

NE BIS IN IDEM PRINCIPLE
IN CRIMINAL LAW OF THE REPUBLIC OF SERBIA

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Summary: The subject of the authors' attention is the principle of ne bis in idem in the penal law of the Republic of Serbia. In this work the authors analyse positive laws in order to answer the question in which cases the repetition of sentencing is forbidden. In connection with this, international documents governing this principle, as well as the Constitution of the Republic of Serbia are analysed. Apart from that, the authors critically analyse the provisions of the current penal laws which govern this principle, which are the Criminal Procedure Code, the Misdemeanour Law and the Law on Economic Offenses. In the paper all the vague and contradictory provisions of the laws in this domain are highlighted, but concrete *de lege ferenda* solutions are proposed as well. The accused against whom a criminal procedure is completed for one punishable act has to be certain that the procedure will not be repeated against him for the same act. Therefore, one of the basic principles of modern penal law is the prohibition of repeated sentencing for the same punishable act. Considering that crimes, misdemeanours and economic offenses belong to penal law, it is common in practice that after the completion of a procedure for one punishable act, a procedure begins for a second punishable act. This means that when a criminal procedure has not proven that the accused has committed a crime, the prosecutor will next initiate a misdemeanour procedure in which he will attempt to prove that the accused has attempted a misdemeanour, or vice-versa. Similarly, the same case exists when economic offenses, the third category of crimes are in question. In connection with this, if there is no prohibition from repeated sentencing for the same or other punishable act, then there is no legal security in penal law. The Constitution of the Republic of Serbia states clearly: "No person may be prosecuted or sentenced for a criminal offence for which he has been acquitted or convicted by a final judgment for which the charges have been rejected or criminal proceedings dismissed by final judgment, nor may court ruling be altered to the detriment of a person charged with criminal offence by extraordinary legal remedy. The same prohibitions shall be applicable to all other proceedings conducted for any other act punishable by law." On the other hand, the Misdemeanour Law allows the initiation of a procedure despite the fact that a criminal procedure has previously been led, and the same solution is prescribed when a procedure for an economic offence was previously led. A similar provision is prescribed by the Law on Economic Offenses. In this way the principle of legal security is infringed upon because the accused is not certain whether the prosecutor will initiate a procedure for a different punishable act, which is, according to our opinion inadmissible. We believe that it is necessary to change the legal provisions highlighted in the work, in order to prevent multiple procedures to be led for the same punishable act and to provide legal security in penal law.