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ECONOMIC CRIMES IN YUGOSLAVIA

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I. CRIMINALITY UNDER SOCIALISM

Although the notion of economic criminal offenses has existed in past social systems, only recently has it been extensively embodied in legislation and legal theory.[1] It is now an accepted concept in the legislation of both capitalist and socialist countries. There are varying definitions of economic crimes, but the conception employed for purposes of this article is of crimes (delicts) committed through economic activities, directed ultimately against the economic system and its correct functioning.[2]

Similarly there are various definitions of socialism. Of principal importance in all such definitions is the characteristic that differentiates socialism from capitalism: the former is based on social ownership of the means of production, the latter on private ownership. This principal difference, together with other distinctions deriving from it, is reflected in the definitions of criminal offenses established in the legislation of capitalist and socialist nations: e.g., differences in the definition of political offenses, ownership offenses, criminal offenses against labor relations, and criminal offenses against official duty. However, since capitalism and socialism are differentiated primarily according to economic indices, it is natural to expect a particularly great difference between capitalist and socialist concepts of economic crimes.

The discussion up to this point implies—and it is necessary to make the implication explicit—that criminality, defined as conduct constituting a crime, does not disappear in socialist systems. The different factors influencing criminality in capitalist society—industrialization, urbanization, weakening of the family structure, inadequate education—exist in socialist society as well, and accordingly criminality does not decrease statistically in socialist countries. Subjective

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1 Dr. Peter Kobe, Privredna krivična dela u Krivičnom zakoniku i u sporednom krivičnom zakonodavstvu, kao i novi oblici ovih krivičnih dela (Economic Crimes in the Criminal Code and Other Residuary Legislation, as well as New Forms of these Criminal Acts), Jugoslovenska revija za kriminologiju i krivično pravo [JRKKP] 541, 543 (No. 4/1969).

2 Dr. Miroslav Djordjević, Sistem privrednih delikata (The System of Economic Delicts), JRKKP 525, 531 (No. 4/1969).

factors of criminality also retain their importance. Lenin, in *State and Revolution*, recognized that such factors could exist even in the stateless society:

> We are not utopians, and we do not deny at all the possibility and inevitability of excess by certain persons and the necessity of suppressing such excesses. But that does not require any special machine, a special apparatus of suppression; that will be done by armed persons with the same simplicity and ease with which any group of civilized men even in contemporary society separates those who start fighting or does not permit violence against the women.[3]

That criminality does exist as a normal phenomenon in socialist systems is not an idea unanimously held by socialist theoreticians, although it is fairly well accepted in Yugoslavia. A recent debate between Yugoslav criminologists and academicians of the Democratic Republic of Germany (East Germany) brought out two counterposed positions.[4] The Yugoslavs argued that the Germans presented socialism as a pure system, treating its perspective and visions of the future as if they were already a reality. As a result the Germans were required to treat contemporary factors inconsistent with the perceived ideal as "remnants of the past," as "deformations." In short, according to the Germans criminality has no place in socialist society; its existence should be noted—as one notes the existence of temporary aberrations—but then ignored.

Yugoslav criminologists, in contrast, start from the observed fact that criminality does exist in socialist systems. Rather than ignoring it, they seek to provide explanations for its existence through analysis of existing circumstances, starting from the interrelation of production and other social and economic conditions and from the influence of these factors on man's consciousness.

One may speak, then, of economic crimes and economic criminality in a socialist system. Socialist states, like capitalist states, have chosen to define certain economic activities as criminal. The content of the definition of economic crimes depends on the economic structure of the system in question. Economic crimes in capitalist countries differ from economic crimes in socialist countries. But economic struc-

[3] V.I. Lenin: Država i revolucija (State and Revolution) 82 (Beograd 1947).

[4] Erich Bucholz, Richard Hartman, John Lekschas, Sozialistische Kriminologie, 76 et seq. (1966). This work criticized the conceptions of three Yugoslav criminologists expressed in an unpublished report on juvenile delinquency in Yugoslavia. The Yugoslavs responded in Dr. Ljubo Baycon, Dr. Bronislav Skaberne, Dr. Katja Vodopivec, Criminality in Socialist Society—the Answer on Lekschas' Critique of Our Attitudes, Pravni Život 51 (No. 5/1969).

tures differ among socialist systems as well, despite the common bond of social ownership of the means of production. The more one socialist country, such as Yugoslavia, has chosen its own methods for the development of socialism, the more it differs from other socialist countries. Thus the definition of economic crimes and the sources of economic criminality in one socialist system may be contrasted, not only with economic crimes and criminality in capitalist countries, but with economic crimes and criminality in other socialist countries as well.

The purpose of this article is to establish a basis by which economic crimes and criminality in Yugoslavia may be compared with economic crimes and criminality in other political and economic systems, both capitalist and socialist. The article does so, first, by examining the relationship between the economic system of Yugoslavia and the definition of economic crimes, and then by analyzing the causes and cures of such criminality in Yugoslavia.

II. Stages of Economic Development in Yugoslavia

Economic criminal legislation in Yugoslavia reflects the stages of economic development of that country. Since the establishment of a socialist regime following World War II, the economy has undergone a number of structural changes correlating with shifts in theories regarding the appropriate role of the state in economic activities. Three periods are discernible.

Period I: This period began during World War II and lasted until shortly after the War's conclusion. The adoption of the first Federal Constitution in 1946 may be viewed as the terminating point.[5] During this period the old state and economic structure of Yugloslavia was broken up and the development of a new structure undertaken by the Communist Party. This stage, characterized by economic restoration and the construction of a strong and centralized administrative apparatus, set the basis for the principal features of the succeeding stage described below. Statutory enactments of the period were concerned with preserving the integrity of the newly reconstructed economic system dominated by state ownership.

Period II: Running from 1946 to approximately 1950, this period marked the rise and decline of "administrative socialism."[6] During this period the new system of state authority was consolidated, and the state moved into a position of complete domination of the economy. Between 1946 and 1948 the state effected the nationalization of the basic

[5] Prof. J. Djordjević, The Principles of the Political and Constitutional System of Yugoslavia, in Union of Jurists' Ass'ns of Yugoslavia, The Constitution of the Federal People's Republic of Yugoslavia 13 (1960).

[6] Dr. Milan Milutinović, Kriminologija 246 (1968).

branches of the economy: industry, mines, communications, transportation, commerce and banking. Foreign capital was expropriated. Thereafter, the nationalized economy, viewed as state property, was organized into a centralized system of state economic enterprises and boards under the management of central administrative organs. The state apparatus acted increasingly as an independent economic force, moving toward comprehensive planning on a centralized and hierarchical basis.[7]

The 1946 Constitution established two principles[8] governing the scope of state intervention in economic activities. First, the social and economic organization created by the Constitution incorporated three forms of ownership: all-people's, or property in the hands of the state; co-operative, or property owned by co-operative organizations; and private, or property owned by individuals or other legal entities.[9] The state, however, was the foundation of the new system of economic planning:

> In order to protect the vital interests of the people, to further the people's prosperity, and the right use of all economic resources and forces, the state directs the economic life and development of the country in accordance with a general economic plan, relying on the state and co-operative sectors, and exercising general supervision over the private economic sector.[10]

Second, the 1946 Constitution provided the state with the right to effect nationalization of the basic branches of the economy:

> Private property may be limited or expropriated if the common interest requires it, but only in accordance with the law. It will be determined by law in which cases and to what extent the owner shall be compensated.
>
> Under the same conditions individual branches of the national economy or single enterprises may be nationalized by law if the common interest requires it.[11]

However, overcentralization of the economic system under state control during the second period soon produced a number of inefficiencies. Centralized planning of production and distribution was not

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[7] Djordjević, supra note 5, at 17.

[8] Id. at 15.

[9] Constitution of the Federal People's Republic of Yugoslavia art. 14 (1947).

[10] Constitution of the Federal People's Republic of Yugoslavia art. 15 (1947).

[11] Constitution of the Federal People's Republic of Yugoslavia art. 18, para. 5, 6 (1947).

necessarily adjusted to actual market requirements. A distortion of efforts occurred, leading to marked inefficiency and unprofitability. For example, where primary attention was devoted to fulfilling the plan in terms of production quotas, improvement of the quality and variety of goods produced was neglected.[12] A separation occurred between the interests of the state and the interests of the economy.[13]

Period III: Commencing approximately in 1950, after the ramifications of the Soviet-Yugoslav rift of 1948 had become clearer, this period reflected Yugoslavia's increasing independence in political and economic affairs. During this period the principal features distinguishing Yugoslavia economically from other socialist systems were developed and became increasingly pronounced: emphasis on decentralization of planning, stress on the economic independence of individual enterprises, and the institution of the principle of self-management in the economy and in other areas.

The legal basis for the third period was established in the Basic Law on the Management of State Economic Enterprises and Higher Economic Associations (1950) and the General Law on People's Councils (1952). These laws marked the transition from state ownership to social ownership of the means of production. They diminished the state's economic functions and broadened the democratization of economic and social life generally, recognizing the right of working organizations to manage enterprises and to participate in the distribution of work surplus, with the corresponding right to appropriate a particular portion of the social product of an enterprise.[14]

During the third period, economic planning by the state became principally a matter of establishing "general propositions"—that is, of establishing general directions of development and assuring observance of the laws. The state retained some regulatory functions, but the functions of its administrative organs were greatly reduced. The state no longer fixed production volume or determined such matters as the distribution of goods or the location of projects to be built. Decentralization and self-management were extended to virtually all economic institutions and areas.

The developing notion of self-management, accompanied by actual decentralization of the economic structure, has distinguished Yugoslavia from the other socialist nations. The principle of self-management was defined in the 1963 Constitution as follows:

> Self-management in work organizations shall include in particular the right and duty of the working people:

[12] Dr. Pavle Kovač, Development of Self-Government in Yugoslavia (1961).
[13] Djordjević, supra note 5, at 17.
[14] Id. at 18.

(1) To manage their work organizations directly or through bodies of management elected by themselves;

(2) To organize production or other activities, to promote the development of their work organizations, and to lay down working and development plans and programs;

(3) To decide on the exchange of products and services and on other matters relating to the operation of their work organizations;

(4) To decide on the use and disposition of social resources, and to employ them with economic efficiency so as to ensure the highest possible returns for work organizations and the community;

(5) To distribute the income of their work organizations and to provide for the development of the material base of their work; to allocate income among the working people; to fulfill the work organizations' obligations towards the community;

(6) To decide on the admission of working people into their work organizations and their dismissal, and on other labour relations; to determine working hours in the work organizations in conformity with general working conditions; to secure internal supervision and make their work public;

(7) To regulate and promote their working conditions, to organize industrial safety measures and rest; to provide conditions for their education, and to advance their own and the general standard of living;

(8) To decide on the split-up of their work organizations and on turning parts of them into separate organizations, and to decide on merger and association of their work organizations with other work organizations.[15]

As economic reform in accordance with these principles has continued, the overall goals of the Yugoslav economy in the third period have become more carefully delineated. These goals reflect Yugoslavia's desire to operate autonomously but within the international economic and financial communities; to maintain social ownership of the means of production in common with other socialist systems; but at the same time to consolidate those socialist features peculiar to Yugoslavia—namely, enterprise self-management and decentralization of planning.

These major goals have been described as follows: first, Yugoslavia should participate in the international economic system, particularly

[15] Union of Jurists' Ass'ns of Yugoslavia, The Constitution of the Federal People's Republic of Yugoslavia art. 9 (1960).

with respect to international financial arrangements. Monetary reform should be instituted to assure Yugoslavia's capacity to participate in the international division of work. The Yugoslav economy should accumulate a reproductive base to allow for economic self-sufficiency. Second, existing resources, e.g., raw materials, should be used more rationally, with a diminishing reliance on imports. Third, the technological process of production should be rationalized, and the productivity of work augmented. Fourth, economic organizations should gain increased independence, particularly in making decisions with respect to such matters as production, distribution and exchange. Such independence should lead to the liberalization of prices. Fifth, the state's power to invest should concurrently decrease, so that it will have a diminished capacity to intervene in investment policies. This means that economic decisions, particularly with respect to investment, will be made increasingly by the individual enterprises in relation to one another. Sixth, banking institutions should be enabled to participate more directly in business activities by means of financial investments.[16]

The main lines of development of the third period have been further reinforced by the adoption, on June 30, 1971, of Amendments XX through XLII to the 1963 Constitution. In the economic sphere, the Amendments particularly emphasize the unification of work of persons employed in enterprises, agencies and other work organizations; the right of the working people to organize into such enterprises; their right to obtain and allocate income; and the basic right of organizations to create further associations.

III. Development of Definitions of Economic Criminality

The concept of economic criminality in Yugoslavia, particularly as embodied in the notion of economic criminal offenses,[17] has reflected the economic principles applicable at the various stages of development described above. A direct correlation may be established between the principles dominant in the particular period of economic development and the nature of the activities legislatively defined as constituting economic criminal offenses.

Period I: Typical of the statutory enactments of this period were the Law on the Suppression of Impermissible Speculation and Economic Sabotage and the Law on the Protection and Management of the People's Goods. The former allowed severe penalties for violations, but did not correlate the specific crime with its appropriate punishment. Rather, the court was authorized to impose a punishment commensurate

[16] Dr. Danilo Ž Markovič: Savremeno jugoslovensko društvo (Contemporary Yugoslav Society) 77-78 (1969).

[17] See text at note 31 infra.

with the seriousness of the criminal offense, and capital punishment was available for the most serious offenses. The latter law defined various crimes deriving from the need to protect social, that is, state-owned property. In each instance the statute correlated punishment with the specific criminal offense. It also provided for capital punishment in cases of extreme economic criminal offenses.[18]

Period II: The statutes enacted during the second period reflected economic and political developments; they represented a significant reaffirmation and broadening of the laws of the first period, emphasizing the increasing prominence of the state in the economic sphere. For example, the 1946 Law on the Suppression of Impermissible Commerce, Speculation and Economic Sabotage, while largely a re-enactment of the earlier statute, broadened the categories of illegal economic activity to reflect the state's intervention in more economic areas. It removed the earlier statute's distinction between the category of lesser criminal offenses involving impermissible commerce and the more stringently treated criminal offenses involving speculation.

In 1946, the Law on the Protection of People's Ownership and Ownership Managed by the State broadened the earlier statute to protect all economic activities controlled or managed by the state, and the Basic Law on Co-operatives further extended such protection to co-operative ownership as well. The 1948 Law on Criminal Offenses against the People's Ownership and Ownership of Co-operatives and Other Social Organizations further regulated the same area. The 1946 Law on the Nationalization of Private Economic Enterprises (amended in 1948) had a significant impact on the development of economic criminal law by vastly expanding the scope of the state's direct economic control.[19]

While the Yugoslav Criminal Code of 1951 was adopted during the transition from the second period to the third, it reflected the economic structure dominant during the former. The Special Part of the Code included standard economic criminal offenses like embezzlement, forgery, counterfeiting, tax evasion, speculation and various forms of fraud and misrepresentation. But it also included, in Chapter XIX, the following activities as criminal offenses against the national economy: denying or curtailing guaranteed supply (Article 230),[20] failure to effect obligatory deliveries of agricultural products (Article 236),[21]

[18] Nikola Srzentić, Dr. Alleksander Stajić, Krivično pravo FNRJ Opšti deo 55 (1961).

[19] Id. at 56.

[20] Fed'n of Jurists' Ass'ns of Yugoslavia, The New Yugoslavia Criminal Code [1951 CC], art. 230 (1951).

[21] 1951 CC, art. 236.

failure to cultivate land and raise livestock (Article 238),[22] detrimental activity in agriculture (Article 239),[23] undermining of co-operatives (Article 240),[24] and violation of the principle of voluntary membership in co-operatives (Article 241).[25]

Period III: The change in economic emphasis in the third period of development made a number of the economic crimes enumerated in the Code obsolete. As state intervention in the national economy receded, the detailed regulation of that economy through criminal regulation diminished as well. Thus the Criminal Code of 1959[26] eliminated all of the articles enumerated above, but added as crimes against the national economy such economic activities as causing the compulsory liquidation of an economic enterprise (Article 213A),[27] placing certain creditors in favored positions or inflicting tort on creditors with knowledge that the economic organization is insolvent (Article 213B),[28] and the misuse of powers in the economy by a responsible person in an economic organization for the purpose of procuring an illicit material gain for the economic organization, for another economic or social organization for the purpose of procuring an illicit material gain for the economic organization, for another economic or social organization, or for a political-territorial unit (Article 213B).[29]

A comparison of the 1951 and 1959 Criminal Codes reveals two primary changes: a reduction in the overall number of economic criminal offenses listed in Chapter XIX—a reduction by about 10% of the number of separable punishable offenses—and a shift in emphasis to crimes involving an individual's relations to economic organizations. Criminal activity in this latter area tends to be hidden, and detection and prosecution less frequent than was the case with the economic crimes emphasized in the 1951 Code. Thus it is not surprising to find a marked drop in the overall incidence of convictions for economic criminal offenses in the third period. As the following table indicates, convictions for economic criminal offenses as a percentage of total criminal offenses decreased from an average of 12.1% for the period 1953-1956 to 6.5% for 1957-1967:[30]

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[22] 1951 CC, art. 238.

[23] 1951 CC, art. 239.

[24] 1951 CC, art. 240.

[25] 1951 CC, art. 241.

[26] A purified text of the 1951 Criminal Code, comprising all amendments and supplements, was published in the Official Gazette of the Federal People's Republic of Yugoslavia, No. 30, July 29, 1959. References here are to Union of Jurists' Ass'ns of Yugoslavia, Criminal Code [1959 CC] (1960).

[27] 1959 CC, art. 213A.

[28] 1959 CC, art. 213B.

[29] 1959 CC, art. 213C.

[30] Milutinović, supra note 6, at 248-49.

1953	14.0%	1958	5.6%	1963	7.1%
1954	11.3	1959	5.3	1964	6.8
1955	12.5	1960	5.4	1965	6.4
1956	10.5	1961	6.7	1966	6.7
1957	7.9	1962	7.0	1967	6.4

IV. Legal Classification and Causes of Economic Crimes

A. *Classification*

Current Yugoslav legislation establishes three kinds of economic delicts: economic criminal offenses, economic offenses and economic violations. This division is not identical with the tripartite division of crimes into felonies, misdemeanors and violations. Rather, the division means that economic criminal offenses constitute a narrower category of offenses than do economic crimes generally.

Economic criminal offenses have existed in Yugoslav legislation since the first stage of economic development. They were introduced by the criminal legislation enacted immediately after World War II. The classification of economic criminal offenses is not precise; the best available definition or guideline appears in the categorization system established in official court statistics.[31] According to that classification, economic criminal offenses include, first, all of the criminal offenses included in Chapter XIX of the Criminal Code, "Criminal Offenses Against the National Economy." Examples of these criminal offenses include: operating in the economy unconscientiously; causing compulsory liquidation; misusing powers in the economy; concluding prejudicial contracts; disclosing or illicitly obtaining business secrets; forging and uttering counterfeit currency; forging and using counterfeit marks for value or security; using the emblem of another without authorization; illicit commerce; illicit production; issuing and circulating checques without cover; dealing in coins, foreign currency, foreign exchange, precious metals or valuables; and tax evasion. A second category consists of larceny, fraud, embezzlement, robbery and similar criminal offenses committed against social property, as defined in Chapter XX of the Criminal Code, "Criminal Offenses Against Social and Private Property." The third class includes certain offenses enumerated in Chapter XXIV of the Criminal Code, "Criminal Offenses Against Official Duty," including misusing office or powers, disclosing official secrets, and accepting offers or bribes.

The second class of economic delicts, economic offenses, was introduced by legislation enacted from 1953 to 1960.[32] Economic offenses

[31] Ivošević, Limović, Aleksić and Perić, Privredni kriminalitet u Jugoslaviji 1960-1963 (Economic Criminality in Yugoslavia 1960-1963) 8-9 (1966).

[32] M. Djordjević, supra note 2, at 526, 533, 539.

are defined by the Law on Economic Offenses as violations of the rules of the economic or financial business of economic organizations and other legal personalities which cause or could cause grave consequences and which are defined as economic offenses by regulation of the competent organ.[33] No more precise definition is available. One commentator has noted that

> [O]ne could say that economic offenses are the activities of economic or other organizations and their responsible managers which are dangerous to society, which to a considerable extent disturb normal functioning of our economic system, which are considered in corresponding regulations as punishable activities, and which are under the authority of the competent economic courts.[34]

By the end of the 1950's there were over sixty economic offenses defined in legislation.[35]

The concept of economic offenses, a notion apparently peculiar to Yugoslavia, reflects the emphasis in the Yugoslav economy on the autonomy of enterprises. Unlike the other forms of economic delicts, economic offenses may be committed only by legal personalities, such as enterprises, or by physical persons in their capacity as representatives or agents of legal persons, that is, persons who are acting in a responsible capacity for or on account of the enterprise, and who are designated as "responsible" persons (directors, chiefs of certain services, cashiers, bookkeepers, etc.). Under certain conditions, foreign enterprises may be responsible for economic offenses, but the responsibility of physical persons is restricted to "responsible persons" who are agents of domestic legal persons.[36]

Economic offenses include such activities as entering into agreements to obtain a monopolistic or other preferential market position, speculation in commerce, and unfair competition.[37] Economic offenses are tried in economic courts, an hierarchical system of constitutional courts paralleling the regular criminal courts.

Economic violations, the third category of economic delicts, are relatively low level violations of public order for which punishments

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[33] čl.2, st. 1 Zakona o privrednim prestupima (Službeni list SFRJ br. 1965).

[34] Milan Dokić, Vladimir Mikić, O privrednem prestuplima (On Economic Offenses), 8 (1957), cited in English in C. Zalar, Yugoslav Communism: A Critical Study, Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Senate Committee on the Judiciary, 87th Cong. 1st Sess. 219 (1961).

[35] Id.

[36] Pravni leksikon 734-35 (1964).

[37] čl. 66-68 Osnovnog zakona o prometu robe (Službeni list SRFJ br. 1/1967).

and various protective measures are available.[38] The concept of such "violations" developed primarily in legislation enacted between 1947 and 1951. Both physical persons and enterprises, that is legal persons, can commit economic violations. In this way the legal responsibility of the independent enterprise is preserved even in relatively low level offenses. Violations are tried neither in the regular criminal courts nor in economic courts, but rather before police judges. Examples of such violations of the public order in the economic area include price discrimination in favor of one's own employees at the expense of consumers generally; sale of products not properly signed, marked or packaged; failure to exhibit the price of a product in an approved manner or failure to sell at the indicated price; and inexact measurement of goods for sale to consumers.[39]

Of the three types of economic delicts, economic offenses are the most typical of the present social and economic structure of Yugoslavia. In establishing a structure in which individual enterprises operating under the principle of self-management exercise significant economic functions independent of direct state intervention, the law must also recognize the capability of such legal persons to violate the rules of economic order. The creation of the class of economic offenses reflects the principle that independent rights involve liabilities as well:

> Economic organizations are independent subjects in the economic life, but there are working collectives who realize their right to self-management and who manage the entrusted social means of production [but who] do not always act in accordance with the positive economic rules which regulate economic activity and economic relations in a way which corresponds best to the interests of a society and to the interest of these members of the collective observed as members of the entire social community. They often act by taking into consideration some of the narrow, particular interests, which are opposed to the interests of the society as a whole, who have entrusted to them the means owned by the society.[40]

Hence the entire collective may be held responsible and punished, regardless of any punishment imposed on any physical responsible person.

While the tripartite structure examined here derives from legisla-

[38] čl. 1 st. 1 Osnovnog zakona o prekršajima (Službeni list SFRJ br. 26/1965). The basic law on violations does not distinguish between economic violations and other forms of violations.

[39] čl. 72-73 Osnovnog zakona o prometu robe.

[40] M. Djordjević, supra note 2, at 527.

tive pronouncements, other analytical models are possible. For example, the peculiar legal role of collectives in the form of enterprises has suggested a different theoretical method of classifying economic delicts into two, rather than three, groups:

> The first group of delicts contains all those delicts which the defendant commits with intent to make an unlawful material gain for himself, and the second group contains all those delicts which the offender commits in order to make an unlawful material gain, not for himself personally, but for his economic organization or for another economic or social organization or for a political or territorial unit. The first group of delicts has mainly the features of classical criminality, i.e., of criminality which is not particularly specific to our social order. But for the other group of delicts, one might say that it has the features characteristic of this transitional period. . . . However, many of these delicts are known to other social orders too, so that they are not entirely new, nonetheless we say that they are specific to us because they are committed by socialist enterprises and by responsible persons from these enterprises.[41]

B. *Causes of Economic Criminality*

The causes of economic criminality in Yugoslavia are varied. Economic criminality is of course influenced by those causes and conditions that influence the performance of non-economic crimes. However, specifically economic conditions are also causative factors. Some of these are quite peculiar to Yugoslavia: the management of the social means of production by groups such as working collectives that are more narrowly defined than society as a whole; the decentralization of the economy; the independence of enterprises and the competition that exists among working organizations and even among administrative-territorial units; and also the manner in which income is distributed among the members of the working collectives.

Certain factors constitute the causes and conditions of crimes committed with the intent of making an unlawful gain for the offender: lack of control of economic activity; weakness of inventory control; careless attitudes on the part of organs of workers' self-management towards the protection of social ownership; insufficient check-outs of the moral, professional and other qualities of persons appointed to representative positions in economic organizations; negligence and un-

[41] Dr. Dragomir Davidović, Privredni kriminalitet i uloga društvene kontrole u njegovom suzbijanju (Economic Criminality and the Role of Social Control in Its Suppression) 44 (1965).

tidiness at work; insufficient activity of political and social organizations in the struggle against criminality, etc.[42]

Other causes and conditions give rise to crimes committed to establish benefits for the economic or social organization or the political-territorial unit: localism; insufficient respect for legal rules; absence of criminal prosecution; weakness of local social forces in the struggle against criminality, etc.[43]

V. Protection Against Criminality

The preceding discussion demonstrated that economic crimes in Yugoslavia resemble in part those in other countries, both socialist and non-socialist, while in other respects they have certain features peculiar to Yugoslavia. A similar situation prevails in the area of protection against economic crimes. Yugoslavia tries to prevent economic criminality both through the traditional modes of the criminal law—repression and deterrence—and through social measures of a broader nature.

Economic offenses and economic violations are punishable by fines.[44] Economic criminal offenses are punishable under the Criminal Code by fines and by imprisonment imposed by criminal courts. The degree of punishment for economic criminal offenses was quite severe during the period immediately following World War II, but penalties have been moderated since then. Generally, a person convicted of an economic criminal offense may be deprived of liberty for a period of up to three or five years, or, in extreme situations, for a period of up to ten years. In contrast, extreme instances of non-economic criminal activity may produce sentences of fifteen or even twenty years. There seems to be agreement that the system of criminal penalties is adequate for its specific purposes.

However, new methods for the protection of social ownership should be developed that are more adapted to a decentralized system made up of self-managed enterprises.[45] There is increasing emphasis on self-protection by the working organizations as the basic method of preventing economic delicts,[46] with particular stress on the use of

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[42] Id. at 44-45.

[43] Id. at 58-62.

[44] Legislation on violations allows short-term imprisonment for physical persons. Since there is no statutory differentiation between violations as such and economic violations, imprisonment is an available punishment for physical persons engaging in activities constituting economic violations. However, in practice imprisonment is not applied.

[45] Zaključci savetovanja o problemima kriminaliteta u privredni (The Conclusions of the Meeting on Economic Criminality), JRKKP 593-95 (No. 4/1969).

[46] Dr. Dušan Cotić, Samozaštita radnih organizacija osnovni metod prevencije privrednog kriminaliteta (Self-Protection of Economic Organizations as the Basic Method for the Prevention of Economic Criminality), JRKKP 333 (No. 2/1970).

economic and political measures in the self-management decision-making process.[47]

Yugoslavia has undertaken measures of broader social character than the punitive provisions described. Such measures are concerned with eliminating the causes and conditions of economic criminality described above. But these measures are still underdeveloped. More effort is needed to develop the self-protection of enterprises, to complete legal rules, to provide professional training to employees, and to conduct related research.[48]

It is apparent, then, that the system of economic crimes has been developed in response to the development of a new economic structure in Yugoslavia. However, enforcement theory has been slow to adapt itself to the changes. The criminal classification system, by introducing the notion of economic offenses as distinct from economic criminal offenses, recognizes the need for new methods of dealing with a system of independent local enterprises actively participating in economic matters in key decision-making roles. The legal responsibility for these enterprises has been separated from the traditional criminal process; yet only traditional enforcement tools are available to any significant degree to ensure the required responsibility. The task now of Yugoslav criminology is to eliminate the discrepancy between the newly developed system of social ownership and the existing system of enforcement.[49]

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[47] Dr. Velizar N. Najman, Shvatanja privrednog kriminaliteta s obzirom na savremene uslove privredjivanja (Views on Economic Criminality in the Light of Modern Production Patterns), JRKKP 590 (No. 4/1969).

[48] Dragutin Papeš, Društveno preventivne mjere za sprečavanje privrednog kriminaliteta (Socio-Preventive Measures for Reduction of Economic Crimes), JRKKP 585-87 (No. 4/1969).

[49] Id. at 568.