Economic Crime and Some of its Features in Kosovo
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Abstract
The examination of economic crime in Kosovo is of particular importance because such a form of criminality is on the rise, as a result of the ever-increasing circulation of goods and services at the national and international level. Economic crime is increasingly appearing in various forms, either through the occurrence of numerous abuses in the market of goods and services, "money laundering", corruption, fraud and falsification of documentation on the origin of goods, abusive monopolies created in the market, crimes with electronic money and the involvement of financial institutions with special emphasis on banks and micro-financial institutions in these types of abuses, etc. Kosovo is a state attacked with various forms of economic criminality, where the degree of the "dark number" is quite pronounced as a result of the informal economy that exists in this country. Therefore, the strengthening of institutional mechanisms in the field of prevention and combating this type of criminality is more necessary since the measures taken so far are insufficient to reduce this type of economic criminality. A special role to gain the trust of the public opinion in preventing and fighting this type of criminality is also played by the mass media and non-governmental organizations, which should be created a greater scope of action in order to prevent economic abuses.

Keywords: Economic Crime, Monopoly, Market, Bank, Criminality, "Money Laundering".

INTRODUCTION
Today, there is no society that is immune from the presence of economic criminality, and Kosovo is no exception. This type of crime is presented as a quite complex criminological and legal occurrence, which is evident depending on the degree of economic development, which means that the greater the economic development, the more pronounced and advanced the occurrence of economic crime. Economic crime severely attacks economic and property-legal relations, enabling a special category of physical and legal entities to obtain large financial benefits from illegal and criminal activities. It is worth noting that the "dark number" and the "gray number" of economic crime in Kosovo is at a very high level, which has come as a consequence, among other things, of the informal economy that exists and is quite pronounced. Despite the advancement in the field of preventing and fighting economic crime in Kosovo, this criminal occurrence is quite evident in this country, which for 24 years is still in economic, political and social transition. This verifies that high power and business structures are involved in this type of criminality, which very closely cooperate with each other, concretely there is a symbiotic relationship between them in carrying out criminal activities from the economic field. Therefore, such a situation makes it difficult to: detect, prevent and fight economic crime in Kosovo, and from this this country suffers great economic-financial, but also political and social damage.

METHODS
There was examined the issue of economic crime in Kosovo from a criminological point of view, therefore the methods that have been applied in this paper are methods that are used in criminological sciences, such as: survey-observation method, statistical method, case study method individual as well as national and international evidence on criminality. So, the paper uses a combination of qualitative and quantitative methodologies, through which was tried to recognize, treat and analyze the occurrence of economic crime by proposing the relevant preventive and repressive measures in order to prevent this criminal occurrence.

ECONOMIC CRIME
Economic crime represents a complex criminological and legal occurrence, which in contemporary society, with the development of the economy, spreads quickly. There are different views regarding the notion of

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Economic crime. The determination and definition of economic criminality is a very complex matter both in the context of a country and in the international context.

Economic crime, as defined in the Recommendation of the Council of Europe R 81(12) of 1985 (CoE, 1985) has been one of the main concerns of European societies for decades. The recommendation is based on the assumption that economic crime causes loss of public revenue, has a negative impact on society in general and deforms the national or international economy as well as undermines confidence in the economic system. It damages democracy, the rule of law, human rights and economic and social progress (Carpo, 2006).

This type of criminality presents a view of criminal forms and actions that are carried out in the field of economy (Halli, 2016). Therefore, the name "business crime" fits this type of crime” (Kambovski, 2005). This conception of this notion is rather used to classify the degree of organization between perpetrators of criminal offenses and the category of risk of the crime committed. So, for example, in the past the theft of social, namely state property by two or more people was considered an organized economic crime.

Criminal acts of economic crime are defined as acts committed intentionally, in which case large material and public values are affected, leaving serious consequences for certain state interests, protected by law. Economic criminality usually means all the illegal behavior and actions of natural and legal persons in the economic business, which actions prevent the normal functioning of the economic system, while the subjects - participants of the economic activity and beyond bring great damages both materially and financially (Mladen, 2002).

This crime is principally of a non-violent nature, with the purpose of financial gain and which is committed by officials - of the public administration on the one hand and on the other by persons in the business field. The main forms of economic criminality are money laundering, fiscal evasion, smuggling, various frauds in the field of economy (in the public or private sector), etc.

In the period after the year 2000, Kosovo, as a country just emerging from the war and a country in transition, was characterized by numerous criminal occurrence in the economic sphere, with the beginning of the transformation of social property into private property and with the appearance of a "sui generis" form of criminality economic, specifically of abuse in the field of real estate circulation by publicly, socially and privately owned enterprises (Lajm, 2007).

Economic crime is often presented as a continuous coordinated action of various enterprises, which by violating the law achieve benefits and aim to "seize" political power, among other things. As such transactions are counted the establishment of firms or fraudulent enterprises in the country or abroad with the purpose of tax concealment, manipulation of bills of exchange and securities, use of various export premiums, smuggling of various goods, escaping taxes and customs such as Illegal importation of oil derivatives, tobacco, alcohol, fictitious regulation of tenders and favoring of different firms due to the commissions received (Salihu, 2012).

A special characteristic of economic crime is its dynamism, the ability to adapt to changes in the sphere of economic and financial activities as well as its rules. It is difficult to determine the extent of economic crime due to the large number of undetected cases related to it. It should be emphasized that the statistical data that are available have more to do with the efficiency of the prosecution and jurisprudence bodies than with its scope (Nikolic, 2018).

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1 On 09.01.2024 in Pristina/Kosovo, the major action of the Basic Prosecutor's Office of Pristina took place in coordination with the Kosovo Police - the Directorate against Economic Crimes and Corruption based on the ordinance issued by the Basic Court in Pristina, which aimed to control and the temporary seizure of houses and accompanying premises in Podujevë and Prizren, where 13 suspects were arrested, including 12 officials of the Tax Administration of Kosovo and a private business owner. These are suspected to have committed the criminal offense of "fraud in office" from Article 419 of the Criminal Code of the Republic of Kosovo, so that the suspects - owners of three businesses in Prizren have recognized as regular 23 fictitious invoices with a value of 18 million euros, the thing about the construction of the "Lakeside" hotel in Vërmica, Prizren, which was actually built in advance. The suspect had received these invoices from two defendants - owners of other businesses in Podujevë, who are suspected to have committed the criminal offenses of "Tax Evasion" and "False Tax Related Documents" as a result of these illegal actions, the officials of the Tax Administration of Kosovo (ATK) have recognized the right to refund the Value Added Tax (VAT) in the amount of 2.8 million euros. With these actions, it appears that the suspects have damaged the budget of Kosovo for 2.8 million euros. See: "Economic crimes with action in several locations, state officials are suspected", https://ekonomiaonline.com dated: 09.01.2024, time: 10:59.
To this day, Kosovo is still not sufficiently prepared for deep and genuine economic reforms and for the transformation of social and public capital, and as a result of abuses in this area, we have had a large spillover of state assets into the hands of individuals through the privatization process. The current state of economic crime is reflected quite well by the fact that thousands of hectares of land were sold at extremely cheap prices, below the market price (where we have many cases when they were sold from 5-10 euros/gold) by the Kosovar Privatization Agency. The arrest of several persons who were involved in corruption and who misused their official position in the case of the sale of real estate that was social property, the privatization of the "Grand" hotel in the center of Pristina (Beka, 2015), the privatization of the electricity distribution sector in Kosovo for no more than 26 million euros, the privatization of the "Shar" and "Feronikel" factories, etc., clearly proves that high levels of society are involved in this type of criminality in Kosovo. In 2004 alone, there were about 5,000 cases of economic crime in Kosovo (Beka, 2007), in which case the budget of Kosovo has been damaged by more than 500 million euros per year and the trend of exploitation of different businesses by criminal groups is noticed. The exercise of business is a very good way to secure income from criminal activity, the benefits of which are colossal (Hysi, 2005).

Despite this, the detection, fight and prevention of economic crime in Kosovo is a very complex job, because the perpetrators of these criminal offenses are the so-called businessmen who have strong connections at all levels throughout the country. Their discovery and punishment is a rare occurrence, not to mention impossible, even though the economic damage suffered by Kosovo from their illegal activities is of great proportions.

Today, there is no economic and social activity that perpetrators of economic crime cannot misuse for profit or illegal enrichment.

Characteristics of Perpetrators of Economic Crimes

The perpetrators of economic crimes usually do not have the characteristics of classic criminals, since this category of persons in the public opinion is presented with a completely different image, specifically as people who are concerned about the difficult economic and social situation that reigns in general, verbally support initiatives of various economic activities in order to improve the economic and financial situation, enjoy authority in the area where they work and operate and in society in general.

Also regarding the appearance of these perpetrators of this type of crimes, they do not resemble other criminals in many aspects. They are characterized by a well-maintained exterior, have a developed communication oratory, oppose occurrence that hinder normal social-economic development. Economic crime perpetrators are often divided into several categories:

1. The first category includes the so-called criminals or "good business people". Their goal is to ensure a vital existence, not the accumulation of money and large capital. This is the so-called lower layer of economic crime;
2. The second or middle category of economic criminals includes people who are motivated to accumulate wealth, to achieve a higher material status, and with this to realize some privileges and influence in political and business life. This category of criminals also deals with various manipulations, transactions and speculations, such as in the stock market, banking, trade and other frauds;
3. The third category includes people who are positioned in power, i.e. have high political and economic positions, either in political parties, various ministries, banking, commercial institutions, etc. and who have influence on these political mechanisms and businessman (Halili, 2008).

CRIMINAL LEGISLATION OF THE REPUBLIC OF KOSOVO ASSOCIATED TO ECONOMIC CRIME

The economy of any country is the main pillar for the development and functioning of the economic, social and political system. But, on the other hand, economic underdevelopment is a serious obstacle to development and factors for the appearance of many occurrences that negatively affect the overall development of a country,
such as: fraud, forgery, "money laundering", organized crime, corruption, smuggling, prohibited products, monopolies, economic embezzlement, etc. (Hyseni, 2015).

Economic crime includes certain types of criminal offenses against property-legal relations and the economic system. Today, there is no economic and social activity that perpetrators of economic crime cannot misuse for profit or illegal enrichment.

Like other countries, Kosovo also issued its Criminal Code in 2019 (Kosovo Assemble, 2019) which has foreseen 35 criminal offenses against the economy, in order to provide legal-criminal protection to the Kosovar economy. Criminal acts of economic crime are defined as acts committed intentionally, in which case large material and public values are affected, leaving serious consequences for certain state interests, protected by law. Criminal offenses against the economy according to the Criminal Code of the Republic of Kosovo, provided for in chapter XXV (Kosovo Assemble, 2019) are:

- Violation of equality in the exercise of economic activity, Article 278;
- Unconscionable economic activity, Article 279;
- Cause of bankruptcy, Article 280;
- Causing false bankruptcy, Article 281;
- Fraud in the bankruptcy procedure, Article 282;
- Fraud or damage to creditors or debtors, Article 283;
- Misuse of economic authorizations, Article 284;
- Conclusion of a harmful contract, Article 285;
- Unauthorized communication of commercial secrets, Article 286;
- Falsification of securities and payment instruments, Article 287;
- Forgery of valuable tokens, Article 288;
- Violation of patent rights, Article 289;
- Violation of copyright, Article 290;
- Avoidance of technological measures, Article 291;
- Fraud of consumers, Article 292;
- Fraud of buyers, Article 293;
- Organization of pyramid schemes and illegal gambling, Article 294;
- Abuse of the position of monopolist, Article 295;
- Forgery of money, Article 296;
- Production and use of false labeling signs, measures and weights, Article 297;
- Production, supply, sale, possession or use of counterfeiting tools, Article 298;
- Prohibited trade, Article 299;
- Prohibited production, article 300;
- Issuing blank or fake checks and misuse of bank cards or of credit, article 301;
- Money laundering, Article 302;
- Agreements for limiting competition through tender invitations, Article 303;
- Fraud in the exchange of securities, Article 304;
- Misuse of inside information, Article 305;
- Agreement and fraud with Government securities, Article 306;
- Avoiding tatami, article 307;
- False tax-related documents, Article 308;
- Acceptance of bribes in the private sector, Article 309;
- Bribery in the private sector, Article 310;
- Smuggling of goods, Article 311;
- Avoidance of payment of mandatory customs fees or excise fees, Article 312.
Economic crime, if viewed from the social aspect, it can be said that: economic crime in Kosovo, sometimes serves to survive and sometimes to improve the material condition of individuals, considering that the income of the population in Kosovo is very low (Islami, 2011).

The period before the occupation by Serbia is characterized by the violent removal of Kosovo’s autonomy 4, which means the implementation of Serbian discriminatory laws in the territory of Kosovo. In these years, a form of special war was applied in Kosovo and that in all the pores of economic and social life, which influenced the deliberate weakening and destruction of its economic system (Beka, 2007). Its economy was hit hard by the destruction and this situation determined the preparation of the state in the fight against economic criminality with legislative measures in this field 5.

ORGANIZED ECONOMIC CRIME

Some authors think that organized economic crime has a great similarity with economic crime, therefore they often "unify" these in terms of meaning - content. But there are two essential features that distinguish them from each other:

1. While organized economic crime is, in principle, transparent and in most cases the consequences are observed immediately after the act of committing it, which is not the case with economic crimes since in most cases economic crimes are committed secretly and the very act of committing the behavior economic crimes do not always cause visible changes in daily life, and their consequences are not so transparent
2. In organized economic crime, the existence of an organized group in the commission of criminal behavior is essential, but which is not characteristic of economic crime (Gashi, 2023).
3. Economic-financial crime organizations are distinguished by their structure and origin, on the one hand, and their mode of operation, on the other. Detailed knowledge of the formation and operation of these criminal organizations makes it possible to locate and detect their criminal scope as well as building an effective strategy in the fight against organized crime.

Economic-financial crime includes a range of criminal offenses, such as non-declaration of income, fraud, non-payment of tax obligations, theft by operating with documents, etc. It is clear that these criminal offenses reflect the objective side or the mechanism of the case rather than the characteristics of the subject of the crime. Economic-financial crime is an activity which is especially related to economic fraud, with the aim of enriching and realizing benefits in an illegal manner, and today it has become the component with the highest growth rate at the global level, which is calculated by hundreds billion dollars a year.

The existence of the organized group, the continuity of the criminal activity as well as the very high degree of coordination between the members of the criminal organization, are the main indicators of the economic organization, which includes organized structures from the business field. Its basic characteristics are the use of financial power, influences in political circles and mass media (electronic, visual and written).

The features and characteristics of this type of crime are:

- Long-term and continuous criminal activity, continuously committing a large number of criminal offenses;
- Coordination of criminal activity at a very high level;
- Turnover and large investments to realize extraordinary benefits;
- Continuous financing of the activities of such criminal organizations;

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4 The autonomy of the KSA of Kosovo was forcibly removed by Serbia on March 23, 1989
5 Kosovo has drawn up the “National Strategy of the Republic of Kosovo for the Prevention and Combating of the Informal Economy, Money Laundering, Financing of Terrorism and Financial Crimes 2019-2023” through which it has presented the vision and strategic and specific objectives of the Government of Kosovo for to combat the informal economy in general and to prevent the extreme manifestations of illegal actions which are favored by the existence of informality and have consequences for the functioning of the rule of law and social cohesion such as corruption, radicalization and violent extremism, money laundering and the financing of terrorism.
• Organizational structure with a staggered vertical hierarchy
• We are dealing with crime that knows no borders, i.e. it is "without limits";
• Collaborates in undertaking traditional criminal activities;
• This type of crime often competes with honest and legitimate businesses;
• This type of crime also includes public persons, official persons as well as authorities who have power or privileged positions in society;
• Permanent professionalization of the members of the criminal organization, as well as its restructuring with a higher degree of risk;
• Continuous discovery of sophisticated methods for carrying out criminal activities, exploiting in particular market relations (fictitious economic operations, including the creation of non-existent enterprises, the organization of fictitious bankruptcies and the manipulation of financial insurance) and the achievements of science and technology (computers, multipliers, means of communication, etc.);
• The appearance and development of new forms of activities which, although for now, have not yet been classified as criminal activities, nevertheless cause significant material damage to the state and market subjects (Industrial espionage, infringement of copyright, infringement of patent rights, etc.).

Regardless of the specifics that every organized economic criminal group has, its "main bosses" in principle, do not directly participate in criminal operations. So, for example, while the members of the criminal organization actively participate in the commission of criminal acts, their leaders may be somewhere on vacation, having fun or investing in different areas of business, etc. (Beka, 2015).

CONCLUSION

Despite the great social interest in the systematic detection and prosecution of economic crime, as a negative social occurrence that follows the processes of transition and changes in economic and property relations, the scientific research of its criminological and juridical-penal features, forms of appearance and etiology, is still in its initial and declarative phase.

In the legal-penal legislation of Kosovo, economic crime is sanctioned as a special criminal offense" and such criminal offense is dangerous from a social, economic and legal point of view. So, the legal-penal incrimination of this criminal occurrence helps in choosing preventive and repressive measures in order to prevent and fight it.

The large number of criminal actions which are directly sanctioned as economic crimes, clearly shows us that society in general has seriously taken the issue of preventing and fighting this type of crime, despite the fact that there are many motivating factors that determine the appearance of this type of criminality in Kosovar society.

The regulation of institutional mechanisms in Kosovo is presented as a necessity for the prevention of economic criminality. This means legislative reforms from the economic, criminal, criminal - administrative fields, etc. However, this can only be achieved if the causes and forms of presentation of this criminal occurrence are first identified. So, the legal and institutional advancement against economic criminality will positively affect the reduction of the high rate of this type of crime.

Despite this, the detection, prevention and prosecution of economic criminality does not is sufficiently effective, while his presence that remains in the "dark number" of criminality, represents a serious obstacle for economic, social, political and social development society, that is that the efficiency, as far as the detection of this form of crime is concerned, is still not satisfactory, since there is a lack of specialized institutional mechanisms for preventing and fighting this type of criminality, but also because the detection bodies today are more charged with the unraveling of other classic crimes, than with this type of criminality which the Kosovar society suffers a lot. This direction of orientation of the detection bodies, in my opinion, is completely wrong, given the fact that economic criminality in Kosovar society in particular and society in general, cause enormous financial losses that are estimated to be hundreds of billions of euros.
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