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Crime in the Field of Urbanism and the Turnover of Real Estate in Kosovo

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Abstract:

Criminal activities are a common threat to every country. The difference lies only in the kind and manner of conducting such criminal activities. With a particular emphasis, several types of criminality are distinguished that have a "sui generis" character because the negative consequences caused by these criminal activities are significant. One such activity is criminality in urban planning and the turnover of real estate. The consequences of criminality in the field of urban planning and real estate turnover are very harmful and long-term for society. This type of criminality severely attacks the economic, legal, social, and political system of a country; hence, citizens can lose faith in state institutions, with special emphasis on the institutions of the justice system: the prosecutor, the judiciary, the police, etc. The purpose of this research is to enrich the literature on this topic, which is currently very poor in the region of the Balkans, and to help relevant international and national institutions in the prevention and fight against criminality, focusing on the relationship between organized crime in general and specifically on the current situation in the field of urbanism and the circulation of real estate in the Republic of Kosovo and beyond.

Keywords: crime, urbanism, real estate, prevention, combat.

科索沃城市化领域的犯罪和房地产周转

摘要:

犯罪活动是每个国家面临的共同威胁。区别仅在于实施此类犯罪活动的种类和方式。特别强调的是，几种类型的犯罪行为具有“特殊性”，因为这些犯罪活动造成的负面后果是巨大的。其中一项活动是城市规划和房地产交易中的犯罪行为。城市规划和房地产周转领域的犯罪后果对社会是非常有害和长期的。此类犯罪严重侵害一国的经济、法律、社会、政治制度，严重损害国家利益。因此，公民可能会对国家机构失去信心，特别是司法系统的机构：检察官、司法机构、警察等。本研究的目的是丰富有关该主题的文獻，目前

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该主题的文献非常多。巴尔干地区的贫困人口，并帮助相关国际和国家机构预防和打击犯罪，重点关注一般有组织犯罪之间的关系，特别是城市化和房地产流通领域的现状 在科索沃共和国及其他地区。

关键词：犯罪、城市化、房地产、预防、打击。

1. Introduction

Combating crime in the field of urbanism and the turnover of real estate, as specific areas of organized crime, is an extremely important area for scientific research. Despite the great social and institutional interest in the detection and systematic pursuit of this type of criminality, which is a negative social phenomenon that follows the processes of transition, urbanization construction, and changes in property relations, the scientific research of its criminological features and legal-criminal forms of presentation and etiology is still in the initial and declarative phase.

This is a rather complex criminal phenomenon; therefore, the detection, prevention, and follow-up of this criminal phenomenon are not effective enough, while its presence, which remains in the “dark number” of criminality, represents a serious obstacle to the economic and social development of society.

2. Criminal Occurrences in the Field of Urban Planning and Real Estate Turnover

Emphasizing that criminality in the field of urbanism and the turnover of real estate, as typical areas of organized crime, are of special importance for the fight and prevention of new forms of criminality, especially organized economic crime. It is a criminal occurrence that means a criminal activity carried out by persons acting in a united and organized manner, in the form of the action of groups and networks well connected and that includes different types of criminal offenses, such as misuse of official duties, corruption, falsification of documents, concealment of taxes and other tax-financial obligations, fraud in the field of construction, urban planning, and turnover of real estate, etc. From this variety of criminal activities that are included in the notion of criminality in the field of urban planning and real estate turnover, the need for a complex approach to the pursuit, detection, prevention, and combating of such criminal activities is self-evident.

Enlightening the public about this type of criminality is a prerequisite for clarifying the notion and essence of organized crime, “white collar” crime (Gashi, 2021), and economic and property crime in Kosovo.

Even though, from a theoretical point of view, these notions have been elaborated at a high scientific level, the research on concrete forms of criminality in Kosovo encounters not only methodological difficulties but also conceptual ones. The first type of difficulties originates from the uncertain empirical basis of research (criminological statistics, etc.), while the second type,

i.e., conceptual difficulties, are related to the insufficiently advanced regulation of the legal infrastructure in the field of urbanism and the turnover of real estate, which makes it difficult to define the border between what is permissible or legal and what is criminal or illegal in this sphere (Beka, 2015: 22)

Although in the countries of South-Eastern Europe, under the strong influence of International Conventions, and especially of the regulations approved by the European Union, in the transition phase in Kosovo, many reforms were made in the field of legislation, and especially in the criminal and procedural, however not all possible solutions were found for the prevention and successful detection of organized crime and its other forms in the field of real estate turnover and urbanism.

Following these models, changes and additions have been made to the criminal legislation related to organized crime, corruption, fraud, forgery, and other criminal offenses in Kosovo. However, unlike other countries in transition, the aforementioned changes were made in conditions of a country emerging from the war (after 1999), with several problems of a legal, economic, social, and political nature. In such circumstances, problems such as the constitution of citizenship-sovereignty, avoidance of the consequences of war, transition, privatization of properties from social to private ownership, and advancement and strengthening of private, judicial, and other institutions of the justice system are combined.

In the aforementioned circumstances, the implementation of new legislation presented a special problem, in which there were several elements of the old legal system, influences of foreign legislation (especially Anglo-Saxon), and specific legal solutions necessary for regulating relations in these areas (Latifi & Beka, 2013: 219)

3. Elaboration on Criminological Aspects of Criminality in the Field of Urbanism and Real Estate Turnover

The elaboration of the criminological aspects of the research object, due to the above-mentioned sociopolitical and economic circumstances in Kosovo, is related to the basic principles of the “theory of social disorganization” (Gashi, 2023: 55), while for certain periods, the principles of the “theory of social anomie” are also essential (Halili, 2016: 101). Opportunities to deal with this type of criminality should be sought in the stabilization and development of the political and legal system of Kosovo and the creation of institutional and other prerequisites for the effective implementation

of the law.

The scientific approach to this problem is a necessary prerequisite for the definition of a relevant legal-penal framework, as well as the institutional and legal premises for the implementation of laws. However, based on the complementary and subsidiary character of legal-criminal protection, it should be noted that it will remain completely dysfunctional if the sphere of urbanism and the turnover of real estate will not be subject to legal-legal regulations and by-laws of civil, administrative, banking, financial, and procedural law, including other similar branches of jurisprudence. Without such regulation, clear boundaries cannot be drawn between what is illegal and what is legal, nor between different forms of legal actions, such as misdemeanors and civil actions. Likewise, without such by-laws, the basic requirement stemming from the principle of legality for the precise legal definition of the essence of certain criminal offenses cannot be met.

Through the scientific analysis of organized crime in the field of urban planning and the turnover of real estate in Kosovo, great weaknesses in the exercise of authorizations and the performance of obligations of other state bodies and institutions, with competence for prevention and combat, are revealed of abuses in the field of urbanism and the turnover of real estate, in the discovery of the perpetrators of criminal acts, in their criminal prosecution, including in the meantime the role that must be played by the legal entities that participate in the legal reports of this sphere.

4. Organized Crime in the Field of Urbanism and Real Estate Turnover

Organized crime in the field of urbanism and of real estate turnover is one of the most serious forms of criminality that causes great shocks in many spheres. However, since it is about large financial sums and enormous criminal benefits, great shocks are also caused in the general economic and financial life, blocking and dimming the functioning of the economic, legal, social, and political system, on the principle of the rule of the right. The extent of this form of organized crime causes great abuses of power and promotes the spread of corruption, falsification of documents, fraud, and “money laundering” (Gashi, 2023: 272), which hinders the effective implementation of justice, sanctions, and legal-penal measures, such as confiscation and sequestration of items or assets by the court.

Also, in such circumstances, we are dealing with a high degree of blockage of the work of the courts, and this is manifested by the unsatisfactory number of solved cases, in which it is a question of criminal acts, despite empirically based or supported knowledge in facts – of their existence and massive extent, but also of the presence of criminal occurrence in notary offices, agencies for the evaluation of real estate, and agencies

for mediation in the turnover of real estate (Beka, 2017: 64).

Kosovo as a new state is going through a very long transition, so it is facing many still unresolved problems, with institutions of the justice system that are not efficient enough and with legislation that contains legal provisions with formal and substantive deficiencies. All of this has a direct impact on weakening and reducing the intensity of the fight against organized crime as a whole, especially the fight against criminality in the field of urbanism and the turnover of real estate. For this reason, even 14 years after the declaration of independence, Kosovo still faces serious forms of organized crime, with special emphasis on urbanism and the turnover of real estate.

5. Conclusion

This study draws attention to the fact that there is a lack of research on this topic that would help the institutional bodies that are competent to prevent and fight this very dangerous form of criminality, which is crime in the field of urbanism and turnover of real estate. Because of these facts, to prevent and fight organized criminality in the Republic of Kosovo, it is recommended for academics, society, and institutional bodies to analyze the causes of the manifestation of this complex form of criminality in the Republic of Kosovo, so they can effectively identify the occurrences that are the subject of this research and to prevent and legally punish their bearers. Overall, by analyzing the current situation in the prevention and fight of criminality in the field of urbanism and turnover in the Republic of Kosovo, this study comes to the following conclusions:

The criminal legislation of Kosovo, misuse and fraudulent actions in the field of urbanism, and the turnover of real estate are “distributed” into several criminal offenses, which make the prosecution of these criminals difficult and inefficient due to the lack of a specific criminal offense that would make it easier for the authorities to prosecute and punish these criminals. To solve this problem, it is recommended that criminal acts in the field of urbanism and turnover of real estate should be criminalized as a special and specific criminal offense.

Kosovar society is still far from recognizing the relevant factors that determine the appearance of this type of criminality. The lack of knowledge of the Kosovar society to recognize the factors and forms of appearance of criminality in the field of urbanism and turnover of real estate exposes them to the dangerous threat of being victims of it, especially in the present times when construction and urbanization in Kosovo is at a very high rate. Therefore, it is recommended and necessary to intensify the research-scientific work in this field, which would contribute to the raising of collective consciousness, increase the capacities of the institutions that are in charge of preventing and fighting this phenomenon, and to develop the cooperation of

legal subjects with the state institutions of Kosovo, with special emphasis on those of the justice system.

From the research carried out in the judicial institutions of Kosovo, it turns out that: there are very few criminal offenses that contain elements of organized crime in the field of urbanism and the turnover of real estate, compared to the real-factual situation, since the presence of the number of “dark” is still at a very high level. Therefore, it is recommended that the detection and prosecution of the perpetrators of these crimes should be a priority task of the prosecution, police investigators, administrative, tax, and financial bodies.

The mass media in Kosovo that participate in the fight for the prevention of this criminal occurrence, their programming must also include objective information of public opinion about all the negative consequences that this type of criminality causes to the economic, social, legal, and political system.

Even though within the prosecutorial system, there is the Special Prosecutor’s Office and within the Kosovo Police, there is the Directorate against Organized Crime, its professional, leadership structures and personnel still need professional development and obtaining deeper knowledge related to organized crime in the field of urban planning and turnover of real estate in Kosovo;

A closer and more regular cooperation between the Kosovo Police, the Kosovo Intelligence Agency, and the Financial Intelligence Service, etc. is necessary with the competent international institutions for the provision of assistance and the exchange of experiences in this field and in the field of fighting and preventing “money laundering”, etc.

The competent courts of Kosovo, in the current situation of political and social transition, do not have a tough punitive policy against the perpetrators of this form of criminality. Therefore, it is recommended that the competent courts of Kosovo implement a tougher punitive policy against the perpetrators of crimes in the field of urbanism and turnover of real estate.

It is evident that there are some gaps within the legal regulation in the field of urbanism and turnover of real estate in the Republic of Kosovo, which creates a good ground for criminals to conduct this form of criminality. Therefore, it is recommended that to prevent criminals from conducting this form of criminality, there should be some improvements to the legal regulation in the field of urbanism and the turnover of real estate, its internal harmonization, and the national regulation should be harmonized with the legal acts of the European Union to limit the space for arbitrary authorization of state bodies competent, which would affect the legal action of legal entities. For this purpose, the provisions related to spatial planning, the granting of building permits, the cadastre, and payments for the turnover of real estate should be the subject of a serious review to eliminate the possibilities of misuse, fraud,

and “money laundering” by individuals and various criminal groups.

The competent state institutions of Kosovo do not often conduct controls if the legal entities, such as construction companies and real estate agencies, are working in compliance with the law. Therefore, it is recommended that the competent state institutions of Kosovo should “visit more often” the entities that directly or indirectly deal with urbanism and the turnover of real estate, as well as take measures to strengthen financial discipline and legality in their work.

The degree of efficiency and responsibility of detection and investigation bodies should be increased further in the case of identification and detection of criminal networks and corrupt actions in state bodies and other subjects, in whose competence are the affairs from the field of urban planning and turnover of real estate, etc.

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