



## Forms of the Display of Economic Criminality

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### **Abstract**

This paper examines Economic Criminality, with particular emphasis on the forms of presentation of Economic Criminality. The paper under consideration is the penle works which have an economic character. It is worth noting that the paper elaborates on the legal regulation of the criminal prosecution of these crimes. In the first part of the paper, we will talk about the development of economic criminality and the different opinions of the authors about economic criminality. During the elaboration of the literature, we will note what are the legislations that regulate this field, whether they are international or local. Then we will see what are the criminal offenses that are foreseen by the internal legislation, including the constitution, the criminal code, local laws, etc. We have given greater attention to certain offenses such as: forgery of securities and payment instruments, copyright infringement, consumer fraud, gambling, counterfeiting of money, illicit trade and money laundering. Through this paper, we will deal with the way in which different legislations have been changed which have regulated a certain scope. The paper focuses on the presentation of economic criminality, the types with which economic criminality is presented, the forms and legislation that regulates this field. The paper will examine local and international legislation, as well as any act that will enable the fight and prevention of economic crime.

**Keywords:** *Economic Crime; Local Legislation; International Legislation; Gambling; Money Counterfeiting; Money Laundering*

### **1. Introduction**

The rapid development of human society has changed the course of life events drastically. With this development, the dark world of humanity also benefited, using various technological and social developments to commit criminal acts in society for personal gain.

If we look at criminal offenses in their entirety, we will notice that they are characterized by some common elements, according to which they are classified in the same category of social phenomena, and

this is criminality (Suceska, 2006). There are different opinions in the world regarding economic criminality, but we have elaborated only some of them.

Criminality is antisocial behavior which is in conflict with legal and moral norms of behavior (Maloku, 2019:174). Criminality represents the set of all actions that endanger and/or harm fundamental human values (protected by law) (Maloku, 2021:60). Criminal acts of economic criminality are those behaviors of natural and legal persons that cause social danger and damage the new social and economic policies; another group says that the criminal offense of economic crime is a characteristic attack on the organization and functioning of the economic existence; a third group starts from incriminating attacks on the economic system in general; while a fourth group considers that the essence of criminal offenses of economic criminality has to do with the damage caused to property during the performance of economic activities. (Suceska, 2006).

With economic criminality or criminal offenses that have an economic character, we should not mean any new phenomenon in society, for the reason that such offenses have existed in all societies, such as bourgeois (some of the areas of activity), capitalist, public-private relations . The very dynamic increase of this type of criminality (Maloku, 2015:119), as a form of organized crime, should undoubtedly be countered in a repressive and preventive manner.

In practice, there is no internationally accepted definition of economic criminality, so this phenomenon is defined in different ways.

Some authors do not make any distinction between the notions of economic criminality (orig. economic criminality) and criminality of economic activity (orig. economic criminality) so that by the notion of economic criminality or economic criminality they mean all those forms of criminal activities that are directed against the national economic system and its functioning, regardless of whether they were undertaken within the framework of economic activity or outside it.

Crime is considered a problem, which mostly affects the quality of life not only of individuals but also the wider circle where we live (Maloku. 2015:29). With the development of human society, various forms of criminality have also developed, and in particular the emergence and rapid development (Maloku, 2016:10) of cybercrime.

Other authors make a difference between these two notions, based on the nature of social relations in which criminality appears, that is, the relations and processes themselves (production, sharing, exchanges and expenses). They think that the criminality of economic activity is a broader notion than that of economic criminality, because it includes economic criminality and criminal offenses against obligations in the economy (property criminality in the economy is not excluded).

Authors Jasarevic & Maloku (2021) in their book *Criminology (etiology and phenomenology of criminality)* analyze and elaborate the etiology and phenomenology of criminality, they elaborate on various factors that influence the growth of criminality.

Also, Jararevic and Maloku (2021) in the book *Criminal Procedural Law I and II (general and special part)* the authors affirm that Criminal Procedural Law and Criminal Material Law constitute the right in a broader sense, which in itself imposes their close connection, because in the end they practically serve the same purpose, to achieve procedural criminal protection and security of society from criminality. (Tufa, 2022:364)

For the definition of economic criminality, some theorists start from the criteria of criminal-legal provisions of the crime against the economy, while other theorists start from the object of criminal-legal protection or from the crime directed against the organization and functioning of the economic system.

University professors Shabani and Maloku in their book *Sociology* (2019) explain various sociological theories that affect criminality. The authors of one Shabani and Maloku (2019) in their book *Selected topics from social pathology* elaborate on the phenomenology of sociopathological phenomena such as criminality.

In most lexicons, the notion of economic crime includes all forms of criminal activities, directed against the national economic system and its operation. The criminological and sociological definitions of criminality are broader and, in addition to criminal offenses, also include violations and misdemeanors in the functioning of the system, as well as offenses directed against material goods - with external endangerment (so, all forms of property crimes). (Suceska, 2006).

In order to combat international organized crime, it is more than necessary that the competent governmental institutions harmonize legislation with world standards to cooperate among themselves, especially in the field of exchange of information that is important for Preventing and Combating Organized Crime (Maloku, 2015: 461). Prevention of computer attacks from terrorism can be achieved with a special education against various cyber crimes (which will help reduce the number of various scams), with a more dedicated regulation of the government towards criminal violations, etc. This paper is an attempt to highlight the growing phenomenon (Maloku & Maloku, 2020:21) of this negative occurrence that has hit Kosovo. (Tufa, 2022:364)

## **2. Methodology**

The study focused on analyzing the meaning of computer crimes and determining the methods of investigation of these cybercrimes. This study is based on the use of multiple research methods (Maloku, 2021:53). as the method of analysis, synthesis, inductive and deductive.

## **3. Results and Discussion**

### **3.1. The Legal Basis for Combating Economic Crime**

The legal bases for economic crime in Kosovo are: The European Convention on Human Rights, the Universal Declaration of Human Rights, International Legislation, the Constitution of the Republic of Kosovo, the Penal Code, the Law on the Anti-Corruption Agency, the Law on TAK- in etc.

#### **3.1.1. The Constitution of the RKS on international legislation**

The Republic of Kosovo, after declaring its independence in 2008, needed the development of local legislation, because it had to be in the same spirit as that of the European Union, since the main goal of our state is its membership.

- Article 19 of the Constitution of the RKS, talks about the implementation of international agreements in the RKS. (Constitution of the Republic of Kosovo; (Cukalovic I., Hasani E., Commentary on the Constitution of the Republic of Kosovo).

#### **3.1.2. Constitution**

The Constitution of the RKS, in its interior, has also provided for the regulation of the economic, state and international fields. Thus, in its article 10, it is determined that the market economy with free competition is the basis of the economic regulation of the Republic of Kosovo. So, the RKS has regulated with the constitution, the operation of the market and the way of competition in the country.

The Constitution of the RKS, in its chapter IX, regulates economic relations, where in the interior of this chapter it talks about the principles, public financial policies, properties and natural resources. (Article 119 of the Constitution of the RKS)

### 3.1.3. Penal Code

The forms of manifestation of economic criminality constitute criminal offenses that directly threaten the public and private economic system.

The complicated relations in the contemporary conditions of economic development, especially of countries in transition and the aim of joining the free global economy with developed countries, make the legal regulation of this field and legal protection to be as efficient and justifiable as possible. The incriminations foreseen in this chapter must be in harmony with the economic and technological trends and developments of the countries of the European Union and beyond. This is not only because of the special importance of the economy for a country, but also because of the intention of the Republic of Kosovo to be a member of the European Union.

Each state creates economic development policies and aims to realize those goals in the best possible way in order to fulfill the material needs and other needs of citizens and the whole society, therefore these legal rules are very different, depending on development policies of a country. Therefore, it is understandable that the forms of infringement or damage to the economic interest of a country are different and take the character of criminal actions which are sanctioned by the provisions of the Criminal Code, of economic offenses and misdemeanors, because some illegal actions in the field of the economy are considered economic crimes or misdemeanors.

The Criminal Code of the Republic of Kosovo in the general part, namely its chapter XXV as a criminal offense against the informal economy.

### 3.2. Forgery of Securities and Payment Instruments

One of the forms of presentation of economic criminality is "Forgery of securities and payment instruments", this offense is also regulated by the Criminal Code of the Republic of Macedonia.

The Criminal Code of the Republic of Croatia in relation to this criminal offense provides that:

- Whoever produces forged securities or forged payment instruments or alters securities with the intention of using them as genuine, or gives them to another person for use or uses such securities as genuine, shall be punished by imprisonment of (6) six months to five (5) years.
- Anyone who uses forged securities or forged payment instruments shall be punished with imprisonment of three (3) months to three (3) years.
- Anyone who, knowing that a security or payment instrument is counterfeit, accepts, transports or possesses a counterfeit security or payment instrument with the intention of distributing or using it as genuine, shall be punished with imprisonment of three (3) months to five (5) years.
- If the criminal offense from paragraph 1. or 2. of this article involves securities or payment instruments with a stated value exceeding ten thousand (10,000) Euros, the perpetrator is sentenced to imprisonment of one (1) to eight (8) years.
- Anyone who has accepted counterfeit securities or payment instruments as genuine and uses them knowing that they are counterfeit, shall be fined or imprisoned for up to one (1) year.
- An attempt to commit a criminal offense from paragraph 5. of this article is punishable.
- Securities, payment instruments and equipment for their production or change are confiscated.
- The term "payment instrument" means a physical instrument, other than money, that enables, by its specific nature, alone or in conjunction with another payment instrument, the holder or user to

transfer money or monetary value. This includes, but is not limited to, share certificates, share certificates, shares, credit cards, Eurocheque cards, other cards issued by financial institutions, Eurocheques, other traveler's checks and bills of exchange, which are protected against counterfeiting or fraudulent use through design, coding, signature or any other means.

- Securities or payment instruments include counterfeit securities or payment instruments and genuine securities or payment instruments that have been materially altered and intended to be used for fraudulent purposes. (Criminal Code of the Republic of Kosovo. Chapter xxv-criminal offenses against the economy).

### 3.3. Copyright Infringement

The Law on Copyrights and Related Rights regulates: the copyrights that, on the basis of intellectual property, belong to the authors in relation to their works in the field of literature, science and art, hereinafter copyright; the rights that, on the basis of intellectual property, are close to copyright, hereinafter the close rights, belong to: performers in relation to their interpretations; producers of phonograms in relation to their phonograms; film producers regarding their videograms; Audiovisual media providers in relation to their broadcasts; database manufacturers with respect to their databases; publishers regarding their publications; administration of copyright and related rights; protection of copyright and related rights; the application of this law to foreign persons. (Law no. 04/L-065 on Copyright and Related Rights, Article 2)

Copyright is an indivisible right of a work, which belongs to the author as the subject of intellectual property for the protected work.

Copyright contains:

- exclusive personal authorizations to protect the inviolability of the author's work and the personality of the author, following: moral rights of the author;
- exclusive property authorizations to protect the property interests of the author, following: the property rights of the author;
- other authorizations of the author, following: other copyrights. (Law no. 04/L-065 on Copyright and Related Rights, Article 6)

Violation of copyright is a criminal offense which is very pronounced in the world and especially in our country. The Criminal Code of the Republic of Kosova regarding this criminal offense is provided in Chapter XXV - criminal offenses against the economy

### 3.4. Deceiving Consumers

It was President Kennedy who, in 1962, found that consumers represented the most important economic group in society and at the same time the least listened to. He suggested the adoption of legislation, which would ensure the full exercise of consumer rights. In the United States of America, for the first time, consumers began to group and organize for the protection of their interests and rights, a phenomenon that was later called "consumerism.

The Criminal Code of the RKS, related to this criminal offense is provided in Chapter XXV - criminal offenses against the economy.

### 3.5. Games of Chance

In our country, the legal regulation related to this criminal offense has undergone changes. Thus, until 2019, gambling was allowed and then with the repeal of Law No. 04/L

- 080, games of chance in the RKS have been banned.

The development of gambling activities in the RKS was allowed by the law Law No.

04/L – 080 for gambling.

In 2019, the RKS Assembly approved Law No. 06/L -155 for the prohibition of gambling, which banned gambling in the Republic of Kosovo. The purpose of this law is to prohibit and close all gambling in the entire territory of the Republic of Kosovo. Yes, with this law, Law no. 04/L-080 on gambling and by-laws issued for its implementation. (Law no. 06/L-155 on Games of Chance)

### **3.6. Counterfeiting Money**

According to Law No. 03/L-209 for the Central Bank of the Republic of Kosovo, fake currency, banknotes and coins presented to financial institutions, which are suspected to be fake, must be removed from circulation and immediately handed over to the responsible authorities. (Law No. 03/L-209 on the Central Bank of the Republic of Kosovo)

The Criminal Code of the RKS, related to this criminal offense is provided in Chapter XXV - criminal offenses against the economy.

### **3.7. Forbidden Trade**

Commercial activity is regulated by the constitution, the criminal code, the law on traders and the law on internal trade. So, this issue enjoys a fairly good regulation in our country.

Prohibited trade is foreseen under Article 305 of the Criminal Code of the Republic of Croatia. (Criminal Code of the Republic of Kosovo. Chapter XXV-criminal offenses against the economy)

### **3.8. Money laundering**

Money laundering is a special form of organized crime. This criminal phenomenon has to do with the actions that are undertaken so that the money earned from criminal transactions and activities is deposited and invested in work and legal activities, and then they are used as laundered, laundered money. Money laundering is defined as the process by which illegally obtained money is presented as allegedly obtained in permitted economic transactions and is attempted to be used for legitimate purposes. The act of money laundering is done only for the enrichment gained through criminal activities, this activity hides the origin of the money and in this way it appears that the profit trail is lost and it is used for other supposedly clean purposes. This transaction, which is called money laundering, allows criminals to enjoy the fruits of their crimes, thus often realizing an unwritten rule that crime pays even very well. (Halili, 2011)

#### **3.8.1. Anti-Money Laundering Legislation**

Anyone who commits the criminal offense of money laundering is punished according to Law No. 05/L-096 on the prevention of money laundering and the fight against the financing of terrorism. The Assembly of the Republic of Kosovo, in support of Article 65 (1) of the Constitution of the Republic of Kosovo, in June 2016 approved this law, which defines the measures, authorities and procedures for the prevention of money laundering and the fight against the financing of terrorism. The provisions contained in this law are mandatory for all institutions and their respective units as well as for all non-public entities which in some way may be subject to activities related to money laundering and terrorist financing. This law aims to implement EU Directive 2015/849 of the European Parliament and of the Council of May 20, 2015 for the prevention of the use of the financial system for the purposes of money laundering and

terrorist financing. This law, in article 56 of chapter VII, includes the criminal offenses of land acquisition, where it is determined that the criminal offenses of money laundering are punishable by imprisonment of up to ten (10) years and a fine of up to three

times greater, in the value of the property which is the subject of the criminal offense. (Law on Prevention of Money Laundering and Combating the Financing of Terrorism, International Cooperation)

The criminal offense of Money Laundering in Kosovo is also provided for in the Criminal Code of the Republic of Kosovo, its general part, namely in chapter XXV, article 302.

### **3.8.2. International Acts**

In Kosovo, as we mentioned above, international acts have legal precedence over the laws of our country, in case they conflict with each other. The same applies to the criminal offense of money laundering.

As the most important international acts are:

- Convention No. 141 of the Council of Europe on Money Laundering and Tracing, Temporary Seizure of Proceeds of Crime, Strasbourg 1990.
- United Nations Convention against Transnational Organized Crime with its two protocols, Vienna 2000.
- Directives of the Council of Europe on the prohibition of the use of the financial system for the purpose of money laundering, Cyprus 1991.
- Convention on Money Laundering, Tracing, Seizure and Acquisition of Proceeds of Crime 1990.
- UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.
- The political declaration of Naples and the global plan of action to combat transnational organized crime of 1994. With this declaration, the fight against transnational organized crime and the fight against organized crime groups as well as the seizure of illegally acquired wealth are prefaced.
- Convention on Europol of 1995. With this convention, the establishment of international policy for combating transnational organized crime is foreseen.
- Resolution of the European Union (95/C 327/04) on the protection of witnesses in the fight against international organized crime dated 03.11.1995.
- European Union Recommendation Rec. (96), on the fight against organized crime of 1996.
- European Union Resolution on individuals who cooperate in judicial proceedings against transnational organized crime, dated December 20, 1996. Convention on the
- Establishment of a European Police Office (Europol Convention) done at Brussels, July 26, 1995.

### **Conclusion**

Economic Crimes and Money Laundering Crimes in our society have always been present as in all countries of the world, because these are now phenomena that have involved the whole world. Their presence is very difficult to completely disappear, because these crimes will always exist. It is important to combat their presence as much as possible, because this brings positive benefits in creating a more effective state. For the prevention of these crimes and their fight, it should be started from the society, who should understand the impact of these crimes and the effects that cause them, so be ready to give their help by not getting involved in such activities. criminal.

Regarding these crimes, our country has made a fairly good regulation, as in the Constitution, by incorporating various international agreements that regulate this issue, the Criminal Code and other laws.

Also, we observed what are the types of economic crimes as well as the types of gambling. Regarding the prohibition of gambling, we think that our state has acted rightly, since many young people have destroyed their lives and that of their families, losing great wealth behind them. Although gambling was allowed under the previous law, it was only allowed for people over the age of 18, but we are witnessing that in our country people under the age of 18 have also participated in these games.

The Republic of Kosovo must strictly follow the Legal Framework and, in case of need for problematic situations, it must be ready to strengthen the law and issue new laws, with the aim of influencing these laws in the smallest possible spread of crimes. so the control over these crimes will be greater.

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