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Tax Police and Tax Crime in Serbia

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Abstract: In Serbia, the detection of tax crimes is the responsibility of the Tax Administration, and these tasks are performed by the Tax Police, which act as a body of pre-investigation procedure, in the sense of the Code of Criminal Procedure. Tax Police inspectors, as authorized officials of the Ministry of Finance, have powers to take certain measures and actions to collect information and evidence, which may be of importance for criminal proceedings for tax crimes. The paper made a critical analysis of the legal framework of the Tax Police status in detecting tax crimes, the result of which shows that the powers of Tax Police inspectors are neither adequately regulated, nor in line with the powers and duties that the police have in the pre-investigation procedure for other crimes, so certain proposals for legislative intervention were made. Also, the lack of a clearly defined relationship and division of roles between the Tax Police and the police in combating this form of financial crime is pointed out.

Keywords: tax crime, Tax Police, criminal procedure.

INTRODUCTION

It is undeniable that *ius puniendi* and taxation represent exclusive attributes of state power (Reger et al., 2023: 67), both within the historical and contemporary contexts. Since tax is an important tool of governance and a foundation of modern statehood, tax crimes, as a complex socio-legal-political problem, should be effectively detected and investigated, and perpetrators criminally prosecuted and sanctioned (Turksen, Kreissl, et al., 2023: 4). Several factors may affect the fight against tax crimes: cultural and environmental (e.g. media coverage), human (e.g. skills and specialisation of public officials), organisational (e.g. economic resources), legal (e.g. quality of the tax and criminal law), institutional (e.g. statistics relating to the convictions and prosecutions), operational (e.g. effectiveness of the sanctions) (Rasmouki & Turksen, 2019: 25–26). From criminal procedural law perspective, factors that affect countering tax crimes refer to procedural laws and investigative powers; standards of proof and laws governing evidence; incentives to disclosures and whistleblowing; inter-agency cooperation and information-sharing; international cooperation in criminal matters (Turksen, Vozza, et al., 2023: 222). However, the crucial factor concerns an inadequate legal framework governing the actions of competent authorities in detection

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and investigation (Turksen & Abukari, 2021: 407), which hinders prevention, detection, and criminal procedure for tax crimes. Other factors are beyond the scope of this paper.

In most countries the detection of tax crimes is the task of the public administration (Turksen, Kreissl, et al., 2023: 11), and it the case in Serbia, as well. The Tax Administration, as an administrative body within the Ministry of Finance (hereinafter: MF), is competent to detect tax crimes and the perpetrators of tax crimes, as well as to undertake lawful measures regarding that (Art. 160, it. 5 of the LTPTA). In order to carry out tasks within the jurisdiction of the Tax Administration related to the detection and reporting of tax crimes and their perpetrators, this law provides for the formation of a special organizational unit – the Tax Police (Art. 161, para. 1 of the LTPTA), formed within the Central Tax Administration. The Tax Police act as an internal affairs authority in the pre-investigation procedure, instead of police. Upon learning that a tax crime has been committed, in performing their tasks Tax Police inspectors are authorized to take certain measures and actions with the aim of uncovering criminal offenses and reporting the perpetrators to the competent public prosecutor, who then acts in accordance with the law on criminal procedure.

However, it is questionable whether the powers and duties of Tax Police are adequately regulated in the law in order to achieve the goal of detecting tax crime and whether the relationship with the police and the public prosecutor's office is regulated appropriately.

Hence, the purpose of the paper is to determine the normative position of the Tax Police as *sui generis* LEA, by conducting a comprehensive review and analysis of the legal framework for detecting tax crime. This subject is of immense importance because competent authorities being provided with appropriate legal instruments represent a significant legal prerequisite for conducting criminal proceedings against perpetrators of acts committed to the detriment of the economic interests of the state. Without that, the incrimination of tax crimes in itself does not mean much.

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METHODS

While domestic scientific and professional literature has dealt with tax crimes (e.g. Ilić-Popov, 2016; Dimić & Božić, 2020), i.e. with some of its forms (Jovanović, 2022; Karličić, 2023; Dragojlović & Đuričić, 2023), there is almost no research on combating or investigating tax crime, nor on the Tax Police. These topics are covered only in a few earlier titles (e.g. Jovašević, 2016, 2020) – but instead of critical and systematic approach, legal norms are simply cited (Popović, 2017: 212–214; Milošević et al., 2021: 276–277). Since the specificity of detection and investigation of tax crime, as a form of financial crime, requires special approach, domestic references on the police with regard to other criminal offenses are not sufficient or suitable. For that reason, the author devoted research to these neglected issues, by consulting foreign scientific literature and resources, which are also still in their infancy (Reger et al., 2023: 69). The relevant references were used as a basis for observations of the national legal framework.

In order to determine the powers and duties of the Tax Police and its inspectors in detecting tax crimes, and whether they are adequate, a critical analysis of the relevant legal norms was carried out in the course of research, by using appropriate methods of interpreting the law. Primarily, the Law on Tax Procedure and Tax Administration (LTPTA) was normatively, linguistically and systematically interpreted; as in regulating tasks, powers and duties of Tax Police inspectors the LTPTA refers to other law, its norms were brought into the contexts of the Code of Criminal Procedure (CPC) and the Law on Police (LP), and then systematically and teleologically discussed.

The critical analysis of the national legal framework on the Tax Police, through the prism of foreign references, and the results of that analysis represent an original contribution to the research of this topic in domestic science.

RESULTS

The outcome of the research is pointing out the need for adequate amendments and supplements to the relevant Serbian legislation, accompanied by specific proposals, towards strengthening the position of the Tax Police, which is given a key role in the fight against tax crime. Namely, the current legal framework does not adequately address:

A) The relationship between the Tax Police and the police: as the LTPTA provides that the Tax Police shall assume powers related to the detection of tax crimes and perpetrators, either independently or in cooperation with the police, leaving the regulation of cooperation relations to an inter-ministerial agreement, without setting clear criteria, conditions and demarcations. That might lead to legal uncertainty and a possible conflict of jurisdiction between these two LEAs, which also follows from the legal definition of tax crimes.

B) The powers of the Tax Police: on the one hand, the LTPTA imprecisely regulates the authority to undertake search actions, while on the other hand, it unjustifiably deprives the Tax Police of the authority that the police have regarding evidentiary actions. In addition, the existing rules are not in line with the provisions of the CPC that regulate the conduct of the police as a LEA in pre-investigation procedure. All of this results in either depriving Tax Police inspectors of the ability to take measures and actions that police is otherwise authorized to take, or in acting on the border of a gray area – whereby both possible outcomes are legally unsatisfactory and questionable.

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DISCUSSION

There are no unified or single definition and approach to tax crimes (Turksen, Vozza, et al., 2023: 212), but they differ from one jurisdiction to another. Nevertheless, from a criminal law perspective, to have preventive function, the legislative definition of tax crime should be adequate (so the punishment of tax violations as crime is ensured by a legal system) and clear (so addressees can assess the compliance of their behaviour with the norm) (Rasmouki & Turksen, 2019: 12). The definition is important not only for prevention of tax crime, but for competent authorities' reaction - if inappropriate, it may have an adverse effect on criminal procedure, as it represents the legal basis of the investigations, the lack of clear, simple, and precise provisions may negatively impact it, or hinder the protection of fundamental rights (above all, the principle of legality) (Reger et al., 2023: 69–70).

The LTPTA defines tax crimes as criminal offenses that "as a possible consequence have completed or partial evasion of tax payment, making or submitting a falsified document of importance for taxation, jeopardizing tax collection and tax control, illegal sales of excise goods and other illegal actions related to evasion and assistance in tax evasion", that are prescribed in the LTPTA (Art. 135, para. 2), or in other law. However, this definition is problematic. Since the actions of the Tax Police, as the authority responsible for detecting these criminal acts, are related directly to such a definition, its conduct under legal authority is questionable. Thereby, when the division of competences between different authorities in LEAs landscape and state bodies is not clearly defined, a risk is created of duplication of efforts and gaps in law enforcement (Organisation for Economic Co-operation and Development [OECD], 2017a: 46).

Tax Police Relationship with Other State Bodies

Tax control and the actions of the Tax Police are functionally connected. During the determination of facts in the tax control procedure, which is carried out by tax inspectors, knowledge and evidence of a tax crime can be obtained, after which the role of the Tax Police is activated: if it becomes known that the facts and circumstances indicate the existence of grounds for suspecting that a tax crime has been committed, the tax inspector has a duty to prepare a report, which, together with evidence obtained from tax audit, is submitted to the competent head of the Tax Administration, who is obliged to forward them to the head of the Tax Police (Art. 136, paras. 1 and 3 of the LTPTA), who then initiate further actions. This is the moment when it is necessary to oblige the Tax Police, acting as a LEA, to notify the competent public prosecutor, who according to the CPC is the sovereign leader of the pre-investigation procedure (Brkić & Bugarski, 2024: 87).

By failing to address this issue, the LTPTA undermines the role of the public prosecutor. Namely, in establishing the Tax Police as a body of internal affairs in the pre-investigation procedure for tax crimes, the LTPTA in terms of its powers refers to the law, i.e. the law regulating criminal proceedings (Art. 135, paras. 3 and 4 of the LTPTA), regarding the duties of the Tax Police it fails to regulate, or at least refer to laws regulating the obligations and responsibilities of the actors of the pre-investigation procedure, the head of which is the public prosecutor. Still, the Art. 44 of the CPC applies: the Tax Police are obliged to inform the competent public prosecutor about every action undertaken with the aim of discovering a criminal offense or finding a suspect, as well as to act on every request of the competent public prosecutor. The Tax Police inspectors should be required to execute an order to undertake a specific action for the purpose of detecting criminal acts, issued by the public prosecutor who manages the preliminary investigation procedure, and who, in case of non-compliance with the order, has the means towards the Tax Police, analogous to the possibilities in relation to the police (Art. 285, paras. 3 and 4 of the CPC). In addition, the public prosecutor should have the possibility to take over from the Tax Police the performance of the action that it undertook independently during the pre-investigation procedure (Art. 285, para. 5 of the CPC). Also, the Tax Police should be obliged to inform the public prosecutor without delay about the possible undertaking of evidentiary action in the pre-investigation procedure (Art. 287, para. 1 of the CPC) (Brkić & Bugarski, 2022: 113). Thus, regardless of this omission in the LTPTA, it should

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be considered that the rules on the relationship between the police and the public prosecution in the pre-investigation procedure in the sense of the CPC apply to the Tax Police, as well (Milošević et al., 2021: 277).

As exclusive LEA for tax crime, the Tax police act upon powers from Art. 135, paras. 3 and 4 of the LTPTA, independently of the Ministry of Internal Affairs (hereinafter: MIA) – while cooperation is alternatively prescribed, i.e. only as a possibility (Art. 135, para. 5 of the LTPTA). In addition, the law stipulates that the Tax Police and the MIA carry out other forms of cooperation (Art. 135, para. 5 of the LTPTA). The forms and manner in which this is achieved – both in the exercise of explicitly prescribed powers and all other possible cooperation – shall be regulated in more detail by agreement between the ministers at the head of the MF and the MIA. Not only the cooperation is same as aid, as some authors claim (Jovašević, 2016: 150), but the interministerial agreement might foresee forms of cooperation that the law does not explicitly mention, which opens space for non-transparency and is contrary to the principle of legality.

Namely, inspectors of the Tax Police are authorized to take certain measures and actions in order to detect tax crimes and their perpetrators, acting as an internal affairs authority in the pre-investigation procedure. Since the LTPTA considers as tax crime not only exhaustively listed criminal offenses, but also others that have a certain consequence, even a "possible" consequence, which are provided for in another law, a problem may arise regarding the demarcation of the actions of the Tax Police in relation to the police, bearing in mind that its powers are exclusively related to tax crimes, which arise from insufficiently precise and unspecified definition of tax crime. It cannot be considered that such legal uncertainty could be adequately and comprehensively regulated by an inter-ministerial agreement (Art. 135, para. 6 of the LTPTA).

Also, the problem of distinguishing the actions of different LEAs is further complicated by the connection of tax crime with money laundering, corruption and organized crime (Turksen, Vozza, et al., 2023: 220). In this sense, criticisms directed to the definition of tax crimes in the LTPTA relates not only to terminological inconsistency, but may have practical repercussions on the application not only of the LP and the CPC, but also of laws governing the organization and jurisdiction of state authorities for dealing with certain forms of crime, especially regarding corruption and organized crime.

Although the tax inspector's report, which is accompanied by the evidence collected during the tax control procedure, is the most common source of knowledge that a tax crime has been committed, the Tax police may obtain grounds for suspicion from other sources, including those originating from other state bodies and institutions. On the other hand, during tax audits, the tax inspectors may gain information on assets and financial transactions that can be used not only by Tax police, but also by other competent LEAs to launch criminal investigations into various forms of financial crime (as corruption, bribery, embezzlement, and money laundering). The existing general rules from the CPC (on filing an official criminal report, on providing data at the request of the public prosecutor or the police) are not the same as timely exchange of information between the competent authorities, so it is necessary to create an appropriate legal basis for cooperation in that part as well.

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Originally, it was prescribed that in the pre-criminal proceedings, the Tax Police "may act" as an internal affairs authority to detect tax crimes and perpetrators and is authorized, in accordance with the law and in cooperation with the police (not independently of them), to undertake search actions, except for movement restrictions, as well as to summon and interrogate the suspects, but without the right to forcibly bring them in (Art. 135, paras. 3 and 4 of the 2002 LTPTA). Over the years, with the several interventions of the legislator, the position of the Tax Police has been changed, seemingly in the direction of distinctive independence from the police and of strengthening its procedural powers, so currently the Tax Police have the exclusive right to act as LEA in the pre-investigation procedure – their conduct is no longer envisaged as a possibility, but rather they act by force of law. In the event of grounds for suspicion that a tax crime has been committed and in order to detect tax crimes and their perpetrators, the Tax Police are authorized to undertake almost all search actions, as well as certain evidentiary actions (Art. 135, paras. 3 and 4 of the LTPTA).

The Tax Police conduct search actions – except for movement restrictions, in accordance with the law (Art. 135, para. 3 of the LTPTA), independently of or in cooperation with the MIA (Art. 135, para. 5 of the LTPTA). Not only is it specified what is meant by those actions, it is also unclear which law the LTPTA refers to. A simple stipulation in the LTPTA that the Tax Police act in accordance "with the law" seems vague – without an unequivocal reference to certain provisions of the LP, which regulates police affairs, police measures and actions and police powers in detail and precisely, it remains unknown whether and which of these powers, measures and actions Tax Police has as LEA. If the LTPTA refers to the CPC, it could be about the measures and actions of the police in the pre-investigation procedure, in the sense of Art. 286 of the CPC. However, due to the impreciseness of the legislator, there is space for speculation about which of these measures and actions the Tax Police is powered to conduct (except of movement restrictions, which are strictly excluded). Such an omission represents an unequivocal deviation from the rule *lex stricta, scripta, et certa*, as an element of the principle of legality. The situation is a bit better in terms of regulating evidentiary actions.

Namely, the Tax Police are authorized to undertake several, exhaustively listed evidentiary actions, in accordance with the provisions of the law governing criminal procedure (Art. 135, para. 4 of the LTPTA), that is in the manner and under the conditions set out in the CPC:

1) *Suspect hearing.*

The Tax Police may summon for a hearing a person for whom there are grounds for suspicion of having committed a tax crime, and even bring him forcibly, if he does not respond to the summons, in accordance with the CPC. Alternatively, if in collecting information from a citizen, the Tax Police assess that person could be considered a suspect for a tax crime, such a person might be heard. In both cases, a suspect should be questioned in accordance with the rules and under the conditions set out in Art. 289 of the CPC. However, the LTPTA stipulates that the Tax Police appoint an *ex officio* defense counsel to the suspect "during the hearing", in case of tax crime for which a prison sentence of eight years or a more severe sentence is prescribed (Art. 16a, para. 1 of the LTPTA). This provision is

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questionable from the point of view of the suspect's right to defense, as well as in terms of compliance with Art. 289, para. 4 of the CPC, hence, suspect's statement given before the Tax Police may be deemed inadmissible before the court of justice.

2) Search of apartments, business or other premises, means of transport and persons.

In the event that there are grounds for suspicion that a tax crime has been committed, the Tax Police may, in accordance with the CPC, conduct a search (Art. 135, para. 4 of the LTPTA). Since the search powers are granted to the Tax Police only until criminal proceedings are initiated, after the initiation of criminal proceedings, if needed, only the police could use them. As it is expressly stipulated that the search of the apartment and other premises can be carried out only on the basis of a court order and with the presence of two witnesses, Art. 156, para. 7 in connection with para. 3 and Art. 158 of the CPC do not apply. If the Tax Police act contrary to these rules, the search report and all other derivative evidence would be illegal. Contrarily, the requirement of a court order and the presence of two witnesses is not provided for the search of vehicles or of persons; hence in those cases the rules from the CPC apply accordingly. This search power does not refer to devices for automatic data processing and equipment on which electronic records are stored or can be stored, in the sense of Art. 152, para. 3 of the CPC.

3) Seizure.

In connection with the search of apartments, business or other premises, means of transport and persons, if there are grounds for suspicion that a tax crime has been committed the Tax Police are authorized to temporarily confiscate items that can be used as evidence in criminal proceedings for tax crime, but only until the beginning of criminal procedure (Art. 135, para. 4 of the LTPTA). In accordance with Art. 153 of the CPC, Tax Police may temporarily confiscate items and documents found during the search, which are related to the purpose of the search: if, on that occasion, items were found that are not related to the tax crime for which the search was initiated, but indicate another criminal offense prosecuted *ex officio*, the Tax Police could temporarily confiscate only those items that refer to another tax crime. Items that can be confiscated by the Tax Police include also devices and equipment from Art. 152, para. 3 of the CPC, but not the funds that are the subject of a suspicious transaction, given that checking accounts and suspicious transactions are not among the evidentiary actions that the Tax Police are authorized to undertake.

For the activities of the Tax Police in collecting and producing evidence for tax crimes, the general rules on evidentiary actions of the police in the pre-investigation procedure should also apply accordingly, as deviating from permissible legal requirements and procedures, or infringing on the due process rights of the accused may endanger the whole procedure (Turksen, Vozza, et al., 2023: 242). Hence, the evidence the Tax Police obtained by undertaking the evidentiary actions that they are authorized to undertake could be used as evidence in criminal proceedings only if everything was done in accordance with the CPC (Art. 287, para. 2 of the CPC). Otherwise, the evidence that the Tax Police would obtain would be inadmissible as illegal evidence, could not be used in criminal proceedings, nor as a basis for court decisions (Art. 16, para. 1 and Art. 84 of the CPC). In addition to this obvious situation, it is extremely important to emphasize that the same consequence would be produced by the undertaking of evidentiary actions that the Tax Police are not authorized to undertake in terms of the LTPTA – e.g., secret surveillance of communication, as a special evidentiary action.

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As in most EU member states the authorites competent for detection and investigation of tax crime have the power to search for electronic evidence, intercept mails and communications, conduct covert surveillance, conduct undercover operations, arrest persons, and trace, freeze, seize, and confiscate assets (Turksen, Vozza, et al., 2023: 243), the legislator should reconsider legal framework for authorizing Tax Police with those powers, as they are already standard in other countries. Using certain thresholds for tax crimes could also be taken into account, at least with regard to special evidentiary actions.

Organizational Model and Cooperation

With regard to criminal investigation, four different models of composition, competence, roles, and responsibilities of LEAs in charge are recognized (OECD, 2017b: 33). The comparative analysis, however, "highlights the necessity and/or feasibility of creating a specialized institution for countering tax crimes" (Reger et al., 2023: 70).

Serbian organisational model may be categorized nearest in Model 1, where Tax administration directs and conducts investigations. In some countries with this model, tax administrations carry out investigations in relation to tax offences themselves (e.g., UK) (Turksen, Vozza, et al., 2023: 220). In Serbia, however, although the Tax Police have exclusive jurisdiction over tax crimes, the LTPTA still leaves the possibility for the police to be involved in performing search or evidentiary powers. In other countries, tax administrations under Model 1 only detect tax crimes during tax audits and assessments and then "communicate the *notitia criminis* to the competent police or prosecutor's office" (a driving function for authorities which undertake criminal investigations) (e.g., Malta) (Turksen, Vozza, et al., 2023: 220). This is not the case with the domestic organisational model, since the Tax Police, as a part of the Tax Administration, carry out certain actions typical for the police in the pre-investigation procedure, and only afterwards file a criminal complaint. One could conclude that a hybrid Model 1 is present in Serbia.

The duties of the Tax Police are performed by Tax Police inspectors, as authorized officials of the MF, while their position is not regulated in more detail in the LTPTA, but only partialy in by-laws, with regard to official identification card, official badge and uniform (Rulebook 2003 and Rulebook 2016). In this respect, Tax Police inspectors differ from authorized officials of the police, whose conduct in performing police duties, powers, measures and actions are regulated in detail in the LP and by-laws – to which the LPPPA does not refer in this regard, nor does it regulate these relevant issues. In addition, the chief inspector, who manages the work of the Tax Police, is appointed by the Government on the proposal of the Minister of the MF (Art. 161, para. 3 of the LTPTA). Thus, current legal framework on the status of Tax Police and their inspectors depicts a significant formal and substantive difference compared to the external independence and internal organization of the police. Consequently, it cannot be claimed that, at least formally, current organisational structure constitutes a prerequisite for the independence from personal or political interests of the authority competent for uncovering this significant form of financial crime (OECD, 2021: 45), so the issue of transparency and accountability in society can be raised.

As for division of responsibilities within the LEA eco-system, which is defined in the law or through arrangements, a legal framework defining roles across the various LEAs exists in some countries (e.g. Malta, Ireland, Italy), while in others the division of responsibilities

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displays a lack of clarity (e.g., Finland, UK), which leads to weaknesses in the system (UK) (Rasmouki & Turksen, 2019: 57). Thereby, even in countries whose investigative authorities have significant powers, there is still a "challenge of deficit in collaborative investigation of agencies" (Turksen & Abukari, 2021: 410).

In order to overcome these challenges, the state should undertake a set of regulatory measures and create an organisational structure with clearly defined responsibilities for fighting tax crime. This could apply to Serbia, as well. The first stop would surely be the development of an articulated strategy on fighting tax crime as a form of financial crime (OECD, 2021: 22). Even at this moment it is unequivocally clear that appropriate amendments to the LTPTA are needed that would define the boundaries of jurisdiction and responsibility between the Tax Police and the police, and redefine the status of the Tax Police in relation to the public prosecutor's office, in accordance with the CPC.

The Tax Police, as an organizational unit of tax administration, in criminal tax investigations do not have "the full range of investigative powers, expertise or resources" themselves, but it is recommended that these powers "should still be available indirectly where needed, such as through the ability to call on the police or another agency to provide investigatory services" (OECD, 2021: 30). Although it is prescribed that the Tax Police conduct evidentiary actions independently or in cooperation with the MIA and that the form and manner of achieving this cooperation shall be determined by an inter-ministerial agreement (Art. 135, paras. 5 and 6 of the LTPTA), unmentioned forms of cooperation could not relate to evidentiary actions that the Tax Police are not authorized to undertake, and no inter-ministerial agreement could create a basis for collecting evidence where the evidentiary power is not provided for in the law.

Serbia should also consider and encourage a whole-of-government approach, based on cooperation among a multitude of agencies (anticorruption authorities, financial intelligence units, financial regulators and supervisors, police, prosecutors, exchange control departments, tax authorities, and customs authorities) (Brun et al., 2022: 7). As various agencies have information or investigative and enforcement powers "that can enhance another agency's investigation of a particular crime", cooperation amongst them is crucial, including information sharing, and other forms of cooperation (OECD, 2021: 62). In this sense, a whole-of-government approach to fighting financial and tax crime is especially beneficial, as it requires that the value of information held by each agency is recognized, and demands fulfilling the preconditions of information sharing, establishing an appropriate legal framework, and addressing the operational challenges to implementing the framework (Brun et al., 2022: 10).

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CONCLUSIONS

In order to detect tax crimes and their perpetrators, the Tax Police act as a law enforcement agency in the pre-investigation procedure, and are authorized to take certain measures and actions. However, when prescribing these powers, the LTPTA does not do so in a sufficiently clear, precise, and exhaustive manner. Besides the existing powers not being properly normed, the regulatory deficiency is also reflected in the absence of powers that would be appropriate for efficient detection and investigation of tax crime.

Several issues with powers should definitely be addressed in a future legislative intervention, as the currently valid provisions unjustifiably limit the authority of the Tax Police, and any action outside these rules may cause an illegal outcome in criminal proceedings, including at least the following:

1) The part of the LTPTA on search activities should clearly indicate to which other law it is referring.
2) The authorization to undertake the remaining general evidentiary actions should be considered in order to provide the Tax Police with the necessary legal basis for collecting evidence, and thus functionally strengthen their role in uncovering tax crimes:
    a) It is necessary to amend Art. 16a, para. 1 of the LTPTA in accordance with provisions of the CPC on a suspect's rights and suspect's hearing in the course of the pre-investigation procedure;
    b) Without going into the current operational capabilities of the Tax Police, it is necessary to include the authorization to search devices and equipment from Art. 152, para. 3 of the CPC, in order to create, if nothing else, a basis for cooperation with the MIA for the collection of electronic evidence;
    c) Also, it would be justified to authorize the Tax Police to undertake checks on accounts and suspicious transactions – independently or in cooperation with the MIA.
3) Finally, it would be quite reasonable to consider including the Tax Police among the entities that conduct, at least, some special evidentiary actions (secret surveillance of communications), concerning serious forms of tax crime, in terms of Art. 162 of the CPC. In this regard, appropriate amendments are also needed in the Law on the Organization and Competence of State Authorities in Suppressing Organized Crime, Terrorism and Corruption, so that at least the criminal offense of tax evasion (Art. 225, paras. 2 and 3 of the CC) would be included among the criminal offenses against the economy to which this law applies (Art. 2, it. 4 of that law), and thus would be within the jurisdiction of special departments of higher public prosecutor's offices and higher courts for the suppression of corruption, i.e., the Public Prosecutor's Office for Organized Crime and the higher court before which it acts, in accordance with Art. 3 of that law.

The current legal norms on Tax Police in Serbia could be reconsidered in terms of the effectiveness of the actions of the internal affairs bodies, in order to prevent or reduce the risk of duplication of efforts and gaps in law enforcement. Also, as an appropriate legal framework is a cornerstone for interagency cooperation, Serbian law should first enable information sharing between the Tax Administration/Tax Police and other relevant state authorities and agencies. Beyond exchanging information, the laws enabling information gathering (e.g., inclusion of tax crimes as predicate offenses to money laundering) and laws targeting unexplained wealth orders and whistleblower protection should be (re)considered as well.

In order for the incrimination of tax crimes to be more than just words on paper, and for the protective function of criminal law to be realized, it is necessary to change the legal

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framework for the conduct of the Tax Police. The proposals *de lege ferenda* to which the author points in this paper could be a solid starting point for the legislator's consideration.

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