

Criminality With Real Estate in Kosovo

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Abstract

Criminality with real estates can be expressed in different forms, such as through: "money laundering", corruption, fraud, usurpation of immovable properties, falsification of ownership documentation, which is of particular importance in the field of immovable property turnover, etc. In Kosovo, the "dark number" and the "gray number" are present at a high level of organized crime in the field of real estate turnover and despite the preventive and repressive measures that have been undertaken in Kosovo, focusing on strengthening the institutions of justice system (prosecutor, police, judiciary, financial intelligence services, etc.), in order to prevent and fight this type of criminality, the success achieved in this aspect is still insufficient. For this reason, public confidence is weak regarding the results achieved in the fight against organized crime in the field of real estate turnover in Kosovo.

Keywords: *Organized Crime, Real Estate, Confiscation, Sequestration, "Money Laundering", Corruption.*

INTRODUCTION

Organized crime in the field of real estate is one of the most serious forms of criminality. This form of criminality is present in the countries in which it exists economic criminality. The "dark number" of this type of organized crime is extremely high. The degree of development of civil-legal and social relations is determined by the degree of economic and social development of a country. It is a rule that there is no state that is immune to criminality, including those in the field of real estate crime, starting from those in the sphere of real estate turnover (sale, purchase, rent, etc.), up to those that are manifested in the spatial plans for the construction of various individual and collective facilities, forgeries of ownership documents, fraud between contractors in the case of the sale and purchase of real estate and the construction of collective and individual facilities, etc.

It should be noted that many criminal groups invest their "earned" funds in the real estate sector. This results from the large number of real estates turnover. This type of investment is preferred by various criminal groups since these activities are little known to the anti-crime structures and because in these activities there is a very large space for "laundering" of money.

METHODS

I have examined organized crime in the field of real estate turnover from a criminological point of view, therefore the methods that I have applied when working on this topic are methods that are used in criminological sciences, such as: the survey-observation method indirectly, the method of studying individual cases as well as the national evidence on criminality, the "dark number" of this type of crime, statistical method etc. So, in the paper, a combination of qualitative and quantitative methodologies is used, through which I have tried to recognize, treat and analyze the occurrence of organized crime in the field of real estate turnover, as well as to propose the relevant preventive and repressive measures in order to prevention of these criminal occurrences. At the end, suggestions will be presented for institutions - entities with the aim of preventing and fighting this organized crime in the sphere of real estate turnover.

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Characteristics of Organized Crime in the Field of Real Estate Turnover

Organized crime in the field of urbanism and real estate turnover contains certain characteristics, according to which it is distinguished from other forms of criminality. Some of the most typical characteristics of this form of criminality are:

- This type of criminality appears in an organized form of three or more physical or legal entities, where the primary goal is financial - material interest;
- This kind of criminality is basically carried out by well-organized criminal groups, which are found, among others, in private, public and state institutions, whose direct or indirect activity is real estate;
- In order to realize their interests, the above-mentioned criminal groups, in special cases, also use violence as a method of intimidation, bribery, economic, social and political power over other people;
- Such criminal groups also deal with "money laundering" through investment in the field of real estate, i.e. illegally acquired money they place in the real estate market to turn that money into legal, as earned from the legal economy, etc.

Object of Protection from Organized Crime in the Field of Real Estate

Organized crime in the field of real estate is an evident occurrence in every society, regardless of the political and economic-social system. In order to prevent and fight this criminal occurrence, every state creates and implements legal and legislative mechanisms. Thus, in most of the contemporary criminal legislations, the Criminal Code has been drawn up and approved in order to define incriminating - illegal actions and provide adequate criminal sanctions to the perpetrators, not excluding the issuance of "lex specialis" to prevent and combat this criminal activity. Among other protective mechanisms provided by the Criminal Code, are:

- Protection of legal - civil relations in the field of real estate;
- Protection of real estate created by legal transactions;
- Protection of economic - financial relations during monetary transactions for the turnover of real estate;
- Protection of the rights of investors in the field of real estate;
- Protection of the rights and freedoms of subjects in contractual relations in the field of real estate;
- Protection of the authority of state institutions in respect of legality during the turnover of real estate; etc (Hajdari, 2006).

Organizers of Organized Crime in the Field of Real Estate

Organizers of organized crime in the field of real estate are those persons who organize and lead the activity of other members when committing criminal actions with real estate, regardless of the fact that it is about actions undertaken in the field of sale, purchase, rent, exchange, etc. These persons, at the same time, are the coordinators of all the actions of the members of the criminal organization, who act according to the pre-prepared criminal plan, designate the entities that will participate in such criminal actions, determine the forms and methods of committing criminal acts, the time period and the means by which such criminal acts will be committed, additional measures that must be taken to cover the tracks after the commission of such criminal act, etc.

The above-mentioned organizers are the carriers and main responsible of the activity of the criminal group, therefore, they enjoy the epithet of "capo" of the criminal organization in the field of real estate.

Perpetrators of organized crime in the field of real estate are the persons who are direct actors of such criminal acts. One or more persons may appear as perpetrators, depending on the complexity of the criminal activity. So, for example, in the turnover of real estate, specifically in the sale and purchase of real estate, not only the fraudster in the capacity of the seller, but also the compiler of the agreement of sale of real estate can appear as the perpetrator, i.e. the notary who compiles and legalizes the notarial deed, thus making a contractual relationship binding on one or more immovable properties. The perpetrator will also be considered the person who commits an illegal act, using any other person with limited capacity to judge or any minor who, for his own actions, cannot bear legal-criminal responsibility (Beka, 2015).

Instigators of organized crime in the field of real estate are the people who encourage other members of the group to commit criminal offenses where the object is real estate. Incentive can be done in different forms and

ways. In other words, the inciting actions are undertaken before the criminal offense which they jointly planned is committed, but does not represent the commission of such an offense. Through inciting actions, the instigator usually directly affects the perpetrator of the criminal offense, strengthening his will to commit such an offense, persuading him, promising him rewards or gifts, using encouraging words, etc. There are cases when the instigator also uses the method of intimidation against the person he incites to commit the criminal offense. One or several persons may appear as instigators (Beka, 2015).

Assistants of organized crime in the field of real estate are considered persons who give advice and instructions to the perpetrator of the criminal offense, provide him with tools and remove obstacles, promise in advance that they will hide him, that they will eliminate traces and the tools that were used to commit the criminal offense, helping to commit such a criminal act. Thus, for example, the assistance provided in the commission of the criminal offense with the prior promise of concealment of the perpetrator, can be considered a case of concealment of the falsification of the contract of sale of real estate or fraud in the case of the creation of such a contractual relationship. Likewise, the person who promises to hide the items obtained from the commission of the criminal offense in advance can also be considered an aide (Beka, 2015).

From all this it follows that, as the organizer, perpetrator, instigator and assistant of criminal activities in the field of real estate, they can be:

- Physical and legal entities;
- Physical entities that are positioned in high state, social, political, economic, etc. hierarchies;
- Entities with great economic - financial power;
- Subjects that have a special relationship with personalities in the various structures of power;
- Entities that have a special reputation in the environment where they live and operate, etc.

All these occurrences of organized crime with real estate reinforce our conclusion that we are dealing with a special and extremely dangerous form of criminality (Beka, 2007).

Damage Caused by Organized Crime in the Field of Real Estate

The damage caused by organized crime in the field of real estate is enormous, which distinguishes it from the damage caused by other forms of criminality. These damages are of this level also because of the "dirty" money that is invested in this field of real estate, in "tax havens" as well as in various banking institutions. Organized crime, especially its special forms, cause serious financial - economic consequences to the people who are victims of this type of crime. Such cases are best manifested in human trafficking, electronic money fraud through pyramid schemes, money counterfeiting, etc.

From this it follows that organized crime with real estate is closely related to the economy, business, political life, etc., so that in certain cases, the perpetrators can influence the course of various political, economic, legal and social processes. They have exceptional ability to connect with the highest bodies of power, with the main figures of political parties as well as with business circles.

Such a thing is best illustrated by the deep economic crises experienced by some powers and governments in the world, in which case we see a series of criminal investigations and judicial proceedings taking place against persons and leaders responsible in the past, but also against people who are in power, for whom there is evidence that they have misused their official position and authority entrusted to them. Indeed, for the persons in question, it is reasonably suspected that they have participated in prohibited and criminal transactions, for personal or group benefit.

Psychological Consequences of Organized Crime in Real Estate

In addition to socio-economic, legal and political consequences, organized crime also causes psychological consequences. The fact that this type of criminality manages to penetrate into many pores of political, social, economic life, etc., creates an impression in the public opinion that it is very powerful and can hardly be attacked.

Such occurrences are also present in a number of public corporations, not excluding in this case the possibility that in such "dirty" games public persons who are in high state hierarchy are also involved. Even more, these occurrences cause a negative psychological effect among citizens, for the reason that, despite the existence of undeniable evidence for the commission of criminal offenses, such persons do not appear before the bodies of the justice system for the commission of criminal activities.

Organized crime in the field of real estate also reduces citizens' trust in justice and state institutions, reduces interest in investments in real estate turnover, reduces citizens' participation in various social and political activities, etc. All of what was said above affects the involvement of a certain number of citizens in affairs and scandals, as a single solution in the aforementioned circumstances (Beka, 2007).

Organized Crime in the Sphere of Real Estate Through "Money Laundering"

Money laundering is the process through which the proceeds of criminal activities are transformed into seemingly legitimate income. This process varies in complexity and sophistication, but basically it aims to hide the origin of illegal income, change its form and move it with as little attention as possible (Zhilla, 2020).

"Money laundering" in the field of real estate is quite difficult to detect and prevent because many transactions with real estate today are carried out with "cash in hand", while notarial acts - official contracts show fictitious prices, not real, just to avoid paying through bank drafts.³ For this reason, such a situation complicates even more the research process of "money laundering" in the field of real estate.

However, this type of crime still remains among the most preferred forms of "money laundering", mainly by investing in apartments, villas, houses, land, business facilities, shopping centers, etc. The areas where money originating from organized criminal activities have been invested are diverse and include almost any type of economic activity. Experts note that the vast majority of "dirty money" has been invested in the field of real estate - construction, where, for example, after 2000, in Albania, a construction "boom" began to be noticed that did not match the economic level of the country (Zhilla, 2020). The total value of the property that is suspected to have been acquired in Kosovo with the criminal offense "Money Laundering" during the period June 2019 - December 2019 is about 12 million euros (GLPS, 2019).

In the case of Kosovo, the State Prosecutor has appointed the National Coordinator for Combating Economic Crimes (KKLKE) in order to coordinate the prevention and combatation of economic crimes. As a result of the multidimensional approach and inter-institutional coordination, during the year 2023 several results were recorded in the field of sequestration and confiscation of property created by criminal offense. According to the data during the year 2023, €87,847,342.23 were frozen or seized and €23,594,635.64 of assets were confiscated, which highlights the efficiency of Kosovo State Prosecutor in the fight against organized crime in general and in particular in the seizure and confiscation of illegally acquired property (KPC, 2023).

During 2023, the State Prosecutor of Kosovo for criminal offenses of organized crime had 90 cases (PP and PPN) with 525 people, of which 20 cases with 163 people were accepted as new cases. Of them, 39 cases with 129 people have been solved, while 51 cases with 396 people have remained unsolved. During this period, in relation to the indictments raised by the State Prosecutor, the courts have decided the cases for 106 people, of which 62 people have been found guilty (KPC, 2023).

This type of criminality is the easiest, shortest and safest way for organized criminal groups to carry out their criminal activities, because the money earned in this way, by investing in real estate, will appear to have been obtained legally and fairly (Beka, 2015). Thus, in 1997, some criminal groups managed to transfer their money out of Albania and deposit it in the banks of Western Europe, and especially in those of Greece, Turkey, Italy and Austria, avoiding the confiscation of theirs (Hoxha, 2019). In this way, and in this period, millions of people were also deceived in Romania, Macedonia, Bulgaria, etc. (Miletitch, 2000).

³ Law no. 03/L-196 On the prevention of money laundering and financing of terrorism, Official Gazette of the Republic of Kosovo, no. 85, Prishtina, 2010 in the field of money laundering prevention, provides that every transaction of immovable property in Kosovo in an amount over €10,000, such payment is carried out through the banking system of Kosovo, otherwise the transaction or sale (change of owner of real estate) cannot be registered in the public cadastral books.

Precisely for this reason, the competent state institutions have the duty to adopt special laws against "money laundering" in the field of real estate, which will be in accordance with the Convention against International Organized Crime of the United Nations.

CONCLUSION

The occurrence of organized crime in the field of real estate is evident in almost every society, and especially in countries that are in transition, where Kosovo was a part. This type of crime is part of economic-financial criminality and is one of the easiest forms of "money laundering" through investment or turnover of financial capital in real estate. So, organized crime in the field of real estate is an obstacle to the development of society and its state mechanisms. To prevent and fight these criminal occurrences it is necessary:

- That in addition to the imposition of the main sentence against the perpetrators of organized crime, the measure of sequestration and confiscation of the property acquired from such criminal activity should also be imposed, in accordance with the legislation in force.
- The fight against "money laundering" which is quite pronounced in Kosovo. Therefore, one of the institutional obligations of the justice system is the fight against "money laundering", which can only be strengthened if institutional capacities are strengthened and cooperation between the important mechanisms of the justice system on the one hand and tax and banking institutions on the other is intensified. on the other hand, never excluding the close cooperation that the police and intelligence services should have in the field of crime prevention and combat, according to the concept: Police led by the Financial Intelligence Unit, which is a central, independent, national institution, responsible for searching, receiving, analyzing and disseminating to the competent authorities and making public information related to money laundering. Such cooperation requires professionalism, supervision and responsibility on the part of the competent bodies and its mechanisms in order to detect criminal activity and bring criminal responsibility and punish the perpetrators.
- To criminalize this criminal occurrence as a special criminal offense in the Criminal Code of Kosovo, thus helping us in choosing preventive and repressive measures in order to prevent it.
- To form specialized units within the central institutions of Kosovo for the prevention and fight against organized crime in the sphere of real estate turnover;
- To train all the members of the professional services, with the aim of increasing the efficiency for preventing and fighting organized crime in the sphere of real estate turnover;
- To increase the supervision and control of notaries, cadastral offices and judicial institutions who are professionally involved (from the work relationship) in the turnover of real estate;
- To increase mutual national and international cooperation in terms of assistance and experience between police bodies and other bodies of the justice system;
- To increase the degree of responsibility and efficiency of detection bodies when identifying the perpetrators of criminal offenses from the field of organized crime with immovable property;
- Criminal sanctions against perpetrators of organized crime with immovable property should be toughened.

As can be seen, the successful fight against organized crime in the field of real estate requires an all-round approach, continuous action and determination in the consistent implementation of legal provisions, including a high degree of responsibility.

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