

Original scientific paper

Submitted: 2020-06-23

Published: 2020-10-01

doi:10.5937/nabepo25-27224

THE APPLICATION OF THE *NE BIS IN IDEM* RELATED TO FINANCIAL OFFENCES IN THE JURISPRUDENCE OF THE EUROPEAN COURTS

¹Marina Matić Bošković¹, ²Jelena Kostić

¹*Institute for Criminological and Sociological Research, Belgrade, Serbia*

²*Institute of Comparative Law, Belgrade, Serbia*

Abstract: In the article, the authors analyze the fundamental challenges in the application of the *ne bis in idem* principle in the practice of the European Court for Human Rights and Court of Justice of the EU and their interpretation of the principle in relation to the application on the criminal offences and misdemeanour offences, including administrative penal offences, against the same person for the same acts. Article followed the development in interpretation of the principle by the European Court of Human Rights in Zolotukhin case to the interpretation of the Court of Justice of the EU in Menci case. European Courts jurisprudence could be used for dialogue on challenges that the Serbian judiciary and tax authorities are facing in the interpretation of legislation and application of *ne bis in idem* principle on criminal and misdemeanour proceedings against the same person for the same acts. The article provides the basis for discussion on the unification of court practice.

Keywords: financial offences, misdemeanour offences, criminal offences, European courts jurisprudence, *ne bis in idem*.

INTRODUCTION

In the field of economic and financial crime Serbia keeps double-track enforcement regime,² similar to several European countries that grant administrative and criminal penalties for the same offence (Case *Åkerberg Fransson*, C-617/10; Opinion of AG Cruz Villalón, para. 83).³ Most countries which have measures for double-track have introduced a variety of tools which prevent

1 Corresponding author: maticmarina77@yahoo.com.

2 The Law on Tax Procedure and Tax Administration impose a number of misdemeanour tax offences, while criminal offences are prescribed both in the Law on Tax Procedure and Tax Administration.

3 In some countries, penalties are issued by administrative authorities, so it is referred to them as administrative penal proceedings. In the Republic of Serbia sanctions for financial misdemeanors are imposed in proceedings conducted by the misdemeanor court.

an excessive punitive outcome, either through the application of a criterion of proportionality like in Germany or the priority of criminal proceedings over the administrative proceedings like in Spain (*Ibid*).

In Serbia financial offences are listed in different laws that regulate financial and commercial business and in the Criminal Code (*Official Gazette of the Republic of Serbia* Nos. 85/2005...35/2019). This duplication of punitive systems often cause problems in practice, since responsible institutions file for the same conduct both a misdemeanour charge and a criminal charge. However, in such situations when judgement is already passed in misdemeanour proceedings, it is not possible to pass a judgment in criminal proceedings due to the application of the *ne bis in idem* principle (Mrvić Petrović, 2014: 28; Bovan, 2014: 62-74). Bearing in mind similarities of legal description of criminal offences, misdemeanour and economic offences and the possibility of paralel proceedings for the mentioned offences, preventing the possibility of double punishment and violating the principle of *ne bis in idem* is an additional challenge for national legislation and practice. When charges are submittes simultaneously, the misdemeanour procedures are finalized faster so criminal proceedings cannot be conducted due to the application of the *ne bis in idem* principle (Ilić, 2017: 31). According to Article 8, paragraph 3 of the Misdemeanor Law of the Republic of Serbia no procedure may be initiated against a perpetrator of a misdemeanour who has been found guilty in a criminal proceeding for a criminal offense that includes the characteristics of a misdemeanour and if it has been initiated or is in progress, it cannot be continued and completed. In addition,

no procedure may be initiated against the perpetrator of a misdemeanour who has been legally declared responsible for an economic offense that includes the characteristics of the misdemeanour and if it has been initiated or is in progress, it cannot be continued and completed (Misdemeanor Law, *Official Gazette of the Republic of Serbia*, Nos. 65/2013...91/2019 - other law).

With every state having its own independent rules on the territorial scope of its criminal law, there is an inherent hazard of dual punishment (Satzger, 2012: 134). The differences between the national criminal law systems are reduced through establishment of international and regional rules on the application of the *ne bis in idem* principle, particularly in regard to criminal offences that are protecting financial interests of the European Union. For this reason, it is important for national courts to follow jurisprudence of the European Court of Human Rights (ECtHR) and the Court of Justice of the EU (CJEU), when it comes to the financial interests of the European Union.

The *ne bis in idem* principle in the EU has evolved from a domestic legal principal into a transnational legal right (Vervaele, 2005: 117). Implementation of the *ne bis in idem* principle at the national level is important for several reasons, such as the protection of the human rights, protection of the individual from state abuses, proportionality, rule of law, legal certainty, judicial security, due process, respect of *res iudicata* and interests of social peace and order (Van Bockel, 2010: 25).

Bearing in mind problems in practice regarding the impossibility to conduct criminal proceedings for financial offences against the same person after be-



ing sentenced for misdemeanour, in this paper we will try to make recommendations for unification of the national court practice. Therefore, we will point out the importance of the principle of *ne bis in idem* at the level of the European Union, and thus at the national level and

analyse the legal approaches regarding the principle *ne bis in idem* expressed in the judgments of the European Court of Human Rights and and the Court of Justice of the European Union with special reference to the judgements regarding financial offences.

THE NE BIS IDEM PRINCIPLE IN THE EUROPEAN SYSTEMS AND JURISPRUDENCE

The *ne bis in idem* principle is the fundamental principle of the criminal law in many modern legal systems. In some states it is incorporated in the Constitution. In Germany, Article 103 of the Constitution is related to mentioned principle. The same principle is also contained in Article 34 paragraph 4 of the Constitution of the Republic of Serbia. According to that Article no one may be prosecuted or punished for a criminal offence for which he has been, by the final judgment, acquitted or sentenced or for which the indictment has been finally quashed or the proceedings finally suspended, nor a court decision may be amended to the detriment of the accused in the proceedings under an extraordinary legal remedy. The same applies to the conducting of proceedings for some other punishable offence. The right not to be prosecuted or punished twice for the same offence is a means to ensure legal certainty and impartiality (Škulić, 2014: 119).

Increased influence of the EU regulations on national laws and the free movement of goods, people, services and capital within the European Union, had as a consequence raise of the relevance of the international dimension in the criminal justice, and thereby also the risk that a person may be subjected to

trial twice for the same criminal offence at the national level.

From the historical aspect, the *ne bis in idem* principle has been applied within one state and it has been limited to the area of the criminal law, which means that it has not been applied to administrative proceedings in which penalties have been imposed. More recently, some states have also extended the scope of the application of the principle to all kinds of criminal proceedings and penalties. However, the application of the principle in transnational cases in which a number of member states are involved can be contested, as well as the issue to which extent a national legal system should respect the discontinuance of criminal prosecution in another state, or whether *ne bis in idem* is applied to such cases as well (Mitsilegas, 2009: 143).

The lack of harmonization in the area of criminal law within the EU and the existence of partial rules on the conflict of jurisdiction create the risk of subjecting the same person to trial twice for the same criminal offence in different member states. The international instruments do not contain general prohibition against prosecution of one person twice for the same criminal offence in two different states. The European Convention on Human Rights in Article 4



of the Protocol 7 stipulates the right not to be convicted or punished twice in the same matter within one state. The provisions of the Convention and Protocol 7 clearly indicated there is no prohibition to try someone twice for an offence for which he has already been finally acquitted or convicted in another state. The interpretation of the territorial application of article 4 of the Protocol 7 is confirmed by the ECtHR in case *Baragiola v Switzerland* (Nenadic, 2014: 145; Case *Baragiola v Switzerland*, App No 17265/90).

The most challenging thing for the interpretation of the ECtHR was *idem* element (the act being judged is the same). The element of *idem* can be assessed based on identity of offender, facts, injured person or legal qualification of the facts (Trechsel, 2005: 391). In practice specific problems may arise when different institutions decide on the same facts, i.e. courts and administrative bodies.

The *ne bis in idem* principle constitutes the European added value in comparison with the international law. Particular challenge is the fact that this principle is differently regulated in several European legal instruments: the European Convention on Human Rights, the Schengen Agreement and the Charter of Fundamental Rights of the EU.

In the European Union *ne bis in idem* principle was regulated in Art. 54–58 of the Schengen Convention. The influence on the acceptance of the *ne bis in idem* principle in the European law had the understanding of the notion of territoriality of the EU and the creation of the Schengen area. Due to Article 54 of the Convention on the Implementation of the Schengen Agreement (the CISA), the *ne bis in idem* principle got the transnational dimension. Mentioned Article stipulates that “a person whose trial has

been finally disposed of in one Contracting Party may not be prosecuted in another Contracting Party for the same acts provided that, if a penalty has been imposed, it has been enforced, is actually in the process of being enforced or can no longer be enforced under the laws of the sentencing Contracting Party”.

Special provisions on the *ne bis in idem* are contained in the 1995 EU Convention on the Protection of the European Communities’ Financial Interests and the 1997 EU Convention against Corruption Involving Officials. However, although basic provisions and exemptions are identical as in the Schengen Convention, there are certain differences (the provisions on cooperation) and, therefore, the question arises as to whether the provisions of the two Conventions are *lex specialis* relative to the Schengen Agreement (Peers, 2013: 837). The mentioned principle is also regulated in Article 50 of the Charter of Fundamental Rights of the European Union.

The Explanation prepared by the authors of the Charter provides the clarification that “in accordance with Article 50, the ‘non bis in idem’ principle applies not only within the jurisdiction of one State but also between the jurisdictions of several Member States (The Text of the explanations relating to the complete text of the Charter of fundamental rights of the European Union as set out in CHARTE 4487/00 CONVENT 50).

The development of the *ne bis in idem* principle on the European level is determined by the case law of the ECtHR and CJEU and the mutual influence between courts. Interpretation of double-track enforcement regime, penal administrative and criminal proceedings, raised question of the level of protection afforded by the *ne bis in idem* principle of Arti-



cle 4 of Protocol 7 of the ECHR and Article 50 of the Charter. Some authors noted that both European Courts chose to anchor the protection of the *ne bis in idem* at the interface between administrative and criminal law to multiple and often practically unforeseeable criteria (Mirandola & Lasagni, 2019: 131). Those criteria diverging from one court to the other also contribute to the general confusion about the effective scope of this principle for individuals as well as national authorities. It seems that there is not a clear criterion and it would require setting clearer rules to encourage coherent legislative solutions (Mirandola & Lasagni, 2019: 133). There are authors who perceive the process of interpretation of the *ne bis in idem* principle by the European Courts as an evolving process that will lead to convergence (Vetzo, 2018: 81).

The fact that the provisions in the CISA Convention differ from other international instruments that regulate *ne bis in idem*, including the European Convention on Human Rights, has called for further clarifications of this principle in the EU law. The *ne bis in idem* principle has become an integral part of the EU acquis and by the introduction of this principle as the basis for mandatory or facultative rejection to act upon warrants, or orders sent to instruments of mutual recognition (e.g. the European Arrest Warrant or the European Production Order). None other provision of the criminal law has caused so many dilemmas in the application by national courts as the *ne bis in idem* principle, so the CJEU provided the general guidelines for the interpretation of this principle.

Due to the jurisprudence of the CJEU, the supranational principle has been developed that does not depend on the adoption of additional regulations or

harmonization of the substantive law. The decisions of the CJEU influenced on the ECtHR jurisprudence (*Zolotuhkin vs. Russia*). In a way this case constitutes a deviation from the former jurisprudence. According to the standpoint of the European Court of Human Rights Article 4 of Protocol 7 should be interpreted as the prohibition of prosecution or subjecting to a trial of a person for another act to the extent to which that act results from identical facts or the facts that are essentially the same as those in the previous act. It was emphasized in the judgment that it is irrelevant as to what parts of new indictments are confirmed or dismissed in the course of the later proceedings, because the specified Article stipulates the protection of a person from being tried or from being tried in new proceedings, and not the prohibition of another condemnatory or judgment of acquittal. Consequently, the court should focus on those facts that constitute a set of factual circumstances related to the same accused, which are inextricably linked together in time and space and the existence of which must be proven in order to pass the condemnatory judgment or to institute criminal proceedings. In the mentioned case the ECtHR ruled that Article 4 of Protocol No. 7 must be understood as prohibition of the prosecution for a second offence if it arises from identical facts. That means that criminal indictment after a final administrative punitive measure for “substantially the same facts” is simply impossible on the basis of the Zolotukhin judgment (Desterbeck, 2019: 137).

In case *Luca Menci* the Luxembourg Court followed the Strasbourg decision (*Luca Menci Case*, C-524/15). The CJEU noticed that Italian legislation allowed duplication of proceedings and penalties in administrative penal proceedings and



criminal proceedings against the same person for the same acts and noticed that such duplication represented a limitation to the fundamental right guaranteed by article 50 of the Charter and analysed whether that limitation is justified (The Judgement in *Luca Menci Case*, Para 39). The CJEU integrated the same criteria inaugurated in the case A and B v. Norway by the ECtHR. In Menci case the CJEU was concerned that the duplication of administrative penal proceedings and criminal proceedings against

the same person for the same acts, can under certain conditions present a justified limitation of the right guaranteed by Article 50 of the Charter of Human Rights of the EU (Burić, 517: 518; The Judgement in Case A and B v Norway, App Nos. 24130/11 and 29758/11). Although in practice it happens that the CJEU follows the practice of the ECtHR, there are also examples of different points of view, as in the judgment of the CJEU in Menci case regarding the non-payment of VAT.

FINANCIAL OFFENCES AND APPLICATION OF THE *NE BIS IN IDEM* PRINCIPLE

The criminal law protection of financial interests of the European Union at the same time protects the member states national financial interests, since a part of national revenues collected in the territory of the member states belongs to the budget of the European Union (Matić Bošković, 2016: 247-259). The funds from the budget of the European Union that are spent in the territory of the member states are used to finance, e.g. agricultural and rural development, different administrative costs (Stojanović, 2007: 173). The obligation of the member states to prescribe criminal offences to protect financial interests of the European Union is contained in the Directive on the fight against fraud to the Union's financial interests by means of criminal law (Directive (EU) 2017/1371). Bearing in mind the method of financing of the Union, those are mainly the criminal offences in the protection of financial interests as well, i.e. the criminal offence of tax evasion or state aid fraud (Kostić, 2018: 36). Due to the similarity between administrative offences and criminal offences in the protection of the

above interests, the CJEU has also faced dilemmas the same as the ECtHR and the national courts, which were related to the application of the *ne bis in idem* principle.

The Italian court requested the preliminary ruling from the CJEU, since the Italian national legislation, for the same conduct, prescribed both administrative and criminal sanctions (Kostić, 2018: 143-147; The Judgment of the Court of Justice of the European Union, C-524/2015).

The competent national tax administration initiated the administrative proceedings in which the perpetrator of the misdemeanour offence was ordered to pay fine due to the failure to pay the tax liability. However, after the termination of the administrative proceedings against that person, for the same act, the criminal proceedings were instituted, with the explanation that the act constitutes the criminal offence prescribed in Articles 10-bis and 10-ter of the Italian Law on Criminal Tax Offences (Legge sui reati tributari, Decreto legislativo, 10/03/2000



Numero 74, Il testo del Decreto Legislativo 10 Marzo 2000, n. 74 sui reati tributari, aggiornato al Decreto Legislativo 24 Settembre 2015, numero 158).

The CJEU took the stand that the late payment of the value added tax is still penalized. The CJEU decided that the national regulation based on which against that same person criminal proceedings may be instituted due to the failure to pay the value added tax, although the administrative sanction of the penal character has already been imposed upon that person for the same acts in terms of Article 50 of the European Charter, is not violation of the specified Article. However, the national regulation that envisages such a possibility must (The Judgment of the Court of Justice of the European Union, March 20, 2018, C-524/2015):

- 1) Prescribe such cumulation of sanctions in general interest, whereby criminal and administrative sanctions must have complementary aims;
- 2) Contain the rules by which the cumulation is limited to what is the absolutely necessary additional burden on the accused person, which is imposed upon him due to the cumulation of proceedings; and
- 3) Stipulate the rules which ensure that the severity of all the imposed sanctions is limited only to what is absolutely necessary in view of the severity of the concrete act.

The case Åkerberg Fransson also concerns the tax offences. The subject of this case was the request for a preliminary ruling concerning the interpretation of the *ne bis in idem* principle in the European Union law took position that Member States that did limit *ne bis in idem*, when implementing and enforcing EU law to criminal law would have to widen their scope or protection in

order to include punitive administrative sanctioning (Vervaele, 2013: 225). The preliminary request has been made in the context of a dispute concerning proceedings brought by the Swedish Public Prosecutor's office for serious tax offences. The Court ruled that "the *ne bis in idem* principle laid down in Article 50 of the Charter of Fundamental Rights of the European Union does not preclude a Member State from imposing successively for the same acts of non-compliance with declaration obligations in the field of value added tax, a tax penalty and a criminal penalty in so far as the first penalty is not criminal in nature, a matter which is for the national court to determine" (The Judgement in Case Åklagaren v Hans Åkerberg Fransson, C 617/10, Para. 50).

Different approach than in the above mentioned case is present in the judgement of the case A. and B. v. Norway. In this case applicants argued that in breach of Article 4 of Protocol No 7, they had been subjected to double jeopardy on account of the same matter. In that situation they have been accused and indicted by the prosecution services and having had tax penalties imposed on them by the tax authorities, which both of them accepted and paid before criminal conviction. The tax decisions became final in December 2008. Before the criminal proceedings this seemed as a violation of the *ne bis in idem* principle (Luchtman, 2018: 1726). The ECtHR concluded that in both cases no violation of Article 4 of Protocol 7 could be established. The criminal proceedings and the administrative proceedings were conducted in parallel and were interconnected. The establishment of facts made in one set was used in the other set; and, as regards the proportionality of the overall punishment inflicted, the



sentence imposed in the criminal trial had taken the tax penalty into consideration (Luchtman, 2018: 1728). Despite that the decision of one of the judges argued that the approach chosen by the majority poses challenges to the authority of the State because that approach contributed to risk of the contradictory decisions and manipulations by the authorities (Luchtman, 2018: 1728).

The Decision in Menci case is different than the Decision of the ECtHR in A and B v. Norway case. According to the opinion expressed in the second decision, States are independent in the regulation of their legal systems and take into account the fact that some States have not ratified Article 4, paragraph 1 of the Protocol 7 of the European Convention on Human Rights. On the contrary, the Menci decision takes the view that the interpretation of Article 50 of Charter depends on the willingness of Member States to respect them. The decision in Menci case is more acceptable, bearing in mind that the criteria taken into account in decision A and B v. Norway could lead to legal uncertainty and non-compliance with the rights guaranteed by the Charter (cited in Vetzo, 2018: 9). Despite the different attitudes excepted in the above mentioned cases, both European Courts deemed it relevant that the proceedings pursued the next complementary aims, desired the foreseeability of double proceedings, required coordination between the two authorities involved in the proceedings and insisted on the proportionality of the combination of sanctions (Vetzo: 12). As has been noticed by Vetzo (2018: 20-21), further dialogue between two courts will be necessary for determining the future direction of the principle *ne bis in idem* in internal application. Bearing in mind the afore mentioned, the

criterion for the application of *ne bis in idem* principle in the practice of national courts should be more clarified in case law of both European courts.

According to certain judgments of the national courts of the Republic of Serbia, the notion of criminal offence in terms of the regulations that govern the issue of legal security in the penal law should be interpreted not only as criminal offences, but also as transgressions and misdemeanour offences (The ruling of the High Court in Novi Sad, Kž 2 94/2014). A trial for a criminal offence is possible if the proceedings were preceded by some other for the offence that can originate from the same event, but differs in the description of the committed act (The judgment of the Appellate Court in Niš, Kž1 1195/2016). In case all the actions undertaken by the accused, which constitute the elements of criminal offences for which he has been pronounced guilty, are of much larger scale and more numerous than the acts on the ground of which he has been misdemeanour sanctioned in the misdemeanour proceedings conducted before a state authority, it would not be possible to talk about the already adjudicated matter (The judgment of the Appellate Court in Belgrade, Kž1 Po1 32/2015). The Constitutional Court of Serbia in the Decision Už-1285/2012 points out that, when assessing the allegations of a constitutional appeal against the violation of the right to legal security in the penal law referred to in Article 34 paragraph 4 of the Constitution, it is necessary to establish whether both proceedings conducted against the appellant of the constitutional appeal were conducted for an act that constitutes a punishable offence. Then whether the penalties are penal in their nature, whether the acts due to which the applicant is criminally prose-



cuted are the same (*idem*) and whether double proceedings (*bis*) existed.

If the description of the criminal offence resulting from the same circumstances differs from the description of the misdemeanour offence, there will be no violation of the *ne bis in idem* principle. If any of misdemeanour offences prescribed in the Law on Tax Procedure and Tax Administration has been committed for which the final judgment has been passed, there will be no obstacle for the passing of a judgment in the criminal proceedings. This is in accordance with

the decision in Zolothukin case which takes the view that Article 4, paragraph 1 of Protocol No. 7 to the European Convention on Human Rights must be interpreted as prohibiting the prosecution or trial of a person for another offense to the extent that it arises from the same facts or the facts essentially the same. That means that the merits of the misdemeanour court should not include the facts that are not relevant to its existence, and which represent the facts necessary for the existence and qualification of a more serious offense (cited in Ilić, 2018: 30, 31).

CONCLUSION

When the application of the *ne bis in idem* principle is in question related to the cases that are tried against perpetrators of financial offences (misdemeanour offences and criminal offences), the jurisprudence of the European courts (ECtHR and CJEU) could raise additional dilemmas within the Serbian judiciary. In Serbia the problem exists in practice, since the authorities competent to discover financial irregularities, i.e. the tax administration, often file both tax-related misdemeanor and criminal charges against the perpetrators of tax offences. Such a processing causes the consequences which are reflected in the inability to conduct criminal proceedings at a later stage, because it often turns out that certain conduct does not constitute a misdemeanour tax offence, but a criminal offence instead.

However, following the jurisprudence of the ECtHR and the CJEU related to the application of the *ne bis in idem* principle could still be possible and applicable in some cases. But sometimes the prac-

tices of the mentioned Courts are different in similar cases and it seems that the problems can only be solved at the national level. According to Luchtman it seems that the CJEU shape the principle according to the needs of the European Union (Luchtman, 1749). Bearing in mind that the CJEU managed to avoid in its decisions the conflict with the practice of the ECtHR, it seems that the best solution is establishing of clear rules at the national level to avoid the breach of the principle *ne bis in idem* in financial offence matters. That is very important for the protection of human rights and legal security at the national level.

Our opinion is that the standing of the CJEU expressed in the proceedings further to the 2015 preliminary ruling in Menci case based on the application of the Italian court would be perhaps more suitable (C-524/2015). According to the position taken, when assessing whether the violation of the *ne bis in idem* principle is in question, one should bear in mind that the cumulation of sanctions is



in general interest, whereby the criminal and misdemeanour sanctions must have complementary aims. Therefore, it could possibly be interpreted that in financial offences the cumulation of sanctions is always in general interest, and then to take care that by imposing misdemeanour and criminal sanctions complementary aims are attained. This means that a sanction in the criminal proceedings could be passed only for the scope of the act of offence that goes beyond the legal description of a misdemeanour offence, which would also imply proportional al-

lowing for the previously imposed sanction or reduction of the criminal sanction so that such processing by the court would not impose an additional burden on the accused person, which emanates due to the cumulation of proceedings. In such a way the requirement that the severity of all the imposed sanctions is limited only to what is absolutely necessary in view of the severity of the concrete offence would also be met. However, in view of the standpoint contained in the judgment, this should be specifically envisaged in national regulations.

REFERENCES

- A. and B. v. Norway (November 11, 2016). Applications nos. 24130/11 and 29758/11. Retrieved March 15, 2020 from <http://hudoc.echr.coe.int/eng?i=001-168972>
- Bovan, S. (2014). Metodski potencijal hermeneutičkog pragmatizma u razumevanju i primeni načela ne bis in idem. *Crimen*, 5(1), 62–74.
- Burić, Z. (2019). Ne bis in idem in European criminal law: Moving in circles? In D. Duić et al. (Eds.), *International scientific conference „EU and comparative law issues and challenges”* (Series 3 (ECLIC), pp. 507–520). Osijek: University of Osijek, Faculty of Law Josip Juraj Strossmayer. <http://doi.org/10.25234/eclic>.
- Desterbeck, F. (2019). Ne bis in idem and tax offences: How Belgium adapted its legislation to the recent case law of the ECtHR and the CJEU. *Eucrim*, (2), 135–141.
- Ilić, G. (2017). Načelo ne bis in idem u praksi Evropskog suda za ljudska prava. *Strani pravni život*, 61(3), 21–34.
- Kostić, J. (2018). *Krivičnopravna zaštita finansijskih interesa Evropske unije*. Beograd: Institut za uporedno pravo.
- Luchtman, M. (2018). The ECJ’S recent case law on the ne bis in idem: Implications for law enforcement in a shared legal order. *Common Market Law Review*, 55(6), 1717–1750.
- Matić Bošković, M. (2016). Uloga Evropskog javnog tužioca u borbi protiv organizovanog kriminala. In J. Čirić (Ed.), *Scientific conference Suzbijanje organizovanog kriminala kao preduslov vladavine prava* (pp. 247–258). Beograd: Institut za uporedno pravo.
- Mirandola, S., Lasagni, G. (2019). The European ne bis in idem at the Crossroads Administrative and Criminal Law. *Eucrim*, (2), 126–135. <https://doi.org/10.30709/eucrim-2019-009> //.



- Mitsilegas, V. (2009). *EU criminal law*. Oxford–Portland: Hart Publishing.
- Mrvić Petrović, N. (2014). Poštovanje načela ne bis in idem pri suđenju za slične prekršaje i krivična dela. *NBP – Žurnal za kriminalistiku i pravo*, 19(2), 27–39.
- Nenadic, S. (2014). Načelo ne bis in idem u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i primena načela u praksi Evropskog suda za ljudska prava. *Revija za kriminologiju i krivično pravo*, 52(2), 144–167.
- Peers, S. (2013). *EU Justice and Home Affairs Law* (3rd ed.). Oxford: Oxford University Press.
- Satzger, H. (2012). *International and European criminal law*. München: Beck, C. H.; Oxford: Hart; Baden-Baden: Nomos.
- Sergey Zolotuhkin v. Russia. Application no. 14939/03. Retrieved October 28, 2019 from <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-91222%22%5D%7D>
- Stojanović, S. (2007). Razvoj sistema finansiranja Evropske unije. In J. Ćirić (Ed.), *50 godina Evropske unije* (pp. 159–185). Beograd: Institut za uporedno pravo; Vlada Republike Srbije, Kancelarija za evropske integracije.
- Škulić, M. (2014). *Krivično procesno pravo*. Beograd: Pravni fakultet Univerziteta; Dosije studio.
- The decision UŽ-1285/2012, dated March 26, 2014.
- The judgment of the Appellate Court in Belgrade Kž1 Po1 32/2015, dated June 23, 2016.
- The judgment of the Appellate Court in Niš, Kž1 1195/2016, dated November 18, 2016.
- The Judgment of the Court of Justice of the European Union (March 20, 2018). The request for a preliminary ruling under article 267 TFEU from the Tribunale di Bergamo C-524/2015.
- The Judgement of the Court of Justice of the European Union in Case Åklagaren v Hans Åkerberg Fransson C 617/10.
- The ruling of the High Court in Novi Sad Kž 2 94/2014, dated April 15, 2014.
- Trechsel, S. (2005). *Human rights in criminal proceedings*. New York: Oxford University Press.
- Van Bockel, B. (2010). *The ne bis in idem principle in EU law*. Kluwer: Kluwer Law International.
- Vervaele, J. A. E. (2005). The transnational ne bis in idem principle in the EU. Mutual recognition and equivalent protection of human rights. *Utrecht Law Review*, 1(2), 100–108.
- Vervaele, J. A. E. (2013). Ne bis in idem: Towards a transnational constitutional principle in the EU. *Utrecht Law Review*, 9(4), 211–229.
- Vetzo, M. (2018). The past, present and future of the ne bis in idem dialogue between the Court of Justice of the European Union and the European Court of Human Rights: The cases of Menci, Garlsson and Di Puma. *Review of European Administrative Law*, 11(2), 55–84.



