as into their own criminal enterprises, ensuring business continuity and expansion. This is becoming increasingly dangerous, given that involvement in serious and organised crime may allow terrorist groups to generate funds to finance terrorism-related activities (SOCTA, 2017).

In terms of crime control, the resilience perspective suggests that for combating illicit networks, both strategic and operational pathways are necessary (Ayling, 2009). This would imply intelligence gathering based on a more vigilant consideration of potential unintended links, as well as operational activities that would target network's structure vulnerabilities in order to reduce resilience. However, the inherent secrecy, covertness and security issues may hinder the efficiency of communication and information gathering. Moreover, certain networks' advantages may concurrently become their limitations, i.e. increased recruitment based on informal ties increases potential impact, but may also reduce mutual trust among the actors, hinder internal security and intensify conflicts. This is associated with the lack of formal dispute resolution mechanisms that often leads to violence, creating a need for an

“efficiency/security tradeoffs” (Morselli, Giguere, and Petit, 2007). Hence, comprehending the key characteristics of criminal networks may assist in their identification and mapping. However, an in-depth understanding of their emergence and modes of networking represents a condition *sine qua non* to adequately and effectively address their impact on the society.

There is also evidence about relationships between different crime types, as reports on organized crime commonly note that involvement of individuals in criminal network is often associated with their multiple roles in different types of criminal activities (UNODC, 2011, 2017; ASTRA, 2011; SOCTA, 2017). Poly-criminality trends reported by SOCTA (2017) indicate that 45% of the organised criminal groups are involved in more than one criminal activity. Apparently, investigations in practice often lead to identification of multiple criminal offences, for instance, it is frequently reported by law enforcement agencies that arrests associated with drug trafficking led to discovery of human trafficking as well. Similarly, a study by Porobic (2010) found that arms smuggling in Southeast Europe is consistently linked to drugs trafficking. The author underlined that police reports reveal how police operations aimed at organized crime groups often lead to seizures of large quantities of both drugs and arms. Similar findings have been reported in earlier studies on organized crime in Southeast European region (Anastasijevic, 2006). Recently, many organised criminal groups have expanded their crime portfolio in response to the sustained high level of demand for smuggling services during the migration crisis. Confirmations of multiple linkages among individuals and their activities in criminal networks indicate that assumptions of specialisation are perhaps no longer valid.

Despite various perceptions regarding the definitions or particular structure, the phenomenon of organized crime commonly involves a variety of illicit activities (drugs/migrants/arms smuggling, human trafficking, extortion, mafia executions, terrorism financing), as well as intensive involvement of ‘white collar criminals’ i.e. state actors enabling its functioning. Given the evidenced adaptability to changes in the environment and the speed of adjusting modus operandi, organised crime remains of the main challenges for crime control systems worldwide. However, depending on state features, such as the quality, independence and integrity of the institutions safeguarding the rule of law, including police services and the

judiciary, the effectiveness in addressing the problem of organised crime significantly differs across countries. This research explores how effectively this challenge is addressed in Serbia.

2.3. Organized crime - key features in Serbia

2.3.1. A brief history of Serbia

With an aim to understand the socio-political context of the examined country, a brief historical review of the modern Serbian state is provided. In the period from 1945 to 1990, Serbia was a republic within the Socialist Federative Republic of Yugoslavia (hereinafter: Yugoslavia), as an entity of six republics. In 1990, the period of the dissolution of Yugoslavia initiated by various political events, to reach its peak in 1991 by the declarations of independence of Slovenia (25th June), Macedonia (25th September) and Croatia (8th October). In 1992, Bosnia and Herzegovina declare independence, which was followed by a creation of a state between Serbia and Montenegro in April 1992 under the name Federal Republic of Yugoslavia.

The death of Yugoslavia was followed by a 10-day war in Slovenia and devastating civil wars in Croatia and Bosnia during the period between 1991 and 1995. Federal Republic of Yugoslavia was placed under a United Nations embargo which lasted until December 1995. The period of embargo was accompanied by the hyperinflation, the third highest inflation in the world. The Kosovo War (1998–1999) resulted in the new sanctions by the UN, the EU and the United States, which were lifted in January 2001. In 1999 NATO was bombing Yugoslavia for 78 days. Following the overthrow of the president Slobodan Milosevic on October 5th 2000, Yugoslavia initiated democratic transition. Prime Minister Djindjic was murdered in 2003 at the entrance of the Government. Members of organised criminal group and members of security service were convicted for this murder. In 2006, the country was dissolved by the declaration of independence of Montenegro. This resulted in declaration of Serbia as an independent state.

Serbia signed the Stabilisation and Association Agreement in 2007 and filed an official request for membership in the EU in 2009. In 2012, Serbia obtained an official status of a candidate country. Negotiations with the EU on the accession of Serbia initiated with the opening the first Chapters in January 2015.

2.3.2. A contextual review of organized crime in Serbia

It is interesting to note that organized crime principally did not exist in the former Yugoslavia. This may be explained by the system organization, as a socialist economy, controlled market, a one-party, semi-police state and well-controlled borders. As Grubac explained, foreign trade operations and money flows were under direct control of the intelligence services, which were controlled directly by the party leadership (Grubač, 2008).

A significant scope of organized crime started appearing in Serbia in the early 90s of the last century. In that period, the majority of former Yugoslavian states passed through a decade of civil wars, armed conflicts and massive political transformations, which created social confusion and vulnerability to crime. Corruption, and misappropriation of state funds were widespread while the population became impoverished (Pestic, 2007). In addition, FR Yugoslavia passed through a period of hyperinflation between 1992 and 1994. By its length, intensity and devastating consequences, the Yugoslavian hyperinflation phenomenon was almost unrecorded in economic history¹. This extreme stage of inflation included a rise in prices at a monthly level above 50%, acting as a generator of economic breakdown and upsurge of speculative behaviour. Inflation was as high as 19,810.2% and at the end of 1993, at the peak of hyperinflation, the National Bank of the FRY issued a bill of 500 billion dinars. Prices doubled every 16 hours. In such a situation, the Milosevic regime accepted organized crime as a means of obtaining money and arms for the country and criminal activity was treated as a normal occurrence (Grubac, 2008). Anastasijevic argued that:

The regime of Slobodan Milosevic was not only corrupted, autocratic, and criminalised: it was a criminal regime, whose whole security sector was deeply involved not just in

¹ Hyperinflation in Yugoslavia occupies the third place, immediately after Russia and Nicaragua

war crimes, but also in classic forms of organised crime: drug and weapons trafficking, extortion, kidnappings, and targeted assassinations.

Anastasijevic (2006, p.2)

Illuminating this phenomenon, Stojarova (2007) argued that “Serbian organised crime lived in symbiosis with the state and both players profited from this symbiosis”.

Moreover, Serbian geographic position, as a crossroad between East and West, as well as the fact that it lies on the main path of the “Balkan route” contributed during the 90s to the development of organized crime. A combination of unconsolidated democracy, unstable politics, affected institutional capacity, and high centralization of power in ruling elites resulted in severe social tensions and “empowerment” of black economy. In addition, *Kosovo², a modern *de facto* international protectorate, had become the unquestionable narcotics capital of Europe, as a result of lack of law coupled with the society reluctant to pursue organized crime, creating in this way a “black hole” in the centre of the Balkans (Chossudovsky, 2001; Graham, 2000; Kemp, 2017).

Several specific traits of criminal groups associated with recent past and socio-political conditions in the region have been recognized. Reports have indicated that organized criminal groups in the region form an integral part of the international narcotics trade (Trifunovic, 2007; UNODC, 2008). They are motivated by profit as a common goal rather than national interests, which allows close cooperation among diverse individuals regardless of their ethnicity, political or religious beliefs. Additionally, during the 90s, a “pact” between the secret services, corrupted political actors and organized crime has established strong grounds for the development of criminal organisations with a considerable social impact (Nikolic-Ristanovic, 2004; Trifunovic, 2007;) Moreover, the routes utilised during conflicts for smuggling arms, cigarettes, gas, oil, cars and other products throughout the region and neighbourhood countries, formed a strong traffic structure unaffected by state actions.

Organized crime persisted in the Balkans in the post-conflict period. In contrast to former Soviet Union states, where the old nomenklatura/political elite converted political capital into

² This designation is without prejudice to positions on states in line with UNSCR 1244/1999. This stands for all the following references in the text.

economic and sometimes criminal capital, in many Balkan countries, criminal capital accumulated during the war has been converted into political capital after the war (Andreas, 2004).

Furthermore, the reference of Paoli (2002) that illicit networks operate both “without the state” and “against the state” has been substantially confirmed in Serbia, as criminal groups had significant involvement in political murders (Nikolic-Ristanovic, 2004). This can be understood as a consequence of allowing organized crime in Serbia to become an integral part of economic and political structures during the 90s. The assassination of Serbian Prime Minister Djindjic in 2003 and subsequent murders of prosecution witnesses demonstrated a clear message of organized crime’s resistance to the social change and a warning to the political structures that distortion of the formed symbiosis³ will not be simple. According to Dallara (2008, p.164), at this time, “the role of military and paramilitary forces, and their connection with organised crime, emerged with dramatic clarity.” It can be argued that such demonstration of power confirms the conceptual differentiation between traditional and “new” forms of organised crime. Similar standpoint is held by Mladenovic, who maintains that:

The murder of Prime Minister Djindjic was the result of a struggle between organized crime forces and modernizing and democratizing forces in Serbia. It was also an attempt to secure impunity for war criminals still active in the Serbian police and military forces. It was a show of power that serves even today as a warning to anyone who dares to democratize Serbia by building strong democratic institutions and securing the rule of law.

(Mladenovic, 27 November 2012⁴)

Finally, it has been put forward that traditional criminal groups require the state to retain their financial profit, thus using corruption as an operative tool to affect the state in which they have a vested interest. In contrast, criminal groups that emerged in the Western Balkans

³ After the assassination of the Prime Minister Djindjić, Serbian media reported a number of connections between key members of his coalition and the main organized crime groups (subsequently convicted for this murder) (Pavlaković, 2005, p. 39).

⁴ <https://jia.sipa.columbia.edu/failed-divorce-serbias-government-and-organized-crime>

originated from ethnic conflicts, obtained power due to weak governance and have no interest or loyalty to the state. These criminal groups take advantage of institutionalized corruption to further destabilise the state and generate profit. They function as transnational networks and demonstrate more power over the state institutions than the traditional criminal groups.

2.3.3. Drug trafficking as a key illicit activity of organized criminal groups – Serbia and the role of the Balkan route

Globally, one of the main sources of income of (transnational and national) criminal networks refers to illicit drug trafficking. The SOCTA (2017) reports that drug markets remain the largest criminal markets in the EU. More than one third of the criminal groups active in the EU are involved in the production, trafficking or distribution of various types of drugs. Drug trafficking generates multi-billion euro profits for the groups involved in this criminal activity. The EU retail drug market is estimated to be worth at least EUR 24 billion a year (SOCTA, 2017).

The term drug trafficking implies the supply of illegal drugs on the black market by criminal drug dealers in response to consumer demand, often controlled by organized crime syndicates (Stojanovic, 2003). Recent data indicate that global opiate market seem stable despite important regional changes (UNODC World Drug Report, 2016). UNODC reports that there are signals that heroin use in the USA and Western and Central Europe revives again despite previous decline, as demonstrated by increased availability of heroin and larger size of individual seizure cases of heroin destined for Europe.

Concurrently, the trends in the European Union show growth of the use of New Psychoactive Substances (hereinafter: NPS), with similar trends being recorded in Serbia as well. The European Monitoring Centre for Drugs and Drug Addiction (hereinafter: EMCDDA) reported (EMCDDA-Europol 2016, European Monitoring Centre for Drugs and Drug Addiction and Europol, 2016, p. 23) that 419 previously undetected NPS were reported in the E7 for the first time over the past five years. According to SOCTA (2017), the industrial-scale production of synthetic drugs within the EU continues to expand, making the EU a key source region for distribution of these substances worldwide. Within the EU, the majority of

organized criminal groups involved in the distribution of illicit drugs deal in multiple illicit drugs, also called poly-drug trafficking. Concurrently, the State Department Report 2017 notes that the use of NPS increases worldwide and certainly alters the overall picture of drug trade. Organized criminal groups of Serbian origin have recently become increasingly present at the intercontinental cocaine market used to smuggle cocaine from South America to Europe. Serbia remains solely a transit route to Europe for cocaine, while smaller quantities are used for the local market.

Drug trafficking is also considered the key source of income for organized crime groups in Serbia. A study by the UNODC in 2011 revealed that the profit chain involves several levels: a) as large amounts of heroin and cocaine pass through the region, local organized crime groups and corrupt officials are able to gain immense profits, b) Serbia has low levels of drug use overall, which implies that the flow is conducted by highly organized groups aiming to gain the highest profit, rather than by the simple network of couriers and c) Balkan route is used to further spread illicit drug trade in the EU (UNODC, 2011).

A number of reports have confirmed over the years that drug trafficking is flourishing in a part of European continent referred to as “the Balkans” (Europol, 2009; Michaletos, 2006; UNODC, 2011; SOCTA 2017; EU Peer review on organised crime and corruption, 2018⁵). As the shortest road from the East to West, the so called ‘Balkan Route’ has been used for illicit trade since the seventh century. Nowadays, it is utilized by transnational and regional criminal groups for different forms of illegal activities. For instance, beyond drug trafficking, the Balkan route is along the path of migrants trying to move from Northern Africa and the Middle East to Europe. Vast number of refugees and migrants arriving in Greece had a major impact on the Western Balkans, given that they passed via the former Yugoslav Republic of Macedonia, through Serbia into Hungary and then towards western Europe. As stated in the EUROPOL report, Frontex reported that in 2015, around 764,000 people illegally crossed the border into the Western Balkans – 16 times more than the previous year. The network of facilitators who provided know-how along the Balkan route have been described by the EUROPOL as a “crime-as-a-service” business model (EUROPOL, 2016).

⁵ This document is not publicly available. It was provided by the Ministry of Justice to the researcher.

The functioning of the Balkan route is inextricably associated with operations of criminal networks in the region of former Yugoslavia. Despite significant local and regional efforts of these states in the region, criminal networks continue to function and make large profits. It appears that the geographical location in relation to the EU as the final destination, trade liberalization, and relatively low risk of law enforcement activities make this path pretty convenient (EU Organized Crime Threat Assessment- SOCTA, 2017).

Notwithstanding numerous methods used for drug transport worldwide, the Balkan route continues to be the key route for smuggling most of the opiates from Afghanistan. A UNODC study in 2016 on opiate trafficking on the Balkan route suggests that most of the opiates from Afghanistan in the period 2009-2012 were smuggled through the Balkan route (UNODC World Drug Report, 2016). UNODC (2015) suggested that between 60-65 tons of heroin flows into South-Eastern Europe annually and that most of the drugs are moved by road vehicles. UNODC (2015) estimated that the value of the drugs trafficked along the Balkan route amount to approximately \$28 billion.

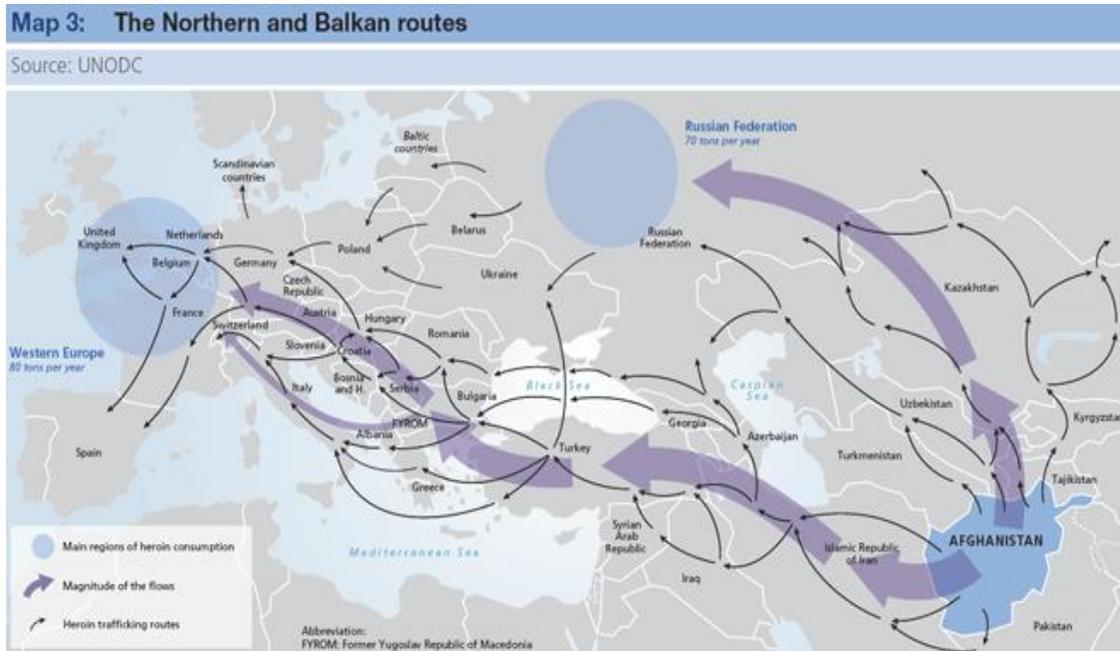
The term “Balkan drugs route” refers to the main path by which narcotics and specifically heroine are smuggled into the European countries. Michaletos (2007) described this route as a network of contrabands, corrupted public officials and former warlords that make sure the heroine produced in Afghanistan is smoothly transferred into Europe. The UNODC defines the “Balkan route” as a path which supplies Western and Central Europe with Afghan opiates, through Iran and Turkey via South-Eastern Europe to Western and Central Europe.

The Balkan route involves several South East European states⁶, which play significant roles in the distribution of heroin, cocaine and other drugs, including Albania, Southern Bulgaria, FYROM, Serbia, Montenegro, Bosnia and Herzegovina and Croatia (Trifunovic, 2007; The Global Initiative against Transnational Organized Crime - Crooked Kaleidoscope Organized Crime in the Balkans, 2017). The route has been linked with several border points in Montenegro and Albania, the port of Constance in Romania, as well as the channel Rhine-

⁶ Reports have indicated that there are basically two or three main routes of transporting heroin towards the EU, including southern and central path (Afghanistan, Iran, Turkey, Bulgaria, Greece, former Yugoslavian republics, towards Italy), and northern part through Hungary towards Austria/ Germany (International Narcotics Control Strategy Report, 2010; UNODC, 2008). Nevertheless, the minor paths often change pending the specific situation in different states.

Main-Danube as the main entry points into the EU (OCTA, 2009). According to the European Commission, “the Pan European Corridor X plays an important role as transit route for this illicit business and Serbia needs to focus its operational capacity on this route” (European Commission, Screening report on Serbia, 2014).

Graph II.1: The Balkan route



Source: UNODC

Nevertheless, the state of art in the illegal drug market in Serbia and in the region has considerably changed in the last few years. The accession of Croatia to the European Union in 2013, along with the Republic of Bulgaria and Romania becoming members of the European Union in 2007, as well as the unilaterally declared independence of the Autonomous Province of Kosovo and Metohija are all important factors influencing drug trade. The smuggling routes of heroin used by organized criminal groups have altered to some extent, as the trafficking route of heroin transported to Western European countries is directed towards the Schengen borders and to the direction of the Republic of Bulgaria-Romania-Hungary in order to avoid increased controls of passengers and goods at the borders of Serbia.

Data indicate that Balkan nationals from the region are active in cocaine trafficking. For example, in early 2016 an investigation called Operation Danube⁷ led to the arrest of 13 suspects (including six Croatians, five Austrians and two Serbian nationals) belonging to a Balkan organised crime group responsible for importing approximately 34 kg of cocaine from South America to Europe through the Netherlands. Even though the members of this organized criminal group were arrested earlier, Darko Saric as its leader was arrested in March 2016 on charges of trafficking 5.7t of cocaine from Uruguay to Europe. In May 2015, over one ton of cocaine was seized on a yacht in Spain, on its way from South America to Western Europe, whereby one Serb and two Croats were arrested.

Beyond drug trafficking, links to other crime types have also been identified. Serbia has been recognized as a source, transit, and destination country, while Kosovo* has been recognized as the epicentre of all drug deals and sex trafficking from Asia into Europe along the Balkan route (International Narcotics Control Strategy Report, 2010; Jopp and Sandawi, 2007; Michaletos, 2007; Trifunovic, 2007; State Department Report on Human Trafficking, 2017). Jopp and Sandawi (2007) argued that most of Kosovo's* political elite are either a part of, or have direct links to Albanian organized crime groups, and are “internally protected by parliamentary immunity and abroad by international law”⁸. The State Department report on Human Trafficking in 2017 states that Kosovo* is a source and destination country for sex trafficking and forced labour. Most victims are internally trafficked for sexual exploitation, but Kosovo* criminal groups also force women from Albania, Moldova, Romania, Serbia, and other European countries into prostitution, Government corruption creates an environment that enables some trafficking crimes (State Department Trafficking in Persons Report, 2017). Several police officers, labour ministry employees, and other government officials have been charged with or convicted of trafficking crimes. Albania remains the main source of herbal cannabis trafficked to the EU (EUROPOL, 2016, p.35).

⁷ Europol supports Europe-wide crackdown on cocaine-trafficking Balkan Organised Crime Group”, 1 March 2016

⁸ They also support that nearly a decade of administrative mismanagement of Kosovo by UNMIK created personal ties between international civil authorities and the Albanian criminal elite, effectively legitimizing organized crime as Kosovo's first generation of elected politicians

Links with the weapons trade from the Balkans to the Middle East have been also identified by the Balkan Investigative Reporting Network (BIRN, 2016). BIRN reported that in the period 2012 - 2017, €1.2 billion have changed hands in arms deals between the Balkans and the Middle East. Links to other crime types such as terror financing have not been associated to Serbia, but this issue has been raised for the area of Novi Pazar. There are reports⁹ that in the recent terrorist attacks in France and Belgium, at least some of the weapons originated from the Balkans.

Nevertheless, beyond the Balkan route as an important issue relevant for narcotics smuggling, there is a severe involvement of strong criminal networks inside Serbia as well. According to Prelevic (2018), a whole set of serious threats is present in Serbia nowadays in relation to organized crime and drug trafficking. This argument lies in the fact that the frequency of mafia murders in Serbia, even in the middle of the day in the central Belgrade areas, creates fear of the community. There is an understanding that the war between various criminal groups from Serbia and Montenegro has been ongoing for over a year in the territory of Serbia. This war involves a vast number of sport clubs supporters who are viewed as the ‘army’ of criminals in the general public. Even though these murders are classified as a reciprocal war for the drugs market, Prelevic perceives multiple victims of mafia, i.e. those who are murdered, those who consume drugs, as well as citizens as potential collateral damage of these murders. He identifies poverty and helplessness as key motives for engagement of new, often young, members in criminal groups¹⁰.

Concurrently, this territorial war on the control of the drug market between various criminal groups, on the other hand, indicates that these groups function hierarchically at the internal level. That is, even though they engage in illicit operations worldwide through participation in various criminal networks, as an external mode of functioning, they appear to have clear internal Mafia-like hierarchical structure. Interestingly, their “bosses” are widely known and often presented in the media, almost as stars.

⁹ The Economist, “Ask not from where the AK-47s flow” (16 April 2016). See also Reuters, “Gaffer tape and 500 euros: running guns to the heart of Europe (28 November 2015).

¹⁰ As Prelevic explains, these young persons are unemployed, and they are doing nothing, except maybe spending hours in the gym. Once quick and large profits are offered, including expensive cars and influence, they are easily trapped into criminal groups’ engagement.

Considering the advantage of transnational crime to invoke the international dimension of apparently localized issues, the ‘Balkan route’ may have significant impact on European societies and international affairs. In line with this, the role of Serbian criminal groups suggests a researchable topic on a social activity with significant implications in terms of economics, politics, transnational drug trafficking, international development and European integration.

2.4. Conclusions

The background review developed in this Chapter has particular importance for this research for several reasons. First, it is aimed at describing the contextual environment in which this research takes place. It therefore familiarises the reader with the state of play in Serbia and its historical background, as the country under exploration. Secondly, it summarises the relevant standpoints on organised crime, including the definitions and different perspectives on its structure. Given that the phenomenon of organised crime is one of the underlying reasons for recent evaluations of Serbia as a ‘captured state’, it was considered appropriate to include a relevant discussion on its key features.

Third, the structure of organised crime discussed in this section is particularly relevant for this research, given the focus of the exploration on the developed response strategies. As discussed above, it is important to separate the conceptualisations of the internal organised crime group structure (which is mainly hierarchical) and its external or market structure (which often involves loose cooperation links with easily replaceable individuals). Given the described environmental framework in Serbia and the focus of this research on crime control, the concept of criminal networks is utilised. Thus, this research refers to ‘networks’ which cooperate both regionally and internationally, without neglecting the fact that these groups are internally hierarchically organised. This is particularly important given the aim of this research, which is to assess the effectiveness of a network of state institutions in suppressing organised crime.

Finally, the fight against organized crime and drug trafficking groups remains one of the most significant priorities of international and regional cooperation due to the consequences and high risks for the society associated with this phenomenon. The multiple impact of organized crime is reflected in general fear in the community, a lack of trust in the state institutions, generation of huge financial resources commonly used to fund other criminal activities and a serious threat for different countries. Thus, the phenomenon of organised crime in the Western Balkans is not region-specific and directly threatens the interests of the region, as well as the broader international community.

The boundaries of conventional international cooperation in the field of law enforcement and judiciary have changed, mainly due to swift mobility, significant diversity of structure and communication methods of criminal organizations. In accordance with these contemporary approaches, the government of Serbia has made the fight against drug trafficking groups and corruption top priorities¹¹. These priorities are an attempt to send a clear message, both domestically, that there will be no impunity for such crimes, and internationally, that Serbia will act as a security partner capable of preventing spreading of crime into Europe.

However, the EU Enlargement Strategy in 2018 reports that enlargement countries remain strongly affected by organised crime. It is stated that powerful criminal groups continue to operate in the Western Balkans, while the region remains an important entry route for the trafficking of illicit goods, in particular drugs and arms. There is a remaining gap between the analysis of organised crime threats and operational priorities set and problematic respect for the operational independence of law enforcement bodies, all together reducing the success rate in effectively dismantling criminal groups. This state of play contributed to classification of Serbia as a captured state. The phenomenon of state capture in Serbia is therefore explored with a view to criminal networks as potential ‘captors’.

It has been suggested that it takes a network to fight a network (Walker et al., 2004), implying that there is a need for both internal as well as international cooperation to address criminal networks. In this context, Serbia has over the years developed a ‘response network’ (described in Chapter III), comprised of a set of institutional and legislative changes, aimed at increasing

¹¹ Each Government starting from 2003.

effectiveness of organized crime and drug trafficking suppression. The effects of state actions have not yet been assessed, but there are indications that organized crime groups are blossoming again, despite certain success that has been achieved.

Chapter III Literature review

3.1. Introduction

As stated above, this research explores the phenomenon of state capture in the field of crime control, as a result of embeddedness of organised criminal networks in Serbia, as a country undergoing EU accession. This is performed through examination of the effectiveness of state institutions in suppressing organised crime and drug trafficking in an attempt to identify potential systemic shortcomings or structural holes that hinder the results of such efforts.

With an aim to explore potential state capture in the field of crime control, several inter-related features of the state of play in Serbia are assessed. Consequently, the literature review consists of several sections. The first section is consisted of two parts, whereby the first part involves a theoretical review on democratic transition and its key features, along with its links with organised crime, while the second part builds on the transition discussion, introducing EU accession as the key strategic continuation of the process. The second section describes in detail the network of state institutions (referred to in this thesis as ‘state response network’) in Serbia, developed as an institutional and legislative mechanism to address organized crime.

The third section involves a review of the concept of state capture, given that Serbia has been characterized as a captured state due to significant impact of corruption and organized crime. The aim of this third section is to develop a link between seemingly fragmented literature on crooked states and state capture with the knowledge on corruption and organized crime networks as potential captors. Usually, organized crime is studied by criminologists, with a focus on its functioning, the effects on the states and legal aspects. It is also regarded as a factor influencing state development in a number of international reports and scientific

articles. Given that the dynamics of organized crime and states in transition and EU accession appear to be increasingly intertwined, this Chapter attempts to explore the causes for the prevalence of organized crime during period of transition in Serbia and make inferences of potential vulnerabilities of the state functioning in connection to criminal networks. These issues are further explored with a view to identify the extent to which crime control system, reflected in the ‘state response network’, is distorted by symptoms of state capture.

3.1.1. Scope and definition of terms

Given the nature of the concepts utilised in this research, it is important to delineate the scope and the definitions of the terms.

“Criminal networks” – The term is used in a general sense, without explicit theoretical implications about the internal structure, either fluid or hierarchical, of a particular organisation. The term ‘networks’ is used interchangeably with the term ‘criminal groups’.

“Structural holes” – The term refers to the gaps, vacuums or deficiencies in the functioning of institutions responsible for organised crime and drug trafficking suppression. The term builds on Cockayne’s (2017) conceptualisation of ‘points of arbitrage’, implying loopholes in the network of regular activities of crime control institutions. It is conceptualised in this research that these gaps create opportunities for organised crime to capture the state’s crime control system. This term is not used in the meaning relevant for the network science, where it commonly signifies the vacuum that exists between two or more densely connected clusters.

“State capture” -the concept of state capture pertinent to this research refers to the inferences of links of state institutions with organised crime, at various levels of state governance, which lead to decreased effectiveness of state actions aimed at suppressing organised crime. This research later proposes a more specific definition of state capture (see 7.1.).

3.2. States in transition and process of EU accession

3.2.1. The process of democratic transition – key concepts and approaches

The concept of states in transition involves a group of countries whose economy is changing from centrally planned economy to a free market economy (Feige, 1994). The notion of transition became one of the most studied socio-political notions at the end of the 20th century. Following the collapse of communism in the late 1980s, countries of the former Soviet Union, as well as Poland, Hungary, and Bulgaria, started abandoning central planning and turned towards market capitalism. The process of transformation of centrally planned economies into market economies, a decade later, resulted in diversification of the states, given that some countries are perceived as a ‘success story’, such as Poland, Slovenia, Hungary, and the Czech Republic, while others continue to experience problems and languish at various phases of the process. Moreover, the successful transition states have also reached a satisfactory level of liberal democratic consolidation.

Even though usually described under the single term ‘transition’, different systemic changes take place within that process and regularly involve a set of different developments ranging from economic or democratic changes, as well as extensive social alterations. The transition process mainly involves several simultaneous processes¹² such as liberalization, which involves determination of price structures in free markets and lowering trade barriers, as well as privatization, referring to the transfer of public into private ownership thus establishing a viable financial sector and restructuring companies. This process also implies macroeconomic stabilization, which infers control over inflation i.e. enhanced fiscal and monetary policies. Finally, it is generally accepted that transition process should always be accompanied by legal and institutional reforms, aimed at establishing the rule of law, redefining the role of the state, and introducing competition rules.

In the period of the beginnings of transition, socialism as a social order and economic model ceased to be an alternative to the capitalist economic model worldwide. The inefficiency of the system and the lack of motivation among workers are often stressed as the main causes of

¹² See Transition Economies: An IMF Perspective on Progress and Prospects; November 3, 2000, <https://www.imf.org/external/np/exr/ib/2000/110300.htm#I>

its collapse (Cvijanović, Mihailović and Simonović, 2014), as well as the false growth of economic activity¹³. As mentioned above, there are a number of successful transition cases, mainly including former Soviet Union and Eastern and Central European states. These states also had centrally planned economy and functioned in an isolated economic system disregarding market demands. Most of these states initiated transition processes in the 1980's, undertaking efforts to transform centrally planned economies to a market economy.

Similar to the other European post-socialist countries, the transition process in Serbia initiated approximately in the same time. Serbian economy in that period was characterized by comparable conditions, including direct state administration followed by the system of self-management¹⁴, both leading to system inefficiency (Cvijanović, Mihailović and Simonović, 2014; Stojiljković, 2011). The factual situation was not recognized, and the process of "socialization of losses" started, whereby the state was concurrently implementing the same approach towards companies with poor financial health which had a domino effect on strong companies. The overall effect of these processes has led to the collapse of socialism and the abandonment of the so-called "socialist paradigms" (Stojiljković, 2011).

Serbia is one of the countries that approached the process of reform focusing on macroeconomic stabilization, liberalization and privatization, as the main principles of the Washington Consensus (Stefanović and Mitrović, 2012). The process was aimed to allow for the market forces to set prices rather than a central planning organization, removal of the trade barriers, privatization of the state-owned companies and restructuring of a financial sector to facilitate macroeconomic stabilization and the private capital flows.

However, in the 1990s the country was still a part of Yugoslavia and it was experiencing regional conflicts and war, while other socialist economies were undertaking efforts towards transition. For a whole decade, financial situation in Serbia was marked by the economic sanctions, hyperinflation and a crash of the economic system. Following the democratic changes after October 5th 2000, the process of (economic) transition of Serbia initiated, in the period when the basic preconditions for its implementation were met. The changes in the

¹³ It was not the growth that creates, but the growth that destroys the value of the company.

¹⁴ In such an economic system, there was no clear and direct connection between the results and the evaluation of the work.

domain of economy started in that period and are still ongoing. Namely, the whole process involved the transition of former socialist system into the market economy, which creates a new business environment and a new institutional infrastructure. Liberalization of trade relations and capital balance enabled the integration of Serbia's economic system into international financial and commodity flows (Djuricin, 1996). It could therefore be considered that economic transition in Serbia was significantly delayed when compared with other states in the region or other transition states.

Nevertheless, despite the described delays in transition processes, it is necessary to take into account the actual process and its accompanying factors in order to understand the concrete state of play in a given country. For instance, research by the International Monetary Fund (World Economic Outlook, 2000) suggests that countries that have combined macroeconomic stabilization with extensive structural reforms have been more successful in overcoming the decline in production in the initial stages of transition, as well as achieving significant growth in production in the upcoming period. The IMF holds that these two components are equally important for the success of the transition.

The focus on structural reforms brings to attention the role of the institutions, as key nodes of the structure of society. The perception of the necessary extensive structural reforms implies the process of democratic transition, which should accompany the economic reforms. According to Feige (1994), the complexity of the historically unprecedented transformation process from centrally planned economy into market economy

...requires a fundamental restructuring of a nation's economic, political, social and legal institutions, as well as its physical infrastructure.

(Feige, 1994, p. 1).

Likewise, Besley, Dewatripont, and Guriev (2010) believe that effective transition is not possible without subsequent institutional changes, given that institutions represent the core of social and economic interactions. They consider that transition may be prolonged in case of absence of changes of the formal and informal institutions. Similarly, Golubovic (1999) maintained that democratic transition is not only a change of institutions and authorities, but a qualitative shift towards the realization of a new way of life and the promotion of autonomy,

freedom and responsibility of citizens in making constitutive life decisions. This reference to the interaction of institutional and economic changes has been supported by other authors as well (Acemoglu, Robinson, and Johnson 2012; Greif, 2006; Stojiljković, 2011). Contrary, Sachs (2012) believes that political institutions are not always decisive in a country's growth performance. Sach argues that this is indicated by the success of some authoritarian governments. As he claims, authoritarian leaders often have very strong motivations for national economic success, as they are often engaged in aggressive international political and military competition with other states.

On the other hand, Grief (2006) argued that the quality of institutional foundations is very important for the development, hence that the state of affairs of political institutions may indicate the causes of the differences in political orders and welfare of diverse states. As Greif (2006, p.4) explains, institutions are providing the setup for the quality market functioning by efficiently assigning, protecting, and altering property rights; securing contracts; and motivating specialization and exchange. Acemoglu, Robinson, and Johnson (2012) believe that institutions securing property rights have the great significance for economic growth. Tridico (2011) attributed different levels of performance among transition countries to the quality of institutions, along with policies and strategies implemented, the level of democratic political institutions, participation and accountability, levels of trust and social capital, citizens' capabilities and control of corruption. Following this line of opinion, as a part of the wider framework of the process of transition, the structural and institutional reforms in Serbia were initiated in the same period.

Acknowledging that democratic transition is a complex process, a set of other factors, beyond institutional changes, are often discussed when assessing the effectiveness (or lack of) transition. The focus of transitional studies is usually placed on political, legal and economic matters, as well as social factors.

One of the factors discussed refers to the preparedness of the nation and population to change the inherited habits and enter the system different than the one they know. Abramovitz (1986) argued that the "social capability" of the nation is an imperative determinant of growth. His understanding was that not all nations are capable to adopt and adjust to changes. Abramovitz argued that educational system, labour force and performance on the individual levels are

equally important as economic factors and institutional development. Following this line of reasoning, democratic consolidation is reached when a “democratic culture” is deeply embedded socially and when institutions are able to function independently.

Similarly, a Serbian author Srdja Popovic (2010), offered a comprehensive insight into two failed transitions in Serbia: one in 1990 and the other in 2000, in an effort to explain why Serbia failed to take advantage of the transitional chance both times. He indicates that the actors within the political arena framed by the dominant cultural patterns, as well as the legacies of the past played a key role in this failure. Hence it was impossible to simply implant a democratic government onto a non-democratically oriented society, as it would facilitate non-democratic elements to gain greater political legitimacy through democratic channels.

Popovic (2015) sees the causes of Serbia's epochal failure in the main actors, i.e. the previous political order, the dominant cultural patterns, and, after 2000, a refusal to recognize the criminal inheritance from the nineties. The impression is that in describing the failure of the 1990s, Popovic (2010) puts emphasis on actors who gain power within the political field through cultural manipulation. Popovic (2000) illustratively argued that the years of 1990 and 2000 mark the boundaries between the three periods in the new Serbian history: a) the 1990, which he refers to as a period towards barbarism, b) the period between 1990 and 2000, which he perceives as the barbaric war years, and c) the period beginning in 2000, the period focusing on democratic transition. Popovic noted that Serbia failed to get out of the black hole of the 90s for two and a half decades. The reason for this is the dominant model that he labelled as "the culture of humiliation", whereas in the nineties, the "culture of fear" dominated (Popovic, p. 401). Popovic perceives the second half of the eighties of the 20th century as a possibility for the political transformation of Yugoslavia as the emergence of the federal framework opened the first opportunity for transition. Only if this Yugoslav transition failed, the opportunity was to be used by Serbia.

Overall, the establishment of a democratic political framework in Serbia after October 5th 2000 has failed to produce a democratic political culture that has reconciled the past with political, social, and ethnic communities in Serbia, throughout the former Yugoslavia, and with Europe. There was a need to fully restructure the old system, including dissolution of the secret police and opening up the secret government archives, allowing for a free press, and

enabling democratic elections. These changes were necessary for the establishment of the rule of law and good governance (Popovic, 2005), whereby the rule of law denotes that a state applies its laws but also that these laws are legitimate and valid.

This is consistent with Teitel (2014), who perceives transition as a process with the normative component of the conversion from a less democratic regime to a more democratic and liberal regime. Transition therefore implies that the whole society experiences its own political, social and cultural reconstruction. The need for such a major change stems from the insight that the former government has ruined the social capacities for concluding decent social arrangements. Hence transition, according to Teitel, involves a normative jump from the state of injustice to a more just democratic and liberal order, which is not possible without the change of normative forms and a cultural change. In some cases this implies the alteration of the identity of the given political community, such as Serbia. To summarize, even though different interpretations of democracy may be contested, the fundamental principles of democracy and the rule of law are never questioned (Laitin, 1998).

The notion of rule of law (*prééminence du droit*) represents a fundamental principle and a common European value recognised in the Statute of the Council of Europe and the case law of the European Court of Human Rights, along with the principles of human rights and pluralistic democracy. Explicit reference to the rule of law can be found, *inter alia*, in European Union treaties, as well as in the Copenhagen criteria of 1993 for accession to the European Union. The United Nations define the term rule of law as:

A principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

(United Nations, 2004, p.4)

Despite seemingly clear understanding of the rule of law concept, there is a significant inconsistency in terminology within the Council of Europe member states, as well as different comprehension of the term. The key debates within the Council of Europe referred to the adequate term that would reflect the English language notion of rule of law as adequately as the expression “*prééminence du droit*”¹⁵, whereas other terms often used such as the French expression “*Etat de droit*” do not always adequately grasp the same meaning (Lauc, 2016). These debates were of particular importance in terms of application of the term in some former Soviet Union (transition) states, where the notion was inappropriately understood to signify a state based on the principle of the supremacy of the laws. Therefore, the meaning of the rule of law concept and its translations have been considered within the Council of Europe and reflected by the Venice Commission. A conclusion of these considerations was that a formalistic interpretation of the term “*Etat de droit*” runs contrary to the essence of rule of law/*prééminence du droit* (Venice Commission, 2016).

In this sense, it can be concluded that the principles of good governance such as transparency, accountability and participation are a precondition for legitimate and efficient functioning of the public institutions. Good governance also implies the possibility of citizens to hold decision-makers accountable for their actions. The concept of good governance is often used to assess the evolution of the democratization process in transition countries (Regional Research Promotion Programme, 2013). Democratization commonly involves the process of change from an authoritarian or totalitarian regime towards a more inclusive democratic regime based on free, fair and competitive elections (Linz and Stepan 1996, Diamond 1999, Teorell 2010). Nevertheless, democratisation is often not simple and not always a successful process. Scholars have therefore discussed the effects of “linkages and leverages” (Levitsky and Way, 2006) as factors influencing democratisation. The framework proposed by Levitsky and Way suggests that ‘leverage’ of the West, reflected in different forms of vulnerability of governments to external pressure, has not proved to be sufficient for effective democratisation. The authors support that the other dimension i.e. ‘linkages’ has demonstrated more success in inducing democracy across the world. They refer to linkages as “soft power” or density of diverse social or economic ties and cross-border flows between states in

¹⁵ In the French version of the Statute of the Council of Europe, in the preamble to the European Convention on Human Rights and in the Strasbourg Court’s case-law

transition and the EU or the USA. Essentially, the concept of linkages refers to civil society, links with international actors and other societal connections whose existence increase the likelihood of internal pressure towards democratization.

Moreover, discussions on the rule of law and democratisation in transition countries regularly refer to the differences between the medium-level and low-level developed democracies i.e. the old and new democracies. However, Svobik (2008) argues that this difference is not suitable to explain alternative paths, apart from consolidation, through which democracies stabilize. According to Svobik (2013), many democracies stabilize when the political representatives prove themselves accountable to public demands. The problem in many, typically young, democracies is that building such accountability depends on institutional quality. Different perspectives on successful democratisation in transition countries emphasize diverse elements, such as the rule of law, clear separation of powers and establishment of effective political institutions (Fukuyama, 2014), political parties (Pridham and Lewis, 1996), local ownership (Poppe and Wolff, 2013) or the external actors (Burnell and Calvert, 2004). An interesting perspective also involves the importance of preventing the members of previous regime to continue acting in political life, as one of the main factors influencing democratisation. This is particularly important with a view to prosecution of representatives of the old regime, commonly referred to as 'lustration', which may have a profound social impact (Horne, 2014). Even though the fairness of such an approach may be disputable, the key dimension of this process is the break of the linkages of the old regime with the new state representatives may be beneficial in the long run, as it prevents the same structures to remain in control of the system. The process of lustration has not been performed in Serbia, despite comprehensive debates and social appeals for its implementation.

To summarize, it is understood that the rule of law, democracy, good governance and the respect of human rights standards represent specific values that should be achieved following the process of democratic transition. As reviewed above, democratic transition in Serbia was a process accompanying economic reforms, but it appears to be still ongoing while its effects are assessed in different ways.

Some authors perceive that a new transitional attempt in Serbia that took place in the 2000 has been delayed due to cultural patterns and the political order which did not allow the truth

about the nineties to be used for awakening of the citizens of Serbia, even though it became public. This view is often supported by reference to merely general orientation towards European values and EU integrations. Following this line of inquiry, the impact of social context has been emphasized in studies on developing and transition countries (Ivanova, 2010; Fazekas and Tóth, 2014, Perry and Keil, 2018; Volkov, 2002). Others believe that democratic transition was prolonged as there was no radical break with non-democratic heritage, corruption and crime (Stojiljkovic, 2012).

Concurrently, research in many transition countries has consistently supported that widespread corruption associated with weak governance and state institutions, facilitates proliferation of organized crime and reinforces illicit activities of transnational criminal organizations (Michaletos, 2009; Shelley, 2002; Vasic, 2010; Trifunovic, 2007). Studies on crime in transition countries reported valuable findings with regard to development of organized crime and its association to the state structures. Johnson (2005) developed a corruption model for post-socialist states: “oligarch and clan corruption takes place in a risky and sometimes violent setting of rapidly expanding economic and political opportunities and weak institutions. It is dominated by figures who may be government officials or business entrepreneurs, but whose power is personal and attracts extensive followings.” Volkov explained such dynamics as “existing institutions supplied staff for new private force-wielding organizations that dealt in private protection and enforcement and accordingly governed the redistribution of the income of economic enterprises” (Volkov, 2002).

Overall, a bulk of evidence suggests that a number of transition states developed strong links between organised crime, politics and the public sector (Ivanova, 2010; Fazekas and Toth, 2016; Varese 2010; Garay and Villaveces, 2009; Morseli, 2009; Shelley, 2002; von Lampe, 2006). Major effects of this form of symbiosis between the state and criminal organisations foster criminal activities and threaten social cohesion. It appears that criminal networks, based on a shared interest, have been much more successful in establishing cooperation than the state officials or law enforcement agencies. This phenomenon seems to be closely associated with the notion that illicit networks are sovereignty free (Kenney, 2007) and thus less accountable and more adaptable to changes. Contemporary investigations emphasize the

importance of the emergence of a symbiosis between legitimate actors¹⁶ and criminal networks, highlighting an increasingly active role of the legal sector in facilitating different forms of crime. Such symbiosis hinders effective suppression of organized crime and eventually leads to state capture.

Moreover, some authors support that particularities of historical, social, cultural and political circumstances (Allum and Gilmour, 2012) determine the forms of criminal organisations and the type of illegal goods and services they exchange. In this line, it could be argued that the contextual environment in former Yugoslavian states, including the ongoing conflicts, embargo and associated state-led criminal activities, played an important role in the establishment of strong organized criminal groups in the region. As stated by Margaret Macmillan (2016), the Balkans has “too much history and too many neighbours”. As discussed in Chapter II, organized criminal groups were developed and utilised for purchasing high priced arms and ammunition for local wars, as well as trafficking in cigarettes and other goods. The regime in Serbia tried to evade sanctions and to preserve power, plotting organized crime as a source of necessary funds for the functioning of the state and the exercise of state functions. It was a form of self-defence and a “tactic of economic and national survival”. The authorities basically fostered crime and increased corruption, as a method to preserve political positions. In this specific context, multi-ethnic organized crime groups in the Balkans closely cooperated among each other and other European and transnational criminal groups (Porobic, 2010). Such deeply-rooted maladaptive relations appear to have sustained, hindering transition process and fostering a ‘status quo’ state of play even nowadays.

Despite different ideas about the causes of long lasting transition, twenty years later, Serbia continues to work on the rule of law reforms in an attempt to reach international standards. Functioning rule of law enables effective control of both crime and corruption, however, the results of suppression efforts of Serbia in these fields do not show adequate progress. As indicated, the notion of the rule of law is central in determining the degree of success in a transition state (Fukuyama, 2014; Linz and Stepan 1996). The need to address organised crime in Serbia as a threat to foundation for democracy, prosperity and long-term stability,

¹⁶ For instance, it is interesting that police does not follow the drugs in case it is informed of specific shipments. Instead of tracing where or to whom this drug is going to, the police solely seizes the drug, as if it is not interested in identifying the higher level criminal group members.

has been emphasized in 2002 (London Statement, 2002). That is, seventeen years ago, the EU states placed a strategic partnership for freedom, justice and security with Serbia at the top of their agenda. Nevertheless, assessments suggest that the principle of the rule of law has not been sufficiently achieved (e.g. EU Progress reports 2013-2018).

The duration of the problems in the rule of law in Serbia indicates that there are also other, deeply-rooted factors influencing its progress towards regular democracy. These factors usually refer to the problems in the field of the judiciary, organised crime, corruption and recently, democratic elections (Freedom House, 2018). Moreover, an independent judiciary is crucial for combating political corruption and organised crime; hence problems in this field significantly hinder the respect of the rule of law.

Given that problems in the rule of law persist even nowadays, they bring to question the potential for Serbian EU integration as its key strategic goal. That is, while Serbia struggles to reach the expected level of the rule of law, and decrease the impact of organised crime and corruption, contemporary academic debates focus on increased democratic back-sliding in the countries in Eastern Europe, as well as other parts of the world (Dawson and Hanley 2016; Krastev 2016; Diamond 2015; Greskovits 2015; Fukuyama et al., 2015). Even though these states have entered the EU, the nature of their democratization is increasingly questioned (Hanley and Dawson 2017). In view of the present debates within the EU about the concept of further enlargement, it is possible that controversial democratisation of the states such as Hungary or Poland will negatively impact the accession of candidate countries in the Western Balkans. Therefore, it may be expected that particular attention will be given to questions of democratic governance and the rule of law in the EU candidate countries. This research adds to these debates by exploring the perspective of organised crime as a key factor hindering the rule of law and EU accession in Serbia.

3.2.2. EU accession – impact and key obstacles to integration

There is an overall consensus that democratization of Serbia started in the 2000, when the broad reform coalition Democratic Opposition of Serbia (DOS) overthrew Milosevic, after winning parliamentary elections. Following the citizens protests on 5th October 2000, the

reform coalition took control of the government and started restoring democracy. International sanctions against the country were lifted and a new constitution was written to replace Milosevic's authoritarian governance structure. A number of democratic reforms were swiftly initiated but have however been interrupted again by the murder of Prime Minister Zoran Djindjic in March 2003.

Stabilization and Association negotiations between the European Union and Serbia began in November 2005, whereas the Stabilization and Association Agreement, as well as the accompanying Interim Agreement on trade and trade-related matters were signed in April 2008. On June 14, 2010, the Council of Ministers of Foreign Affairs of the member states of the European Union adopted a decision to start ratification of the Stabilization and Association Agreement with Serbia. The European Parliament ratified the Stabilization and Association Agreement with Serbia on January 19, 2011, and the ratification process in the member states of the European Union was completed on June 18, 2013 after the ratification of Lithuania. On the basis of the Stabilization and Association Agreement¹⁷ Serbia took over the two most important obligations i.e. establishing a free trade zone and harmonizing legislation with EU law.

Since the Serbia has been dedicated to the process of European integration for more than a decade, all reform decisions should be taken into consideration in the context of harmonization with European standards and the best comparative practice. Following the process of bilateral screening¹⁸, Serbia officially received the Screening Report¹⁹ for Negotiation Chapter 23: Judiciary and Fundamental Rights and Negotiation Chapter 24: Justice, freedom and Security²⁰. This document represents the final step of the screening, that is, the analytical review of the compliance of the legislation of the Republic of Serbia with the *acquis* and the standards of the European Union.

¹⁷ Stabilization and Association Agreement is an international treaty, which came into force on September 1, 2013, which gave Serbia the status of a country associated with the European Union.

¹⁸ A process through which Serbia provides information to the European Commission about its domestic legislative and institutional framework and administrative capacities.

¹⁹ The first step in negotiations is called "screening"; its purpose is to identify areas in need of alignment in the legislation, institutions or practices of a candidate country

²⁰ To facilitate the negotiations, the whole body of EU law is divided into "chapters", each corresponding to a policy area.

A review of the content of the recommendations from the Screening Report was not unexpected, given that it entails a request for the continuity of reforms initiated over the past years, including a special focus on the areas identified by the European Commission as a priority. The obligation of the Republic of Serbia after the reception of the Screening Report consisted in the preparation of the Action Plans for the implementation of reform activities suggested by the recommendations contained in the Report. Following the adoption by the European Commission and the National Assembly of Serbia, the Negotiating Chapters 23²¹ and 24²² were opened and all strategic documents need to be harmonized with the Action Plans for Chapters in order to achieve the consistency, continuity and stability of public policies in the subject area.

By adopting the Action Plans for Chapter 23 and 24 by the Government of the Republic of Serbia in April 2016, and by harmonizing the Negotiating Position with the official opening of the negotiations in July 2016, the obligation of the Republic Serbia to align its legal framework with the *Acquis communautaire* (hereinafter: *acquis*) of the European Union was formalized. Currently, both Action Plans for Chapter 23 and 24 are in the process of revision, aimed at adequately addressing the Interim Benchmarks set by the European Commission.

As an integral part of the accession process, principles of inclusiveness and transparency can certainly be classified into terms that are most frequently mentioned, even though it appears that most of the actors of this process still do not understand or do not understand them properly. The discussion about the transparency of the reform process, mostly refers to the segment of the design of reforms, that is, enabling the public an insight into the reasons, sources, process and potential directions of legislative changes. This also involves extensive participation of the civil society. However, an important segment of transparency is also transparency in the implementation and perception of reform results (reform visibility). The visibility of these results is important on two levels. First of all, they must be known and understandable to the citizens of Serbia, since the primary goal of any reform is that it produces positive effects on the individual and society. At the same time, the obligation of Serbia is to make the results available to the European Commission through the mechanisms

²¹ Judiciary and Fundamental Rights

²² Justice, Freedom and Security

for reporting on the progress made in fulfilling the Interim benchmarks under Chapter 23 contained in the Negotiating Position.

In this sense, the impression is that the results and significance of the implementation of the revised normative framework are insufficiently discussed, that is, the fact that real progress under Chapter 23 will not be measured by the number of amended laws, but recorded by the track record in their implementation. Hence, not only effective implementation, but also the ability to record, analyse and present the results in the right way, play an important role on this path.

Accession to the EU requires acceptance of the European law i.e. the *acquis*, compliance with the “Copenhagen criteria”²³ ensuring “stable institutions that guarantee democracy, the rule of law, human rights” (European Council, 1993), and the participation of citizens in decision-making processes, fight against corruption and transparency of state affairs (Regional Research Promotion Programme, 2013). The Copenhagen criteria are divided into three areas, including (i) political criteria: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; (ii) economic criteria: a functioning market economy and the capacity to cope with competition and market forces; and (iii) institutional capacity to effectively implement the EU *acquis*. According to the European Basic Treaties, the Union’s primary strategic goal should be to maintain its values, support and consolidate democracy, the rule of law, human rights and international law principles through external actions. As Ling (2013) argues, these principles should be implemented in order to promote global governance policies and realise the set goals.

When it comes to the region of former Yugoslavia, the EU enlargement policy has been a valuable tool in promoting good governance in its neighbourhood (Brozel, 2010). Equally relevant for all states in South-eastern Europe/Western Balkans, EU membership requires fulfilment of a set of conditions of democratic standards. While other democratizing countries throughout the world were seeking to integrate their politics and economy within the larger

²³ Copenhagen criteria were established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995. They involve stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; a functioning market economy and the ability to take on the obligations of membership, including the capacity to effectively implement the EU law (the 'acquis'), and adhere to the aims of political, economic and monetary union.

global market, the position of candidate countries is unique as they are obligated to conform to an additional set of rules in order to meet the requirements for EU membership. The emphasis on standards is expected to result in the Europeanization of candidate countries which includes the assessment of how EU impact on domestic politics and policies takes place and how compliance with the EU norms can be encouraged (Schimmelfenning 2010; Sedelmeier, 2011; Noutcheva 2015). Hence good governance as one of the main principles of the EU is particularly reflected in its enlargement policy. According to the United Nations Human Rights: Office of the High Commissioner (UNHR, 2012) good governance encompasses: full respect of human rights, the rule of law, effective participation, multi-actor partnerships, political pluralism, transparent and accountable processes and institutions, an efficient and effective public sector, legitimacy, access to knowledge, information and education, political empowerment of people, equity, sustainability, and attitudes and values that foster responsibility, solidarity and tolerance.

In the enlargement policy, the EU uses a variety of instruments to promote good governance, ranging from political dialogue, conditionality and assistance. Conditionality serves in this context both as an EU promising tool to promote good governance and as a theoretical framework to explain causalities between the EU membership perspective and the implementation of good governance principles. According to Cierco (2011), positive conditionality corresponds to the promise of a benefit in return for the fulfilment of a predetermined condition and is frequently used in the deliverance of economic assistance, as well as in the perspective of EU enlargement. Negative conditionality refers to a punishment for lack of implementation of precise obligations (Tocci, 2008). However, pursuant to Janine Reinhard (2010), if conditionality is a top-down approach, it can only produce changes at the governmental level, while the key actors of a democratization process, such as civil society, the administration or judiciary at a local level cannot be reached through conditionality. That is, the successful process of political democratization rests greatly on the commitments of governing parties to reform, as well as the degree of trust society places in its own government and international institutions and citizen's participation.

As Dallara (2014) argues EU conditionality was ineffective in some periods, as a consequence of post-communist legacies, credibility of membership perspective and EU rewards and sanctions in different pre-accession phases. The literature shows that credible conditionality has played an important role in the EU integration process, as it has successfully induced pressure on candidates (e.g. Elbasani, 2013; Keil, 2013; Noutcheva, 2015). Nevertheless, socialization of domestic elites and persuasion, do not appear to have been effective substitutes for political accession conditionality (Sedelmeier, 2011), even though they are described as unique EU strategies. Similarly, Mendelski (2015) argues that the effects of reforms depend on the interplay between domestic conditions and the EU reform approach. In this context, progress of Serbia in the field of rule of law appears to be strongly affected by domestic conditions.

Except conditionality, the EU utilises a variety of specific tools apart from the annual progress reports. These tools include systematic, case-based peer-review missions, rule of law advisory/expert missions and enhanced monitoring of reforms. Making these reports available to the relevant state actors, the EU attempts to assist them in addressing the key obstacles in the given field to foster implementation of the accession related criteria. In light of this, the European Commission's Progress report 2018²⁴ identifies several internal constraints to the implementation of good governance principles, such as corruption, lack of independence, transparency and accountability in key institutions and organized crime. Based on the new EU assessment methodology, most countries have only "some level of preparation" in the three areas of the rule of law, including functioning of the judiciary, fight against corruption and fight against organised crime.

As Serbia is in the process of becoming a member state, at the same time as the EU is facing an existential crisis following the UK's exit, the effects of the process of Europeanisation is

²⁴ See also the EC Progress Report 2016. The Report indicates a lack in judicial independence and impartiality as well as the pathology of politicisation of judicial structures. This signposts that judges' accountability is not ensured in practice and that the pathology of lack of enforcement of law continues to exist. The Report states that corruption is still highly present and without progress compared to previous years, which indicates the existence of corruption in the judiciary.

heavily debated in political and academic discourse, particularly with respect to the rule of law, which is a key in the context of European integration as a politically driven process.

Notwithstanding these debates, and the enlargement related exhaustion, conclusions of the EU Summit in Sofia 2018 refer to the Western Balkans in a relatively positive manner. It is stated in the Conclusions “Recalling the Thessaloniki Summit of 2003, the EU reaffirms its unequivocal support for the European perspective of the Western Balkans”. Hence 15 years later, these states still have the hope of the EU future. However, the key obstacles to EU accession are also mentioned in the Conclusions of the Summit, with an emphasis on the rule of law, especially the fight against corruption and organised crime²⁵. Furthermore, the Conclusion of the Summit refer to the need to enhance support for judicial reform, introduce trial monitoring in the field of serious corruption and organised crime, build capacity for corruption prevention and improve measurement of results in justice reform.

Given the current focus of the EU policies to defence, the identified priority areas in the Western Balkans and Serbia in particular, requiring significantly enhanced operational cooperation in the field such as firearms, drugs, migrant smuggling and trafficking in human beings, appear to remain key challenges. It could be concluded that despite positive media statements, usually referred to as ‘the EU closing the eyes’, it seems that the EU is aware of important problems in Serbia that can impact its own member states in case of enlargement.

3.2.3. Conclusions

The stalled democratic transition of Serbia described above has eventually resulted in serious obstruction of its EU accession. The major delay in effectively implementing the reforms in the crucial fields, caused both by political and operational reasons, nowadays hinders progress of Serbia towards the EU. As demonstrated in the literature, the simple alignment with the *acquis* is not sufficient, given that the core of the contents of Europeanization in candidate countries is “of a more general character” (Schimmelfenning, 2012, p.22). That is, beyond

²⁵ “The EU welcomes the Western Balkans partners commitment to the primacy of democracy and the rule of law, especially the fight against corruption and organised crime, good governance, as well as respect for human rights and rights of persons belonging to minorities”, EU Summit Sofia, April 2018

ticking the box of *acquis* alignment, it is the impact of these norms that is measured in the context of accession, i.e. the extent of achievement of democratization and the rule of law.

Acknowledging that the process of enlargement has “considerably contributed” (Lavanex 2004, p. 695) to the political transformation in Central and Eastern Europe, recent trends in these states indicate that the exported rule of law principle is not sufficiently implemented. This raises concerns about the potential of the EU to influence present candidate countries, particularly in the context of the mainstream debates in the Member States on the desire for further EU enlargement.

In the context of the discussion on “linkages and leverages” discussed above, diverse factors may have contributed to stalled or unfinished democratisation and transition in Serbia. The framework offered by Levitsky and Way (2006) suggests that higher linkages lead to stronger pressure (boomerang effect) from inside for democratic change. However, in the case of Serbia (and Western Balkans overall), it appears that the internal linkages have not been strong enough, despite membership-related political conditionality of the EU (Schimmelfennig and Sedelmeier, 2005). That is, the pressure of the domestic actors appears to be insufficient in sustaining or fostering democratic progress. It may be argued that the leverage was more efficient, while the EU was ‘pushing’ for results.

An important consequence of the stalled transition and the associated remaining problems in the field of the rule of law and crime control leads to an additional loss of time. That is, while Serbia still works on the rule of law, organised crime suppression and wide-spread corruption, the EU has shifted its focus towards security, terrorism and migrant issues. It is therefore reasonable to expect that the EU will postpone enlargement of any potential pieces of the European puzzle that may impede the achievement of its goals. Given that organised crime in candidate countries continues to represent one of the main obstacles in regards to further development and European integration (Hajdinjak, 2002; Vasic, 2016), the impact of criminal networks needs to be carefully addressed.

3.3. State response network in Serbia

This Section entails a brief overview of the crime control system in Serbia, as an element of the state under exploration. It involves international frameworks affecting the Serbian response and policies in the field of crime and drugs suppression, an outlook on specific strategies in the field, including an overall review of legislative and institutional framework. The mapping of the state response network is the basis of an exploration of the potential loopholes enabling the impact of organized criminal groups.

3.3.1. International frameworks affecting the Serbian response and policies - UNTOC, EU, regional levels

Serbia is party to a range of UN and the main international and Council of Europe conventions and protocols related to the fight against diverse forms of crime. Serbia has signed and ratified the United Nations Convention against Transnational Organized Crime (UNTOC/Palermo) and its protocols: Protocol against the Smuggling of Migrants by Land, Sea and Air, Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Moreover, Serbia actively cooperates with the United Nations Office for Drugs and Crime (UNODC), while there is also continuous cooperation through participation of Serbian experts in regular and special CND Sessions and Paris Pact Initiative. Serbia is also a party to the United Nations Convention against Corruption of 31 October 2003, the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988, the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999. Finally, Serbia is a member of a number of organizations within the UN system, including World Health Organization.

Agreement on Strategic Cooperation with the Europol has been signed, and the Department for Cooperation with Europol within Serbian Ministry of Interior is established. Cooperation with the International Narcotics Control Board (INCB) is performed through Department for Narcotic Drugs and Precursors of the Ministry of Health. Serbia cooperates with the EUROJUST, while the full membership is pending the alignment of legislation in the field of personal data protection.

Serbia's cooperation with the Council of Europe (CoE) has a special significance in the context of Serbia's European integration, having in mind that the CoE activities are also based on the so-called Copenhagen criteria. Numerous reform processes have been taking place in Serbia, in cooperation with the CoE and with its assistance, mainly in the domains of legal and institutional organization of the state, implementation of reforms in the field of justice, and other fields in which the CoE is active. Serbia is a member of twelve partial Council of Europe agreements, which are an optional form of bringing together states that have expressed special interest in a specific field of CoE activity, including, *inter alia*, Group of States against Corruption (hereinafter: GRECO), European Commission for Democracy through Law (hereinafter: Venice Commission), Co-operation Group to Combat Drug Abuse and Drug Trafficking (Pompidou Group). Serbia is a member of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (hereinafter: MONEYVAL) and the EGMONT Group of Financial Intelligence Units.

Serbia has a Permanent Mission to the OSCE in Vienna and actively participates in the organization's activities in the political-military, the economic and environmental, and the human dimension, as well as in the work of the OSCE Parliamentary Assembly. The OSCE Mission to Serbia provides assistance in project implementation related to capacity building of police officers to recognize symptoms and signs of overdosing by drugs, and identification of illegal laboratories for producing synthetic drugs.

Serbian legislation is partially aligned with the *EU acquis* in the field of organized crime and drug trafficking suppression and is therefore working on alignment of its legislation, mainly through the implementation of the Action plan for Chapter 24: Justice, Freedom and Security. During the Screening for Chapter 24 in the EU accession process, Serbian authorities reported that legislation was partially aligned with Joint Action 96/750/JHA on combating drug addiction and preventing and combating illegal drug trafficking. The legislation is also partially aligned with the Framework Decision 2008/841/JHA on the fight against organized crime. The established mechanism for the exchange of information on the results of chemical analyses of psychoactive controlled substances is still not in place, which implies that legislation is not aligned with the Joint Action 96/699/JHA concerning the exchange of information on the chemical profiling of drugs to facilitate improved cooperation between

Member States in combating illicit drug trafficking, nor is it aligned with Council Decision 2005/387/JHA on the information exchange, risk-assessment and control of new psychoactive substances. There is still no legislation on the transmission of samples of controlled substances, not a national contact point designated to supervise such transmission, implying to need to align with the Decision 2001/419/JHA. In 2008, Serbia initiated cooperation with European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), which is the reference point on drugs and drug addiction information in Europe.

In the field of police cooperation, Serbia also cooperates with Interpol, Southeast European Law Enforcement Center, SELEC, as well as the EULEX mission. Serbia signed 42 memoranda of understanding related to the exchange of financial intelligence data with third countries, 17 of which are with EU Member States. Serbia is also a party to the Police Cooperation Convention for South East Europe²⁶. On 5 May 2006 in Vienna, during the Austrian presidency of the EU, the Ministers of Interior from Albania, Bosnia and Herzegovina, Macedonia, Moldova, Montenegro, Romania and Serbia, signed the Police Cooperation Convention for Southeast Europe. The Convention entered into force on 10 October 2007. In addition, Bulgaria acceded to the Convention on 25 September 2008, Austria on 24 May 2011, Hungary on 6 July 2012 and Slovenia on 14 December 2012. The full implementation of the Convention is expected to assist those signatory countries not members of the EU to accelerate their eventual accession.

3.3.2. Serbian specific strategy and policing

It is important to put forward that Serbia has been implementing a set of reforms of legal framework, intelligence services and judicial system as of 2000. Hence, a certain form of a ‘state response network’ has been established and functional over the years. Since July 2008, suppressing organized crime and corruption was announced as one of top priorities of all state institutions. A detailed set of measures was designed to address the identified legal and

²⁶ The Convention envisages modern forms of cooperation among the Contracting Parties, such as joint threat analysis, liaison officers, hot pursuit, witness protection, cross-border surveillance, controlled delivery, undercover investigations to investigate crimes and to prevent criminal offences, transmission and comparison of DNA profiles and other identification material, technical measures for facilitating trans-border cooperation, border search operations, mixed analysis working groups, joint investigation teams, mixed patrols along the state border and cooperation in common centers.

institutional gaps. This mainly included a comprehensive work on the legislation as a precondition for strong institutional framework and adequate enforcement.

Serbian strategic framework in this field involves the Action Plans for Chapters 23 and 24, National Strategy for the Reform of the judiciary (2013-2018), National Strategy for the Fight Against Corruption, Strategy for prevention and combating human trafficking, particularly women and children and victims protection (2017-2022), Strategy for financial investigations of crime (2015-2016), Strategy for the Prevention and Fight against Drugs (2013-2020). Serbia had a Strategy for the fight against organised crime (2009-2014) and on this basis had developed the first organized crime threat assessment (SOCTA) in 2015, pursuant to Europol methodology. In the field of human trafficking, Serbia is placed on a Tier 2 of the Trafficking in Persons Report developed by the State Department.

The detection of organized crime is under the jurisdiction of the Ministry of Interior, Organized Crime Combating Service, which conducts pre-investigative procedure under the guidance of the Prosecutor's Office for Organized Crime, while other authorities, such as the Security Information Agency, the Military Security Agency, customs and other agencies participate in the detection of these criminal offenses. Prosecution is under the jurisdiction of the Special Prosecutor's Office for Organized Crime. In the first instance, the High Court in Belgrade (Special Department for Organized Crime) is responsible for court proceedings, and for the second instance the Appellate Court in Belgrade (Special Department). The competence of these bodies in the fight against organized crime applies to the whole territory of Serbia. The two institutions with special jurisdiction have been established in 2003, namely the Special Department of the Belgrade Higher Court and Special Prosecutors' Office for Organized Crime, competent for the offences with elements of organized crime. Their introduction was aimed at improving the state's capacity to combat drug trafficking and organized crime groups acting in the region.

Pursuant to the Criminal Procedure Code (2012), the public prosecutor is the head of the pre-criminal and criminal proceedings; the investigation is initiated on the basis of his order. The procedure for seizure and confiscation of property that originates from crime involves

financial investigation, seizure of assets arising from the criminal offenses by natural and legal persons and management of such assets. The financial investigation is carried out by the Financial Investigation Unit of the Ministry of Interior, while the procedure based on the court decision enables temporary and permanent confiscation of the property resulting from the commission of a criminal offense by natural and legal persons. Confiscated assets are managed by the Directorate for the management of confiscated property that is part of the Ministry of Justice. The Ministry of Justice is responsible for the legal framework on organized crime, corruption, drug trafficking, seizure of the proceeds from crime, and participates in the procedure of destruction of seized drugs with other responsible institutions. Through the Law on Organization and Jurisdiction of State Authorities in Combating Cyber Crime, Serbia established a special Department for the fight against cybercrime within the Ministry of Interior, as well as the Special Prosecutor's Office for Combating Cyber Crime.

In the field of corruption, the institutional framework involves the Anticorruption Council, as the body advising the government on anti-corruption policy, and the Anti-Corruption Agency, competent for monitoring the anticorruption strategy, asset declarations, prevention of conflicts of interests, supervision over integrity plans and political party financing.

The institutions responsible for the fight against money laundering and terrorism financing include the Ministries of Interior, Defence, Finance and Justice, as well as the judiciary and the Security Information Agency. A Financial Intelligence Unit (FIU) is established within the Ministry of Finance and is in charge of discovering of property derived from criminal offence, and has the exclusive competence to conduct financial investigations in Serbia. It functions as a part of Administration for Prevention of Money Laundering. The leading service for fighting economic crime is the Department for Suppression of Organized Financial Crime (responsible for the fight against money laundering, corruption and counterfeiting of money) within the Service for Combating Organized Crime in the Ministry of Interior.

The Ministry of Health is competent for prevention and health needs of the population, including manufacturing and dealing of narcotic drugs, psychotropic substances and precursors. The multi-sectoral Committee for Psychoactive Controlled Substances was

established in 2014, which acts as an inter-departmental body, comprising a panel of experts and representatives of relevant authorities, to coordinate actions in the field of drugs implemented by entities representing different sectors. In addition, the Office for Combating Drugs was established in 2014 and it became partly operational in April 2016. The Office is responsible for coordinating the work of public authorities; participating in the development of strategies and laws; monitoring the implementation of drug-related projects; analysing the situation in the drugs field; establishing international cooperation; preparing annual reports for international organizations; and implementing the Strategy for Drug Abuse Suppression 2014-2021. Its tasks are implemented in close cooperation with ministries, health institutions, NGOs and other national and local entities. The Centre for Monitoring Drugs and Drug Addiction was established as part of the Ministry of Health, and it is the main contact point for the EMCDDA (national focal point). The role of the Centre for Monitoring Drugs and Drug Addiction is to collect and analyse data on key epidemiological and drug supply indicators, and on NPS through the early warning system. The Customs Service had signed agreements with customs authorities of 25 states, 13 of them EU Member States.

3.3.3. Legislative framework – key features and obstacles

Serbian legal framework for the fight against organized crime is primarily based on the Constitution, the Criminal Code, the Criminal Procedure Code, the Law on organization and jurisdiction of governmental authorities in suppression of organized crime, corruption and other particularly serious criminal offences, the Law on foundations of regulations of security services of the Republic of Serbia, the Law on police, the Law on security information agency, the Law on military security and military intelligence agency, the Law on psychoactive controlled substances, the Law on protection of participants in criminal proceedings, the Law on seizure and confiscation of proceeds of crime, the Law on the liability of legal entities for criminal offences, the Law on the enforcement of prison sentences for criminal offences of organized crime, the Law on the substances used in the illegal production of narcotics and psychotropic substances and the health records Law.

The *Criminal Code* is of the key legislative acts relevant for organized crime and its diverse forms, such as drug trafficking. It is important to note that the Criminal Code has been amended several times in the preceding years. Criminal justice professionals perceive these amendments as the first phase of the reform of criminal legislation, suggesting that it is necessary to reconsider a series of solutions and possibly change them (Skulic and Ilic, 2012; Stojanovic, 2013). These standpoints refer to the criminal offences related to narcotic drugs, which have been associated with significant problems in practice, and are not fully harmonized with certain international legal documents. Possession of small quantities for personal use is punishable by up to 3 years in prison, but punishment may be remitted in minor cases (Criminal Code, Art. 246a). However, it is not legally defined what constitutes a small amount of illegal drugs. Comparative overview of the contemporary legislation of European countries, including case-law, shows that there is no EU state where such a severe punishment can be imposed for very small quantities of narcotic drugs, regardless of its type. Additional legislative changes to the Criminal Code have been adopted in 2012 to improve the chapter on corruptive offences.

The criminal procedure system in Serbia is subjected to an ongoing reform during the last decade²⁷. The new *Criminal Procedure Code* came into force on January 15, 2012²⁸ only at the specialized courts for war crimes and organized crime. The new Criminal Procedure Code introduces a significant number of new features which, *inter alia*, contribute to the more efficient work of judicial authorities in the fight against organized crime and corruption. Some

²⁷ The Criminal Procedure Code adopted in 2001 was amended in 2009, aiming to suppress organized crime and strengthen enforcement against narcotics and corruption, but failed to address a number of problems. The Amendments introduced the plea agreement in Serbian criminal proceedings for the first time. In 2006, a new Criminal Procedure Code was passed, but has never entered into force. The new Criminal Procedure Code passed in 2006 aimed at better alignment of the criminal justice system with the newly reformed judicial system. Nevertheless, the Code did not address the lack of parity between the prosecution and defense, inefficient management of resources, and unclear application of prosecutorial discretion and plea bargaining. Facing widespread criticism from members of the Serbian Bar, the 2006 Criminal Procedure Code never entered into force

²⁸ In the period between 2011 and October 2013, two Criminal Procedure Codes were applicable in Serbia. The first is the 2001 Criminal Procedure Code, which was implemented before the courts and public prosecutor's offices of general jurisdiction until October 2013. The second is the new Criminal Procedure Code adopted in 2011 applicable in cases falling within the jurisdiction of Prosecutor's Office for Organized Crime as of 15 January 2012. The new Code introduces prosecutorial investigation aiming to expedite processing of criminal offenders, increase the trust in the judiciary, and reduce frequent conflicts between the police, prosecution, and courts that have plagued the criminal justice system.

of the key changes involve presentation of evidence at preliminary hearings, a fundamental change to trial advocacy practice and the roles and responsibilities of prosecutors and defence attorneys, measures to increase the use of plea bargaining, new evidence-gathering techniques, witness protection standards, and the ability to use mediation in certain criminal proceedings. Innovative techniques for evidence gathering were introduced and more closely regulated, including the use of surveillance communication, secret monitoring and recording, undercover operations, and computer data searches. Moreover, the Law on Organisation and Jurisdiction of State Authorities in the Fight against Organised Crime, Corruption and Other Particularly Serious Criminal Offences was adopted in 2016 to improve the organizational structure and cooperation of state bodies aiming to enable more effective detection, prosecution and trial for organized crime, terrorism and corruption. The new Law on Police was enacted in January 2016, introducing a number of innovations²⁹ in the legal system that is expected to significantly contribute to the improvement of quality in the performance of police.

Serbia has a list of drugs and of drug precursors and it is regularly updated, on the basis of a proposal of the Ministries of Health or Interior. However, early warning mechanism on new psychoactive substances for collecting, managing and sharing information among state structures responsible for the fight against drugs has not yet been established. Despite the relatively adequate legal framework, Serbia needs to improve conditions for the storage of permanently seized quantities of narcotic drugs and to fully launch a system for the destruction of confiscated drugs by clearly prescribing and implementing the procedure and designating the responsible state institutions.

With regard to policies on discovery of new illicit drugs and precursors on the market, National Focal Point has been established and significant steps were made for its proper organisation and functioning. However, as it is established under public institution (Ministry of health) and on the basis of the agreement of Serbia with the Global Fund which prohibits

²⁹ The most important novelties refer to the reorganization of the Ministry of Interior; separation into internal and police affairs; division into police, state and executive officers; the use of new means of coercion by police officers replacing the use of firearms; the introduction of integrity tests; career progression based on basic parameters as vocational training, education and more

to hire new personnel, the establishment of the National Focal Point and Early Warning System is significantly impeded at the operational level as the department is understaffed, with limited resources. There is a significant lack of available early detection, monitoring, screening and assessment strategies targeting drug precursors and NPS) use in Serbia. Effective control over the production and marketing of substances that can be used for the illegal production of narcotic drugs and psychotropic substances is an important element in preventing the illicit production of narcotic drugs and psychotropic substances and leading to a reduction in their supply. Since most of these substances are in regular circulation and are used in chemical, pharmaceutical, cosmetic and similar industries, control of production and trade, including import and export, must be carried out in accordance with legal norms, in order to prevent their unlawful use.

The Law on Seizure and Confiscation of the Proceeds from Crime proved to be a major step in precluding property and funds which are proceeds of crime and often used to commit new criminal offences³⁰. However, the total number of proceeds of crime seized remains low and management of seized property needs to be improved. An Asset Recovery Office remains to be designated and adequately staffed to foster international cooperation.

In terms of customs cooperation, Serbia needs to access to the Convention on mutual assistance and cooperation between customs administrations (Naples II) upon accession to the EU. This process will need to be accompanied by amendments to legislation as regards central coordination units, special forms of co-operation and extension of the investigation powers of customs. The legal framework is largely aligned with Decision 2009/917/JHA on the use of information technology for customs purposes. There is an IT strategy for the Customs Administration covering the period 2011 till 2020, but there is a need to establish an

³⁰ The Law is aligned with Council Framework Decision 2005/212/JHA on confiscation of crime-related proceeds, instrumentalities and property, Council Framework Decision 2003/577/JHA on the execution in the European Union of Orders freezing property or evidence, Council Framework decision 2006/783/JHA on the application of mutual recognition of confiscation orders, Council Framework decision 2001/500/JHA on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime. The law is not yet aligned with Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition of financial penalties. The legal framework still needs to be aligned with the Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union

IT database (including digital records of investigations) and extent the IT application to the entire enforcement division in order to comply with Decision 2009/917/JHA.

Following this review of the institutional, strategic and legislative set-up, it is also important to mention the certain notable effects of the crime control policies, as they entail the key feature of the state under exploration. One of such visible features is certainly the penal policy of a state. Penal policy in Serbia is often criticized by the professional public, experts and the media, particularly in regards to sentencing serious criminal offences. It is argued that courts pronounce conditional sentences for serious crimes, whereas minor offences are sentenced with imprisonment or tend to pronounce sentences within legally stipulated minimum (Delić, 2010). Regular acceptance of various mitigating circumstances by the courts leads to conclusions that penal policy is inadequate or soft (Delić, 2010; Mrvić-Petrović and Đorđević, 1998; Ćirić, Đorđević, and Sepi 2006). However, according to Stojanovic (2008), frequent legislative amendments often result from lack of consideration of scientific and experts' standpoints and political polarization and are therefore inefficient.

Moreover, the relationship of drugs and crime in the criminal justice system is of particular importance for the analysis of state policies on drug trafficking. However, one of the key obstacles to objective analysis of penal policy refers to the lack of statistical data, since courts, prosecution and police do not perform aggregate analyses. Thus, evaluations are based on separate statistics which makes them incomparable and questions validity of results. In addition, relevant authorities do not keep statistical data on drug related offenses, which further complicates the analysis, as it remains unclear whether individuals are prosecuted due to possession of drugs for personal use or for the actual criminal offense involving unauthorized sale of narcotics. Finally, when discussing penal policy for organized crime and drug trafficking cases, it needs to be borne in mind that indigent individuals often lack access to legal aid, while mandatory defence is stipulated only in case of offences punished with imprisonment over 8 years (Criminal Procedure Code, 2012), whereas members of organized criminal groups have the potential to hire lawyers.

Overall, such sentencing trends result in lack of individualized sentences, recidivism related to lack of consequences, and potential reinforcement of further criminal behaviour. There is also a need to address current sanctioning policies and selective prosecutions. Recurrent and at times controversial changes in legislation aimed at increasing justice efficiency and suppression of crime, coupled with multiple postponement of their implementation, appear to hinder adequate criminal justice functioning.

3.3.4. Conclusions – initial outlook of the state response network

Focusing on governmental responses to drug trafficking with regard to legal and institutional framework, several initial conclusions arise. Revisions of the legislation have been designed to address legal and administrative loopholes, empower judicial authorities, asset forfeiture and introduce more severe sanctioning. Despite these efforts, the track record of investigations, prosecutions and final convictions in drug trafficking cases remains weak.

A series of revisions of the normative framework still appear to be fragmented and inconsistent, with implementation being one of the key obstacles to efficient functioning of the criminal justice system. Problems with implementation are often associated with socio-political context and absence of the so-called political will. The need for existence of political will, regularly cited in the media as well, indicates that institutions remain weak and dependent on current political options. This correlates with the recorded overall citizens' perceptions regarding trust in judiciary (World Bank Judicial Functional Review, 2014).

Increased use of plea agreements is perceived as encouraging and boosting efficiency, while assets seizure remains unsatisfactory. Concurrently, the Anti-corruption Strategy and Action Plan offer an adequate framework for addressing corruption, but implementation with regard to drug trade related corruption is yet to be assessed. Corruption cases are addressed by specialized prosecutors; however there is no similar level of expertise in the police or the judiciary, hampering the adequate finalization of cases.

Investigation on high level corruption remains scarce, particularly in connection with money laundering and the origins of such financial resources. Serbia has no legal framework

governing inexplicable wealth, which further hinders the state's potential to effectively investigate 'white collar crime'. The European Commission reports that:

Serbia has yet to establish an initial track record of effective financial investigations, as well as of investigations, prosecutions and final convictions in money laundering cases. The number of convictions for organised crime remains low. Serbia needs to focus on the implementation of the action plan agreed with the Financial Action Task Force.

(EU Progress report, 2018, p. 4)

Overall, lack of reliable data on organized and drug related crime hinders in-depth analysis of the effects of criminal justice policies. The lack of precise data on the extent of drug trafficking is mainly associated to the lack of joint databases, statistical and risk analysis. Moreover, the imprecise track record of drug seizures, inadequate storage of seized drugs and precursors and their highly problematic destruction represent some of the key challenges

Concurrently, there appears to be a need to develop new measures for detecting drug flow along the "Balkan route", in particular taking into account the increased rates of the use of new psychoactive substances. In this particular field, there is an urgent need to fully establish an early recognition system and early warning mechanism for new synthetic drugs, strengthen the control of precursors and cooperation in this area between customs, police, producers and distributors of precursors in order to monitor traffic and use of precursors.

Closely related field of drug demand reduction does not seem to be a focus of state activities. This field could be substantially improved through extension of the network of treatment facilities and introduction of new treatment programs, promotion of early detection and intervention activities, rehabilitation, social reintegration and harm reduction programs, and advanced cooperation with the EMCDDA. Finally, it seems better cooperation between the government and civil society in documentation and monitoring of drug trafficking related cases would contribute to state efforts in suppressing this phenomenon.

This brief review of the Serbian experience in organized crime and drug trafficking suppression is the basis for an exploration of the causes and specific loopholes due to which Serbia has become caught in a kind of mid-process state.

3.4. State capture - has Serbia transited and to what?

3.4.1. Is Serbia trapped in perpetual conversion enabling criminal governance?

Despite diverse efforts to suppress organized crime and develop an efficient state response network described in Chapter III (3.3), it appears that Serbia still faces major problems in this field. In light of this, the question frequently raised among scholars in Serbia refers to the finalisation of the process of transition. Is Serbia still a country in transition? Or it has transited and if so, to what?

In order to respond to these queries, it would be necessary to have a point of comparison i.e. a measure of successful transition. Given that there is no clear measurement of the level of transition, the process of EU accession has developed diverse levels of assessments of a country's 'readiness' to join the EU. These certainly include progress reports, non-papers, peer review missions and the like. If these assessments are perceived as a form of measurement of a successful democratic transition, whereby the EU would accept membership of a state that fulfils these criteria, does this imply that a country has transited? In the absence of other firm measures, the EU criteria for membership can be taken as a point of comparison. Consequently, the issues identified as key obstacles in these assessments can be perceived as the main indicators of the remaining problems.

Available research and assessments in relation to Serbian accession and democratic transition until 2018 has showed that EU reforms did not improve certain dimensions of the rule of law, which is particularly the case with enduring issues of organized crime and corruption. The discussion in Chapter III indicates that the stalled democratic transition and EU accession may have therefore resulted from a complex relationship between organized crime, corruption and illicit financial flows, coupled with specific geographic position and socio-political context.

For instance, the Sofia Declaration (2018) adopted at the latest EU Western Balkan Summit on May 17th 2018 states that “In the Western Balkans, the investment climate continues to be hampered by signs of state capture”. Such a strong statement, following a period of rather positive reports on Serbia caused significant interest. Most professionals following the EU accession process in Serbia perceived this statement as the end of a ‘honeymoon period’ i.e. the period during which the EU was closing the eyes in relation to major problems present in Serbia. The EU Communication on enlargement also states that:

Organised crime's foothold on the enlargement countries remains strong. Powerful criminal groups continue to operate in and from the Western Balkans region and Turkey. The region remains an important entry route for the trafficking of illicit goods, in particular drugs and arms.

(COM, 2018 (65), p.4)

The same Communication further states that:

Today, the countries show clear elements of state capture, including links with organised crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests.

(COM, 2018 (65), p.3)

The diagnosis of state capture offered by the EU is not essentially a surprise for most professionals engaged in EU accession process. A brief review of the Reports on implementation of the Action plans for Chapter 23 and 24 in 2017 and 2018 provide similar conclusions. Little progress has been made in the fight against organised crime, corruption and money laundering. Concurrently, the EU accession negotiations are progressing, and new chapters are opened. It is known that the overall pace of negotiations with the EU will continue to depend on Serbia's progress in reforms in the rule of law and in the normalisation of the relations with *Kosovo.

Moreover, Transparency International reports in 2018 that Serbia is ranked on 87th place, with a score of 39 (Transparency International, 2018, p.1). As the report states, this score of Serbia

is the same as it was in 2012 and there have been no significant changes for over ten years. Reference to corruption in diverse areas has been noted in other reports on Serbia as well (e.g. GRECO, 2018; SELDI, 2016). Corruption has also been identified as a major problem in Serbian political circles, and many of the democratic parties have been known to engage in questionable practices ranging from embezzlement to involvement in organized crime (Miljković and Hoare, 2005).

Furthermore, strong influence of the mafia is becoming increasingly visible in a number of areas, such as sports, judiciary, police, media (Prelevic, 2018). News reports on murders among members of criminal networks on a weekly basis causes additional concern. Reports indicate that a significant number of members of criminal networks have been killed in the period between 2012 and 2018. For instance, the Black Book developed by a joint project of KRIK and Radio Free Europe is a database of the killings carried out in the period 2012-2018 in the territory of Serbia and Montenegro, which have the characteristics of mafia liquidations (KRIK, 2018). The was created with the aim to point out the frequency of this phenomenon and the fact that the safety of citizens is endangered as it often comes to the calculation in the middle of the day and in public places. Journalists were asked for information on what the state undertook to clarify for each murder listed in the relevant institutions. The data is distressing - out of 123 murders, only 9 have been resolved, while the perpetrators are unknown in as many as 86 cases. According to a Belgrade lawyer Prelevic, less than 20% of perpetrators are prosecuted (Prelevic, 2018).

Evident impact of organized crime and corruption in Serbia brings into question its future status as an EU member state. The identified emergence of the state capture phenomenon indicates that such socio-political dynamics represent a serious enduring problem. Even though the concept of state capture incorporates most characteristics of corruption-related relations, it is important to understand its nature and the phenomena it is related to.

3.4.2. State capture – definitions and key features – theoretical framework

In an attempt to explain analogous social dynamic within various transition countries, the state capture theory by Joel Hellman in 1998 became part of the mainstream paradigm. The concept

of state capture was introduced to elucidate how the private sector infiltrates decision making and consequently runs the state.

This concept enabled a wide array of applications, but it does not have a single definition. It is frequently used in different contexts and covers various types of phenomena. Essentially, the concept of a "*captured state*" relates to the question: how to discover in what manner the power is acquired in a society, how this power is abused. This query refers to potentially unlimited power that utilises the whole state to fulfil its needs (Hadzic, 2018).

The concept of state capture mainly explains various phenomena arising in different states, referring to the establishment of control of the institutional capacity of the executive power by political parties aimed at extracting corruption rents, or influence on legislative power by business sector entities (bribing state officials) aimed at obtaining privileged status or preferential treatment (Hellman et al., 2000). In addition, state capture is also used when referring to influence of mafia over the state (Fazekas, and Tóth, 2016; Felbab-Brown, 2011; Leitner and Meissner, 2017; Maharaj, 2017).

Different applications of the concept of state capture all indicate a set of common features of the phenomena described i.e. deviant relations between the state actors, the political networks and private entities, hence the key participants in the state capture process (SELDI, 2017) The use of the term deviant suggests that the concept of state capture explains a deviation from the regular form of relations between these actors. Some authors suggest that such definition would be most appropriate for the states in which the commonly accepted normative ideal is that of a liberal social order in combination with a neo-liberal economic model (Southeast Europe Leadership for Development and Integrity - SELDI, 2017).

This may be perceived as a normative definition, as it refers to assumed predefined norms establishing legitimate relations between the key actors in the state i.e. legitimacy of government established through general elections; non-monopolistic economy; neutral state administration to the different interests in society; the political parties do not undermine the structure of the economy or the neutrality of the administration (SELDI, 2017). World bank utilises the definition proposed by Hellman, Jones and Kaufmann (2000) which distinguishes between three types of relationships marked by deviant relations of the private sector and the state: a) state capture, defined as *shaping the basic rules* (i.e. laws, regulations) through *illicit*

and non-transparent private payments to public officials; b) influence, defined as the firm's capacity to impact the formation of the basic rules *without* necessary resorting to *private* payments to public officials (as a result of ownership ties to the state and repeated interactions with state officials) and c) administrative corruption, which is defined as *private* payments to public officials to hinder the *implementation* of official rules and policies (Hellman, Jones and Kaufmann, 2000).

A definition of state capture proposed by the Centre for the Study of Democracy combines different forms of corruption which have a single objective: to secure wholesale (by default) and long term privileges to captors by exploiting the power of government for private benefit. According to the Centre for the Study of Democracy, state capture usually involves the following features: a) realization through corruption transactions and mechanisms; b) state capture schemes do not include large groups, but refer to collective actors, including networks, who have high leveraging power, control substantial resources and have influence capacity, and c) state capture is systematic and not an ad hoc action (Centre for the study of democracy, SELDI, 2016).

Along with the definition, the Centre for the Study of Democracy (Centre for the study of democracy, SELDI, 2016) proposed an interesting model of the key elements of state capture. The first element refers the actors, which mainly involve private entities, network of the state institutions, and political parties/networks. The actors all have the capacity to be the captors, pending the type of relationship developed. The second element is the results, referring to the privileges and status the captor obtains (e.g. the ability to enjoy undue advantages and extract corruption rents). In case of private entities as captors, the results vary, and may refer to obtaining priority of the captor's rather than the public interest, developing monopoly, and the like. For state institutions as captors, the result may involve the ability to extract corruption rents or seizure public resources.

The final element refers to state capture mechanisms, and involves a set of different methods used by captors, such as a) lobbying for legislation, or influencing public policies, which ensures exemption from prosecution, market advantage or economic policy, budget allocations; b) political corruption aimed at influencing the executive, or the legislative or preferential access to the judiciary as well as judiciary corruption; c) institutional corruption:

bribing civil servants in public institutions to enable the protection of captors' interests, and
d) corruption in public procurement (privileged access to public resources)

The proposed model offers a valuable picture of the key elements of state capture across states. However, when observing the forms of state capture in transition countries, there seem to exist additional dynamics, which may be attributed to specific development contexts (e.g. transition), as well as to distinctive societal factors. Some authors make a distinction between administrative corruption and state capture, arguing that state capture (perpetrated by the private sector through bribes aimed at altering the rules or by politicians controlling market entry) is the problem in transition countries (Hellman and Kaufman, 2001; Wallis, 2010).

Explorations on post-socialist states have indicated that they do not comply with conventional notion of the state capture. Rather, as Ganev (2007, p.3) supports "behind such fluctuations lies a dynamic autonomously generated within the state domain itself". It is argued that a number of inherited and new pathologies typical for transition states, along with the interplay of broader political forces and larger social constituencies, account for the sudden fluctuations of stateness (Ganev, 2013). Ganev perceives this as:

The unique institutional legacy of state socialism, the unusual structure of incentives facing powerful elites, and the peculiar dynamics unleashed when fundamental social relations, related to the collecting, managing, and distribution of resources were radically altered.

(Ganev, 2007, p.2).

In other words:

The historical distinctiveness of the behaviour of successful predatory elites in post-Communism is that they have had an incentive to behave as state breakers, not state makers.

(Ganev, 2007, p.96).

It could therefore be argued that a state capture phenomenon does not provide sufficiently clear framework for examining the corruption issue in transition states (Bowser, 2003). According to Pesic (2007), from the point of view of system theory, state capture is caused

by a weak functional differentiation within the social system. Boundaries between the subsystems do not exist or are porous, hence power and goods from the economic sub-system are convertible for influence and goods from the political sub-system and vice versa, depending on where the dominant power of the social system lies. Pesic maintains that dominant power in Serbia remains located within the political system. She argues that such collusion enables an oligarchic social structure in Serbia that undermines effective institution-building and the rule of law (Pesic, 2007).

Serbia is surely not a single transition state in the region facing these problems. Reports indicate that in a number of South European states the phenomenon of corruption impacts the quality of public governance as a whole, as it is not limited to individual acts of bribery or minor offences (Centre for the study of democracy, SELDI, 2016).

In 2016, SELDI monitored corruption activities in the region in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo*, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey. The 2016 findings indicated that the overall level of corruption is sufficiently high for it to be of serious concern to the stakeholders, even though there are considerable differences between the most and least corrupt countries. The more tangible reductions were identified in countries under more EU scrutiny but also with fairly high levels of corruption pressure, such as Bulgaria or Montenegro. Nonetheless, these small improvements have been insufficient, as on average, corruption pressure is 25.9 % – which is solely a percentage decline since 2014, when the regional mean was 27.1 %.

Moreover, Hungary has become one of the politically captured states in the region (Agh, 2016; Bozoki, 2011; Fazekas et al., 2016). The study analysed the country to explore business – political networks that lead to state capture and developed a new conceptual and analytical framework for assessing state capture based on micro-level contractual networks in public procurement. A study on state capture in Poland by Alwasiak et al. (2012) found that the EU accession did not prevent state capture in Poland. The results of the study provided an insight into the reasons when state capture occurs in a post-transition country, using an original sample of 1.363 legal acts that were passed in Poland in the years 1990–2011. The study demonstrated that in Poland the majority of legal acts were passed with the aim to satisfy the

interest of particular groups hence that state capture is accompanied by regulatory capture and regulatory opportunism.

Despite the fact that state capture, corruption and organized crime are pervasive problems across transition countries, there is little and fragmented evidence to support the understanding of their connectedness. Previous theoretical investigations mainly focused on the influence of the private sector and state institutions or corruption *per se* and largely ignored the interplay between criminal networks and state actors/legitimate networks.

3.4.3. State capture and/or crooked states – deviant state functioning as a point of arbitrage enabling criminal networks operations

As discussed above, symbiotic links between state institutions and the private sector are referred to as a phenomenon of state capture. Nevertheless, the private sector *per se* may be comprised of various licit and illicit actors, hence influencing the character of the state capture. That is, a state may be captured as a result of systematic and/or administrative corruption, but it can also be captured by criminal networks. Such symbiosis with criminal actors may certainly have a much greater impact on governance and state functioning. This is of particular concern, given that it is acknowledged that organized crime and corruption are not marginal issues, but rather central governance problems worldwide. As Cockayne suggests:

These are no longer two distinct worlds – an upperworld and an underworld, but a single strategic space in which state, criminal and other actors compete to govern.

Cockayne (2016, p.8)

Despite a variety of well-based definitions, observing the state capture concept solely through normative perspective seems too simplistic, as it does not offer an explanation of the mechanisms of state capture in different states or the dynamics of captured relationships. Acknowledging that political corruption and state capture by criminal networks are common features of countries affected by high levels of organised crime, it is of concern to identify the

various ways in which various dimensions of state functioning may be viewed as causes of state capture and/or consequences of crooked institutions.

The deviations from the general model of state capture may vary across states and it is considered that the forms and types of state capture are determined by the captors and their relative power (SELDI, 2017). Hence the active role of the involved actors (captors) appears to be a key factor determining the degree of state capture. The captors' objective is to achieve sustained advantage in a certain sphere, but it is important to take into account the diversity of the captors and their roles. For example, organized criminal groups are one among a number of actors of the illegal economy – including corrupt public officials or contractors with specialised expertise – and illicit financial flows can be generated by both legal and illegal activities (Bisogno, 2016).

There is a perception that manifestation of organized crime usually requires certain correlation with the state structures and the exercise of a certain influence in the political and financial structures³¹. Systematic corruption and associated criminal networks have been consistently closely linked to governance mechanisms involving high level officials in the executive, judiciary and the legislative branches (Antonopoulos, 2008; Block and Chambliss, 1981; Chambliss, 1978; Chevrier, 2004; Di Nicola and Zoffi, 2004; Kleemans and van de Bunt, 2003; McIllwain, 2004; Middleton and Levi, 2004). According to Shelley, compartmentalizing phenomena of corruption and organized crime limits the capacity to scrutinize and address the diverse forms of transnational crime (Shelley, 2005).

The association of the growth of organized crime and public sector corruption has been confirmed in a study that used qualitative and quantitative data analysis in a large sample of countries (Buscaglia and van Dijk, 2003). A composite index of organised crime utilized in the study included indicators of key activities (trafficking in humans, weapons, vehicles, cigarettes and fraud) and secondary factors (costs for businesses, the informal economy extent proportional to GDP, money laundering and violence). Overall, the results of this study indicated that there is greater prevalence of organised crime in countries characterized by

³¹ Block and Chambliss (1981) proposed the organizing crime perspective, highlighting the existence of consensus of legitimate actors in different criminal settings, identifiable through their involvement in corruption, money laundering and the like.

weak rule of law, monopolistic practices and lack of justice efficiency. Moreover, questionable independence of the judiciary and increased political interference in the appointment of civil servants was positively related with higher levels of organised criminal activity.

This is consistent with the results reported by Lyman and Potter (2000) who illustrated the diversity and magnitude of legitimate actors' roles in the context of illegal drug trafficking, arguing that the role of judges, prosecutors, law enforcement and other officials is of major importance for the functioning of the drug trafficking groups. Similarly, a case study utilizing electronic surveillance data from the joint investigation *Project Caviar* reported a significant impact of legitimate actors in illegal drug trafficking group (Morselli and Guguere, 2006). The focus of the examination was the method and the extent to which such participants help structure the criminal network.

Similarly, a study by van Dijk (2007) demonstrated that high levels of corruption and money laundering combined with black market economy strongly correlated to the Organised Crime Perception Index. The results also demonstrated that organised crime prevalence is greater in countries with weak rule of law, low justice integrity and lack of responsible institutions. Certainly, the methods to penetrate governmental structures and influence elected officials differ, ranging from bribery, financial contributions to political campaigns of strategic candidates or joint investment opportunities. Nevertheless, corruption of state officials is not solely based on bribery, but may assume many different forms of support (Shelley, 2005). This notion is supported by investigations on drug trafficking groups in Serbia who were provided falsified documents by officials in several SEE states (Vasić, and Tagirov, 2005). Pervasive corruption in a society indicates that the state is functioning poorly (Rose-Ackerman 1997), and that the leadership has failed (Hope and Chikulo 1999).

Cohen argued that transitional states are usually characterized by two types of corruption: state capture, involving illicit payments made by individuals to public officials aimed at influencing court decisions or using various rules and procedures, and administrative corruption, which involves private payments aimed at obtaining favourable treatment (Cohen, 2003). Empirical research focusing on the link between corruption and organised crime in transition countries also emphasize the interdependent nature of these phenomena

(Michaletos, 2007; Nikolic-Ristanovic, 2004). Previous research by Serbian authors suggested strong linkages between organised crime and public sector corruption, with crime networks greatly relying on corruption to ensure the protection from law enforcement efforts, facilitate money laundering and ensure legal investments based on illicit trade (Nikolic-Ristanovic, 2004; Trifunovic, 2007). In this sense, Prelevic (2018) suggests that “discovering perpetrators costs the mafia, but not discovering costs the state and someone is paying for that”.

In addition, some of these networks have managed to act ‘against the state’, sending a message of their achieved power both to society and state officials. There are a number of examples of actions undertaken against the state in Serbia’s recent past. The murder of Prime Minister Djindjic in 2003, which was precedential by a strike of the special operations unit, certainly represents one of the most serious examples. A series of political murders during the 90s, including murders of journalists, has also been associated with the main criminal groups (Anastasijevic, 2006).

A decade ago, Warburto (2007) suggested that previous approaches are insufficient to provide deeper knowledge on why and how corruption occurs and are therefore unable to prevent or address it. The author duly noted that corruption represents a complex, multi factorial phenomenon, closely associated to the fundamental complexity of human social relations. This is consistent with the previous research by Della Porta which indicated that for corruption to occur, the overall system must be susceptible for such illicit activity. Examining empirical evidence on the widespread existence of such networks in Italy, Della Porta (1999) emphasized that corrupt actors must exchange a range of favours in order to protect themselves within the system, referring to this scheme as a market of corrupt exchanges.

The interaction between criminal groups and the state, regularly accompanied by corruption of public authorities and institutions, stems from the efforts of organized criminal groups to govern the markets and maximize opportunities for rent-extraction, rather than solely operating within the given set of rules (Cockayne and Roth, 2017). Chayes argues that corruption produces a demand for protection because the actors in this exchange do not know for sure if the other party will deliver what was promised (Chayes, 2015). Johnston (2015) describes these dynamics by suggesting that oligarchic gains are insecure due to rapid changes

and absence of the state to enforce contracts or defend property, so violence becomes a rational resort.

Overall, these diverse perceptions of the links between the state actors and criminal networks all indicate that there are paths through which these apparently different groups collaborate with an aim to secure profits. The extent to which these paths are rooted in a society varies across states and these variations are described below.

3.4.3.1. A spectrum of states affected by crime

The attributes of the states affected by organized crime and corruption or the nexus between an upperworld and an underworld vary to a great extent. That is, most states are not fully criminalized or captured, but fall somewhere in between the two extremes of the spectrum. This brings into question the reference to all these similar situations of diverse countries as captured states, consequently resulting in a number of similar terms in the literature describing such dynamics. However, despite similarities, various terms in fact describe different place of a state on a continuum, pending the extent of a failure of governance.

The diversification among states affected by organized crime ranges from the states that have become fully functioning criminal enterprises to failing states that are inherently susceptible to organized criminal organizations. The states which can be considered criminal enterprises also differ. For instance, in some states, corruption can become a factor when the state chooses to legalize private protection and hand over a part of its monopoly over the legitimate use of violence to the mafia. Such states are often regarded as *predatory states*. The case study on Zimbabwe by Schuma (2018) argues that the Zimbabwean state exhibits more predatory characteristics than other forms of state conceptualisation. As Schuma suggests, the predatory state is characterised by weak bureaucratic capacity and poor institutionalisation, enabling the ruling elite unconstrained access to and abuse of state power for personal gain. Further to a detailed exploration of Zimbabwe situation, this study offers a conceptualization of main features of a predatory state such as: 1) predatory shift is linked to the changing structure of the economy, away from the significance of the manufacturing sector to the post-independence dominance of resource-based extraction, 2) deficiency of production strategies,

whereby the main aim of policy is to channel rents to ruling elite 3) the military–political elite extracts the benefits of each sector.

In relation to this, authors suggest that even though a state monopoly on violence held by the military and police is vital for public order and crime suppression, it can be too strong (Davenport, 2007; Fukuyama, 2005;). In the absence of societal forces to control the state powers, repression and thus popular de-legitimation and destabilization of democracy are likely results. There are also models that have been applied to the subject – in particular the concept of a shadow state as a conception of warlord run states (Reno, 1998) that may be applicable in the South African context (Bhorat et al., 2017).

It appears that fragile and conflict-affected states represent vulnerable places and opportune environment for operation for transnational criminal networks, such as Latin American drug trafficking groups or criminal organisations in West Africa, located on the large trans-continental smuggling and trafficking routes. A study by Ellis and Shaw (2015) found that in almost all cases, some elements of the state were involved, i.e. as a defining element in protection markets, either as a direct participant, facilitator, or regulator. The authors referred to this as an erosion of the “frontiers between politics, crime and business” (Ellis and Shaw, 2015, p. 511), highlighting that, in Africa the growth of organized crime is primarily a result of the willingness of politicians to envisage relationships with professional criminals.

Beyond predatory states, the extent of failure of governance differs in the context of the remaining capacity of state structures to keep their own power. For instance, a wide range of countries experiencing vastly different types of governance problems or periods of instability are often referred to by as fragile states (Kaplan, 2012). Despite similarities with captured states, it may be argued that fragile states experience additional problems. According to Kaplan (2012), these states differ in the degree of social cohesion and political identity fragmentation, as well as the level of government capacity. Kaplan argues that in order to be characterized as fragile, states need to cumulatively fulfil two conditions i.e. to lack an effective government and be socio-politically divided (by ethnicity, religion and the like).

Following exploration of state fragility in Arab states after Arab spring, Kaplan argues that structural conditions do not change easily, hence influence state fragility over time.

In that sense, *captured states* significantly differ from a wide array of the so called “failed states”. This difference lies in the fact that the rule of law may be corrupted by private as well as criminal interests, influencing some areas of social, economic and political life, which results in a state becoming ‘crooked’ or captured. On the other hand, fragile states, due to unclear sovereignty dimension, appear to not ‘fail’ additionally as a result of stressors such as corruption. In such states, public governance systems are governed by ‘crooked’ actors rather than state actors. Despite these differences, most of the states characterized by failure of governance experience utilisation of public resources and institutions to serve private interests, often closely linked with criminal networks or the mafia..

Different forms of collusion between states and criminal groups are often described as a ‘mafia state’. As reported by Welch (2012), this concept refers to states in which institutions, intelligence services, police and officials are involved in a range of criminal activities, such as drug, arms, and human trafficking. Such states depend on profits from crime and have strong bonds between the licit and illicit worlds, such as North Korea, Guinea-Bissau, Ukraine, Venezuela, and Myanmar.

However, the term mafia state may be oversimplified, given that it does not adequately reflect the broad spectrum of criminal network-state relationships, or ecologies, that exist in the real world (Welch, 2012). Hence it is possible to distinguish between criminalized states and captured states on the basis of their operational and transactional relationship with criminal networks.

Criminalized states have institutionalized, state-sponsored criminal networks, which are either actively or passively supported by the highest levels of leadership. At the other end of the spectrum, captured states are cooped or directly challenged by criminal organizations that largely function outside of state auspices.

(Welch, 2012, p.2).

This embeddedness of organised criminal activities and actors in the very fabric of the economy, the state and society has been entitled by concepts such as criminal governance (Arias, 2006), co-opted state reconfiguration (Garay-Salamanca and Salcedo-Albarán, 2012) and crimilegality (Schultze-Kraft, 2019), and emergence of protection markets (Ellis and Shaw, 2015).

Reference to criminal states also appears in studies on transition states. According to Ivanova (2010, p. 4), the notion of a “criminal state” refers to:

A state run by false elites comprising former *nomenklatura* members and current oligarchs, who profess democratic values while colluding with criminal elements in order to drain the public domain of its assets.

(Ivanova, 2010, p. 4)

In criminal states, corruption seen as the inefficiency of the state links to the initial economic model of organized crime, whereby the mafia supplies a service the state cannot offer. In Varese’s words:

The mafia banks on the inefficiency of the state in supplying efficient protection to legal transactions: the more confused the legal framework of a country, the more incompetent the police, the more inefficient the courts, the more the mafia will thrive.

(Varese, 2010, p.5).

In assessing the position of Serbia on a spectrum of states affected by crime, it appears it is closest to the point referred to as a captured state, as noted in a number of reports presented above. Nevertheless, it is interesting to examine whether the state capture is an isolated phenomenon in Serbia or it is a result of crooked institutions.

3.4.3.2. The underlying causes of state capture – beyond organised crime networks

Certainly, the recurrent reference to organized crime and corruption as some of the key factors hindering Serbia’s accession to the EU, makes these phenomena the main underlying causes of such a position. Nevertheless, these phenomena are not an isolated issue arising *per se* in a

given country. The above review indicates that the current state of play in Serbia characterized as 'state capture' may have principally resulted from several intertwined factors briefly discussed below.

Accession process in Serbia seems to be qualified by major particularities susceptible to corruption and organized crime, potentially implying strong linkages of this phenomenon with the process of transition. The interrelation of transition and organized crime has rarely been examined, but available knowledge on this topic suggests non-negligible ties. That is, as a consequence of the process of transition, all former state assets have been extracted and stored in the public domain, loosely monitored by politicians. In addition, the fragmentary process of legislative reforms creates opportunities for the legalization and even institutionalization of criminal practices (Ganev, 2007).

Moreover, privatization of the state domain, gave rise to development of new elites, comprised both by traditional criminals, as well as formally legal actors interested in personal profit. Such process, coupled with a pertinent influence of the social context, resulted in development of a new form of criminal entrepreneurship and the emergence of resilient criminal networks. For instance, in Serbia, the large profits generated by drugs and/or arms trade during conflicts, along with the privatization proceeds at the beginning of transition, made criminal networks powerful actors who exert influence on politics and business. As a result, they have been able to penetrate the highest spheres of government, impact the political agenda and develop close relationships with diverse circles of power, hindering law enforcement investigations. Concurrently, the level of citizens' poverty has significantly increased.

The UN's Report on Crime and its Impact on the Balkans, stated that unemployment and income inequality are by no coincidence indicated as the chief reasons for corruption and organized crime (2008). The socioeconomic situation in the region and Serbia in particular remains rather difficult nowadays. The rates of unemployment and average income data, along with major social differences, indicate the need for caution given that swift financial profit generated through criminal activities creates important incentives for engagement in

various criminal groups. These profits are subsequently invested in legal activities, privatization and the like, increasing money laundering in transition countries (UNODC, 2015³²). Poverty and corruption are often rooted in the malfunction of governments in complying with sound public affairs management criteria (Hofer 2011). A combination of these factors has created incentives for a critical mass of actors who act in the same corrupt way. In the context of affected social bonds coupled with sophisticated interaction methods developed by criminal networks, it appears difficult to destabilize such networks. Therefore, similar to former Soviet Union states, mafia in Serbia is not conventional. It involves the traditional criminal groups but also the newly developed criminal networks based on a criminal alliance of politicians, oligarchs and ‘transition winners’ focused on exhausting formerly state-owned assets.

The impact of EU accession has also been perceived as a negative factor for institutional functioning due to various reasons. Authors have maintained that legislation quality deteriorated due to the instrumentalised and executive-driven domestic reforms, coupled with international donor/expert driven reforms, which all resulted in numerous laws incoherent with the domestic legal framework.

One of the key studies in this regard is a comparative case study of Serbia and other South East European countries by Mendelski who argues that the EU’s power had pathological effects. Mendelski (2015) analysed the effects of EU reforms on the rule of law by examining *de jure* and *de facto* rule of law, as two components of the multi-dimensional concept of rule of law and its elements. According to Mendelski, there are several Europeanisation problems that undermine rule of law and cause pathologies. He suggests that the EU reform approach is based on a quantitative “the more the better” concept (e.g. number of laws introduced, number of verdicts) and not on the quality of the reforms (Mendelski, 2016). The new laws

³² These profits account for important proportion of the GDP in small transit countries, while in the European destination states the proportion of the GDP is minor. A recent UNODC study published data showing that the illicit proceeds of opiates trafficking through the Balkan route were approximately \$28 billion per year. Almost half of those profits were generated in France, Germany, Italy and United Kingdom. However, profits in those countries accounted for a significantly smaller proportion of GDP (0.07-0.19 per cent) than in countries with a relatively small GDP, such as Albania (2.60 per cent of GDP), Iran (Islamic Republic of) (1.66 per cent) and Bulgaria (1.22 per cent) These profits account for important proportion of the GDP in small transit countries, while in the European destination states the proportion of the GDP is minor

have been formally adopted but not implemented in practice, due to significant resistance of domestic players who were against these reforms, as well as high financial costs (Mendelski, 2015, p.351). Problems with legislation also involved conflicting and incoherent rules, including lack of neutrality, which implies they were aimed “to fulfil particular interest of influential captors” (Mendelski, 2015, p. 354).

Moreover, Mendelski implies that EU reforms caused the politicisation of judicial structures, reflected through abuse of the new and old judiciary bodies and institutions (e.g. anti-corruption agencies, judicial councils and the like), captured by ‘change actors’ aimed at advancing their own interests (Mendelski, 2016, p.352-353). Finally, Mendelski notes that the Union supported domestic reformers who were pro-European, regardless if they were controversial politicians that behaved undemocratically.

The interpretations offered by Mendelski with regard to the judiciary are undeniably applicable in Serbia. Despite numerous reforms of the judiciary from 2000 up to date, this field is still considered ineffective and lacking independence. Hiber and Begović (2006) argue that the reforms in the judiciary have been unsuccessful due to the personal interest of judges, politicians and powerful elites who wanted to keep their influence, while external EU impact was somewhat limited. According to them:

One of the puzzling alliances is the one between judges feared to be removed from the office, seeking no change and political parties/executive government”, who were not interested in real changes, as they wanted to retain effective control over the judiciary.

(Hiber and Begović, 2006, p.3).

Indications of such interest-based mutual relations can be found in several aspects of functioning of the judiciary. For instance, the composition of the High Judicial Council and State Prosecutorial Council remains a problem, despite numerous recommendations for its amendments. Even nowadays, common critiques refer to corruption in the judiciary, reflected in making biased decisions that suite the executive or legislative power, in order to be promoted to higher positions or to be given some material advantages (Hiber and Begović,

2006, p.8). Such party-specific inclinations of judges play an important role in determining who will be appointed, and there are reports of political interference in the work of prosecutors and judges (Markovic, 2008). Problems with the judiciary also include the low level of expertise among judges in issues related to EU integration, and a big backlog of cases, as well as judges' perception of independence, often seen as their own privilege, rather than as a right of citizens in a democratic state based on the rule of law (Eriksen and Kalleberg, 2009).

Overall, these potential contributing factors indicate that the stalled EU accession and in fact normalisation of state functioning may have been affected by any and/or all these dynamics. Nevertheless, the references to corruption in the judiciary and lack of judicial independence seem to indicate the absence of the rule of law and potentially fertile ground for enduring informal exchanges among state and non-state actors, enabling impunity for criminal offences and strengthening the impact of criminal networks, finally leading to state capture in the field of crime control.

3.4.4. Conclusions - the importance of identifying loopholes and/or vulnerabilities enabling state capture in the field of crime control in Serbia

Following the above review of the democratic transition and the related EU accession process, and taking into account its identified obstacles, it appears that Serbia is a country trapped in a state of perpetual conversion. Relevant assessments performed by scholars, the EU and international organizations, indicate there is evidence that despite long lasting democratization, enduring problems are present.

The EU Progress reports (2013 - 2018) on Serbia recurrently point to corruption as a major challenge, typically embedded in the state. The fact that institutions and the power of the state are being used by special interest groups to supplement their particular interests rather than the public good, represents an important backdrop to understanding the nature, scope and challenges of corruption in Serbia.

The structural character of corruption in Serbia shows that the political and economic elites developed an informal system to protect their interests (Pesic, 2007). Concurrently, organized

criminal networks in synergies with state actors infiltrate in the system through the “loopholes offered by corruption” (Cockayne and Roth, 2017, p.8). Bresson (1999) previously suggested that an institutionalized model of corrupt networks involves informal social exchanges, within which corruption becomes an extension of social legal networks and utilizes a range of personal interests to maintain its function in case of potential socio-political change. Cockayne (2016) refers to these dynamics as engagement in arbitrage. Considering that organized crime reduces the gap between the ‘upperworld’ and ‘underworld’ (Cockayne, 2016; Van Duyne, 2003), it is particularly important to identify the mechanisms through which state capture becomes institutionalized.

Moreover, as concluded in the framework of the discussion on the topic of "The state capture - how to prevent further collapse of institutions" (Belgrade Centre for Security Policy, 2018), there are several channels for the destruction of institutions, and the current legislative framework of Serbia often allows this. The state often does not respect its legal obligations, which is one of the methods of abuse and/or capture and a good way to seize power from institutions with an aim of strengthening uncontrolled political power. In this sense, Prelevic (2018) argued that discovering perpetrators costs the mafia, but not discovering costs the state and someone is paying for that. Hadzic maintained that in the captured state it is always a matter of a political-economic-criminal power that works to replace public needs with private ones.

However, literature on state capture offers little explanation about the process through which the state becomes captured. Despite the lack of reliable quantitative measurements which hinder the development of analytical models to explore the actual links between organized crime and corruption, the continuous association to their existence implies the need for different conceptualization of the interplay of these phenomena. A study by Cockayne and Roth (2017) offers such a conceptualization, exploring the impact that organized crime and corruption have on the strategic environment in which they operate. Under the concept of criminal governance, Cockayne and Roth explore under what conditions and in which locations illicit activities may emerge and how is that associated with the activities of states worldwide. Cockayne and Roth explore a wide range of potential vulnerabilities that may emerge by 2050, as well as methods how these vulnerabilities will create new opportunities

for illicit activity and protection, and consequently lead to criminalized or crooked governance.

Identification of such vulnerabilities may have important implications for broader patterns of governance. The relevance of identification of potential vulnerabilities lies in the fact that actions of states and their institutional capacity influences the methods used by the criminal actors to direct criminal flows and develop and/or sustain criminal markets. Weakness of the state may generate greater vulnerability of the political system to withhold challenges. Hence for states trapped within a stalled transition, lack of institutional accountability causes insecurity about how to proceed. According to Savona (2014, p.2) focusing on exploration of illegal markets has the advantage of understanding '*where the opportunities for organized crime lie*'. Such activities can vary across countries and understanding their functioning is key to assess how to reduce opportunities for organized criminal groups, also because they can be subject to sudden changes, as a consequence of market shifts and regulatory changes (Bullock, Clarke, and Tilley, 2010). Following this line of inquiry, the aforementioned study by Cockayne and Roth (2017) explored how different developmental changes will create new opportunities to provide protection and extract criminal rents with an aim to identify how these opportunities could create space for criminal actors to exert governmental power. Likewise, de Boer and Bosetti (2015) also highlight the importance of exploring criminal opportunities.

Even though recent studies conceptualize state capture as a networked phenomenon, their effects remain limited, as they do not identify the specific vulnerabilities in a given state that enable capturing. In addition, the notion of state capture is referred to without specifying the particular elements of the state being captured. Due to a network structure, the criminal groups are well-positioned to exploit the opportunities created by such state vulnerabilities. Even though it is always possible to establish a one-off contact to undertake illegal activity, adequate positioning reflected in the long-term relations with the state structures may provide criminal networks with sustainability and decreased risk. Cockayne argues that those opportunities commonly arise:

At the points of arbitrage, the 'gates' between realms, markets or communities governed by different actors. This conceptualization offers an important tool for crime

suppression: at border crossings; at the boundaries between different markets or jurisdictions, where smuggling networks can benefit from price arbitrage; at the legal and financial boundaries between different tax and regulatory jurisdictions; at the boundary between the legal and the illegal.

(Cockayne (2016, p.8)

Potential identification and/or mapping of these *points of arbitrage* in actual states could significantly contribute to disruption of state capture networks and increase the effectiveness of crime suppression efforts. Taking into account the possibilities to alter different dimensions of the state systems, with an aim to advance system functioning in certain field, it is vital to detect whether and how the specific loopholes can be identified in a particular state system.

3.5. Conclusions

Contemporary investigations consistently indicate that a number of states are characterized by strong interdependent links between organised crime, politics and the public sector (Garay and Villaveces, 2009; Fazekas, and Tóth, 2017; Felbab-Brown, 2011; Leitner and Meissner, 2017; Maharaj, 2017; Prelevic, 2018; Schultze-Kraft, 2016; SOCTA, 2017; Varese 2010; Williams, 2001), resulting in the emergence of a symbiosis between legitimate actors and criminal networks, which facilitates different forms of crime. Major effects of this form of symbiosis between the state and criminal organisations foster criminal activities and threaten social cohesion. Such a symbiosis is often described by the use of various (di)similar concepts such as state capture or crooked governance, all placed on a certain point of a continuum of ‘failure of governance’.

Serbia has recently been entitled a captured state. Several characteristics attributable to captured states in the literature can be identified in Serbia as well, including party dominance in the state; state-criminal network relations shaped by patronage and state - business relations shaped by supremacy.

With an aim to discover the underlying causes of state capture in Serbia, several processes associated with its development have been described. It appears that in Serbia, similar to a number of other transitioning states, the period of democratic transition has led to

development of alliances between the state officials, criminal groups, a new elite symbolised in former war profiteers and new black market actors arising from privatization of diverse former state assets (factories, football clubs, public companies). Concurrently, the old (socialist) elites attempted to preserve their power by infiltrating into a new private sector. Equivalent to other states undergoing democratic transition, Serbia has also been characterised as a state wedged by systemic corruption. It can be argued that the absence of lustration following democratic changes in 2000 enabled infiltration of the former elites and war profiteers into institutions and created a fertile ground for extension of criminal alliances established during the 90s.

Systemic corruption has also been associated with informal constraints arising from the codes of conduct and traditions (North, 1990) and unique cultural, historical and economic circumstances of each country (Besley, Dewatripont, and Guriev, 2010). North perceived the transformation of institutions as a complex process given that the changes at the margin can be a consequence of changes in rules, in informal constraints, and in kinds and effectiveness of enforcement (North, 1990). This reference to informal constraints in the form of special social links between individuals across diverse institutions may facilitate the understanding of the lack of changes in the new institutional settings following democratic transition and demonstrate the impact of social networks. The informal links among individuals in state institutions may actually indicate the phenomenon of institutional pluralism proposed by Besley, Dewatripont, and Guriev (2010).

The process of democratic transition in Serbia was followed by the start of accession negotiations with the European Union. Even though the recent opening of official negotiations has been perceived as a sign of an extent of improvement, relevant reports and studies continue to indicate the enduring presence of systemic corruption and links with organised crime. A question arises whether criminal networks have managed to adapt to new conditions, or the favourable environment for criminal networks functioning in Serbia has not altered despite European integration activities.

Attempting to explain to stalled Europeanisation process, Mendelski (2015) labelled the EU integration-related reforms as a pathological reform approach which had further reinforced the existing systemic pathologies. He argues that:

The EU supported or cooperated with clientelistic and corrupt elites or even with members of governments that collaborated or were part of organized crime.

(Mendelski, 2015, p.337).

As discussed above, he identified a number of methods used to this end, including adoption of laws under urgent procedures, misuse of newly established independent bodies, politisation of institutions, as well as cooperation with criminal groups. In the case of Serbia, recent debates denote that there is merely a proclaimed political will to join the EU, without effective implementation of accession related reforms.

This is of concern as the strengths and weaknesses of the state greatly impact the form, function, and strategy of the illicit networks. The discussed links with organized criminal networks in Serbia and visible evidence of their retained power, illustrated through criminal murders on a weekly basis, raises important questions about the state of play of governance in the country and the functioning of its crime control system. Recent conceptualisations support that efforts to understand and suppress transnational crime must take into account the interaction between the unique ecologies of states and illicit networks. In this sense, the networked concept of state capture offers a vital tool to address the linkages of organised criminal groups with the state. Given the evidence that non-state actors seek to exploit different “realms” (Cockayne, 2017, p.8), such as geographical, functional, social, economic, and legal gaps, efforts should be made to map these spots or gaps and design effective transformation strategies.

This study explores the area of organized crime suppression, as it appears to be one of the most affected sectors of state capture, through which large financial resources and influence are generated and redirected for private profit of a small group of networked individuals. Building on Cockayne’s conceptualization of specific field of state actions as ‘domains’ and ‘points of arbitrage’, this study attempts to identify these domains in the Serbian crime control system i.e. the state response network, with an aim to trace the key vulnerabilities enabling criminal networks functioning. Identifying and mapping these domains suitable for criminal illicit networks is a critical precondition to formulating effective law enforcement and other policy responses.

Chapter IV Methodology

4.1. Introduction

This research explores the effectiveness of the crime control system in Serbia in light of potential state capture in the period of EU accession. Given the specificities of studying the phenomenon of state capture, a combination of qualitative and quantitative approach is implemented in this research with an aim to increase the validity and reliability of the findings. That is, the inferences drawn through the content analysis are additionally explored by implementation of the Social Network Analysis. The rationale for this approach lies in the intention to confirm the conclusions arising from the written sources and interviews, in order to reduce any potential bias. Given the feature of social network analysis to quantitatively examine data sets, this approach is utilised to confirm or reject the findings.

Previous Chapters reviewed relevant evidence underlying this study. This Chapter consists of several sections. Following this introductory segment, in the second section, the aim of the research, conceptualization and the research questions are presented. In the third section, the selected research design and methodological issues are discussed. The fourth section involves detailed description of analytic procedures implemented. This is followed by the fifth section consisted of summary of methodological steps. The sixth section contains ethical considerations. This Chapter elucidates the motives for combination of two methodological approaches, the content analysis and social network analysis; and specifies how they were implemented.

4.2. Research questions and conceptualisation

Modern policies and significant socio-political efforts resulted in Serbia's status of an EU candidate country. Building on these successes and the ongoing legislative and institutional reforms, it is of concern to address the remaining obstacles that may hinder future prospects of the state. As a candidate country, Serbia has been implementing extensive reforms associated

with EU accession for a number of years. However, its progress towards becoming the EU member state remains slow. The reasons for this are associated with a number of diverse factors, ranging from broader political dynamics to concrete obstacles.

As discussed above, different reports indicate that one of the key obstacles to EU membership remains insufficient progress in the fight against organised crime (Progress reports 2015, 2016, 2018). Considering the evidence that Serbia lies on the Balkan route (as discussed in Chapter II), as one of the key paths in international drug trafficking, reference to enduring organised crime remains a concern.

Despite sufficient evidence indicating the significant impact of organised crime in Serbia (discussed in Chapter II), its influence on the process of Europeanisation of Serbia has not yet been examined. Several descriptive studies addressed the general influence and nature of organised crime in Serbia, but none of those studies examined its impact in the context of continuous efforts of the state institutions in suppressing this international threat.

Concurrently, the concept of state capture is increasingly referred to in the literature and international documents with regard to deficiency of EU accession progress of the Western Balkans states. In a recent communication (cited in Chapter III), the European Commission argues that Western Balkan countries show elements of state capture coupled with links with organized crime and corruption.

Even though the phenomenon of state capture is frequently used in discussions on Western Balkans, there is too little literature focusing on comprehensive understanding of its nature and roots. Perry and Keil note that there is a lack of “robust literature on state capture in the region” (Perry and Keil, 2018, p. 2). Following this line of opinion, this research attempts to add to contemporary literature on state capture by exploring organised crime related state capture in Serbia, as one of the Western Balkan countries that aspires to join the EU. State capture is explored in the field of crime control, without implications of the entire country being captured.

The aim of this research is to add to prior studies by exploring the phenomenon of state capture as a result of embeddedness of organised criminal networks in a country undergoing EU accession. This is performed through examination of the effectiveness of state institutions in suppressing organised crime and drug trafficking in an attempt to identify potential structural

holes that hinder the results of such efforts. The network based model offers quantification of these identified issues which may be attributed to potential state capture.

More precisely, the effectiveness of state actions undertaken to address organized crime and in particular drug trafficking are examined, in order to identify whether there are some institutions or certain aspects of their functioning that may have the ability to hamper such efforts. This is scrutinized with a view to stalled transition and EU accession of Serbia, given that efficient suppression of organised crime is one of the key factors related to accession.

In order to gain a comprehensive understanding, this exploration relies on indications of certain structural and social difficulties in Serbia, which are also found in other transitional states to a similar extent. The objectives of the study are:

- a) Examine whether stalled democratic transition and EU accession of Serbia are associated with endurance of organised crime;
- b) Explore the magnitude of organised crime in Serbia, in particular with regard to drug trafficking networks;
- c) Investigate the network of state institutions (state response network) designed to combat organised crime and drug trafficking;
- d) Explore the extent to which the network is distorted by signs/symptoms of state capture; and
- e) Provide recommendations for improvement of multidisciplinary and inter-sectoral cooperation in suppressing organised crime and drug trafficking.

Within this framework, the main research question is:

Does the extent of organised crime in Serbia, as a country undergoing EU accession, indicate state capture in the field of crime control?

In order to respond to this extensive research question, several sub-questions are developed:

1. To what extent can stalled transition and EU accession be attributed to the level of organised crime?
2. What is the extent of organised crime and drug trafficking in Serbia?
3. What are the structural holes that enable organised criminal networks to engage in drug trafficking in Serbia?

4. Do, and if so, how do these structural holes indicate a phenomenon of state capture?

4.3. Methods of analysis

4.3.1. Justification of the method

Research in social science habitually distinguishes two dominant paradigms, initially labelled as naturalistic and rationalistic (Guba, 1978), and nowadays referred to as quantitative research or positivism and qualitative research or phenomenology (Bryman, 1988). The term paradigm comes from ancient Greek word aetiology, meaning pattern (in Modern Greek *αίτία* - *cause*). The term paradigm is utilised to describe a researcher's 'worldview' (Mackenzie and Knipe, 2006). Lather (1991) suggested that a research paradigm inherently reflects researchers' beliefs and principles that shape the way they perceive the world. Denzin and Lincoln (2000) viewed paradigms as human constructions, which provide beliefs that influence researchers in a particular discipline, and define their philosophical orientation that influences choice of methodology.

Bryman (1988) maintained that positivism infers objective measurement of the social phenomena rather than subjective inferences through sensation, intuition and reflection. The strength of such approach refers to the ability to limit researchers' bias, ensure objectivity and neutral stance and apply well established statistical methods that provide reliability and validity to assess measurement errors (Bryman, 1988). Such an approach enables collection of a large amount of data, easily comparable information and a greater opportunity for the researcher to retain control of the research process (Bailey, 2008; Neuman, 2011; Punch, 2013).

Quantitative research derives from the scientific method used in the physical sciences (Cormack, 1991). It is described by the terms empiricism (Leach, 1990) and positivism (Duffy, 1985). This research approach is an objective, formal systematic process in which numerical data findings are utilized to describe, test and examine cause and affect relationships (Burns and Grove, 1987). Quantitative research is characterized by the investigators' detached, neutral stance (Duffy, 1985; Bryman, 1988). Data is commonly standardized and abstracted from real-life contexts (Mason, 2002). The strength of such approach refers to the ability to limit the potential

researchers' bias and ensure objectivity and enable de-contextualisation. Quantitative methodologies test theory deductively from existing knowledge, by developing hypothesized relationships and proposed outcomes (Cormack, 1991). Typical methods utilised in quantitative research involve surveys, questionnaires, random sampling.

On the contrary, qualitative research is exploratory in nature (Monette et al., 2010; Anfara and Mertz, 2006) and contributes to an understanding of the human condition in different contexts. It allows for the discovery of unexpected social patterns and yields “grounded” theory (Maruna, 2002). It facilitates understanding of social processes and allows for complexity and contextual factors (Monette et al., 2010; Punch, 2013). This approach enables the researcher to constitute compelling arguments about *how things work in particular contexts* (Mason, 2002, p.1; emphasis in the original). Mason (2002) maintained that qualitative research may produce well-established evidence across diverse contexts. Qualitative approach is guided by ideas, perspectives or hunches concerning the subject investigated. It provides the possibility to explore the empirical world from the perspective of the subject, not the researcher (Duffy, 1987). Moreover, the qualitative approach allows for a holistic analysis and an in-depth understanding of social phenomena, perceptions and behaviours of individuals or groups with regard to a research problem (Bryman, 1988; Monette et al., 2010). This approach is therefore valuable, given that the objectivity of quantitative methods cannot be achieved when studying social relationships, as social phenomena are not repetitive as laboratory setting conditions.

Qualitative research differs from quantitative approaches as it develops theory inductively. In qualitative research, diverse methods of analysis are utilised, such as grounded theory, content analysis, phenomenology, hermeneutics, ethnography (Burnard, 1995; Cooksey and McDonald, 2011; Punch, 2013). The methods used in qualitative approaches enable data generation which is flexible and sensitive to the social context from which the data arise (Mason, 2002). An essential part of qualitative research is a reliance on the researcher's self-reflection (Burnard, 1995). Therefore, it is necessary that the researcher reflects on his/her pre-understanding, throughout the research process in order to decrease any bias (Elo et al., 2014; Long and Johnson, 2000).

The main sources and procedures implemented in qualitative methods involve interviews, document analyses, descriptive statistics, focus groups, observations (Yamagata-Lynch, 2010).

Regardless the method of analysis used, the process involves a reduction of the volume of text collected in an effort to understand it, as well as identification of themes, categories and groups to facilitate the analysis. In implementing qualitative approaches, it is expected to produce sufficiently generalised explanations or arguments, or provide wider reasoning (Mason, 2002).

There are limitations inherent to qualitative approaches which may have caused the prevalence of quantitative methodologies in social sciences. These limitations involve a longer duration of qualitative research, the need to sufficiently clarify the goals during design phases of the research and lack of available software opportunities to facilitate the analysis.

With an aim to address the shortcomings of these dominant approaches, a new paradigm labelled post-positivism was developed in social science. The main concept of post-positivism is that a mixed paradigm which balances positivist and interpretivist approaches is more suitable to explore social phenomena, as there is no absolute truth (Deluca, Gallivan and Kock, 2008; Guba and Lincoln, 1994; Phillips and Burbules, 2000). It acknowledges limits to any research and thus strives for constant reflexive approach by the researcher. This approach does not deny the need for evidence but insists on the narratives and awareness of the complexity of meanings, philosophical, comparative or historical perspectives (Ryan, 2006). Therefore, post-positivism research opts for multidimensional perspectives and the use of multiple methods (Fischer, 1998; Guba, 1990), endorsing in this way the triangulation of qualitative and quantitative methods.

Hence contemporary research indicates that these different paradigms may have a conflicting role, but they may also be used simultaneously or sequentially and complement each other, which is commonly referred to as mixed method approach (Tashakkori and Teddlie, 2003). Mixed methods refer to the application of two or more quantitative and/or qualitative strategies in a single research (Morse, 2003). According to Johnson et al. (2007), in mixed methods research a researcher combines elements of qualitative and quantitative research approaches (e. g., use of qualitative and quantitative viewpoints, data collection, analysis) for the broad purposes of breadth and depth of understanding and corroboration (Johnson et al. 2007, p. 123).

Greene et al. (1989) identified different purposes of methods combination, such as: expansion, which increases the scope of the inquiry; clarification, used for interpretation of the results of one method with the results of the other; triangulation, which enables convergence of the results

from different methods on the same theme; development of one method on the basis of the results of the other; and initiation, enabling emergence of new perspectives

Research utilizing mixed methods commonly has an overall ‘theoretical drive’ (Morse and Niehaus, 2009). The theoretical drive may be primarily qualitative or inductive or quantitative or deductive, which is reflected in the ‘core’ component, whereas the accompanying component is referred to as ‘supplemental’. The core component requires rigorous implementation and is expected to be able to stand on its own. This choice, according to Morse and Niehaus (2009), is indicated in writing i.e. the core component is written in capital letters, while the supplemental is written in lowercase letters (e.g. QUAL → quan design). Authors support that mixed methods design includes a set of different options: timing of the application of different methods (parallel, sequential or embedded); the emphasis on the different methods (equal or dominant); focus on the same phenomenon or its parts (Creswell and Plano Clark 2011; Leech and Onwuegbuzie, 2009).

In the field of criminology, a number of authors discussed the division of qualitative and quantitative approaches (Kleck, Tark, and Bellows 2006; Pratt 2010). Mixed methods are broadly used in social science. In a review on implementation of mixed methods, Maruna (2010) discusses its implementation in criminological research. Maruna shares the standpoint that in a very real sense, all criminological research is mixed methods research, however acknowledging that is still under-utilised (e.g. Gainey, Steen, and Engen, 2005; Logan, Shannon, and Walker, 2005; Kraska, Bussard, and Brent 2010; Thaler, 2012). Usually, the rationale for mixed method implementation and data triangulation is to increase data quality or validity of measures and consequently the results. Maruna argued that such combinations often represent ‘hybrid models’ i.e. involve two simultaneous studies looking at the same research question, while an authentic version of mixed method research entails the combination of different methodological approaches at different stages of the research process. Such models involve qualitative data collection techniques (e.g. open-ended interviews, documentary analysis) followed by simultaneous qualitative and quantitative data analysis (Maruna, 2002). Johnson and Onwuegbuzie (2004) maintain that mixed methods research should “attempt to fit together the insights provided by qualitative and quantitative research into a workable solution” (2004, p. 16).

The philosophical stance adopted in this research falls broadly under the concept of pragmatism. Furthermore, the research implements a multi-level exploration of the studied phenomena, and particularly takes into account the influence and interrelationship between the individuals and the organizations. Hence, the ontology of this research overall leans on critical realism. The research is based on objective structures and causal mechanisms, integrating different perspectives to help interpret the data (Novikov and Novikov, 2013).

The research utilizes mixed method i.e. a combination of qualitative and quantitative methods to respond to the research questions. Mixed method is applied as it enables contextual understanding and due to its potential to complement the strengths of different methods utilised (Onwuegbuzie and Leech, 2006). When applying more than one method, it is important to recognize the primary theoretical paradigm, quantitative (deductive) or qualitative (inductive), and follow its methodological assumptions (Tashakkori and Teddlie, 2003). Moreover, mixed methods research requires careful integration of the methods, as well as a decision on the point of their integration. Morse and Niehaus (2009) discuss two possible points of integration: in the results or in the analytical part. According to Morse and Niehaus (2009), if there is an analytical point of integration, the qualitative component is the first analytical stage, which is subsequently followed by a second analytical stage, whereby the identified themes are quantitized. In this research, mixed methods are implemented sequentially. That is, this research combines inductive and deductive logic in the following manner: qualitative approach is applied primarily (the primary theoretical paradigm or component) and is subsequently followed by quantitative testing of the results. Hence, data triangulation is applied here to corroborate data about the same phenomenon. The choice between quantitative or qualitative methods has been made on the basis of the area of research and the nature of research aims and objectives. This research focuses on exploring the potential state capture in Serbia that can be attributed to criminal networks functioning. In order to explore this phenomenon, the research relies on the specific social context (applicable in other, similar social contexts as well), and carefully examines the reality behind relevant facts.

In addition, an exploration of social phenomena such as state capture and criminal networks requires taking into account relationships among different actors, as well as subjective meanings and perceptions. Nevertheless, the investigated phenomena are also monitored through objective,

measurable criteria worldwide. This is an important aspect of the research, given that it does not rely solely on the individual perceptions of the participants.

Hence, this research combines quantitative methods with the qualitative, in order to enable a more in-depth understanding of the studied phenomenon. Aiming to avoid misconceptions and base conclusions solely on the participants' perceptions obtained through the interviews, the quantitative method is subsequently applied to confirm or reject research findings. The quantitative method is used in this research to increase reliability and validity of the results, but also to enable generalisation of the findings. Literature shows that due to a high level of standardisation of quantitative methods, it is easy to make comparisons of findings (Cooksey and McDonald, 2011; Novikov and Novikov, 2013). The implications of this research philosophy on the research strategy, the choice of data collection methods and the selection of analyses are explained in detail below.

In this research, a relatively small/mid-size, purposely selected sample is utilised. From among the qualitative data collection methods, this research utilised interviews, with open-ended questions and in depth interviews, focus groups, as well as comprehensive desk review of available data relevant for the aim of the research (journals, statistics, official institutions' reports, international organisations reports. Researchers can appeal to diverse sources of knowledge, such as intuitive knowledge, authoritative knowledge, logical knowledge, and empirical knowledge. Given that this research relies on data gathered from interviews conducted with state officials, leaders in organisations, official documents, its epistemology is grounded on authoritative knowledge. Data obtained through qualitative methods were subsequently analysed by implementing content analysis, to develop concepts that can be used to develop a network-based measure of potential state capture.

The information gained through content analysis is used to quantitatively explore the effectiveness of state response network in light of potential state capture in the period of EU accession. That is, the inferences drawn through qualitative method (content analysis) are additionally explored by implementation of quantitative method (social network analysis) with an aim to increase the reliability of the findings.

4.3.2. Rationale for the selection of analysis

This research utilises a combination of two analytical approaches, Content analysis and Social Network Analysis, with an aim to increase validity and reliability of the findings, as well as to confirm the identified patterns of the relationships and effectively respond to the research questions. Concurrently, the study draws on multiple methods of data collection, data sources and software application. This form of data triangulation is deployed to enhance the validity, interpretability and generalisation of research findings (Robson, 2000).

4.3.2.1. *Content analysis*

Content analysis involves an approach to quantify qualitative information by systematically categorising and comparing items of information (collected in interviews, open ended questions, documents, focus groups) for the purpose of summarising them. Qualitative content analysis enables researchers to understand social reality in a subjective but scientific manner. This approach enables transformation of a large set of raw data into usable evidence through data reduction methods. Krippendorff (2004) defined content analysis as a research technique utilised for developing replicable and valid inferences from a text to the contexts of their use. Content analysis represents a method of analysing verbal, written, or visual communication messages (Cole, 1988). Similarly, Downe-Wambolt (1992) refers to content analysis as:

A research method that provides a systematic and objective means to make valid inferences from verbal, visual, or written data in order to describe and quantify specific phenomena.

(Downe-Wambolt, 1992, p.314).

This approach was used in sociology, psychology, journalism, and communication studies, while nowadays its application has an increasing trend in analysing documents (Neundorf 2002). This research method provides a systematic and objective means to unfold and quantify social phenomena (Downe-Wamboldt 1992; Krippendorff, 1980; Sandelowski, 1995) and allows the researcher to test theoretical issues to boost understanding of the data. In the study of crime and justice, the initial purpose of content analysis has evolved from identifying the prevalence of the topic or studied terms into revealing the contextual /cultural frames. The results obtained through content analysis, provide evidence that allows for a more critical appraisal of how crime and

justice are socially constructed. Hence the goal of the content analysis is to link the results to the context in which they were produced (Downe-Wambolt, 1992).

The literature suggests that in implementing content analysis, several important questions need to be initially responded. According to Mason (2002) these questions involve e.g. what is the nature of the phenomena investigated; what might represent knowledge or evidence of the investigated phenomena; are research questions coherent and consistent with each other; do they add up to a sensible whole; and do they make probable, intellectually interesting responses or arguments? Moreover, ethical issues related to potential bias need to be taken into account.

There are two main and complementary approaches to conducting content analysis. In quantitative forms of content analysis, researchers code and count the occurrence of elements designated by the researcher prior to the study (e.g., the number of times a violent act occurs). In qualitative forms of content analysis, the researcher focuses on the narrative, using an open-ended protocol to record information. Both approaches reveal overlapping concepts relevant for understanding ideas about crime.

Content analysis is a useful tool for analysing text, as it enables the researcher to filter words into fewer content-related categories to facilitate the analysis, thus obtaining condensed and broad description of the phenomenon. The concepts and categories developed in the content analysis which describe the social phenomena are often utilised to develop a model, conceptual system, or categories. This feature of the content analysis enables the use of the categories for further analysis i.e., the subsequent implementation of social network analysis in this research.

Content analysis was selected as an appropriate analysis method to enable interpretation of the findings and identify the key variables for the social network analysis. This method was viewed as an adequate tool to summarize the findings given the amount of data collected and the diversity of sources, in particular the written sources. This research implements a deductive content analysis, given that the structure of analysis is operationalised on the basis of previous knowledge and the purpose of the study (Kynga's and Vanhanen 1999), on the basis of literature review, contemporary theories and standards (Hsieh and Shannon 2005; Sandelowski 1995; Polit and Beck 2004). To this end, a categorization model was developed for the purpose of this research and data was coded in line with the categories. This process is explained in detail below in

analytic procedure. The results and conclusions resulting from the content analysis were utilised to group the information and conduct social network analysis.

4.3.2.2. Social network analysis

Social network analysis as a methodological approach enables a combination of quantitative, mathematical techniques, with qualitative in-depth analysis of data. By visualising the networks, it provides additional tools for understanding social relations, positioning particular actors and identifying important features of their relations.

Given the difficulties to adequately describe social relations through statistical measurements, implementation of an essentially diverse approach that allows for a more a process-oriented, holistic understanding of the investigated phenomenon is necessary (Denzin and Lincoln, 1994). This is primarily due to the inherent difficulties to measure complex social ties among actors through existing statistical models (Latour, 1997; Marsden, 1990).

Such perceptions have been previously supported by Marx (1857), who argued that society is not solely an aggregate of individuals but rather the sum of their inter-relations. Similarly, Durkheim (1965) argued that it is the number of individuals bounded by the same form of relationship that is important and not the actual number of persons. Analogous philosophical stance was held by Bruno Latour who considered that such view of “the social” has been proposed by the father of Actor Network Theory, Gabriel Tarde. Tarde has introduced the concept of ‘monads’, as main elements of the universe, essentially free from the final goal or *telos* (Latour, 1997). He developed the concept of these units to indicate that micro elements tend to be crucial for understanding the phenomenon as a whole. Tarde’s theory proposes that smallest entities pose more difference, complexity and specificity than their observable sum. Likewise, the society is not more complex symbolic entity of single monads, but it is these individual units that form the basis of the social phenomena. In contrast to Durkheim who perceived society as a cause, Tarde proposes that it is merely a consequence of monads’ differentiation (Latour, 1997). This insight into the role of the social actors in the society as a whole, i.e. in the social networks, offers an important theoretical background to the study of particular social ties.

Following this line of opinion, Wasserman and Faust (1994) suggested that the concept of social network represents a social structure consisted of the entities and relationships among them.

Entities may form pairs or larger groups (dyads, triads), while such larger entities may form other groups, subgroups, organizations or networks (Wasserman and Faust, 1994). Social networks have been defined as a compilation of entities (e.g., people, groups, organizations) that are connected through social ties in which a variety of resources are exchanged (van der Hulst, R. C., 2009).

The origins of social network analysis are traced in sociology, social psychology and anthropology (Latour, 1987, 1988; Williams, 2001). Essentially, this approach allows the analysis of transnational crime as a basic issue of human organisation. It brings into consideration the concepts of actor-network theory, as well as the sociology of Gabriel Tarde and Bruno Latour to the study of organised crime. That is, a specific social activity (organised crime, drug trafficking) can be explored on the basis of profound implications for how societies function, what holds them together or drives them apart (Latour, 2003; Tarde, 1969). Finally, it can be used to investigate what 'criminal activities' tell us about how people organise themselves in conditions of rapid social transformations or government inefficiency. Commonly, different variations of the social network analysis adopt the notion that human behaviour or social processes can be explained only through mutual interaction rather than through categorical properties and norms of individual actors (Klerks, 2001). According to Wasserman and Faust (1994), social network analysis examines the patterns of relationships among social actors, rather than concentrating on regularities in personal characteristics.

The distinction among quantitative and qualitative models of data analysis has been questioned by the progress achieved in social network analysis. The mapping of social relations performed in contemporary research applying social network analysis has upgraded the capacity to denote the concept of the network and describe key elements of the social structure (Turner, 1991; Wellman and Berkowitz, 1988). As social network actors are concrete and observable, both as individuals or groups, the relationships of interest to a researcher are mainly social ties, binding or linking together and discriminating specific entities or single actors, rather than establishing statistical relationships or examining the phenomenon as a whole. In this line, a number of authors support that inductive modelling strategies of network analyses are incompatible with principles of statistical methods (Emirbayer, 1997).

Nevertheless, in order to enable more valid and reliable conclusions, general linear model has been significantly extended to capture and sculpt the likelihood of relationships among actors, particularly taking into account the specific patterns of dependence within social relationships (Williams, 1998). This notion lies in the assumption that individuals are by nature social and their actions have meaning solely in a social context (Klerks, 2001). In this line, the term ‘actor-network’ has aroused to assist in establishing comprehensible boundaries between actors of the network and their connections i.e. between agency and structure (Latour, 2003). This is particularly important since data utilized in social network analysis are derived from the actors who are engaged in the network, implying discursive framing and cultural embedment of social networks (Bearman and Stovel, 2000). Research implementing social network analysis usually involves data collection by taking surveys from all actors of the social network, often containing questions about the origin and nature of their mutual social relationships (Hanneman and Riddle, 2005).

Social network analysis has been implemented in studying different sectors, including organisations, business structures, as well as criminal networks. Usually, this methodological approach was implemented to detect relationships between individuals in various fields e.g. organisational studies (Castilla, 2005; Ward, Stovel and Sacks, 2011), facebook/twitter interaction (Bakshy et al., 2011), scientific collaboration (De Stefano, Giordano and Vitale, 2011; Milovančević, Misic and Protic, 2018). In the field of political science, social network analysis has also been implemented to study a variety of relations. For instance, it was used to measure countries’ participation in international organisations (Hafner-Burton, Kahler, and Montgomery 2009), international security networks (Maoz, 2009), intergovernmental organizations (Cao, 2009), international institutions (Böhmelt and Spilker, 2016) or institutional networks (Chaffin, Garmestani, Gosnell and Craig, 2015).

The implementation of social network analysis reaches its peak in the field of organised crime research. It is considered that the utilisation of social network analysis to study organized crime was introduced by Sparrow (1991). In terms of scientific research on criminal organizations, it has been applied to study networks’ structure, methods of functioning, and interconnectedness of the key players. This approach results from the common standpoint of contemporary authors that drug trafficking groups function as social networks cellular in structure (Ayling, 2009;

Boivin, 2014; Gimenez-Salinas Framis, 2014; Lauprechta et al., 2016; Malm, Bichler, and Morselli, 2015; Morselli, 2006; Morselli et al., 2007; Morselli, 2009; Shelley, 2002; von Lampe, 2006; Spiro, Acton, and Butts, 2013; Williams, 2001; Walther, 2015).

As social network analysis enables mathematical calculations which facilitate deeper understanding of criminal network data, it has been used in a number of studies focusing on different forms of organised crime. Contemporary authors implemented this methodological approach to study drug trafficking (Bright et al., 2012; Calderoni, 2012), human trafficking (Campana, 2015; Mancuso, 2014; Morselli and Savoie-Gargiso, 2014), organised criminal networks (Calderoni and Piccardi, 2014; Campana and Varese, 2013; Papachristos and Smith, 2014; Varese, 2013). Furthermore, this approach is often implemented in law enforcement investigations as a valuable tool able to provide data regarding individual members of illicit drug networks, the relationships among these actors, as well as potential network weaknesses (e.g. Calderoni, 2014; Morselli, 2009, Papachristos and Smith, 2014). A number of studies used social network analysis to explore the structure of criminal networks, the features of criminal networks such as adaptation and resilience and identify key players (e.g. Bright and Delany, 2013; Bouchard, 2013; Calderoni, 2014; Malm and Bichler, 2011; Morselli, 2009, Natarjan, 2006; Papachristos and Smith, 2014).

Given the understanding that organised criminal groups function as networks of cells, they are increasingly investigated by the application of social and/or criminal network analysis (Gunnell, Hillier and Blakeborough, 2016; Seidler and Adderlay, 2013; Tayebi, and Glässer, 2016). In a review by Morselli (2014), studies applying a network approach to investigate a number of criminal phenomena are assembled, including: drug co-arrest network (Iwanski and Frank, 2014), drug trafficking (Boivin, 2014; Gimenez-Salinas Framis, 2014), cybercrime (Decary-Hetu, 2014; Dupont, 2014) homophily effects among co-offenders (Van Mastrigt and Carrington, 2014), the core membership of a youth gang (Bouchard and Konarski, 2014). A network approach inherently involves different forms of mapping. In addition to mapping, social network analysis enables visualisation of the mapped networks through graphs thus contributing to determination of relevant topologies.

Social network analysis utilises different metrics (e.g. centrality, density) to analyse the given data sets. Roberts and Everton (2011) suggested that in order to fully understand network structure it is necessary to understand all of its three levels: the system level, the level of subgroups and the individual level. Social network analysis offers distinct algorithms to study these different levels of network structure. Authors maintain that it is essential to understand the overall network topology in order to interpret features of subgroups and individual positioning within networks (e.g. Baker and Faulkner, 1993; Morselli, 2009; Robins, 2015). Moreover, in Campana (2016), evidence is offered that social networks arising from this analysis:

Are not based on *a priori* structures, rather they are developed on the grounds of the evidence collected in a relational way (Campana and Varese 2012; Morselli, 2009; Varese, 2010).

(cited in Campana, 2016, p.4)

Along with its positive features, authors have also discussed certain inherent limitations of the social network analysis. For instance, contemporary literature debates³³ whether the potential of missing data as an inherent feature of social network analysis significantly limits the validity of the results. Nevertheless, it appears that the results are not affected by the missing data. For instance, while exploring the effects of missing data in networks developed on the basis of wiretap data, Campana and Varese (2012) and Berlusconi (2013) found that betweenness and degree centrality remain robust despite missing data. Similarly, Xu and Chen (2007) did not determine relevant changes in network properties when removing known links or adding missing links. These debates appear to be more relevant for large networks or studies on criminal networks in particular.

Finally, it has been suggested that social network analysis is most valuable when it is implemented on the basis of theory-driven research questions (Varese, 2010; Campana 2015) and that advanced results are obtained when structural measures are combined with qualitative data (Campana, 2015).

To summarise, social network analysis allows for the examination of group structure in terms of

³³ For a review, see Campana, 2016.

consistent patterns of interactions between individuals, as well as the elucidation of subgroups. The relevant literature on social network analysis, discussed above, indicates that this approach has been used to analyse diverse organisational settings. For instance, it was implemented to explore organizational structure and change (McGrath and Krackhardt, 2003) the structure of scientific collaborations (Barabasi et al., 2002; De Stefano, Giordano and Vitale, 2011; Milovančević, Misić and Protić, 2018).

Research implementing social network analysis has shown several important features of organisational and/or institutional networks, which are relevant for this research. For instance, studies have indicated that most organisational networks have a small world property (Barabasi et al., 2002; Watts, 1999) and display a higher degree of clustering than random networks (Watts, 1999; Watts and Strogatz, 1998). In addition, centrality measures, density coefficients and core/periphery indicators contain important information about the nature of the network and the potential influence certain actors have on the social structure of the network (Hanneman and Riddle, 2005). This potential of social network analysis was particularly taken into account for the purpose of conducting this research.

4.3.2.3. Implications for this research

Given the inherent complexity of exploring the phenomenon of state capture which is central to this research, a combination of two methodological approaches was implemented to increase the reliability of the findings. The conclusions drawn from content analysis were used to map the state response network and its main problems or gaps in the functioning, in light of potential state capture in the period of EU accession. These conclusions were subsequently analysed by social network analysis to identify the key structural holes hindering the effectiveness of state response network. Therefore, the results are presented in two separate sub-sections of the Chapter V, namely the results of content analysis (Chapter V, Part I.) and the results of social network analysis (Chapter V, Part II.).

To summarise, data triangulation is used in this research to enable a comprehensive understanding of the phenomenon of state capture. As discussed above, a number of authors have suggested the existence of inter-relation of democratic transition and EU accession with state

capture phenomenon, discussed in detail in Chapter III, mainly on the basis of descriptive studies (Fazekas and Tóth, 2014; Ivanova, 2010; Mendelski, 2015; Perry and Keil, 2018; Volkov, 2002). Most of these studies focused on available statistical data and interviews with relevant stakeholders, but have rarely used quantitative methodologies to confirm such conclusions. To this end, the principal feature of this research adding to this topic is the implementation of quantitative method (usually used for other types of studies) to verify the accuracy of the conclusions arising from the qualitative methodology used.

In addition, a number of studies implemented social network analysis to study relations between countries or institutions e.g. exploring countries' participation in international organisations (Hafner-Burton, Kahler, and Montgomery 2009), international security networks (Maoz, 2009), intergovernmental organizations (Cao, 2009), international institutions (Böhmelt and Spilker, 2016) or institutional networks (Chaffin, Garmestani, Gosnell and Craig, 2015). However, these studies focused solely on determination of the networks between grouped subjects (i.e. states, institutions), mainly in terms of detecting the existence or absence of a relationship.

Concurrently, a vast number of studies have addressed the concept of criminal networks by implementing quantitative methodology (social network analysis), mainly focusing on their internal organization (Boivin, 2014; Gimenez-Salinas Framis, 2014; Lauprechta et al., 2016; Morselli, 2009; Walther, 2015), functioning methods (Decary-Hetu, 2014; Dupont, 2014; Garay and Villaveces, 2009; Morseli, 2009; Spiro, Acton, and Butts, 2013), or characteristics (Allum and Gilmour 2012 Shelley, 2002; von Lampe, 2006; Williams, 2001). These studies significantly contributed to the knowledge on contemporary criminal networks and advanced understanding of their operation. This research does not explore the criminal networks, but utilises this method to explore the network of state institutions designed to address organised crime.

However, the studies on democratic transition, EU accession or those on criminal networks have not explored the interaction of these processes or studied them as intertwined issues contributing to state capture phenomenon. The available knowledge on state capture has been so far marked by highly structured studies performed by international organizations, mainly on the basis of economic criteria (European Commission Progress reports; World Bank; Centre for the Study of Democracy), usually in relation to corruption and its effects on economy, or only in a handful of studies focusing on corruption in particular states (e.g. Latin America, Hungary). Several studies

examined state capture in post-socialist states, mainly in a descriptive manner, but they did not focus on the former Yugoslavia as a particular case of post-socialist and a post-war transitional state. A recent GRASP report (GRASP, 2019) examined state capture risk in the Western Balkan countries; however, the methodology implemented is not sufficiently clear. In addition, it covers a number of fields in a single analysis thus decreasing the potential to clarify how the numerical inferences of the capture risk were obtained.

Concurrently, studies on state capture utilise different methodologies (e.g. Innes, 2014; Levitsky and Way, 2016; Kleibrink, 2015; Keil, 2018) and commonly cover different aspects of capturing. For instance, in a study on state capture in Montenegro, Serbia, Republic of North Macedonia and *Kosovo, Keil (2018) utilised the following indicators of capture: democratisation, separation of powers, bureaucracies and independent agencies, civil society, media and policy-making. The study of Keil focuses on political capture i.e. the capture of a state by political elites and neo-authoritarian regimes and appears to be implementing well selected indicators. However, despite the good indicator framework, it is difficult to neutrally measure or quantify these factors do to inherent political bias of the sources.

Building on the knowledge acquired through previous research, this research is unique in terms of utilization of quantitative method for examination of the extent of state capture in relation to state actions in suppressing criminal networks. Commonly applied for mapping criminal networks, this approach is deployed in an innovative manner to map the state institutions' network designed to address drug trafficking groups in an effort to explore whether this is linked to conclusions regarding state capture in Serbia.

Given the focus of the study on the extent of state capture that may be attributed to the functioning of organised criminal networks, the application of social network analysis can provide a deeper insight on the patterns of relationships among state institutions conceptualized as social actors, in the framework of a 'state response network' (as a micro society).

This research utilizes social network analysis in an innovative manner, as it will be applied to institutions rather than individuals. Moreover, this research does not measure the mere existence of relations between institutions, but the actual interaction measured through their jurisdiction.

The literature increasingly shows that institutions do not exist in isolation, but commonly interact with each other, thus inducing influence and mutually affecting institutions' performance (Böhmelt and Spilker, 2016). Therefore, state institutions are viewed as 'nodes', integrated into a 'state response network', as the 'mirror' designed to address the trafficking groups. This enables the author to explore the links between institutions (edges), identify the strengths between them and detect potential obstacles to their cooperation and effectiveness.

Through innovative conceptualization of the state institutions as 'actors' or 'nodes' of the network and triangulation of data sources, this study produces a network map of the governmental bodies aimed at organised crime and drug trafficking suppression. The mapping of the institutions and role positioning within is used to expose the potential bonding mechanisms (Williams, 1998) that appear to be associated to peripheral actors (Granovetter, 1973) with loose relationships with other network nodes. However, these seemingly loose irrelevant nodes or communities may have, by the nature of their position, high brokerage capital to cooperate with organised crime/drug trafficking networks. That is, in case legitimate institutions would have high brokerage capital, they would be able to ensure a certain degree of protection from law enforcement activities (Williams, 1998) which can significantly hamper counter-network efforts and associated democratic transition and EU accession. Adequate tools to identify such cliques are the key social network analysis concepts (such as betweenness centrality, degree centrality and density measures). Social network analysis enables exploration of the patterns of relationship to detect subgroups, identify central points and the strength of these links. This process enables identification of structural holes among institutions or obstacles to efficient cooperation. Concurrently, this method may indicate which institutions are least effective in addressing the problem of organised crime and drug trafficking, where they are structured within the network and whether this knowledge could be used to inform the system reform.

This approach may offer important data regarding existing structural holes that have high potential to provide smooth functioning of illicit networks. This may put forward the importance of redesigning the system on the basis of additional, region-specific guidelines, beyond EU practices, as well as regional and international lessons learned.

4.3.3. Research design

4.3.3.1. Sample description

The sample included government officials from the main institutions in the field of combating organized crime and drug trafficking, as well as representatives of the relevant CSOs acting in the field. Sample size included approximately 65 participants. The author initially identified potential participants, primarily on the basis of their position. Some of the participants provided important insight on the topic, whereas others were discussing very limited matters in their jurisdiction, but helped to clarify certain aspects of the research.

Due to the number of participants, they have been grouped into the key 6 categories to facilitate data analysis (Annex 1).

The first ‘group’ (P1) involves individuals who are competent for the matters of organized crime suppression and drug trafficking in the relevant ministries (e.g. Ministry of Justice, Ministry of Interior, Ministry of Health), as well as those responsible for EU integration process (Ministry of Justice, Ministry of EU Integration);

The second ‘group’ (P2) involves members of the judiciary engaged in cases of drug trafficking, organized crime and corruption, (e.g. judges and public prosecutors acting before the Special Court for Organized Crime, Appellate Court);

The third ‘group’ (P3) involves correctional facilities administration and border officials.

The fourth ‘group’ (P4) involves representatives of the key CSOs addressing the topic of concern.

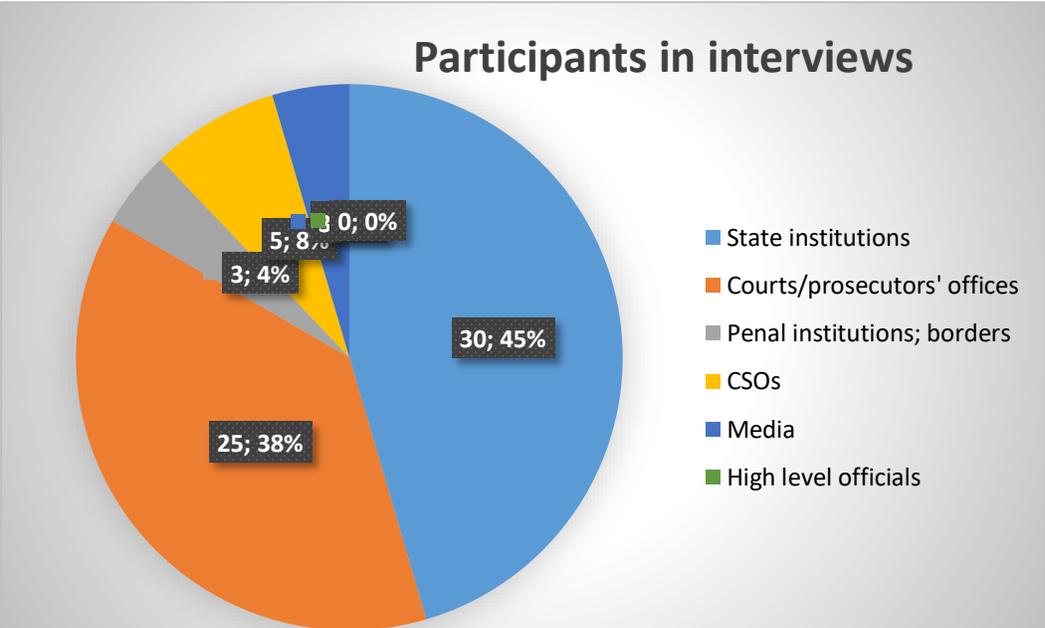
The fifth ‘group’ (P5) involves high level officials.

The sixth ‘group’ (P6) involves media representatives covering topic of organised crime and drug trafficking.

Each participant was subsequently coded by using the mark of one’s group and adding a number (e.g. P1.6, P5. 3.)

Given the diversity of the functions they perform and consequently specific knowledge about a certain topic, it should be mentioned that not all participants were asked to answer the same questions. For instance, the prosecutors and the judges had separate interview questions; likewise, the representatives of institutions engaged in prevention of drug misuse were asked separate questions. These different interview questions are provided in the Annex 2. In addition, despite the same interview questions delivered to each participant, the focus of the conversation was different, pending on the importance the participants were giving to a specific field covered by the questions. Overall, it could be noted that the members of the law enforcement had very brief responses and were focused solely on the actual interview question, whereas the members of the prosecution and the judiciary engaged into a wider discussion. Overall, it can be noted that the participants discussed pretty honestly about the deficiencies in the system. Most of them were regretful about the situation in this field, while there were some participants who do not believe that there are any problems in the functioning of state institutions.

Figure IV.1: Participants affiliation



The participants were selected on the basis of their position and competences, or the researcher was referred to some participants who could provide important insight on the topic and clarify certain aspects of the research. During the process, some participants indicated other important

‘actors’ who have not been previously identified (*snowball effect*). This technique is considered a complementary strategy to obtain more comprehensive data on a specific issue. The individuals who have already been selected to participate in the study were asked directly to suggest others they believe might have important info for this research, or they suggested colleagues who they consider more appropriate or more knowledgeable to discuss a particular issue.

Additionally, certain interviewees indirectly referred to other colleagues who might have important information for this study. All subsequently identified individuals who are expected to provide relevant data for the research were followed up. This method has been repeated until sufficient information was obtained, data gaps were covered and the sample size was found appropriate. These multiple referrals (as expected) were of particular importance to identify those working in the field (border police, airport controls).

Hence, although it was initially planned to conduct about 40 interviews, the sample size included a total of 65 participants. An increased sample size was mainly the result of a number of changes in the state institutions throughout the duration of this study, as well as the snowball effect, hence it was decided to extend the sample and include additional participants. The changes of specific individuals responsible for concrete matters in the relevant institutions were mainly the result of several election circles, which resulted in numerous changes of the key political functions, as well as heads of the sectors. The final sample size was determined based on informational needs in order to respond to each research question with sufficient confidence (Fridlund and Hildingh, 2004; Patton, 2002). The responses of the participants are provided and discussed in detail below, under the results of the content analysis.

The author took account of the fact that snowball effect may also result in a specific form of ‘biased recommendations’, considering that individuals often tend to suggest those with similar standpoints or political attitudes. In that sense, the information or opinions obtained in this way might not apply to the wider group of individuals engaged in suppression of drug trafficking or be less objective. In order to address this, the author attempted to reach different groups of professionals, follow up on multiple referrals and perform careful participant selection. Finally, the author gave her best to avoid personal bias in the contact with the selected participants, as well as in mapping the conversation. Throughout the course of this study, the key principles guiding the research involved voluntary participation, no harm or deception to participants;

anonymity and confidentiality; reporting research findings and political considerations (Hayden, 2009).

Initial contact has been established with the potential participants personally, through email or by phone. These written forms were accompanied by an official letter ‘Study Info Sheet’ (Annex 3). Along with the Study Info Sheet, in each case the author personally explained the research purpose, objectives and planned methodology. Since the majority of the potential participants involved individuals who perform high-level functions, it was expected that some might not actually sign the Consent Form, but may verbally consent to participate. In elite interviews, requiring written consent may at times be inappropriate. The person may implicitly give consent by agreeing to participate in the interview. Therefore, in order to avoid misunderstandings, each potential participant was provided with the Study Info Sheet and asked to confirm that he/she has read through it. This was noted prior to each interview and entered as a written author’s note in the interview records.

4.3.3.2. Assessment procedure

Data collection was performed in several phases. Each parliamentary elections cycle resulted in several months of delay (campaign, inability to arrange meetings, lack of heads of sectors in institutions due to changes). The data collection phases were organized in the following manner:

- ✓ The first phase was performed from September 2013 to February 2014 (elections were held in March 2014).
- ✓ The second phase was performed in the period April 2015 - April 2016 (elections were held in April 2016, while the Government was established several months later).
- ✓ The third phase September 2017 – May 2018 was designed as a follow up.

The interviewing process took place mainly in public institutions in Serbia. The majority of the selected institutions are based in Belgrade, while several interviews were made with the representatives of institutions located outside of Belgrade. Due to the sensitivity of the interview content and the position of the interviewees, potential participants were asked in advance to set the location of the meeting and appropriate time at their convenience. The interviews with CSO representatives were conducted in their official premises. The participants had the opportunity

to interact with the author and raise questions related to the study. During the interview, participants were approached in a respectful, flexible and neutral manner and have been provided the necessary time to consider their answers.

Understanding and acknowledging participants' competence and experience, they were invited to discuss the thematic areas in accordance with the interview protocol. The interview protocol was based on a pre-arranged set of questions corresponding to the particular participants' position, responsibilities, knowledge and field experience. In order to ensure confidentiality and avoid desirable responses, the participants were informed that their responses will remain strictly confidential and will not be shared with third parties under any circumstances. Participants' denial to answer certain questions or discuss specific themes was treated with respect. The approximate time of the interviews was approximately 40 – 70 minutes. In-depth interviews were also used with several participants, who had a valuable knowledge of the topic and were able to provide a number of clarifications on certain issues.

Pilot assessment

Pilot assessment was performed in the premises of the Ministry of Justice. The concept of the pilot assessment was to inspect whether there are some deficiencies in the interview protocol, or other potential obstacles, which could impact the later meetings with the participants. Given that the author already knew some of the participants in the pilot assessment, this proved to be a beneficial approach for several reasons. The pilot assessment indicated that the time calculated for the meetings should not be perceived as a definite timeline, given the possibility that some individuals might speak in more detail, or have a need to speak more about various interrelated issues. Moreover, during the pilot assessment, some participants had emergent calls related to their tasks and had to leave the interview. The author was waiting for these participants to return and continue with the interview. The feedback arising from this process was useful in terms of modifying the timeframe of future interviews, provision of additional information about purpose of the interview and description of the interview questions.

4.3.4. Sources of data collection and interview protocol

The data used in this research involve the written sources and the interview data. A variety of written sources was utilised, collected through a comprehensive desk review, as well as official information obtained from relevant institutions.

Among the official sources, the following was used in the study: statistical data from the judiciary (court, prosecutors' offices), police statistics, trial reports from Special Court on Organized Crime in drug trafficking and organized crime cases; data on the outcomes of court proceedings in drug trafficking and organized crime cases; Anti-corruption Agency reports and statistical data.

The comprehensive desk review involved the following: a) reports of international organizations (European Commission, Council of Europe, Transparency International); b) annual CSOs' reports on drug trade, organized crime and money laundering; c) mainstream journal and newspaper articles by prominent authors in printed and online media, d) published literature. In addition, one film on drug trafficking networks in Serbia was also used, as it provides an important videotaped insight on the functioning of organized crime in Serbia. These multiple sources were subsequently analysed in order to map the existing knowledge on drug trafficking in Serbia and the results of state action in this regard.

In addition, some information was received from the institutions on the basis of the Law on Free Access to Information of Public Importance, which regulates citizens' rights to access information of public importance held by public authority bodies. In line with this Law, public authorities are obliged to provide access to relevant information contained in a document in their possession, without any form of compensation.

Multiple interviews were conducted with state officials, civil servants in relevant institutions, the judiciary and civil society organizations. The purpose of the interviews was to obtain more comprehensive knowledge on the work of institutions engaged in drug trafficking suppression. Elite interviewing was used for data collection. Interviews were conducted in Serbian language.

Both semi-structured and in-depth interviews were utilized to collect data from the participants. Most of the interviews were semi-structured, formulated on the basis of research questions and

official data from the judicial institutions, law enforcement agencies and international organizations' reports. Additionally, certain questions from the International Narcotics Control Board Questionnaire were utilized and modified to provide technical data regarding the implementation of the ratified conventions related to drug trafficking. In-depth interviews were used with several participants, given that this form of interview can provide more in-depth knowledge, allowing the researcher to deepen the discussion on the key issues.

Interview protocol was designed in a manner that allows for a focus on the specific topic with a particular participant. Considering that the majority of the participants perform official duties, in order to avoid imposing on their time schedule and use the time effectively, the field-related questions were raised with each participant. The questions are grouped in accordance with the 'type of participants' (groups of participants explained above under ...) and were used accordingly.

In order to form the interview questions in the most appropriate manner, the author considered important to learn how the state efforts to suppress drug trafficking actually work in practice. In line with this, the author participated in several trainings during 2011 and 2012 organized for the Ministry of Interior, including staff engaged in organized crime and drug/human trafficking suppression. This was particularly important experience as it provided a greater insight regarding the issues they face in everyday functioning. Also, these training sessions involved group exercises on specific case studies related to illicit drug trade, links with other types of organized crime, particular techniques utilized in the fieldwork, and the like.

4.4. Analytic procedure

4.4.1. Content analysis – Analytic procedure

4.4.1.1. Sampling frame

In order to determine the boundaries of the content analysis, given the vast data collected during the interviews, the aim of the research and its objectives were utilised. The purpose of using these 'limits' was to avoid being too broad, hence excluding irrelevant information which does not focus on the subject of the study. Given that the main aim of this study is to explore how

organised networks in Serbia, as a state undergoing democratic transition and EU accession, impact crime control and lead to potential state capture, the focus of the content analysis was on all aspects of the data that can contribute to meeting this aim. Therefore, this ‘unexplored dilemma’ was an umbrella of the focus of the content analysis.

The decision on the sampling frame also involved the determination of the time period to be included. This choice was made on the basis of the study aim and objectives. The data covering the period from 1990 to 2018 have been included, when it comes to written sources, whereas the period from 2000 to 2018 was included in the interview discussions. Court and other judiciary statistics mainly involve the period from 2012 to 2018, due to the relevance of data. The types of written sources have been selected in a manner that enables reasonable representation of the data. Namely diverse forms of written sources were used to avoid potential bias (newspapers, articles by different authors), official institutional statistics, relevant EU reports and other international reports on Serbia.

4.4.1.2. Preparation of data and categorisation

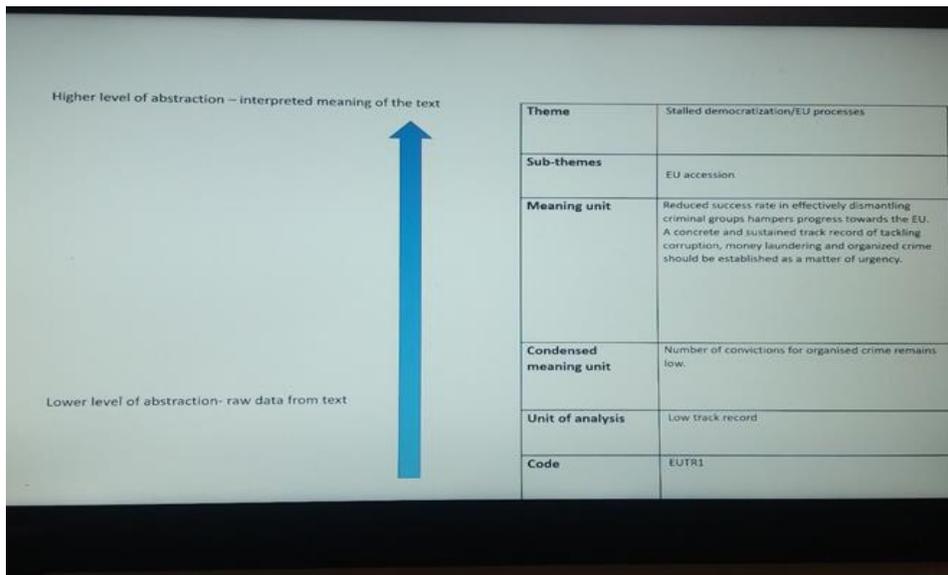
As described above, the study utilised a variety of written sources and the interviews for the purpose of data collection. Data was collected by a comprehensive desk review (official reports, media articles, statistics) and collection of written material from relevant institutions, as well as multiple interviews (semi-structured and in-depth interviews) with state officials, civil servants in relevant institutions, and the judiciary. These multiple sources were analysed in order to gain more in-depth knowledge, map the existing ‘state response’ network developed to fight against drug trafficking in Serbia and assess the results of state action in this regard. In light of the exploration of the potential state capture referred to in numerous assessments, particular attention was given to issues linked to such conclusions.

The collected data were diverse due to the variety of sources. Some interviews were transcribed, while other interviews that were not audio taped involved transcription (by the researcher) of the main verbalizations. Concurrently, the researcher has transcribed observations during the interviews, mainly as a form of reminder of the whole setting, body language and so on. Prior to

initiating data preparation for the analysis, the material obtained through the interviews and the written material collected have been re-read to get a general understanding of what the collected data is talking about. This process enabled the researcher to comprehend the main points or ideas arising from the information collected.

Implementation of the content analysis involves several steps. The first step refers to development of recording units. This process implies classifying the content into *themes* based on the objectives of the study. Content analysis theory proposes that the themes can be certain phrases, sentences or a single word (Berg, 2001). Themes are usually ideas or concepts relevant for the study. *Themes* entail an overall concept of an underlying meaning on an interpretative latent level. The utilisation of themes enables reflection as to how the study findings correspond to the literature and evidence based policies and whether the results are reasonable and logical. To further specify the exact themes of the analysis, the researcher applied the objectives of the study as a form of ‘test’ whether concrete information contributes to meeting these objectives. In practice, this means that any information obtained during the interviews or collected in the written sources that does not contribute to additional knowledge on the operation of the state ‘response network’ designed to combat drug trafficking or the extent to which the network is distorted by diverse socio-political factors and methods of social interaction, contributing to state capture, has not been included or coded. Such information, referred to as “dross” (Bengtsson, 2016; Bernard, 1995) has not been analysed. Data elucidating the functioning of criminal networks in Serbia in the context of the potential state capture were coded and included in the analysis. Likewise, information that does not add to the existing knowledge on actions in suppressing drug trafficking and its effects on the EU accession process, was classified as “dross”. During the analysis process, this testing of the significance of data was performed by writing down research aim and questions on a paper so it can be observed to keep the focus, using specific colours for a code and writing coloured notes in the margins, enabling the researcher to stay on track during analysis.

Figure IV.2. Example of analysis resulting in higher levels of abstraction



There are 4 key themes formulated for the purpose of performing content analysis of data:

1. Stalled democratization/EU processes due to organised crime - corresponding to the *RQ 1 To what extent can stalled transition and state capture be attributed to the level of organised crime?*
2. Organised crime networks - corresponding to the *RQ 2 What is the extent of organised crime and drug trafficking in Serbia?*
3. Effectiveness of state response network addressing organised crime - corresponding to the *RQ 3 What are the structural holes that enable endurance of organised crime in Serbia?*
4. Serbia as a captured state - corresponding to the *RQ 4 Do, and if so, how do these structural holes indicate state capture in Serbia?*

The second step involves definition of *sub-themes/categories*. Therefore, to facilitate the content analysis of data, along with these themes, additional *sub-themes* were formulated (explained in detail in the Table IV.1). Theory supports that the concept of sub-themes or categories answers

questions such as who, what, when, or where, namely describes the main content (Berg, 2001). The grouping of the collected data into *sub-themes* was performed on the basis of the primary data, theories on similar topic and European standards. This process involved initial/pilot division of data into themes, and careful consideration of the data to be grouped into specific sub-themes or categories that explain in detail or form a part of the concrete theme.

The existing knowledge of each topic, based on legislative principles, EU standards and available assessments of the specific field, were utilised to group data under a certain sub-theme. Authors suggest that subject to the study's aim and quality of the collected data, it is possible to formulate sub-themes or categories at the highest level of abstraction sufficient for reporting on the results, or develop themes (Berg, 2001; Elo and Kyngäs 2007). Hence the sub-themes represent the smaller units of the concrete theme. Sub-categories are often referred to as the sub-themes (Graneheim and Lundman, 2004). Authors hold that themes and sub-themes need to be internally homogeneous and externally heterogeneous hence that grouped data should not fit into more than one category (Krippendorff, 2004). Given the use of a deductive approach in this study, the role of the introduction of themes and sub-themes was to link the interpretations with the existing theories in order to draw inferences.

The sub-themes developed for the purpose of this study, still represent a broad group of data, conceptualized as the key set of words/concepts elucidating the concrete theme. The following sub-themes were developed:

Sub-theme 1: Democratic transition; EU accession

Sub-theme 2: Balkan route and Serbia's role; Drug trafficking related events

Sub-theme 3: Institutional framework; legislative framework

Sub-theme 4: Spheres of state capture; Indications of state capture arising from criminal networks

The third step involves the abstraction of raw data and categorisation. A detailed categorisation used for content analysis is presented in the Table IV.2 below. Given the amount of information a participant is sharing in the form of numerous sentences, those phrases or key words that most fit the main criteria for inclusion were extracted into smaller parts i.e. the meaning units.

Likewise, the written material used also entails a number of paragraphs relevant for the study, whereby certain key phrases and words needed to be extracted and the choice of content made.

In selecting the content that will be used as the “meaning units” and subsequent categories, the key guiding principles were the aim of the study and the research questions. Hence the choice of content was clearly defined and justified by the aims of the study and the research questions, throughout the whole analysis.

Analysis of the collected data was performed by dividing it into smaller units in the following manner. Meaning units represent the smallest units, obtained during data collection, which entail information necessary for the research. These meaning units are presented in the form of sentences, phrases or paragraphs. They originate from the transcribed interviews and the written material collected.

Identification of the meaning units involved an assessment whether all aspects of the content are included in relation to the aim of the study and the research questions. The data from the written sources, identified as meaning units relevant for the study, were marked by coloured pencils in different colours in order to distinguish the most important information from the less significant. Once the main meaning units were included, the process of re-reading was performed to check whether additional paragraphs or phrases should be included. For the information obtained through the interviews, the key points of the discussion were marked, and some characteristic sentences were used to define the meaning units. The following extracts represent examples of how the raw data was then broken down into key themes:

"The Skaljarski klan is a Montenegrin criminal group which is in conflict with the Kavački klan, but they are only parts of larger criminal groups that operate in both Serbia and the territory of the former Yugoslavia. (P2.9)

Key theme: Organised crime networks

"The profit earned by smuggling cocaine is often placed in legal business by criminals, by paying politicians, directors of public companies and other officials. For example, they buy failed businesses, build buildings and business complexes. In this way, they damage the financial system in Serbia" (P2.7)

Key theme: State capture

"The dominance of the black market of narcotics is still the main reason for the criminals' war" (P2.4)

Key theme: Organised crime networks

“Balkan criminal groups are linked to international narcotics cartels”.

Key theme: Organised crime networks

“It is very frustrating for me to judge in such circumstances...the members of the court panel oppose any decision to convict this person despite strong evidence and testimonies... it is like they perceive that the court should act to the benefit of the defendant even for highly positioned traffickers who are accused...” (P2.1)

Key theme: Effectiveness of state response network addressing organised crime

“Only the political elites here have achieved the right to autonomy and independence. Nobody else did. Governing outside from the institutions has become practice in Serbia, from the 90s until today. And when you have extra-institutional power, it is usually performed with the help of the secret services” (P1.18).

Key theme: State capture

“Our judiciary is very bad, as a consequence of decades of abuse of democracy by the political elites. The judicial reforms resulted solely on replacements of judges on the basis of political criteria, personal revenge or the criteria of closed social groups. The level of corruption remained the same but the number of obedient and incompetent judges increased” (P2.10).

Key theme: State capture

“Accession is currently on hold...it has a set of issues surrounding it, such as migration, terrorism, euro scepticism, relations with Russia... but it seems Brussels is unconsciously hindering the process... the process is there, but there is no political will...” (P1.26)

Key theme: Stalled transition and EU accession

“I think Serbia will never enter the EU... The fact is that the EU does not want to accept the Western Balkan states, because the EU is not anymore what it used to be or what it could have been” (P1. 11)

Key theme: Stalled transition and EU accession

These meaning units were further condensed to form shorter phrases, without losing the sense of the content, to facilitate the analysis. *Summarized or condensed meaning units* were developed by using the key words from the meaning units that are mostly associated with the aim of the study and the research questions i.e. with different focus of the study. Determination of the summarized meaning units implies reduction of the number of words without losing the content of the unit (Graneheim and Lundman, 2004). This process facilitates further grouping of data

and subsequently the analysis. For instance, war between criminal groups; member of a group killed; Balkan criminal groups; implementation is lacking; not in our jurisdiction; sentenced below legal minimum; still no final judgement.

In order to perform latent content analysis, it was necessary to further minimize the number of words used and extract the logic of data i.e. group the data into specific *units of analysis* (similar terms used: *content area* Graneheim and Lundman, 2004; or *domains* Patton, 2002). The aim of the study and the research questions were used as the key guiding principle in defining the units of analysis. Each unit of analysis implies a different focus of the study. For example, trial postponed; amount of drugs found; car exploded; killed member of...; perpetrator known to police; no progress in the field; law track record on.

Finally, in order to perform the analysis, the final step was coding. The formulation of *codes* for each unit of analysis was performed. All the transcribed interviews and each written document or a part of the document was systematically examined, categorized as explained above and coded. Coding of all the data was performed by using specific key words from the condensed meaning units and/or unit of analysis, in order to closely associate the meanings and simplify the coding process. Such labelling of the data was referred to by Strauss and Corbin as conceptualising data by identifying and giving “each discrete incident, idea or event, a name ... that stands for or represents a phenomenon” (Strauss and Corbin, 1990, p. 63).

Pre-testing of the coding scheme on several samples was performed. The coding list was developed with explanations of the codes to secure reliability (Morse and Richards, 2002). The coding of these samples was discussed with a colleague in order to check the level of consistency. For example, CG (group of XY), D (drugs), R (route), MIN (ministry of..), IMPL (implementation), COO (cooperation), EUTR (track record in accession related field as measured by the European Commission).

Line-by-line coding was performed through careful examination of the data, taking into account, throughout the whole process, the key research questions and the themes. The following steps in the process involved pre-testing of the coding scheme and follow up (revision of coding scheme). Subsequently, coding full sample was performed.

As discussed above, the phrases from the interviews were grouped under the themes to reflect the participants' statements about the given questions. Inferences were drawn on the basis of sub-themes and units of analysis that were generated for the purpose of the analysis. The consistency of the coding employed was assessed in order to weigh the data set validity and reliability. The analysis involved an exploration of different dimensions of the collected data with an aim to uncover the patterns relevant for the study.

The implied meanings were analysed by the author in order to draw authentic conclusions. Given that the author has extensive knowledge of the topic, both through educational activities, as well as the working experience in state institutions with public officials, it was important to capture these implied meanings in order to obtain innovative comprehension of the topics.

To present the results, it was decided to discuss the conclusions under the themes, with reference to the sub-themes, to adequately address the research questions. In addition, this approach enables the reader to understand the interpretations. The conclusions arising from the results are supported in the discussion with available theories, standards in the field and citations from the interviews i.e. meaning units.

The results and conclusions under the themes and sub-themes were utilised to group the information and conduct social network analysis, described in detail in the Table IV.2 below. On the basis of this comprehensive set of data, the following matters were explored:

- a) Symptoms of stalled democratic transition and EU accession of Serbia and their association with endurance of organised crime;
- b) The scale of organised crime in Serbia, in particular with regard to drug trafficking networks. Data on mafia related murders, car explosions, current trials on drug trafficking and seizures of drugs were particularly taken into account;
- c) The network of state institutions (state response network) designed to combat organised crime and drug trafficking was identified and investigated in detail; The effectiveness of the work of state institutions was addressed and this data was linked with loopholes identified in the perceptions/views of the participants and/or referred to in official reports;
- d) The extent to which the state response network is distorted by signs/symptoms of state capture was analysed.

As described previously, content analysis was selected as an appropriate analysis method to enable interpretation of the findings and identify the key variables for the social network analysis. Implementation of social network analysis is described below.

4.4.2. Social network analysis - Analytic procedure

4.4.2.1. *Categorisation for social network analysis*

Exploration of the associations among interdependent individuals/groups in social and geographic space is performed on the basis of several key concepts. For instance, *node* refers to subjects or sample elements that are not mutually independent. Determining how central a node in the network is can give information about how important role it plays in the network (Borgatti and Everett, 2006). The institutions have been conceptualized as nodes with an aim to explore the identified institutional network. Visualisation of the network of state institutions is provided in Chapter IV (see Graph V.1 and Graph V.2).

Relationships among nodes are valued in line with the nature of social ties (*tie strength*). These ties between nodes represent *edges*, which may be directed (in single direction) or undirected (free), weighted or un-weighted. In weighted edges, the connection includes a measure of strength (Hanneman and Riddle, 2005; Wasserman and Faust, 1994). Moreover, the concept of *cliques* is used to determine what kind of ties or exchange patterns might be performed in the network, as well as bridges between subgroups which play an essential role in recruitment of resources and information exchange (Hanneman, 2001).

The nature and strength of these inter-relations is calculated by specific measures. *Degree centrality* represents a measure of the extent of connections an individual has with other nodes. It is particularly useful in determining the level of activity of network members (Xu et al., 2004). This measure may be prone to bias, since it can be affected by the amount and source of information collected about particular individuals (e.g. law enforcement investigation). *Betweenness centrality* measures “the extent to which a particular node lies between other nodes in a network or group” (Borgatti, Everett, and Johnson, 2013; Xu et al., 2004), that is, it calculates

the number of contacts within a network associated with a particular node. Research indicates that high betweenness centrality may imply that a particular individual plays an important role in the network (gatekeeper, broker, responsible for the flow of information, drugs). This concept is applied to determine the role of a specific institution in the network of state institutions.

Betweenness centrality can assist in identifying actors who have a key role in the network, even though they are not so visible when measured by the degree centrality. The significance of this measure lies in its ability to capture the role of particular actors who often represent key channels of data. Freeman's (1979) betweenness centrality measures positional importance by estimating the probability that a given actor lies between pairs of others in the network. Actors with high betweenness centrality scores (referred to as "brokers") can have rapid and significant influence on the entire network, either facilitating the flow or exchange or inhibiting progress by acting as a bottleneck (Wasserman and Faust, 1994). These individuals tend to be seen as leaders by others in the network (Mullen, Johnson and Salas, 1991). *Closeness centrality* measures proximity among nodes in the network. It reflects direct and indirect connections among the network nodes and is mainly utilized by law enforcement agencies (Borgatti and Everett, 2006; Xu et al., 2004). Eigenvector Centrality measures influence of a node based on the number of links it has to other nodes within the network, but also takes into account how well connected a particular node is, and how many links and connections it has. This measure has the potential to identify nodes with influence over the whole network and not only those directly connected to it. Network cohesion is assessed by distance measures and density coefficients. A distance measure indicates the average number of ties between all accessible members of the network. The density measure (coefficients range from 0 to 1) indicates the degree of interconnectedness or organization of a group. Finally, the network's diameter indicates the maximum path length (number of steps) between the two actors in the network.

4.4.2.2. Specifying the network questions

As discussed in Chapter III, the concept of state capture relevant for this research refers to the inferences of links of state institutions with organised crime, mutual interests and corruption at various/all levels of state governance leading to decreased effectiveness of state actions aimed at

suppressing organised crime. Social network analysis allows for the examination of group structure in terms of consistent patterns of interactions between individuals, as well as the elucidation of subgroups between network nodes. This feature of social network analysis is valuable for this research, given that it conceptualizes the network as a group of institutions (nodes) and aims to analyse the links between them in relation to identified problems in functioning. Hence it aims to analyse the institutional network, identify gaps and communities, the dynamics across the network, and draw conclusions with regard to potential state capture.

With an aim to respond to the main research question, the two research sub-questions were additionally analysed by using Social network analysis. These questions are the following:

RQ3. What are the structural holes that enable organised crime networks to engage in drug trafficking in Serbia?

RQ4. Do, and if so, how do these structural holes indicate a phenomenon of state capture?

In order to implement social network analysis, it was necessary to develop specific network questions that would assist in responding to these two research questions. This was performed in order to decide what will social network analysis measure. The following network questions were developed:

1. In order to see is the state response network sufficiently connected:
 - What are the basic characteristics of the network in terms of density and connectivity?
 - What are the average distance and diameter of the network?
2. In order to see which issues i.e. ‘structural holes’ are central to the network and to which institutions they are associated?
 - Which institutions are central per different metrics?
 - Which institutions are the core of the network?
3. In order to see which institution may appear as brokers:
 - Do some institutions represent bridges in the network?
4. In order to see the most significant problems:
 - What is the largest weight of the relations among the issues?
5. In order to see do institutions share responsibility for specific problems:

-Can any communities/clusters grouped around specific issues i.e. ‘structural holes’ be determined?

6. In order to see how is the network connected in regards to other networks:

-Does the network show the characteristics of a small world?

The final network was analysed using methods and metrics for analysing social networks and visualized using the Gephi software package (Bastian, Heymann, and Jacomy, 2009). Gephi was also used to calculate basic metrics. Gephy software package was used due to its advanced features. The UCINET software package is not attainable by individual authors, and it is not particularly user friendly. Where appropriate, the weight variation of metrics was taken into account. For network clustering, the Louvain method was used in the Gephi tool which is based on the maximization of modularity.

4.4.2.3. Coding the data for social network analysis

As explained above, the Content analysis was used to enable interpretation of the findings and identify the key variables for the Social network analysis. This method was implemented as an adequate tool to summarize the findings given the amount of data collected and the diversity of sources, in particular the written sources.

Gathering complete network information about the state response network, i.e. the network of state institutions responsible for suppressing organised crime and drug trafficking, involved multiple data collection strategies. As described above, data was collected by a comprehensive desk review (official reports, media articles, statistics) and collection of written material from relevant institutions, as well as multiple interviews (semi-structured and in-depth interviews) with state officials, civil servants in relevant institutions, the judiciary and civil society. These multiple sources were analysed in order to gain more in-depth knowledge, map the existing ‘state response’ network developed to fight against drug trafficking in Serbia and assess the results of state action in this regard.

Originally, this implied the mapping of the state response network or the identification of all the institutions responsible for the fight organised crime and drug trafficking in Serbia. The concept

‘state response network’ was developed for the purpose of this research, as a common label for all the mapped institutions responsible for the fight organised crime and drug trafficking. An overall appraisal of the key institutions and relevant legislative framework was provided in the Chapter III. The institutions of the state response network were coded for the implementation of SNA, as presented in the table below.

Table IV.1. Codes of the institutions in the state response network

Table: Codes of the institutions in state response network

1.	MOI	Ministry of Interior
2.	PD	Police Directorate
3.	CP	Criminalistics Police
4.	BIA	Security Information Agency
5.	SBPOK	Service for the Fight Against Organised Crime
6.	VBA	Military Security Information Agency
7.	PORGCRIM	Prosecutors’ Office for Organised Crime
8.	CORGCRIM	Special Court for Organised crime
9.	APPELC	Appellate Court
10.	MOH	Ministry of Health
11.	MOJ	Ministry of Justice
12.	DIRSEIZ	Directorate for Management of Seized Assets
13.	SERPREVDT	Service for Prevention of Drug Trafficking
14.	COMMPSYCH	Commission for Psychoactive Substances
15.	CUST	Customs
16.	ANTIML	Anti-money Laundering Directorate
17.	TAX	Tax Administration
18.	FIU	Financial Investigation Unit
19.	OFFCOMDRUG	Office for Combatting Drugs
20.	CSOs	Civil Society Organisations

Furthermore, content analysis implementation enabled the identification of the ‘structural holes’ or issues identified in the functioning of the state response network. The issues are labelled ‘units of analysis’ and explained in detail above (under 3.4.1.2). The units of analysis identified by content analysis were further used to code data for Social network analysis, in order to quantitatively confirm or reject the findings. The following units of analysis were identified:

Table IV.2: Key themes, sub-themes and units of analysis

Key themes	Sub-themes	Unit of analysis
Stalled democratization/EU processes due to organised crime	Democratic transition; EU accession	Delayed transition attributed to the level of organised crime Assessments of transition Assessments of democratisation Delayed EU accession attributed to the level of organised crime EU assessments of progress in the fight against organised crime, drug trafficking and corruption Track record in suppressing OC
Extent of organised crime networks	Balkan route and Serbia’s role; Drug trafficking related events	Trends in drug trafficking Links with other crimes Trends in drug use Drug seizures War between criminal groups Geographic scope of the activity Organisational model of criminal networks
Effectiveness of state response network addressing organised crime	Institutional framework Legislative framework	1 Investigation & prosecution operational capacities (number, trainings, relationships,) multi-disciplinary teams mapping of OC/DT networks information exchange (secure platform, databases, intelligence exchange internal control reliance on secret service border control infiltration 2 Role of the court trial (expertise, relationships in court panel, decision making, judging to benefit of def...) appeal proceedings case law sentencing policy independence/political influence training 3 Financial investigation identification of financial assets from crime sectors vulnerable for corruption management of seized assets specialisation

		anti-money laundering 4 Seizure and destruction of drugs destruction issues where drugs are kept 5 Legal framework drafting of laws implementation of laws strategic framework 6 Prevention of drug misuse precursors production trade treatment research
Serbia as a captured state	Spheres of state capture Indications of state capture arising from criminal networks	1 Investigation & prosecution 2 Role of the court 3 Financial investigation 4 Seizure and destruction of drugs 5 Legal framework 6 Prevention of drug misuse

The results of the content analysis were used as a starting point for the social network analysis. Namely, the themes were used as key issues under investigation (to determine relations relevant for these research questions). The identified units of analysis (i.e. the key issues mentioned by the interviewees or in official documents) or structural holes were subsequently used as the key criterion for the development of the ID of issues (label of the issues) for the Social network analysis. Initially, the frequency of units of analysis was used to develop a scale of 1-5 in order to prepare the data sets for performing Social network analysis. The Table Scaling of issues 1 (Annex 4) includes all the scaled units of analysis.

Table IV.3. Scaling of issues 1

Node I	Node II	Scale
MOI 1 investigation	PORGCRIM 1 investigation	5
MOI 1 investigation	CP 1 investigation	2
MOI 1 investigation	PD 1 investigation	2
MOI 1 investigation	SBPOK 1 investigation	2
MOI 2 prosecution	PORGCRIM 2 prosecution	3
MOI 2 prosecution	CP 2 prosecution	2

MOI 2 prosecution	PD 2 prosecution	2
MOI 2 prosecution	SBPOK 2 prosecution	2
MOI 3 cooperation	PORGCRIM 3 cooperation	4
MOI 3 cooperation	BIA 3 cooperation	1
MOI 6 Mapping of OC/DT networks	PORGCRIM 6 Mapping of OC/DT networks	5
MOI 6 Mapping of OC/DT networks	BIA 6 Mapping of OC/DT networks	5
MOI 6 Mapping of OC/DT networks	VBA 6 Mapping of OC/DT networks	5
CORGCRIM 28 relationships in court panel	APPELC 28 relationships in court panel	4
CORGCRIM 29 case law	APELLC 29 case law	5
CORGCRIM 28 relationships in court panel	APPELC 28 relationships in court panel	4

4.4.2.4. Implementing SNA – developing a network based model of a state response network

Based on the initial set of data, a network of institutions was modelled according to social networks. Institutions represent the nodes of the network, and a connection is established if two institutions were involved in addressing a particular problem. The modelled network obtained is non-directional and weighted.

Initially, the network was modelled in accordance with the institutional domain of action (legally prescribed jurisdiction) in relation to a particular unit of analysis i.e. the problems associated with the particular institution. While ‘hard law’ clearly separates the jurisdictions, the ‘soft law’ distributes responsibility between institutions that are connected through direct or indirect links. This analysis therefore contributes to quantitative determination of critical systematic difficulties and inadequate practices in the state response network fighting organised crime and drug trafficking.

Subsequently, to assess the relations among institutions in the case of particular problems identified, the network metrics were utilised. This was followed by an in-depth analysis of the

identified communities with an aim to determine which institutions are responsible for the identified problems. In this way, the map of structural holes was obtained, indicating their significance as well as their locations across the state response network. Further analysis (SNA) demonstrated which particular elements of each of these structural holes are the most significant. Detailed analysis is provided in Chapter V.

4.5. Summary of methodological steps

To summarise, the methodological steps undertaken were the following:

I. Data collection involved written sources and interviews with relevant stakeholders, including:

a) data on organised crime and drug trafficking networks in Serbia, data describing the impact of the Balkan route in international illicit drug trade; review of the extent and nature of drug trafficking in Serbia;

b) identification of concrete actions of state institutions aimed at suppressing drug trafficking (jurisdiction pursuant to laws, cooperation prescribed by laws); data on the effects of state actions (statistics, official reports of the institutions, international reports)

II. Collected data (written sources and interviews) were analysed by implementation of Content analysis:

a) Content analysis was used to enable interpretation of the findings and identify the key variables for the social network analysis. This method was implemented as an adequate tool to summarize the findings given the amount of data collected and the diversity of sources, in particular the written sources

b) The units of analysis identified by content analysis were further used to code data for Social network analysis, in order to quantitatively confirm or reject the findings.

III. Social network analysis implementation:

a) State institutions were conceptualized as ‘nodes’, to develop a state response network;

b) State response network was then fed with relevant information on jurisdiction

c) The nodes involved state response network with regard to identified issues or problems in functioning, pursuant to jurisdiction of each institution

d) Relations of the state response network were then examined with regard to identified issues.

With an aim to elucidate what has been performed prior to presenting the results, it is valuable to reiterate the basic steps undertaken. Each of these steps is explained in detail in this Chapter.

I Phase:

1. Data collection
2. Performing Content analysis - identifying main themes, subthemes, units of analysis, coding and analysing data (see in detail 3.4.1..)

II Phase:

3. Specifying the network questions
4. Coding the data for SNA
5. Implementing SNA – developing a network based model of a state response network
6. Drawing conclusions

4.6. Ethical considerations

The study received ethics approval from the University of Sheffield, School of Law, on 17th July 2013 (Annex 5).

4.6.1. Access

The process of gaining access in a type of research that requires official state data is usually pretty difficult in Serbia. Due to the general lack of scientific research in practice, the Serbian institutions are often reluctant to provide access to independent researchers. Nevertheless, due to previous personal acquaintances with a number of representatives of the relevant institutions, I discussed the idea of conducting this research on several occasions. It was my belief that informing specific individuals about the research may contribute to more smooth access approval once requested. Furthermore, during the research, I started working as a consultant for Access to

Justice on a project at the Ministry of Justice. Through my work, I came in contact with a number of officials and participated in numerous expert meetings. This provided me the opportunity to discuss potential access in the key institutions, and to initially request some of the interviews.

It is important to note that this position of an independent consultant assisted me in retaining an autonomous stance, given that I was not an employee of the Ministry. The consultants were hired through a project to undertake independent research in different topics. Given that my research subject is not associated with the job performed, it was feeling at ease to undertake interviews with relevant officials, without impacting my current position or the research itself.

4.6.2. Informed consent

At the outset of the research, all the potential participants were provided with an overall concept of the research, during the initial discussions on the possibility to participate in the interviews. Subsequently, separate meetings have been scheduled, whereby the potential participants were informed about the purpose and aims of this study, including their right to not participate or to withdraw at any time. The potential participants were provided with the *Study Information Sheet*, containing relevant data about the research i.e. the purpose, aims of the research, methodology and data of the researcher. Information Sheet also contained information on confidentiality, anonymisation and dissemination of the results. Potential participants were clearly informed that any identifying data or information they revealed would be confidential, anonymized and safely kept. The implementation of the research procedure has been conducted by this author.

4.6.3. Confidentiality

Due to the specific nature of the participants and the positions they hold, anonymity and confidentiality has been particularly emphasized in this research. Elite interviewing requires particular attention with regards to data protection and anonymity issues. To this end, personal data protection rules have been fully implemented. In order to protect participants' confidentiality, they are referred to by pseudonyms and all identifying data has been altered, protected and safely kept. Research related forms or data were not shared with unauthorised

individuals and following the finalization of the study will be archived for five years following PhD completion and subsequently destroyed. Any data, written or oral, remained confidential.

Confidentiality of personal and other important data has been ensured in each case. All information obtained during the study is anonymous, i.e. any identifying data and other personal information have been protected by coding and will not be disclosed at any time. All the participants have been informed that their participation is voluntary, and they can decline participation or withdraw at any time. All research related documents ensure personal data protection of the participants and, to a certain extent the institutions, given that they are mentioned by a grouped label (e.g. repression institution).

Individual participants are not referenced in this thesis and will not be referenced in any report or publication related to the study. Considering that the majority of the participants perform official duties, their exact position was not disclosed as this would clearly indicate the person's identity. In these situations, reference to the institution as a source was made without disclosing the specific function that the person performs. Therefore, only coded names will be used in any written material (records, transcripts, quotations) to ensure that contextual information does not immediately imply the source's identity. The only names utilised refer the names mentioned in the media as a part of the mafia war, given that they are already publicly available. Also, several public figures are cited, again in the case their statements were already published.

As assured in the process of obtaining Ethics approval, that in case of unexpected data indicating criminal implications, such information will remain confidential and will not be taken into consideration, I hereby declare that no such information was obtained or discussed during the study. In addition, given that the interest of the researcher was to document relationships rather than generate a record of criminal activities, identifying data of individuals convicted for criminal offences was not collected. Only anonymised court decisions and prosecutors data were utilized.

4.6.4. Strengths and limitations

There are several strengths of this research that should be noted. Similar to other authors' experiences, the access to this type of data often depends upon trust and prior relationships or acquaintances with representatives of relevant law enforcement agencies, criminal justice institutions and professionals. As I explained above, I was in a position to gain access to important material and official interviews, which certainly contributed to the quality and reliability of data collected. It also contributed to the level of openness in the discussions. Moreover, there are some strengths related to the qualitative method per se, such as low constraints, comprehensiveness and sufficient detail. Finally, an important quality of this research refers to the innovative implementation of Social Network Analysis to detect measurable indicators of state capture in the field of crime control, which can be used in practice.

With regard to research limitations, there are primarily certain constraints that refer to the research area of state capture. This phenomenon is insufficiently clear and thus difficult to explore, due to its inherent covertness. Moreover, the suppression of organized crime is also a topic which is *per se* difficult to explore, as there is a lack of reliable data and sufficient reluctance from the official institutions to share valuable information. Further, the explored capture of the crime control system refers to the criminal networks as potential captors, which are secret entities by their nature. Any information about their functioning is commonly obtained only once they are identified. Therefore, the available information refers only to those cases that have been traced or reported to the relevant law enforcement agencies or the media. When this inherent secrecy of criminal networks is combined with an effort to explore state capture, which is a delicate phenomenon, it is even more difficult to draw objective conclusions. This research did not engage in exploration of the criminal network as entities, but rather analysed their potential to act as the captors of the crime control system. Given the fact that there might be other groups or individuals who may also have the capacity to capture a given element of the state, it is important to note this limitation.

To address these inherent difficulties in studying state capture, I utilised data triangulation and combined a number of different sources to collect representative data and retain neutral stance.

Aiming to address limitations inherent to qualitative methods, i.e. poor internal reliability and/or poor generalisation, I implemented a form of quantitative method, the Social Network Analysis. It is also frequently perceived that qualitative data is rarely integrated. In order to address this potential limit, I have developed a scheme indicating each step undertaken in the analysis, including the development of key concepts and themes which were subsequently measured by social network analysis. I believe that this approach facilitates understanding by third persons who may not be familiar with the specific topic, or who might wish to repeat similar inquiries using this methodology. Finally, it can be found in the literature that qualitative methodology ‘only seems easy’. I must recognize that this is true, given that the analysis requires a lot of time to explain the exact undertaken steps in order to clarify what was done. Finally, there was a delay in accessing criminal justice data, common for the state administration and the judiciary. The same stands for the interviews with relevant state officials. Nevertheless, the ‘time gap’ was used during the research process to collect other data.

4.6.5. Assessors Competency, Training and Supervision

The implementation of the assessment procedure was conducted by this author, supervised by several faculty members, Dr Paul Knepper (until 2017), Dr Mark Brown and Dr Alexandra Prodromidou (starting from 2018). I have several years of experience of working in state institutions, cooperating and exchanging sensitive data with official representatives of state institutions and coordinating reporting of the state institutions in the process of implementation of the Chapter 23 Judiciary and Fundamental rights, as a part of the EU-Serbia negotiation process. In addition, I have previous experience in conducting interviews with public officials and relevant stakeholders, as well as specialization in legal matters related to the field of the study. I have a LLM in Law and MA in International Relations and I am therefore familiar with the legal issues covered by the study, as well as a broader international perspective of various phenomena. Finally, I undertook training in implementation of Social network analysis during 2017.

Chapter V Results and Discussion

5.1. Summary and key research findings

There are two key and connected developments in the literature that have prompted the work in this research.

The first development refers to a growing interest in the phenomenon of state capture, particularly in the literature on a spectrum of states affected by crime (Cockayne and Roth, 2017; Chayes, 2015; de Boer and Bosetti, 2015; Ellis and Shaw, 2015; Ganey, 2007; Savona, 2014; Welch, 2012) and the captured states in the EU accession process (Perry and Keil, 2018; Popikij, 2018; Priebe, 2018; Weber, 2017). As described in Chapter III, literature on state capture offers little explanation about the process through which the state becomes captured. It is still not unambiguously clear what this concept implies and how can it be clearly differentiated from corruption or the concept of “failed states”. Acknowledging that these phenomena may be inter-related, Priebe (2018) suggests that the concept of state capture points to “systemic” shortcomings in the functioning of the state. Similarly, Savona (2014, p.2) argues that understanding ‘where the opportunities for organized crime lie’ may result from an exploration of illegal markets. Following this line of inquiry, Cockayne and Roth (2017, 10.) suggest that exploitation of these opportunities or “vulnerabilities” consequently leads to criminalized or ‘crooked’ governance.

Therefore, in the context of EU accession, identification of such vulnerabilities in particular states may have important implications for broader patterns of governance. Given that the accession processes should act as a countervailing force to the capture routes, identification of candidate countries’ vulnerabilities may assist in addressing these obstacles which cause significant delays.

The second development concerns the focus of the research in the field of organised crime on criminal networks (Fazekas and Tóth, 2017; Felbab-Brown, 2011; Garay and Villaveces, 2009; Leitner and Meissner, 2017; Maharaj, 2017; Schultze-Kraft, 2016; SOCTA, 2017; Varese 2010; Williams, 2001). Networks have been important as an alternative model of criminal groups’ organizational structures, but they are particularly important in this research given that thinking

about networked relationships allows a better view of the penetration of criminal groups into the state apparatus, and hence of the modus operandi by which criminal networks come to ‘capture’ the state and to emasculate those crime control apparatuses targeting them. As discussed in Chapter III, research consistently indicates that a number of states are characterized by a form of symbiosis between the state and criminal organisations, resulting from close ties between organised crime, politics and the public sector (Bruinsma and Bernasco, 2004; De Boer and Bosetti, 2017; Morselli, 2006; Vergara, 2012). Such a symbiosis is often described by the use of various (di)similar concepts such as state capture, criminal states or crooked governance, all placed on a certain point of a continuum of ‘failure of governance’.

Given the inherent complexity of exploring the phenomenon of state capture which is central to this research, a combination of two methodological approaches was implemented (Chapter IV). Firstly, a content analysis of narrative qualitative data drawn from a variety of sources, including the extant published literature and interviews with key stakeholders and informants within Serbia was implemented to identify the key gaps in the functioning of the state institutions responsible for the fight against organised crime. Following this, these data were reduced further into a form suitable for Social Network Analysis, to enable mapping and identification of indicators of state capture. This innovative approach applied in this research builds on the idea of loopholes or “points of arbitrage” offered by Cockayne (2016, p. 8) and it adds to this approach by identifying the specific ‘vulnerabilities’ in a given state that enable capturing. Identification and/or mapping of these points of arbitrage or state vulnerabilities in Serbia may significantly contribute to disruption of state capture networks and increase the effectiveness of crime suppression efforts. The main research question for this study, and then its sub-questions, aimed to address this question and step through its logical parts in detail. To recap:

Primary research question:

Does the extent of organised criminal networks in Serbia as a country undergoing EU accession, indicate state capture in the field of crime control?

Sub-questions:

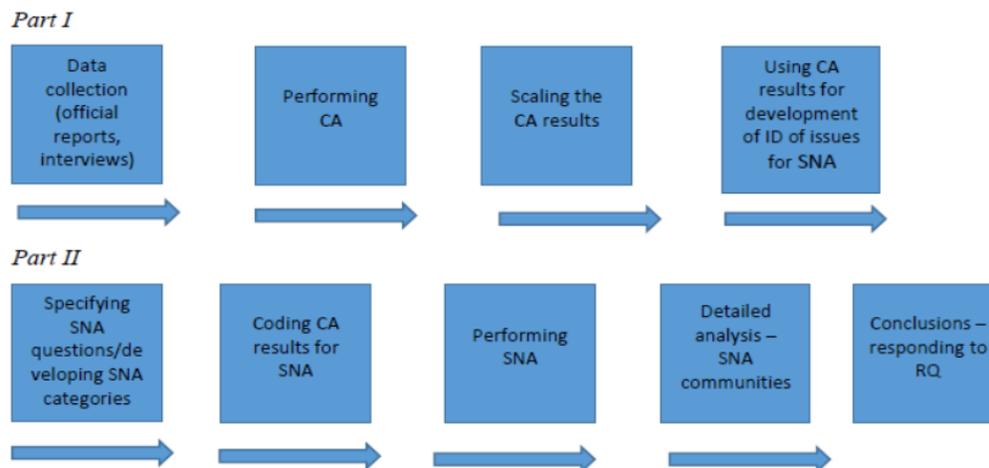
1. To what extent can stalled transition and EU accession be attributed to the level of organised crime?
2. What is the extent of drug trafficking in Serbia?

3. What are the structural holes that enable organised crime networks to engage in drug trafficking in Serbia?
4. Do, and if so, how do these structural holes indicate a phenomenon of state capture?

The logic of this analysis, also described in full detail in Chapter IV, is shown in Figure V.1 which illustrates the sequential analytical approach adopted.

Figure V. 1: Logic flow diagram of the analysis

Logic flow diagram



Note: CA = content analysis; SNA = social network analysis; RQ = research questions

To further recap the key methodological steps and to preface the results of analysis that will be described below, the narrative qualitative data were reduced through content analysis to identify key themes associated with each of the sub-question. These are summarised in Table IV 1 below. In the language of analysis, these are therefore the key themes, sub-themes and units of analysis.

Table V.1. Key themes, sub-themes and units of analysis

Key themes	Sub-themes	Unit of analysis
Stalled democratization/EU processes due to organised crime	Democratic transition; EU accession	I Stalled transition attributed to the level of organised crime Assessments of transition Assessments of democratisation II Stalled EU accession attributed to the level of organised crime EU assessments of progress in the fight against organised crime, drug trafficking and corruption Track record in suppressing OC
Extent of organised crime networks	Balkan route and Serbia's role; Drug trafficking related events	1 Trends in drug trafficking 2 Links with other crimes 3 Trends in drug use 4 Drug seizures 5 War between criminal groups 6 Geographic scope of the activity 7 Organisational model of criminal networks
Effectiveness of state response network addressing organised crime	Institutional framework Legislative framework	1 Investigation & prosecution operational capacities (number, trainings, relationships,) multi-disciplinary teams mapping of OC/DT networks information exchange (secure platform, databases, intelligence exchange internal control reliance on secret service border control infiltration 2 Role of the court trial (expertise, relationships in court panel, decision making, judging to benefit of def....) appeal proceedings case law sentencing policy independence/political influence training 3 Financial investigation identification of financial assets from crime sectors vulnerable for corruption management of seized assets specialisation anti-money laundering 4 Seizure and destruction of drugs destruction issues where drugs are kept 5 Legal framework drafting of laws implementation of laws strategic framework 6 Prevention of drug misuse precursors production trade treatment

		research
Serbia as a captured state	Spheres of state capture Indications of state capture arising from criminal networks	1 Investigation & prosecution 2 Role of the court 3 Financial investigation 4 Seizure and destruction of drugs 5 Legal framework 6 Prevention of drug misuse

Part I: FINDINGS OF THE CONTENT ANALYSIS AND DISCUSSION

5.2. The extent to which stalled transition and EU accession can be attributed to the level of organised crime

As reviewed in Chapter III, the process of transition involves, *inter alia*, macroeconomic stabilization, as well as accompanying legal and institutional reforms, aimed at establishing the rule of law. Despite its turbulent past, Serbia today is a stable country with a democratic regime. However, nearly twenty years after the onset of transition process, Serbia continues to implement various rule of law reforms in an attempt to reach international standards. This overly long reform process has been subject to diverse interpretations discussed above, but it essentially generates a question whether the country has in fact transited and if not, what are the causes of this delay?

The process of democratic transition in Serbia is strongly intertwined with the process of EU accession. Therefore, as explained in Chapter IV, this research strongly relied on various international and EU assessments regarding transition and accession progress of Serbia.

Firstly, it is necessary to conclude whether the transition of Serbia and its EU accession are in fact stalled? To outline briefly, stalled transition is viewed as a prolonged process of institution building and democratic awareness development, whereas a delayed EU accession mainly refers to a long-lasting process often hampered by various political motives, as well as lack of

measurable achievements of the set goals that would indicate a state's readiness for accession. This question was mainly addressed through the official documents, usually international reports measuring progress of Serbia in the EU integration processes. During the interviews, a significant number of participants referred to stalled transition and EU accession in particular, as largely important issues hindering country's development. Similarly, mainstream media covering the topic of organised crime and drug trafficking often link these phenomena with the stalled transition of the state and a delayed EU accession process. Links with organised crime have been discussed in this sense and assessed by most of participants as one of the key factors for these prolonged processes. Hence, the results presented involve a combination of the reports and interviews.

Following a comprehensive content analysis, the findings of this research confirm that stalled transition and EU accession are strongly associated with the level of organised crime. Based on an in-depth analysis of international reports on Serbia, the research findings identified the following key factors related to stalled transition and EU accession:

- insufficient preparedness to fight organised crime;
- insufficient preparedness to fight drug trafficking;
- low track record in investigation, prosecution and final convictions in organised crime and high level corruption cases;
- lack of investigation of wider criminal networks;
- scarce financial investigations; and
- deficient freezing and confiscation of assets derived from crime.

Through an additional social network analysis, the elements of these factors have been confirmed and are discussed in detail under research questions 3 and 4. These are certainly not the only factors mentioned in the EU Progress reports, but evidently represent long lasting problems relevant for the field of this research. Their reoccurrence and almost the same wording utilised year after a year indicate that these issues entail endemic problems. The key findings are presented through the following sections:

1. Stalled transition attributed to the level of organised crime;
2. Stalled EU accession attributed to the level of organised crime.

5.2.1. Stalled transition attributed to the level of organised crime

There are a number of methods to evaluate the level of democracy in a given state, ranging from political views, diverse objective or less objective international reports, as well as shadow reports of the civil society and experts' opinions. In order to maintain a neutral stance, this research relied on recognised and relatively unbiased (e.g., technocratic) international reports, however also citing some of the relevant global reports that contain important criticism. For instance, if we understand the Council of Europe (CoE) reports as sufficiently professional, neutral and commonly least politicised, the CoE reports indicate relevant assessments of the state of democracy across member countries.

The findings of this research show that pertinent reports of Group of States against Corruption (hereinafter: GRECO), Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorist (hereinafter: MONEYVAL), the Financial Action Task Force (hereinafter: FATF) and the Venice Commission, taken together, all point to the issues identified in this research as the key factors contributing to stalled transition and EU accession.

For instance, GRECO Report (2018) states that no significant progress of Serbia has been identified in the field of anti-corruption³⁴. As key obstacles, lack of transparency of the legislative process, the rules on conflicts of interest that apply to members of parliament, judges and prosecutors, the procedures for the recruitment and promotion of judges and court presidents, and the procedures for the recruitment and promotion of public prosecutors are listed. In its 2018 report, FATF, places Serbia on the "black" list, among 11 high risk countries³⁵ in the field of money laundering and financing of terrorist organizations. The key deficiencies of the system referred to in the FATF report involve lack of supervision of designated non-financial businesses and professions, politically exposed persons, wire transfers and high-risk jurisdictions.

³⁴ More specifically, recommendations i, iv, v, vii, viii, x and xi have been partly implemented and recommendations ii, iii, vi, ix, xii and xiii have not been implemented. Available at:

³⁵ North Korea, Ethiopia, Syria, Iraq, Iran, Sri Lanka, Trinidad and Tobago, Tunisia, Yemen and Vanuatu

There is a strong increasingly evident lack of transparency in using public resources..... The consequence of this is the assessment of Serbia on the FATF List... from among 11 countries, Serbia is the only state in Europe that is on the list.....”

(Commissioner for the Protection of Personal Data and Access to Information of Public Importance, cited in Vreme, 2018, p. 22)

The MONEYVAL Report in 2016 identifies high exposure to cross-border illicit flows in Serbia and states that organised criminal groups trafficking drugs and human beings pose a major money laundering threat. It is further stated that tax evasion and corruption generate substantial criminal proceeds, which are invested in real estate, valuable moveable property and securities. The misuse of domestic and offshore legal persons, together with multiple use of wire transfers, entail common money laundering methods.

Another report, covering the field of the judiciary, which is not the focus of this research, is also relevant for the enquiry of stalled democratic transition. The Venice Commission has adopted a dozen opinions for Serbia relating to the judiciary³⁶ between 2005 and 2014, analysing the country’s Constitution and subsequent legislation. The most relevant opinion today, given the process of Constitutional Amendments is the Opinion on the Constitution of Serbia, adopted by the Venice Commission in March 2007. The key recommendations of the Venice Commission are aimed at establishing an independent, fair and impartial judiciary, which is efficient and accountable and thus trusted by the citizens. As stated by the Venice Commission (2018), in order to achieve this

It is crucial that the judiciary be committed to upholding the rule of law and be free from political pressure or bias.

(CDL-AD 2018/011, p. 4).

These evaluations of the judiciary are of major importance for this research, as this branch of state has the ultimate say in the processes scrutinised herein. The role of the judiciary is discussed in detail under research questions 3 and 4.

³⁶ For an extensive review, see <https://www.venice.coe.int/webforms/documents/?country=53&year=all>

Moreover, the collected data indicate that important public figures share a standpoint that the process of transition has not been finalised. Several citations are provided below.

Western Balkan has become less democratic in the last several years, perhaps due to over-reliance on the EU or the expectations that the strength for changes and reform will come from the outside.

(Florian Biber, coordinator of Balkans in Europe Policy Advisory Group, cited in *Vreme*, 22 Dec. 2016, p. 14)

From our research we know that corruption and clientelism are metastasized in the society of Serbia and that they are nourished by different interests and fear. They destroy the institutions and swallow the resources that the country needs for development, and move them into narrow circles of political and economic elites. They increasingly abolish the possibility for citizens to realize their rights through the institutions of the state, without fear and blackmail, that they must be loyal to political elites.

(Public letter of the Department of Sociology, University of Philosophy, 2019, cited in *Insajder* 22.01.2019)

These assessments all point to a variety of problems in the field of the judiciary, anti-corruption and crime control. Given that democratic transition is fundamentally associated to the rule of law, identification of issues in its essential constituents certainly demonstrates that this process has not yet been finalised.

The findings of this research are in line with these standpoints, given that issues in the essential constituents of the rule of law have been identified. Namely, identification of organised crime, corruption and money laundering in the reviewed evaluations of Serbia point to a set of problems in the field of crime control and the judiciary. These fields are inextricably associated to the rule of law and the state of democracy in a state. Therefore, these deficiencies of the system present a solid rationale for the prolonged transition in Serbia. Given that the notion of the rule of law is central in determining the degree of success in a transition, literature suggests that in the case of Serbia, there remains a lot of effort to be invested in reaching appropriate standards (Rakic Vodinelic, 2010; Kolakovic-Bojovic, 2018). It is interesting to see the association of these systemic shortcomings with the factors influencing delayed EU accession.

Moreover, various assessments of democratisation have also been taken into account. Even though this particular issue was not a subject of this research, it is important to provide a brief overview of the available assessments, given that a large amount of secondary data indicates certain drawbacks in this field.

Serbia is a member of the Council of Europe and actively participates in its activities and assessments. The Council of Europe in this period particularly evaluated several fields that are relevant for this research. These evaluations are presented in the reports of the GRECO³⁷ (2018), discussed above and the Venice Commission³⁸. As the above citations from these reports demonstrate, they are moderately negative, and provide recommendations for improvement in the given fields.

Nevertheless, other international reports are more adverse to a certain extent and the fragments of these reports are provided below. For instance, in the Transition Countries report, the Freedom House (2018), a non-governmental organization, states that Serbia's fundamental freedoms and democratic institutions continued to decline in 2017. This is the lowest estimate of democracy Serbia has received in the Freedom House report since 2003.

Serbia is one of 73 countries of the world whose score on the British Economist's Index of Democracy (Euractiv, 2019) declined in relation to 2015, and the region of Eastern Europe as a whole has seen the largest decline since 2006 when this index was established. Now Serbia is 64th on the list of 167 countries and 12 out of 28 countries in Eastern Europe (including the Baltic countries, Southeast and Central Europe), and, like most of the countries in the region and the EU, belongs to the category of 'democracies with failures', which means there are optional freedoms and basic rights are respected, although there are weaknesses in other aspects of democracy, such as media freedom, governance issues, insufficient political culture and low level of political participation.

Taking into account these diverse assessments, it could be overall argued that Serbia nowadays has a democratic regime; however, its democracy is affected by the behaviour of key players in political life largely linked to clientelism and corruption, as discussed below.

³⁷ A body of CoE responsible for anti-corruption

³⁸ A body of CoE responsible for the judiciary

A careful look at these reports shows that the research findings are fully in line with the identified deficiencies of the system. If these assessments are viewed jointly with global evaluations of democracy and media freedoms, it appears that stalled transition and EU accession are strongly confirmed. In particular, assessments of the transition processes are mainly linked with the principles of the rule of law, democracy, good governance and the respect of human rights standards, as specific values to be achieved. As reviewed above, democratic transition in Serbia was a process accompanying economic reforms, but it appears to be still ongoing while its effects are assessed in different ways. The notion of the rule of law is central in determining the degree of success in a democratic transition. In the case of Serbia, literature suggests that it is still necessary to strengthen the rule of law. The findings of this research strongly support such conclusions.

5.2.2. Stalled EU accession attributed to the level of organised crime

In order to respond to this question, a set of EU assessments of progress in the field of organised crime, drug trafficking and corruption was utilised. This data was supplemented by reference to the topics obtained in the interviews. Unlike in previous enlargement phases, the EU membership today requires fulfilment of a set of conditions of democratic “standards”. While other democratizing countries throughout the world were seeking to integrate their politics and economy within the larger global market, the position of candidate countries today is unique as they are obligated to conform to an additional set of rules in order to meet the requirements for EU membership.

It is therefore important to note that the EU has changed the methods to monitor progress starting from 2014. Therefore, the progress of candidate countries in the process of EU accession is nowadays measured by more comprehensive reports, organised per clear indicators. The findings of this research are presented by using similar criteria.

In order to monitor the progress of candidate countries, the EU utilises a variety of specific tools, such as the annual progress reports, peer-review missions, rule of law advisory/expert missions and enhanced monitoring of reforms. By making these reports available to the relevant state

actors, the EU attempts to assist them in addressing the key obstacles in the given field to foster implementation of the accession related criteria. In these tools, a specific “EU wording” is utilised, for instance, to assert that there is no progress in a certain field, or that the field remains problematic. In this line, based on the new EU assessment methodology, most countries have only “some level of preparation” in the areas of the rule of law, including functioning of the judiciary, fight against organised crime and fight against corruption. The following findings were identified with regard to EU assessments of the progress of Serbia:

Corruption remains prevalent in many areas and remains a serious problem. The ratio of convictions to indictments is low.

(Progress report 2014, p.2)

Serbia has some level of preparation in the fight against organised crime. Serbia has partially fulfilled last year’s recommendations... Efforts to investigate wider criminal networks and to process money laundering cases still need to be stepped up.

(Progress report 2015, p. 15 and 2016, p. 17)

Serbia is a transit country for illegal migration and the smuggling of drugs, firearms and other commodities. Combating these phenomena and establishing appropriate border management, including management of ‘green’ borders, needs to be further strengthened.

(Progress report 2018, p. 38):

Serbia has some level of preparation in the fight against corruption...However, corruption remains widespread and strong political impetus has yet to translate into sustained results.

(Progress report 2015, p.4)

The operational capacity of relevant institutions remains uneven and law enforcement and judicial authorities still need to prove that they can pro-actively investigate, prosecute and try all high-level corruption cases in an unbiased and operationally independent manner. There is as yet no measurable impact of anti-corruption reforms.

(Progress report in 2018, p.4)

Overall, in its progress reports, the EC identified various shortcomings related to the fight against organised crime, including *inter alia*, lack of intelligence-led investigations aimed at dismantling

networks involved in organised crime and money laundering, lack of secure platform to exchange intelligence between law enforcement agencies, the need to reinforce independence of the internal control sector of the police. In view of the potential accession of Serbia, these are all rather serious issues.

The participants also referred to endurance of organised crime as an important factor hindering progress in EU accession. An interesting statement is provided below:

Imagine if the EU would actually accept Serbia as a member state... that would be like if you were dating a girl 20 years ago, who was normal back then... but the next 20 years she has been doing drugs, working as a prostitute... And then you meet her and marry her.

(A participant from a state institution, P1.3)

If you look at the court decisions, it is clear that the EU will never accept us... most of the criminals are never found guilty, or they never actually go to prison (P1.16)

The convicted drug traffickers appear in football games among key club supporters...the media publish such photos and nothing happens... the EU is monitoring all of this, what kind of image are we sending as a country... (P4.5).

The shortcomings presented above appear in almost identical wording in consecutive reports of the European Commission. A detailed comparison of these shortcomings and linked recommendations of the EC is perhaps the best indicator of the lack of progress during time. This certainly raises questions as to the key underlying reasons for such situation.

It could be argued that this process has been delayed as a consequence of incomplete democratic transition in Serbia. As discussed above, similar obstacles to finalisation of transition are noticed. In that context, it cannot be expected that a state which has not effectively transitioned into democracy would be swift in implementation of the EU reforms.

Others perceive that the problem of overly prolonged accession of Western Balkan states is associated with the lack of political will within the EU itself. For instance:

Accession is currently on hold...it has a set of issues surrounding it, such as migration, terrorism, euro scepticism, relations with Russia... but it seems Brussels is unconsciously hindering the process... the process is there, but there is no political will.

(Florian Biber, coordinator of Balkans in Europe Policy Advisory Group, cited in Vreme, 22 Dec. 2016, p. 22)

The Enlargement Strategy is going very slow... the reports are being produced, but the rule of law remains a challenge.

(Ervan Fuere, researcher, Centre for studying EU policies, Brussels, in *Vreme* 18 October, 2018)

I think Serbia will never enter the EU... The fact is that the EU does not want to accept the Western Balkan states, because the EU is not anymore what it used to be or what it could have been.

(Vladeta Jankovic, professor, cited in *Vreme* 5 July 2018)

The only time the key politicians from the region were invited to sit together at a table with the EU politicians was in 2015 when the topic was the migrant crisis and the Balkan route... not before, and never after.

(Sonja Liht, Fund for Political Excellence, in *Vreme* 18 October 2018)

On the contrary, there are perceptions that the problem is in the EU approach. Some authors maintain that the EU policy towards candidate countries has not been effective do to the use of conditionality. For instance, Mendelski (2015) suggests that the effects of reforms depend on the interplay between domestic conditions and the EU reform approach. In this context, progress of Serbia in the field of rule of law appears to be strongly affected by domestic conditions. Commission's Progress report 2017³⁹ on Serbia identifies several internal constraints to the implementation of good governance principles, such as corruption, organized crime, lack of independence, transparency and accountability in key institutions. It could be argued that Serbia adopted some legislative changes as a result of conditionality, but has not been able to implement them, thus facing continuous low track record.

Moreover, the effects of the process of enlargement are heavily debated in political and academic discourse at the level of EU, particularly with respect to the rule of law. Therefore, Serbia as a candidate country will be particularly monitored with respect to a tangible progress under Chapter 23, which will not be measured by the number of amended laws, but recorded by the track record in their implementation. The term track record is usually used to measure the relevant data requested by the European Commission for the purposes of progress assessment.

³⁹ See also the EC Progress Report 2016. The Report indicates a lack in judicial independence and impartiality as well as the pathology of politicisation of judicial structures. This signposts that judges' accountability is not ensured in practice and that the pathology of lack of enforcement of law continues to exist. The Report states that corruption is still highly present and without progress compared to previous years, which indicates the existence of corruption in the judiciary.

The review of the specific Track Record Tables on organised crime and high-level corruption cases, performed as a part of data analysis, clearly indicates the reasons for EU assessments provided below. A brief review of the findings related to perceptions of the EU in this regard is presented:

The number of final convictions in the fight against organised crime remains low compared to the estimated value of the criminal market of the region.

(Progress reports 2015, p.15, 2016, p.17 - identical wording)

Serbia should in particular: a) establish a convincing track record of investigation, prosecution, and convictions in organised crime cases, including money laundering, based on proactive investigations, and establish an initial track record of freezing and confiscating criminal assets.

(Progress report 2018, p.31)

The lack of secure storage of seized drugs and drug precursors prior to destruction remains an issue of concern. An appropriate process for the destruction of precursors has yet to be set up.

(Progress report 2018, p.40)

Very few persons were convicted for third party laundering, despite the existence of organised criminality. No stand-alone money laundering convictions have been achieved.

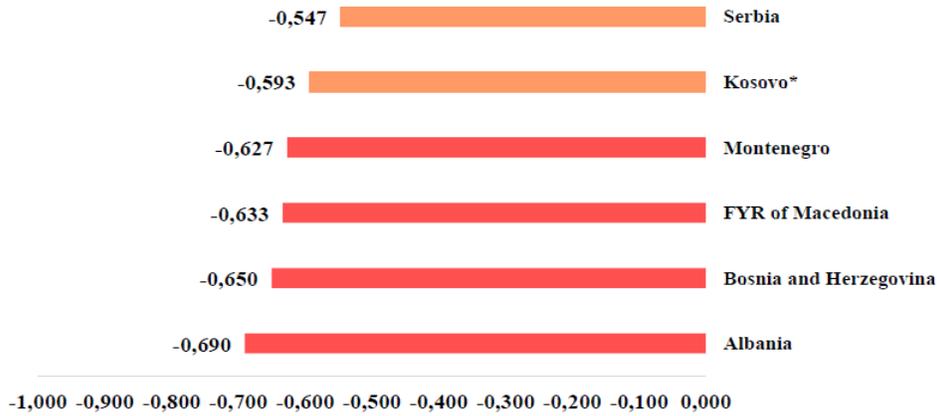
(MONEYVAL, 2016, p.7).

The data on track record in each of the inspected fields does not indicate satisfactory performance of the criminal justice system. The questions that arise in this regard refer to the reasons for such state of play. That is, if the EU perspective is a goal that Serbia strives to, why isn't more effort invested into reaching these goals? It may be that the criminal justice system lacks capacity to finalise this type of cases or the system might be captured, hence preventing positive track record. The recently published GRASP report (2019) indicates that capture risk of the Serbian criminal justice system is much lower than in other candidate countries. Nevertheless, the assessments of the GRASP report relied on broad indicators, such as adopted laws and total number of resolved cases before the courts (although recognising the lack of comparability of different statistics across institutions) and without clear methodological explanation of the values attributed to certain indicators. The GRASP report shows that regulatory framework for addressing corruption and capture risks through the criminal justice instrument is in place. However, the Capture Risk Index provided in the report suggests high capture risk, due to biased approach in detection, investigation, prosecution and sentencing of corruption.

Figure V. 2: Capture Risk Index developed in the GRASP Report

Graph 9.2. Capture risk index- Performance of Criminal Justice System

Capture risk index (-1 worst, 1 best)



* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999

Source: GRASP Report - Governance Risks Assessment Project in Western Balkans

The low track record in cases of organised crime and corruption is a fact. However, a number of reasons may be attributed to such condition. There are some objective reasons for this perceived lack of efficiency of the criminal justice system in this particular field. One of those reasons is certainly lack of premises in the Special Court for Organised Crime, even though they work double shifts, which causes practical obstacles to maintain multiple trials simultaneously. Concurrently, most interviewees referred to the lack of efficiency in the judiciary, lack of accountability, inadequate evidence provided by the law enforcement and a set of similar explanations, commonly offered by different groups of state officials. Illustrative examples are provided below.

Procedural laws enable a set of options to postpone hearings indefinitely, and the lawyers take advantage of this. (A judge, P2.1)

Sometimes they blame us, but the prosecution does not always have good evidence. (A judge, P2.20)

We try to suggest as many plea agreements as possible. (A repression institution representative, P2.7)

There is no space for other proceedings, we don't have other court rooms... if they want more, they need to provide additional space and staff. (A judge, P2. 23)

The prosecution is over-burdened with tasks, and we don't have sufficient staff. (A repression institution representative, P2.18)

Nevertheless, the extent of the lack of efficiency of the criminal justice system may also be attributed to state capture, as no sufficiently clear justifications are provided. Thus, what these data suggest is that a dimension of state capture lies in a certain drawing the energy out of state institutions that, while on paper are perhaps not ideal or fully 'transformed', nevertheless in practice appear to function with a level of inertia that cannot be explained by reasons of form alone. This is question of the dimensions of capture particularly important and is measured and discussed under research questions 3 and 4 further below.

5.2.3. Conclusions

It is important to note that on the basis of the literature review, it could be expected that stalled democratisation processes and prolonged European accession of a state would be marked by certain characteristics identified by most authors. To summarise the discussions in the Chapter III, it is a fact that economic transition in Serbia was significantly delayed when compared with other states in the region or other transition states. The reasons for this delay may be correctly associated with the conflicts in the region, international embargo, bombing and other particular features of the situation in Serbia in that period. However, despite these factors, a number of authors maintained that there are other dynamics that may influence the process of transition.

This research question strived for determining whether stalled transition and EU accession can be attributed to the level of organised crime. As demonstrated through this presentation of results, deeply rooted problems of organised crime, endurance of criminal networks and wide-spread corruption represent some of the key issues hindering finalisation of transition and the EU progress of Serbia.

The findings generated in this research show that democratic transition does take place in Serbia, but it is continuously obstructed by several key issues, such as organised crime, corruption, clientelism, and fragile institutions. As evidenced, the EU consecutively underlines these issues as key factors hampering progress. These findings are consistent with notions of some authors

who suggested that democratic transition is prolonged due to absence of a radical break with non-democratic heritage, corruption and crime (Stoiljkovic, 2012).

Even though the EU constantly refers to these problems, it appears that this approach has not led to improved outcomes in the field of crime control in Serbia. The importance of the identified problems lies primarily in the fact that these are measurable fields of state action i.e. they are not political assessments. A considerably long interval of the same recommendations which are not fully implemented signposts that there are significant obstacles in a state, hindering achievements in this field.

This may be due to an essential problem identified in Serbia, which is the implementation of the legal framework *per se*. That is, Serbian laws in this field have been assessed as adequate and overall aligned with the EU acquis. The question is therefore why implementation is lacking? To support the existence of this particular problem in Serbia, an excerpt from an arbitration case⁴⁰ against the Republic of Serbia is illustrative:

In the Respondent's view, the Claimants' expectations in regard to the Veterinary Act were based on general legislative statements which can only give rise to reduced expectations. The Claimants could only have a very limited expectation that the Veterinary Act would be implemented and complied with simply because it had been enacted as law. (ICSID Case No. ARB/14/27)

Hence the defence of the state rests upon a claim that the fact a law has been adopted doesn't necessarily guarantee it would be implemented. Inconsistent implementation of laws can therefore be a possible explanation and one continually remarked upon in the external reviews.

However, the reasons for endurance of these problems may also be attributed to the quality of institutions (Greif, 2006; Tridico, 2011). Tridico (2011) ascribed different levels of performance among transition countries, *inter alia*, to the quality of institutions, implementation of policies and strategies and control of corruption. Besley, Dewatripont, and Guriev (2010) held that effective transition is not possible without subsequent institutional changes, given that

⁴⁰ International centre for settlement of investment disputes ICSID Case No. ARB/14/27

institutions represent the core of social and economic interactions. They consider that transition may be prolonged in case of absence of changes of the formal and informal institutions.

In addition, the features contributing to stalled EU accession identified in this research may also be explained by reflecting on the consequences of the recent past in the Western Balkan region. That is, as thoroughly discussed in Chapter II, organised criminal networks in Serbia (and the region) were established during the conflicts in the 90s. These criminal networks originating from the period of the break up of Yugoslavia developed strong mutual bonds through the illegal firearms, oil and cigarettes smuggling. It is also well known that Yugoslavian political elites and security forces throughout the region actively participated and operationally supported these trafficking channels (e.g. Hajdinjak, 2002). Such symbiosis between state actors and criminal networks appears to have persisted even nowadays. This is in line with Popovic (2010), who perceived the causes of Serbia's epochal failure to undergo democratic transition process in the main political actors as a continuance of the previous political order, the dominant cultural patterns, and a refusal to recognize the criminal inheritance from the nineties. As this research shows, it appears that this criminal inheritance is deeply rooted into the system.

As discussed in Chapter III, various models of cooperation of state actors and criminal networks continued after the peace has been established, through cross-border transactions based on bribery, suspicious privatization arrangements after the 2000, trading in influence, protection from law enforcement. It could therefore be reliably explained that such prosperous business relations between state actors and criminal networks have never in fact been interrupted, hence maintaining organised crime alive. The process of transition has therefore theoretically strengthened organised criminal networks by giving them an opportunity to invest in legal business. As a result, this symbiosis today significantly hampers any efforts of normalisation. First implications of close collaboration between politicians and security forces with organized crime structures have been confirmed in Serbia in 2003 by the murder of the Prime Minister. The persons convicted for this murder were members of the main security forces and key criminal groups, who seemed to believe that they can act 'against the state'.

Literature shows that symbiosis between state actors and organized crime during the process of creation of new states leads to permanent transformation of state interests into private ones and fosters the development of criminalised, corrupt and non-transparent societies (Ivanova, 2010; Grozdanic and Martinovic, 2012).

Despite different ideas about the causes of long lasting transition, discussed in detail in Chapter III, it appears that a symbiosis between state actors and organised criminal networks, coupled with clientelism and grand systemic corruption leaves sufficient grey zones or loopholes (Cockayne and Roth, 2017) for operations of organised crime. Beyond solely delaying the finalisation of transition, such failure of efficient crime control postpones the accession of Serbia into the EU for an indefinite period.

In view of these conclusions, it is not surprising that there are views suggesting that the European strategy for the Western Balkans has been unsuccessful. In a text published in the «Südosteuropa Mitteilungen» (cited in Zougla, 2018) under the title "What is the cause of the EU's failure in the Western Balkans?". Goodwill Stinacker, the former German Ambassador to Skopje and Podgorica, strongly criticizes the EU approach for "treatment" of the Western Balkans. He argues that "the analysis of the EU for the region is correct, but problem-solving prescriptions are wrong". Stinacker argues that there has been insufficient self-criticism on the part of the EU, while the solution to the problems in the Western Balkan countries is mainly sought by politicians who have been part of the problem for years.

As discussed in the Chapter III, the critiques of the EU approach in the literature have also referred to negative effects of conditionality (e.g. Tocci, 2008). As Reinhard (2010) suggested, conditionality is a "top-down approach" which can only produce changes at the governmental level, while the key actors of a democratization process, such as civil society, the administration or judiciary at a local level cannot be reached. In terms of the discussion on the framework of "linkages and leverages", it appears that the internal pressure has not been strong enough to foster democratization. If this argument is considered together with Teitel's (2014) perception that transition implies that the whole society experiences its own political, social and cultural reconstruction, it may be argued that a combination of these unfulfilled preconditions has also

contributed to stalled normalisation processes. Thus, a society without sufficient democratic awareness, along with the lack of transformation of the judiciary and absence of lustration, consequently cannot have adequate civic capacity to address deeply rooted issues such as corruption and crime.

To summarise, the findings related to the first research question show that endurance of organised crime is associated with stalled democratic transition and consequently EU accession of Serbia. As has been illustrated, organised crime achieved this through a variety of perhaps only loosely connected strategies, such as political infiltration, strong links with security service and privatisation, that together had the effect of drawing the energy and momentum out of progressive change processes. These findings both support and are strongly supported by the extant literature and international reports. There are certainly other socio-political factors that have played a role in slowing down the transition processes, but the emphasis on this particular factor is present due to persistent reference to this problem throughout a number of years. Most of the factors identified under this research question will, further, be confirmed below in the social network analysis (see 5.3. and 5.4.) as significantly correlating to lack of effectiveness of state institutions in suppressing organised crime and drug trafficking.

5.3. The extent of organised crime and drug trafficking in Serbia

The findings resulting from the content analysis confirmed that there is a significant extent of organised crime and drug trafficking in Serbia. Given the diversity of the definitions and concepts of organised crime in the literature (discussed in detail in the Chapter II), a set of indicators of the existence of organised crime was used to obtain reliable results. This set of indicators was developed as a combination of an advanced analytical framework for defining the diversity of existing organized criminal groups developed by Bisogno (2016), and the specific units of analysis identified through content analysis in this research (see Table IV.1). The Bisogno framework proposes the following determinants of organised crime: a) local/national/international group, b) hierarchical/network model of group functioning, c) types

of illegal activities undertaken by the group: drugs/firearms/human trafficking, d) *modus operandi*: use of violence and/or intimidation, corruption of officials, and e) affiliation background: geographical origin/family/clan/nationality.

Given the focus of the research question on drug trafficking, as the main source of income of criminal networks in Serbia, these determinants were combined with relevant units of analysis identified in this research: i.e. they were adapted to the situation in the studied state. Hence, the following indicators of organised crime used in this analysis involved:

1. Trends in drug trafficking and links with other crimes (types of illegal activities)
2. Trends in drug use
3. Drug seizures
4. War between criminal groups
5. Geographic scope of the activity (affiliation background)
6. Organisational model of criminal networks (local/national/international group; models of group functioning, *modus operandi*)

This framework is used here to present results under the research question 2 – ‘What is the extent of drug trafficking in Serbia?’ – and discuss these findings. Summarising first the conclusions of this analysis, the existence and operation of organised criminal networks in Serbia was confirmed in the analysis on the basis of all the 6 indicators. Each of the indicators is discussed below.

5.3.1. Trends in trafficking and links with other crimes (types of illegal activities)

The findings strongly support the existence of the Balkan route for trafficking of drugs. Organized drug trafficking represents the most common form of organized crime in Serbia. There are also important references with regard to the use of this route for illegal migration and other forms of illegal trafficking. The excerpts from the interviews are provided below:

Please indicate the main trends in drug trafficking in recent years

There is increased production and trade during the last years. (A repression institution representative, P2.5)

There is a tendency towards exporting cannabis in other states. (A repression institution representative, P2.13)

There is increased production of cannabis and synthetic drugs. (A repression institution representative, P2.2)

In addition to smuggling narcotics, Serbia has proved to be convenient for smuggling people because of its position, which happened in the previous years, when a migrant crisis arose. Nevertheless, due to the good work of the police, smugglers have recently begun to bypass Serbia. Our security services have managed to lift security to a higher level, but also to improve their rating on a world level, because our foreign counterparts consider us very successful, and we have excellent international cooperation with all the countries that are on the central Balkan route as we are. (A repression institution representative, P1.9)

Is Serbia destination of illicit drugs trade

Yes, usually opiates. (A repression institution representative, P2.2)

Yes, for different types of drugs. (A civil society representative, P4. 4)

It is fortunate that of all the drugs that pass through Serbia, a really small part remains in our country. (A judge, P2.8)

Estimations in the literature that several tones of heroin per year are being smuggled through the Balkan route are supported by the findings in this research. Most participants from the repression institutions referred to similar volumes. Heroin from Afghanistan is transported through three routes - southern, central and eastern (as shown in the Graph II.1 in Chapter II). Evidence shows that Serbia is on the central route, whereas Presevo and a village Veliki Trnovac are marked as the main points for the entry of narcotics into Serbia.

What regional links exist? Links to international drug trade

Links were found many times with South America – diverse states, Netherlands, Spain, Greece.(A repression institution representative, P2.5)

Cocaine is trafficked from the region of South America through this region, to Europe. (A repression institution representative, P2.6)

Cannabis is trafficked from Albania, through Montenegro and Serbia into EU countries. (A repression institution representative, P2.11)

Links are constant with Montenegro, Croatia, BiH... Also, *Kosovo is one of the key links. (A judge, P2.9)

We found groups operating with Bulgaria, Macedonia, and Greece. (A repression institution representative, P2. 14)

Heroin from Afghanistan arrives in Serbia, and goes further to Western Europe. Cocaine always comes from South America because it grows there. It arrives to Europe on ships, most often in Spain, which is the inbound port and most of the ships have to pass through their waters. Marijuana is the most widespread drug, and it mostly moves from Albania, so it travels through Montenegro, *Kosovo and Serbia. (A state institution representative, P1.7)

Nevertheless, the findings reveal certain changes on the drug trafficking Balkan route. It appears that the traditional central Balkan route, where Serbia belongs, is moving towards the east - specifically towards Bulgaria and Romania. Since the current large migration movements are taking place on the Central Balkan route, the route becomes less relevant for smuggling drugs.

This research also shows that the main routes for smuggling drugs constantly change, with the more intensive use of new transport infrastructures. This may be a consequence of enhanced law enforcement efforts, due to the modification of the activities of the enforcement authorities, which is an explanation offered by Serbian repression institutions. It has been suggested that these efforts have caused a shift in trafficking routes, due to increased border controls and investigation efforts. On the contrary, there are viewpoints that this change in direction has resulted from the sporadic controls at the border of Romania and Bulgaria, which ensures an open road to EU countries as the ultimate destination of narcotics. This is consistent with the latest Europol reports, UNODC, and other international reports in this field, for example:

The Balkan route remains the main entry route for the trafficking of heroin into the EU. (SOCTA, 2017, p, 38)

The “Balkan route” is the oldest route consisting of an overland trajectory that travels via the Islamic Republic of Iran, Turkey and South-Eastern Europe to Western and Central Europe. The “Northern Balkan route” is a relatively recent variant on the Balkan Route which transits the Caucasus and Black Sea rather than Turkey. (Europol, 2017, p.3)

Opiates are trafficked either along the eastern branch of the Balkan route from Turkey to Bulgaria and then onwards to Romania and Hungary, or along the western branch of the Balkan route from Bulgaria to various western Balkan countries, and from there to countries in Western and Central Europe (UNODC, 2018, p. 16)

The findings on the trends of drug trafficking indicated that most of the narcotics pass through the territory of Serbia. Drugs that are the subject of criminal activities of organized criminal groups are cannabis, heroin, cocaine and synthetic drugs. Results show that cannabis is the most widespread drug, trafficked from Albania, through Montenegro and Serbia into the EU countries. One of the key links for trafficking cannabis is *Kosovo, while links are also common with Montenegro, Croatia, and BiH. It further moves through Hungary towards other EU countries.

Cocaine constantly comes from South America through this region to Europe. This drug is trafficked on ships and it arrives to Europe, mainly in Spain⁴¹, which explains the frequent seizures of cocaine in that state. Cocaine trafficking links are also found with the Netherlands and Greece. Serbian repression institutions note that there are criminal groups engaged in drug trafficking operating with Bulgaria, Macedonia, and Greece.

Participants supported that organized criminal groups from Serbia and the surrounding countries jointly take part in the smuggling of cocaine from South America into the European illegal market. Since the illegal cocaine market in Serbia is low and the selling price is high, criminal groups from Serbia are directing their activity towards other markets, primarily the European market. The participants in this research consider that this identified trend will continue with the constant change of the smuggling mode, using modern information technologies in communication and sophisticated hiding methods. These results imply that organised criminal groups from Serbia cooperate with criminal groups on both European and international level. In view of the discussions on structure of criminal organisations, it could be argued therefore that these groups externally function as ‘networks’, despite their internal organisation.

Moreover, an unexpected result was traced, indicating that Serbia has also become a source of illicit drugs.

Is Serbia a source of illicit drugs? Which drugs are produced?

Yes, mainly of cannabis and synthetic drugs. (A repression institution representative, P2.2)

Yes, particularly synthetic drugs. (A civil society representative, P4.3)

Most groups produce cannabis. (A judge, P2.1)

There was a case I had where we were searching for a lab of a suspect, and we could not locate it. After certain period, we actually caught him in his Audi, and that was the lab! He had several pots, and was producing synthetic drugs in his car. (A repression institution representative, P2.3)

Is Serbia a source of precursor chemicals?

I am not aware of that. (A judge, P2.9)

It is difficult to assess, given that some of those materials are also used in legal purposes, production. We do not keep data that could confirm this. (A repression institution representative, P2.11)

The December 2015 SOCTA identifies the production and trafficking of controlled psychoactive substances in Serbia as the most dominant and profitable form of organised crime. (Progress report, 2016, p. 73)

⁴¹ As explained by repression institutions’ representatives, Spain is the inbound port and most of the ships have to pass through their waters

The findings strongly support that cannabis and synthetic drugs are increasingly produced in Serbia. All the interviewees have provided data supporting this trend. This may be explained by the nature of breeding cannabis, which enables production in artificial and in natural conditions, and a suitable climate in Serbia.

Moreover, production of synthetic drugs is a contemporary trend in the EU as well (Bretteville-Jensen et al., 2017; EMCDDA, 2017). It appears that Serbian criminal networks have successfully “aligned” with these trends. The production of synthetic drugs and precursors in illegal laboratories is increasing and production of amphetamine and methamphetamine has been detected. This research revealed that organized criminal groups from Serbia are directing their activity on the production of synthetic drugs and precursors in Southeast Europe and Asia. The smuggling of synthetic drugs and precursors takes place on the Central Balkan route from West European to Eastern European and Asian countries and *vice versa*, and part of smuggled synthetic drugs and precursors remains in the illegal market in Serbia. This finding strongly correlates with the growth in use of synthetic drugs among young population, discussed below under 5.3.2.

Concurrently, the findings, including relevant international reports, do not support that Serbia is a source of precursor chemicals. Given that not even a single participant referred to this, it seems that production of precursor chemicals is obviously not an issue at this moment.

With regard to types of illegal activities performed by organised criminal networks in Serbia, the findings strongly support that drug trafficking is their key activity and the main source of income. If we look at the mafia related murders, all of the participants in these events are claimed to be ‘known drug traffickers’. Moreover, almost all groups charged with organised crime offences before the Special Court for Organised Crime are engaged in drug trafficking.

This finding is consistent with the first National Serious and Organized Crime Threat Assessment (SOCTA) undertaken in 2015 in Serbia, which identified and ranked the following fields of serious and organized crime: drugs, irregular migration, human trafficking, robbery, racketeering and extortion, motor vehicles smuggling, economic crime, money laundering, corruption and

cybercrime (SOCTA, Serbia 2015). The SOCTA report identified drug production and trafficking, as the main and most profitable form of crime in Serbia (SOCTA, Serbia 2015, p13).

Is drug trafficking one of the key activities of organized groups active in the region?

Yes, it is certainly the main one. (A judge, P2.12)

Yes, although it is often combined with other criminal offences. (A repression institution representative, P2.7)

Is drug trafficking related to other forms of organized crime (human trafficking, car smuggling, money laundering)?

Yes, usually with multiple forms. (A judge, P2.1)

Money laundering is often integral part, it is the way they keep the money by putting it in legal business. (A judge, P2.18)

Yes, usually with all other types. (A repression institution representative, P2.2)

Links with other types of organized crime have also been found in this research, such as human trafficking, car smuggling, extortion, corruption, money laundering, and so on. This implies that the groups have wide range of involvement in various forms of serious criminal offences. Given the association of this type of offences with violent crime, juvenile delinquency, as well as prostitution, property offences and other deviant behaviour, this type of crime causes implications in the field of security, as well as social and health care. Therefore, the consequences to the society are multiple, through increased security, public health, treatment and social care costs. Overall, these impressionistic data collected during interviews with key actors at various points in the Serbian state apparatus match to a great extent with international reports, indicating however greater significance of corruption and money laundering than suggested or ranked by national SOCTA (2015). The interviews also strongly indicate the involvement of criminal networks in multiple forms of crime.

The research findings indicated that also there is internal trafficking in human beings in Serbia, with the prevailing forms involving sexual and labour exploitation. The participants maintained that abuses of the internet and social networks affect the emergence of new and more complex modes of trafficking in human beings and the effectiveness of its suppression. This may be explained in the context of a wide range of possibilities offered by the internet and social networks. That is, the networks offer diverse potentials in terms of communicating with victims and clients, recruiting victims, and creating victims' addiction through blackmail and false trust.

The use of new technologies therefore prevents timely insights into the emergence of new modes of trafficking in human beings, and consequently law enforcement reactions.

With regards to vehicle trafficking, foreign vehicles are mainly the subject of these criminal offenses in Serbia. Motor vehicles and motorcycles of great value are stolen in the countries of the European Union, and subsequently sold in Serbia and countries in the region with the use of forged documents (SOCTA, Serbia, 2015). Serbia is both a transit country and a destination for smuggled vehicles. As stated by one of the participants:

Members of organized criminal groups mainly specialize in theft of certain types of vehicles, and they work closely with criminal groups in the region; mostly the groups are often formed *ad hoc*. (A repression institution representative, P2.15)

Serbia is also a transit country for the weapons smuggling to the EU member states, and to a lesser extent the country of origin, mainly with regard to firearms that remained from the wars of the former Yugoslavia. As stated by the participants, the firearms from Turkey are restructured in illegal workshops in Macedonia and in the territory of *Kosovo, and subsequently smuggled through Serbia into Western Europe. Smuggling of weapons is performed by individuals and organized criminal groups, whose members are connected with criminal groups in the country and in the region. Some criminal groups are exclusively formed to acquire and smuggle weapons to a "known" buyer (SOCTA, Serbia, 2015).

Moreover, research findings strongly supported that money laundering entails an integral part of activities of organised criminal groups. It is closely related to financial crime, manifested in various economic and financial areas. The interviewees suggested that this functions through networks with legitimate actors i.e. through external links established with experts in financial affairs. Money acquired through criminal activities is most often concentrated in the spheres where there are needs for fresh money and in which protective measures for identifying and preventing suspicious cash flows are less applicable.

Prosecutors commonly state that they do not see any trace of money laundering, even when provided with information from investigative journalists, so they cease investigation (A civil society representative, P4.5)

We monitor the acting of criminal groups and see that people who are connected with them open up businesses, have very large transactions that have arrived in the country, buy real estate, and so on. Money laundering functions in two ways. One option is the use of stolen money from Serbia from the budget, through

tenders or abuses in privatizations, exits the country and then returns as the investment back to Serbia. This often involves politicians. The second form is drug trafficking. (A journalist, P6.2)

Money laundering became one of the key activities of organised criminal groups. In most cases I had, it is very difficult to prove the actual process through which the money is placed in legal business... it is mainly because they cooperate with financial professionals, so everything seems clean...(A repression institution representative, P4.3)

Nobody really tries to trace the money... it is clear during the trial that they know their money is safe, they smile at me and look like they know they will go out soon and enjoy their profits (A judge, P2.19)

Morselli and Giguere (2006) suggested that drug distribution networks include influential participants who appear to work in legitimate occupational settings. They concluded that those individuals responsible for financial activities are critical seeds in the networks, and they may be a key to understanding the opportunity structure of criminal enterprise. Similar conclusions arise in a study by Malm and Bichler (2013), but they found that self-launderers who were involved both in smuggling and financial transactions were the most highly ranked brokers in the network, hence leading to conclusion that money laundering may be ‘de-professionalizing’ due to technological developments in the financial sector.

Areas with a large accumulation of capital, such as the real estate market, are especially vulnerable to the investment of "dirty" money. Money laundering poses an important risk of increasing the financial power of organized criminal groups operating in Serbia, in the region and at the international level. As demonstrated in the research, “dirty” money is invested in Serbia by using legal business structures. It appears that organised criminal groups have successfully adapted to the current changes, economic transition and development of the domestic and international financial system.

5.3.2. Trends in substance misuse

What this research has found is that there is a notable increase in substance misuse in Serbia. The identified trends in substance misuse entail an interesting finding of this research, even though this topic was utilised solely as an indicator of the presence of drug trafficking in the country. That is, the prevalence of substance misuse is a research topic *per se* and it was not the focus of this research. However, given the inter-relation of pervasive drug trafficking with

potential alterations of substance misuse trends, this was included as one of the important indicators.

Would you say that drug misuse has increased during the last years

Yes, especially among young population. (A civil society representative, P4.2)

Yes, usually it is about cannabis and synthetic drugs. (A repression institution representative, P4.3)

Young people increasingly use new psychoactive substances, not other drugs. (A civil society representative, P4.4)

Yes, the prices are decreasing (A repression institution representative, P2.6)

Does the law allow for small amount for personal use

No. (A repression institution representative, P2.2)

Depends, it is case-by-case basis. There is no unified practice. (A repression institution representative, P2.9)

The law does not allow... the question is how that person will be evaluated.. (A repression institution representative, P2.7)

Drug dealers are usually young

This is a new trend unfortunately. Yes, they use minors because they cannot serve sentences. (A repression institution representative, P2.11)

Yes, dealers use minors who are addicted. (A repression institution representative, P2.8)

When this research was initiated, substance misuse was not a major problem in Serbia. The drugs passing through the country were mainly aimed for further trade abroad. Very little amounts stayed in the country, and the number of substance misusers was relatively low in comparison with the EU states. However, the findings of this research indicate that drug misuse has significantly increased during the last years, in particular among young population. Nevertheless, due to a lack of research (discussed below) and unclear statistics, there are no official data on drug misusers which may be considered relevant. The latest EMCDDA report in 2017 states that the most reliable estimate utilised involved the multiplier method which indicated that there were around 20 500 drug users in Serbia in 2013, while it is considered that most of them use opioids (EMCDDA, 2017, p.4.). In contrary, most of the interviewees, including civil society, suggested that the most common substances used are cannabis and what are termed ‘new psychoactive substances’ (hereinafter: NPS).

There may be several explanations of this state of play. This trend may be associated with the fact that the country lies on the drug transit route which increases the availability. This contributes to extremely low prices of narcotics thus potentially increasing available to broad population.

Also, the increased use could be a consequence of the upsurge of the production of cannabis and synthetic drugs. For instance, a repression institution representative stated that a search of an NPS lab finally resulted in arrest of a suspect who was producing synthetic drugs in several pots his car (P2.2). Similarly, a number of illegal labs have been discovered in the country. As already discussed under 4.3.1.1., Serbia nowadays represents both a transit and a source country for NPS. This is consistent with Europol data, which show that the vast majority of shipments of new fentanyl coming into Europe originate from chemical and pharmaceutical companies based in China, but production in illicit laboratories, including in Europe, has also been reported (European Drugs Report 2017).

This growing trend in NPS misuse in Serbia is similar to the EU trends. Previously unknown NPS continue to appear on EU markets in large numbers. Since 2005, 620 new substances were detected in the EU for the first time (EMCDDA 2017, European Drugs Report 2017). Most NPS were initially not covered by international drug controls and include various substances such as synthetic cannabinoids, stimulants, opioids and benzodiazepines. The consumption of NPS entails significant risks to the health of users including lethal overdose. In 2015, the synthetic opioid acetyl-fentanyl was linked to 32 deaths in Europe (EMCDDA and Europol 2016, EU Drug Markets Report 2016).

Substance misuse and crime are practically inseparable categories, as different operations related to the production, purchase, sale and possession of drugs constitute a criminal offense (Radulović, 2013). The link between abuse and drug addiction with criminal behaviour and subsequent sentences has been well documented (Belenko, Kimberley and Houser, 2012; Gillespie, 2005; Hakansson, 2009; Mumola and Karberg, 2006; Radulović, 2013). This connection often includes serious property and violent crimes (Fridell, Hesse, Jaeger, and Kuhlhorn 2008; Radulović, 2013). These links are in line with the information provided by Kovačević-Lepojević and Žunić Pavlović (2013), which refers to the availability of drugs to persons who are engaged in criminal activities.

Given the diverse discussions about the impression that the state has enabled trafficking of drugs during the conflicts in the 1990s, it may be argued that the consequences are visible at the present time. That is, a country which didn't have significant levels of substance misuse currently faces a surprising growth of substance misuse. Hence statements about Serbia being solely a transit country can be seriously questioned today. This represents a particular problem, given the lack of available psychosocial therapies or community based treatment in the country.

Moreover, research findings have recorded the lack of preparedness of medical staff to address addiction caused by NPS or the health consequences thereof. The participants coming from the civil society sector engaged in the field of substance misuse also referred to the need to increase the capacities of medical staff to treat NPS caused health issues. For instance:

Following several NPS-caused deaths of minors in the summer of 2018, we decided to train security staff in the night clubs how to react in these situations and help the person in risk (A civil society representative, P4.3)

We have started providing training to Red Cross personnel to teach them how to help juveniles in urgent medical conditions caused by the use of NPS. They always have a Red Cross desk at the open parties, but they do not know what to do with NPS overdose. (A civil society representative, P4.2)

This information is particularly interesting, given that findings strongly indicate that it is the security staff in the night clubs who actually sell the drugs. Overall, given the lack of sufficient capacities to address the problem of increased substance misuse in Serbia, this represents an important topic requiring further research.

5.3.3. Drug seizures

As argued by one of the participants from the repression institutions: "All seizures of narcotic drugs that occur are significant" (P2.4). As the participant argued, even small seizures are important, because they take away drugs from organized groups, and consequently their money, and thus the power to hire new people.

It is important to note that Serbia is a country in which several tons of drugs were found in the safe deposit box of the State Commercial Bank in 2001 (Vasic, 2001). This could have been an "export item", or it was destined for domestic sale. Both way, it was a major scandal and it conveyed questions with regards to the role of the state in supporting drug trafficking. Research

findings have indicated that drugs coming from Serbia are usually seized in the region. It is mainly cannabis, seized in Hungary and Austria. This research discovered that judges do not have information on seizures in other states. It is an interesting fact, as one could wonder what they actually know about trafficking operations in general and how they can conduct trials without such knowledge.

With regards to drug seizures in the state, there is a variety of available data in the media and not much of verifiable data from the state institutions. The research findings have shown that some proceedings are in progress before the courts, involving major amounts (e.g. process against Darko Saric for 5.7 tons of cocaine⁴²), while other cases suggest that the actual seizures are small quantities: i.e. perhaps personal use related. The EU reports also contain certain data on seizures, but usually in terms of cooperation of Serbian authorities with international partners. For instance:

Serbia established good international and regional cooperation in the field of drugs, in particular with the 2014 seizure of 168 kg of marijuana jointly with the former Yugoslav Republic of Macedonia. (Progress report 2015, p.15).

Good international and regional cooperation continued on drugs, in particular with the dismantling of an international drug smuggling chain which led to the seizure of 16 kilos of heroin at the border with Bulgaria in December. (Progress report 2016, p. 73).

The anti-drug department of the police investigated a number of drug-related cases in 2017 in a fruitful cooperation with third countries' police services, reaching important results and seizures. Serbian authorities confiscated 4 166 tons of drugs, mainly herbal cannabis (3 921 tonnes) but also 17.8 tonnes of heroin and 12.7 tonnes of cocaine. (Progress report 2018, p. 40).

An interesting finding is related to the role of illegal migration in drug trade. Research has traced evidence that there is a trend among migrants to pay for the transport by carrying certain amounts of drugs. These drugs are increasingly seized in the asylum centres.

Illegal migration is associated with drug trade

It may be, I am not aware. (A repression institution representative)

Yes, we have information from asylum centres that they [the migrants] pay the transport by smuggling drugs. (A civil society representative)

⁴² For details, see <https://www.krik.rs/tag/darko-saric/>

Yes, interesting amounts are found in asylum centres. (A repression institution representative)

Interestingly, there is a different level of awareness among repression institutions about this trend. It appears that they do not have the same information, which indicates an absence of a state strategy in this regard. It might be that this trend is rather new and that it would be addressed by authorities in the forthcoming period.

5.3.4. War between criminal groups

The term ‘war between criminal groups’ was utilised as an indicator verifying the presence of organised crime in the country. This research found that there is an overarching war between organised criminal groups in Serbia, which has been lasting for several years and involves criminal groups engaged in drug trafficking. In fact, Serbia is experiencing a series of unresolved mafia murders, and they are constantly escalating.

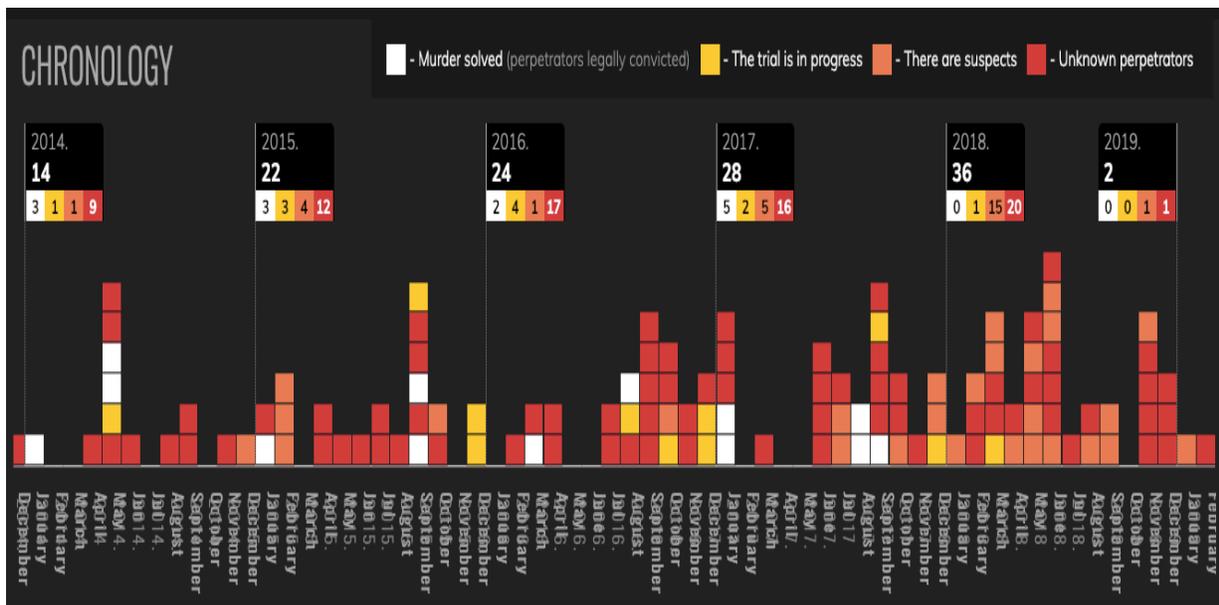
The findings clearly indicate that the war between various criminal groups from Serbia and Montenegro has been ongoing for several years in the territory of Serbia. The frequency of mafia murders, even in the middle of the day in the central Belgrade areas, has started to look like the period of 1990s. This fact concurrently supports the notion that internal structure of organised crime is hierarchical, despite external cooperation based on market needs; as findings presented below indicate, groups are often engaged in revenge for murders of their members and constantly clash over territory.

Findings show that a significant number of members of criminal networks have been killed in the period between 2012 and 2018. For instance, the Black Book⁴³ is a database of the killings carried out in the period 2012-2018 in the territory of Serbia and Montenegro, which have the characteristics of mafia liquidations. It was created with an aim to point to the frequency of this phenomenon and the fact that the safety of citizens is endangered, as murders often take place in

⁴³ Available at: <https://www.crnaknjiga.rs/> The database was developed by a joint project of KRIK and Radio Free Europe

the middle of the day and in public places. The data on state actions is distressing - out of 123 murders, only 9 have been resolved, while the perpetrators are unknown in as many as 86 cases. According to a Belgrade lawyer Prelevic, less than 20% of perpetrators are prosecuted (Prelevic, 2018). This Table of mafia related murders may best demonstrate the state of play.

Table V. 2. Mafia related murders



Source: KRIK, <https://www.crnaknjiga.rs/>

A brief list of the victims of this war, only in 2018, reflects the magnitude of the problem. The researcher collected various media reports on mafia-related murders throughout the period of this research. Below is solely a list of individuals who were allegedly murdered in mafia war, as reported by various media in 2018:

“Sinisa Milic (45), Belgrade

He was liquidated in a car explosion in downtown Belgrade. Unknown attackers placed an explosive beneath his "RAV 4 ", which exploded around 13pm while standing at a traffic light. The murdered allegedly was close to Luka Bojovic and Filip Korac. He was a member of the police of Bosnia and Herzegovina, and he worked in the Serbian police until 2009.

Gorgija Darmanovic Gorg (58), Belgrade

A secret agent was killed, near the First Basic Court in New Belgrade, when the liquidators fired at him and fled on a scooter.

Davorin Baltić (41), Belgrade

A member of the "Kavacki clan" was killed in front of the building where he lived with his wife. 60 bullets were fired on him.

Drago Bozovic (20), Belgrade

He was killed in when gunmen shot him from the car on the go.

Blazo Djurović (39), Belgrade

He was shot with 10 to 15 bullets from an automatic rifle, at the moment when his BMW was leaving the garage. A few miles away, a lighted BMW X5 was found, in which an automatic rifle was also found.

Dalibor Despotovic (37), Belgrade

He was shot dead in front of his exchange office when he came out to throw the garbage. The attacker fired five bullets at him. He worked as a security of Slobodan Saranovic.

Predrag Mitrovic Pereca (49), Belgrade

Predrag Mitrovic was killed in front of his house, while returning from regular walks after serving house prison sentence.

Vladimir Roganovic (31), Vienna

Vladimir Roganovic, marked as a prominent member of the "Kavacki clan", was liquidated in Vienna

Dragoslav Miloradovic Gale (44), Belgrade

Godfather of Luka Bojovic, a former leader of the Zemun Clan, who is currently serving a prison sentence in Spain, was killed in front of a self-service laundry room. Unknown attackers used automatic weapons.

Dragoje Trisic Trsa (44), Belgrade

He was killed in front of the entrance to his building. He owned several capital outlets and was previously convicted on conditional sentence of drug trafficking."

(Collected media reports on mafia-related murders)

The research findings show that a large number of murders took place in the war between the two criminal groups (or clans) namely the "Kavacki clan" and "Skaljarski clan", as well as in the clash between the group of Luka Bojovic and the group of Slobodan Saranovic. The war between these two criminal groups initiated in 2014 when 200kg of cocaine was stolen from an apartment in Valencia (Lekic, 2018⁴⁴). These numbers indicate very high activity of organised criminal

⁴⁴ See more at <https://www.vice.com/rs/article/vbpm7m/sve-sto-znamo-o-krvavom-sukobu-skaljarskog-i-kavackog-klana>

networks. Such trend can be explained in several ways. It is possible that the main motive for these assassinations is revenge, which could explain the murders between the group of Luka Bojovic (serving a sentence in Spain) and the group of Slobodan Saranovic (allegedly killed by the Bojovic group). Moreover, these murders might be a consequence of a fight about the drug dealing territory of the involved groups.

However, recent developments in Serbia indicate that this war could be also associated with certain state structures that apparently support one of the groups. In January 2019, the state arrested 150 persons in a single day for organised crime related offenses. This was presented in the media as a major success of the state in fighting organised crime, and an increase in sentences in criminal legislation was announced as a future step (Blic, 2019; Rts, 2019). Nevertheless, the analysts covering the topic of organised crime have perceived this action as rather suspicious. There were claims that the state actually arrested the members of “Skaljarski clan” and other criminal groups’ members, but not even a single person from the “Kavacki clan” (N1, 2019). This was associated with the previous murder of an important member of “Kavacki clan” two years ago, after which the state also announced the war against mafia. That murder is an illustrative example of the inefficiency of the system and the links of sport hooligans and organised crime:

The resolution of the case of murder of Aleksandar Stanković, called Sale Mutavi, was presented by the police as a great success. However, it is important to note that Stankovic never served a five-year sentence for drug trafficking. Although he was convicted as the head of a criminal group, the judges postponed his prison sentence 12 times, as he was not able to serve sentence allegedly due to poor health. At the same time, he appeared regularly at sports events and participated in fighting, while several of his men participated in securing presidential inauguration. After his assassination, the state officials proclaimed "war against mafia." Football club "Partizan" paid tribute to Stankovic by leaving the footballers dressed in t-shirts with his character on the match, and some of the club's officials appeared at his funeral.

(KRIK, 2016)

It could be argued that the state structures might have ‘taken a side’ of one of the groups in this war. These impression of the potential state capture by organised crime are discussed in detail under research question 4 below.

Concurrently, it may be concluded that the organised criminal groups are performing these murders because *they feel they can do it*. That is, this trend of mafia murders could in fact indicate a broader picture of the system's inefficiency thus creating an impression in criminal circles that they are stronger than the state (again). Essentially, when a series of murders remains unresolved and there is sufficient freedom sensed by the organised criminal groups, they may get a reinforcement to continue or even intensify their activities.

Another interesting finding offered by this research is a novel *modus operandi* in the mafia related murders. This research has evidenced a number of different features of mafia related murders which differ to a significant extent from the previously used methods of organised crime. It appears that the present organised criminal groups do not pay too much attention to the locations of the murders, potential victims or citizen's safety overall. They started committing murders in the middle of the day, in very busy locations or inhabited city areas, considerably increasing the risk for accidental victims. Several accidental victims lost their lives in 2017 and 2018 (Blic, 2018). Furthermore, new methods are used, such as car explosions of the targeted victims while driving (Blic, June 2018). It may be that these criminal groups actually feel stronger than the state, or they have become more brutal or just less professional than the previous groups. This trend is discussed in detail further below.

5.3.5. Geographic scope of the activity (affiliation background)

In terms of geographic scope of activity, findings of this research have shown that organised criminal groups engaged in drug trafficking in Serbia are characterised by intensive links with the states in the region, the EU and South America (explained below in 5.3.6.). As discussed above, the active functioning of the Balkan route has been confirmed, with reference to certain changes in regards to Central and South-Eastern route (5.3.1). With regard to the territory in which they operate, national, regional and international organized criminal groups are present. The number and composition of organized criminal groups operating in Serbia varies.

The findings of this research confirm the presence of international forms of organized crime groups in Serbia and the Western Balkans region. A number of factors favouring such

developments in Serbia have been discussed in detail under Chapter II and overall involve the consequences of the breakup of Yugoslavia, as well as the geographical position of Serbia: i.e. the fact that it is located on the part of the external borders of Schengen and partly surrounded by the countries of the EU.

This research has further identified a set of important border points frequently involved in drug trafficking, including borders between Hungary and Serbia (Horgos), the ‘fake’ or administrative border with *Kosovo, the borders with Croatia and BiH, as well as FYROM and Montenegro. Consequently, the countries in the region involved in drug trafficking with Serbian organised criminal groups involve Montenegro, Bulgaria, FYROM, Hungary, Croatia, BiH, Romania as well as *Kosovo.

Are there specific border points frequently involved

The border between Hungary and Serbia, Horgos. (A repression institution representative, P2.7)

The ‘fake’ border with *Kosovo. (A repression institution representative, P2.13)

The borders with Croatia and BiH are often reported as entry points. (A repression institution representative, P2.17)

The types of commonly trafficked drugs involve cannabis (Albania through Montenegro and Serbia into the EU), heroin and cocaine (see 5.3.1). The trend of cocaine smuggling continues on the path South America – Europe, which includes organized criminal groups from Serbia and the region. Members of organised criminal groups from Serbia and the region actively participate in transport of cocaine from South America to the countries of Europe. Methods of trafficking cocaine are described in detail below under 5.3.6.

In terms of affiliation, research findings confirm that organized criminal groups in the Balkans actively cooperate in their criminal activities. Their links may be explained on the basis of geographical origin (Yugoslavia), criminal past (wars in the 90s), family ties (Montenegro clans, Albania, *Kosovo) and absence of language barrier in communication. As discussed in the Chapter II, a significant scope of organized crime started appearing in Serbia in the early 90s of the last century. In that period, the majority of former Yugoslavian states passed through a decade of civil wars, armed conflicts and massive political transformations, which created social confusion and vulnerability to crime. Corruption and misappropriation of state funds were widespread while the population became impoverished (Pesic 2007).

As findings on affiliation indicate, the criminal groups established in that period were motivated by profit as a common goal, which allowed close cooperation among diverse individuals regardless of their ethnicity, political or religious beliefs. Additionally, during the 90s, a “pact” between the secret services, corrupted political actors and organized crime has established strong grounds for the development of criminal networks with a considerable social impact (Nikolic-Ristanovic, 2004; Trifunovic, 2007). Moreover, the routes utilised during conflicts for smuggling arms, cigarettes, gas, oil, cars and other products throughout the region and neighbourhood countries, formed a strong traffic structure unaffected by state actions. They are mostly "specialized" (in drugs trafficking, weapons trafficking), but those that deal with multiple forms of organized crime are becoming increasingly present.

In terms of local functioning, this research offers particularly interesting findings. It appears that drug dealing within the state is organised in a rather different manner than in the EU states. There is no ghetto, at least not known to most of repression institution representatives and most of the sale seems to take place in the movement. Several excerpts are provided below:

How drug dealing functions? Is there a drug trade ghetto? Where substance misusers get the drugs

No, there is no ghetto in cities. (A repression institution representative, P2.2)

Sometimes it is just in parks, hand-to/hand... but there are some groups who deliver to houses... also, it is done by cars going around the city, just driving around. (A civil society representative, P4.3)

We had a guy who was driving a car of the emergency centre... and selling drugs in that car, delivering to customers. (A repression institution representative, P2.4)

Is it controlled by police

No, it is usually in movement... the places are rarely stable. (A repression institution representative, P2.8)

No, we don't know the exact locations, except maybe night clubs. (A repression institution representative, P2.3)

The important impact of these findings relates to these strong links between organised criminal groups in a single region involving several states, which shows that their cooperation can smoothly continue despite law enforcement efforts. As it will be shown in detail under 4.3 and 4.4., criminal networks can utilise a variety of gaps in the system, including police and the judiciary and carry on their activities regardless the political or economic situation.

5.3.6. Organisational model of criminal networks

The findings of this research indicate that organised criminal groups in Serbia seem to be structured hierarchically at the internal level, while they externally operate in the form of network structures. This confirms contemporary conceptualizations that organized criminal groups function operate as loosely-organized networks of cells (Finckenauer, 2005; Lauprecht et al., 2016; Morseli, 2009; Paoli and Fijanoau, 2004; Shelley, 2005; Varese, 2010). Network structure is also suggested by the findings on the key members or bosses of criminal groups who appear to be located in Latin America and have developed strong networks in Serbia and Europe to organise drug trafficking. Concurrently, the war between various groups described above indicates that internal structure is based on clear hierarchy, which is also perceivable from the fact that bosses are outside of the country and have not been replaced so far.

Criminal networks are not under the control of state institutions in Serbia. This research has shown that organised criminal groups function in a parallel system, strongly relying on structures of the state. Such findings indicate that there has been a shift in functioning of organised criminal networks which may be attributed to transition and EU accession processes. That is, previous research has suggested that “the regime of Slobodan Milosevic was not only corrupted, autocratic, and criminalised: it was a criminal regime, whose whole security sector was deeply involved not just in war crimes, but also in classic forms of organised crime: drug and weapons trafficking, extortion, kidnappings, and targeted assassinations” (Anastasijevic, 2006, p.2). Illuminating this phenomenon, Stojarova (2007) argued that “Serbian organised crime lived in symbiosis with the state and both players profited from this symbiosis”. However, Serbian organised crime today is not so manifestly connected with the state. Even though this form of symbiosis remained, perhaps through the ‘deep state structures’, organised crime appears to be more hidden today, but still reliant on the support of some state structures.

The involvement of Serbia’s security services in drug trafficking has never been properly investigated. During the reign of Slobodan Milosevic, his government intentionally merged its law-enforcing institutions, and especially the security service, with organized crime to set up an extensive system of parallel grey and black economies to circumvent the UN-imposed sanctions.

(Anastasijevic, 2006, p.4).

The groups are too broad, so it is difficult to be aware of all of them. (A repression institution representative, P2.5)

Some organised criminal groups are widely known due to media promotion. (A judge, P2.23)

Serbia has many drug trafficking groups, there is no single 'boss' but many of them, and it is not centralized as in other countries (A criminologist, P1.26).

It was discussed with some of the repression institutions' participants how this actually works in practice and few examples illustrate the modus operandi:

Members of Serbian organised criminal groups reside in the countries of South America, establish contacts with the drug cartels for the purpose of purchasing and transport of cocaine overseas by ship, and get financial compensation to transport cocaine to the countries of Europe. (A repression institution representative, P2. 2)

Members of Serbian criminal groups organize transportation, procurement and have direct links to the drug manufacturers. (A repression institution representative, P2. 15)

Cocaine is transported via container shipments, sailing boats, but also through couriers on flights to Schengen zone. (A repression institution representative, P2. 10)

It was repeatedly stated that Serbians play a special role in smuggling cocaine from South America, via Spain. Because of established criminal connections, Serbians have spread to South Africa and South America, from where drug ships move to Spain and Greece. They receive cocaine from the ships in ports in some of the West European countries or in the open sea and subsequently monitor activities related to the sale of cocaine in the countries of final destinations. The profit generated by the smuggling of cocaine is then infiltrated into legal cash flows and the licit economy. Thus, an important finding is that key aspects of Serbian involvement in drug related organised crime involves non-resident Serbians who live, ex-patriate, at critical points in the trafficking network.

These findings are consistent with relevant international reports e.g. the UNODC (2017) also reports that maritime transport of smuggled cocaine has considerably increased. The UNODC data on seizures show that 60% of seized quantities in the last five years mainly refer to the changed mode of cocaine smuggling (cargo in ships) and larger individual deliveries.

Members of Serbian organised criminal groups also participate in heroin smuggling. Methods of transporting heroin were also identified. To illustrate:

When the drug arrives in *Kosovo, criminal groups package it in smaller quantities and then transport it by land to European cities. (A repression institution representative, P2. 3)

We had cases of hiding drugs in hair dyes, spare wheels and underwear. Standard hiding places are mostly car holes - specially made bunkers, space under the seat, but also the gearbox. (A repression institution representative, P2. 10)

Once the police found refrigerator trucks full of heroin (A state institution representative, P1. 13)

Smaller quantities of drugs are smuggled more often, as they are easier to hide. (A repression institution representative, P2. 7)

Participants also stated that traffickers often use unprotected green borders with neighbouring countries for transport. One of the commonly used methods of smuggling is the engagement of so-called mules, smugglers who swallow the drug shipment and carry it in the stomach, mainly from South America to Europe.

Serbians are among the most sought and cheapest mules (A repression institution representative, P2. 7)

About 40% of all attempts at drug smuggling by airplanes are mules, 50% are suitcases, the rest is hiding narcotics, camouflage of drugs in food or electronics (A state institution representative, P1. 13)

In network science, such actors functioning as links between diverse criminal groups are known as brokers (Morselli, 2009; Walther, 2015a) and their role is to bridge disconnected parts of networks and/or develop external connections, consequently attracting resources that would otherwise be locally unavailable (Spiro, Acton, and Butts, 2013). Hence research findings strongly confirm the standpoints that the role of the brokers is increasingly important in transnational crime (Morselli, 2009; Spiro, Acton, and Butts, 2013; Walther, 2015b). Moreover, it has been supported that illegal trafficking involves different actors in a range of countries, who appear to function similarly to legal business organizations (Shelley, 2005).

The research findings indicated that central roles in criminal networks nowadays are held by individuals who are outside of Serbia.

Who is central in the network

They are usually outside, in other countries. They have groups in Serbia, but organise everything from outside. (A repression institution representative, P2.3)

Most bosses are in South America... they control everything from there. (A repression institution representative, P2.17)

Most key members escaped in South America or the Netherlands. They are still actively involved in running their groups here. (A judge, P.19)

This may be explained as a consequence of the ongoing war between criminal groups or targeted law enforcement efforts which have caused the key figures to escape the country. Findings show that the central figures in organised criminal networks are located in other countries and organise everything through trusted partners in Serbia. This is an interesting shift in organisational mode of criminal networks if we compare their functioning in the 90s and early 2000 with the current set up. The previous functioning methods were based on the key ‘bosses’ who were located in Serbia and played important roles in public life – they were known to most citizens, they caused fear due to violent behaviour and appeared frequently with politicians in public places.

On the other hand, they were highly professional – as findings indicate, these groups were interrelated with the special police and specially trained enforcement representatives. As reported by Anastasijevic:

Members of the Zemun gang were regularly picking up heroin shipments and transported them into Serbia through the Presevo valley; thanks to their connections with BIA, their vehicles were often escorted by Serbian security officers, ensuring the trucks could pass through police checkpoints without being searched. The scheme worked until the leaders of the Zemun gang and their BIA accomplices were arrested in 2003, after they organized the assassination of Zoran Djindjic, Serbia’s Prime Minister.

(Anastasijevic, 2006, p. 4)

The murders committed by these organised criminal groups were precise, they didn’t involve accidental victims, and they were usually accompanied by absence of any evidence (e.g. burned cars after the murder). The organised criminal groups today seem to have different functioning methods. There is a notable shift in functioning, the groups make important mistakes, several murders during 2017 and 2018 involved accidental victims (regular citizens, girlfriends, and the like) or ended up in murder of a wrong person and not the target.

This is broadly in line with the literature on “*efficiency/security trade-offs*” (Morselli, Giguere, and Petit, 2007) which suggests that lack of formal dispute resolution mechanisms in criminal networks often leads to violence. The authors have also supported that certain networks’ advantages may concurrently become their limitations: i.e. increased recruitment based on informal ties increases potential impact, but may also reduce mutual trust among the actors, hinder internal security and intensify conflicts (Morselli, Giguere, and Petit, 2007).

The research also revealed an interesting finding related to *modus operandi* of drug dealing networks in Serbia. It seems that drug dealing functions in Serbia in rather different ways than

in other states of the EU. The findings strongly supported that there are no ghetto areas in the cities. Dealers seem to constantly find innovative ways and means but there are no known places where drug dealing constantly takes place. Therefore, these places are not controlled by the police since drug dealing usually occurs in movement (as indicated in 5.3.5).

This may be associated with relatively low substance misuse trends in Serbia, in comparison with the EU states. It is interesting to note that this trend is pertinent to all the former Yugoslavian states. The abuse of psychoactive substances among young people has been a prominent social problem for decades, however, until the early seventies, when it comes to the former Yugoslavia and, consequently, Serbia, it was mainly based on tobacco and alcohol while the abuse of drugs, especially those heavier, involved isolated cases in larger urban areas. The economic crisis, political tensions, the collapse of the value system and the rise in all forms of crime have resulted in a significantly higher presence of psychoactive substances in Serbia and other republics of the former Yugoslavia. This is in line with previous research suggesting that organized crime principally did not exist in the former Yugoslavia (Grubač, 2009). This may be explained by the system organization, as a socialist economy, controlled market, a one-party, semi-police state and well-controlled borders. As Grubac suggests, foreign trade operations and money flows were under direct control of the intelligence services, which were controlled directly by the party leadership (Grubač, 2009). Additional research could indicate whether this is also a feature of drug dealing in the former Yugoslavian states in the region today.

The only relatively stable locations identified in the research involve night clubs. That is, the night clubs in Serbia (Belgrade mostly) are typically secured by specific groups who are associated with criminal networks. Findings have shown that it is mostly the members of organised criminal groups who provide protection to night clubs (either in the form of protection, or on the basis of racketeering relations). However, it is often the police members who work on security jobs during night, thus creating significant possibilities of cooperation between police and organised criminal groups. This form of cooperation is discussed in detail under research questions 3 and 4 below.

5.3.7. Conclusions

To summarise, research findings have strongly confirmed the existence of organised crime in Serbia. As demonstrated, the main profit of organised criminal groups in Serbia comes from drug trafficking. Findings have further indicated that organised criminal groups in Serbia function as networks at the external or market level, broadly connected with other clandestine structures who participate in global drug trade.. Concurrently, at the internal level, these groups are hierarchical, with clear central players, often engaged in wars over territory. The bosses of organised criminal groups are usually in other states, but obviously have sufficient power to continue running the network through trusted individuals who remain in the country. It seems reasonable to conclude that this mode of functioning strongly relies on informal social exchanges (Bresson, 1999): i.e. that they continue to enjoy protection from relevant enforcement and/or political structures which enables endurance of criminal activities. This structure of drug trafficking networks in Serbia could be perceived as common for such types of organisations. Literature shows that group structure in drug trafficking business differs, pending the types of operations and motivations (Dorn et al., 2005; Spapens, 2011). Dorn et al. (2005) argued that groups motivated by profit are more likely to have a durable core with various links to other groups. At the same time, these groups may exhibit flexibility when reacting to particular, potentially one-off opportunities (e.g. Kenney, 2007).

The scope and the endurance of the problem of organised crime in Serbia are perhaps best observed in the consecutive EU progress reports and other international assessments of the state of crime control. In discussing this issue, it is important to take count of the fact that Serbia has low levels of serious criminal offenses overall, when compared with most of the EU states. This information is often used by the state representatives to ensure citizens of their safety. Nevertheless, the numbers of organised crime related murders are high.

It appears that criminal networks in Serbia have successfully adapted to the period of transition and the accompanying EU accession processes. The ability to adapt to disruption is a typical feature of criminal networks, enabling survival. As Ayling (2009) maintained, adaptation may range from modifications of their topology to complete displacement from primary criminal activities or geographical area of operation. Moreover, resilience as an important trait of the networks also facilitates their endurance. Resilience refers to the ability of the network to absorb

disruption and adapt to changes arising from that disruption (Bouchard, 2007; Ayling, 2009). Here, this has been reflected in diverse models of adaptation of criminal networks. As discussed above, members of criminal networks have either displaced their location and continued operating from abroad or have started using different trafficking routes. Concurrently, criminal networks successfully adapted to privatisation period, using this economic transition to invest criminal profits into the legal market.

Interpreting the findings of the impact of criminal networks on EU accession, it can be said that the endurance of organised crime has been found to be one of the key factors hindering EU accession. Along with recurrent reference to the problem of organised crime in relevant assessments, the findings of this research show that the extent of organised crime is even larger than EU measurements suggest. It could be argued therefore that these groups have sufficient power in the society to act as the captors. Given the socio-economic environment in Serbia, marked by poverty and wide-spread corruption, it seems that organised criminal groups have the most resources and deeply rooted links to enable state capture.

II PART: FINDINGS AND DISCUSSION - COMBINATION OF CONTENT ANALYSIS AND SOCIAL NETWORK ANALYSIS

5.4. State response network - the structural holes that enable endurance of organised crime

5.4.1. The state response network

All institutions engaged in suppression of organised crime and drug trafficking have their jurisdiction clearly prescribed by relevant laws and bylaws (explained in detail in Chapter III, 3.3). The findings therefore refer to the results of implementation or the exercise of these jurisdictions, mutual cooperation and key achievements and/or obstacles. Through

implementation of content analysis (explained in Chapter IV), this research has identified that the map of the state response network involves the following 20 institutions or groupings:

Table V 3: Codes of institutions in the state response network

Table: Codes of the institutions in state response network

1.	MOI	Ministry of Interior
2.	PD	Police Directorate
3.	CP	Criminalistics Police
4.	BIA	Security Information Agency
5.	SBPOK	Service for the Fight Against Organised Crime
6.	VBA	Military Security Information Agency
7.	PORGCRIM	Prosecutors' Office for Organised Crime
8.	CORGCRIM	Special Court for Organised crime
9.	APPELC	Appellate Court
10.	MOH	Ministry of Health
11.	MOJ	Ministry of Justice
12.	DIRSEIZ	Directorate for Management of Seized Assets
13.	SERPREVDT	Service for Prevention of Drug Trafficking
14.	COMMPSYCH	Commission for Psychoactive Substances
15.	CUST	Customs
16.	ANTIML	Anti-money Laundering Directorate
17.	TAX	Tax Administration
18.	FIU	Financial Investigation Unit
19.	OFFCOMDRUG	Office for Combatting Drugs
20.	CSOs	Civil Society Organisations

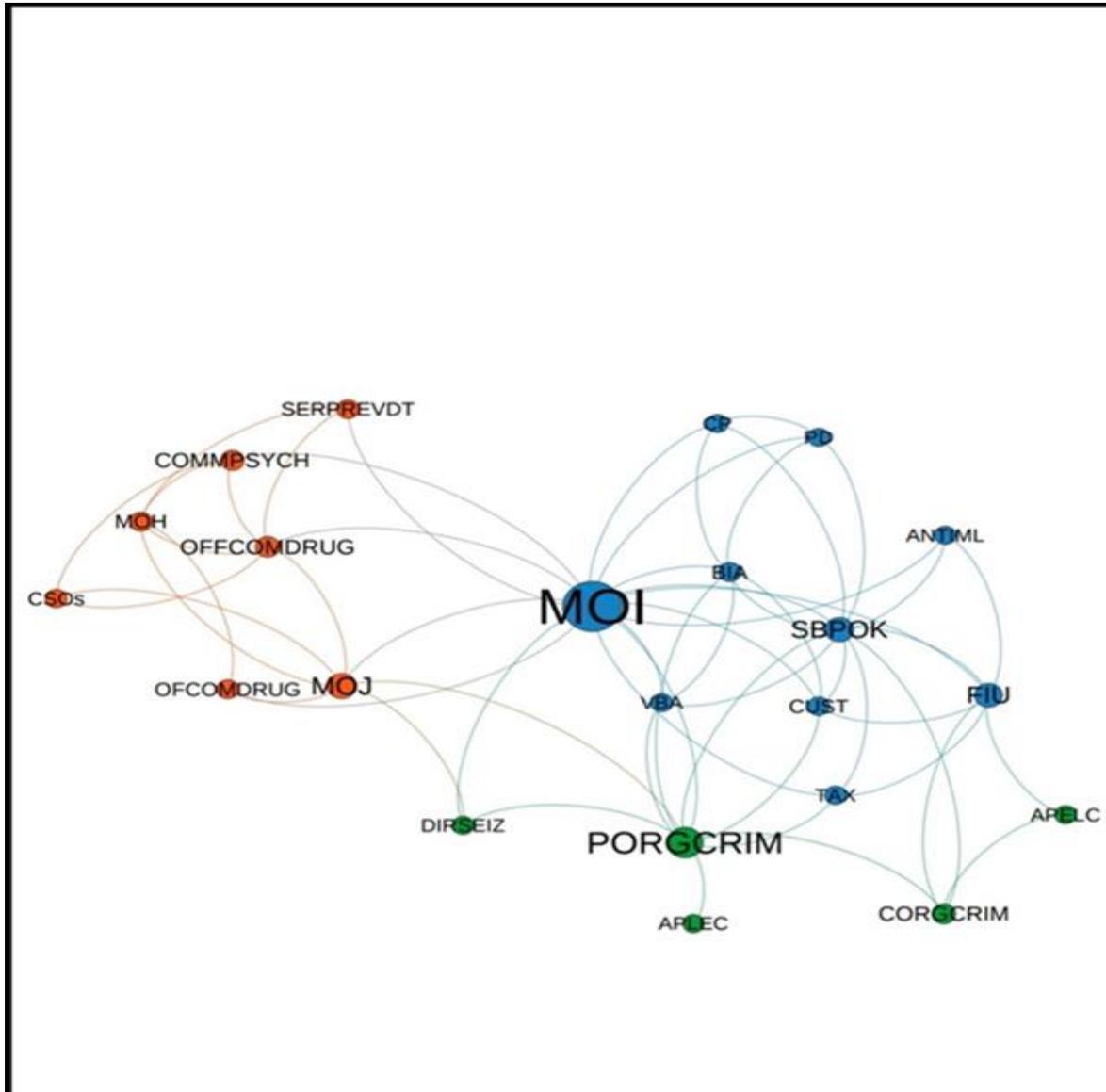
Originally, this implied the mapping of the state response network or the identification of all the institutions responsible for the fight against organised crime and drug trafficking in Serbia. The concept 'state response network' was developed for the purpose of this research, as a common label for all the mapped institutions responsible for fighting organised crime and drug trafficking. An overall appraisal of the key institutions and relevant legislative framework was provided in Chapter III. The network of state institutions was then analysed in depth throughout this research.

As explained in the Chapter IV, the state response network was first analysed through the content analysis focused upon character, context and activities, and subsequently by the social network analysis, which will be explained below.

Social network analysis offers a visual presentation of the identified groups (such as civil society organisations) or government institutions: i.e. the state response network. Hereafter both groups and institutions will be referred to as the 'institutions' unless for purposes of clarity it is necessary to distinguish the civil society organisations from the government actors. All these institutions are mapped in Graph V.1 below. The visualization was performed by using the Gephi software package (Bastian, Heymann and Jacomy, 2009) as explained in Chapter IV (3.4.2.).

Graph V.1 provides a graphic image of the state response network. This is an initial graph, representing solely the overall image of the state response network. The nodes represent the institutions, pursuant to their legal competences of the institutions (institutional domain of action) with regard to the problems identified in content analysis. The Excel file "Graph 1 Table jurisdiction cooperation" (Annex 6) contains data utilised to develop the graphic. The assigned numbers from 1 to 5 reflect the significance of the institutional domain of action per particular problem. The number is assigned pursuant to the share of responsibility i.e. the number 5 reflects the main institution while number 2 is a subordinate institution cooperating in the particular problem (or sharing responsibility). The social network analysis of the state response network shown in Graph V.1 indicates that there are 3 groups, or effective clusters of institutions. The different colours signpost the position of institutions in the state response network on the basis of their legally prescribed competences and relations of cooperation. The colour of a node indicates that it belongs to one of the three detected communities.

Graph V. 1: Network of institutions engaged in suppression of organised crime and drug trafficking



The blue colour represents the institutions engaged in repression of drug trafficking, involving law enforcement and financial investigative bodies. The analysis demonstrated that most of these institutions are largely under the umbrella of the police or the Ministry of Interior (MOI), including its diverse sectors responsible for different aspects of organised crime suppression (SBPOK, CP, PD, BIA). Therefore, the size of the node MOI is the largest in the network. Another institution is also in this group, namely, the VBA, which has almost negligible jurisdiction as a defence special police. The blue colour group also includes the institutions responsible for financial investigations in the case of organised crime and prevention of money laundering (FIU, CUST, ANTIML, TAX). The size of the SBPOK and FIU correctly indicates the major importance of their designated role in organised crime suppression, due to their institutional competence.

The green colour represents the judicial institutions acting in cases of organised crime and drug trafficking, namely the Special Prosecutors' Office for Organised Crime, the Special Court for Organised Crime and the Appellate court. It also involves the Directorate for Seized Assets, which is not a judicial institution, but its jurisdiction is related to court proceedings. The Special Prosecutors' Office for Organised Crime has the largest size as a node in this network due to its legal competences in the fight against organised crime. It is interesting to note that the small size of the Appellate court indicates a kind of minor importance in the network. This is due to the fact that this court is responsible 'only' for second instance proceedings. Nevertheless, as it will be discussed below in this Chapter, the role of the Appellate court is particularly noteworthy in the face of the findings of this research.

The orange colour represents the institutions engaged in the prevention of drug misuse and drug trafficking (MOJ, MOH, SERPREVDT, OFFCOMDRUG). These institutions significantly differ in terms of their primary jurisdiction, but consume shared responsibility in prevention of drug misuse and trafficking. Due to the links with these institutions, the civil society organisations (CSOs) are placed in this group as well. As indicated by implementing SNA, the Ministry of Justice as a node has the biggest size. This is due to its jurisdiction in adopting the relevant laws in this field which implies cooperation with other institutions. The Office for Combating Drugs has a similar size, due to its competence in developing and monitoring the strategic documents. The Office for Combating Drugs appears at two locations in the graph in

order to clearly demonstrate the relations with particular institutions, as well as the lack of linkages among certain institutions. It is interesting to note that the size of the CSOs is practically the same as the size of legally designated institutions in prevention of drug misuse and drug trafficking. This implies that there may be certain gaps, fields left uncovered or lack of efficient coordination, as the civil society is not expected to have the same relevance as state bodies in any field.

What the research findings have shown in terms of the state response network is that it appears to be insufficiently mutually connected. That is, there are clearly visible 3 clusters or communities of institutions, but the level of connectedness between them is of low magnitude.

An impression obtained by looking at this network is that these different groups of institutions are rather detached from each other. That is, it appears that there are strong linkages between the institutions within the same community, whereas relations with other communities do not seem significant. This impression is confirmed in subsequent analysis, as thoroughly discussed below in this Chapter.

This finding is rather compelling, given that one could expect that the state institutions have solid relations, as they necessarily need to cooperate in matters of their shared jurisdiction. This finding implies that the actual institutions that are responsible for the fight against organised crime and drug trafficking do not have close cooperation. This may be explained by the practical differences in their jurisdiction, as some are engaged in judicial proceedings and others in repression for instance. That would be a possible explanation of the lawmakers or state officials.

Nevertheless, in practice, lack of efficient cooperation between these apparently different types of institutions leads to a lack of knowledge and awareness of different aspects of the phenomenon of organised crime which is within their jurisdiction, even though prescribed in a different manner. For instance, the findings of this research have shown that judges are not aware of relevant developments in the field of drug seizures outside of the country. This may look irrelevant; however, if the judges deciding in drug trafficking cases are not aware that some types of drugs are produced in Serbia and subsequently trafficked into EU states, it is difficult to expect that they could adequately grasp the case in its entirety. Therefore, this evident lack of mutual relations may inherently complicate the functioning of the whole network. Prosecutors, in other words, may bring a case before the court that is not only inherently complex but that possibly

also stretches the judicial officer's capacity to grasp the context of offending, given this lack of wider situational awareness.

However, this may also be a consequence of the fact that these state institutions were not originally conceptualized as 'the network' by the state. That is, most of these institutions are regular state bodies with a whole set of responsibilities, whereby the fight against organised crime and drug trafficking is only one among them. If this is the case, it appears that the decision makers do not take into account the science based approaches to fighting organised crime. As discussed in Chapter II, most contemporary research on organised crime relies on network-based approaches in investigating criminal groups. It has been evidenced in the literature that investigation of criminal networks is enhanced by using network techniques (Dujin, 2016; Gunnell, Hillier and Blakeborough, 2016; Klerks, 2001; Seidlear and Adderlay, 2013; Sparrow, 1991; Tayebi, and Glässer, 2016). Research on organised criminal groups has demonstrated that organised crime today frequently functions through networks of cells (Morselli, 2009; Papachristos, 2011; Varese, 2010), and that finding has been substantiated here in the Serbian data. Police investigations should thus be performed in a similar manner, though surveillance data, intelligence data or co-offending data (Gunnell, Hillier and Blakeborough, 2016; Seidlear and Adderlay, 2013; Tayebi, and Glässer, 2016). In light of this, it could be expected that state institutions are also organised as networks of cells (institutions as nodes) whereby each of the cells has its role and contributes to the network efficiency.

The findings of this research, however, show that not all the institutions (nodes) efficiently contribute to the network functioning, as they are not all well-connected pieces of the network. As it will be discussed below, some institutions do not have clear competences or have significant overlaps thus decreasing the overall efficiency.

The legislative separation of competences discussed above could be addressed in practice through joint trainings or exchange of experiences and/or best practices. This could contribute to increasing knowledge of the relevant stakeholders in the institutions. Yet such an approach would require clear guidelines targeting an increase of capacities in addressing organised crime.

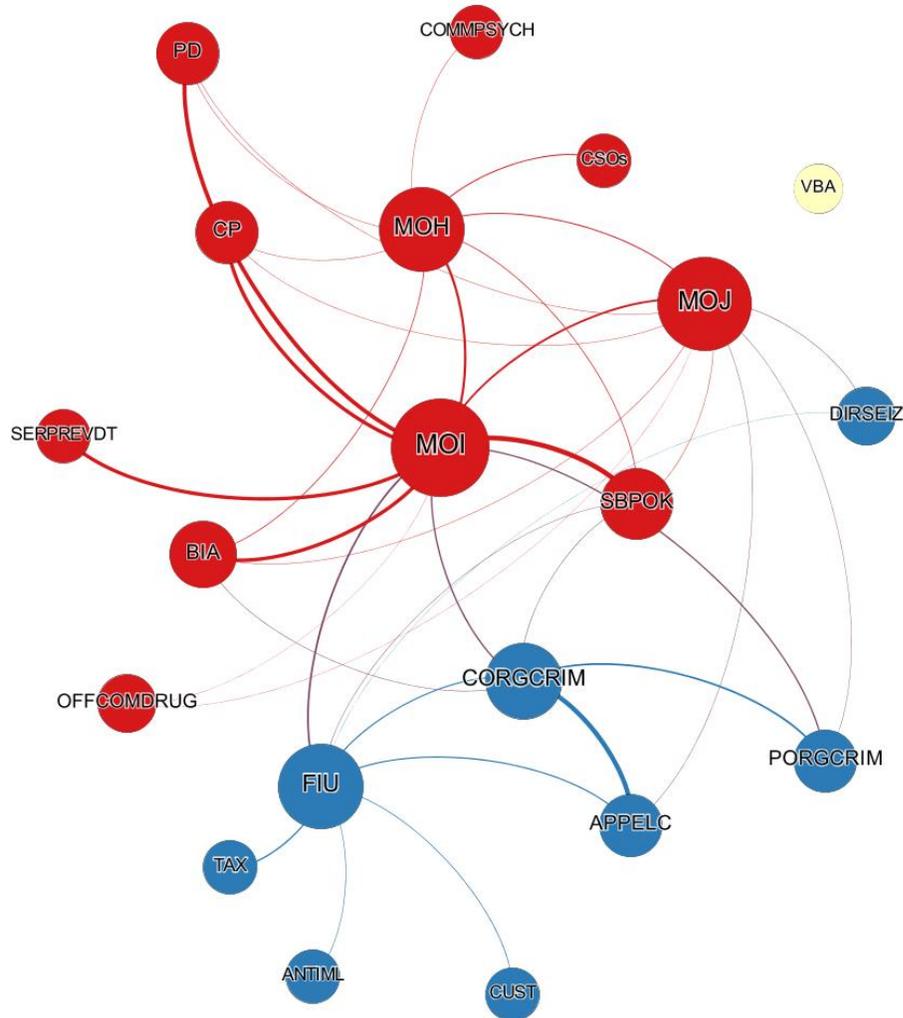
5.4.2. Cooperation of institutions with regards to identified problems in the state response network

Based on the initial set of data, a network of institutions was modelled according to social networks. Initially, the network was modelled in accordance with the institutional domain of action (see Graph V.1 above). Institutions represent the nodes of the network, and a connection is established if two institutions were involved in addressing a particular problem. These problems were identified by the content analysis and have been linked to each institution responsible for these particular issues i.e. including the main institution, as well as other institutions sharing responsibility in each case or problem.

Subsequently, in order to explore the cooperation among institutions in the case of particular problems identified by the content analysis, all the connections between two institutions for all the identified problems were aggregated together with their weights and the following network was obtained. These data are given in the Graph 2 data table (Annex 7).

The modelled network is non-directional and weighted and the weight of the branch is the number of cases in which the institutions cooperate in particular problems.

Graph V.2: Cooperation of institutions with regards to identified problems in the state response network



The Graph V.2 shows a modelled network. The size of the node corresponds to its degree (betweenness and centrality), while the colour corresponds to the community it belongs to. The width of the line corresponds to the weight of the branch. As described in Chapter IV, for the purpose of determining what will social network analysis measure, it was necessary to develop specific network questions that specify the two research sub-questions under examination. The main network questions were the following:

1. In order to see is the state response network sufficiently connected:
 - What are the basic characteristics of the network in terms of density and connectivity?
 - What are the average distance and diameter of the network?
2. In order to see which issues i.e. ‘structural holes’ are central to the network and to which institutions they are associated?
 - Which institutions are central per different metrics?
 - Which institutions are the core of the network?
3. In order to see which institution may appear as brokers:
 - Do some institutions represent bridges in the network?
4. In order to see the most significant problems:
 - What is the largest weight of the relations among the issues?
5. In order to see do institutions share responsibility for specific problems:
 - Can any communities/clusters grouped around specific issues i.e. ‘structural holes’ be determined?
6. In order to see how is the network connected in regards to other networks:
 - Does the network show the characteristics of a small world?

The final network was analysed using methods and metrics for analysing social networks and visualized using the Gephi software package. Gephi was also used to calculate basic metrics⁴⁵. Where appropriate, the weight variation of metrics was taken into account. For network clustering, the Louvain method was used in the Gephi tool which is based on the maximization of modularity.

The modelled network consists of 20 nodes and 37 branches, representing a relatively small network. The network density is 0.195, which represents a relatively dense network compared to typical social networks, e.g. the density of the Facebook network is about 10^{-6} . These and other examples of real-world networks that show that the small-world property appears to characterize most real-world networks. The average distance in the network is 2.088, and the network's diameter is 4. As the network's diameter indicates the maximum path length (number of steps) between the two actors in the network, it can be concluded that the distances in the network are

⁴⁵ The following metrics were utilized in the analysis: degree centrality, closeness and vector centrality, relational centrality, network density, average path length and network diameter, clustering coefficient.

small. With a relatively high average clustering coefficient of 0.513 and identified 22 closed triads in the network, a very small diameter of the network, it can be considered that the network expresses the characteristics of a small world. The small-world feature is an important concept as it can depict the ease of communications within a network.

Based on the modelled network, the corresponding network metrics were calculated (excel file Graph 2 metrics results, Annex 8). Metrics for individual nodes are shown in Table V.4, sorted by nodes, and summary metrics for the whole network are given in the text.

Table V.4: Basic metrics of the modelled network Graph in V.2

Node	Degree centrality	Weighted Eigen vector centrality	Eccentricity	Betweenness centrality	Closeness centrality	Community
MOI	11	1755	2	53,283333	0,72	0
MOJ	10	475	3	27,083333	0,62069	0
MOH	8	506	3	34,916667	0,580645	0
FIU	8	535	3	52	0,6	2
CORGCRIM	6	652	3	6,916667	0,5625	2
SBPOK	5	455	2	8,2	0,580645	0
BIA	4	345	3	1,2	0,514286	0
PD	3	310	3	0	0,5	0
CP	3	288	3	0	0,5	0
PORGCRIM	3	246	3	0,2	0,473684	2
APPELC	3	392	3	1,2	0,5	2
DIRSEIZ	2	68	3	1	0,486486	2
OFFCOMDRUG	2	34	3	0	0,461538	0
SERPREVDT	1	212	3	0	0,428571	0
COMMPSYCH	1	37	4	0	0,375	0
CUST	1	55	4	0	0,382979	2
ANTIML	1	45	4	0	0,382979	2
TAX	1	92	4	0	0,382979	2
CSOs	1	72	4	0	0,375	0
VBA	0	0	0	0	0	1

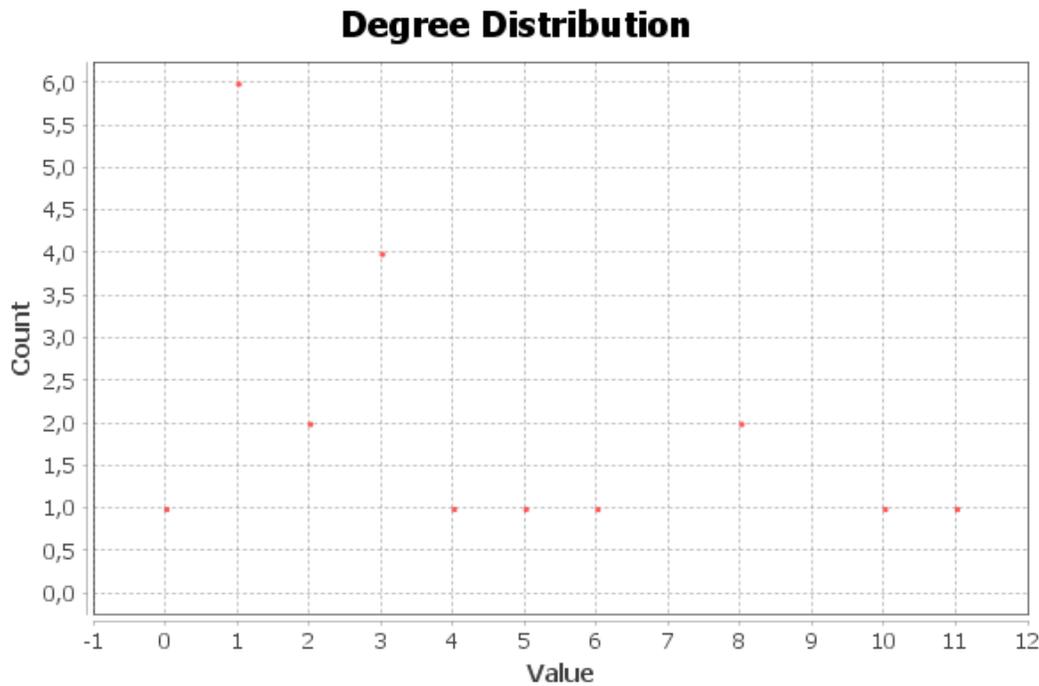
The network consists of the total of three components, whereby there are two connected components. The third disconnected component is the Military Security Agency (VBA), and in the other two all other institutions. From this it can be concluded that the VBA did not cooperate on any problem in the data set with other institutions and therefore exists as an isolated node within the model network. Considering the scope of work of this institution in the field of

defence, this is also expected if only civilian activities are observed. Therefore, the calculated VBA metrics are not relevant for further analysis.

It is noted from Table V.4 and from Graph V.2 that the central place in the network is occupied by the Ministry of Interior (MOI). MOI has the largest number of connections (neighbours), and therefore the highest degree of node (degree centrality), relational centrality and closeness centrality. The MOI is convincingly distinguished if a weighted degree centrality is observed, which really emphasizes that the efficient work of the MOI is crucial in solving a large number of problems. Due to the expressed relational centrality, the MOI is also a bridge between the institutions. According to these metrics, the Ministry of Justice (MOJ), the Ministry of Health (MOH) and the Financial Investigation Unit (FIU) are prominent. The Special Court for Organized Crime (CORGCRIM), the Service for Combating Organized Crime (SBPOK) and the Security Information Agency (BIA) are partially recognised. Other institutions are relatively less significant from the point of view of network metrics.

In relation to the observed metrics, the mentioned institutions (except for the MOI) are ranked differently by different criteria. It is noteworthy that MOJ, in addition to the second node of the node level, falls to 5th place behind CORGCRIM, FIU, MOH, if only the weight level of the node is observed. Similarly, this applies to relational centrality, where MOI, FIU and MOH represent significant bridges, which are subsequently followed by the MOJ. In terms of distance-based networking, the core of the network is MOI and SPBOK, as the nodes with the lowest eccentricity. Eccentricity represents the largest shortest distance from any node to the observed node in the network. The closeness centrality is again emphasized by the MOI, while the other nodes have relatively similar values.

Figure V.3: Degree distribution



The distribution of nodes by degree is shown in Figure IV.3. It is not possible to see whether the network follows the power-law distribution because the network is relatively small, with a small number of nodes. However, there are certain indications that the preferential binding feature is present in the pattern of network growth. In this regard, smaller institutions have a very great chance to work with the "big" institutions (MOI, MOH, MOJ), than with less significant ones in the network. One of the reasons may be that such institutions often arise from organizational units of ministries. The other reason is certainly the number of competencies entrusted to them, which points to cooperation. In any case, it could be said that the "rich get richer - the good get better" rule applies here, which often applies to social networks. The core of the network are certainly MOI and MOJ, as indicated by the metrics.

The network is divided into three communities by using the Louvain method for maximizing the modularity. As one community represents the VBA as an isolated node, it is of interest to analyze the division of the gigantic component into two communities marked with red and blue in Graph V.2. It is interesting that within the blue community there are all prosecutorial and judicial instances, but also institutions in charge of financial aspects of the fight against organized crime. This clearly indicates that this group of institutions are a separate community and as will be indicated further below, entails most of the problems in the state response network functioning i.e. has most of the structural holes identified (see 4.3. and 4.4). Further analysis focuses on the exploration of the identified gaps in the functioning of the state response network.

5.4.3. Gaps in functioning of the state response network identified by the content analysis and a network based model of structural holes

5.4.3.1. Structural holes identified by the content analysis

An exploration of the potential structural holes hindering the effectiveness of state institutions to fight organised crime and drug trafficking has been an essential segment of this enquiry. Initially, it is important to reflect on the motives for utilising the term ‘structural holes’ to reflect on the gaps in the system’s functioning. As discussed earlier, this research builds on the conceptualization offered by Cockayne and Roth (2017, p.8) that organized criminal networks in synergies with state actors infiltrate in the system through the “loopholes offered by corruption”. Cockayne argues that these dynamics result in “engagement in arbitrage” (2017, p.9), that is, enables a whole range of mutually exchanged services through institutional functioning. It is therefore conceptualized in this research that gaps (structural holes) in institutional functioning may create space for criminal actors to exploit such opportunities. According to Cockayne and Roth (2017, p.19), criminal actors “may also emerge as brokers in informal or parallel economies, and control the gates that connect these spaces to the outside world”.

Therefore, through the exploration of the structural holes, this research question aimed to provide responses as to whether these gaps in the institutional functioning enable endurance of organised crime in Serbia. As social network research argues, in order to see the gaps, we need to look *between* the communities and nodes, as they show us what is missing. In order to address this research question, a set of questions was asked during the interviews. These questions mainly referred to the organisation of the work of institutions, their competences, mutual relations, obstacles in cooperation. They also involved details about particular aspects of work of the institutions, with an aim to assess whether it is in line with best practices or not.

Content analysis implementation enabled the broad identification of the ‘structural holes’ or issues identified in the functioning of the state response network. The issues are labelled ‘units of analysis’, explained in detail above (Table V.1.). The units of analysis identified by content analysis were further used to code data for social network analysis, in order to quantitatively confirm or reject the findings. To recap, the following traits of institutional functioning (or dysfunction) were identified by the content analysis:

Extract from Table V.1. Key issues (units of analysis) in functioning of state response network identified by CA

<i>Theme</i>	<i>Units of analysis</i>
Effectiveness of state response network	<p><u>1 Investigation & prosecution</u></p> <p>operational capacities (number, trainings, relationships, multi-disciplinary teams mapping of OC/DT networks information exchange (secure platform, databases, intelligence exchange) internal control reliance on secret service border control infiltration</p> <p>2 Role of the court</p> <p>trial (expertise, relationships in court panel, decision making, judging to benefit of def....) appeal proceedings case law sentencing policy independence/political influence training</p> <p>3 Financial investigation</p> <p>identification of financial assets from crime sectors vulnerable for corruption management of seized assets</p>

	specialisation anti-money laundering 4 seizure and destruction of drugs destruction issues keeping of drugs 5 legal framework drafting of laws implementation of laws strategic framework 6 prevention of drug misuse precursors production trade treatment research
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From among these units of analysis (the key issues mentioned by the interviewees or in official documents, the following gaps in institutional functioning were identified by the content analysis as 6 key structural holes in the state response network:

1. Investigation & prosecution
2. Role of the court
3. Financial investigation
4. Seizure and destruction of drugs
5. Legal framework
6. Prevention of drug misuse

These 6 structural holes entail broad areas, contained of various elements (provided in the Table above). As stated, the identified problems are conceptualized in this research as structural holes, or gaps in the system that enable endurance of organised crime and drug trafficking in Serbia. Further analysis (SNA) demonstrated which particular elements of each of these structural holes are the most significant. The identified units of analysis were subsequently used as the key criterion for the development of the ID of issues (label of issues as nodes in the network) for the social network analysis (Chapter IV). Following the presentation of SNA results, each of these issues and the identified structural holes are discussed separately under this research question, while their potential to enable state capture is addressed in detail under 5.4.4.

4.3.3.2. A network based model of structural holes across the entire state response network

In the previous section, the network as a whole was analysed. This was a top- down approach to reveal its structure. Here, the state response network is analysed through a bottom-up approach, as the communities or substructures that keep the network together are explored. SNA

methodology offers diverse measures for identifying substructures of groups within a social network (Hanneman and Riddle, 2005). The Graph V.3 below shows *all the relations* in the state response network with *all the identified issues or structural holes* identified on the basis of content analysis. This is actually the “SNA universe”, or the whole network of issues, including the least important, as well as the key identified issues. This graph links all the institutions in each of their institutional domains of action, with all the identified issues (Annex 9 Graph 3 network data).

Graph V.3: Network of issues or 'structural holes' identified across the state response network



As shown in the Graph V.3, there are a number of inter-related problems across the state response network. The analysis has demonstrated that there are multiple relations among institutions with regard to the identified issues. The size of the node and the label expresses the value of the betweenness metrics, whereas the colour depends on the weighted degree metrics i.e. the darker the colour, the greater the value of the metrics.

The results are provided in the Excel file Graph 3 results first analysis (Annex 10). It contains calculated metrics for nodes, whereby each line refers to one node and the columns contain the ID of the node (name of the institution) and the metric: degree, betweenness, closeness, and so on. In the graph, the size of the nodes and the branches expresses the value of betweenness metrics, while the colour indicates the value of weighted degree metrics (the colour darker if the value of the metrics is higher). The calculations used in the development of this graph are based on the input of all the institutional domains of action and all the relations relevant for the identified issue or a structural hole. The first column in excel file Graph 3 results first analysis involves the *Node I*, which is the institutional domain of action (legally prescribed jurisdiction relevant for the identified issue or a structural hole), and second column in excel file, *Node II*, represents the institution with which there is a relation with regard to identified issues or structural holes under that institutional domain of action. As already explained for the first graph, the coded relations between institutions were further assigned a number ranging from 1 to 5, depending on their legal competences relevant for the issue (Table Scaling of issues 1, Annex 4). For example, the number 5 refers to the main institution in charge of a particular issue, whereas e.g. number 3 indicates that the institution functions subordinate to the main one, in case of a particular issue.

Table V.5: Scaling of issues 1

Node I	Node II	Scale
MOI 1 investigation	PORGCRIM 1 investigation	5
MOI 1 investigation	CP 1 investigation	2
MOI 1 investigation	PD 1 investigation	2

MOI 1 investigation	SBPOK 1 investigation	2
MOI 2 prosecution	PORGCRIM 2 prosecution	3
MOI 2 prosecution	CP 2 prosecution	2
MOI 2 prosecution	PD 2 prosecution	2
MOI 2 prosecution	SBPOK 2 prosecution	2
MOI 6 Mapping of OC/DT networks	PORGCRIM 6 Mapping of OC/DT networks	5
MOI 6 Mapping of OC/DT networks	BIA 6 Mapping of OC/DT networks	5
Mapping of OC/DT networks	Mapping of OC/DT networks	5
CORGCRIM 28 relationships in court panel	APPELC 28 relationships in court panel	4
CORGCRIM 29 case law	APELLC 29 case law	5

Excel file Graph 3 results first analysis contains calculated metrics for the nodes in the file “Graph 3 network data”. Each column refers to one node, and the columns contain the ID of the node and its metrics: degree, weighted degree, eccentricity, closeness centrality, harmony closeness centrality and betweenness centrality.

Table V.6: Extract from Excel file Graph 3 results first analysis

Id	Degree	Weighted Degree	Eccentricity	closenesscentrality
ANTIML 47	5	25	1	1
BIA 47	1	5	2	0,555556
CORGCRIM 47	1	5	2	0,555556
CUST 47	1	5	2	0,555556
SBPOK 47	1	5	2	0,555556
TAX 47	1	5	2	0,555556
APELLC 30	1	5	1	1
CORGCRIM 30	1	5	1	1
APELLC 31	1	5	1	1
CORGCRIM 31	1	5	1	1
CORGCRIM 23	1	2	1	1
PORGCRIM 23	1	2	1	1
CORGCRIM 24	1	3	1	1
APELLC 24	1	3	1	1
CORGCRIM 25	2	10	1	1
APELLC 25	1	5	2	0,666667
PORGCRIM 25	1	5	2	0,666667
CORGCRIM 26	1	5	1	1
APELLC 26	1	5	1	1
CORGCRIM 27	1	5	1	1

As it is shown in the Graph V.3, the network is largely separated: i.e. contained of a large number of sub-segments which are not connected mutually. Nevertheless, there are several main communities, already visible in the graph, formed around specific gaps in institutional functioning.

The findings derived from the first SNA analysis of the entire network have primarily indicated six main communities around specific problems which hinder the effectiveness of state institutions in suppressing organised crime and drug trafficking. It is important to emphasize that most of these problems or structural holes were also identified under research question 1 as factors hampering transition and EU accession. The SNA metrics indicate the following significant relations, presented in the Table below:

Table V.7: Extract from excel file Graph 3 results first analysis

<i>Node</i>	<i>Degree</i>	<i>Weighted degree</i>	<i>Eccentricity</i>	<i>Closeness centrality</i>	<i>Harmonic closeness centrality</i>	<i>Betweenness centrality</i>
FIU 39	8	40	1	1	1	0,001366
MOI 12	9	34	1	1	1	0,001634
MOI 6	6	30	1	1	1	0,00061
MOI 3	9	16	2	0,909091	0,95	0,001927
MOI 11	4	20	3	0,583333	0,738095	0,000732
MOI 10 - CORGCRIM 10- APPELC 10	3	15	3	0,5	0,642857	0,000537
MOI 8	5	20	1	1	1	0,000488
OFFCOMDRUG 43	5	15	1	1	1	0,000488
MOH 35	5	25	1	1	1	0,000488
MOH 36	5	25	1	1	1	0,000488
DIRSEIZ 42	5	25	1	1	1	0,000488
ANTIML 47	5	25	1	1	1	0,000488

As shown in the Table V.7, significant results are calculated for the following issues in the functioning of the state response network: prevention of money laundering; information flow; border control; statistics; production and trade in precursors; and strategic approach. The important structural holes are discussed in detail in the following sections. The key communities are formed around the following problems:

- ✓ identification of financial assets from crime (the node FIU 39)
- ✓ cooperation between institutions (the node MOI3)
- ✓ corruption (the node MOI 12)

- ✓ mapping of OC/DT networks (the node MOI 6).

It is also important to note that these problems appear as key nodes given the multiple relations between institutions in that regard. This means that SNA metrics found that institutions have shared responsibility (i.e. maximum relations) in the case of these identified problems.

The relations relevant for the *identification of financial assets* from crime are those grouped around the node FIU 39. It appears that identification of financial assets from crime is the most important ‘structural hole’ or the key issue hindering the effectiveness of the state response network. This finding indicates the pervasiveness of this problem across the network. It should be taken into account that this is a cross cutting issue, given its prevalence across the different types of institutions i.e. the repression institutions, the judiciary and the finance-related institutions. Given that EU standards and international best practices perceive identification of financial assets from crime as a very valuable tool for suppression of organised crime networks, this may be one of important indications of the ‘gaps’ enabling endurance of organised crime in Serbia. That is, if assets remain in possession of criminal groups, they are enabled to continue criminal activities or invest these funds in legal business.

The second most important node reveals the relations relevant for the issue of *corruption*, which are reflected in the relations grouped around the node MOI 12. Corruption also appears to be one of the key cross cutting issues in the state response network, given that it is identified in relations between different institutions i.e. the police and the judiciary, the public health sector and the financial-like institutions. As already discussed in this Chapter (Part I), the problem of corruption has been identified in all relevant international assessments of Serbia (EU Progress reports, FATF, MONEYVAL) as one of the main problems hindering progress. Concurrently, this reinforces the qualitative impression from interviews of the importance of this as a key negative factor in terms of effectiveness of state institutions combatting organised crime and drug trafficking.

Significant results are calculated for the *mapping of OC/DT networks*, which involves the relations grouped around the node MOI 6. This is an important finding, given that the lack of mapping of OC/DT networks has been referred to by 44 participants. This means that the

repression institutions do not perform mapping of organised criminal groups in an effective manner, and certainly represents an important factor in terms of crime control.

Significant results were calculated for *cooperation between institutions*. This problem was identified by most of the participants, without specifying the actual institutions where it can be traced. The SNA metrics indicate significant the relations grouped around the node MOI 3. Even though cooperation is a difficult concept for assessment, given the inherent bias of any individual, the recurrent reference to the lack of cooperation across the state response network indicates that it may be an important structural hole enabling organised criminal groups to take advantage of this ‘loophole’.

Further, several other relations grouped around the following problems were identified by SNA metrics. The problem of *statistics* involves the relations grouped around the node MOI 10. The notion of ‘statistics’ is relevant in terms of assessing the effects of investigating and prosecuting organised crime. The absence of statistics implies potential for hiding data or state capture, hence identification of the strong relevance of this problem in the state response network represents a valuable finding. This finding will be further discussed below. Then, an identical betweenness centrality of 0,000488 has been identified for several node relations. From among these diverse issues, the largest weight degree of 25 was calculated for the production and trade of precursors and medicines, prevention of money laundering and problems in information flow. The relations relevant for the *production and trade in precursors and medicines* are those grouped around the node MOH 35 (the same stands for identical nodes under the code 36). Given the growing problem of production and trade in precursors and overall an increase in use of NPS in Serbia and in Europe, the relevance of this finding will be discussed in detail further below. In addition, this problem is also linked with several state institutions and will be addressed in the context of lack of cooperation mentioned above.

The relations relevant for the *prevention of money laundering* are those grouped around the node ANTIML 47. Given the frequent reference to this problem both in the written material, as well as in the interviews conducted, this finding was expected. As it will be indicated in the following sections, the additional analysis did not find this community as significant. Nevertheless, this structural hole is strongly associated with the main identified problem, identification of financial

assets from crime and corruption, and it has been identified as one of the problems shared by more than 5 institutions. Detailed discussion on these connected issues is given further below.

Problems in *information flow* were identified in the relations grouped around the node DIRSEIZ 42. The significance of this issue is particularly interesting, as it is identified as one of the problems shared by more than 5 institutions and will be discussed in detail later. It is usually connected to other units of analysis, such as the existence of data bases and case management systems. Furthermore, the issue of *border control* had a weighted degree of 20. The relations relevant for border control are those grouped around the node MOI 8. Given the major importance of border control in terms of drug trafficking suppression, this finding was expected. Its significance was predictable, given that borders *per se* are not referred to as an important problem due to numerous activities and EU support aimed at improvement of their functioning during the last years. The interview statements explored in detail above (4.3.1) indicate specific borders relevant for drug trade. Nevertheless, this problem was not identified in the detailed analysis as significant. It may be that the other problems cause more distress for the participants in performing their tasks, hence decreasing their focus on this particular issue.

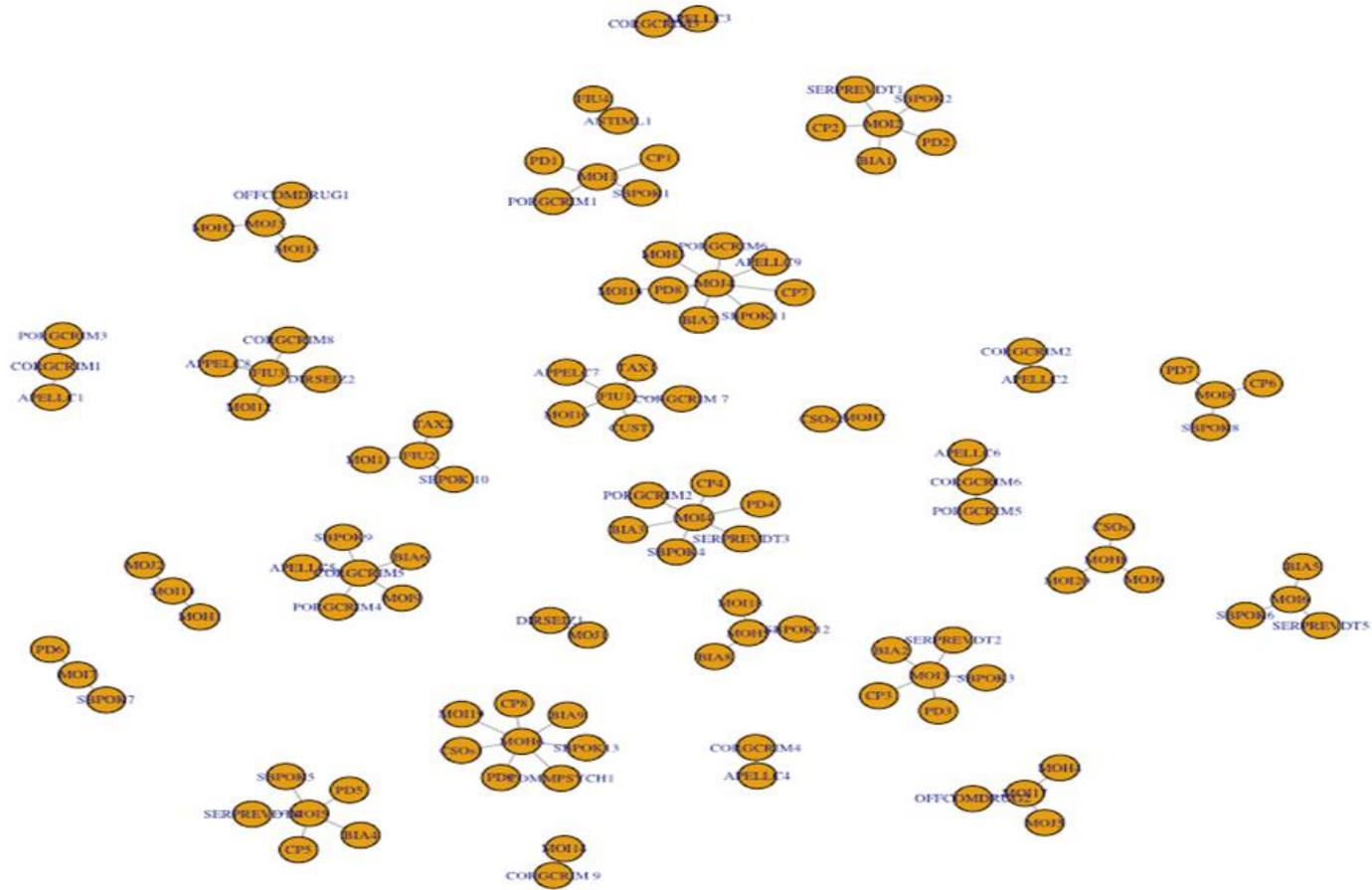
Finally, the relations relevant for *the strategic approach* are those grouped around the node OFFCOMDRUG 43. This is also a cross cutting issue that appears across the network and involves a number of different institutions. However, within a broader framework of legislation, this particular issue was not found significant in the detailed analysis.

4.3.3.3. Particular structural holes identified by an in-depth SNA analysis of the communities of the state response network

The “Graph V.4: Network of institutions” indicates the number of sub-graphs or components of the state response network (*the communities*). The whole network was described in the Graphs V.1 and V.2, while all the institutions and all of their relations are visualised in the Graph V.3. Given the degree of the lack of connectedness of the emphasized communities, the specific sub-graphs were further analysed. There is a total of 28 relevant communities

Graph V.4: Network of institutions

Network of institutions



The data utilised for this graph are given in the excel file Graph 4 and 5 data table for Second analysis (Annex 11) The data involves: a) the first column, *Node I*, in excel file (institution with its domain of action in relation to an issue or structural hole), b) the second column, *Node II*, in excel file (another institution that has a relation with regard to that issue or structural hole), and c) the third column, *Weight*, in excel file (the number of times a reference to that issue or structural hole appears in the interviews). Hence, network nodes are institutions – the two institutions are connected if they share at least one competence related to an issue or a structural hole. The weight of the relation represents the number of references to that issue. To express this number of references, in this second phase of SNA, a second scaling table was developed. The number of times a certain issue or a structural hole was mentioned by the interviewees was the key criterion for the development of the Table Scaling of Issues 2 (Annex 13). This data was used to explore in depth the communities identified by the SNA.

Table V.8. Extract from the Table Scaling of Issues 2

STRUCTURAL HOLES	ISSUES PER ITEM	NODE I	NODE II	WEIGHT
1 Investigation/prosecution	Operational capacities (number, trainings, relationships,)	MOI 1 MOI 1 MOI 1 MOI 1	PORGCRIM 1 CP1 PD1 SBPOK1	42
	Mapping of OC/DT networks	MOI 3 MOI 3 MOI 3 MOI 3 MOI 3	CP 3 PD3 SBPOK3 BIA2 SERPREVDT2	44
2 Role of the court	Trial (expertise, relationships in court panel, decision making, judging to benefit of def....)	CORGCRIM 1 CORGCRIM 1	APELLC 1 PORGCRIM3	48
		CORGCRIM 2	APELLC 2	56
	Appeal proceedings	CORGCRIM 3	APELLC 3	55
	Case law			

3 Financial investigation	Identification of financial assets from crime	FIU 1 FIU 1 FIU 1 FIU 1 FIU 1	MOI 10 CORGCRIM 7 APPELC 7 TAX 1 CUST 1	55
	Sectors vulnerable for corruption	FIU 2 FIU 2 FIU 2	MOI 11 TAX 2 SBPOK 10	37

The units of analysis were utilised as the ID of issues for the social network analysis (*Column Issues per item*). The grouping of data was performed on the basis of an institutional competence domain of action (legally prescribed jurisdiction) in relation to a particular unit of analysis. That is, the jurisdiction of an institution for an issue identified in the content analysis was coded as one node (the first column *Node I* in the excel file “Graph 4 communities data” (Annex 12). Then its relation with a second node (the second column *Node II* in the excel file “Graph 4 results centrality measures”), an institution responsible for the same issue identified in the content analysis, was measured. The column *Weight* reflects the actual number of times this issue was referred to in the interviews and written material collected. As noted, these data sets utilised in the metrics are provided in the Table Scaling of issues 2 (Annex 13) and an extract of this Table is provided below for reference and to example an output. The data from this Table Scaling of issues 2 were inserted in the Excel file Graph 4 Communities data (Annex 12) as the basis for calculations.

Table V.9: Extract from Excel file “Graph 4 Communities data”

MOI 1	PORGCRIM 1	42
MOI 1	CP 1	42
MOI 1	PD 1	42
MOI 1	SBPOK 1	42
MOI2	CP2	24
MOI2	PD 2	24
MOI2	SBPOK2	24
MOI2	BIA 1	24
MOI2	SERPREDVDT1	24
MOI 3	CP 3	44
MOI 3	PD3	44
MOI 3	SBPOK3	44
MOI 3	BIA2	44
MOI 3	SERPREDVDT2	44
MOI4	PORGCRIM2	50
MOI4	CP 4	50
MOI4	PD 4	50
MOI4	SBPOK4	50
MOI4	BIA3	50
MOI4	SERPREDVDT3	50
MOI5	CP5	45
MOI5	PD5	45
MOI5	SBPOK5	45
MOI5	BIA4	45
MOI5	SERPREDVDT4	45
MOI6	BIA5	49
MOI6	SBPOK6	49
MOI6	SERPREDVDT5	49
MOI7	PD6	22
MOI7	SBPOK7	22
MOI8	CP6	9
MOI8	PD7	9
MOI8	SBPOK8	9

The measures of centrality⁴⁶ are provided in detail in the file “Graph 4 results centrality measures ” (Annex 14).

Table V.10. Extract from excel file Graph 4 results centrality measures

node_id	degree	betweenness	betweenness_wt	eigen	eigen_wt
MOI1	4	6	6	0	0
MOI2	5	10	10	0	2,86E-16
MOI3	5	10	10	1,66E-16	0
MOI4	6	15	15	0	1,29E-14
MOI5	5	10	10	1,29E-16	4,27E-16
MOI6	3	3	3	0	0
MOI7	2	1	1	0	3,28E-17
MOI8	3	3	3	1,17E-16	0
CORGCRIM1	2	1	1	0	2,39E-16
CORGCRIM2	1	0	0	0	1,12E-16
CORGCRIM3	1	0	0	0	1,19E-16
CORGCRIM4	1	0	0	0	5,22E-17
CORGCRIM5	5	10	10	0	0
CORGCRIM6	2	1	1	0	6,69E-17
FIU1	5	10	10	1	1
FIU2	3	3	3	3,38E-17	3,17E-16
MOJ1	1	0	0	0	4,06E-17
FIU3	4	6	6	0	2,17E-16
FIU4	1	0	0	0	5.85F-17

As shown in the above Graph V. 4, the number of nodes is 118, the number of branches is 90. Network density has the value of 0.0130. The Network diameter: without weights: 2, weighted: 110. The average path length is 1.626.

The 28 identified communities are formed around some of the key issues. The 8 key structural holes that have significant metrics (degree, betweenness, eigenvector) therefore appear as the most significant communities in the network and include:

1. Mapping of OC/DT networks;
2. Reliance on secret service;
3. Appeal proceedings;
4. Case law;

⁴⁶ The measures of centrality are the following: "degree" - degree centrality; "betweenness" - betweenness centrality; "betweenness_wt" - weighted betweenness centrality; "eigen" - Eigen vector centrality; and "eigen_wt" - weighted Eigen vector centrality

5. Identification of financial assets from crime;
6. Implementation of laws;
7. Seizure and destruction of drugs,
8. Prevention of drug misuse

The analysis confirms that these 8 structural holes represent the key problems in the functioning of the state response network. That is, identification of these communities by SNA confirms the significance of most of the key issues or structural holes identified in the content analysis. Each of the significant communities is analysed in detail below.

Moreover, in order to analyse the relations between institutions in the identified communities, identical data was used in the second analysis (Annex 13). From among the 28 communities formed around the key structural holes that have significant metrics, further analysis was performed to see whether these issues imply cooperation among institutions (i.e. a whole segment of the state response network) or they are linked to a single state institution.

The Graph V.5 “Network of institutions with main communities of size > 5” indicates the main communities i.e. components of the graph with more than 5 nodes. The rest of the nodes are white in colour as it is not possible to use a palette with 28 colours. The maximum number of colours for a creative image is 8 and those colours were used. Once more, an indicative excerpt from the relevant Excel file is provided for reference in Table V.11.

The Graph V.5 provides an image of the relations between institutions (linked to more than 5 nodes) in the case of the main structural holes identified. Data on the components⁴⁷ are provided in the file 'Graph 5 Components' (Annex 15). The bigger the size of the components, more relations of that node are identified with other institutions. This indicates shared responsibility of many institutions for some of the identified problems.

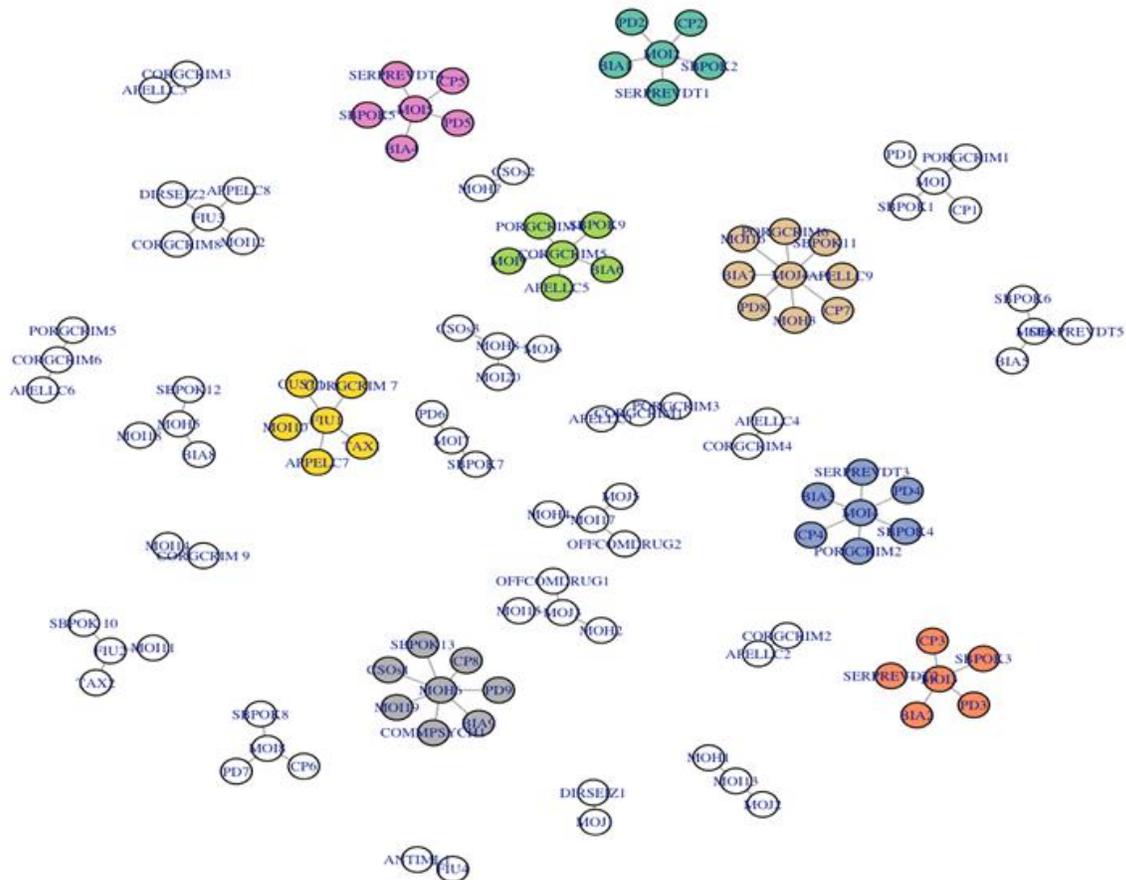
⁴⁷ "node_id" - ID of the node; "node_component" - ID of the component to which the node belongs to; "component_size" – size of the component to which the node belongs to; "node_color" – the color of the node (hexadecimal colour record)

Table V.11. Extract from Excel file Components Graph 5

node_id	node_component	component_size	node_color
MOI1	1	5	#FFFFFF
MOI2	2	6	#66C2A5
MOI3	3	6	#FC8D62
MOI4	4	7	#8DA0CB
MOI5	5	6	#E78AC3
MOI6	6	4	#FFFFFF
MOI7	7	3	#FFFFFF
MOI8	8	4	#FFFFFF
CORGCRIM1	9	3	#FFFFFF
CORGCRIM2	10	2	#FFFFFF
CORGCRIM3	11	2	#FFFFFF
CORGCRIM4	12	2	#FFFFFF
CORGCRIM5	13	6	#A6D854
CORGCRIM6	14	3	#FFFFFF
FIU1	15	6	#FFD92F
FIU2	16	4	#FFFFFF
MOJ1	17	2	#FFFFFF
FIU3	18	5	#FFFFFF
FIU4	19	2	#FFFFFF

Graph V.5: Network of institutions with main communities of size > 5

**Network of institutions
with color-coded communities of size > 5**



As presented in the Graph V.5, the analysis identifies 8 key communities grouped around particular problems in the state response network which can be attributed to more than 5 institutions. The structural holes belonging to these communities are the following:

1. Mapping of OC/DT networks
2. Identification of financial assets from crime
3. Independence/political influence/corruption,
4. Internal control,
5. Multi-disciplinary teams,
6. Implementation of laws,
7. Information exchange
8. Production and trade precursors.

Interesting findings arise from this analysis. That is, some of the key communities including more than 5 institutions are grouped around the particular structural holes which have the most significant metrics identified above (mapping of OC/DT networks; identification of financial assets from crime; independence/political influence/corruption and implementation of laws). However, other communities are formed around the problems which have not been identified above as particular structural holes which have the most significant metrics. These include internal control, multi-disciplinary teams, information exchange and production and trade of precursors.

These identified issues offer interesting conclusions with regards to potential spheres of state capture. The findings actually indicate that some problems in the state network functioning are shared among several institutions and hence might be more difficult to address through simple legislative or guideline-type of measures. This finding may imply that some structural holes are pervasive across the state response network: i.e. that there are whole segments of the state response network that can be potentially affected by state capture. Concurrently, it is interesting that some of the significant structural holes identified in an in-depth analysis of the communities can be attributed to less than 5 institutions, but very well connected inside. Such communities were identified by Batagelj et al. (2017), who found that pending a given or computed property of nodes/links, different *islands* or maximal connected sub-networks can be obtained. This is the case when values of selected property inside an island are larger than values on the island's neighbours and the size of the nodes is within a given range $[k]$. It could be argued that these separate islands may be Cockayne's "spaces" (2017, p.5). They seem to be least connected and hence least transparent for other institutional stakeholders. This is for instance the case with the role of the Appellate court, which will be further discussed under research question 4.

Moreover, there are no strong relations among the different communities, which implies that perhaps institutions know little about activities of the others. This is somewhat consistent with the responses in the interviews. In light of this, the key structural holes identified in the analysis are discussed in detail below.

5.4.4. Discussion - the key structural holes in the state response network

5.4.4.1. Structural holes in the field of investigation and prosecution

The findings of this research identified mapping of organised crime/drug trafficking networks (the node MOI 6) as one of the key structural holes in the state response network (with a weighted degree of 30). In practice, this implies that the repression institutions do not perform mapping of organised criminal groups in an effective manner, and certainly represents an important factor in terms of crime control.

Most participants reported that the law enforcement institutions do not perform ‘mapping’ of criminal groups. This does not imply that they do not undertake investigative measures, but rather shows that these measures are undertaken in a reactive rather than proactive or intelligence-led law enforcement. Nevertheless, best practices in the EU states indicate that mapping of the criminal groups contributes to their efficient detection. This is consistent with the literature on organised crime, which clearly demonstrates that contemporary organised criminal groups function as networks of cells and that they are increasingly investigated by the application of social and/or criminal network analysis (Gunnell, Hillier and Blakeborough, 2016; Seidlear and Adderlay, 2013; Tayebi, and Glässer, 2016). Such an approach inherently involves different forms of mapping.

However, most of the interviewees have reported that such an approach is overall not implemented in Serbia. This finding is consistent with the Progress report 2016 which states: “Intelligence-led policing based on SOCTA crime mapping and systematic use of threat assessment needs to be developed”. Similarly, the Progress report 2017 states that “Efforts to investigate wider criminal networks ...still need to be stepped up”.

It is interesting that the perceptions differ if the responses are provided by the prosecution and the law enforcement. This also confirms the above discussion on the lack of connectedness of the state response network, given that it clearly demonstrates that institutions are not aware of the efforts undertaken by other stakeholders. This is demonstrated through the following questions and responses:

Law enforcement agencies perform evaluation/mapping of the high risk places for drug trade

No. (prosecutor, P2.2)

Yes. (police, SBPOK, P2.14)

Mapping involves specific places e.g. borders, airport, train/bus stations? Has this process resulted in important arrests

No. (prosecutor,P2.3)

Yes. (police, SBPOK, P2.15)

Are other places included in mapping e.g. night clubs, bars, taxi companies, exchange offices, tattoo shops, houses/apartments for rent? Has this resulted in important arrests/cases

No. (a prosecutor, P2.8)

Yes, some important arrests happened on this basis. (police, SBPOK, P2.14)

Yes, when used, this always results in arrests. But these are usually low-level dealers, it is not including the organisers. (police, SBPOK, P2.17)

Does your institution keep a 'database' on the dealing areas

No. (A repression institution representative, P2.2)

Yes, at the level of republic, Sector for criminalistics analytics has been established. (A repression institution representative, P2.7)

Frequent place control is performed

No. (A prosecutor, P2.3)

Yes, increased control of persons and objects is performed in such locations. (police, SBPOK, P2.16)

Are proactive investigations on the web performed to detect places and networks

No. (Repression institutions representatives, P2.9)

The responses indicated important gaps in communication and awareness across the state response network in the field of investigation and prosecution. This is particularly relevant given that the Prosecutors Office is competent for leading the investigation, in line with the Criminal Procedure Code. It is therefore difficult to understand how these investigations are coordinated in practice. It could also be the case that that the institutions have different perceptions as to what is considered mapping. Furthermore, these responses might imply that investigation is not performed under clearly prescribed rules, thus contributing to such misunderstandings among the stakeholders. This may be supported by the following:

Proximity is important in the state's efforts to suppress drug trafficking

No, it is organised at republic level. (A repression institution representative, P2.2)

No, the teams are formed in general, not in relation to proximity. (A repression institution representative, P2.7)

The task force applies the 'mirror approach' i.e. focus on each type of OC separately? Are there special units for specific types of drugs, heroine, cocaine

I never heard of that approach. (A repression institution representative, P2.8)

No, the teams are organised without reflecting the type of crime. (A repression institution representative, P2.3)

Are mobile observations performed

No. (A repression institution representative, P2.2)

As a part of investigation and prosecution, the reliance on secret service has also been identified by the social network analysis as an important structural hole. In order to grasp this problem, it requires further clarification. The police in Serbia perform special investigative measures through the Security Information Agency (BIA). The reasons for this are of a technical nature, or essentially financial – the police does not have sufficient resources to get the equipment necessary for special investigative techniques. Nevertheless, the utilisation of a body like BIA causes concerns with regard to civil control and opportunities for abuse of power. The underlying motives for such perceptions are strongly related with the Serbian past experiences and will be discussed thoroughly in the context of state capture.

Several elements of investigation and prosecution were found as relatively significant structural holes, such as cooperation between institutions, border control and information exchange. Interestingly, these problems were also identified as significant structural holes attributed to > 5 institutions (see Graph V.5). Cooperation between institutions (the node MOI3) was found as one of these relatively significant structural holes. Certainly, cooperation is a difficult notion for assessment, given the inherent bias of individuals, but it has been cited by most of the interviewees as an important obstacle. The responses differed with regard to aspects of cooperation, for instance, some perceive that there is a lack of cooperation with a particular institution, whereas others experience problems in working with their colleagues (e.g. in a court panel, where corrupt or 'captured' appointees were noted by their colleagues). Lack of

cooperation was also commonly referred to in the context of destruction of drugs, as one of the key features hindering this process.

How would you assess the standpoint of other state actors towards this court

Ambivalent. (A judge, P2.1)

Usually not very honest, suspicious. (A judge, P2.20)

Would you say that different services share a common goal

Yes. (A repression institution representative, P2.16)

Services yes, but not all the persons working in the system. (A judge, P2.23)

The recurrent reference to the lack of cooperation across the state response network indicates that it may be an important structural hole enabling organised criminal groups to take advantage of this ‘loophole’. Finally, the findings show that problems in border control and information flow are moderately significant (weighted degree of 20). That is, they were identified as relevant communities, but their importance (or impact) is of lesser value than the other structural holes described hereby. These structural holes are associated with the jurisdiction of various institutions, and were therefore identified by SNA metrics as communities of problems including > 5 institutions.

Identification of border control was expected, due to its inherent association with drug trafficking and organised crime. Specific border points frequently involved in illegal activities were analysed under research question 2, also in terms of specific methods of drug trade. Certainly, corruption is viewed here as an important factor related to border control. The identified problems in information flow were perhaps not so significant, but are closely related to the main structural hole, which is financial investigation. The potential mechanisms of state capture arising from these problems will be discussed in detail under research question 4.

The problem of statistics has also been identified as relatively significant. The relations relevant for statistics are those between the police, the prosecution and the courts for organised crime in both instances.⁴⁸ The notion of ‘statistics’ could seem rather irrelevant for a reader, however, in terms of investigating state capture, identification of the strong relevance of this problem in

⁴⁸ The statistics relevant for the nodes MOI 10 with PORGCRIM 10, CORGCRIM 11 and APPELC 10.

the state response network represents a valuable finding. The lack of coherent statistics in Serbia has been an ongoing problem for decades. In fact, the impossibility to compare the data of the police, prosecution and the judiciary hinders in depth analysis of the effectiveness (or lack thereof) of their work. In the context of EU integration and the need to measure progress in the field of organised crime, drug trafficking and anti-corruption through track record tables, one might say *'how convenient'* that there are no clear statistical data. Therefore, what these SNA statistics do is they point to the lack of coordination and a major gap in data availability, which can be understood as a proxy for ineffectiveness. The gaps in coordination have therefore a practical impact as they limit the potential of many institutions to contribute to suppression, given the lack of knowledge or awareness of the actions undertaken by other state authorities.

Finally, with regard to operational capacities and infiltration, no significant metrics confirm their relevance. This could be explained by the fact that most participants tend to demonstrate that institutions are working well, given that EU accession process in fact requires the country to have sufficient capacities for the reforms and their implementation. On the contrary, it could be that individual operational capacities are good, but the institutional set up and methods of functioning hinder their work. With regards to infiltration, this finding of the content analysis was not confirmed as a relevant gap in SNA metrics. It should be noted that the participants didn't refer to this as a problem, thus it may be assumed that infiltration of repression institutions' representatives in criminal networks functions well. Also, it may be that this technique is not widely or sufficiently used, hence most individuals potentially are not aware of the problems in that regard.

Other aspects of investigation and prosecution were not identified by SNA metrics as relevant, even though various deficiencies have been identified in the content analysis. For instance, training was not identified as significant, but qualitative data imply the presence of problems in this field as well. For instance, even though judges claim that training is organised occasionally and that lectures are of good quality, it seems that during the last 5 years, the training for judges in this field was not organised. This finding is highly correlated with the above discussion on capacity building of the stakeholders. It also indicates that operational capacities might not be at the expected level. What this points to is the need to examine both

the content analysis and the SNA together. The latter can usefully quantify some of the data and relationships identified in the former, but it is not in a sense ‘better’, it is another approach or another lens, and the content analyses on their own have rendered useful findings that cannot be, as it were, overwritten by the view provided by SNA.

These findings all raise important questions with regard to investigation and prosecution aspects of the state response network. Some of these may be questions such as ‘why there is no mapping? or, why cooperation is dysfunctional?’. An attempt to respond to these questions is made under research question 4, further below.

5.4.4.2. Structural holes in the field of the role of the court

What this research has found is that three components of the broad unit of analysis, role of the court, represent the second significant structural hole in the state response network. This was identified in the content analysis and confirmed through primary SNA, while all of its elements were identified in an in-depth social network analysis. The following were identified as significant structural holes:

1. Appeal proceedings;
2. Case law;
3. Trial related issues.

Several excerpts from the interviews illustrate the main problems:

Please comment on the role of the Appellate court with regard to judgements of the Special Court for Organized Crime

Negative role mostly. They have a lack of consistent legal standpoints, inconsistent sentencing policies. (A repression institution representative, P2.5)

That court shows arbitrariness in making decisions. (A judge, P2.21)

Insecurity in decision making. (A judge, P2.1)

Very long duration of appeal proceedings. (A repression institution representative, P2.8)

No unified case law. (A repression institution representative, P2.19)

Appellate court cancels everything we do... it is as if they work for organised crime and not against it... (A repression institution representative, P2.25)

That court has some magic ways to interpret the evidence always to the benefit of defendant... (A judge, P2.23)

The rationales of their decisions are an example that should be studied in law schools... it is amazing how they always set people free for anything they do... (A state institution representative, P1.18)

The interesting insights provided by the application of SNA is particularly visible in this case. That is, despite the small size of the Appellate court (the node APPELC), both the appeal proceedings and case law which are in its jurisdiction appear as most significant problems. This is due to the fact that this court is responsible 'only' for second instance proceedings; hence SNA metrics cannot adequately measure its importance in relation to other institutions because they are influenced by the size of the node, such as here where it has a small number of connections with other nodes (responsible institutions). Nonetheless, once the network of issues or structural holes is analysed, the SNA metrics strongly confirm the significance of these problems. It must be noted here that all the participants referred to these problems as the key issues hindering effective trial of organised crime and drug trafficking cases.

What does this tell us? It could be argued that the identified role of the Appellate court actually demonstrates the practical structural hole, visible in practice. That is, when there is no case law or it is not taken into account, or when most of the appeal proceedings end up in acquittals, it could be argued that a message is sent to lower instance courts, prosecutors and the police that they are investing efforts in suppressing organised crime for no reason. For instance, the Minister of Justice stated in January 2019, that about 60% of decisions set the defendants in organised crime cases free or on conditional sentences (Rts, January 2019).

The questions that arise here are whether the state allows organised crime through this form of work of the appellate court? Given the inter-connected phenomenon of corruption, such behaviour of the appellate court is frequently explained in this way. Does the state allow this, or is this a form of state capture? Given that Serbia is not characterised as a state that has a rule of law highly focused upon presumptive bail and defendant rights e.g. legal framework is not yet aligned with the new EU *acquis* on procedural safeguards, state representatives often breach the presumption of innocence, this high standard of the rule of law most probably is not the

rationale for Appellate court decisions in specific cases. These are questions that will be discussed in detail below in the research question 4.

The analyses also revealed some unexpected findings. For example, independence and political influence, as components of the role of the court, have been commonly reported in previous studies to be related with failure to adequately suppress organised crime (e.g. Hiber and Begovic, 2006). Unexpectedly, in implementing these metrics, no such relationship was found as significant. A possible explanation of this contradiction with the background literature may be that in this research focused on a whole set of practical and measurable features of the work of institutions; hence the participants gave emphasis to the actual problems they experience. Likewise, the lack of independence and political influence on judges is considered as a constant problem in Serbia. In other words, it may be so assumed as seldom to require verbalising as a distinct feature of legal and political processes. Nevertheless, given that the subsequent analysis identified the problem of independence and political influence as significant (see Graph V.5), this entails a cross-cutting issue and will be addressed in more detail with a view to state capture under research question 4.

Finally, the trial related issues encompass a variety of items, such as relationships in court panel, decision making methods, judging to benefit of defendant, and court expertise. Evidently, the reference to these issues by the participants has indicated that these problems exist in practice. However, the discussion on state capture will additionally reflect on these problems. This is mainly due to the fact that each of these problems is broadly related to other identified structural holes in the state response network and in fact demonstrates the potential state capture mechanisms.

5.4.4.3. Structural holes in the field of financial investigation

The analysis has indicated that identification of financial assets from crime is the most significant 'structural hole' or the key issue hindering the effectiveness of the state response network. This structural hole (the node FIU 39) had the highest weighted degree of 40, which is the highest weighted degree in the network (e.g. other important also involve 25). This was

confirmed both through primary SNA analysis, as well as through SNA in depth analysis of communities in state response network.

This finding was somewhat surprising, given that it was expected that some of the repression related issues would be the most significant. Nevertheless, this finding perhaps uncovers to whole essence of the endurance of organised crime in Serbia. An explanation is offered hereby.

The analysis has shown that the problems with identification of financial assets from crime are pervasive across the state response network. This problem was also identified in the research question 1, as a factor contributing to prolonged transition and EU accession processes. Its significance lies in the pervasiveness across the different types of institutions, including the law enforcement, the judiciary and the financial-like institutions. What this means in practice is that organised criminal groups (and individuals as their members) have the opportunity to preserve the profit from crime, even if they are prosecuted or eventually convicted.

The interviewees repeatedly stated that there are no sufficient capacities for financial investigations in the relevant institutions. In addition, they stated that the data bases are not sufficiently or sometimes indeed at all connected, thus identification of various relevant financial data (e.g. property registers). Despite certain state efforts in 2018 to improve the financial investigation (such as comprehensive trainings, adoption of a new law), it is still too early to evaluate the results thereof.

Overall, this finding is very interesting in the context of the discussion on potential state capture. The official justifications of the lack of identification and seizure of financial assets from crime indicate that this structural hole could actually represent ‘the point of arbitrage’. Once again, this is a very important point, but full discussion of it will be held over to research question 4, where all of these elements are brought together.

Prevention of money laundering has also been identified as an important structural hole (node ANTIML 47). This finding was confirmed both through primary SNA analysis, as well as through SNA in depth analysis of communities in state response network. This problem is also pervasive across the state response network, as it involves several institutions, namely the anti money laundering agency, customs, and tax administration, but also repression institutions SBPOK and BIA, and finally the Special Court for Organised Crime.

The problem of money laundering has been frequently referenced in the published material, particularly EU progress reports and other international assessments (such as MONEYVAL, discussed in Par 1 of this Chapter). Given the transnational nature of this phenomenon, it is not surprising that the EU and other states perceive this issue as one of the key obstacles to the accession of Serbia. The conducted interviews indicated that this problem is almost perceived as an ordinary social fact. That is, money laundering is considered a common process accompanying organised crime activities, or its integral element.

When this finding is observed along with another significant structural hole, the identification of sectors vulnerable for corruption, it becomes evident why most of the aspects of institutional functioning aimed at tracking criminal money flows are verified as the most important loopholes of the system. The relation to the main structural holes identified above i.e. identification of financial assets from crime and corruption, prevention of money laundering and identification of sectors vulnerable for corruption, demonstrates that the mechanisms for freezing, managing and confiscating criminal assets are not effective.

The identified deficiencies in the financial investigations, coupled with extensive money laundering, allow for reinvestment of substantial profits in the Serbian economy. The commonly corruption-related sectors referred to in the interviews and other written material include real estate, infrastructure projects, healthcare, education, spatial planning, and privatisation of public enterprises. This enables further investments of profits from crime into continuance of the activities of the organised criminal groups, or in the legal business. Either way, the power of the criminal groups does not decrease regardless successful repression actions. Given that EU standards and international best practices perceive identification and confiscation of financial assets from crime as a very valuable tool for suppression of organised crime networks, this may be one of important indications of the ‘gaps’ enabling endurance of organised crime in Serbia.

5.4.4.4. Structural hole in the field of seizure and destruction of drugs

This research has found that one of the major problems hindering state network effectiveness is the seizure and destruction of drugs. The author was aware of this problem; however, the

findings of this research indicated its outstanding particularities. The most compelling findings were actually the interview statements. For instance:

Drug seizures? Where are the drugs kept

I had a case where the police station claimed that there is no sample of drugs, because it was eaten by mice...Who would believe that?“ (A judge, P2.1)

Drugs are not destroyed during the duration of a trial...This leaves a lot of room for abuse...” (A prosecutor, P2.10)

In MOI, police stations. (A repression institution representative, P2.3)

In police stations across the country, but they are overcrowded. (A repression institution representative, P2.7)

This is a big problem, we have these amounts in the corridors, in our offices. (A repression institution representative, P2.21)

What is causing this problem is the duration of court proceedings, repeated expertise , long time for the actual enforcement of sentences. (A repression institution representative, P2.8)

This is a known problem among the Serbian professionals engaged in this field. Several EU peer review missions discussed this topic in particular, aiming to improve the situation. The state had taken some steps in this regard, but it seems that not much change has been achieved. For instance, Progress report 2018 (p.40) states:

The lack of secure storage of seized drugs and drug precursors prior to destruction remains an issue of concern. An appropriate process for the destruction of precursors has yet to be set up. Furthermore, according to current legislation, it is not possible to keep only a small drug sample as material evidence for court proceedings, but the entire seized quantity has to be stored. Overall, and although progress was made, this policy area would benefit from a more proactive and holistic approach.

It appears that every aspect of the seizure and destruction of drugs is problematic. This may be due to various reasons, however, the findings indicate several important systemic gaps which explain the current situation in this regard. Primarily, the seizure of drugs represents a serious problem, given that the drugs are kept in the police stations across the country. As interviewees stated, this involves corridors, offices, basically all the available locations in their buildings. Understandably, it is difficult to ensure the control of such substances, both with regard to their

amount, as well as prevention of their disappearance, or their cutting or replacement. The police stations are therefore overcrowded with drugs.

Secondly, drugs are not destroyed during the duration of a trial. The legislative framework prescribes this, so it is difficult to discuss about institutional responsibility. Such framework leaves a lot of room for abuse, in particular in the court proceedings. In fact, as a judge explained, nobody can claim that the drugs seized from the defendant are the exact ones that are sent for analysis subsequently. This damages the court proceedings to a great extent. As a consequence, judges claim that the expertise on the type of drug and its features is challenging, given that nobody can confirm that it is the same drug seized from the defendant. Further, and not surprisingly, lawyers often use this in defence strategies.

It has also been asserted that the whole process of court expertise on the substances is not sufficiently clear. It seems that there are no guidelines or clear procedures that would ensure that the same substance that is taken for analysis is exactly the one examined. As it appears, the person taking the drugs for analysis does not need to sign any documentation as to the amount of substance, which enables a variety of abuses.

Furthermore, the destruction of seized drugs has also been identified as an issue hindering the fight against drug trafficking and organised crime. Beyond the reasons discussed above, the problem is that the responsible authority for the destruction of precursors is not effectively determined. This is a rather convenient situation and will be discussed below in the context of potentials for state capture. Overall, this structural hole appears to be an excellent ‘point of arbitrage’ or space for informal social exchanges between state actors and criminal networks. The consequences of the deficiencies in this area enable the drugs to remain in the system, either by being sold, trafficked or used. Finally, this situation reflects the overwhelming gaps in the state response network to a great extent.

5.4.4.5. Structural holes in the field of legal framework

The aspects covered by this indicator titled legal framework involve the process of drafting of laws and strategic frameworks, as well as their implementation. The component ‘implementation of laws’ was identified as one of the main problems through SNA in-depth

analysis of communities in the state response network. This is consistent with other findings discussed earlier, under research question 1, as well as with most of the official EU reports on Serbia.

As described under research question 1, the problems with implementation of legal frameworks in Serbia are often associated with socio-political context and the absence of the so-called political will. The need for political will indicates that institutions remain weak and dependent on current political options. Moreover, the absence of impact assessments of relevant laws or their amendments hinders evaluations of their results. Finally, it is important to note that the assessments of alignment and/or transposition of the EU *acquis* mostly indicate partial harmonisation of Serbian legislative framework. In the context of the delayed transition and EU accession, it appears that there is still a lot of work to be done. Lack of implementation of laws also represents a cross cutting issue that appears throughout the state response network and involves a number of different institutions (> 5 institutions). This will be further discussed below in the context of the potential for state capture.

The findings of this research also identified the strategic approach as a relatively significant structural hole (the node OFFCOMDRUG 43). The notion of a strategic approach here refers to the preparation of strategies and action plans in the field of organised crime and drug trafficking suppression and their implementation. Interestingly, the drafting of laws was not found as a significant problem. This is somewhat understandable, given that references to other aspects of the legal framework were more recurrent. For the purpose of discussion, it is nevertheless important to note that there are visible problems in this process as well, mainly associated with reluctance of state institutions to accept proposals of the professionals aimed at improvement of the normative framework. Concurrently, the normative changes aimed at *acquis* alignment are often perceived by the stakeholders as a burden, or are viewed as additional financial burdens to the state and therefore postponed. An impression from the interviews, as well as a personal experience, is that state institutions' staff do not perceive any need to amend or improve legislative frameworks and often refuse to accept new norms or mechanisms, usually followed by a standpoint "We have always been doing that in this way".

5.4.4.6. Structural holes in the field of prevention of substance misuse

The field of substance misuse prevention was not the focus of this research, but rather just an indicator of the presence of drug trafficking in the country. The state of the field of drug misuse and treatment was considered relevant for this research, as it provides deeper insight with regard to the prevalence of drug use and types of drugs. This was coupled with the data on the role of civil society and the media, in terms of prevention of drug misuse and relevant research.

The findings of this research have shown that prevention of substance misuse represents an important structural hole in the state response network. The primary SNA metrics found that the community grouped around the problem of production and trade of precursors is significant. These relations involve the Ministry of Health and the Ministry of Interior and its relevant sectors (Criminalistics police, Police department, BIA and SBPOK).

This is consistent with other findings of this research, indicating a shift in substance misuse trends in Serbia. As discussed above, the analysis has demonstrated that there is an increase in substance misuse overall, as well as a growing trend in the use of NPS. The participants explained this trend in various ways, for instance, a CSOs representative stated the following:

This comes as a result of various factors, including wrong and outdated approach to drug policy, inefficient measures, critical cultural models, lack of prevention, corruption and organized crime. (P4.3)

The representatives of repression institutions, on the other hand, consider that this is a consequence of the fact that the country is a transit route for drugs and that the prevalence of drug trafficking groups results in decreased prices of narcotics. The CSOs representatives stated that the use of NPS is mostly visible among young people, in nightlife and festival settings and in music business. However, they also stated that “traditional drugs fight back - the market started responding to the change” (A CSO representative, P4.5).

Furthermore, lack of research has been identified through an in depth social network analysis as one of the key structural holes. This could be surprising for a reader, given that the state response network contains much more important aspects. Nevertheless, this finding is essential for the context of this research, as it indicates significant lack of awareness and knowledge about this topic among professionals. In view of the potential state capture, this actually shows

that most of the problems generally acknowledged or discussed among individuals working across the state response network remain concealed.

The following responses appear to best portray this state of affairs:

Most of the governmental bodies are not willing to cooperate with CSOs. The key reason is that then they have to work more and better, which is not their approach. Instead, they tend to do only what they have to. (A CSO representative, P4.3)

What is missing is the political will and commitment to fight the problem. (A CSO representative, P4.4)

Public authorities are rarely willing to provide information/access to independent researchers. Only if under pressure. Even than not always. (A CSO representative, P4.2)

The absence of effective treatment for drug addiction has not been identified as significant in the SNA metrics. Nevertheless, this is an exceptionally important field that requires distinct research. For the purposes of this research, it will simply be observed that treatment availability in Serbia is limited, in particular in penitentiary institutions (only methadone substitution therapies available).

The fact that incarcerated drug users that do not have access to treatment represents violation of human rights.... There is a significant lack of treatment inside the penitentiary institutions. (An EU expert working on accession project in Serbia, P1.27)

The analysis shows that most CSOs are advocating for decriminalization of possession and using drugs. They believe that such an approach would allow for concentrating efforts on the crime related to drugs, not the drug use. This is in line with contemporary approaches that perceive sentencing drug users as an outdated approach (MacGregor and Whiting, 2010; Stöver, and Kastelic, 2014; Stevens, Stöver, and Brentari, 2010; Papamalis, 2017). Research has indicated that bigger sentences and imprisonment are not an effective response to the drug problem and do not contribute to the decrease of drug use and dependence (Bretteville-Jensen et al., 2017) This outdated approach usually remains in countries with populist political strategies: i.e. the prevailing public opinion that the more severe penalties, the better, is then used by politicians for purposes of electoral competition.

Taking into account that in the last two decades most of the states have amended drug laws to focus on public health-oriented approaches instead of punishment policies, it may be argued that such changes are necessary in Serbia as well, particularly in view of these research findings.

5.4.5. Conclusions

To summarise, the combination of the content analysis and the social network analysis enabled identification of the key structural holes in the state response network. The content analysis identified 6 key units of analysis; each consisted of several key elements. The SNA metrics identified the particular structural holes under these key units of analysis. This was one of the key rationales for implementation of SNA in this research: i.e. the confirmation of the findings of the content analysis aimed at increasing the reliability of conclusions.

To recap the details briefly, the findings of this research identified legal framework, prevention, investigation, financial investigation, trial and seizure and destruction of drugs which hinder the effectiveness of state institutions in suppressing organised crime and drug trafficking. It is important to emphasize that most of these problems or structural holes were also identified under research question 1 as factors hampering transition and EU accession. Additionally, in depth social network analysis of the entire network determined the total of 28 relevant communities focused around the particular elements of the main 6 areas of problems. The conceptualisation of this research views these 28 identified communities as ‘structural holes’ or, in the language of Cockayne (2016, p.8), as ‘points of arbitrage’ between licit and illicit domains. The most significant communities among them, precisely eight areas with strong state capture potential (identification of financial assets from crime, the role of the Appellate court, case law, mapping of criminal networks, seizure and destruction of drugs, implementation of legal framework, reliance on secret service, prevention of substance misuse), have been analysed and discussed in more detail.

Even though other deficiencies have also been confirmed and explained in this section, it is interesting to observe these main structural holes together. Research supports that efforts to understand and fight organised crime must take into account the interaction between the unique

ecologies of states and illicit networks (Cockayne and Roth, 2017). The unique ecologies may be formed in the dangerous “spaces”, including legal gaps, geographical or functional cavities. Given that fragile institutional capacity of the state contributes to the ease of illegal operations, identification of state vulnerabilities in the field of crime control may prevent their further exploitation by the criminal networks. Therefore, taken together, the identified vulnerabilities strongly indicate that organised criminal networks have practically “all the system” covered. The picture that emerges is thus multifaceted. For example, there are vulnerabilities in investigation: i.e. mapping of criminal networks and financial investigation that ensure protection from law enforcement and secure the proceeds from crime for further investment; concurrently, drugs are not seized or, if they are, they will probably not be destroyed until the finalisation of the proceedings and may often ‘go missing’; and finally, the court, rather than serving the rule of law, too often appears to be there to ensure the acquittal of important network members.

It is important to note that corruption, lack of independence and political influence have been identified as cross-cutting issues across the state response network. This is of concern since critical social determinants of organized crime refer to the quality, independence and integrity of the institutions safeguarding the rule of law, including police services and the judiciary. Organised criminal networks in synergies with state actors infiltrate the system through the “loopholes offered by corruption” (Cockayne and Roth, 2017, p.8). Contemporary investigations emphasize the importance of the emergence of a symbiosis between legitimate actors and criminal networks, highlighting an increasingly active role of the legal sector in facilitating different forms of crime. Such symbiosis hinders effective suppression of organized crime and eventually leads to state capture, sometimes (as the interview data seem to illustrate), partly due to honest members of repression institutions or the judiciary feeling so undermined by captured colleagues that they wonder if they should not just ‘throw in the towel’.

Corruption was referenced by almost all interviewees and it is given particular attention in the EU reports. As already discussed, the prevalence of corruption in Serbia, as a transition country, requires particular attention. This problem was discussed under the research question 1 as well and it has been confirmed as significant in the SNA metrics. The significance of the problem

of corruption lies in its ability to further destabilise the state response network and hinder suppression efforts. Moreover, corruption is a phenomenon associated with the judiciary to a major extent (TI, 2018). This is consistent with the findings of the GRASP report (2019), as well as the Functional Review of the World Bank (2014). This means that in practice, if the corrupting actions do not lead to prevention of law enforcement efforts, they may still be successful in the court. Unfortunately, the following discussion on the role of the court strongly supports such perceptions.

Therefore, the opportunities created by fragile state response network and state participants' proneness or availability to corruption can be exploited by well-positioned criminal groups, which appear to have established deeply-rooted links with state structures. This symbiosis is additionally discussed below with a view to state capture. It is suggested that the strengths and weaknesses of the state critically impact the forms and strategies of its illicit counterpart. The following section will discuss how the actions of the state and criminal actors are understood as state capture.

5.5. Mechanisms of state capture –the opportunities created by the identified structural holes

5.5.1. Segments of the state response network affected by the identified structural holes

This research question was as follows: do, and if so, how do the identified structural holes indicate state capture in this aspect of the state functioning: i.e. in the field of crime control.

To recap, the findings discussed under research question 3 confirmed the existence of structural holes in the state response network. Overall, a total of 28 communities were identified in SNA metrics as significant relations grouped around the particular problems in state response network functioning. From among these communities, an in-depth social network analysis determined 8 key structural holes in the network with significant metrics. Furthermore, the analysis indicated which structural holes are related to the functioning of more than 5 institutions and which are isolated cases.

The identified structural holes are located across the entire state response network, in different degrees. However, the findings of this research indicate which particular segments of the state response network are significantly affected by the identified structural holes. It is demonstrated that these segments are in fact the key aspects of the functioning of institutions designed to address organised crime and drug trafficking. Considering the extent of organised crime elucidated in this research, the affected segments of the state response network seem to have the potential to be a fertile ground for criminals to act as captors.

In view of the literature suggesting that state capture remains an unclear concept, hardly distinguished from the phenomenon of corruption (Priebe, 2018), these findings provide important implications. Overall, the findings of this research contribute to this debate by indicating that the state capture phenomenon consists of various elements spread across the entire state system in a given field. Corruption in that sense represents solely one of the elements, a structural hole or a tool enabling state capture. These findings offer an added value to current knowledge, as they specify the particular capacity gaps and loopholes in the state response network.

This section explains how the capture occurs in practice, focusing on the dynamics between the opportunities created by these structural holes and mechanisms arising thereof. Through this interplay between almost obviously intentional capacity gaps of the system, and their particular positioning within the state response network, the findings indicate that Serbian crime control is captured. Deeply rooted points of arbitrage offer a range of opportunities to organised criminal networks to act as captors.

5.5.2. The role of the network-identified structural holes contributing to state capture

5.5.2.1. The opportunities created by structural holes in investigation and prosecution

The findings indicated several loopholes in the field of investigation and prosecution. Most of the issues have been identified in the process of investigation, including lack of mapping of organised crime/drug trafficking networks, over-reliance on secret service, internal control and

border control; whereas operational capacities and information exchange (secure platform, databases, intelligence exchange) are relevant for prosecution as well.

These issues have been addressed in detail under research question 3, while here it is important to evaluate how the identified problems in state response network may enable or show signs of potential state capture. If we look at the actual deficiencies, it seems that the investigative phase is inherently hampered by several important obstacles such as insufficient operational capacities (including staff capacity) and complications in information exchange. In practice, the absence of a secure platform for information exchange and the lack of connected databases hinder the efforts of the police and consequently prosecution. It reduces the progress of investigations and impedes the availability of data without unnecessary administrative steps. As shown in the Part I of this Chapter, the EU consistently emphasizes these issues, but no progress is acknowledged during a number of years. The identified problems in cooperation were supported by a report on EU peer review mission which states the following:

Relationship between Police and Prosecutors, in spite of clear legal provisions, is not on an acceptable level. The Police is not sufficiently coordinating their work with Prosecutors. Conflicts in executing their investigative tasks for the Prosecutors were mentioned. It was also reported that the Police was not always willing to abandon their own investigative agenda and obey Prosecutors' orders.

(EU peer review mission, JHA IND/EXP 64816, 2017)

Concurrently, the problems of internal control and over-reliance on the secret service may indicate that these gaps enable the exertion of political influence in practice. That is, for investigations that may be 'politically interesting' or involve state officials, reliance on the state security agency (which is controlled by political officials) to perform investigative measures may be perceived as a 'point of arbitrage'. So far, there were several occasions that important political figures appeared in photos or videos with highly positioned members of organised criminal groups. The perceptions of the professionals in this regard commonly involved the understanding that the state security agency provided this material. Coupled with weak internal control, this system deficiency causes concern and appears susceptible to corruption and trading in influence.

In addition, as one of the key issues, lack of mapping of organised crime/drug trafficking networks was identified. What is more distressing in this case, is the different level of knowledge on mapping among relevant actors. As this research indicated, some repression institutions are not even familiar with the concept of ‘mapping criminal networks’. This is rather interesting, given that even the media refer to persons ‘belonging to a group of XY...’ This could imply that repression institutions are surely aware of ‘networks’ as modes of functioning of organised criminal groups but do not think of mapping these networks as an operational imperative. The aforementioned report on the EU peer review mission, which was based on a review of 20 cases of high-level corruption, money laundering and organised crime, supports this finding concluding that:

It was observed that investigations weren't (always) targeting the potential criminal organisation and its leaders. In cases linked to high-level crime it was observed that not all investigative possibilities were used. This as such is very concerning because in cases of a lower level all investigative measures were used. It is recommended not to limit investigative activities to easy cases but to seize more opportunities to investigate serious organised crime cases.

(EU peer review mission, JHA IND/EXP 64816, 2017)

Border control has also been identified as a significant structural hole. As Williams (2002) argued, such capacity gap is particularly visible in transitional states, given that during the period of transition, border controls may be more relaxed in order to promote trade with neighbouring countries so to as facilitate economic growth. This is broadly in line with the literature on transition in Serbia presented in Chapter III and strongly indicates that this process has been overly prolonged. Given that border control is directly linked to state sovereignty, this is a particular problem in Serbia, as there is still an administrative border with *Kosovo which is commonly referred to as a key drug trafficking route.

Another important aspect needs to be addressed, with a view to insufficient cooperation of the state authorities discussed in the research question 3. Despite some of the efficient legislative solutions, this lack of cooperation hinders potentially good effects. For instance, the concept of protected witnesses, introduced into the Criminal Procedure Code in 2013, is still not fully operational in practice. This is due to incoherence of domestic legislation, which does not allow

a protected witness to really change his or her identity. In practice, this means that the person cannot get a new birth number, diplomas or other documents necessary for the new identity. Hence potential witnesses who could testify against organised criminal groups are not motivated as they cannot obtain documentation for a new life and consequently protection.

An interesting conclusion also arises from the fact that there are ‘gaps’ in investigation and prosecution. With a view to the Chapters II and Part I of this Chapter, indicating that key leaders of organised criminal groups are rarely prosecuted, the findings of this research question support such inferences. It may be argued that the identified structural holes in investigation and prosecution, taken together, result in prosecution of small street dealers instead of the organisers. As the findings indicate, the law does not allow for a small amount for personal use, hence drug users are prosecuted in line with the Criminal Code (Art. 246, 246a, and 247). Interestingly, the participants in this study had different perceptions about the prosecution of drug users; while some suggest that it is not allowed, having a small amount for personal use, others stated that it depends from evaluation and is assessed on a case-by-case basis. It appears that there is no unified practice, even though the law is clear.

A study by Diogenis (2016) which evaluated sentencing policies in Southeast Europe found that in Serbia most drug offenders are prosecuted for and convicted of possession of drugs for personal use. That study also claims that drug possession rates are the highest drug crime rates in general. It is not clear how such conclusions were made and what methodology was utilised, given that in Serbia no statistical data are available in this regard. More precisely, the courts and prosecutors’ offices do not keep such data and nor do the available ICT systems allow for extraction of particular data related to drug use. Relevant authorities do not keep statistical data on drug related offenses, which further complicates the analysis, as it remains unclear whether individuals are prosecuted due to possession of drugs for personal use or for the actual criminal offense involving unauthorized sale of narcotics. If such data was available, it would be interesting to compare data on drug use in regards to the convictions or plea agreements concluded for the offense of Unauthorized Possession of Narcotics referred to in the Article 246 of the Criminal Code to see whether individuals are prosecuted for drug-trade related offences or solely for possession for personal use.

Table V.12: Convicted adults per criminal offense, 2013–2017

Convicted adults per criminal offense, 2013–2017	No.	No.	No.	No.	No.
	2013	2014	2015	2016	2017
Against life and body	2397	2611	2074	1935	1913
Against the freedoms and rights of citizens	783	1112	887	972	934
Against marriage and family	3102	3465	3512	3766	4400
Against property	9729	11236	11301	11302	10307
Against human health	2883	2972	2970	3234	3660

Source: Republic institute for Statistics, 2018

As shown in the Table V.12, the overall ratio between convictions for other frequent criminal offences (such as violence in family, offences against life and body, property offences) does not depart significantly from the convictions for drug related offences (offences against human health), although the numbers are rather high. Nevertheless, if observed in detail, we see that the individuals who use drugs appear to be facing more consequences than those who produce or trade narcotics. As demonstrated in the Table V.13 below, the number of convicted individuals for possession of drugs is almost double than the number of those who produce or circulate drugs. This trend remains stable during several years.

Table V.13: Sentences for drug possession and trade

Criminal offense	Convicted	Prison	Fine	Conditional sentence	House arrest
	2017				
Illegal Possession of Narcotic Drugs Article 246a	2592	332	694	1410	104
Unlawful Production and Circulation of Narcotics Article 246	995	778	/	146	47
	2016				
Illegal Possession of Narcotic Drugs Article 246a	2164	410	499	1113	89
Unlawful Production and Circulation of Narcotics Article 246	990	797	27	112	36
	2015				
Illegal Possession of Narcotic Drugs Article 246a	1999	393	488	1022	40
Unlawful Production and Circulation of Narcotics Article 246	847	694	/	79	39
	2014				
Illegal Possession of Narcotic Drugs Article 246a	1676	459	392	767	/

Republic institute for Statistics, 2018

Beyond the above discussed perception that it is usually small dealers who face prosecution, it could also be supported that those who use drugs might not have sufficient resources to get a good lawyer or engage in corruption. Also, they probably do not have social or political influence to procure protection from prosecution, unlike members of organised criminal groups. The EU peer review mission report supports similar conclusions:

It was observed that cases weren't (always) extended to the top of the criminal organisation to which the suspects may have belonged.

(EU peer review mission, JHA IND/EXP 64816, 2017, p.3)

Moreover, political influence is also notable in certain aspects of investigation and prosecution. A recent public announcement that prescribed sentences will be significantly increased for offences of organised crime, has been perceived in the public as a political campaign. These announcements followed a ‘weekend arrest’ of 150 individuals in January 2019, allegedly related to organised crime and drug trafficking. This was widely covered by the media, and promoted as a big success of the state. However, data indicate that the Special prosecutor’s office for organised crime was not even involved, and neither were any of the arrested persons brought in to their premises. According to a journalist Cvijic (2019):

If you arrest 150 people in one day, it's a campaign, it's for political reasons. That means that you had been collecting data for days before and you held the huge number of people for whom you had information at large, waiting for a moment to make mass action, which is a political move, not a move of crime suppression.

(Cvijic, a statement for Blic, 2015).

According to the President of the Centre for Judicial Research:

It has been unambiguously proved that the tightening of the penal policy does not affect the reduction of crime, including the introduction of life imprisonment. This has been proven in practice in our country as well, since this is not the first time that the representatives of the authorities resort to this solution. And as there was no reduction in crime rates at that time, it is not going to be the case this time.

(Majic, a statement for N1, 2019)

Overall, it appears that the state idles in its efforts to improve organised crime suppression. Instead of resorting to evidence based practices, such as granting prosecutorial independence and absence from political interference, legal tools, budget and additional incentives to prosecute, which have all been proven as exceptionally effective tools, the state announces stricter penalties despite their minimal influence to organised crime.

What this research has found therefore indicates that the mechanism of capture in the investigation and prosecution area implies almost a studious lack of interest and attention to the substantive aspects of tasks of the responsible institutions. As indicated, by commonly prosecuting possession, the institutions focus on those aspects that will have low consequence for the business model of the organised crime networks. Accordingly, the key players are rarely ‘touched’ by the system, except in the politically useful media reports. This could be perceived a kind of habitus or a result of low motivation, perhaps associated with the expected behaviour

of the courts, discussed below. Nevertheless, given the identified capacity gaps in the judiciary and inadequate confiscation of the proceeds from crime, the loopholes in the area of investigation and prosecution may be seen as the first dam ensuring protection to criminal networks.

5.5.2.2. The opportunities created by structural holes in the judiciary

As described in this Chapter under research question 3, the results of this research demonstrate that three components of the role of the court represent significant structural holes in the state response network. These loopholes were identified in the content analysis and confirmed both through primary SNA, as well as in depth social network analysis. The key structural holes involve: a) appeal proceedings, b) case law and c) trial related issues. Here, it is valuable to explain how these structural holes in the judiciary may enable state capture and hence why it is important to recognize them.

As discussed under research question 3, the small size of the Appellate court implies its marginal importance in the overall state response network. Nevertheless, despite the small size of the Appellate court (the node APPELC) in the basic network (Graphs V.1 and V.2), both the appeal proceedings and case law which are in its jurisdiction appear among the most significant problems in the state response network. This is due to the fact that this court is responsible ‘only’ for second instance proceedings; hence SNA metrics cannot adequately measure its importance in relation to other institutions, but solely the first instance court. Therefore the low degree centrality of the Appellate court is explained by the fact that it is not inter-related with other institutions except the Special court. Campana (2015) scrutinised this feature of SNA in detail, suggesting that conclusions depending solely on structural measures may be equivocal. As he argues, SNA results need to be interpreted taking into account the relevant context along with the qualitative data.

This standpoint was in fact confirmed in an in depth analysis of the network, whereby the SNA metrics identified the significance of the particular problems in the jurisdiction of the Appellate court. Concurrently, the qualitative data from the interviews as well as the published material

consistently indicated that these issues hinder effective trial of organised crime and drug trafficking cases. For instance:

Please comment on the role of the Appellate court with regard to judgements of the Special Court for Organized Crime

Negative role mostly. They have a lack of consistent legal standpoints, inconsistent sentencing policies. (A repression institution representative, P2.5)

Insecurity in decision making. (A judge, P2.1)

Very long duration of appeal proceedings. (A repression institution representative, P2.8)

Appellate court cancels everything we do... it is as if they work for organised crime and not against it... (A repression institution representative, P2.25)

That court has some magic ways to interpret the evidence always to the benefit of defendant... (A judge, P2.23)

The rationales of their decisions are an example that should be studied in law schools... it is amazing how they always set people free for anything they do... (A state institution representative, P1.18)

I think that for a criminal group, it is sufficient to pay one member of the court panel...as decisions are made by the three judges. (A judge, P2.24)

Many judges remain from the period of Milosevic... they tend to work for the criminal groups from that period. (A state institution representative, P1.12)

I think some of my colleagues work for some of them... because I cannot find another reason for them acting in the way they do when we make decisions. (A judge, P2.14)

It is thus important to provide qualitative data examples as to how this loophole mechanism functions in practice. For example, in the ongoing case against Darko Šarić, the alleged drug boss, interesting developments have been noted recently. While waiting for the appeal deadlines to pass, against a decision convicting him for organising trafficking of 5.7 tons of cocaine, the judges of the Appellate court decided to revoke the detention⁴⁹. This was done just before Christmas holidays (someone could say there was a reason for this timing, given the lack of public attention in that period). However, when they were deciding on appeal against first-instance verdict in May 2016, the Appellate court clearly stated that there were several reasons why Šarić should remain in detention until the verdict becomes final. These involve the severity of the prescribed punishment, the fact that he had been hiding for a number of

⁴⁹ <http://rs.n1info.com/Vesti/a448524/Darku-Saricu-ukinut-pa-ponovo-odredjen-pritvor.html>

years, along with the strongest arguments that he could escape, because his group's enormous profits have largely not been found so far (CINS, 2019). He was convicted to 15 years imprisonment in first instance and these reasons for detention have not changed. In addition, 22 hearings were lately successively postponed, prompting the prosecution to warn that this is performed in order to enable the release of Šarić from detention. Taking these into account, the decision of the Appellate court to release him was perceived as rather unusual in the professional public (Radisic, N1, 2019). It is interesting to note here that proceedings against other members in his group in Slovenia, Spain and the Netherlands have been finalised long time ago; only in Serbia they are still ongoing.

Once an aspect of court proceedings, such as appeal proceedings, is identified as an issue in the functioning of the state response network in the field of suppression of organised crime and drug trafficking, it is necessary to flag this concern and particularly address it. In view of the discussions on the links of organised criminal groups with state actors, such links may be especially valuable if they can ensure 'final' decisions. That is, when second instance court is a potential 'point of arbitrage' (Cockayne, 2016), it has the potential too offer worthy objects of arbitrage (e.g. freedom) to the criminal group, making its significance much higher than for instance corrupt police officers.

The Court of Appeal has the power to set the defendant free and thus has the capacity to hamper the efforts of the police, prosecution and also the first instance court. It is important to recap here that Serbia has a Special court for organised crime, as a court of first instance in cases of criminal offences with elements of organised crime. As the interviewees indicated, the most common offenses before this court involve drug trafficking, high-level corruption cases, human trafficking, extortion and the like. The judges working in this court have been selected on the basis of previous experience, successful track record in decision making and good quality judgements. They work under increased pressure, when compared with the judges of the other courts, both due to the type of cases, as well as the political interest in certain cases. In addition, they can be a convenient target of the defendants or groups linked to them. As this research notes, cases of threats to judges of Special court for organised crime have been reported and some received special police protection.

Do judges have protection

Not a permanent protection, it depends on the assessment of the security. (A judge, P2.1)

Have they ever been threatened, attacked

Not directly... usually indirectly, also through media. (Several state institution representatives, judges)

Yes. (Several state institution representatives, judges)

Yes... a female judge had packages left in front of her house. (State institution representative, P1.15)

Yes a deputy prosecutor was beaten in front of the court.. Presumed for parking issues.. (State institution representative, P1.4)

On the other hand, the Appellate court is a regular court of first instance, whose criminal department acts as a second instance for decisions of the Special court for organised crime. Hence, given the identification of the appeal proceedings as a loophole in the state response network, it is this exact sphere that has probably the highest potential for state capture. As Morselli (2009) held, sometimes a one-time partnership to execute a criminal venture is sufficient. Hence it is not necessary to develop a continuum of relations in a criminal network – it is possible to use a single link once, or a single actor – actor relation. This seems a real possibility here, where a highly selective and professionalised lower court is subordinate to an Appellate court with questionable allegiance to rule of law principles, at least amongst some of its members.

This particularly stands in a country with pervasive corruption and low track record in prosecuting high-level corruption cases. In addition, as discussed under research question 1, the judiciary in Serbia is in overall bad situation. It is described as inefficient, lacking capacities, dependent on undue political influence (European Commission, 2018). In such state of play, expectations of various influences are valid.

Another possible explanation related to a seemingly marginal role of the Appellate court arising from the metrics may be found in Cockayne's (2017, p.10) suggestion of "safe spaces". This seemingly marginal community may be like a separate island which may in practice entail a "dangerous space" enabling criminal activities and corruption. Batagelj et al. (2017) found that pending a given or computed property of nodes/links, different *islands* i.e. maximal connected sub-networks can be obtained, such that values of selected property inside island are larger than values on the island's neighbours and the size (number of island's nodes) is within a given

range. Similarly, Campana (2015) argues that the absence of a tie can be an equally important feature of a criminal network. Following this line of thought, it could be argued that institutions with low degree centrality solely seem to be least connected and are perhaps less transparent for other actors in the network, thus enabling space for ‘informal social exchanges’ so characteristic of corruption and influence.

The problems related to case law were also identified in this research by SNA metrics as significant. Lack of jurisprudence has been one of the difficulties the Serbian judiciary has confronted for a long time.

No, the case law of Appellate court does not exist, and that circumstance influences the Special court as a first instance court in organised crime cases. (A judge, P2.20)

That court shows arbitrariness in making decisions. (A judge, P2.1)

No unified case law. (A repression institution representative, P2.19)

In interpreting this finding, it should be taken into account that Serbia does not belong to countries with a precedent/case-law tradition, but to a continental legal system (overall, a mixture of an adversarial and inquisitorial systems). This implies that case law is not a source of the law, but it is taken into account in decision making. Serbia has four Appellate courts. The court relevant for this research is the Appellate court in Belgrade which acts as a second instance court in organised crime cases. The Supreme Court of Cassation has the role of unifying case law by adopting standpoints.

The problems related to case law are valuable for this research, as there is a tendency of adopting absolutely different court decisions in similar situations. Namely, it happens that the Appellate court adopts certain case law in its previous decisions, but than a judge departs from such practice and adopts a different decision. For instance, case law articulates that a plea agreement is considered evidence in linked cases for other suspects, and those who signed the plea agreement do not appear as witnesses; nevertheless, sometimes a judge acts contrary to this practice e.g. ‘the countrymen trial’ (Cvijic, 2015). Other examples are is also interesting: the court panel of a higher court within a single month adopts two absolutely contrary decisions

in the same case (Alo, 2018) or the Supreme Court adopts a decision contrary to its own established practice (Reljanović, 2016).

Moreover, repeated proceedings are also a common problem. This often leads to a so-called ‘ping-pong effect’: i.e. the Appellate court constantly returns the case to re-adjudication, and the first instance court brings the same judgment again. According to some perceptions, many judgments are abolished because of the pressure to be tried quickly. Also, this could be a consequence of repeated legislative changes preventing judges from getting well acquainted with a variety of new laws (Stojanovic, 2008). According to a president of the Judges Association, the justice system “requires stability, and our society has been in an unstable situation for two decades” (Spasojević, 2014). Concurrently, this may be perceived as a method of buying the time for the defendant with an aim to obtain acquittal.

Lastly, a number of the trial related issues were identified as loopholes in state network functioning. The term ‘trial related issues’ was utilised as a unit of analysis in order to cover a variety of problems in the court proceedings referred to by the interviewees. These problems are perceived as largely important, given that they are usually undetectable, difficult to assess and also rarely communicated outside the court. In this context, the findings of this research revealed an interesting insight that court decisions are often made ‘to the benefit of the defendant’, which was suggested by several interviewed judges and prosecutors (e.g. P2.1; P2. 3; P2. 15). This confirms the previous findings in a study on Southeast European states including Serbia (Diogenis, 2016), which identified that judges interpret legislation in very different ways. The study showed that the vast majority of judges are more lenient than the legislator, as they commonly take into consideration all aspects of the situation of the offender (family, social and economic situation, previous convictions) and often pronounce suspended sentences. Moreover, some perceive drug possession per definition as drug trafficking, while only a small number of judges impose severe sanctions.

The Criminal Code in Serbia prescribes that drug offenders who are members of a criminal organisation shall be punished with imprisonment of at least ten years. Nevertheless, the aforementioned study also found that in Croatia and Serbia the courts habitually applied the standard of “effective regret” to circumvent the prescribed legislative minimum. This particular

criminal legal standard allows the courts to mitigate the sanction if the drug offender has substantially and voluntarily contributed to the revelation of the drug offence. Similar standpoints have been suggested by a number of authors, who argue that regular acceptance of various mitigating circumstances by the courts leads to conclusions that penal policy is “inadequate” or “soft”, and should therefore be directed by legislative changes in order to effectively suppress crime (Delić, 2010; Mrvić-Petrović & Đorđević, 1998; Ćirić, Đorđević, & Sepi 2006).

Finally, as discussed earlier, interesting rationales of the judicial decisions liberating the defendants often lead to conclusions of corruption in the judiciary. For instance, an individual charged with organising a criminal group which committed murders, blackmails, drug trafficking, was recently released, while other group members were convicted for 20 years of imprisonment. In the rationale of the decision, it was stated that there was not enough evidence, while the same evidence and testimonies of protected witnesses were used to convict other members of the group. Such explanations, coupled with the reasons for cancelling 1st instance court decisions and confusing standpoints of the Appellate court and its inconsistent case law, reflect references to state capture to a great extent.

In discussing these findings, the factor of ‘free judicial opinion’ also needs to be taken into account. This concept is commonly used in the Serbian judiciary to explain different decisions in similar or even equal situations. Despite the attempts to revise this option through amendments to the Constitution which are currently in progress, it appears that such an option will remain. In an effort to strengthen the respect of case law and minimise corruption opportunities, the state has proposed limitation of a ‘free judicial opinion’. Nevertheless, the Venice Commission opposed these changes claiming that it ensures judges’ independence. Unfortunately, it appears that the Council of Europe had insufficient information with regard to the application of the free judicial opinion in Serbia or its impact on numerous proceedings. That is, if the judges in the USA, for example, who are considered fully independent, utilise specific guidelines in decision making, it remains unclear why Serbian judges would be less independent if a similar concept would be applied. Further, the situation in Serbia is unlike many other countries where judicial discretion is more tightly bound, as noted earlier, by precedent and tight ascription to case law. When this is not the case, and when ‘free judicial

opinion' provides a kind of carte blanche to decide in any way one likes, fertile ground is laid for capture of judicial decision making.

5.5.2.3. The opportunities created by structural holes in financial investigation

Given the determination of financial investigation and asset seizure as structural holes in the state response network, a conclusion arises that the organised criminal groups are enabled to re-invest their profits in criminal activities or in the legal business. It needs to be taken into consideration that money laundering was also found as a significant loophole in the system. Such gaps, taken together, demonstrate that one of the key tools for combating organised crime that is freezing of assets derived from crime, is not functional.

Coupled with the identified areas vulnerable to corruption, these structural holes reflect a practically ideal environment for criminal ventures. This could explain a number of rapidly growing economy areas, such as construction, real estate, in a country characterised by poverty, low GDP and overall slow development. Such conclusions are in line with Savona and Riccardi (2015) who maintain that areas of legal business in which organised criminal groups tend to launder money are largely the same. Varese (2011) argued that certain markets are prone to territorial forms of illegal governance, such as construction, bars and restaurants. Serbian market shows similar developments; the only developing sectors appear to be construction and night clubs, usually owned by 'controversial businessman' and drawing upon their links and influence with political parties and key political figures. Even though it is difficult to point to precise evidence, it is widely recognized that it is almost impossible to get a business space in Serbia's capital without links to political parties or criminal groups. This is broadly in line with the perceptions of corruption in Serbia (Transparency International, 2018). Nevertheless, an interesting conclusion may arise if it is hypothesized that this is not the manifestation of state capture, but rather the actual mechanism of the state to provide a false image of the growth in economy by facilitating organised criminal groups to carry on their activities.

Accordingly, in what way do the identified loopholes indicate potential for state capture? As Williams (2002, p.172) argued, the practical manifestation of the lack of state capacity to ensure adequate business regulation frameworks is that organised criminal groups are empowered to

become a replacement in the system. Where state capacity gaps arise, organised criminal groups make sure that their set of rules are implemented, thus replacing the official system with a form of criminal governance (of which the Italian mafia must surely be archetypal). In such an environment, illicit activity logically increases.

These problems are certainly not a particularity of Serbia; corrupt investments in business may be traced worldwide. In the EU, various measures are reviewed to address these problems. For instance, scholars suggest that effective measures that facilitate cross-border arrest, the collection and sharing of evidence in investigation and during trial and asset seizure would lead to improved results (Savona, 2015; Campana, 2015). Savona and Riccardi (2015) proposed greater use of instruments alternative to seizure and monitoring of asset seizure at the EU level ensuring consistent standards of proof across the EU. These are all advanced mechanisms aimed at improving the efficiency of suppression of money laundering in a regulated environment such as the EU. However, in the EU countries, these phenomena represent an exception, while the rest of the commercial area functions properly, without impact on regular citizens' business activities. On the contrary, the impact of such activities is considerably higher in Serbia.

It could also be argued that the whole setting in Serbia allows for money laundering; as noted in the Chapter III, Serbia does not regulate illicit enrichment. This has potentially enabled a whole set of warlords from the 90s, the corrupt politicians in the 2000 and eventually criminal groups, to efficiently legalise their crime-related or war-related profits into the economy. Along with the identified gaps in the connectedness of the relevant data-bases (tax authority, property registers), it may appear that the state of Serbia is a 'wonderland' for cleaning dirty money. As (Williams, 2002) suggested, when there are gaps in the state capacity to ensure oversight and accountability, organised criminal groups are offered an opportunity for extensive corruption.

It should be noted that Serbia also undertakes certain measures to improve the situation in this field. These measures involve the new Law on organization and Jurisdiction of State Authorities in the fight against organized crime, terrorism and corruption (Official Gazette RS, no. 94, 2016), as well as comprehensive training. These new measures are aimed at improved coordination of state institutions in the field of financial investigations. Nevertheless, the strategic and legislative measures do not give an impression of sufficient determination of the

state, given the inherent lack of implementation of similar good normative or strategic solutions e.g. in this research, lack of implementation of laws was found as one of the main structural holes. Thus, in a state with high poverty levels, were reports indicate that most of the apartments were paid in cash in 2018 (B92, 2018), financial investigations should evidently be given a priority.

The identified structural holes in financial investigation should be viewed in the context of pervasive corruption, money laundering and notable corruption tolerance. This implies that legislative solutions are just a segment of a single framework; however, without connected data bases enabling access to all relevant institutions and increased independent control of financial transactions, the loopholes may solely be displaced in another area of the system. That is, even if there appears an improvement in the efficiency of financial investigation as a result of legal amendments, the judiciary may become more relevant actor in protecting the assets derived from organised crime. As this research showed, the judges do not often decide on confiscation of criminal assets even when these are traced by the prosecution and police. The interconnectedness of these structural holes within the system thus implies that there is a need for an –depth change of the whole environment and simultaneous measures to adequately instigate restructuring of such environment.

5.5.2.4. The opportunities created by structural holes in seizure and destruction of drugs

As described under research question 3, the seizure and destruction of drugs represent one of the key structural holes in the state response network. The serious impact of this structural hole is perceived in allowing the drugs to remain in the system, either by being sold, trafficked or used.

This problem is particularly interesting, given that it is intrinsically associated with legislative framework, corruption and deficiencies in cooperation among responsible institutions. In addition, the process itself it is not sufficiently transparent hence enabling various ‘informal social exchanges’. This problem is also symptomatic as it is acknowledged solely by the limited circle of the professionals and insufficiently recognised in the public. It could therefore be

argued that it is a well-kept secret of the system, rarely discussed outside of the involved stakeholders, and exceptionally as a part of the EU peer review missions.

The discussion on the research question 3 demonstrated that the seized drugs are kept in the police stations across the country. The lack of oversight is inherent to such situation, as it is literally impossible to ensure the control of various substances located in corridors and/or offices. As the interviewees explained, this results from the legal provisions prescribing that the seized drugs cannot be destroyed during the trial. This is a rather peculiar approach, given that the seized amounts of drugs could be sent for analysis for the purpose of the proceedings and subsequently destroyed, particularly given that court proceedings in Serbia tend to last for several years. This implies that legal framework leaves a lot of room for abuse.

As already mentioned, interviewees stated that consequently nobody can claim that the drugs seized from the defendant are the exact ones that are sent for analysis. The vast impact of this structural hole on the court proceedings is not frequently discussed, but it seems that judges are aware of the mechanisms enabled by this framework – even if one gets to a trial, it will eventually be difficult to prove that the analysed substances were the ones seized, or even if they are illegal drugs. For example, a judge (P2.1) stated that the expert analysis in one case showed that the seized drugs were cannabis. Nevertheless, the Appellate court allowed for additional analysis in order to determine “the actual amount of THC” in the substances seized. The defence subsequently claimed that the amount is not sufficient to be considered a drug. The question that remained is which substance was sent for analysis?

The destruction of seized drugs represents a fundamentally associated problem, which appears to have similar causes and consequences. The convenience of a lack of regulation of the main responsible authority for destroying drugs was already mentioned, but what does this mean in practice? This absence of responsibility leads to a ping-pong effect among institutions, and creates a problem that has been evident for years. It is sufficient that one of the participating institutions expresses certain concern (e.g. with regard to consequences to the environment, or the present officials) and the destruction process is postponed. Overall, it seems that the state preserves this field unregulated for some reason; otherwise, a set of guidelines would have already been developed to clarify the procedures, ensure oversight and introduce accountability. Here, then, there is another instance in which reduced state capacity to counter

high level organised crime is achieved by piecing together small elements, and in this case it is by retaining a confused and almost hapless approach to seizure and destruction of drugs. This haplessness would be incongruent if it were not for the fact that such haplessness is so common across the network as to amount to something like a strategy in its own right.

5.5.2.5. The opportunities created by structural holes in the legal framework

As described under research question 3, structural holes have been identified in drafting of legislation and/or strategic documents and their implementation. This finding was expected, due to a variety of reasons.

There were a number of interview questions referring to the legal framework. A part of these questions was already addressed through a thorough desk review presented in detail in the Chapter III (3.3.3.). Moreover, the reports of the European Commission provide a very detailed assessment of the legal framework. The Serbian legal framework has undergone significant changes in the process of EU accession. The assessments indicate that in the field of organised crime, the legal framework is partially aligned with the EU acquis. Even though the EU has been successful at obliging member states to introduce additional legislation, Serbia accepts these obligations somewhat slowly.

The results of this research indicated significant resistance of the local stakeholders to amend legislation due to EU accession. Participants from several ministries:

Our legal framework is fine... we should not be an example state, we should reach a medium level of EU member states... we should not be expected to have better legal solutions than EU member states. (P1.8)

We are fed up with these legal amendments... we change laws all the time because of the EU accession. (P1.5)

There is no way we are going to change the law again... that will never pass. (P1.21)

We have no budget to make these changes... it will need to be postponed for several years. (P1.16)

This may be explained by the fact that the process is taking too long and has perhaps caused change-fatigue. On the other hand, there are perceptions that the state should implement its own normative framework, without relying to the EU law, since Serbia is not yet a member state. In

a study by Di Nicola et al (2015), the interviewed experts suggested that organised crime legislation should reflect the domestic threat and the nature of the activities.

It is possible that these may be the causes of identification of the legal framework as one of the structural holes. However, it is the author's perception based on all these data that there are much more deeply rooted causes contributing to this finding. These primarily involve multiple 'legal gaps' often found in Serbian legislation, which allow for diverse interpretations and cause multi-annual disagreements, without any action of the legislator towards resolving them. Additionally, difficulties and delays in the process of transposition of the EU acquis may result from the lack of coordination between administrative departments in charge. Ministries often exhibit disagreements, so it happens that the Ministry of Justice attempts to adopt a law while the Ministry of Interior disagrees and *vice versa*, hence postponing the whole process. Systemic weaknesses are commonly associated with legislative barriers, bureaucracy and domestic administrative problems, thus leading to poor rate of compliance in transposing the acquis.

Moreover, there is often a lack of clear language and correct definitions in legislation, causing misinterpretations. Definitions are frequently included in the national legislation without the appropriate terms used in the EU acquis. Where definitions provided in the national legislation are not completely and accurately translated and transposed, this affects the scope of the transposing legislation. The correct transposition of the definitions is very important since the meaning of the national laws can be very different from the EU acquis and may cause practical problems as well.

Lack of implementation of the legislative framework has been a matter of concern for a number of years. As thoroughly presented in the Part I of this Chapter, consecutive EU progress reports note this problem. The discussions with the key stakeholders imply that this may be due to weak infrastructure for the later stages of the harmonisation, thus hindering effective and transparent decision making and the effective implementation. Nevertheless, in the context of the results of this research, it appears that there are other reasons associated with implementation issues. These involve lack of clear rules of procedures, guidelines and awareness of existing protocols. It is often the case that implementation bylaws are missing, which is the responsibility of state institutions once a law is adopted. It remains unclear why the state bodies delay in adopting relevant acts for implementation of laws they propose.

Concurrently, this research has also indicated that there is significant lack of available resources, understaffing and the lack of necessary capacity within the ministries and other state bodies. Such an environment logically leads to delays, low motivation and commitment. One of the compelling findings is that the majority of the responsible institutions for suppressing organised crime and drug trafficking (as well as drug use) are significantly understaffed. This has tremendous consequence on the quality of the provision of services and directly affects the implementation.

5.5.2.6. The opportunities created by structural holes in prevention of substance misuse

Even though this was not the main field of the research, it is highly correlated with the impact of drug trafficking and organised crime. It may seem that this structural hole is not related to the effectiveness of state institutions in suppressing organised crime and drug trafficking, but the fact that gaps are identified in this field tells a lot about the depth of the problem. Current circumstances in the field of drug misuse and treatment were considered relevant for this research, as they provide deeper insight with regard to the prevalence of drug use and the types of drugs used.

This research has found that there is a notable increase in substance misuse in Serbia. The identified trends show that the commonly used substances involve marijuana, NPS, heroin and to a lesser extent cocaine. As brought up in the research question 3, Serbia did not have significant rates of substance misuse historically. It used to be mainly a transit country, with very little amount staying for local use.

Would you say that drug misuse has increased during the last years

Yes, especially among young population. (A civil society representative P4.2)

Yes, usually it is about cannabis and synthetic drugs. (A repression institution representative, P2.2)

Young people increasingly use NPS, not other drugs. (A civil society representative, P4.3)

Nevertheless, the increased substance misuse rates nowadays indicate a shift in this trend. As the analysis showed, the potential causes vary, ranging from the low prices associated with spread of organised crime and drug trafficking, to the perceptions that Serbia has become a

source of certain substances, mainly cannabis and NPS. The fact that the country lies on the drug transit route along with the extent of drug trafficking groups certainly increases the availability. Moreover, research data strongly support that Serbia has also become a source country for NPS and cannabis. Studies have shown that substance misuse and crime are inter-related categories (Belenko and Houser, 2012; Gillespie, 2005; Hakansson, 2009; Houser et al., 2011; Fridell, Hesse, Jaeger, and Kuhlhorn 2008; Radulović, 2013).

It is important to recap that there are no valid data on the numbers of substance misusers in Serbia. The last research was performed in 2011 on prevalence of drug use among young population. Unfortunately, the latest EMCDDA report (2018) also refers to those data, despite a lot of time that has passed. Assessments of the numbers of users therefore differ. Civil society representatives claim that numbers are much higher. In addition, the interviewees from the civil society (P4.2, P4.3, P4.5) stated that young users do not seek treatment, so data is unavailable. The available treatments do not involve psychosocial support, but usually psychiatric hospitals and methadone substitution treatments.

The increasing prevalence of new psychoactive substances worldwide poses serious cross-border threats to health, indicating the need to enhance monitoring, early warning systems and response mechanisms. Early warning systems and networks are the tools to identify potential threats, review new and existing legislation, and provide the basis for the decision making. The *sui generis* nature of drug precursors control calls for the local regulatory frameworks to prevent the diversion of drug precursors for the purpose of illicit trade and at the same time, protect the legitimate industrial, medical and scientific uses of such substances (Bretteville-Jensen et al., 2017). This new threat to public health can be addressed only through regulated systems which are capable to respond.

Concurrently, the level of poverty in Serbia is rather high, including high unemployment rates, especially among youth. This provides a fruitful ground for recruitment by organised criminal groups. As studies have shown, when the state cannot ensure functional markets, the organised criminal groups take over the market, in this case employment market, creating a workforce that operates outside the legal framework (Varese, 2010). Several interviewees referred to young dealers utilised by organised criminal groups, particularly in the night clubs. The Serbian

capital has recently acquired a whole series of hookah bars (or a shisha bar, where a shared hookah is placed at each table for visitors), visited almost entirely by minors. When this is viewed in the context of the security of night clubs selling drugs, the potentials for hiring new minors who desire swift money steadily increase. These data taken together indicate that there is a significant lack of reliable knowledge on the extent of substance misuse in Serbia. Such a framework, coupled with a minor role of civil society and a lack of research, entails an important capacity gap in terms of prevention of drug misuse.

5.5.3. Conclusions

The findings of this research question offer a view of the identified structural holes in the state response network, illustrating how they work as they do. These findings also indicate the extent of the impact on the state structure and provide an explanation as to how these gaps in the system actually function in practice.

As discussed in detail under Chapter IV, the combination of the content analysis and the social network analysis elucidated that the map of the state response network in Serbia involves the total of 20 institutions. The implementation of social network analysis further indicated that there are 3 groups of institutions within the state response network, including: a) the institutions engaged in repression of drug trafficking (law enforcement and financial investigative bodies), b) the judicial institutions acting in cases of organised crime and drug trafficking, and c) the institutions engaged in the prevention of drug misuse and drug trafficking. Moreover, the analysis showed that the state response network is well connected, but these different groups of institutions are somewhat detached from each other. That is, strong linkages are identified between the institutions within the same community, whereas relations with other communities do not seem significant.

If this state network is compared to common criminal networks' features, it appears that it is less connected. Criminal networks have high demand for efficiency, that is, their resilience depends on the dynamic balance between efficiency and security (Morselli et al., 2006). Efficiency of the criminal network involves efficient exchange of information and goods between actors, ensuring coordination of complex criminal operations across different

geographies. The high demand for efficiency leads to increased density and redundancy in the overall structure of criminal networks (Morselli et al., 2006). The picture found here is the contrary, the Serbian state network apparently does not have its own need for efficiency. In view of the exploration of the persistent gaps of the state network functioning, this network feature may explain much of the state's failure to effectively fight organised crime.

The findings further discussed under research question 3, confirmed the existence of structural holes in the state response network. Overall, a total of 28 communities were identified in SNA metrics as significant relations grouped around the particular problem in state response network functioning. Among these communities, 8 key structural holes have been identified in the analysis and thoroughly discussed above. Furthermore, the analysis showed that there are 8 key loopholes in the network which can be attributed to more than 5 institutions. This implies that such problems may create 'pervasive capture opportunities' across the state system.

The analysis indicated that the network of institutions responsible for addressing organised crime and drug trafficking in Serbia (state response network) belongs to a small world network. A small-world network is a network in which most actors can be reached from every other actor through a small number of steps (Watts and Strogatz, 1998), with the overall topology described as loose connections between densely connected clusters. Literature shows that small world networks may contain multiple structural holes (Burt, 2004). The concept of a structural hole in the network science commonly signifies the vacuum that exists between two or more densely connected clusters. In this research, the term structural holes refers to the gaps or vacuums in the system functioning. It was conceptualised that these gaps or structural holes create opportunities for organised criminal networks to capture the state. Research demonstrates that structural holes provide opportunities for criminal actors to organize the flow of information and illegal goods (Burt, 2004; Labun and Wittek, 2014).

The network analysis also identified several institutions as 'bridges', such as the key ministries. This is a logical consequence of the institutional set up, which is based on fundamentally robust jurisdiction of the ministries and lesser jurisdiction of other bodies hierarchically subordinated to them. This suggests that a substantial part of the state response network depends on these central actors for information flow. According to (Williams, 1998),

in case legitimate institutions have high brokerage capital, they would be able to ensure a certain degree of protection from law enforcement activities.

Interestingly, however, different institutions appear as relevant nodes in the communities formed around the key structural holes identified in the state response network. These involve the Appellate court and financial investigation institutions. Given that network research indicates that actors with particular skills play an important role in bridging the gaps, these institutions might play a role of criminal brokers. Criminal brokers with unique networking possibilities may seek for new brokerage opportunities, strengthening the small world effect and leading to additional connections between criminal networks (Morselli and Roy, 2008; Dujin, 2016). Labun and Wittek (2014) argue that actors on either side of the structural hole have access to different flows of information.

To summarise, the key structural holes identified in the state response network involve financial investigation, the judicial proceedings, mapping of criminal networks and finally, seizure and destruction of drugs. These findings are fully in line with the relevant international reports on Serbia, but they also offer an added value, because they specify the particular capacity gaps and in the broader areas identified as deficient. The implications of the identification of these structural holes is in fact a demonstration of how these systemic gaps may become ‘loopholes’ in practice and thus may be identified and abused by organised criminal groups. Research suggests that efforts to understand and fight organised crime must take into account the interaction between the unique ecologies of states and illicit networks (Cockayne, 2017). The unique ecologies may be formed in the “dangerous spaces”, including legal gaps, geographical or functional cavities.

The potential mechanisms of state capture described under this research question give special emphasis on the interaction of the state institutions in the identified structural holes thus clearly indicating that all important systemic spheres are affected. The discussion of the functioning of these mechanisms entails a description of the actual ways through which the structural holes can be (or are) utilised. What is particularly important in this discussion is the joint effect of the identified structural holes.

The literature increasingly acknowledges that institutions do not exist in isolation, but habitually interact with each other (Böhmelt and Spilker, 2014; Gehring and Faude, 2014). This

interplay might induce influence, affecting institutions' development and performance. Following this line of opinion, this research adds to current knowledge by systematically analysing the quantitative evidence on how institutional interaction drives institutional effectiveness from a network perspective. What does this mean in practice? It means that effectiveness of institutions in fighting organised crime is hampered by various deeply rooted problems. Institutional effectiveness is *a priori* limited by diverse gaps in the legislative framework and subsequently hindered by inter-dependent activities of other actors in the network. The loopholes in investigation and prosecution, along with the lack of confiscation of criminal assets and the controversial behaviour of the Appellate court generate an image of a network with significant systemic gaps. Bearing also in mind the problems in seizure and destruction of drugs and wide spread corruption, the state response network does not show signs of increased effectiveness essential for successful EU integration.

These systemic gaps and the associated behaviour of state institutions is increasingly referred to as state capture (Perry and Keil, 2018; Popovikij 2018; Priebe, 2018). As Joel Hellman and Daniel Kaufmann (2001) defined this phenomenon, in transition economies, corruption has taken on a new image whereby oligarchs shape policy formation and rules to their own substantial advantage. Taking into account the contemporary debates on the usefulness of the concept of state capture as a different phenomenon from corruption, it could be argued that it is in fact the 'capture' that prevents system effectiveness, whereas corruption is solely a tool. In this context, state capture refers to a set of covert practices across institutions that have the potential to disrupt the expected lawful behaviour, without breaking the law. This may be illustrated by the following comments from the interviews:

Selectivity in prosecution, in terms of murders and other most serious crimes, however, indicates the link between organized criminal groups and the state. (A CSO representative, P4.4).

It is necessary to accept with reserve statistical data that are presented to the public because, due to different methodology, there is a big difference between the Statistics Office, the Prosecutor's Office and the courts. (A judge, P2.10).

Hence, in the field of crime control explored in this research, a state capture phenomenon entails diverse state institutions' practices, unknown to wider public or individuals outside the system,

which have the capacity to enable criminal actors to capture the system. The following section will discuss how the actions of the state and criminal actors are understood as state capture.

Chapter VI: State capture of a country undergoing EU accession - the extent of organised criminal networks in Serbia arising from the loopholes of the system

6.1. Introduction

This research examined whether the effectiveness of state actions in suppressing organised criminal networks in Serbia, as an EU candidate country, shows indications of state capture in the crime control system. The research relied strongly on the growing interest in the literature on the phenomenon of state capture, particularly in the EU accession countries (e.g. Chayes, 2015; Perry and Keil, 2018; Priebe, 2018; Savona, 2014). By building on Cockayne's (2016) conceptualisation of the points of arbitrage as particular gaps or realms present in diverse aspects of the state system, this research sought to identify particular structural holes in the crime control system that have the capacity to enable capture. This was analysed through several sub-questions or stages of verifying state capture in the field of crime control and discussed above.

For the purpose of this discussion on state capture, it is valuable to recap what this concept stands for. As discussed in Chapter III (see 3.5.), the concept of state capture pertinent to this research refers to the inferences of links of state institutions with organised crime, mutual interests and corruption at various levels of state governance leading to decreased effectiveness of state actions aimed at suppressing organised crime. Later in this section, a more specific concept of state capture is proposed as a result of this research.

The notion of state capture was used in this exploration to label the inexplicable deficiencies of the crime control system in Serbia. One of the core motives to use this particular term was the fact that the European Commission recently stated that the Western Balkan countries:

Show clear elements of state capture, including links with organized crime and corruption at all levels of government and administration. (COM, 2018).

Despite recurrent reference to state capture in the literature (Perry and Keil, 2018; Popikij, 2018; Priebe, 2018; Weber, 2017), there is fragmented agreement on what exactly it signifies. The phenomenon of state capture is commonly associated with the relations between the state and business (Hellman, Jones and Kaufmann, 2000; Martin and Ligeti, 2017), or more specifically public procurement (Fazekas and Tóth, 2016). These links have been titled state capture and imply the business sector in the role of a captor. In addition, several authors have examined political capture (Innes, 2014; Jancsics and Jávör 2012; Leitner and Meissner, 2017; Lugon-Moulin, 2010). For instance, a study by Jancsics and Jávör (2012), explored a symbiosis of oligarchs with influential public decision-makers, which enables illicit extraction of public finances from the system. This form of capture is even more difficult to confirm, given the typical lack of evidence. Notwithstanding the inherent potential of political bias in studying this form of state capture, these queries provide an important aspect of the phenomenon: i.e. they indicate how the control over the system administration, exercised by political parties, and politicised bureaucratic organs of state results in governing the opportunities for capture. However, beyond these important explorations of diverse aspects of state capture, some fields of latent impact on the state by other types of captors are left un-covered, thus creating a gap in knowledge on diverse potentials to seize the state. One of such fields is crime control. Studies have examined the influence of mafia over the state (e.g. Maharaj, 2017; Felbab-Brown, 2011), but have not attributed these links to the phenomenon of state capture. Therefore, crime control has not been extensively studied as a potential capture area.

In order to address this gap, this research examined whether the extent, form or characteristic methods of organised criminal networks in Serbia arises from loopholes of the system, areas of strategic weakness that offer what Cockayne (2017, p.8) termed ‘points of arbitrage’ that together we can interpret as indicating evidence of state capture. Given that Serbia is in the process of implementing various reform measures as a part of its EU accession process, recent references to state capture represent a serious concern with regard to impact of these measures, as well as the effects of the EU policy (Chapter III.). In this study’s examination of such problems, the network of state institutions responsible for suppression of organised crime and

drug trafficking, referred to as the state response network, was scrutinised to identify gaps in its functioning. Building on the Cockayne's concept of the 'loopholes offered by corruption' (Cockayne and Roth, 2017, p.8), it was conceptualised that these structural holes may be abused by organized criminal networks to infiltrate into the system and secure their enduring influence.

This research has shown that the extent of organised criminal networks in Serbia, as a country undergoing EU accession, indicates state capture of its crime control system. The findings under the four sub-questions confirmed that there are strong indications of state capture in the field of crime control in Serbia, and just how that was so was described and discussed in Chapter V. Here the sum of these findings will be discussed with respect to the key theoretical development contributing to understanding of Serbia's current position, state capture.

6.2. The elements of state capture

The literature distinguishes several models describing the key elements of capture. For instance, Priebe (2018) maintains that three essential elements involve the existence of capture, the object of capture and the subject of capture. Similarly, Southeast Europe Leadership for Development and Integrity (SELDI, 2017) proposed the following elements of state capture: the actors, who have the capacity to be the captors, pending the type of relationship developed; the results, referring to the privileges and status the captor obtains; and the state capture mechanisms. These elements are reflected in the formulation developed here. The key elements identified in this research to indicate state capture thus include the following phenomena:

1. Conditions for capture: Serbia is in the process of EU accession; however, it remains a state in democratic transition (issues related to weak institutions, media, democratisation).
2. The captors: Organised criminal networks are deeply rooted, persistent, commonly engaged in drug trafficking, as well as other multiple forms of crime and operate at both local and international level.
3. Opportunities and mechanisms of capture: Significant systemic gaps, i.e. structural holes, in the functioning of state institutions responsible for suppressing organised

crime and drug trafficking are present. There are perceptible capture mechanisms exploiting this background.

Since, as noted, these elements have been examined in detail in the Chapter V, enabling comprehensive understanding of the state of play of crime control in Serbia, the discussion to follow shall elucidate how the actions of the state along with the extent of organised criminal networks are understood as state capture within the three-part model just described.

6.2.1. Conditions for capture

Serbia is in the process of EU accession; however, it remains a state in democratic transition.

The findings of this research indicate that Serbia is still going through an overly long process of democratic transition. Literature shows that the phenomenon of state capture is commonly associated with transition countries (Helmann and Kaufmann, 2001; Perry and Keil, 2018; Popikij, 2018; Sitorius, 2011). Such an environment represents a fertile ground for state capture. As Sitorius (2011) suggests, transition states have proceeded in the economic sphere, i.e. liberalisation and privatisation, but they have been unable to complete the complementary and necessary institutional reforms. Such frameworks enable capture opportunities across different spheres of the system such as legislation, judiciary, and executive power (Sitorius, 2011). Likewise, Williams (2002) argued that capacity gaps in the state functioning are regularly observable in transitional and weak states. This comes as a consequence of non-finalised, partial reforms in transition countries. Moreover, as a consequence of transition, “the lines distinguishing political and economic power are often blurred: oligarchs, high-level criminals and politicians can be one and the same” (Nova Europa, cited in Priebe, 2018, p.3).

As demonstrated in this research, Serbia has not yet finalised the process of democratic transition and, indeed, if anything this goal increasingly seems to recede on the horizon. This is particularly evidenced by continuous problems in the rule of law recurrently cited in the EU progress reports (2013-2018) as one of the key obstacles to accession (along with wide-spread corruption, independence of the judiciary, as discussed in Chapter V). The progress of Serbia in the process of EU accession is materially hindered by the endurance of criminal networks

and wide-spread corruption shown in this research. Moreover, the assessments of democratisation, explored in detail in Chapter V, all indicate that there remain important difficulties in the field of rule of law, independence of the judiciary, organised crime and prevention of money laundering. In addition, the latest Freedom House assessment places Serbia in the group of semi-consolidated democracies, or partially free countries (Freedom house, 2018). This is Serbia's lowest Democracy Score in Nations in Transition since 2003. Such assessment results follow from a democratic decline in areas of the independence of the media, the judiciary, civil society, and national democratic governance (Freedom house, 2018).

Here, it seems that the fact that a state is trapped in overly long transition process represents a fertile ground for potential state capture and may well be an important marker of capture processes at work. An interesting explanation as to why this may be the case was offered by Sitorius (2011), who argued that transition states are characterised by the mechanisms for formulating legal frameworks or policies which remain mostly hidden from the public. The findings of this research are largely in line with this, as they grasp a set of concealed institutional practices and systemic omissions. As discussed in Chapter V, there is significant lack of research in this field in Serbia, which decreases public awareness and even the awareness of the professionals with regard to the extent of the capture opportunities arising from unfinished transition. Even though this research did not focus on civic awareness, its conjunction with the capture mechanisms should also be considered as an accompanying element of stalled transition states (Golubovic, 1999; Teitel, 2014). As shown in this research, such an environment is favourable for various types of abuses of power and based on the experience of Serbia examined here seems to entail an important factor contributing to state capture.

For example, interview data illustrate the lack of relevant participation of the civil society and the media:

Please comment on the role of media in terms of organised crime suppression

For the field of organized crime: sensationalism, exclusively political context, lack of relevant info coming from public authorities. (A civil society representative, P4.1)

For the field of drug trafficking: Complete marginalization of problem. (A civil society representative, P4.3)

They have the ambition to influence the public in specific court cases, and consequently to the court. (A judge, P2.1)

Sometimes good, it creates attention with regard to particular method of executing criminal offences. (A repression institution representative, P2.6)

Sometimes very bad, spinning and publishing fake news. (A repression institution representative, P4.5)

Very bad, information leaks are a constant problem... (A state institution representative,P1.3)

Media make criminals to become famous, like role models. (A civil society representative, P4.4)

Please comment on the role of the civil society in terms of organized crime and drug trafficking suppression

Organized crime and drug trafficking are not in the main focus of CSOs in Serbia. Mostly, they are subject of public discussion and conferences as some kind of “side issue” when discussing EU accession processes. The situation is bit different when it comes to engagement of CSOs which are not typical but belong to academic and professional community (research institutes and professional associations of judges and prosecutors). These organizations periodically organize scientific conferences and round tables to discuss problems in practice, current trends and developments and possible legislative amendments. (A civil society representative, P4.1)

Are CSOs active in the field of contemporary drug policies

Not enough. (A civil society representative, P4.3)

No. It is almost impossible to ensure project support for researches in this field. (A civil society representative, P4.2)

Campaigns – why lacking

Lack of resources- focus of donor community. (A civil society representative, P4.1)

How would you describe social attitudes regarding organized crime and drug trafficking?

Growing problems, but marginalized in public discourse. (A civil society representative, P4.3)

The analysis has indicated that civil society and the media do not effectively exercise their role to safeguard the rule of law in a democratic society. It appears that the field of crime control in Serbia remains significantly hidden from the public. This is particularly true when it comes to the debates on the results of crime control, despite relatively transparent discussions on the normative framework. How has the stalled transition process contributed to the creation of an environment susceptible to capture in this way? It seems this is primarily the result of remaining problems in the rule of law, undeveloped culture of accountability of public officials and insufficient transparency of public policies, of which this absence of media and civil society is an important element (Chapter V). In parallel, such an environment hinders EU accession processes, consequently decreasing the potential for full alignment with the EU standards and adequate systemic regulation. This unregulated space allows the state capture to arise

uncontested or in a publicly invisible manner, thus obstructing to efforts to shape good governance.

In such an environment, actors having sufficient power and resources may utilise the available opportunities to capture any system of the state. Essentially, it appears that the EU utilised this concept as a description of the situation in Serbia, following multiannual attempts to emphasize the particular problems detected.

6.2.2. The captors: Organised criminal networks

Organised criminal networks are deeply rooted, persistent, commonly engaged in drug trafficking, as well as other multiple forms of crime and operate at both local and international level

Once the concept of state capture relevant for this research and the fact that Serbia remains a country in transition have been determined, it is necessary to grasp who may be the captors in the field of crime control. As discussed in the Chapter III (3.5.), different interest groups appear in the literature as potential captors (private companies, high ranking officials, politicians). This research focused on investigating criminal networks as potential captors in Serbia. As thoroughly reviewed in Chapter V, the extent of organised crime and drug trafficking in Serbia represents an important indicator of state capture. The existence of organised crime has been confirmed by the use of an adapted Bisogno framework (2016) and additional, state-particular criteria. The determinants of organised crime involved:

1. Trends in drug trafficking and links with other crimes (types of illegal activities)
2. Trends in drug use
3. Drug seizures
4. War between criminal groups
5. Geographic scope of the activity (affiliation background)
6. Organisational model of criminal networks (local/national/international group; models of group functioning, modus operandi)

To recap, the existence and operation of organised criminal networks in Serbia was confirmed and described in the analysis on the basis of all six determinants (Chapter V). Overall, research

findings under research question 3 indicated that organised criminal groups in Serbia externally function as networks and are mainly, though certainly not exclusively, engaged in drug trafficking. The business is often organised from abroad, through reliable Serbian intermediaries in the drug-source country. Serbian criminal networks are well-connected with other regional and international groups and contribute to global drug trade (5.3.1.). They are actively involved in multiple types of illegal activities and usually carry out money laundering in the country of their origin. Concurrently, at the internal level, organised criminal networks show elements of hierarchical, Mafia-like organisations. They are engaged in wars over territory, protection businesses, they have been associated with political murders and their main players act as “bosses”.

Cockayne and Roth (2017, p.8) maintain that “sovereignty and the rule of law may be corrupted by private and often criminal interests”. Likewise, according to Vesna Pesic, a state may be captured by:

Any group or social strata, external to the state, that seizes decisive influence over state institutions and policies for its own interests and against the public good.

Vesna Pesic (2007, p. 1)

The evidenced presence of organised crime, along with deeply rooted links with the state structures in Serbia, have therefore confirmed the initial hypothesis that the extent of criminal networks implies that they are in position to be the captors of the crime control system in Serbia. Such evaluation was offered by the European Commission recently:

Today, the countries show clear elements of state capture, including links with organised crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests.

(COM, 2018 (65), p.3)

There is a number of indications that organised crime has the capacity to act as the captor of the state. Previous research by Serbian authors suggested strong linkages between organised crime and public sector corruption, with criminal networks greatly relying on corruption to ensure the protection from law enforcement efforts, facilitate money laundering and ensure

legal investments based on illicit trade (Nikolic-Ristanovic, 2004; Trifunovic, 2007). As mentioned earlier, members of one of the strongest organised crime groups have been convicted for the murder of the Prime Minister in 2003 at the Government entrance. Various political murders in the 90s have also been associated with the main criminal groups (Anastasijevic, 2006). Hence, these groups have formerly established an image of being equally strong as the state and have managed to keep such an impression even nowadays.

Moreover, large profits generated through organised crime certainly provide the potential for criminal networks to act as captors. Resources generated by drugs and/or arms trade during conflicts, coupled with the privatization proceeds at the beginning of transition in Serbia, made criminal networks powerful actors who exert influence on politics and business. As a result, they have been able to penetrate the highest spheres of government, impact the political agenda and develop close relationships with diverse circles of power. As argued by Mendelski:

The EU supported or cooperated with clientelistic and corrupt elites or even with members of governments that collaborated or were part of organized crime.

(Mendelski, 2015, p.337).

However, the prevalence of corruption discussed throughout the research also implies that there may be other actors exercising the capture. For instance, it may be argued that the politicians themselves are the captors. This may potentially be true in some specific, isolated cases (difficult to prove) tangentially associated with crime, however it cannot be considered a valid explanation in the context of Serbian political life. This is primarily the case as most individuals engaged in politics are “exchangeable goods”, they usually come from unsuccessful businesses or have been ‘surviving’ in politics for a number of years mainly as a sort of civil servants (with better connections and salaries). Their background, financial power and their acting often does not indicate the potential to act as captors. Certainly, it may be the case that there are few politicians with a strong capture potential, probably similar to other states in transition, but they could not actually capture the whole crime control system alone and would not have specifically clear benefit in doing so. On the contrary, if perceived through the lenses of high-level corruption, it seems more likely that the criminal networks have the potential to be the captors,

while the politicians habitually have financial interest to exchange favours and enable the capture. These deviant relations between the state actors and crime imply high potential for the state capture.

Another alternative explanation of the potential captors could include the wealthy businessmen or corporations as potential captors of the crime control system. This could be the case, given their social and financial potential to exert certain pressure or engage in corruption. Probably this kind of activity is not rare. Nevertheless, such cases broadly fall under the phenomenon of (grand) corruption, and would mainly refer to public tenders, financial crime and the like, whereas state capture of the crime control system entails a much more dangerous phenomenon for the society as a whole. For instance, there has been no reference to a war between successful businesses that leads to murders, while organised crime groups openly show their power in the society without fear of consequences. In this context, it could therefore be argued that this research provides sufficient indications that organised crime in Serbia has strong potential to act as a captor of the system of crime control through diverse mechanisms described below.

The resistance of the state plays a major role at this point, given that capacity gaps in the system may create opportunities for capture by organised criminal networks. Cockayne (2017, p.37) refers to these gaps as “gates between different jurisdictions and realms” which may generate opportunities for arbitrage. Organised criminal networks represent particularly dangerous captors, given that in the course of expanding their operations, they are able to use significant financial resources gained through illegal activities to gradually weaken, disable, or seize the functions of political and judicial institutions (Sitorius, 2011). This is of concern since critical social determinants of organized crime refer to the quality, independence and integrity of the institutions safeguarding the rule of law, including police and the judiciary. Contemporary investigations consistently indicate that a number of states are characterized by strong interdependent links between organised crime, politics and the public sector (Fazekas, and Tóth, 2016; Felbab-Brown, 2011; Garay and Villaveces, 2009; Leitner and Meissner, 2017; Maharaj, 2017; Prelevic, 2018; Schultze-Kraft, 2016; Varese 2010; Williams, 2001), resulting in the emergence of a symbiosis between legitimate actors and criminal networks. As Cockayne (2017, p.6) argues, these are no longer two distinct worlds – an upperworld and an underworld, but rather “a single strategic space in which state, criminal and other actors compete to govern”.

Such symbiosis hinders effective suppression of organized crime and eventually leads to state capture.

This symbiosis was reviewed in detail in Chapter III, showing that extended process of transition, coupled with well-established links between criminal groups created during the conflicts in the territory of the former Yugoslavia, have decisively influenced the development of certain forms of organized crime and trafficking routes in the Balkans. The analysis further demonstrated that organised criminal groups have effectively adapted their activity to the new circumstances of transition and continued to successfully govern the criminal markets in the region. In fact, the process of transition enabled criminal groups to legalize their profits through privatisation and establish adequate links with the political elites. It seems reasonable to conclude that this mode of functioning strongly relies on “informal social exchanges” (Bresson, 1999) i.e. that they continue to enjoy protection from relevant enforcement and political structures which enables endurance of criminal activities. As already discussed, in the period of early 2000 it was perceived that in Serbia “mafia has the state”, which resulted in the murder of a Prime minister. This implies that organised criminal groups have also been effective in engaging in ‘governance’ and it is difficult to believe that they don’t continue to do so. Cockayne and Roth (2017, p.8) argue that organised criminal networks in synergies with state actors infiltrate in the system through the “loopholes offered by corruption”. Such state of play is perceived by Williams (2002, p.172) as the “iron triangle” implying a complex and symbiotic relationship of state officials, political, criminal and business actors. Diverse forms of this symbiosis are certainly inherent to organised crime worldwide, however, the problems increase when such a relationship is overly visible and starts affecting the system functioning and eventually the citizens.

Capture by organised criminal networks also fits in the theoretical framework of the World Bank (2002). According to this framework, state capture involves obstruction of the reforms and “the equilibrium of partial reforms” (World Bank, 2002, p. 94). The obstruction of the reforms implies the existence of social groups aiming to slow down or prevent political or economic transformation of a state. Such social groups exert influence on the state to implement exceptional or preferential policies, which is supported by private payments or corruption, thus resulting in state capture. This aspect of a captured state results in the second element i.e. the

equilibrium of partial reforms (World Bank, 2002). This implies that political or economic transformation shall not be accomplished due to the disproportion of the political and economic sphere which hinders the consolidation of democratic institutions. Organised criminal groups in Serbia, as indicated in the Chapter V, have apparently been able to influence policy choices in the field of crime control thus creating lucrative ‘points of arbitrage’, to use Cockayne’s very useful term. One example that emerged in this research concerns a controversial policy, enabled through legislation, to keep the whole amount of seized drugs throughout the duration of legal proceedings (see Chapter V). Given that judicial proceedings in Serbia tend to last for several years, such an unusual normative approach (certainly unnecessary, in international norms are any guide) opens up such a point of arbitrage, laying the conditions not only for further trade in these drugs but also for extended disputes over the legitimacy of examined samples in legal proceedings. As the findings of this study showed, these drug amounts frequently are not controlled and indeed ‘simply disappear’ are often thus unavailable in the later stages of the trial.

Along with the obstruction of the reforms, the specificities of state capture by organised crime are evidenced in the efforts of organised criminal groups to prevent the enforcement of the law, thus installing “a culture of impunity” (Sitorius, 2011, p. 59). As the findings indicate, it is not lack of law per se, but rather lack of implementation of laws that represents one of the main problems in Serbia. In fact, lack of implementation was found to be one of the main structural holes attributable to more than five institutions (as shown in the Graph V.5. Once again we can observe that such structural holes imply the potential for pervasive capture opportunities, due to their prevalence across multiple institutions in the crime control system.

6.2.3. Opportunities and mechanisms for capture

Significant systemic gaps, i.e. structural holes, in the functioning of state institutions responsible for suppressing organised crime and drug trafficking are present. There are perceptible capture mechanisms exploiting this background.

As shown in Chapter V, significant systemic gaps, i.e. structural holes, in the functioning of the Serbian state response network exist. Beyond the identification of the structural holes in the

system of crime control in Serbia, this discussion on the opportunities for capture also points to the object of state capture, as suggested by Priebe (2018) above. The object of the capture in this case involves the state institutions engaged in organised crime and drug trafficking suppression i.e. the crime control system.

To summarise briefly the findings presented in Chapter V, the analysis identified a total of 28 communities grouped around the particular gaps in state response network functioning. Among these communities, the 8 main structural holes have been identified. The main problems identified involve: identification of financial assets from crime, the role of the Appellate court, case law, mapping of criminal networks, seizure and destruction of drugs, implementation of laws, the reliance on secret service and prevention of substance misuse. Additionally, in the analysis of relations of the institutions responsible for the 28 identified problems it was found that eight key problems or structural holes in the network can be attributed to more than five institutions. This implies that such problems may create pervasive capture opportunities across the state system. Viewed together, these particular structural holes indicate that all important systemic spheres are affected. Moreover, it is the joint effect of the identified structural holes that has exceptional relevance. As Cockayne (2017, p.8) points out:

Individuals and groups generate and exploit opportunities in their environments to extract criminal rents. Those opportunities frequently arise at the points of arbitrage, the ‘gates’ between realms, markets or communities governed by different actors: at border crossings; at the boundaries between different markets or jurisdictions, where smuggling networks can benefit from price arbitrage; at the legal and financial boundaries between different tax and regulatory jurisdictions; at the boundary between the legal and the illegal.

Cockayne (2017, p.8)

Following this line of thought, the reasons why the specific structural holes indicate state capture in the field of crime control lie in their particular positioning and jurisdiction, which enables them to represent the ‘gates’. Namely, the state response network consists of multiple jurisdictions but not all of those jurisdictions have equivalent power. Among those jurisdictions, there are some institutional domains of action which are principal stakeholders and have the largest potential to be ‘points of arbitrage’ (Cockayne, 2017, p.8), or what we

could otherwise think of as important focal points: points where an important balance may be tipped either way, in favour of the state or of criminal groups. Therefore, identification of system vulnerabilities in those institutional domains of action, such as judiciary or investigative bodies, is especially important since it points to key locations of possible state capture. This is particularly so when such vulnerabilities are persistent for a long period.

Thus, the identified systemic gaps *per se* do not necessarily signify state capture; they could be viewed as certain reparable inefficiencies of the system to suppress organised crime. They could also be viewed as a consequence of incompetence, lack of funds or inadequate training. These problems do exist in the Serbian system, however, the analysis has not identified them as relevant. The potential of these various issues which certainly may influence the effectiveness of organised crime suppression does not appear to be strong enough to cause the loopholes identified.

However, it is the positioning of these particular loopholes and their pervasiveness across the state response network that strongly endorses the notion of state capture as the rationale for such state of crime control in Serbia. Precisely, the way these loopholes are positioned prevents the effectiveness of practically every suppression effort. In practice, this means that each phase of organised crime and drug trafficking suppression has its own potential ‘point of arbitrage’. The table below indicates the identified loopholes in the system, according to the affected phase.

Table VI.1. Phases of organised crime and drug trafficking suppression as potential ‘points of arbitrage’

Suppression phases	The main network identified loopholes	Pervasive capture opportunities
<i>Phase I Legal framework</i>	Implementation of laws	Independence/political influence/corruption Implementation of laws Information exchange Mapping of OC/DT networks
<i>Phase II Prevention</i>	Prevention of drug misuse Lack of research	
<i>Phase III Investigation</i>	Mapping of criminal networks Reliance on secret service	

Phase IV <i>Financial investigation</i>	Identification of financial assets from crime	Internal control Multi-disciplinary teams
Phase V <i>Trial</i>	The role of the Appellate court Case law	
Phase VII <i>Seizure and destruction of drugs</i>	Keeping of seized drugs Destruction of drugs	Identification of financial assets from crime Production and trade precursors

The effectiveness of institutions in fighting organised crime is evidently hampered therefore by numerous deeply rooted problems. The capture mechanisms in these phases are elucidated below.

6.2.3.1. Phase I Legal framework – capture mechanisms

As shown in the analysis, institutional effectiveness is *a priori* limited by diverse gaps in the legislative framework and subsequently hindered by inter-dependent activities of other actors in the network. As the analysis showed, the significance of these gaps differs (e.g. drafting was found to be less relevant, while implementation is one of the key structural holes). Nevertheless, content analysis showed that each of these phases i.e. drafting strategies, laws and implementation faces various challenges. In exploring these legislative difficulties in Serbia, Dallara (2014) argued that the laws adopted in the period of euphoric approach of Serbian elites towards the EU often lacked practical implementation and enforcement. A similar standpoint was held by Hiber and Begović (2006), who argued that judges and politicians avoided pursuing reforms due to their puzzling alliance (p.3). They explain this alliance as a result of the judges’ fear of replacement and political desire to preserve effective control over the judiciary. Therefore, these systemic gaps create either uneven treatment or lack of implementation (or both).

The identified structural hole i.e. lack of implementation of laws enables an excellent point of arbitrage. As discussed in Chapter V, this is a known practice in Serbia, often perceived as a given fact. Even the EU uses the formulation “the legal framework is adequate, but implementation is lacking”. Such a state of affairs would seem to create realistic expectations

among criminal networks and actors that laws do not necessarily need to be implemented and that they can influence this process. These expectations arise from a long-term behaviour of state institutions, which have demonstrated that normative frameworks are often not efficiently and equally applied.

In a study on Serbian accession (discussed in Chapter III), Mendleski (2016, p.351) also identified lack of implementation of legislation, referring to it as ‘a pathological lack of enforcement of laws’. He found that laws in Serbia are formally adopted but often not implemented in practice, due to high domestic costs and veto players who were against these reforms. Mendelski also identified the lack of generality of law, which he understood as insufficient neutrality resulting from introduction or amendments of laws aimed at fulfilment of “particular interest of influential captors” who wanted to fight their competitors (Mendleski, 2016, p.354). In light of this, identification of loopholes in implementation of laws indicates a fertile ground for various informal social exchanges or, inexplicable practices of the institutions.

Given that the lack of implementation of laws also represents a cross-cutting issue, present across the entire state response network (see Chapter V), this structural hole symbolises an integral element of capture mechanisms, given that it directly provides numerous possibilities for undue influence.

6.2.3.2. Phase II Prevention – capture mechanisms

The identified structural holes in the field of prevention of substance misuse are particularly interesting. Even though this area was not the focus of this research, the decision to include the preventive aspect has resulted in important findings. It must be noted primarily that, as evidenced in this research, the use of new psychoactive substances has substantially increased. This creates a new field for profit of criminal networks and demonstrates that preventive mechanisms are not sufficient to changing trends and thus unlikely to be effective. Growing demand in this new area seems to have caused an increase in supply, and such clearly contributes to the circle of trafficking. Further, the potentials of broader prevention are decreased in the Serbian case due to overlapping responsibilities of state institutions responsible

for drug trafficking prevention, while the methods used so far for the prevention of substance misuse appear to be outdated.

Interestingly, as one of the cross-cutting issues (Chapter V, Part II, Graph V.5) the production and trade in precursors has been identified by the network analysis as important gap in this phase. The method in which this particular factor contributes to capture mechanisms is the overlapping jurisdictions in the framework for precursors, which hinders accountability of institutions. Any efforts to combat NPSs in Serbia will ultimately have to reckon with the challenge of this fractured enforcement and regulatory environment. Namely, a number of inter-related bodies is responsible for this field, but no clear separation of jurisdictions has been prescribed. In fact, the responsibility is shared to such extent that several unrelated institutions participate through negligible actions, yet without any key responsible body. This structural hole particularly illustrates Cockayne's (2017, p.8) notion of "boundaries between different jurisdictions" and the opportunities that are offered there.

An additional element identified by the network analysis as an important gap in this phase involves lack of research. With a view to capture mechanisms, this particular gap ensures that most of the problems in this field remain concealed. Beyond limited groups working within the system, absence of research decreases the chances for debate thus resulting in lack of both institutional and public knowledge. Where there is no awareness, the pressure of the public is not exerted and there are hence a number of crime-enabling actions which are not subject to civic oversight, monitoring or control. The potential for effective actions is further reduced due to insufficient cooperation with civil society, which involves front-line workers worldwide and represents one of the key support pillars in substance misuse prevention. Lack of contemporary research at the national level decreases capacities of relevant stakeholders and prevents exchange of best practices. All these factors in the prevention phase create a major gap, leaving the space for criminal networks to infiltrate, take advantage of the youth population and gain profit.

6.2.3.3. Phase III Investigation and prosecution – capture mechanisms

The loopholes in investigation and prosecution enable further exploitation of this fragile legal framework and their relevance is of particular importance, given that they indicate that best practices are not utilised. The absence of mapping of criminal networks in the global drug trade, organised as it is by loose networks connecting into Serbia for various points, implies either a serious lack of capacities or an intentional blindness. This results in inefficient investigation, commonly reactive rather than proactive, thus by dint of omission facilitating the functioning of criminal networks. In practice, this means that intelligence-led policing and proactive investigations are not sufficiently implemented, which results in lack of detection of wider criminal networks.

One important finding in this research has been the identification of Serbia's reliance on its secret service in the context of investigation and the way this hampers detection of legal actors who have the capacity to assist criminal networks. Ceding jurisdiction to the secret service, which is overseen and controlled by politicians, opens up the possibility that involvement of state officials will be concealed and 'tracks covered' through the use of the secret service's special investigative techniques. As described in Chapter V, the political control of this service renders it inherently less transparent than other bodies and interviewees suggested it therefore offers safe mechanisms for undue influence and consequently, we might conclude, capture. When these 'points of arbitrage', enabled through policy choices are coupled with the lack of effective and independent internal control in the police, it is reasonable to conclude that investigations on corruption are impeded.

To put some data to this hypothesis, the two tables below illustrate the results of internal control mechanisms of the police. What is particularly interesting is the very small number of persons accused of trading in influence. This is in some ways logical, due to the difficulties in proving this criminal offence. However, it is these informal links that represent an integral element of capture and have the potential to obstruct independent investigations, given that state capture is based on personal relations.

Table VI.2: Police reports by the Sector for Internal Control

Structure of criminal offenses with elements of corruption (the so-called corruptive offenses)				
Criminal offense	2014	2015	2016	2017
Abuse of official position, Art. 359. CC	72	75	94	259
Taking bribe, Art. 367. CC	26	98	77	71
Giving bribe, Art.368. CC	14	/	3	22
Trading in influence, Art. CC	1	3	2	6
Abuse of position of a responsible person, Art.. CC	1	2	2	3
Unlawful Production and Circulation of Narcotics Article, Art. 246. CC	2	/	4	12

Source: Ministry of Interior, 2017

Table VI.3: Review of the number of proposed measures by the Internal control sector for the initiation of disciplinary proceedings

Review of the number of proposed measures by the Internal control sector for the initiation of disciplinary proceedings	Number of police officers against which measures are proposed			
	2014	2015	2016	2017
Proposal to initiate disciplinary proceedings for serious violation of official duty	280	178	253	245
Proposal to initiate disciplinary proceedings due to a minor violation of official duty	26	14	16	19

Source: Ministry of Interior, 2018

In addition, in societies where institutionalised corruption is present it can be concluded that a culture of state capture already exists. It is thus simpler in such circumstances to avoid implementation of rules due to ineffective accountability or control. Corruption-tolerance in Serbia allows for deviations from democratic rules in many ways, and this illustrates one of them. An excerpt from the official report of the Ministry of Interior illustrates this social acceptance:

Citizens are not ready to report a case of corruption, because by giving bribes to the police it is easier to solve, for example, traffic offense; or if they deal with illicit trafficking, smuggling of goods, they are very motivated to give the police a smaller amount of money to quickly and successfully transport goods or cross the border, and such "cooperation" remains undiscovered. That's why it is hard to provide the evidence needed to file criminal charges, primarily because of citizens' unwillingness to report corruption, and also because of their possible criminal liability.

Ministry of Interior, Report on the work in 2016, p.10

Given that this report is available at the website of the ministry, it is interesting that it justifies the corruption in police by citizens' willingness to offer bribes. Perhaps this is a finest illustration of the meaning of wide-spread corruption.

Overall, the effects of these gaps in investigation and prosecution in practice lead to a significantly poor track record in organised crime and drug trafficking cases (EU Progress report, 2018, p. 30 and 31; see also p .4 and 19). When the phase of investigation is vulnerable and when international best practices are not implemented, it is difficult to expect successful results in the field of repression.

6.2.3.4. Phase IV Financial investigation – capture mechanisms

The analysis in this study has shown that problems with identification of financial assets from crime represent significant structural holes in the state response network. This appears to be one of important indications of the 'gaps' enabling endurance of organised crime in Serbia. Its significance lies in the pervasiveness across the different types of institutions, including the law enforcement, the judiciary and the financial institutions. The capacities for financial investigation in Serbia are limited and therefore impact each of the suppression phases. As the findings indicate, investigation commonly does not result in identification of financial assets

from crime. This is usually explained by insufficient cooperation from the financial investigation unit or a lack of necessary information exchange. However, given the comprehensive trainings undertaken by repression institutions' staff, prosecutors and judges in the last couple of years, it seems difficult to believe that capacities remain inadequate.

Concurrently, lack of connected data bases enabling access to different types of institutions certainly contributes to such state of affairs since the full 'picture' is never seen and thus state actors continually work with 'one hand tied behind their back'. Finally, even when financial assets derived from crime are identified, the judiciary shows reluctance to confiscate the assets. This may be due to lack of competence to use these findings or lack of understanding why this is important. Nonetheless, given the behaviour of the court (described below) there may be other 'inexplicable' reasons for Serbia's markedly poor track record in confiscation of criminal assets.

What the failure of this mechanism enables in practice is that organised criminal groups (and key individuals as their members) have the opportunity to preserve the profits of crime, even if they are prosecuted or eventually convicted. The importance of this for criminal networks as businesses cannot be underestimated. In financial terms, failure to confiscate proceeds of crime means that 'liquidity' is maintained and trade and business can thus continue. The identified deficiencies in the financial investigations, coupled with extensive money laundering, thus allow for reinvestment of substantial profits derived from crime in the Serbian economy. The common corruption-related sectors include real estate, infrastructure projects, healthcare, education, spatial planning, and privatisation of public enterprises (Progress report, 2018, p.21).

Taking into account the discussion on transition-related profits of the state officials, derived through privatisation, and their links established with illegal actors during the conflicts in former Yugoslavia, this appears to be a deeply-rooted loophole and a valuable space for arbitrage. So far, as the findings indicate, these profits are re-invested in Serbia. However, the potential offered by global markets and the future EU accession may enable organised criminal groups from Serbia to invest drug related profits in the EU Member States as well. This is particularly important in view of the findings that most of the bosses of criminal groups are

located outside the country. Certainly, the results of eliminating this loophole should be quickly visible and are something that could be monitored by the EU through the accession process review mechanisms.

6.2.3.5. Phase V Trial – capture mechanisms

One of the most significant loopholes has been identified in the phase of court proceedings for organised crime and drug trafficking. As described in Chapter III, Serbia has a Special court for organised crime. Interestingly, no systemic deficiencies have been identified in this court, as a first instance court in this field. However, the second instance proceedings are marked by two significant problems, namely the lack of case law and performance of the Appellate court. These structural holes additionally destabilise the state response network, due to their potential to annul the actions of other state bodies. The importance and the danger of these loopholes principally lies in their ability to send a message to repression institutions that it's not even worth trying. This phase of suppression efforts is therefore particularly important, given that potential capture in this position can be very successful: i.e. it can result in final decisions and ensure acquittal of individuals belonging to organised criminal groups. That is, if the case gets to a trial or if something goes wrong in the first instance, the Appellate court is there for the final decision. This mechanism is additionally facilitated by inconsistent case law and the notion of free judicial opinion, discussed in Chapter V. These tools enable corrupt exchanges and ensure that anything is possible, including the reversal, at Appellate level, of a decision rendered against you in the specialist lower court.

The twisted logic inherent to state capture is evidenced in the results. For instance, the Appellate court appears as a regular second instance court responsible to control the legality of the decisions. Looking at its decisions, without acknowledging the wider context, one might conclude that it particularly takes care of the human rights of defendants. Nevertheless, the findings of this research show that this court shows an extraordinary understanding for individuals accused in these cases, as it often interprets the law 'to the benefit of the defendant'. This has resulted in a number of members of organised criminal groups being released and there are instances of these same individuals being later associated with new mafia-related murders. Importantly, the same strict attention to rights of the defendant is seldom extended to

the many low level drug-related offenders who, for reasons that may be assumed to be related, find themselves the primary target of enforcement activities.

All this results in very limited outcomes in the field of crime control. As the findings clearly show, the track record in this field cannot be considered effective by any means. With over 100 mafia-related murders in the last couple of years to 2019 and the ongoing war between criminal groups, the state appears to be mute. Except several media reports of multiple arrests, none of these cases had a judicial closure. There are very few indictments and even fewer final convictions in drug trafficking and organised crime cases. Concurrently, the number of plea agreements in organised crime and drug trafficking cases indicates certain crime control efforts. As shown in the Table VI.4, in the period from 2012 to 2017, the number of concluded plea agreements for organised crime and unauthorised production and trade in drugs is constantly increasing.

Table VI.4: Plea agreements for organised crime and drug trafficking cases

Year	Criminal offense	No. of plea agreements
2012	Unauthorized Production and Distribution of Narcotic Drugs (Art. 246 CC)	16
2013	Unauthorized Production and Distribution of Narcotic Drugs (Art. 246 CC)	19
2014	Criminal alliance (Art.350 CC)	9
2015	Unauthorized Production and Distribution of Narcotic Drugs (Art. 246 CC)	12
	Criminal alliance (Art.350 CC)	46
2016	Unauthorized Production and Distribution of Narcotic Drugs (Art. 246 CC)	13
	Criminal alliance (Art.350 CC)	31
2017	Unauthorized Production and Distribution of Narcotic Drugs (Art. 246 CC)	11
	Possession of Narcotic Drugs (Art. 246a CC)	2
	Criminal alliance (Art.350 CC)	52

Source: Special Prosecutors' Office for Organised Crime, 2018

This number of plea agreements raises questions about whether the repression institutions can prove these cases or the plea is a form of pressure, or perhaps related to efficiency as a goal. Nevertheless, the augmented number of plea agreements perhaps reflects the possibility that

most of these individuals are in fact substance misusers and not important members of organised criminal groups engaged in drug trafficking.

Overall, the determination of court proceedings as one of the main loopholes in the system was not surprising, given that the field of judiciary has been considered to be under undue political influence for decades. Even though “research on Europeanisation of the judiciary in candidate countries remains rare” (Kmezić, 2014, p. 61), a number of authors and international assessments referred to this problem. For instance, Dallara (2014) argued that domestic actors strongly opposed the judicial reforms as a part of the accession process thus hampering the influence exerted by the EU. The deeply rooted problem of lack of independence is perhaps best described by the following:

A truly free judiciary was almost impossible because its genuine independence would have profoundly undermined the basis of elite power.

(Dallara, 2014, p. 101)

Along with the EU Progress reports which consecutively refer to the need to improve independence of the judiciary, the Freedom House report of 2018 states that “judges and prosecutors routinely complain of political pressure, while reforms necessary for EU accession are stalling” (Freedom house, 2018, p.12). The fusion of political influence, corruption and lack of accountability for the decisions made, implies that the loopholes in the judiciary may be among the key ‘points of arbitrage’ available. Interestingly, in the report on state capture, Priebe (2018, p. 7) states that the judiciary in Albania “became a key node of state capture by particular political and criminal interests”. In the present research, the judiciary was not found to be a key node, rather the analysis showed that court proceedings represent separate ‘islands’, or insufficiently connected sites, where only limited number of individuals has a full overview of the undertaken actions. Capture mechanisms can therefore be widely used without any particular interference. This conclusion is in line with the EU assessment that Serbia’s track record in organised crime cases remains low (Progress report, 2018, p. 30 and 31). In 2019, the EU has therefore requested that the state enables access to court case files for the purpose of monitoring the undertaken actions of the judiciary. It appears that the EU has decided to stop closing its eyes to the presence of these judicial strategies and is attempting to grasp the capture potential situated in the Serbia’s courts.

6.2.3.6. Phase VI Seizure and destruction of drugs – capture mechanisms

One further and particularly important loophole identified concerns the framework of seizure and destruction of drugs. This synthesis of legislative gaps, the lack of guidelines and clear procedures in this field represents a major point of arbitrage. The capture mechanism enabled through this loophole allows, as mentioned earlier, that drugs seized from a suspect are not destroyed until the end of the trial. In this way, the drugs remain in the system, and they can be sold, trafficked or used.

As shown in this research, the seized drugs are kept in police stations across the country, without any control, and frequently vanish during the often years-long trial time. In this way, policy choices lead to a creation of systemic gaps and opportunities for exchange of services. The framework is practically dependent of the expectations that individuals will not take advantage of the situation. This mechanism therefore belongs to one of the inexplicable deficiencies in the system and strongly indicates capture: why, after all, would such a well-known opportunity for collusion and the diversion (and thus, destruction) of criminal evidence for illicit purposes not be closed off? Moreover, the responsible authority for the destruction of drugs and precursors is not yet even clearly determined, which creates additional space for informal social exchanges.

This convenient normative set-up hinders the fight against drug trafficking and organised crime. The review of the opportunities for state capture specified the affected areas of state institutions' functioning by indicating the particular capacity gaps and loopholes in the state response network. Nevertheless, in order to fully understand their significance, it is essential to grasp what are the mechanisms of state capture offered by these loopholes. The Graph below proposes a map of the identified capture mechanisms in the field of crime control in Serbia.

Graph VI.1. Map of state capture mechanisms in the field of crime control



The diagram indicates the map of the identified capture mechanisms in all phases of organised crime suppression, including prevention. The different colours are utilised solely for design purposes. The arrows showing corruption indicate its pervasiveness across the state response network.

Each of these capture mechanisms is explained above, with a view to research findings and the phases of state actions described above. In order to fully understand these capture mechanisms, it is important to take into account the identified pervasive capture opportunities as well. Most of the structural holes are attributable to more than five institutions, as shown in Chapter V. Nevertheless, the structural hole relating to independence/political influence and corruption appears solely as a pervasive issue and has not been identified in a single specific phase: i.e. implying that it is prevalent across different phases. Therefore, this factor is presented above in the Graph VI.1 as an overall problem with presence across the state response network. Corruption in Serbia remains a concern due to significantly low incomes, social inertia and a culture of tolerance of corruption in public administration and law enforcement (Chapter V, Part I). As cited in the Progress report 2018 (p.19), there were 50 final convictions for high level corruption offences and 26 acquittals in 2017. The results of anti-corruption efforts are therefore not surprising, given that there remain problems with the independence of the judiciary, as discussed above. Essentially, if there are no independent prosecutors, it is unrealistic to expect investigation of politically sensitive, high-level corruption cases. In this context, a recent study indicates that political pressure is routinely exerted in the judiciary (Association of Judges, 2017).

In addition, insufficient information exchange also appears only as a pervasive issue and has not been identified in a single specific phase. As discussed in Chapter V, Serbia's network of crime control institutions is not well connected. Hence, many if not most institutions know little about the activities of other bodies, thus decreasing the potential for effective systemic actions aimed at organised crime suppression. In a country such as Serbia where, as this study has shown, multiple state actors and entities are in some way subject to capturing influences, the

absence of inter-connected data bases appears convenient for all stakeholders, since it hinders the potential to assess both the nature of the problem and the results of state actions.

Overall, these loopholes generate an image of an organised crime suppression network with significant systemic gaps. Therefore, it seems reasonable that the EU has not labelled these gaps solely as system inefficiencies, but has decided to use the term state capture. As Cockayne argues:

The site and nature of the gates between ‘realms’ where arbitrage occurs, and where vulnerabilities emerge that give rise to protection needs are, in turn, products of policy choices by states – and of choices by other actors to develop and shape realms below, outside or beyond the governmental power of the state.

Cockayne (2017, p.9)

What this research has shown is that a whole set of these intertwined gaps depends on policy choices. This implies that the vulnerable ‘sites of criminal rent extraction’ (Cockayne, 2017, p.9) have been allowed by the state, a strong indication of state capture.

6.3. Conclusions

To summarise, this research identified the main elements of state capture in the field of organised crime and drug trafficking suppression in Serbia. They have been confirmed through the existence of the three elements of capture: the stalled democratic transition and EU accession, as conditions for capture; the organised criminal networks as the potential captors; and pervasive capture opportunities and deeply rooted mechanisms, revealed through the loopholes in the system. Overall, the field of crime control is affected by various structural holes which offer significant potential for state capture.

Primarily, the loopholes in the system’s function offer a plethora of opportunities and mechanisms of capture to organised criminal networks. This is due to the fact that they are well-distributed across the state response network, thus enabling exertion of a variety of influences in different institutions. No heavy footprint is left in any one place, but a diffuse yet

connected network of interventions is revealed that works effectively and has probably grown organically over time to head off new threats to organised crime as they have arisen. The research literature shows that such loopholes create spaces which are commonly ‘informally governed’ (Cockayne and Roth, 2017, p. 19), with or without participation of state actors.

Secondly, given that state capture inherently entails a network phenomenon, it implies the existence of diverse linkages between the legal and illegal actors. These links would need to be deeply established in order to establish a trustful relationship between the captors and the actors of the object of capture: i.e. in this case the state institutions. In practice, such mechanisms involve a whole set of informal social exchanges (Bresson, 1999). Given the lack of illustration referred to in Chapter III and the links established in Yugoslavian conflicts, such relations enabled the creation of an elite that has been ruling Serbia and shaping the system for a long time. The uninterrupted authority of these present and former elites has resulted in governance based on personal links.

Literature shows that symbiosis between state actors and organized crime during the process of creation of new states leads to permanent transformation of state interests into private ones and fosters the development of criminalised, corrupt and non-transparent societies (Grozdanic and Martinovic, 2012; Ivanova, 2010). Systems with similar characteristics are referred to as neopatrimonialism. Erdmann (2012) defined neopatrimonialism as a system in which the legal-rational system of modern statehood overlaps with a patrimonial system of personal rule, clientelism and patronage. He describes this scheme in the following manner:

The patrimonial system (of personal rule) penetrates the legal-rational system, twists its logic, functions and output (...), as formal and informal institutions and behaviour are intimately linked to each other in various ways and to varying degrees and this mixture becomes institutionalised’ (Erdmann 2012, p. 47), while in neopatrimonialism “all power relations between ruler and ruled, political as well as administrative relations, are personal relations.

(Erdmann and Engel 2006, p.18).

It is this twisted logic that represents an essential element of the state capture phenomenon, as it clearly depicts the patterns of governance in captured systems. That is, these systems appear

functional from the outside, they send an image of democratic establishments; however inside of the system, at various levels, the institutional behaviour is not based on the pre-defined set of rules but rather on informal practices, deeply hidden from the public view. Looking at the identified deficiencies in the crime control system i.e. the state response network in the context of EU accession, it could be argued that there exist within Serbia strong incentives not to implement the accession obligations because while that would put the country closer to entry, in fact it is this phase – a kind of pre-accession limbo – that is most convenient for a diverse interests groups. The present ‘gap’ situation of stalled EU accession implies less control, enables accumulation of capital, and absence of strict rules. An overly long period of transition seems to have contributed to the creation of a safe house for organised criminal groups from the region. Evidently, both the upperworld and the underworld actors benefiting from this state of play utilise diverse systemic loopholes to preserve this status and their own position and interests.

Chapter VII Conclusions

7.1. Main findings

Previous theoretical investigations of the state capture phenomenon mainly focused on the influence of the private sector and corruption, largely ignoring the interplay between criminal networks and state actors. This research focused instead on a single potential area of state capture in Serbia, i.e. organised crime and drug trafficking suppression, and has identified serious obstacles in this field all of which in various ways are hindering the EU accession process.

In an effort to determine whether the extent of organised crime in Serbia indicates state capture of the crime control system in a country undergoing EU accession, this research identified significant structural holes in the functioning of state institutions responsible for organised crime and drug trafficking suppression (Chapters V and VI). The identified structural holes represent an essential element of state capture in the field of crime control in Serbia, given that

they confirm fragmented state response network mechanisms. Coupled with stalled transition and the extent of organised crime identified in this research, it may be argued that the existence of state capture referred in various reports on Serbia is evident in the field of crime control.

To summarise, the findings of this research confirmed state capture of the crime control system by determining:

1. The conditions for capture, including stalled transition and democratisation;
2. The captors, organised criminal groups who appear to have the highest capture potential due to deeply established links with the ruling elites and financial resources to exert pressure;
3. The mechanisms for capture, including a set of different methods, such as lack of implementation of laws, inconsistencies in judicial decisions, ineffective financial and criminal investigations, unclear policies in seizure and destruction of drugs, widespread corruption, all of which may ensure impunity of organised crime.

The findings have indicated that these systemic deficiencies, spread across the entire crime control system, entail a plethora of institutional practices unknown to wider public, which have the capacity to enable state capture in the given field. Nevertheless, the sole existence of the systemic deficiencies does not necessarily imply that the crime control system is indeed captured. It is the positioning of these particular deficiencies that entails high capture potential as it can be clearly associated with evidenced inefficiency of the system identified in this research.

The paragraphs below briefly summarise the detailed findings of this research, along with the discussion on systemic loopholes identified at all levels of crime control. The map of capture elements (Chapter VI, 6.2.3) shows insufficient synchronisation of state institutions' activities, along with inadequate information exchange and pervasive corruption. The identified loopholes (Chapter VI, 6.2.3) in investigation hinder detection of criminal networks and investigative capacities. The loopholes in judicial proceedings (Chapter VI, 6.2.3), through the lack of coherent case law, questionable acting of the second instance court and problems with judicial independence allow for a lack of clarity and thus standards or norms against which actions of

the judiciary might be assessed and imply pervasive capture opportunities. The identified gaps in financial investigation (Chapter VI, 6.2.3) show limited capacities for identification of criminal assets, thus preventing seizure and confiscation and enabling further investments of profits from crime. The loopholes in legislative framework (Chapter VI, 6.2.3) hinder implementation of laws resulting in lack of clarity in prosecution, questionable court decisions and controversial sanctioning policies. Response mechanisms in the prevention of substance misuse (Chapter VI, 6.2.3) show lack of transparency and overlapping jurisdictions which prevent accountability.

As discussed earlier, these deficiencies could also be explained by other factors, such as incompetence, lack of resources, genuine system inefficiency and the like. Some of these factors may definitely contribute to a lack of efficiency in the crime control system, but they are sporadic and their individual strength is not sufficient to enable such gaps in organised crime suppression.

It could also be argued that these systemic gaps are not a result of state capture, but rather a consequence of organised crime navigating between different areas of the state. What this research has found, however, is that the duration of these systemic gaps and their significant pervasiveness, are not typical for non-captured states. That is, an abuse of diverse state vulnerabilities worldwide is a prerequisite for organised crime to function. However, the particular loopholes identified in this research imply that the whole state mechanism in the field of crime control is subjected to capture, because it is difficult to understand why, unless if they had been captured, would state actors not change certain dysfunctionalities of the system, which are identified systemically throughout the years? It is also valuable to note that the described elements of state capture do not inherently involve the indications of its extent or do not necessarily indicate *'how bas the situation is'*. The extent of problems referred to as 'state capture' perhaps best indicates the key underlying motive for labelling such phenomena a 'capture' rather than state dysfunctionality, corruption or a weak state. The term 'capture' portrays the magnitude of the problem; it implies that someone else, external to the captured object, has the power to resolve the problem.

For those familiarised with the functioning of effective crime control systems, the extent of the capture is particularly evident when observing the trials and rather extraordinary statements

that are available as public explanations. For instance, the fact that court experts in Saric trial discussed above, didn't even examine whether the money was legal (or coming from cocaine trafficking), but have solely: "noted all the cash flows and did not find anywhere a problematic transfer for the bank that carried it out" (KRIK, 2019), in fact entails an annulment of the expertise itself and implies a perception of the society as absolutely ignorant. But isn't the 'capture' best revealed in the ability to issue such public statement in relation to the main drug trade trial in this decade, without any 'discomfort' about potential public reactions or additional questions of the colleagues?

Moreover, the extent of the capture of the crime control system in Serbia could perhaps be well described if we consider that the difference between the crime control system captured by organised crime and the one potentially captured by bankers or corporations lies in the social consequences of these different situations. In the role of a state captor, organised crime feels equalised with the state and acts as if there was nothing to fear of. As thoroughly reviewed in this research, this seems to be the case in Serbia, given the number of organised crime related murders and the methods of these acts. In real life, such a position involves a feeling of threat experienced by the citizens. In Serbia, there is widespread social awareness of the power of organised crime (reflected in fear of visiting certain places, having an accidental traffic argument with members of criminal groups and the like). In a non-captured state, most of the citizens who are not professionals in the field of crime control do not really know about grand corruption, neither such phenomenon influences their daily life. In Serbia, however, there is this constant perception of the presence of organised crime and its link with top officials, irrespectively of the dominant political party at any time. Reports on weekly murders between members of criminal groups in the inhabited areas certainly contribute to this feeling. Ganev (2007, p.3) referred to such relations of the state and organised crime as "a dynamic autonomously generated within the state domain itself".

Finally, it is important to take into account that the crime control system is not an isolated element. Therefore, capture of this element of the state is consequently reflected in other aspects of the state functioning, which may be of interest to the potential captors. References to such phenomena have already been discussed in relation to money laundering of criminal proceeds through construction, privatisation, or ownership of restaurants and other similar businesses.

The intention of this research was not to entirely resolve contemporary debates about the elements of state capture. However, the findings of this research add to our knowledge by identifying mechanisms of state capture in the field of crime control, indicating that it is a useful concept. Given that the whole phenomenon of ‘state capture’ implies that it is an inherently hidden structure, these particular mechanisms are relevant because they specify the particular areas where the capture is situated. In any system, such as judiciary, law enforcement, the media, very few individuals from the inside know about specific issues or systemic gaps that can be abused. That is, one needs to know *whom* to ask for a favour and *how* it can be accomplished. What this research offers is the identification of the loopholes in the system of crime control that are susceptible to state capture, as indicated by a wide range of individuals working at various points in the system.

Despite the fact that organised crime and corruption are pervasive problems across transition countries, the notion of state capture appears to best portray their joint impact on state systems’ functioning. The concept of state capture provides added value to this research, as it illuminates different phenomena than the corruption *per se*. It demonstrates that state capture is a useful term or label for a whole set of identified vulnerabilities in state institutions’ functioning which may be utilised by organised criminal groups to extract value and ensure the safety and even expansion of their illicit business. The theoretical framework of this research thus offers a concept of structural holes to specify how the system allows the development of the ‘points of arbitrage’ proposed by Cockayne (2017, p.8).

Taking into account contemporary debates (Perry and Keil, 2018; Popikij: 2018; Priebe, 2018) on the usefulness of the concept of state capture as a phenomenon distinct from corruption, it could be argued that it is in fact the ‘capture’ that prevents system effectiveness, whereas corruption is solely a tool. This is an important point, and an important distinction. In this context, state capture refers to a set of covert practices across institutions that have the potential to disrupt the expected lawful behaviour, without breaking the law. These problems in the functioning of the system cannot be explained solely by referring to corruption. This view is in line with Helmann and Kaufmann (2001) who argued that state capture has become not merely a symptom for but also a fundamental cause of poor governance. Therefore, pursuant to this research, state capture may be defined as *a set of inexplicable system deficiencies involving*

patterns of structural omissions and covert practices that have the potential to disrupt legitimate institutional behaviour and exert influence by using corruption and other forms of personal linkages.

Use of the term ‘inexplicable’ in this definition is important, for it points to the way capture mechanisms work to undermine the logic of effective and efficient state mechanisms. This was well illustrated in the present study with the example of drug seizure and storage procedures remaining so obviously poor and open to abuse, as indeed has been found to be the case. Systemic weaknesses such as these can be articulated through diverse deficiencies identified in institutional functioning, thus leading to often markedly decreased effectiveness in providing the basic functions of the state. Williams (2002, p. 170) observed that such weaknesses of the state involve “capacity gaps which result in functional holes”. The functional holes described by Williams or ‘loopholes’ proposed by Cockayne and Roth (2017) are conceptualised in this research as ‘structural holes’, illustrating the gaps in institutional functioning that enable endurance of organised crime. As shown in this research, these loopholes provide a range of opportunities for organised criminal groups to secure protection from law enforcement and the judiciary. In fact, these loopholes are prevalent across the entire state response network, thus enabling a variety of undue influences. The identified structural holes might actually be imagined in the form of a display map of mechanisms available for captors. They can choose where to try to influence and target the system. Such an image of the state response network indicates that only direct and concrete measures addressing the identified loopholes may penetrate and destabilise this deeply rooted framework.

The findings of this research show that state capture in the field of crime control enables organised criminal groups’ expansion and smooth functioning without efficient interference by the state institutions. With this being said, it is not implied that institutions do not work properly; on the contrary, they achieve certain success and send an image of a functional system. That is, for those who are less familiarised with the crime control system functioning, these occasional successful actions might seem perfectly fine. Nevertheless, the particular structural holes indicate that it actually functions as a well-established mechanism – the state institutions exist, the legislative framework is broadly in place and the cooperation with the EU provides a form of umbrella for promising additional reforms. Moreover, the institutional set

up is often characterised by denying responsibility and hiding behind the competence of other institutions as an excuse to avoid accountability. Low motivation associated with low income, coupled with corruption tolerance and political influence as an identified cross-cutting issue, fully sustain such state of affairs.

The affected segments of institutional functioning are broadly recognised as factors contributing to stalled transition. Given that democratic transition, quantifiable through the respect of the rule of law, represents an essential pre-condition for EU accession, addressing these shortcomings is a *conditio sine qua non* in the context of Serbia's EU membership. Nevertheless, the particular loopholes are not observable in the EU reports, as the reports are necessarily generalised and based on broader indicators which prevents some important issues coming the surface, or being recognised. Despite the vast body of literature on these issues and significant financial resources of the EU invested in policies and operational responses in Serbia that should address the problems of organised crime and corruption, significant challenges remain. The European Union utilised the term 'state capture' in its assessment of the Western Balkan states, i.e. the candidate countries, on several occasions in 2018, using it to describe systemic gaps and the associated behaviour of state institutions. The elements of state capture are allegedly notable across different sectors - the economy, the judiciary, public administration, and the media. The Priebe report (2018) elucidates that the causes of the problem are not so much in bad laws, but rather in the institutions that do not exercise their powers due to fear or interest and thus find ways to circumvent the laws. As this study has shown, however, the causes of inexplicable institutional behaviour may be a consequence of the close relationships between the upperworld and the underworld, in some cases established as long ago as during the conflicts in the former Yugoslavia. As attempting to identify these relationships is not feasible, the identification of the particular systemic areas in which they are abused could be a useful method towards their detection. Given that social processes, similar to individuals, require a closure, it is profoundly necessary to finalise the democratic transition in Serbia and put an end to overly long period of unfinished reforms.

To summarise, this research identified systemic shortcomings in the functioning of the Serbian institutions responsible for crime control. The positioning of these systemic gaps implies a symbiosis of state actors, corruption and criminal networks, which hinders effective

suppression of organized crime and eventually leads to state capture. The specific points of arbitrage identified in this research show high potential to enable state capture in the field of crime control. Hence what this research revealed is the particular capture mechanisms that exist (or even co-exist) across the Serbian crime control system, implying the need for an in-depth system restructuring. Identification of these systemic shortcomings may have an important impact to policy making at the local level, as it can provide a guideline for the future reforms.

7.2. Implications

The findings of this research have implications for the study of state capture, in particular related to transition and accession countries. The stalled transition and prolonged EU accession processes in Serbia appear to be heavily influenced by organised crime. Findings on the extent of drug trafficking and overall activities of organised criminal networks indicate that the effects of crime control are a cause for concern. Nevertheless, in the context of EU accession what needs to be taken into account is that deficiencies in crime control cannot be addressed solely through the *acquis*. They also involve horizontal linkages across different sectors, hence contributing to state capture. The positioning of these systemic gaps in police, the judiciary, the security services, and financial investigation units, indicate that they are located in the sites where state monopoly of power is placed. Due to the nature of their work, activities of these institutions are often hidden from the public.

The loopholes traced in the field of crime control are therefore not associated solely with this field; they entail an important tool for a wider state capture. The identified loopholes can indicate an essential degradation of the rule of law in multiple fields, independently from the suppression of organised crime. It is therefore the systemic approach that needs to be altered, as well as the policy choices that enable continuing existence of such systemic gaps.

Moreover, the findings of this research have important implications for the process of EU accession in the region. In view of the expected EU enlargement, it would thus be valuable to pay particular attention to these affected segments of the state response network, not solely through *pro forma* monitoring of the chapters or implementation of reforms, but rather on the

basis of a targeted revision of the system functioning. Given the similarities of the systems in candidate countries in the Western Balkans, the positioning of these particular loopholes is most likely to be found in these states as well. Identification of these ‘points of arbitrage’ may signpost where to target efforts to reform the efficiency of the crime control systems and accelerate accession processes in the region. All of this suggests that the EU’s separate monitoring of the interconnected problems of corruption, organised crime and drug trafficking may in practice prevent the detection of a wider picture and pattern of influence, which is a deeply rooted state capture that enables endurance of these undesirable and ultimately crippling phenomena. Overall, progress in any of these fields cannot be expected unless the network of inexplicable patterns of institutional functioning is recognised and its negative influences dissolved.

Finally, this research offers important practical implications for the system of crime control in Serbia, indicating the potential reform paths which should be science-based and aligned with international best practices in order to achieve sustainable goals of improvement in organised crime suppression.

7.3. Contributions and further research

This research has several important contributions. First, it offers a contribution to the theoretical framework of state capture garnered through an examination of the aspects of the crime control system. Given the lack of a single established definition of this phenomenon, a variety of terms are used to describe similar manifestations, without adequately capturing its entire meaning, thus resulting in overlapping definitions, inconsistency in operationalisation and measurement. This research offers a conceptual model/framework which has the capacity to address these theoretical ambiguities. On the basis of the findings of this research, theory and previous studies, a new definition of state capture is proposed. The phenomenon is defined as *a set of “inexplicable” system deficiencies involving patterns of structural omissions and covert practices that have the potential to disrupt legitimate institutional behaviour and exert influence by using corruption and other forms of personal linkages.*

The findings of this research also and importantly contribute to contemporary debates on state capture by indicating that this concept differs from other corruption-related phenomena, given that it involves a distinctive arrangement of system deficiencies, patterns of structural omissions and covert practices that have the potential to hinder legitimate institutional behaviour. As discussed above, corruption and other forms of personal linkages utilized by captors – in this case, those operating on the crime control network – to exert pressure, represent tools or accompanying elements of state capture. Previous studies on state capture mainly explored this phenomenon on a higher systemic level, describing its perception or discussing its consequences in different states, but have not demonstrated how capture works in practice with respect to a distinct area of state responsibility.

The innovative contribution of this research lies also in its identification of an operational conceptualisation of state capture, one which enables determination of its constituting elements reflected in the loopholes of the given state system (in this case, the crime control network). The value of identifying the loopholes or structural holes as an integrative part of this phenomenon lies in its ability to enable measurable exposure to capture, thus disentangling it from various other, at times misleading and overlapping concepts.

Literature on state capture offers little explanation about the process through which the state systems become captured. To address this gap, this research narrowed the scope of exploration to the system of crime control and detected ways in which this element of the state is captured. In doing so, the findings of this research offer an added value to current knowledge on state capture, by specifying the particular capacity gaps or loopholes in the system of crime control which function as mechanisms of capture. In the framework of Cockayne's (2017) idea of points of arbitrage, these systemic loopholes, placed in the context of networks and systems, disclose the dynamics of capture. Systemic loopholes may open up opportunities that allow legal and/or illegal actors at various levels to weaken state capacity and undermine the rule of law. The identification of the constituting elements and mechanisms of capture may therefore provide responses to questions often posed, such as: Why did the court allow the person it had convicted of aggravated murder to move freely despite the verdict and continue committing criminal offences or leaving the country? Why does the state have such a favourable attitude towards football fans and their criminal behaviour (could it be that by letting them to engage in drug

trade, the state expects a favour in return, for other activities)? Why don't the authorities do something to prevent mafia murders? At a purely abstract level, it is highly unlikely that the Serbian state is totally powerless to fight the drug trafficking groups. Yet they appear to operate with relative impunity. The analytic value of the concept developed here of structural holes is that it may offer an explanation of these peculiar structures of opportunities and of actions of state authorities in the crime control system.

The findings of this research indicated that state capture takes place along institutional 'borders', in systemic loopholes regulated under different jurisdictions – or what Cockayne (2017) terms realms – whereby informal links among politics and criminal groups notable in transition states can be used to extract value for personal/criminal interest. Such an environment substitutes the expected legitimate behaviour of the state institutions, twisting the logic of crime control itself and eventually damaging the society at large.

One further key contribution to knowledge offered by this research lies in its demonstration of what could be achieved by a more science-based identification of particular measurable elements of state capture. Building on the knowledge acquired through previous studies, this research is unique in terms of utilization of a quantitative method for examination of the extent of state capture in relation to state actions in suppressing criminal networks. This entails an important methodological contribution to the study of state capture. This research applied Social Network Analysis in an innovative manner. It was used here to study institutional relations, illustrating how this approach can be utilised to grasp the existence and elements of state capture in relation to crime control obligations of the state, but also how the method might enable identification of state capture mechanisms in other fields, beyond the crime control domain. This is an important value of the present work, given that the loopholes traced in the field of crime control are not associated solely with this field. Indeed, it is likely they entail one important tool within a wider process of state capture. By using objective measurements and quantifying the data, this method could assist researchers to verify state capture in fields which have to date not been thought of as easily quantifiable and thus go some way to strengthening or testing observations generated by qualitative or interpretive means. The framework of the proposed definition and identification of structural holes as measurable elements of state

capture, may be utilised to explore the presence of state capture by excluding other confounding variables and thus enabling replication.

The findings of this research also offer an important contribution to the EU accession policy and by implication practice. As demonstrated in this research, Serbia as an accession country appears to observe the reports of the EU and take count of the recommendations contained therein, but does little to actually resolve the key issues identified. This research showed that the separate indicators monitored by the EU in fact, and perhaps unwittingly, represent pieces of the capture puzzle. This brings into question the effectiveness of methods used in the EU enlargement policy so far, in terms of the potential to dissolve diverse forms of state capture in candidate countries by monitoring identified problems solely at the individual level. The indicators monitored by the EU appear to entail a set of independent data points, while their joint effects are overlooked and while state capture is frequently mentioned in reports no explicit model of it – in contrast to what is offered here – is ever developed and/or tested. This implies that the EU may be addressing a multi-dimensional issue of state capture through a unidimensional approach. Or, to adopt an analogy, to be scaling a mountain without a map of its contours. Through examination of Serbia's crime control system, this research has demonstrated how the capture processes work in practice, thus offering the opportunity for a more holistic and effective approach to understanding difficult processes and dynamics of democratic transition.

This research therefore contributes to understanding the EU monitoring mechanisms applied in the accession countries. It appears that the EU conditionality was effective while the EU was pushing for and requiring certain results, while the current attitude of 'closing the eyes' seems to foster something of a return to former misbehaviour in candidate states. In this way, the EU may have facilitated a delayed democratisation process by constantly ignoring the absence of true reforms and various warnings in that regard from the states in the region. Nevertheless, in the given monitoring settings, the question arises what the EU could do to alter such outcome. This research informs the EU monitoring processes by demonstrating that the phenomenon of state capture may have been – and exactly how it has been – the cause of the lack of implementation of the reforms in Serbia. Thus, in relation to the idea of EU enlargement in practice, the maladaptive pattern of accession countries like Serbia regularly reporting on the

given indicators without illustrating significant progress, while the EU acknowledges minor reform steps undertaken, would need to be transformed. Practically, the findings of this research indicate that in the field of crime control, separate monitoring of organised crime, corruption, independence of the judiciary and associated indicators, could be potentially and much more usefully viewed under a single, broader index of state capture. This could offer the benefit of making it possible to grasp the effectiveness of multiple reform steps, without losing the perception of the whole picture. Further research could usefully explore whether the focus of the EU on isolated elements in other areas susceptible to capture is sufficient or the systemic challenges in these areas could also be better addressed on the joint level and with a more conceptual model, such as has been offered here.

As such, this research further contributes to an understanding of the relevance of the context, reflected in a delayed transition and an increasing discrepancy between the normative model and what evidence, such as those gathered here, reveals to be something like the 'real' situation. This discrepancy between model and environment, coupled with the prolonged enlargement process itself, weakens the leverage of the EU and fosters reform reluctance. It is this fertile ground that contributes to deeply-rooted opportunities for capture, the awakening of old informal relations with organised crime and thus all together an increased proneness to state capture. Consequently, a captured crime control system is likely related to failing confidence in state institutions in general.

Finally, this research is a unique case study of an EU accession country characterised by many external observers, including the EU, as a captured state. By identifying specific loopholes in the crime control system, this research offers an important ground for exploring state capture in other transition and EU accession countries which face similar problems. Since Serbia is a candidate country, the findings of this research could be replicated in other states in the region which are also in the process of EU accession and share similar legal and institutional frameworks. Additional research exploring the dynamics of the links between legal and illegal actors in accession countries could therefore further elucidate how these relationships function and last through time, which services are exchanged to support them and, indeed, which systems, beyond the crime control network, create exposure or opportunity for capture. This research has also highlighted the contribution of institutionalised, widely accepted corruption

as a feature of societies in transition. A better understanding of this could also add value to the model of state capture developed here. Overall, then, this thesis has provided a multifaceted view, analysis and test of oft-observed claims of state capture in Serbia. It has used an innovative methodology combining qualitative interview data from numerous, often elite, actors across the state crime control system, with a quantitative application, social network analysis. By drawing a sharp focus on the fertile but often ambiguous idea of state capture by examining it via Serbia's crime control system this research has laid the foundations for a new way of thinking about stalled democratic transition in Serbia, the Western Balkans and beyond.

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Annex 1 Coded list of participants

Annex 1 Participants

1.	P1	m1
2.	P1	m2
3.	P1	m3
4.	P1	m4
5.	P1	m5
6.	P1	mi6
7.	P1	mi7
8.	P1	mi8
9.	P1	k1
10.	P1	k2
11.	P1	k3
12.	P1	k4
13.	P1	z1
14.	P1	z2
15.	P1	z3
16.	P1	u1
17.	P1	u2
18.	P1	u3
19.	P1	r1
20.	P1	r2
21.	P1	r3
22.	P1	r4
23.	P1	r5
24.	P1	s1
25.	P1	s2
26.	P1	s3
27.	P2	j. 1
28.	P2	p.2
29.	P2	p.3
30.	P2	p.4 s
31.	P2	p.5
32.	P2	p.6
33.	P2	p7
34.	P2	j.8
35.	P2	j.9
36.	P2	j.10
37.	P2	p.8
38.	P2	j.12
39.	P2	p.9
40.	P2	j.14
41.	P2	p.10
42.	P2	p.11
43.	P2	p.12

44.	P2	j.18
45.	P2	j.19
46.	P2	j.20
47.	P2	j.21
48.	P2	p.13
49.	P2	j.23
50.	P2	j.24
51.	P2	p.25
52.	P3	c1
53.	P3	c2
54.	P3	b1
55.	P4	m1
56.	P4	n2
57.	P4	n3
58.	P4	n4
59.	P4	c5
60.	P5	s1
61.	P5	m12
62.	P5	cb3
63.	P6	v1
64.	P6	v2
65.	P6	v3

Annex 2 Interview questions

Table legal framework

Questions
Competence of your Ministry in this regard
Criminal Code, Criminal Procedure Code? Changes aimed at suppression of OC/DT? Please elaborate.
Cooperation with other state bodies in drafting the amendments? Please elaborate
Is there a monitoring mechanism to indicate the impact of these changes?
How does the European Commission assess these amendments? Please elaborate
Are there any plans to additionally improve the legislative framework? Please specify.
Are there any strategies related to improved implementation? Please specify.
How is the data provided to the EC developed? Who aggregates the existing data? Please explain.
What is the legal framework for cultivation, production, trade and use of drugs?
Please specify the laws regulating cultivation, production, trade and use of drugs?
Is Serbia a party of the Convention on narcotic drugs 1961?
Is the Convention on psychotropic substances 1971 ratified?
Is Serbia a party of the Convention on psychotropic substances 1988?
Are these conventions implemented directly in the legal framework?
Have specific laws been adopted to specify the implementation of the conventions?
Is the list of internationally prohibited substances utilized in practice?
Which institutions are competent for this? Please specify.
Which obstacles they face in utilizing the list?
Is Serbia in a process of changing legislative framework related to drug use?
If yes, what is the main underlying concept of these changes?

Table court

Questions
What is the role of the Special Court for Organized Crime?
Achievements/obstacles encountered so far?
What is the role of the Special Prosecutors office for Organized Crime?
All organized crime cases go before the Special Court for Organized Crime?
Is there a special prosecutor designated to address Drug Trafficking offences?
If not, have the judges in courts of general jurisdiction received training on key issues of OC, DT?
Did these individuals receive specific training? Please specify.
Who organized and conducted the trainings?
International experts participated?
On the basis of which criteria were the judges elected for this post?
How is the integrity of judges ensured?
Without specifying the identity, were any of the judges associated to corruption?
Were they prosecuted?
Do judges have protection?
Have they ever been threatened, attacked?
How would you assess the standpoint of other state actors towards this court?
Would you say that the work of the court is given a priority? Please elaborate
Please comment on the role of the Appellate court with regard to judgements of the Special Court for Organized Crime?
Cooperation with other state bodies? Please comment on the perceived obstacles.
New Criminal Procedure Code 2011? Please comment.
Implementation before the Special Court for Organized Crime, please elaborate?
Focus on enterprise? When was it introduced? How it works in practice?
Who approves special investigative techniques i.e. wiretapping?
Who is implementing special investigative techniques?
How many convictions? Acquittals?
Measures of witness protection?
How is this addressed in the new code?
Identity of the protected witnesses?
Protected witnesses – different types?

The role of lawyers? Are they usually the same or different attorneys appear in different cases? Please comment
The role of the media?
Is drug trafficking one of the key activities of organized groups active in the region?
If found during the action on drug trafficking, evidence about other offences can be used at court (e.g. HT, ML.)?
Have any of the 3rd shell non-criminal facilitators been prosecuted (lawyers, tax administration experts, doctors, etc.)?
Which type of corruptive offenses has been prosecuted so far?
Which individuals are prosecuted? Please do not use names, but professions

General

Corruptive criminal offenses are a focus?
Which type of corruptive offenses has been prosecuted so far?
Which individuals are prosecuted? Please do not use names, but professions.
How many convictions?
Impact of the new measures, strategies?
Any links with DT?
Minor drug offences? Please elaborate on the number
Drug dealers are usually young? Any differences in the trends? Please elaborate
Recidivism is a rule?
Drug users are prosecuted? Please elaborate
The relationship of misdemeanours and criminal offences in these cases?
Entry of the precursors as misdemeanour? Please elaborate
Any specialized training for drug offences?
Cooperation with other state bodies? Please comment on the perceived obstacles.

Table sentencing policies

Questions
Drug use is sentenced in line with the criminal law? Misdemeanour law?
Does the law permit possession of a “small amount” of drugs for personal use? Please specify the amount.
What are the sentences for drugs use?
What are the sentences for street dealing?
Are there sentencing or enforcement practices that make differences on the basis of quantities or types of drugs?
What is the prescribed sentence for drug trafficking?
Are major drug dealers often arrested? What is the overall duration of their sentences?
Is the judicial practice strict in this regard or often gives lower sentences?
Is this offence prosecuted as organized crime? In which cases?
Have most people access to lawyers after being arrested and during trial?
Do they have to cover the court expenses themselves or they are entitled to free legal aid?

In case of mandatory treatment for drug misuse, individuals have a right to an attorney?
Alternative sanctions are implemented for drug abuse sentencing?
Are there special types of alternative sanctions in case of minors?
These measures are only prescribed in law or implemented in practice as well?
What are the results?

Table prison

Questions
Can you estimate what percent of the imprisoned individuals is sentenced for drug law offences?
Are the majority of them imprisoned for possession of drugs or for trafficking?
These individuals usually involve small street dealers or the ‘bosses’?
What is the most prevalent type of offences? For what type of offences and how long is their sentence?
Does drug misuse continue in prisons? Relevant institutions keep this kind of data?
Are convicted individuals able to continue organizing trafficking from the prison?
Are there available harm reduction services in prison? Which percent of the offenders utilizes these services?
Is there a problem of overcrowded prisons?
Are there prison gangs?
The offenders have relatives or friends in prisons?

Table drug control strategies and policies

Questions
Does Serbia have a national drug control strategy? Which period it covers?
Is there a national policy on demand/supply reduction (<i>push & pull</i>)? If yes, please specify the main activities?
Please specify the competent authorities.
Please indicate, what sort of challenges, if any, authorities encounter in the area of demand/supply reduction?
Are harm reduction policies implemented? Are these policies supported by state authorities or the civil sector?
Are there any considerations on decriminalization of drug use?
Which groups or actors are supporting this approach?
How would you evaluate the Belgrade Special Hospital for Addiction –Public Prosecutors’ Office agreement?
Do you support the application of the principle of opportunity in case of possession? Please elaborate.

What is your opinion regarding decriminalization of personal drug use?

Table legal framework

Questions
Competence of your Ministry in this regard
Criminal Code, Criminal Procedure Code? Changes aimed at suppression of OC/DT? Please elaborate.
Cooperation with other state bodies in drafting the amendments? Please elaborate
Is there a monitoring mechanism to indicate the impact of these changes?
How does the European Commission assess these amendments? Please elaborate
Are there any plans to additionally improve the legislative framework? Please specify.
Are there any strategies related to improved implementation? Please specify.
How is the data provided to the EC developed? Who aggregates the existing data? Please explain.
What is the legal framework for cultivation, production, trade and use of drugs?
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Is Serbia a party of the Convention on narcotic drugs 1961?
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Are these conventions implemented directly in the legal framework?
Have specific laws been adopted to specify the implementation of the conventions?
Is the list of internationally prohibited substances utilized in practice?
Which institutions are competent for this? Please specify.
Which obstacles they face in utilizing the list?
Is Serbia in a process of changing legislative framework related to drug use?
If yes, what is the main underlying concept of these changes?

Civil society organizations

Questions
What are the activities in the civil society sector in terms of organized crime and drug trafficking suppression? Field actions; Conferences; Publications; Public statements; Outreach campaigns
Your cooperation with authorities – common projects, actions? How would you evaluate this cooperation? What are the main obstacles?
Have you provided any critique of governments' actions in suppressing organized crime and drug trafficking?
What are your recommendations for improvement?
Please indicate other CSOs addressing the problem?
Would you suggest any particular training of state institutions' staff to be necessary?
How would you describe social attitudes regarding organized crime and drug trafficking?
How would you assess the media reporting on such cases?
Campaigns – why lacking?
Would you say that the media act at times as the warning system for the accused
How would you evaluate the impact of media reporting? Heroes vs. war on drugs?
Has there been any independent research on the issues related to organized crime and drug trafficking?
Are public authorities willing to provide information/access to independent researchers?
Are CSOs active in the field of contemporary drug policies? What are their main recommendations? Please specify.
Has there work been supported by international donors?
Are there any research institutes addressing current challenges in drug policy? Please specify. Are there any ongoing efforts in this regard?
State provides funds to CSOs to act in this field?
Are any of the CSOs performing 'sensitization of actors' e.g. in terms of access to health, justice, social inclusion, discrimination, etc.?
Did police members or officials participate in trainings that promote modern human rights based approaches towards drug misuse?

Annex 3 Study Info Sheet

Rationale of the research

This study aims to explore the impact of actions undertaken by the Government of Serbia in combating organized crime and drug trafficking, as well as the potential obstacles to their effectiveness related to a variety of sociopolitical factors. Considering that Serbia lies on the Balkan route, the key drug trafficking route worldwide, examining how these criminal networks can be addressed represents a transnational crime problem. In view of the increased regional and international cooperation against drug trafficking and organized crime, it is of importance to assess the actions undertaken by the state, as they may be a vital link for addressing the problem of international drug traffic. The results may be used as a science-based approach to inform drug trafficking and organized crime suppression policies.

Research aim

The aim of this research is to assess the effectiveness of state actions undertaken to address organized crime and in particular drug trafficking. Analysis will focus on the key obstacles encountered in the work. The data will be analysed with a view to stalled transition and EU accession of Serbia, given that efficient suppression of organised crime is one of the key factors related to accession.

Method

Data collection will be performed by the researcher. It will also involve written sources, statistics and official reports of Serbian institutions and international organisations. A methodology applied for the analysis will be Social network analysis. A ‘map’ of institutions engaged in drug trafficking suppression will be designed to identify and explore specific relationships among them. The participating institutions will be conceptualized as a ‘response’ network. The sample will include state officials from the main institutions in the field of combating organized crime and drug trafficking such as public authority bodies, judiciary (courts and prosecutors’ offices) and ministries in the Republic of Serbia, as well as relevant CSO representatives. The perspectives of the civil society organizations (CSOs) active in this field are also incorporated, in order to indicate the importance of multidisciplinary and inter-sectoral cooperation in combating drug trafficking.

All the interviews will be performed by the researcher. Eligible participants will be preselected on the basis of their position, role, competence or field experience. Interviews will be semi-structured, formulated on the basis of research questions and official data from the institutions and international law enforcement agencies.. Interviews will be conducted in Serbian language. Data will be translated for the analysis. All the participants will be contacted by phone or email to arrange meetings at their convenience. Meetings will be conducted individually, at the official premises of the institutions.

Confidentiality

Due to the specific nature of the participants and the positions they hold, personal data protection, anonymity and confidentiality will be particularly emphasized. Participation in the study is voluntary, and you can withdraw at any time. All study related documents will be included in the records, ensuring personal data protection of both participants and institutions. All identifying data will be coded, removing any personal information that might be used to recognize the participants during the analysis or the publication of the study findings.

The utilization of research results

The research results may be presented at scientific conferences and presentations, maintaining the anonymity and confidentiality of all the participants. Any information obtained will be used only for the purpose and aims of the particular research and in no other case. All data collection processes (interviews, documents, analyses) will be performed by the researcher. The final results will be provided to the University of Sheffield and South East European Research Centre.

Contact for Further Information

Darja Koturovic

PhD candidate of the University of Sheffield
South East European Research Centre (SEERC),
Proxeniou Koromila 24, 54622, Thessaloniki,

Contact: +38163360082

Email: dkoturovic@seerc.org

Thank you.

Annex 4 Table Scaling of issues 1

MOI 1 discovery org crim/ investigation	PORGCRIM 1 investigation	5
MOI 1 investigation	CP 1 investigation	2
MOI 1 investigation	PD 1 investigation	2
MOI 1 investigation	SBPOK 1 investigation	2
MOI 2 prosecution	PORGCRIM 2 prosecution	3
MOI 2 prosecution	CP 2 prosecution	2
MOI 2 prosecution	PD 2 prosecution	2
MOI 2 prosecution	SBPOK 2 prosecution	2
MOI 3 cooperation	PORGCRIM 3 cooperation	4
MOI 3 cooperation	BIA 3 cooperation	1
MOI 3 cooperation	SBPOK 3 cooperation	1
MOI 3 cooperation	VBA 3 cooperation	2
MOI 3 cooperation	MOJ 3 cooperation	1
MOI 3 cooperation	OFFCOMDRUG 3 cooperation	2
MOI 3 cooperation	SERPREVDT 3 cooperation	1
MOI 3 cooperation	COMMPSYCH 3 cooperation	1
MOI 4 Multi-disciplinary teams	PORGCRIM 4 Multi-disciplinary teams	5
MOI 4 Multi-disciplinary teams	MOH 4 Multi-disciplinary teams	5
MOI 5 Training	PORGCRIM 5 Training	4
MOI 5 Training	CORGCRIM 5 Training	5
MOI 5 Training	APPELC 5 Training	5
MOI 6 Mapping of OC/DT networks	PORGCRIM 6 Mapping of OC/DT networks	5
MOI 6 Mapping of OC/DT networks	BIA 6 Mapping of OC/DT networks	5
MOI 6 Mapping of OC/DT networks	VBA 6 Mapping of OC/DT networks	5
MOI 6 Mapping of OC/DT networks	CP 6 Mapping of OC/DT networks	5
MOI 6 Mapping of OC/DT networks	PD 6 Mapping of OC/DT networks	5
MOI 6 Mapping of OC/DT networks	SBPOK 6 Mapping of OC/DT networks	5
MOI 7	CP 7	1

intelligence exchange	intelligence exchange	
MOI 7 intelligence exchange	PD 7 intelligence exchange	1
MOI 7 intelligence exchange	BIA 7 intelligence exchange	5
MOI 7 intelligence exchange	VBA 7 intelligence exchange	4
MOI 8 border control	CUST 8 border control	3
MOI 8 border control	ANTIML 8 border control	5
MOI 8 border control	BIA 8 border control	3
MOI 8 border control	SBPOK 8 border control	5
MOI 8 border control	VBA 8 border control	4
MOI 9 investigating tax evasion	TAX 9 investigating tax evasion	4
MOI 9 investigating tax evasion	ANTIML 9 investigating tax evasion	4
MOI 10 statistics	PORGCRIM 10 statistics	5
MOI 10 statistics	CORGCRIM 11 statistics	5
MOI 10 statistics	APPELC 10 statistics	5
MOI 11 databases	PORGCRIM 11 databases	5
MOI 11 databases	CORGCRIM 11 databases	5
MOI 11 databases	FIU 11 databases	5
MOI 11 databases	ANTIML 11 databases	5
MOI 12 corruption	CORGCRIM 12 corruption	4
MOI 12 corruption	PORGCRIM 12 corruption	4
MOI 12 corruption	APPELC 12 corruption	4
MOI 12 corruption	MOH 12 corruption	5
MOI 12 corruption	PD 12 corruption	3
MOI 12 corruption	CP 12 corruption	3
MOI 12 corruption	CUST 12 corruption	4
MOI 12 corruption	TAX 12 corruption	5
MOI 12 corruption	OFFCOMDRUG 12 corruption	2
MOI 13 legislative alignment	MOH 13 legislative alignment	2

MOI 13 legislative alignment	MOJ 13 legislative alignment	2
MOI 13 legislative alignment	OFFCOMDRUG 13 legislative alignment	2
MOI 14 safe communication platform	PORGCRIM 14 safe communication platform	5
MOI 16 new types of organised crime	PORGCRIM 16 new types of organised crime	4
MOI 17 corruption cases	PORGCRIM 17 corruption cases	5
MOI 19 case management system/equipment	PORGCRIM 19 case management system/equipment	5
PORGCRIM 5 training	CORGCRIM 5 training	5
PORGCRIM 5 training	APELLC 5 training	5
PORGCRIM 6 Mapping of OC/DT networks	BIA 6 Mapping of OC/DT networks	5
PORGCRIM 6 Mapping of OC/DT networks	SBPOK 6 Mapping of OC/DT networks	5
PORGCRIM 12 corruption	APPELC 12 corruption	4
PORGCRIM 12 corruption	CORGCRIM 12 corruption	4
PORGCRIM 14 safe communication platform	CORGCRIM 14 safe communication platform	5
PORGCRIM 14 safe communication platform	CUST 14 safe communication platform	5
PORGCRIM 14 safe communication platform	TAX 14 safe communication platform	5
PORGCRIM 15 number of staff/capacity	SBPOK 15 number of staff/capacity	2
PORGCRIM 15 number of staff/capacity	CORGCRIM 15 number of staff/capacity	2
PORGCRIM 15 number of staff/capacity	APPELC 15 number of staff/capacity	2
PORGCRIM 16 new types of organised crime	SBPOK 16 new types of organised crime	4
PORGCRIM 16 new types of organised crime	CORGCRIM 16 new types of organised crime	4
PORGCRIM 17 corruption cases	CORGCRIM 17 corruption cases	4
PORGCRIM 18 political influence	CORGCRIM 18 political influence	3
PORGCRIM 18 political influence	APPELC 18 political influence	3
PORGCRIM 19 case management system/equipment	APPELC 18 case management system/equipment	5
PORGCRIM 20 transparency	CORGCRIM 20 transparency	5
PORGCRIM 20 transparency	MOI 20 transparency	5

SBPOK 21 financial resources	MOI 21 financial resources	3
SBPOK 22 specialisation	MOI 22 specialisation	2
SBPOK 22 specialisation	CORGCRIM 22 specialisation	4
SBPOK 22 specialisation	PORGCRIM 22 specialisation	5
SBPOK 22 specialisation	APELLC 22 specialisation	4
CORGCRIM 23 first instance proceedings	PORGCRIM 23 first instance proceedings	2
CORGCRIM 24 trial	APELLC 24 trial	3
CORGCRIM 25 principles of independence	PORGCRIM 25 principles of independence,	5
CORGCRIM 25 principles of independence	APELLC 25 principles of independence	5
CORGCRIM 26 sentencing policy	APELLC 26 sentencing policy	5
CORGCRIM 27 expertise	APELLC 27 expertise	5
CORGCRIM 28 relationships in court panel	APELLC 28 relationships in court panel	4
CORGCRIM 29 case law	APELLC 29 case law	5
APELLC 30 second instance proceedings	CORGCRIM 30 second instance proceedings	5
APELLC 31 decision making	CORGCRIM 31 decision making	5
MOJ 32 implementation of laws	MOH 32 implementation of laws	3
MOJ 32 implementation of laws	CORGCRIM 32 implementation of laws	4
MOJ 32 implementation of laws	PORGCRIM 32 implementation of laws	3
MOJ 33 drafting of laws	MOI 33 drafting of laws	2
MOH 34 prevention of drug misuse	MOI 34 prevention of drug misuse	3
MOH 34 prevention of drug misuse	OFFCOMDRUG 34 prevention of drug misuse	3
MOH 34 prevention of drug misuse	COMMPSYCH 34 prevention of drug misuse	3
MOH 34 prevention of drug misuse	CSOs 34 prevention of drug misuse	3
MOH 35 production of precursors and medicines	MOI 35 production of precursors and medicines	5
MOH 35	CP 35	5

production of precursors and medicines	production of precursors and medicines	
MOH 35 production of precursors and medicines	PD 35 production of precursors and medicines	5
MOH 35 production of precursors and medicines	BIA 35 production of precursors and medicines	5
MOH 35 production of precursors and medicines	SBPOK 35 production of precursors and medicines	5
MOH 36 trade in precursors and medicines	MOI 36 trade in precursors and medicines	5
MOH 36 trade in precursors and medicines	CP 36 trade in precursors and medicines	5
MOH 36 trade in precursors and medicines	PD 36 trade in precursors and medicines	5
MOH 36 trade in precursors and medicines	BIA 36 trade in precursors and medicines	5
MOH 36 trade in precursors and medicines	SBPOK 36 trade in precursors and medicines	5
MOH 37 destruction of drugs	MOI 37 destruction of drugs	4
MOH 37 destruction of drugs	MOJ 37 destruction of drugs	4
FIU 38 financial investigation	PORGCRIM 38 financial investigation	5
FIU 38 financial investigation	SBPOK 38 financial investigation	5
FIU 38 financial investigation	BIA 38 financial investigation	5
FIU 38 financial investigation	ANTIML 38 financial investigation	5
FIU 39 identification of financial assets from crime	MOI 39 identification of financial assets from crime	5
FIU 39 identification of financial assets from crime	SBPOK 39 identification of financial assets from crime	5
FIU 39 identification of financial assets from crime	PORGCRIM 39 identification of financial assets from crime	5
FIU 39 identification of financial assets from crime	CUST 39 identification of financial assets from crime	5
FIU 39 identification of financial assets from crime	TAX 39 identification of financial assets from crime	5
FIU 39 identification of financial assets from crime	ANTIML 39 identification of financial assets from crime	5
FIU 39 identification of financial assets from crime	BIA 39 identification of financial assets from crime	5

FIU 39 identification of financial assets from crime	SBPOK 39 identification of financial assets from crime	5
FIU 39 identification of financial assets from crime	DIRSEIZ 39 identification of financial assets from crime	5
FIU 40 anti money laundering	ANTIML 40 anti money laundering	4
FIU 40 anti money laundering	SBPOK 40 anti money laundering	4
FIU 40 anti money laundering	BIA 40 anti money laundering	4
FIU 40 anti money laundering	MOI 40 anti money laundering	4
DIRSEIZ 41 management of seized assets	MOJ 41 management of seized assets	3
DIRSEIZ 41 management of seized assets	CORGCRIM 41 management of seized assets	3
DIRSEIZ 42 information flow	MOI 42 information flow	5
DIRSEIZ 42 information flow	PORGCRIM 42 information flow	5
DIRSEIZ 42 information flow	SBPOK 42 information flow	5
DIRSEIZ 42 information flow	FIU 42 information flow	5
DIRSEIZ 42 information flow	ANTIML 42 information flow	5
OFFCOMDRUG 43 strategic approach	MOI 43 strategic approach	2
OFFCOMDRUG 43 strategic approach	MOH 43 strategic approach	3
OFFCOMDRUG 43 strategic approach	SERPREVDT 43 strategic approach	2
OFFCOMDRUG 43 strategic approach	COMMPSYCH 43 strategic approach	5
OFFCOMDRUG 43 strategic approach	MOJ 43 strategic approach	3
OFFCOMDRUG 44 analysis	MOH 44 analysis	4
OFFCOMDRUG 44 analysis	MOI 44 analysis	2
OFFCOMDRUG 44 analysis	CSOs 44 analysis	3
SERPREVDT 45 prevention of drug misuse	MOH 45 prevention of drug misuse	3
SERPREVDT 45 prevention of drug misuse	MOI 45 prevention of drug misuse	3
SERPREVDT 45 prevention of drug misuse	COMMPSYCH45 prevention of drug misuse	3
SERPREVDT 45 prevention of drug misuse	OFFCOMDRUG 45 prevention of drug misuse	3

SERPREDVT 46 repression of drug misuse	MOI 46 repression of drug misuse	4
SERPREDVT 46 repression of drug misuse	OFFCOMDRUG 46 repression of drug misuse	4
SERPREDVT 46 repression of drug misuse	COMMPSYCH 46 repression of drug misuse	4
SERPREDVT 46 repression of drug misuse	MOH 46 repression of drug misuse	4
ANTIML 47 prevention of money laundering	CUST 47 prevention of money laundering	5
ANTIML 47 prevention of money laundering	TAX 47 prevention of money laundering	5
ANTIML 47 prevention of money laundering	SBPOK 47 prevention of money laundering	5
ANTIML 47 prevention of money laundering	BIA 47 prevention of money laundering	5
ANTIML 47 prevention of money laundering	CORGCRIM 47 prevention of money laundering	5
CSOs 44 analysis	MOI 44 analysis	5
CSOs 3 cooperation	MOH 3 cooperation	3
CSOs 3 cooperation	MOI 3 cooperation	3
CSOs 3 cooperation	OFFCOMDRUG 3 cooperation	2
CSOs 3 cooperation	COMMPSYCH 3 cooperation	4
CSO 48 treatment of drug misuse	MOH 48 treatment of drug misuse	4

Annex 5 Ethics approval



The
University
Of
Sheffield.

School
Of
Law.

Darja Koturovic

17 July 2013

Dear Darja,

PROJECT TITLE: Governmental and non-governmental action against drug trafficking in Serbia

On behalf of the University ethics reviewers who reviewed your project, I am pleased to inform you that on 17 July 2013 the above-named project was **approved** on ethics grounds, on the basis that you will adhere to the following document that you submitted for ethics review:

- University research ethics application form (*dated 12 June 2013*)

If during the course of the project you need to deviate significantly from the above-approved document please inform me since written approval will be required. Please also inform me should you decide to terminate the project prematurely.

The committee did make some recommendations;

- Use the standard University of Sheffield Consent form. (Word Document emailed to you on 17 July 2013)
- The 'procedure' (i.e. data analysis) section of the info sheet is unnecessary, in my view. Interviewees don't need all this information and in any case, the planned analytic strategy may (have to) change, depending on the data collected during the fieldwork period.
- The access approval letter should have space for the date to be written in.

Yours sincerely

Sarah Beedham
Ethics Administrator

Head of School
Professor Joanna Shapland

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Annex 6 Graph 1 Table jurisdiction cooperation

MOI 1	PORGCRIM 1	5
MOI 1	CP 1	2
MOI 1	PD 1	2
MOI 1	SBPOK 1	2
MOI 2	PORGCRIM 2	3
MOI 2	CP 2	2
MOI 2	PD 2	2
MOI 2	SBPOK 2	2
MOI 3	PORGCRIM 3	4
MOI 3	BIA 3	1
MOI 3	SBPOK 3	1
MOI 3	VBA 3	2
MOI 3	MOJ 3	1
MOI 3	OFFCOMDRUG 3	2
MOI 3	SERPREVDT 3	1
MOI 3	COMMPSYCH 3	1
MOI 4	PORGCRIM 4	5
MOI 4	MOH 4	5
MOI 5	PORGCRIM 5	4
MOI 5	CORGCRIM 5	5
MOI 5	APPELC 5	5
MOI 6	PORGCRIM 6	5
MOI 6	BIA 6	5
MOI 6	VBA 6	5
MOI 6	CP 6	5
MOI 6	PD 6	5
MOI 6	SBPOK 6	5
MOI 7	CP 7	1
MOI 7	PD 7	1
MOI 7	BIA 7	5
MOI 7	VBA 7	4
MOI 8	CUST 8	3
MOI 8	ANTIML 8	5
MOI 8	BIA 8	3
MOI 8	SBPOK 8	5
MOI 8	VBA 8	4
MOI 9	TAX 9	4
MOI 9	ANTIML 9	4
MOI 10	PORGCRIM 10	5
MOI 10	CORGCRIM 11	5
MOI 10	APPELC 10	5
MOI 11	PORGCRIM 11	5
MOI 11	CORGCRIM 11	5
MOI 11	FIU 11	5
MOI 11	ANTIML 11	5
MOI 12	CORGCRIM 12	4
MOI 12	PORGCRIM 12	4

MOI 12	APPELC 12	4
MOI 12	MOH 12	5
MOI 12	PD 12	3
MOI 12	CP 12	3
MOI 12	CUST 12	4
MOI 12	TAX 12	5
MOI 12	OFFCOMDRUG 12	2
MOI 13	MOH 13	2
MOI 13	MOJ 13	2
MOI 13	OFFCOMDRUG 13	2
MOI 14	PORGCRIM 14	5
MOI 16	PORGCRIM 16	4
MOI 17	PORGCRIM 17	5
MOI 19	PORGCRIM 19	5
PORGCRIM 5	CORGCRIM 5	5
PORGCRIM 5	APELLC 5	5
PORGCRIM 6	BIA 6	5
PORGCRIM 6	SBPOK 6	5
PORGCRIM 12	APPELC 12	4
PORGCRIM 12	CORGCRIM 12	4
PORGCRIM 14	CORGCRIM 14	5
PORGCRIM 14	CUST 14	5
PORGCRIM 14	TAX 14	5
PORGCRIM 15	SBPOK 15	2
PORGCRIM 15	CORGCRIM 15	2
PORGCRIM 15	APPELC 15	2
PORGCRIM 16	SBPOK 16	4
PORGCRIM 16	CORGCRIM 16	4
PORGCRIM 17	CORGCRIM 17	4
PORGCRIM 18	CORGCRIM 18	3
PORGCRIM 18	APPELC 18	3
PORGCRIM 18	APPELC 18	5
PORGCRIM 20	CORGCRIM 20	5
PORGCRIM 20	MOI 20	5
SBPOK 21	MOI 21	3
SBPOK 22	MOI 22	2
SBPOK 22	CORGCRIM 22	4
SBPOK 22	PORGCRIM 22	5
SBPOK 22	APELLC 22	4
CORGCRIM 23	PORGCRIM 23	2
CORGCRIM 24	APELLC 24	3
CORGCRIM 25	PORGCRIM 25	5
CORGCRIM 25	APELLC 25	5
CORGCRIM 26	APELLC 26	5
CORGCRIM 27	APELLC 27	5
CORGCRIM 28	APPELC 28	4
CORGCRIM 29	APELLC 29	5

APELLC 30	CORGCRIM 30	5
APELLC 31	CORGCRIM 31	5
MOJ 32	MOH 32	3
MOJ 32	CORGCRIM 32	4
MOJ 32	PORGCRIM 32	3
MOJ 33	MOI 33	2
MOH 34	MOI 34	3
MOH 34	OFFCOMDRUG 34	3
MOH 34	COMMPSYCH 34	3
MOH 34	CSOs 34	3
MOH 35	MOI 35	5
MOH 35	CP 35	5
MOH 35	PD 35	5
MOH 35	BIA 35	5
MOH 35	SBPOK 35	5
MOH 36	MOI 36	5
MOH 36	CP 36	5
MOH 36	PD 36	5
MOH 36	BIA 36	5
MOH 36	SBPOK 36	5
MOH 37	MOI 37	4
MOH 37	MOJ 37	4
FIU 38	PORGCRIM 38	5
FIU 38	SBPOK 38	5
FIU 38	BIA 38	5
FIU 38	ANTIML 38	5
FIU 39	MOI 39	5
FIU 39	SBPOK 39	5
FIU 39	PORGCRIM 39	5
FIU 39	CUST 39	5
FIU 39	TAX 39	5
FIU 39	ANTIML 39	5
FIU 39	BIA 39	5
FIU 39	SBPOK 39	5
FIU 39	DIRSEIZ 39	5
FIU 40	ANTIML 40	4
FIU 40	SBPOK 40	4
FIU 40	BIA 40	4
FIU 40	MOI 40	4
DIRSEIZ 41	MOJ 41	3
DIRSEIZ 41	CORGCRIM 41	3
DIRSEIZ 42	MOI 42	5
DIRSEIZ 42	PORGCRIM 42	5
DIRSEIZ 42	SBPOK 42	5
DIRSEIZ 42	FIU 42	5
DIRSEIZ 42	ANTIML 42	5
OFFCOMDRUG 43	MOI 43	2

OFFCOMDRUG 43	MOH 43	3
OFFCOMDRUG 43	SERPREVDT 43	2
OFFCOMDRUG 43	COMMPSYCH 43	5
OFFCOMDRUG 43	MOJ 43	3
OFFCOMDRUG 44	MOH 44	4
OFFCOMDRUG 44	MOI 44	2
OFFCOMDRUG 44	CSOs 44	3
SERPREVDT 45	MOH 45	3
SERPREVDT 45	MOI 45	3
SERPREVDT 45	COMMPSYCH 45	3
SERPREVDT 45	OFFCOMDRUG 45	3
SERPREVDT 46	MOI 46	4
SERPREVDT 46	OFFCOMDRUG 46	4
SERPREVDT 46	COMMPSYCH 46	4
SERPREVDT 46	MOH 46	4
ANTIML 47	CUST 47	5
ANTIML 47	TAX 47	5
ANTIML 47	SBPOK 47	5
ANTIML 47	BIA 47	5
ANTIML 47	CORGCRIM 47	5
CSOs 44	MOI 44	5
CSOs 3	MOH 3	3
CSOs 3	MOI 3	3
CSOs 3	OFFCOMDRUG 3	2
CSOs 3	COMMPSYCH 3	4
CSOs 48	MOH 48	4

Annex 7 Graph 2 data table

MOI 1	PORGCRIM 1	42
MOI 1	CP 1	42
MOI 1	PD 1	42
MOI 1	SBPOK 1	42
MOI2	CP2	24
MOI2	PD 2	24
MOI2	SBPOK2	24
MOI2	BIA 1	24
MOI2	SERPREVDT1	24
MOI 3	CP 3	44
MOI 3	PD3	44
MOI 3	SBPOK3	44
MOI 3	BIA2	44
MOI 3	SERPREVDT2	44
MOI4	PORGCRIM2	50
MOI4	CP 4	50
MOI4	PD 4	50
MOI4	SBPOK4	50
MOI4	BIA3	50
MOI4	SERPREVDT3	50
MOI5	CP5	45
MOI5	PD5	45
MOI5	SBPOK5	45
MOI5	BIA4	45
MOI5	SERPREVDT4	45
MOI6	BIA5	49
MOI6	SBPOK6	49
MOI6	SERPREVDT5	49
MOI7	PD6	22
MOI7	SBPOK7	22
MOI8	CP6	9
MOI8	PD7	9
MOI8	SBPOK8	9
CORGCRIM 1	APELLC 1	48
CORGCRIM 1	PORGCRIM3	48
CORGCRIM 2	APELLC 2	56
CORGCRIM 3	APELLC 3	55
CORGCRIM 4	APELLC 4	46
CORGCRIM 5	PORGCRIM4	41
CORGCRIM 5	APELLC 5	41
CORGCRIM 5	MOI9	41
CORGCRIM 5	BIA6	41
CORGCRIM 5	SBPOK9	41
CORGCRIM 6	APELLC 6	28
CORGCRIM 6	PORGCRIM5	28
FIU 1	MOI 10	55
FIU 1	CORGCRIM 7	55

FIU 1	APPELC 7	55
FIU 1	TAX 1	55
FIU 1	CUST 1	55
FIU 2	MOI 11	37
FIU 2	TAX 2	37
FIU 2	SBPOK 10	37
MOJ 1	DIRSEIZ 1	42
FIU 3	MOI 12	26
FIU 3	DIRSEIZ 2	26
FIU 3	CORGCRIM 8	26
FIU 3	APPELC 8	26
FIU 4	ANTIML 1	45
MOI 13	MOJ 2	55
MOI 13	MOH 1	55
MOI 14	CORGCRIM 9	57
MOJ 3	MOI 15	16
MOJ 3	MOH 2	16
MOJ 3	OFFCOMDRUG1	16
MOJ 4	MOI16	37
MOJ 4	MOH3	37
MOJ 4	PORGCRIM6	37
MOJ 4	APELLC9	37
MOJ 4	CP7	37
MOJ 4	PD8	37
MOJ 4	SBPOK11	37
MOJ 4	BIA7	37
MOI17	MOJ5	18
MOI17	MOH4	18
MOI17	OFFCOMDRUG 2	18
MOH 5	MOI 18	18
MOH 5	SBPOK12	18
MOH 5	BIA8	18
MOH 6	MOI 19	37
MOH 6	COMMPSYCH 1	37
MOH 6	CSOs 1	37
MOH 6	CP 8	37
MOH 6	PD9	37
MOH 6	BIA 9	37
MOH 6	SBPOK 13	37
MOH7	CSOs 2	19
MOH 8	MOI 20	16
MOH 8	MOJ 6	16
MOH 8	CSOs 3	16

Annex 8 Graph 2 metrics results

Id	Label	modularity		harmonic closeness centrality			betweenness centrality		Weighted Degree		component	
		times	ity_classification	Eccentricity	ness	ness	ness	ness	Degree	Degree	number	Authority
1	MOI	0	2	0,72	0,805556	53,283333	1755	11	0	0,461385	0,461381	
2	PD	0	3	0,5	0,555556	0	310	3	0	0,208558	0,208564	
3	CP	0	3	0,5	0,555556	0	288	3	0	0,208558	0,208564	
4	BIA	0	3	0,514286	0,583333	1,2	345	4	0	0,25674	0,256748	
5	SBPOK	0	2	0,580645	0,638889	8,2	455	5	0	0,299537	0,299546	
6	VBA	1	0	0	0	0	0	0	1	0	0	
7	PORGCRIM	2	3	0,473684	0,537037	0,2	246	3	0	0,198584	0,198591	
8	CORGCRIM	2	3	0,5625	0,648148	6,916667	652	6	0	0,279987	0,279981	
9	APPELC	2	3	0,5	0,555556	1,2	392	3	0	0,161981	0,161988	
10	MOH	0	3	0,580645	0,694444	34,916667	506	8	0	0,337942	0,337937	
11	MOJ	0	3	0,62069	0,75	27,083333	475	10	0	0,412603	0,41259	
12	DIRSEIZ	2	3	0,486486	0,527778	1	68	2	0	0,113799	0,113804	
13	SERPREVDT	0	3	0,428571	0,462963	0	212	1	0	0,0794	0,079401	
14	COMMPSYCH	0	4	0,375	0,421296	0	37	1	0	0,058156	0,058157	
15	CUST	2	4	0,382979	0,425926	0	55	1	0	0,042797	0,042798	
16	ANTIML	2	4	0,382979	0,425926	0	45	1	0	0,042797	0,042798	
17	TAX	2	4	0,382979	0,425926	0	92	1	0	0,042797	0,042798	
18	FIU	2	3	0,6	0,703704	52	535	8	0	0,248692	0,248688	
19	OFFCOMDRUG	0	3	0,461538	0,509259	0	34	2	0	0,150402	0,150407	
20	CSOs	0	4	0,375	0,421296	0	72	1	0	0,058156	0,058157	

Annex 9 Graph 3 network data

MOI 1	PORGCRIM 1	5
MOI 1	CP 1	2
MOI 1	PD 1	2
MOI 1	SBPOK 1	2
MOI 2	PORGCRIM 2	3
MOI 2	CP 2	2
MOI 2	PD 2	2
MOI 2	SBPOK 2	2
MOI 3	PORGCRIM 3	4
MOI 3	BIA 3	1
MOI 3	SBPOK 3	1
MOI 3	VBA 3	2
MOI 3	MOJ 3	1
MOI 3	OFFCOMDRUG 3	2
MOI 3	SERPREVDT 3	1
MOI 3	COMMPSYCH 3	1
MOI 4	PORGCRIM 4	5
MOI 4	MOH 4	5
MOI 5	PORGCRIM 5	4
MOI 5	CORGCRIM 5	5
MOI 5	APPELC 5	5
MOI 6	PORGCRIM 6	5
MOI 6	BIA 6	5
MOI 6	VBA 6	5
MOI 6	CP 6	5
MOI 6	PD 6	5
MOI 6	SBPOK 6	5
MOI 7	CP 7	1
MOI 7	PD 7	1
MOI 7	BIA 7	5
MOI 7	VBA 7	4
MOI 8	CUST 8	3
MOI 8	ANTIML 8	5
MOI 8	BIA 8	3
MOI 8	SBPOK 8	5
MOI 8	VBA 8	4
MOI 9	TAX 9	4
MOI 9	ANTIML 9	4
MOI 10	PORGCRIM 10	5
MOI 10	CORGCRIM 11	5
MOI 10	APPELC 10	5
MOI 11	PORGCRIM 11	5
MOI 11	CORGCRIM 11	5
MOI 11	FIU 11	5
MOI 11	ANTIML 11	5
MOI 12	CORGCRIM 12	4
MOI 12	PORGCRIM 12	4

MOI 12	APPELC 12	4
MOI 12	MOH 12	5
MOI 12	PD 12	3
MOI 12	CP 12	3
MOI 12	CUST 12	4
MOI 12	TAX 12	5
MOI 12	OFFCOMDRUG 12	2
MOI 13	MOH 13	2
MOI 13	MOJ 13	2
MOI 13	OFFCOMDRUG 13	2
MOI 14	PORGCRIM 14	5
MOI 16	PORGCRIM 16	4
MOI 17	PORGCRIM 17	5
MOI 19	PORGCRIM 19	5
PORGCRIM 5	CORGCRIM 5	5
PORGCRIM 5	APELLC 5	5
PORGCRIM 6	BIA 6	5
PORGCRIM 6	SBPOK 6	5
PORGCRIM 12	APPELC 12	4
PORGCRIM 12	CORGCRIM 12	4
PORGCRIM 14	CORGCRIM 14	5
PORGCRIM 14	CUST 14	5
PORGCRIM 14	TAX 14	5
PORGCRIM 15	SBPOK 15	2
PORGCRIM 15	CORGCRIM 15	2
PORGCRIM 15	APPELC 15	2
PORGCRIM 16	SBPOK 16	4
PORGCRIM 16	CORGCRIM 16	4
PORGCRIM 17	CORGCRIM 17	4
PORGCRIM 18	CORGCRIM 18	3
PORGCRIM 18	APPELC 18	3
PORGCRIM 18	APPELC 18	5
PORGCRIM 20	CORGCRIM 20	5
PORGCRIM 20	MOI 20	5
SBPOK 21	MOI 21	3
SBPOK 22	MOI 22	2
SBPOK 22	CORGCRIM 22	4
SBPOK 22	PORGCRIM 22	5
SBPOK 22	APELLC 22	4
CORGCRIM 23	PORGCRIM 23	2
CORGCRIM 24	APELLC 24	3
CORGCRIM 25	PORGCRIM 25	5
CORGCRIM 25	APELLC 25	5
CORGCRIM 26	APELLC 26	5
CORGCRIM 27	APELLC 27	5
CORGCRIM 28	APPELC 28	4
CORGCRIM 29	APELLC 29	5

APELLC 30	CORGCRIM 30	5
APELLC 31	CORGCRIM 31	5
MOJ 32	MOH 32	3
MOJ 32	CORGCRIM 32	4
MOJ 32	PORGCRIM 32	3
MOJ 33	MOI 33	2
MOH 34	MOI 34	3
MOH 34	OFFCOMDRUG 34	3
MOH 34	COMMPSYCH 34	3
MOH 34	CSOs 34	3
MOH 35	MOI 35	5
MOH 35	CP 35	5
MOH 35	PD 35	5
MOH 35	BIA 35	5
MOH 35	SBPOK 35	5
MOH 36	MOI 36	5
MOH 36	CP 36	5
MOH 36	PD 36	5
MOH 36	BIA 36	5
MOH 36	SBPOK 36	5
MOH 37	MOI 37	4
MOH 37	MOJ 37	4
FIU 38	PORGCRIM 38	5
FIU 38	SBPOK 38	5
FIU 38	BIA 38	5
FIU 38	ANTIML 38	5
FIU 39	MOI 39	5
FIU 39	SBPOK 39	5
FIU 39	PORGCRIM 39	5
FIU 39	CUST 39	5
FIU 39	TAX 39	5
FIU 39	ANTIML 39	5
FIU 39	BIA 39	5
FIU 39	SBPOK 39	5
FIU 39	DIRSEIZ 39	5
FIU 40	ANTIML 40	4
FIU 40	SBPOK 40	4
FIU 40	BIA 40	4
FIU 40	MOI 40	4
DIRSEIZ 41	MOJ 41	3
DIRSEIZ 41	CORGCRIM 41	3
DIRSEIZ 42	MOI 42	5
DIRSEIZ 42	PORGCRIM 42	5
DIRSEIZ 42	SBPOK 42	5
DIRSEIZ 42	FIU 42	5
DIRSEIZ 42	ANTIML 42	5
OFFCOMDRUG 43	MOI 43	2

OFFCOMDRUG 43	MOH 43	3
OFFCOMDRUG 43	SERPREVDT 43	2
OFFCOMDRUG 43	COMMPSYCH 43	5
OFFCOMDRUG 43	MOJ 43	3
OFFCOMDRUG 44	MOH 44	4
OFFCOMDRUG 44	MOI 44	2
OFFCOMDRUG 44	CSOs 44	3
SERPREVDT 45	MOH 45	3
SERPREVDT 45	MOI 45	3
SERPREVDT 45	COMMPSYCH 45	3
SERPREVDT 45	OFFCOMDRUG 45	3
SERPREVDT 46	MOI 46	4
SERPREVDT 46	OFFCOMDRUG 46	4
SERPREVDT 46	COMMPSYCH 46	4
SERPREVDT 46	MOH 46	4
ANTIML 47	CUST 47	5
ANTIML 47	TAX 47	5
ANTIML 47	SBPOK 47	5
ANTIML 47	BIA 47	5
ANTIML 47	CORGCRIM 47	5
CSOs 44	MOI 44	5
CSOs 3	MOH 3	3
CSOs 3	MOI 3	3
CSOs 3	OFFCOMDRUG 3	2
CSOs 3	COMMPSYCH 3	4
CSOs 48	MOH 48	4

Annex 10 Graph 3 results first analysis

Id	Weighted		Eccentricity	closness		harmonic		between	
	Degree	Degree		centrality	centrality	centrality	centrality	centrality	centrality
ANTIML 47	5	25	1	1	1	1	1	0,000488	
BIA 47	1	5	2	0,555556			0,6	0	
CORGCRIM 47	1	5	2	0,555556			0,6	0	
CUST 47	1	5	2	0,555556			0,6	0	
SBPOK 47	1	5	2	0,555556			0,6	0	
TAX 47	1	5	2	0,555556			0,6	0	
APELLC 30	1	5	1	1	1	1	1	0	
CORGCRIM 30	1	5	1	1	1	1	1	0	
APELLC 31	1	5	1	1	1	1	1	0	
CORGCRIM 31	1	5	1	1	1	1	1	0	
CORGCRIM 23	1	2	1	1	1	1	1	0	
PORGCRIM 23	1	2	1	1	1	1	1	0	
CORGCRIM 24	1	3	1	1	1	1	1	0	
APELLC 24	1	3	1	1	1	1	1	0	
CORGCRIM 25	2	10	1	1	1	1	1	0,000049	
APELLC 25	1	5	2	0,666667			0,75	0	
PORGCRIM 25	1	5	2	0,666667			0,75	0	
CORGCRIM 26	1	5	1	1	1	1	1	0	
APELLC 26	1	5	1	1	1	1	1	0	
CORGCRIM 27	1	5	1	1	1	1	1	0	
APELLC 27	1	5	1	1	1	1	1	0	
CORGCRIM 28	1	4	1	1	1	1	1	0	
APPELC 28	1	4	1	1	1	1	1	0	
CORGCRIM 29	1	5	1	1	1	1	1	0	
APELLC 29	1	5	1	1	1	1	1	0	
CSOs 3	4	12	2	0,625			0,7	0,000463	
COMMPSYCH 3	2	5	2	0,555556			0,6	0	
MOH 3	1	3	3	0,4			0,45	0	
MOI 3	9	16	2	0,909091			0,95	0,001927	
OFFCOMDRUG 3	2	4	2	0,555556			0,6	0	
CSOs 44	2	8	2	0,75			0,833333	0	
MOI 44	2	7	2	0,75			0,833333	0	
CSOs 48	1	4	1	1	1	1	1	0	
MOH 48	1	4	1	1	1	1	1	0	
DIRSEIZ 41	2	6	1	1	1	1	1	0,000049	
CORGCRIM 41	1	3	2	0,666667			0,75	0	
MOJ 41	1	3	2	0,666667			0,75	0	
DIRSEIZ 42	5	25	1	1	1	1	1	0,000488	
ANTIML 42	1	5	2	0,555556			0,6	0	
FIU 42	1	5	2	0,555556			0,6	0	
MOI 42	1	5	2	0,555556			0,6	0	
PORGCRIM 42	1	5	2	0,555556			0,6	0	
SBPOK 42	1	5	2	0,555556			0,6	0	
FIU 38	4	20	1	1	1	1	1	0,000293	
ANTIML 38	1	5	2	0,571429			0,625	0	
BIA 38	1	5	2	0,571429			0,625	0	
PORGCRIM 38	1	5	2	0,571429			0,625	0	
SBPOK 38	1	5	2	0,571429			0,625	0	
FIU 39	8	40	1	1	1	1	1	0,001366	
ANTIML 39	1	5	2	0,533333			0,5625	0	
BIA 39	1	5	2	0,533333			0,5625	0	
CUST 39	1	5	2	0,533333			0,5625	0	
DIRSEIZ 39	1	5	2	0,533333			0,5625	0	

Id	Weighted		closness		harmonic	between
	Degree	Degree	Eccentricity	centrality	closnesscentrality	esscentrality
MOI 39	1	5	2	0,533333	0,5625	0
PORGRIM 39	1	5	2	0,533333	0,5625	0
SBPOK 39	1	5	2	0,533333	0,5625	0
TAX 39	1	5	2	0,533333	0,5625	0
FIU 40	4	16	1	1	1	0,000293
ANTIML 40	1	4	2	0,571429	0,625	0
BIA 40	1	4	2	0,571429	0,625	0
MOI 40	1	4	2	0,571429	0,625	0
SBPOK 40	1	4	2	0,571429	0,625	0
MOH 34	4	12	1	1	1	0,000293
COMMPSYCH 34	1	3	2	0,571429	0,625	0
CSOs 34	1	3	2	0,571429	0,625	0
MOI 34	1	3	2	0,571429	0,625	0
OFFCOMDRUG 34	1	3	2	0,571429	0,625	0
MOH 35	5	25	1	1	1	0,000488
BIA 35	1	5	2	0,555556	0,6	0
CP 35	1	5	2	0,555556	0,6	0
MOI 35	1	5	2	0,555556	0,6	0
PD 35	1	5	2	0,555556	0,6	0
SBPOK 35	1	5	2	0,555556	0,6	0
MOH 36	5	25	1	1	1	0,000488
BIA 36	1	5	2	0,555556	0,6	0
CP 36	1	5	2	0,555556	0,6	0
MOI 36	1	5	2	0,555556	0,6	0
PD 36	1	5	2	0,555556	0,6	0
SBPOK 36	1	5	2	0,555556	0,6	0
MOH 37	2	8	1	1	1	0,000049
MOI 37	1	4	2	0,666667	0,75	0
MOJ 37	1	4	2	0,666667	0,75	0
MOI 1	4	11	1	1	1	0,000293
CP 1	1	2	2	0,571429	0,625	0
PD 1	1	2	2	0,571429	0,625	0
PORGRIM 1	1	5	2	0,571429	0,625	0
SBPOK 1	1	2	2	0,571429	0,625	0
MOI 10	3	15	3	0,5	0,642857	0,000537
APPELC 10	1	5	4	0,35	0,440476	0
CORGRIM 11	2	10	2	0,583333	0,642857	0,000585
PORGRIM 10	1	5	4	0,35	0,440476	0
MOI 11	4	20	3	0,583333	0,738095	0,000732
ANTIML 11	1	5	4	0,388889	0,47619	0
FIU 11	1	5	4	0,388889	0,47619	0
PORGRIM 11	1	5	4	0,388889	0,47619	0
MOI 12	9	34	1	1	1	0,001634
APPELC 12	2	8	2	0,5625	0,611111	0
CORGRIM 12	2	8	2	0,5625	0,611111	0
CP 12	1	3	2	0,529412	0,555556	0
CUST 12	1	4	2	0,529412	0,555556	0
MOH 12	1	5	2	0,529412	0,555556	0
OFFCOMDRUG 12	1	2	2	0,529412	0,555556	0
PD 12	1	3	2	0,529412	0,555556	0
PORGRIM 12	3	12	2	0,6	0,666667	0,000024
TAX 12	1	5	2	0,529412	0,555556	0
MOI 13	3	6	1	1	1	0,000146

Id	Weighted		Eccentricity	closness centrality	harmonic closnesscentrality	between esscentrality
	Degree	Degree				
MOH 13	1	2	2	0,6	0,666667	0
MOJ 13	1	2	2	0,6	0,666667	0
OFFCOMDRUG 13	1	2	2	0,6	0,666667	0
MOI 14	1	5	2	0,571429	0,625	0
PORGCRIM 14	4	20	1	1	1	0,000293
MOI 16	1	4	2	0,6	0,666667	0
PORGCRIM 16	3	12	1	1	1	0,000146
MOI 17	1	5	2	0,666667	0,75	0
PORGCRIM 17	2	9	1	1	1	0,000049
MOI 19	1	5	1	1	1	0
PORGCRIM 19	1	5	1	1	1	0
MOI 2	4	9	1	1	1	0,000293
CP 2	1	2	2	0,571429	0,625	0
PD 2	1	2	2	0,571429	0,625	0
PORGCRIM 2	1	3	2	0,571429	0,625	0
SBPOK 2	1	2	2	0,571429	0,625	0
BIA 3	1	1	3	0,5	0,533333	0
MOJ 3	1	1	3	0,5	0,533333	0
PORGCRIM 3	1	4	3	0,5	0,533333	0
SBPOK 3	1	1	3	0,5	0,533333	0
SERPREVDT 3	1	1	3	0,5	0,533333	0
VBA 3	1	2	3	0,5	0,533333	0
MOI 4	2	10	1	1	1	0,000049
MOH 4	1	5	2	0,666667	0,75	0
PORGCRIM 4	1	5	2	0,666667	0,75	0
MOI 5	3	14	2	0,8	0,875	0,000146
APPELC 5	1	5	3	0,5	0,583333	0
CORGCRIM 5	2	10	2	0,666667	0,75	0
PORGCRIM 5	3	14	2	0,8	0,875	0,000146
MOI 6	6	30	1	1	1	0,00061
BIA 6	2	10	2	0,6	0,666667	0
CP 6	1	5	2	0,545455	0,583333	0
PD 6	1	5	2	0,545455	0,583333	0
PORGCRIM 6	3	15	2	0,666667	0,75	0,000024
SBPOK 6	2	10	2	0,6	0,666667	0
VBA 6	1	5	2	0,545455	0,583333	0
MOI 7	4	11	1	1	1	0,000293
BIA 7	1	5	2	0,571429	0,625	0
CP 7	1	1	2	0,571429	0,625	0
PD 7	1	1	2	0,571429	0,625	0
VBA 7	1	4	2	0,571429	0,625	0
MOI 8	5	20	1	1	1	0,000488
ANTIML 8	1	5	2	0,555556	0,6	0
BIA 8	1	3	2	0,555556	0,6	0
CUST 8	1	3	2	0,555556	0,6	0
SBPOK 8	1	5	2	0,555556	0,6	0
VBA 8	1	4	2	0,555556	0,6	0
MOI 9	2	8	1	1	1	0,000049
ANTIML 9	1	4	2	0,666667	0,75	0
TAX 9	1	4	2	0,666667	0,75	0
MOJ 32	3	10	1	1	1	0,000146
CORGCRIM 32	1	4	2	0,6	0,666667	0
MOH 32	1	3	2	0,6	0,666667	0

Id	Weighted		closness Eccentricity	closness centrality	harmonic closnesscentrality	between esscentrality
	Degree	Degree				
PORGCRIM 32	1	3	2	0,6	0,666667	0
MOJ 33	1	2	1	1	1	0
MOI 33	1	2	1	1	1	0
OFFCOMDRUG 43	5	15	1	1	1	0,000488
COMMPSYCH 43	1	5	2	0,555556	0,6	0
MOH 43	1	3	2	0,555556	0,6	0
MOI 43	1	2	2	0,555556	0,6	0
MOJ 43	1	3	2	0,555556	0,6	0
SERPREVDT 43	1	2	2	0,555556	0,6	0
OFFCOMDRUG 44	3	9	1	1	1	0,000098
MOH 44	1	4	2	0,6	0,666667	0
CORGCRIM 14	1	5	2	0,571429	0,625	0
CUST 14	1	5	2	0,571429	0,625	0
TAX 14	1	5	2	0,571429	0,625	0
PORGCRIM 15	3	6	1	1	1	0,000146
APPELC 15	1	2	2	0,6	0,666667	0
CORGCRIM 15	1	2	2	0,6	0,666667	0
SBPOK 15	1	2	2	0,6	0,666667	0
CORGCRIM 16	1	4	2	0,6	0,666667	0
SBPOK 16	1	4	2	0,6	0,666667	0
CORGCRIM 17	1	4	2	0,666667	0,75	0
PORGCRIM 18	2	8	1	1	1	0,000049
APPELC 18	1	5	2	0,666667	0,75	0
CORGCRIM 18	1	3	2	0,666667	0,75	0
PORGCRIM 20	2	10	1	1	1	0,000049
CORGCRIM 20	1	5	2	0,666667	0,75	0
MOI 20	1	5	2	0,666667	0,75	0
APELLC 5	1	5	3	0,5	0,583333	0
SBPOK 21	1	3	1	1	1	0
MOI 21	1	3	1	1	1	0
SBPOK 22	4	15	1	1	1	0,000293
APELLC 22	1	4	2	0,571429	0,625	0
CORGCRIM 22	1	4	2	0,571429	0,625	0
MOI 22	1	2	2	0,571429	0,625	0
PORGCRIM 22	1	5	2	0,571429	0,625	0
SERPREVDT 45	4	12	1	1	1	0,000293
COMMPSYCH 45	1	3	2	0,571429	0,625	0
MOH 45	1	3	2	0,571429	0,625	0
MOI 45	1	3	2	0,571429	0,625	0
OFFCOMDRUG 45	1	3	2	0,571429	0,625	0
SERPREVDT 46	4	16	1	1	1	0,000293
COMMPSYCH 46	1	4	2	0,571429	0,625	0
MOH 46	1	4	2	0,571429	0,625	0
MOI 46	1	4	2	0,571429	0,625	0
OFFCOMDRUG 46	1	4	2	0,571429	0,625	0

Annex 11 Graph 4 and 5 data table for Second analysis

MOI 1	PORGCRIM 1	42
MOI 1	CP 1	42
MOI 1	PD 1	42
MOI 1	SBPOK 1	42
MOI2	CP2	24
MOI2	PD 2	24
MOI2	SBPOK2	24
MOI2	BIA 1	24
MOI2	SERPREDT1	24
MOI 3	CP 3	44
MOI 3	PD3	44
MOI 3	SBPOK3	44
MOI 3	BIA2	44
MOI 3	SERPREDT2	44
MOI4	PORGCRIM2	50
MOI4	CP 4	50
MOI4	PD 4	50
MOI4	SBPOK4	50
MOI4	BIA3	50
MOI4	SERPREDT3	50
MOI5	CP5	45
MOI5	PD5	45
MOI5	SBPOK5	45
MOI5	BIA4	45
MOI5	SERPREDT4	45
MOI6	BIA5	49
MOI6	SBPOK6	49
MOI6	SERPREDT5	49
MOI7	PD6	22
MOI7	SBPOK7	22
MOI8	CP6	9
MOI8	PD7	9
MOI8	SBPOK8	9
CORGCRIM 1	APELLC 1	48
CORGCRIM 1	PORGCRIM3	48
CORGCRIM 2	APELLC 2	56
CORGCRIM 3	APELLC 3	55
CORGCRIM 4	APELLC 4	46
CORGCRIM 5	PORGCRIM4	41
CORGCRIM 5	APELLC 5	41
CORGCRIM 5	MOI9	41
CORGCRIM 5	BIA6	41
CORGCRIM 5	SBPOK9	41
CORGCRIM 6	APELLC 6	28
CORGCRIM 6	PORGCRIM5	28
FIU 1	MOI 10	55
FIU 1	CORGCRIM 7	55

FIU 1	APPELC 7	55
FIU 1	TAX 1	55
FIU 1	CUST 1	55
FIU 2	MOI 11	37
FIU 2	TAX 2	37
FIU 2	SBPOK 10	37
MOJ 1	DIRSEIZ 1	42
FIU 3	MOI 12	26
FIU 3	DIRSEIZ 2	26
FIU 3	CORGCRIM 8	26
FIU 3	APPELC 8	26
FIU 4	ANTIML 1	45
MOI 13	MOJ 2	55
MOI 13	MOH 1	55
MOI 14	CORGCRIM 9	57
MOJ 3	MOI 15	16
MOJ 3	MOH 2	16
MOJ 3	OFFCOMDRUG1	16
MOJ 4	MOI16	37
MOJ 4	MOH3	37
MOJ 4	PORGCRIM6	37
MOJ 4	APELLC9	37
MOJ 4	CP7	37
MOJ 4	PD8	37
MOJ 4	SBPOK11	37
MOJ 4	BIA7	37
MOI17	MOJ5	18
MOI17	MOH4	18
MOI17	OFFCOMDRUG 2	18
MOH 5	MOI 18	18
MOH 5	SBPOK12	18
MOH 5	BIA8	18
MOH 6	MOI 19	37
MOH 6	COMMPSYCH 1	37
MOH 6	CSOs 1	37
MOH 6	CP 8	37
MOH 6	PD9	37
MOH 6	BIA 9	37
MOH 6	SBPOK 13	37
MOH7	CSOs 2	19
MOH 8	MOI 20	16
MOH 8	MOJ 6	16
MOH 8	CSOs 3	16

Annex 12 Graph 4 communities data

MOI 1	PORGCRIM 1	42
MOI 1	CP 1	42
MOI 1	PD 1	42
MOI 1	SBPOK 1	42
MOI2	CP2	24
MOI2	PD 2	24
MOI2	SBPOK2	24
MOI2	BIA 1	24
MOI2	SERPREVDT1	24
MOI 3	CP 3	44
MOI 3	PD3	44
MOI 3	SBPOK3	44
MOI 3	BIA2	44
MOI 3	SERPREVDT2	44
MOI4	PORGCRIM2	50
MOI4	CP 4	50
MOI4	PD 4	50
MOI4	SBPOK4	50
MOI4	BIA3	50
MOI4	SERPREVDT3	50
MOI5	CP5	45
MOI5	PD5	45
MOI5	SBPOK5	45
MOI5	BIA4	45
MOI5	SERPREVDT4	45
MOI6	BIA5	49
MOI6	SBPOK6	49
MOI6	SERPREVDT5	49
MOI7	PD6	22
MOI7	SBPOK7	22
MOI8	CP6	9
MOI8	PD7	9
MOI8	SBPOK8	9
CORGCRIM 1	APELLC 1	48
CORGCRIM 1	PORGCRIM3	48
CORGCRIM 2	APELLC 2	56
CORGCRIM 3	APELLC 3	55
CORGCRIM 4	APELLC 4	46
CORGCRIM 5	PORGCRIM4	41
CORGCRIM 5	APELLC 5	41
CORGCRIM 5	MOI9	41
CORGCRIM 5	BIA6	41
CORGCRIM 5	SBPOK9	41
CORGCRIM 6	APELLC 6	28
CORGCRIM 6	PORGCRIM5	28
FIU 1	MOI 10	55
FIU 1	CORGCRIM 7	55

FIU 1	APPELC 7	55
FIU 1	TAX 1	55
FIU 1	CUST 1	55
FIU 2	MOI 11	37
FIU 2	TAX 2	37
FIU 2	SBPOK 10	37
MOJ 1	DIRSEIZ 1	42
FIU 3	MOI 12	26
FIU 3	DIRSEIZ 2	26
FIU 3	CORGCRIM 8	26
FIU 3	APPELC 8	26
FIU 4	ANTIML 1	45
MOI 13	MOJ 2	55
MOI 13	MOH 1	55
MOI 14	CORGCRIM 9	57
MOJ 3	MOI 15	16
MOJ 3	MOH 2	16
MOJ 3	OFFCOMDRUG1	16
MOJ 4	MOI16	37
MOJ 4	MOH3	37
MOJ 4	PORGCRIM6	37
MOJ 4	APELLC9	37
MOJ 4	CP7	37
MOJ 4	PD8	37
MOJ 4	SBPOK11	37
MOJ 4	BIA7	37
MOI17	MOJ5	18
MOI17	MOH4	18
MOI17	OFFCOMDRUG 2	18
MOH 5	MOI 18	18
MOH 5	SBPOK12	18
MOH 5	BIA8	18
MOH 6	MOI 19	37
MOH 6	COMMPSYCH 1	37
MOH 6	CSOs 1	37
MOH 6	CP 8	37
MOH 6	PD9	37
MOH 6	BIA 9	37
MOH 6	SBPOK 13	37
MOH7	CSOs 2	19
MOH 8	MOI 20	16
MOH 8	MOJ 6	16
MOH 8	CSOs 3	16

Annex 13 Table Scaling of Issues 2

ISSUES	ISSUES PER ITEM	NODES	NODES	WEIGHT
1 investigation prosecution	operational capacities (number, trainings, relationships,)	MOI 1 MOI 1 MOI 1 MOI 1	PORGCRIM 1 CP1 PD1 SBPOK1	42
	multi-disciplinary teams	MOI2 MOI2 MOI2 MOI2 MOI2	CP 2 PD2 SBPOK2 BIA1 SERPREVDT1	24
	Mapping of OC/DT networks	MOI 3 MOI 3 MOI 3 MOI 3 MOI 3	CP 3 PD3 SBPOK3 BIA2 SERPREVDT2	44
	information exchange (secure platform, databases, intelligence exchange)	MOI4 MOI4 MOI4 MOI4 MOI4	PORGCRIM2 CP 4 PD4 SBPOK4 BIA3 SERPREVDT3	50
	internal control	MOI5 MOI5 MOI5 MOI5 MOI5	CP 5 PD5 SBPOK5 BIA4 SERPREVDT4	45
	reliance on secret service	MOI6 MOI6 MOI6	BIA5 SBPOK6 SERPREVDT5	49
	border control	MOI7 MOI7	PD6 SBPOK7	22
		MOI8	CP6	

	infiltration	MOI8 MOI8	PD7 SBPOK8	9
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2 role of the court	trial (expertise, relationships in court panel, decision making, judging to benefit of def....)	CORGCRIM 1 CORGCRIM 1	APELLC 1 PORGCRIM3	48
	appeal proceedings	CORGCRIM 2	APELLC 2	56
	case law	CORGCRIM 3	APELLC 3	55
	sentencing policy	CORGCRIM 4	APELLC 4	46
	independence/political influence	CORGCRIM 5 CORGCRIM 5 CORGCRIM 5 CORGCRIM 5 CORGCRIM 5	PORGCRIM4 APELLC 5 MOI9 BIA6 SBPOK9	41
Training	CORGCRIM 6 CORGCRIM 6	APELLC 6 PORGCRIM5	28	
3 financial investigation	identification of financial assets from crime	FIU 1 FIU 1 FIU 1 FIU 1 FIU 1	MOI 10 CORGCRIM 7 APPELC 7 TAX 1 CUST 1	55
	sectors vulnerable for corruption	FIU 2 FIU 2 FIU 2	MOI 11 TAX 2 SBPOK 10	37
	management of seized assets	MOJ 1	DIRSEIZ 1	42
	specialisation	FIU 3 FIU 3 FIU 3 FIU 3	MOI 12 DIRSEIZ 2 CORGCRIM 8 APPELC 8	26
	anti-money laundering	FIU 4	ANTIML 1	45

4 seizure and destruction of drugs	destruction issues	MOI 13 MOI 13	MOJ 2 MOH 1	55
	where drugs are kept	MOI 14	CORGCRIM 9	57
5 legal framework	drafting of laws	MOJ 3 MOJ 3 MOJ 3	MOI 15 MOH 2 OFFCOMDRUG1	16
	implementation of laws	MOJ 4 MOJ 4 MOJ 4 MOJ 4 MOJ 4 MOJ 4 MOJ 4	MOI16 MOH3 PORGCRIM6 APELLC9 CP7 PD8 SBPOK11 BIA7	37
	strategic framework	MOI17 MOI17 MOI17	MOJ5 MOH4 OFFCOMDRUG 2	18
6 prevention of drug misuse	precursors production	MOH 5 MOH 5 MOH 5	MOI 18 SBPOK12 BIA8	18
	trade	MOH 6	MOI 19 COMMPSYCH 1 CSOs 1 CP 8 PD 9 BIA 9 SBPOK 13	39
	treatment	MOH7	CSOs 2	19
	research	MOH 8 MOH 8 MOH 8	MOI 20 MOJ 6 CSOs 3	16

Annex 14 Graph 4 results centrality measures

node_id	degree	betweenness	betweenness_wt	eigen	eigen_wt
MOI1	4	6	6	0	0
MOI2	5	10	10	0	2,86E-16
MOI3	5	10	10	1,66E-16	0
MOI4	6	15	15	0	1,29E-14
MOI5	5	10	10	1,29E-16	4,27E-16
MOI6	3	3	3	0	0
MOI7	2	1	1	0	3,28E-17
MOI8	3	3	3	1,17E-16	0
CORGCRIM1	2	1	1	0	2,39E-16
CORGCRIM2	1	0	0	0	1,12E-16
CORGCRIM3	1	0	0	0	1,19E-16
CORGCRIM4	1	0	0	0	5,22E-17
CORGCRIM5	5	10	10	0	0
CORGCRIM6	2	1	1	0	6,69E-17
FIU1	5	10	10	1	1
FIU2	3	3	3	3,38E-17	3,17E-16
MOJ1	1	0	0	0	4,06E-17
FIU3	4	6	6	0	2,17E-16
FIU4	1	0	0	0	5,85E-17
MOI13	2	1	1	0	1,34E-16
MOI14	1	0	0	0	1,18E-16
MOJ3	3	3	3	0	0
MOJ4	8	28	28	0	4,72E-15
MOI17	3	3	3	0	1,94E-17
MOH5	3	3	3	0	5,38E-17
MOH6	7	21	21	2,46E-16	0
MOH7	1	0	0	8,07E-17	0
MOH8	3	3	3	0	0
PORGCRIM1	1	0	0	0	0
CP1	1	0	0	0	0
PD1	1	0	0	0	0
SBPOK1	1	0	0	0	0
CP2	1	0	0	0	1,95E-16
PD2	1	0	0	0	1,76E-16
SBPOK2	1	0	0	0	1,76E-16
BIA1	1	0	0	0	1,95E-16
SERPREVDT1	1	0	0	0	1,80E-16
CP3	1	0	0	2,17E-17	0
PD3	1	0	0	0	0
SBPOK3	1	0	0	0	0
BIA2	1	0	0	0	0
SERPREVDT2	1	0	0	2,41E-17	0
PORGCRIM2	1	0	0	0	5,34E-15
CP4	1	0	0	0	5,34E-15
PD4	1	0	0	0	5,38E-15
SBPOK4	1	0	0	0	5,34E-15
BIA3	1	0	0	0	5,42E-15
SERPREVDT3	1	0	0	0	5,26E-15
CP5	1	0	0	1,77E-17	2,14E-16
PD5	1	0	0	4,22E-19	2,29E-16
SBPOK5	1	0	0	0	2,48E-16

node_id	degree	betweenness	betweenness_wt	eigen	eigen_wt
BIA4	1	0	0	0	2,37E-16
SERPREDVT4	1	0	0	0	2,05E-16
BIA5	1	0	0	0	0
SBPOK6	1	0	0	0	0
SERPREDVT5	1	0	0	0	0
PD6	1	0	0	0	5,72E-18
SBPOK7	1	0	0	0	1,42E-17
CP6	1	0	0	1,19E-16	0
PD7	1	0	0	9,92E-17	0
SBPOK8	1	0	0	1,16E-16	0
APELLC1	1	0	0	3,49E-17	2,28E-16
PORGCRIM3	1	0	0	5,16E-17	2,43E-16
APELLC2	1	0	0	0	1,20E-16
APELLC3	1	0	0	0	1,03E-16
APELLC4	1	0	0	0	5,50E-17
PORGCRIM4	1	0	0	0	0
APELLC5	1	0	0	0	0
MOI9	1	0	0	0	0
BIA6	1	0	0	0	0
SBPOK9	1	0	0	0	0
APELLC6	1	0	0	0	6,47E-17
PORGCRIM5	1	0	0	0	6,21E-17
MOI10	1	0	0	0,447213595	0,447213595
CORGCRIM 7	1	0	0	0,447213595	0,447213595
APPELC7	1	0	0	0,447213595	0,447213595
TAX1	1	0	0	0,447213595	0,447213595
CUST1	1	0	0	0,447213595	0,447213595
MOI11	1	0	0	1,14E-16	2,42E-16
TAX2	1	0	0	8,44E-17	2,56E-16
SBPOK 10	1	0	0	7,00E-17	2,41E-16
DIRSEIZ1	1	0	0	0	4,49E-17
MOI12	1	0	0	0	1,50E-16
DIRSEIZ2	1	0	0	0	1,83E-16
CORGCRIM8	1	0	0	0	1,58E-16
APPELC8	1	0	0	0	1,47E-16
ANTIML1	1	0	0	0	3,68E-17
MOJ2	1	0	0	0	8,57E-17
MOH1	1	0	0	0	8,31E-17
CORGCRIM 9	1	0	0	0	1,21E-16
MOI15	1	0	0	2,66E-17	5,73E-19
MOH2	1	0	0	0	1,00E-18
OFFCOMDRUG1	1	0	0	1,80E-17	0
MOI16	1	0	0	0	1,55E-15
MOH3	1	0	0	0	1,58E-15
PORGCRIM6	1	0	0	0	1,55E-15
APELLC9	1	0	0	0	1,50E-15
CP7	1	0	0	0	1,49E-15
PD8	1	0	0	0	1,56E-15
SBPOK11	1	0	0	0	1,46E-15
BIA7	1	0	0	0	1,55E-15
MOJ5	1	0	0	0	0

node_id	degree	betweenness	betweenness_wt	eigen	eigen_wt
MOH4	1	0	0	0	0
OFFCOMDRUG2	1	0	0	0	2,98E-18
MOI18	1	0	0	0	0
SBPOK12	1	0	0	0	7,08E-18
BIA8	1	0	0	0	1,05E-17
MOI19	1	0	0	0	0
COMMPSYCH1	1	0	0	0	0
CSOs1	1	0	0	0	0
CP8	1	0	0	0	0
PD9	1	0	0	0	0
BIA9	1	0	0	0	0
SBPOK13	1	0	0	4,81E-18	0
CSOs2	1	0	0	6,08E-17	0
MOI20	1	0	0	0	0
MOJ6	1	0	0	0	0
CSOs3	1	0	0	0	0

Annex 15 Graph 5 Components

node_id	node_component	component_size	node_color
MOI1	1	5	#FFFFFF
MOI2	2	6	#66C2A5
MOI3	3	6	#FC8D62
MOI4	4	7	#8DA0CB
MOI5	5	6	#E78AC3
MOI6	6	4	#FFFFFF
MOI7	7	3	#FFFFFF
MOI8	8	4	#FFFFFF
CORGCRIM1	9	3	#FFFFFF
CORGCRIM2	10	2	#FFFFFF
CORGCRIM3	11	2	#FFFFFF
CORGCRIM4	12	2	#FFFFFF
CORGCRIM5	13	6	#A6D854
CORGCRIM6	14	3	#FFFFFF
FIU1	15	6	#FFD92F
FIU2	16	4	#FFFFFF
MOJ1	17	2	#FFFFFF
FIU3	18	5	#FFFFFF
FIU4	19	2	#FFFFFF
MOI13	20	3	#FFFFFF
MOI14	21	2	#FFFFFF
MOJ3	22	4	#FFFFFF
MOJ4	23	9	#E5C494
MOI17	24	4	#FFFFFF
MOH5	25	4	#FFFFFF
MOH6	26	8	#B3B3B3
MOH7	27	2	#FFFFFF
MOH8	28	4	#FFFFFF
PORGCRIM1	1	5	#FFFFFF
CP1	1	5	#FFFFFF
PD1	1	5	#FFFFFF
SBPOK1	1	5	#FFFFFF
CP2	2	6	#66C2A5
PD2	2	6	#66C2A5
SBPOK2	2	6	#66C2A5
BIA1	2	6	#66C2A5
SERPREDT1	2	6	#66C2A5
CP3	3	6	#FC8D62
PD3	3	6	#FC8D62
SBPOK3	3	6	#FC8D62
BIA2	3	6	#FC8D62
SERPREDT2	3	6	#FC8D62

PORGCRIM2	4	7 #8DA0CB
CP4	4	7 #8DA0CB
PD4	4	7 #8DA0CB
SBPOK4	4	7 #8DA0CB
BIA3	4	7 #8DA0CB
SERPREVDT3	4	7 #8DA0CB
CP5	5	6 #E78AC3
PD5	5	6 #E78AC3
SBPOK5	5	6 #E78AC3
BIA4	5	6 #E78AC3
SERPREVDT4	5	6 #E78AC3
BIA5	6	4 #FFFFFF
SBPOK6	6	4 #FFFFFF
SERPREVDT5	6	4 #FFFFFF
PD6	7	3 #FFFFFF
SBPOK7	7	3 #FFFFFF
CP6	8	4 #FFFFFF
PD7	8	4 #FFFFFF
SBPOK8	8	4 #FFFFFF
APELLC1	9	3 #FFFFFF
PORGCRIM3	9	3 #FFFFFF
APELLC2	10	2 #FFFFFF
APELLC3	11	2 #FFFFFF
APELLC4	12	2 #FFFFFF
PORGCRIM4	13	6 #A6D854
APELLC5	13	6 #A6D854
MOI9	13	6 #A6D854
BIA6	13	6 #A6D854
SBPOK9	13	6 #A6D854
APELLC6	14	3 #FFFFFF
PORGCRIM5	14	3 #FFFFFF
MOI10	15	6 #FFD92F
CORGCRIM 7	15	6 #FFD92F
APPELC7	15	6 #FFD92F
TAX1	15	6 #FFD92F
CUST1	15	6 #FFD92F
MOI11	16	4 #FFFFFF
TAX2	16	4 #FFFFFF
SBPOK 10	16	4 #FFFFFF
DIRSEIZ1	17	2 #FFFFFF
MOI12	18	5 #FFFFFF
DIRSEIZ2	18	5 #FFFFFF
CORGCRIM8	18	5 #FFFFFF

APPELC8	18	5 #FFFFFF
ANTIML1	19	2 #FFFFFF
MOJ2	20	3 #FFFFFF
MOH1	20	3 #FFFFFF
CORGCRIM 9	21	2 #FFFFFF
MOI15	22	4 #FFFFFF
MOH2	22	4 #FFFFFF
OFFCOMDRUG1	22	4 #FFFFFF
MOI16	23	9 #E5C494
MOH3	23	9 #E5C494
PORGCRIM6	23	9 #E5C494
APELLC9	23	9 #E5C494
CP7	23	9 #E5C494
PD8	23	9 #E5C494
SBPOK11	23	9 #E5C494
BIA7	23	9 #E5C494
MOJ5	24	4 #FFFFFF
MOH4	24	4 #FFFFFF
OFFCOMDRUG2	24	4 #FFFFFF
MOI18	25	4 #FFFFFF
SBPOK12	25	4 #FFFFFF
BIA8	25	4 #FFFFFF
MOI19	26	8 #B3B3B3
COMMPSYCH1	26	8 #B3B3B3
CSOs1	26	8 #B3B3B3
CP8	26	8 #B3B3B3
PD9	26	8 #B3B3B3
BIA9	26	8 #B3B3B3
SBPOK13	26	8 #B3B3B3
CSOs2	27	2 #FFFFFF
MOI20	28	4 #FFFFFF
MOJ6	28	4 #FFFFFF
CSOs3	28	4 #FFFFFF

