



Crime in Urbanization and Real Estate Turnover in Kosovo and Human Rights

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Abstract: The aim of this paper is to treat the crime in urbanization and real estate turnover in Kosovo from the perspective of human rights fields. Usually, the urbanism and real estate is treated by perspective of civil law. However, with regard to this field, very often occurs different criminal offences in urbanisation and real estate turnover. Thus, the objective of this paper is to bring an analysis from this perspective that would give contribution to different stakeholders that deal with this issue. Further, in this paper is used the comparative and statistical methods. Finally, the result of this paper can serve as a base for further legal treatments and also can help local authorities to understand this special field of crime.

Keywords: crime; urbanization; real estate; human rights

1. Introduction

The 20th century can be considered as a century where Human Rights began to be recognized as the common values of mankind. This century has witnessed some of the biggest violations of Human Rights. The most highlighted phenomena that violate Human Rights are the various crimes. Specifically, organized crime violates and damages human rights in the political, economic and social spheres.

Economic, social and cultural rights are Human Rights which form an integral part of the internationally recognized list of Human Rights. The International Covenant on Economic, Social and Cultural Rights, mandatory for all contracting parties, who has established a control system, consisting of submitting reports on the measures they have taken. However, regardless of the legislation regulated in this area, the international conventions adopted by the UN General Assembly to combat criminality, there is no indication that organized crime is decreased. Thus, this

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scientific and practical research, in this area, contributes in its combat in general and the criminality in urbanism and turnover of real estate, in particular.

2. The Volume and Structure of Criminality in Urbanism and Real Estate Turnover in Kosovo

To reflect the organized crime in urbanism and in the real estate turnover in Kosovo in the period 1992-2004, I will present the data obtained from Kosovo District Court registers by comparing them with various abuses in the sphere of real estate turnover in Kosovo¹ Firstly, it should be emphasized that the statistical situation, with a thorough analysis, shows the progress of these crimes.

Criminal reports for the commission of criminal offenses containing elements of misuse in the field of real estate turnover in Kosovo, for the period 1992-2004 have been filed against a total of 75 persons (Beka, pp. 169-170) and no case is related to organized crime in the field of urbanism and real estate turnover.

Year	Abuses in the field of real estate turnover	Number of criminal reports	Organized crime in urbanism and real estate turnover
1992	1.33	1	0
1993	2.66	2	0
1994	1.33	1	0
1995	4.00	3	0
1996	6.66	5	0
1997	9.33	7	0
1998	2.66	2	0
1999	0	0	0
2000	6.66	5	0
2001	12.00	9	0
2002	17.33	13	0
2003	14.66	11	0
2004	21.33	16	0
Total	100	75	0

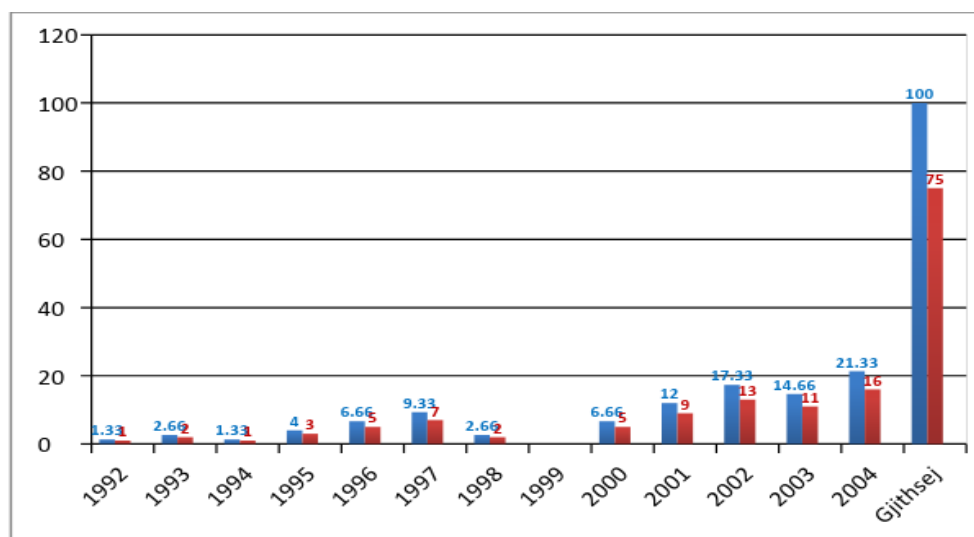
Thus, the number of persons against whom criminal reports for abuses in the field of real estate turnover have been filed, according to the years is as follows:

In 1992 there was filed 1 criminal report or 1.33% of the total number; In 1993, 2 criminal reports or 2.66% of the total number were filed; In 1994 there was filed 1 criminal report or 1.33% of the total number; In 1995, 3 criminal reports were filed or 4.00% of the total number; In 1996, 5 criminal reports or 6.66% of the total number were filed; In 1997 there were filed 7 criminal reports or 9.33% of the total

¹ For more, see (Beka, 2015, pp. 185-213).

number; In 1998, there were 2 criminal reports filed or 2.66% of the total number; No criminal report was filed in 1999; In 2000 there were filed 5 criminal reports or 6.66% of the total number; In 2001 there were filed 9 criminal reports or 12.00% of the total number; In 2002, 13 criminal reports were filed or 17.33% of the total number; In 2003 there were filed 11 criminal reports or 14.66% of the total number; In 2004, 6 criminal reports or 21.33% of the total number were filed.

From the above statistical data it is clearly seen that in the period 1992-2004 there is a continuous increase in the number of persons against whom criminal reports have been filed by Kosovo judicial institutions. Indictments against persons implicated in illegal acts relate to abuses in the field of real estate turnover. However, such criminal reports are not in the sphere of organized crime in the field of urbanism and real estate turnover due to the dark number that on an extremely high degree, so the coefficient is zero.



Legend:

- Abuses in the field of real estate turnover;
- Number of criminal reports;
- Organized crime in urbanism and real estate turnover.

Figure 1.

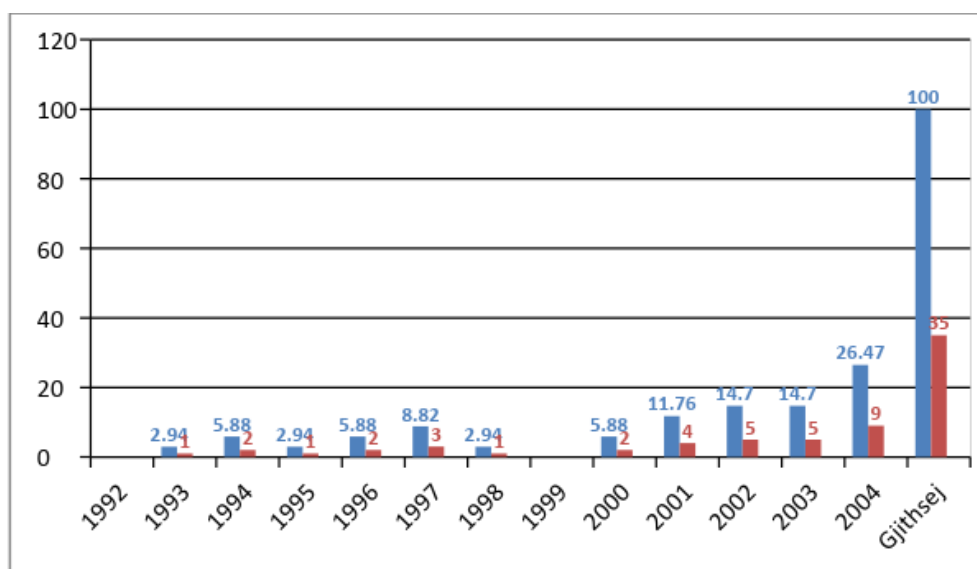
Source: (Beka, 2015, pp. 171-172)

3. The Structure of the Defendant

During the period 1992-2004, for criminal offenses with elements of abuse in the field of real estate turnover in Kosovo there were accused in total 35 persons and none of them was related to organized crime in urbanism and real estate turnover, due to the extremely high level of dark numbers.

Thus, the number of accused persons with criminal offenses with elements of abuse in the sphere of real estate turnover, according to the years is as follows:

In 1992 there were no any accused person; Only 1 indictment or 2.94% of the total number was filed in 1993; 2 indictments or 5.88% of the total number were filed in 1994. In 1995 one indictment or 2.94% of the total number were filed; 2 indictments or 5.88% of the total number of indictments filed in 1996; 3 indictments or 8.82% of the total number were filed in 1997; 1 indictment or 2.94% of the total number were filed in 1998; In 1999 no indictments or 0% of total number was filed; 2 indictments or 5.88% of the total number were filed in 2000; 4 indictments or 11.76% of the total number were filed in 2001; 5 indictments or 14.70% of the total number were filed in 2002; 5 indictments or 14.70% of the total number were filed in 2003; in 2004 9 indictments or 26.47% of the total number were filed.



Legend:

- Abuses in the field of real estate turnover;
- Number of accused persons;
- Organized crime in urbanism and real estate turnover.

Figure 2.

From the above statistical data, it is clear that 2004 is the year with the highest number of accused persons for criminal offenses with elements of abuse in the field of real estate turnover in Kosovo, with 9 accused persons or 26.47% the total number of defendants, but in the respective year we have no accused persons of organized crime in the field of urbanism and real estate turnover. Meanwhile, 1992 and 1999 are years with lower number of defendants (0%).

4. Structure of Convicts

During the period 1992-2004, criminal offenses with abusive elements in the field of real estate turnover in Kosovo were convicted in total 26 persons and none of them was related to organized crime in the sphere of urbanism and real estate turnover, due to the extremely high degree of darkness (Data collected from court records and district court documents in Kosovo for the period 1992-2004).

Year	Abuses in the field of real estate turnover	Number of convicted persons	Organized crime in the field of urbanism real estate turnover
1992	0	0	0
1993	3.84	1	0
1994	0	0	0
1995	3.84	1	0
1996	7.69	2	0
1997	7.69	2	0
1998	3.84	1	0
1999	0	0	0
2000	3.84	1	0
2001	7.69	2	0
2002	11.53	3	0
2003	19.23	5	0
2004	30.76	8	0
Total	100	26	0

Thus, the number of persons convicted for criminal offenses with elements of abuse in the field of real estate turnover, according to the years, is as follows: In 1992 no punishment was imposed; In 1993, one punishment was imposed or 3.84% of the total number; no punishment was imposed in 1994; In 1995, 1 punishment or 66

3.84% of the total number was imposed, 2 sentences or 7.69% of the total number were imposed in 1996. In 1997 2 punishments or 7.69% of the total number were imposed. In 1998 it was pronounced 1 punishment or 3.84% of the total number; no punishment was imposed in 1999; In 2000, 1 punishment or 3.84% of the total number was imposed; In 2001 2 punishments or 7.69% of the total number were imposed; In 2002, 3 punishments or 11.53% of the total number were imposed; In 2003, 5 punishments were imposed or 19.23% of the total number; In 2004, 8 punishments were imposed or 30.76% of the total number. From the overview of the numbers presented in tabular form and graphs, it is seen that out of 75 criminal reports, 35 persons have been accused, while 26 of them have been convicted - for abuses in the field of turnover of real estate in Kosovo and none were convicted for organized crime in the sphere of urbanism and real estate turnover. This makes us realize that the dark number in this sphere was on a very high scale.

5. Penalty Policy

During the period 1992-2004, a total of 26 people were convicted for criminal offenses with abusive elements in the field of real estate turnover in Kosovo, with a punishment of 1.1 months to 4 years and none of them was convicted of organized crime in urbanism and the turnover of real estate.

YEAR		1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total
Height/Type of punishment	With provision				1		2	1		1	2	3	3	3	16
	With prison 1.1-2.1 months		1			2							2		5
	With prison 2.1 months - 4 years													5	5
%		0	3.84	0	3.84	7.69	7.69	3.84	0	3.84	7.69	11.53	19.23	30.76	100

From the table above, the outline of the types of punishments imposed on offenders with elements of abuse in the area of real estate turnover, according to the years, looks as follows: In 1992 no person was convicted; in 1993, with a prison punishment from 1.1 to 2 months was punished 1 person or 3.84% of the total number. In 1994 no one was convicted; in 1995 there was punished one person with provision or 3.84% of the total number. In 1996 there were convicted 2 persons with a prison from 1.1 - 2 months or 7.69% of the total number; In 1997, 2 persons were convicted with provision or 7.69% of the total number; In 1998 one person was convicted with provision or 3,84% of the total number; In 1999 no

person was convicted, so no punishment was imposed; In 2000 there was punished 1 person with provision or 3.84% from the total number; In 2001, there were punished two persons with provision or 7.69% of the total number; In 2002 there were punished 3 persons with provision or 11.53% of the total number; In 2003 there were punished 3 persons with provision and 2 persons with a prison of 1.1 - 2.1 months or 19.23% of the total number; In 2004 there punished with prison 5 persons in the duration of 1.1 months - 4 years and 3 persons punished with provision or 30.76% of the total number.

From the data analyzed regarding the height of penalties against criminal offenders in the field of real estate turnover in Kosovo, in the period 1992-2004 (no person was accused for organized crime in urbanism and real estate turnover, but only for another abusive types) it is clear that the height and type of punishment for such abuses does not correspond to the degree of risk of this form of criminality. In other words, for such abuses should be imposed effective prison punishments and less provision punishments. There is no doubt that it would be more useful and more reasonable to prevent and combat this criminal phenomenon.

6. Combating Organized Crime in Urbanism and Real Estate Turnover in the Republic of Kosovo

The prevention and combating of organized crime in the field of urbanism and the real estate turnover in Kosovo is Kosovo's primary duty as well as of other countries in the region, which are still in the transition phase.

The high percentage of the young population (according to official data of the Statistical Office of Kosovo and civil society, unemployment in Kosovo is about 45%; 50% of the population are younger than 25% of the population, while 70% of the population are younger than 35 years of age) unemployment of about 45%, as well as the "hermetic seizure" of EU borders due to visa liberalization, greatly affect the appearance of criminality in Kosovo. For the prevention and successful fighting of organized crime in the field of urbanism and the real estate turnover in Kosovo, it is necessary for the respective institutions to possess all the personnel, technical and technological capacities. A special role in preventing and combating organized crime in the field of urbanism and the real estate turnover in Kosovo have: Legislation; Professional level of leadership in the field of legal system; Technical and technological monitoring measures; International cooperation.

7. The Importance of Legislation in Combating Organized Crime

An important role in the fight for the prevention of organized crime in the field of urbanism and the real estate turnover have state institutions such as police, intelligence, judiciary, prosecution, etc. which must fulfill their obligations in accordance with the law and the Constitution. It should be emphasized that combating and preventing various forms of organized crime in Kosovo is closely related to the legal system as one of the most important and specific in this area. For this reason, the first step in the fight against organized crime has to be done in the Kosovo judicial system, because this system is not immune to certain forms of criminality, especially corruption, which is unfortunately very widespread.

This important issue has been addressed in legal acts such as: Criminal Code of the Republic of Kosovo, Law on Criminal Procedure of the Republic of Kosovo, Law on Protection of Informers, Law on International Legal Cooperation in Criminal Matters, Law on Declaration, wealth and gifts of senior public officials; Law on Prevention of Conflict of Interest in Exercising Public Functions; Law on the Responsibility of Legal Persons for Criminal Offenses, Law on Witness Protection, Law on State Prosecution, Law on Courts, Law on Administration of Sequestered or Confiscated Property, Law on Anti-Corruption Agency, Law on Special Prosecution of the Republic of Kosovo Law on Kosovo Intelligence Agency, Law on Prevention of Conflicts of Interest, Anti-Corruption Law, Law on Prevention of Money Laundering and Terrorist Financing, Law on Cadastre; Law on Establishment of the real Estate Rights Register; Law on mortgages; Law on Obligation Relations, Law on Construction, etc.

The most relevant model for combating organized crime can be the English one. In 1995, England adopted the Crime Benefit Act, if a criminal case were to be prosecuted and if he was found guilty of two indictments, of which at least one would present serious economic crime, the court has the right and duty to determine the accuser's property in the last six years, requesting from him to provide clarification as to when and how he has acquired the property. Such measures would probably have to be implemented by the authorities in Kosovo, because from the existing situation in Kosovo it can be concluded that we are dealing with a "criminal recidivist society". From the above it emerges that "it is the last moment to react quickly, to take appropriate measures and to create the necessary conditions in order for the rule of law to operate and no one should be above the law" (Halili, 2002, p. 17).

From the above, it emerges that without relevant and contemporary legislation, crime in general cannot be successfully fought, especially organized crime that increasingly takes on the characteristics of “sui generis” criminality.

8. The Role of Leading Structures in Combating Organized Crime

The judiciary and prosecution system in Kosovo is criticized for the choice of the governing staff, judges and prosecutors who, despite the fact that, in order to be in such positions, do not meet the basic conditions provided by law, yet they are appointed for judges and prosecutors. This is best evidenced by the fact that from 01.01.2014 to 18.12.2014, the Office of the Disciplinary Prosecutor has received 542 complaints against judges and prosecutors for misconduct, namely 434 complaints against judges and 110 complaints against prosecutors for suspicions that they have committed unlawful actions such as: negligence in performance, failure to commit or abuse judicial-prosecutorial functions, failure to perform judicial-prosecutorial functions in an independent and impartial manner, serious breach of the Code of Conduct Ethics, conflict of interest, intentional prescription of criminal cases as a result of negligence, corruption, delays in case processing, delays in drafting decisions, misconduct with parties and colleagues, delays in sending cases from the degree of first instance court, second instance court, etc.

This Office has opened 65 disciplinary investigations against judges and prosecutors this year, where in 22 cases they have been recommended to conduct disciplinary proceedings in the Kosovo Judicial and Prosecutorial Council of Kosovo (14 prosecutors and 8 prosecutors). Education and specialization of the staff is of special importance for the legal system and should include: judges, prosecutors, police officers, intelligence service workers, etc. One cannot imagine an effective fight against criminality in general, especially against various forms of organized crime (money laundering prevention, narcotics trafficking, human beings trafficking, cybercrime, vehicle smuggling, arms smuggling, etc.), without the relevant education and specialization of this framework.

Today, the techniques and tactics on combating criminality change in parallel with the change of techniques and tactics applied by perpetrators. Such a specialization of the leadership framework for the effective prevention and combat of various forms of organized crime is more than necessary. For this reason, the leadership framework needs to be consistently trained to combat organized crime in the country, including the international one. This paper also reflects the great

importance of the specialization of the staff with the competence to prevent and combat organized crime in the field of urbanism - construction and real estate turnover as well as its connection with terrorism and money laundering. For this reason, the harmonization of national and international legislation that would make it possible to “remove state borders” to conduct investigations and gather evidence is one of the objectives of contemporary crime policy. Today, contemporary politics to combat criminality is more focused on strengthening the role of operational organs and intelligence services, both nationally and internationally.

In Kosovo there are many bodies for combating organized crime, starting from the Special Prosecution Office of the Republic of Kosovo, the Directorate against Organized Crime, which operates within the Kosovo Police, the Financial Intelligence Service which operates within the Ministry of Finance Republic of Kosovo, Kosovo Intelligence Agency, etc. But this issue has to do with the quality of the management of these institutions, in which case the professional aspect and the intellectual courage to deal with different forms of organized crime in Kosovo.

9. Operational Measures for Discovery and Surveillance

One of the most characteristic forms of criminal activity is conspiracy. Given the principle that criminality is always a step ahead of the law, it is more than necessary to apply secret technical measures of investigation, including, in particular, interception of telephones, checking of correspondence, etc. but without violating the privacy guaranteed by law. In spite of this, in practice, misuse is made with such methods that in many cases violate the privacy of the persons under investigation as a result of the non-definition of “red line” between private and public life. Technological development in the field of telecommunications enables the subjects that fight against criminality, but also those who organize and carry out criminal acts, to equip and use sophisticated tools. In such a rivalry, the electronic infrastructure available to criminal organizations is more advanced than that of the entities fighting against organized crime. For the prevention and effective combat of crime in general, and especially of organized crime, The Criminal Procedure Code of the Republic of Kosovo, in the part related to the examination procedure, provides for certain changes, namely the secret measures that can be taken by a pre-trial judge or a public prosecutor, such as: secret surveillance or video surveillance of public places; secret monitoring of conversations in public places; secret investigation; Interception and recording of telephone conversations;

Checking of postal deliveries; Interception of communications on computer network; Checked delivery of postal deliveries; Simulation of the purchase of anything; Simulation of any corruption offense; Disclosure of financial data; Permanent follow-up of executed bank transactions; Photographing and recording in certain situations, etc. (for more information see: Criminal Procedure Code of the Republic of Kosovo; Law on the Administration of Sequestered or Confiscated Property; Law on Criminal Responsibility of Legal Persons; Law on Prevention and Combating Cybercrime, etc).

10. Conclusions

Combating criminality in the field of urbanism and real estate turnover as a specific area of organized crime is a very important area for scientific research. Despite the great social interest in systematic discovery and follow-up, as a negative social phenomenon that follows the processes of transition, urbanism and changes in property relations, the scientific research of its criminological and juridical-criminal features from the aspect of violations of Human Rights, Forms of Presentation, and etiology are still in the initial and declarative stage.

Criminality in urbanism and in real estate turnover, as typical areas of organized crime, are of particular importance for the prevention and combating of new forms of criminality, especially of organized economic crime. It is a criminal phenomenon that implies a criminal activity committed by persons acting in a unified way in the form of well-connected groups and networks and involving various types of criminal offenses: abuse of official duties, corruption, falsification of documents, concealment of taxes, fraud, etc. From this variety of criminal activities that are enclosed in the notion of criminality in urbanism and the real estate turnover, the need for a complex approach to the detection, prevention and prosecution of these criminal activities in relation to the violation of Human Rights is evident.

Organized crime in the field of urbanism and real estate turnover is one of the worst forms of criminality that causes great shocks in those spheres. But, given the enormous financial amounts and enormous criminal benefits, great shocks are also caused in the overall economic life in Kosovo, blocking the functioning of the political and judicial system on the rule of law principle, with consequences in Human Rights.

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