

## Circumstances for excluding unlawfulness and the legal institute of necessary defense

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### Abstract

There are reasons or circumstances provided for by the legal-criminal norms which in the concrete case and situation due to coexistence of certain circumstances make the offence permissible despite the fact that it contains all the traits of a criminal offence. The need for self-defense, remains present considering the scale in which terrorism has spread, and considering that there are criminal individuals and organizations which endanger public safety by attacking people and buildings for the purpose of perpetrating a robbery, retaliation or other acts in pursuit of economic or political ends. The necessary defense is a lawful action of every individual or group in protection of itself from undue attacks which pose a threat to social order, life, health, property or other rights and interests, whereby the criminal liability and guilt is suspended as defense is considered as a "right" of a person whose rights were under attack. Alongside the punishments and measures imposed by the state against perpetrators of crimes, the criminal law also provides for individual defense, which can be done by citizens themselves under certain conditions and circumstances, a defense that is in line with the fundamental principles of a democratic state, international law and fundamental human rights and freedoms.

**Keywords:** Unlawfulness, Necessary Defense, Circumstances for Excluding.

### Introduction

Many modern societies including those in transition make constant efforts to stay immune to negative phenomena, so that the life and integrity of every person remain intact.

Every person is capable of understanding the importance of complying with fundamental rights and freedoms in every country. We are all aware and understand very well that these rights and freedoms cannot be enjoyed and respected without any restriction. Absolute and equal protection of rights in all aspects in general for every citizen would be virtually impossible.

Thus, there are restrictions to human rights and freedoms of an individual, which have been classified by International acts and constitutions as permissible restrictions. Notwithstanding, there are some rights which are absolutely inviolable which cannot be restricted even by a constitution. The right to life is one of those important rights. The diversity of the daily life events has brought about instances where a person or a group of people in certain circumstances or in discharging their duty, have committed offences which are formally foreseen as crimes under the criminal law. However, due to circumstances or the character of public interest that they have, such offences do not result in criminal liability because they are not considered as dangerous for the society. Despite the fact that such a circumstance is formally provided for as a crime

under the law, such an action in fact serves the rule of law, and is in line with the law because it aims to protect the interests or other legal rights of the society and individuals or is performed during a discharge of a useful public activity or duty.

### **Circumstances for excluding unlawfulness**

The diversity of the daily life events has brought about instances where a person or a group of people in certain circumstances or in discharging their duty, have committed offences which are formally foreseen as crimes under the criminal law. However, due to circumstances or the character of public interest that they have, such offences do not result in criminal liability because they are not considered as dangerous for the society. Despite the fact that such a circumstance is formally provided for as a crime under the law, such an action in fact serves the rule of law, and is in line with the law because it aims to protect the interests or other legal rights of the society and individuals or is performed during a discharge of a useful public activity or duty (Muçi, 2007, 155).

In essence when talking about reasons that exclude unlawfulness, we are referring to the conflict between legal interests and obligations in our daily life.

Many national legal systems recognize the existence of circumstances under which a person who commits an illegal act is exempted from criminal liability because his/her action or omission is not considered as such they are exempted from application of sanctions.

The denomination and reasons for excluding unlawfulness – are not sufficiently accurate, because under this denomination, unlawfulness was explicitly mentioned but was subsequently excluded. However, in cases where there is a reason or circumstance that excludes unlawfulness, it means that the action that was originally perpetrated was not unlawful. In fact we are talking about norms that prevent manifestation of unlawfulness (Salihu, 2008, 234-235).

When sanctioning circumstances that exclude criminal liability, the international criminal legislation has also adopted the same approach as the national legislation, thus the British criminal law distinguishes between inculpatory and exculpatory reasons that exclude unlawfulness. The Italian criminal law considers them as reasons provided under the law which impose a behavior in line with certain circumstances and for which the law provides mitigation or exclusion of punishment. Likewise, the French Criminal Law considers them as objective circumstances not dependant on perpetrators will, which provoke in him/her a reaction against an unlawful act (Xhafo, 2009, 153). The need for a self-defense existed throughout the history, especially in periods where there was no state authority or powerless state authority, in order to avoid the risk of criminal activity at the right time. The history of reasons for excluding unlawfulness is related to the history of criminal law itself. In this regard, reasons that exclude unlawfulness are related to important interests of the society. Their content was formulated and elaborated accurately depending on such social interests, and vary in numbers and types from one formation to another, and in essence have the same meaning but can be different only in terminology.

The fundamental characteristics of reasons for excluding unlawfulness are contained

in the criminal law which determines the criminal offences, punishments and other measures undertaken against perpetrators, whereby the liability emerges on the moment the criminal offence is perpetrated and has individual character. Recognition and implementation of principles and requirements of liability is indeed enforcement of legality. It is important in fulfillment of obligations under the criminal law for both strengthening the legal order and protection of personal liberties, and legitimate rights and interests of citizens (Xhafo, 2009, 153). The reasons that exclude unlawfulness in both national and international criminal legislation are considered as lawful actions of every individual or social group, for protection against undue attacks which threaten and endanger social order, life, health, property or other rights and interests thereof. Another characteristic is that alongside the punishments and other measures that are imposed on the perpetrators of these crimes, the criminal law provides for individual protection which can and should be provided by citizens themselves under certain conditions and circumstances, a protection that is in line with the fundamental principles of a democratic state, principles of international law on human rights and fundamental freedoms;

Persons that perpetrate a criminal offence in necessary defense do not wish to cause the consequence, but it comes as a result of protection of his/her rights and interests or rights and interests of others, including collective interests.

If a certain behavior contains elements provided for under the legal description of the criminal offence, it is unlawful because of this mere fact. In extraordinary cases, unlawfulness can be excluded for offences which although determined as crimes, lose the character of a criminal offence.

Unlawfulness is a general element or attribute of every crime. In principle the action or omission of a human which is consistent with the figure of a criminal offence, is also unlawful. The unlawfulness represents the legal basis for determining the criminal offence. It is a manifestation of the criminal-political assessment of the harmful consequence of a certain action or omission for a certain society, in a certain legal system.

Through unlawfulness, the society manifests its negative stance towards certain behaviors of individuals who violate certain prohibition or order. This implies that a certain offence cannot be considered as criminal offence if it is not unlawful. In its nature, unlawfulness is a trait of every offense thus, this it is also a trait of criminal offenses. Considering that the legal system in every state is unified, it means that the notion of unlawfulness is common. What is unlawful for one branch of justice is unlawful for the entire legal system. There is only distinction in legal consequences of unlawfulness in different branches of justice. However, despite this general platform of the notion of unlawfulness, it should be emphasized separately that under the criminal law, based on the principle of legality, an offence can be considered as unlawful only when it contains all the elements that complete the criminal figure as determined under the law (Salihu 2008, 225). As a general assessment it can be considered as dangerous offense for the society, and it can even be considered as prohibited by a certain branch of justice however, it may not be considered as unlawful under the criminal law and the perpetrator thereof may not receive a criminal sanction if such an offence was not foreseen as a criminal offence under the

law. Such an offence is in harmony with the principle of legality and the legal nature of the criminal law, because this branch of justice contains the most severe sanctions in the entire legal system. Thus, the criminal law should clearly and concisely determine which unlawful actions will be considered as criminal offences. Otherwise, the courts and citizens would not know which actions should be considered as criminal offences.

### Necessary Defense

Necessary defense is an institute in the criminal law which is foreseen almost without any distinction across national legislations, which is also recognized by the international law (Xhafo 2009, 235). Paragraph 2 of Article 12 of Criminal Code of Kosovo determines the notion of necessary defense as: *An act committed in necessary defense is when a person commits the act to avert an unlawful, real and imminent attack against himself, herself or another person and the nature of the act is proportionate to the degree of danger posed by the attack*". The European Convention on Human Rights in its Article 2 provides that deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary in defense of any person from unlawful violence. Necessary defense is only when the person caused a damage to the author of the attack personally or to his/her rights and interests, because in other cases when the defense is implemented without consequences the criminal law is indifferent. The important thing is that the defense is conducted in compliance with the conditions outlined in the law.

Necessary defense is a lawful action of every individual, social group or society, with the aim of defending protecting itself from undue attacks that pose a threat and danger to the social order, life, health, property or rights and interests thereof. Article 12, paragraph 1 of the Criminal Code of Kosovo explicitly states that *"An act committed in necessary defense is not a criminal offense"*. Likewise, the necessary defense is also foreseen in Article 19, paragraph 1 of the Criminal Code of Albania which states: *"A person bears no criminal responsibility if he commits the act while being compelled to protect his or somebody else's life, health, rights and interests from an unfair, real and accidental attack, provided that the defense is proportionate to the dangerousness of the attack"* (Elezi, Kaçupi, Haxhia, 2004, 134). Based on the content of the above mentioned article necessary defense is the counterattack within the boundaries set by the law, in order to avert an imminent risk that comes from an undue attack, by inflicting a damage on the assailant. There are many theories that justify necessary defense, the most important ones are: The Subjective Theory and the Objective Theory.

According to **Subjective Theory** – A person committing a criminal offence in necessary defense shall not be punished, because, at the moment of deflection of the attack he/she is in a distressful spiritual situation which excludes both liability and guilt, and **Objective Theory** – according to which based on conditions under the law during the deflection of the unlawful attack, the attacked person is authorized to cause damage to the legal rights of the assailant.

Under the French Criminal Law, necessary defense is called lawful protection. Such denomination of this legal institute is reasonable because such a defense is allowed

under the law. Necessary defense as an institute that excludes unlawfulness is recognized by all criminal laws of modern states. This was also recognized under the Roman law where Cicero considered the necessary defense as a principle of the natural law. The necessary defense was also recognized in the same way under the Albanian Criminal Code of 1928, which in its Article 50 defined it as the coerced counteraction out of a need to suppress an imminent and undue violence, directed against a person or his/her honor or the honor of another person, deflection of which could not be done by applying other more lenient means due to time constraints. Thus, as indicated above, the defense was restricted only to protection of a person or his/her honor or the honor of another person. The Criminal Code of the Peoples' Republic of Albania, influenced by the Soviet Criminal Legislation, expanded this legal institute further through another definition. Under Article 8: "A person committing a criminal offence shall not be held criminally liable if he/she committed the offence in protection of the popular authority, state owned and socially owned property, a person or his/her rights or rights of another person from an undue, real and imminent attack, provided that he/she does not exceed the limits of necessary defense". Furthermore, Article 9 of the Criminal Code of 1977 added the protection of the Labor Party of Albania" and "the entire socialist social order. Changes and differences in formulation have existed and will continue to exist because they stem from development of criminal law science and political, ideological and philosophical views that prevail in given historic periods. However, notwithstanding the above mentioned differences, the object of necessary defense in both national and international criminal law implies one and the same right.<sup>1</sup>

The rationale behind the necessary defense is supported by and closely linked to the human nature, the instinct for self-defense and existence, because in all instances when an unlawful attack is used to endanger the bodily integrity, life or another legal value and in situations where the legal system is not capable of suppressing such attacks, it is natural to recognize the right to necessary defense to a person who was subject of the attack. The compelling protective behavior excludes its author from criminal liability, because it occurred under circumstances that exclude the public dangerousness of the offense. The offence committed under conditions of necessary defense contains all the external characteristics of a crime and it is even foreseen by the criminal law but it lacks its core element which is public risk. It is important for the necessary defense to be conducted in compliance with the conditions provided under the law.

The level of interference in these rights and the importance of the rights violated can be different, and may depend on the legal relationship at stake, life, health or property of the assailant. Rights and interests of people are different in type, character and can be divided into two main groups: protection of person and protection of property. Instances of protection of legal/criminal relations are often noted in practice and are more comprehensible, because the attacked person would react instinctively to protect life, health or freedom from an imminent attack. He/she would act in the spot in order to avert the current risk at hand, because the surprised attack and limited

<sup>1</sup> For example, the Italian Criminal Code in Article 52, uses the expression "to protect his/her right or the right of another person" by implying that the work "right" also includes rights that are related to life, health or inviolability of a person, including the rights that are related to property.

time available put them in such a position that it is not objectively possible to seek for assistance from the state authorities or undertake other measures. In such cases, as a rule, intervention of competent state authorities takes place after the criminal event has occurred in order to have the author of the attack face justice (Muçi, 2007, 160).

In a case of a murder with a knife of a person who was attempting to perpetrate sexual intercourse by using valence, in its Decision No. 523, dated 13.12.2002, The Appellate Court in Tirana reasoned that the defendant "shocked terribly by the actions of the R.B. and being in an environment that is unfavorable to her, and considering that she could not be protected by anyone, has averted the undue attack of the R.B. by stabbing him with his own knife in the abdomen part" she "perpetrated the assault with the knife against the injured party R.B. in necessary defense, in order to protect herself from a real and imminent attack.

### Extreme necessity

There are different types of risks that pose a threat to the society, life of a person or his/her property. Such rights are endangered not only from attacks of humans but rather by other phenomena of nature or land and water animals. Institute of extreme necessity is one of instances in which a person is not held criminally liable for the offence committed by him/her as it poses no threat to society. A person may at any time be compelled to fight these forces in order to survive or avoid damages that could be caused by them (Muçi, 2007, 173-174).

In paragraph one of Article 13 of the Criminal Code, this was foreseen explicitly as following: "*An act committed in extreme necessity is not a criminal offense*". An act is committed in extreme necessity when a person commits the act to avert an imminent and unprovoked danger from himself, herself or another person which could not have otherwise been averted, provided that the harm created to avert the danger does not exceed the harm threatened (Article 9, par 2 of the Criminal Code). The definition of the extreme necessity indicates that the extreme necessity is related to collision of two values, the one that is at risk, and the one that there should be a victim in order to save the value at risk. Considering that the legal system, namely the criminal law, is not capable of protecting every value all the time, it allows collision that combats certain legal values. In terms of extreme necessity, the Republic of Albania Criminal Code provides that: "A person does not bear criminal responsibility if he commits the criminal act out of necessity to confront a real and instant danger which threatens him, another person or property from a serious damage which is not avoidable through other means, unless it has been instigated by him and the damage incurred is greater than the damage avoided."

In relation to extreme necessity there are two known theories:

**Subjective Theory** - the offense committed in extreme necessity is unlawful, however the perpetrator is not punished due to subjective reasons. According to proponents of this theory, a person who finds himself in extreme necessity is under great mental pressure because he/she is subjected to risk, therefore in such cases heroism should not be expected from that person.

**Objective Theory** - the offence committed in extreme necessity is not a crime,

because it lacks the element of unlawfulness. However, even the proponents of this theory represent different thoughts in relation to reasons that exclude the existence of a criminal offence. According to a concept of the extreme necessity, in such cases the legal system is suspended thus allowing actions of the natural law which allows self-defense; even if it means that such protection will damage the interest of another person. Although the criminal code fails to mention the reasons for excluding the existence of a criminal offence, the theory and practice converge around the idea that the offence committed in extreme necessity is neither dangerous nor unlawful offence, therefore, due to the fact that it lacks these elements it does not amount to a criminal offence (Salihu, 2008, 244-246). Whereas, under the British legislation, extreme necessity does not constitute a reason for exclusion from criminal liability for war crimes. The British Military Handbook has expressively excluded extreme necessity as a condition for excluding criminal liability for war crimes. This is a situation where a person who is under conditions of imminent threat that threatens his/her life, limbs or property or those of another person in a serious and irreparable manner can commit a crime provided that he/she does not cause greater damage than the damage he is trying to avoid (Cassese, 2003, 242).

In relation to the extreme necessity a British Author James Stephen stated: It is of course unfortunate for a person to be in the middle of two fires, but it would be even more unfortunate if criminals ensure immunity over their subordinates, for crimes committed by threatening them with death when they fail to abide by their orders. In such situations they will be excluded from liability and criminal factors would be very much encouraged, this reason makes you think that commission of a crime through threat cannot be considered as a reason for exclusion of criminal liability, although it can be taken into consideration when applying sanctions (Stephen, 1964, 215). In some national legislations as well as in the international law doctrine, instead of term extreme necessity they use the term "compulsion". In practice compulsion as a reason for excluding criminal liability is foreseen in cases of commission of international crimes under conditions of threat by another person, mainly in superior position. We would have such situation for example when a soldier under the threat of his superior officer is compelled to murder an innocent civilian. In order for extreme necessity to exist, there should be a precondition of risk and suppression of risk.

The risk is usually defined as a situation whereby, based on existing objective circumstances, it can be reasonably assumed that a value of a natural or legal person can be damaged at any moment and imminently. It should be emphasized that a human faces different risks during his/her daily life. Therefore, he/she should face the ordinary risks and take care in order not to damage and terminate the legal rights of another person. Only serious and imminent risks can justify extreme necessity and damage of the legal rights of another person while trying to avoid risks from oneself. There is no extreme necessity if the perpetrator was obliged to expose himself/herself to the risk (Salihu, 2008, 246).

Conditions of risk:

- The risk is a result of external factors such as forces of nature, extraordinary situation, (earthquakes, famine, cold etc.) or human activity;
- The risk should be imminent, namely the actions for elimination of risk

should be carried out and there should be no doubt as to whether the risk, will start has started and is continuous;

- It should be caused from objective circumstances, so it should objectively exist and should not be imaginary and

- The situation leading to extreme necessity should not be provoked by the person himself/herself (Xhafo, 2009, 161-162).

Conditions that have to be met in a case of risk: The risk should not be provoked or caused; the risk can be caused against any legal right; the risk should be real.

Elimination of risk is considered as an action undertaken with the intention of saving a legal right that is under threat. This is in fact the second component of extreme necessity which consists of avoiding a risky situation. The actions for avoiding the risk usually fulfill the elements of a certain criminal offence, however, considering that the offence was committed under conditions of extreme necessity, such an offence does not amount to a criminal offence as the existence of a crime is excluded.

The conditions that have to be met for avoiding the risk:

- 1) It should not be possible for the risk to be avoided through other means;

- 2) Avoidance of risk should be imminent alongside the existence of risk (Salihu, 2008, 248).

### **Violence and threat**

Some legislations of foreign countries, have special provisions that foresee exclusion of punishment of a person who commits an offence under the influence of violence and threat. Such provisions are not found in the Criminal Code of Kosovo but this does not mean that use of violence and threat have no impact in the liability and sentencing of a person that acted under the influence of violence and threat. On the contrary as we will be able to observe in cases when the offense is committed under the influence of violence and threat subject to certain conditions, such a person is not considered as a perpetrator of the criminal offence and is not punished. Under the Croatian Criminal Code "there is no crime when the perpetrator acted under the influence of unbearable violence", Article 31, par 1.

Some authors do not consider the threat as a general circumstance that excludes the existence of a crime, but they share the opinion that the necessary conditions for existence of necessary defense or extreme necessity should be met and this issue should be resolved based on criteria pertaining to these two legal institutes. While another group of authors share the opinion that violence and threat exclude the guilt of the perpetrator and consequently the criminal offence because it cannot be considered that there is a criminal offence when there is no guilt.

However, despite different opinions and approaches of authors in relation to this issue, at the final instance they all agree that an offence committed under the influence of violence or threat should not be considered a criminal offence.

#### **Violence**

Violence used against a person can be physical or mechanical. Article 107, par.10 of the Criminal Code provides that: "*force includes the implementation of hypnosis or other means of intoxication for the purpose of bringing a person against his will into a state*

of unconsciousness or incapacitating him for resistance". Violence can be absolute and compulsive.

Absolute violence is a violence whereby a person is completely and absolutely deprived from freely deciding about his/her behavior. Compulsive violence is also called relative violence. This type of violence is present in cases when the person who is subject to violence is not completely deprived of the possibility to decide, however, the violence applied exerts pressure and is of such intensity that it coerces a person into undertaking or omitting a certain action.

### **Threat**

Threat is some sort of pressure, a type of mental violence which is used to influence the will of another person in undertaking an action that has elements of a crime. For the threat to be considered it is necessary that the person be actually threatened and has caused a certain action.

Threat is mostly verbal, and is perpetrated through different statements. However, it can also be perpetrated in a written form or through conclusive actions. In order for the threat to exclude the guilt and consequently the criminal offence, it should be serious imminent and unavoidable (Salihu, 2008, 255).

### **Acts committed under coercion**

The criminal literature contains different definitions of a criminal offence. Criminal offences are types of behaviors determined by the law as prohibited behavior. Under the German criminal law, criminal offence implies "a punishable behavior that meets the content of a formal provision, it is unlawful and perpetrated with intention/guilt (Vessel & Beulke, 2000, 5). Criminal offences are also the actions that contain in them an intention or pose a certain intensity of risk for the legal order, which is protected under the criminal law.

However, an act is committed under coercion when a person, faced with imminent force, or threat of violence endangering life, body or liberty which cannot otherwise be avoided, commits an unlawful act to avert the danger from himself, herself or a person with whom he or she has a domestic relationship. An act will only be considered to have been committed under coercion if, when the danger ceases to exist, the person immediately reports the coercion and the unlawful act to the competent authority.<sup>2</sup>

### **Orders from above**

The specific nature of functioning of military and police as well as several official services, due to subordination and other traits is such that it requires obedience and enforcement of orders from superior officers, directed to those persons who based on hierarchy are in subordinating positions,<sup>3</sup> and are obliged to execute orders of their

<sup>2</sup> Article 15 of Criminal Code of Kosovo from 2013.

<sup>3</sup> For illustration when there is a need, in cases of mandatory enforcements, the court, with the assistance of the police, has the right to forcefully enter a flat or another building of a suspect in order to search for objects contained in it; police authorities, in cases foreseen by the law, shall conduct a search of persons or places in

superior officers. However, there might be instances whereby enforcement of such orders would constitute a criminal offence (Salihu, 2008, 263). Enforcement of the order excludes its implementer from criminal liability, related to the consequences that both lawful and unlawful order might bring. When the order is lawful there is no discussion about liability, whereas when the order is unlawful, the responsibility for the consequences is borne by the person that issued it (Muçi, 2007, 182). Thus, Article 16 of the Criminal Code of Kosovo in paragraph 1 provides that: "when a criminal offense has been committed by a person pursuant to an order of a government or of a superior, whether military or civilian, the perpetrator shall not be exempt from criminal liability unless:

- 1) The person was under a legal obligation to obey such an order;
- 2) The person did not know that the order was unlawful; and
- 3) The order was not manifestly unlawful.

Likewise paragraph 2 of this article specifies that: "Orders to commit genocide or other crimes against humanity in all circumstances are manifestly unlawful".

### Conclusions

The need for a self-defense existed throughout the history, especially in periods where there was no state authority or powerless state authority, with the intention of avoiding the risk of criminal activity at the right time. The need for self-defense, remains present considering the scale in which terrorism has spread, and considering that there are criminal individuals and organizations which endanger public safety by attacking people and buildings for the purpose of perpetrating a robbery, retaliation or other acts in pursuit of economic or political ends.

Reasons for excluding unlawfulness are recognized and foreseen by all criminal laws of modern states. Necessary defense is a lawful action of every individual, social group or society, with the aim of protecting itself from undue attacks that pose a threat and danger to the social order, life, health, property or other rights and interests thereof.

Criminal offences of necessary defense are rare and addressing them as such is of great interest.

Criminal offences committed in circumstances where the criminal prosecution is excluded are considered as objective circumstances independent from the will of the author of criminal offence which provoke in him/her a reaction against an unlawful action.

Alongside the punishments and measures imposed by the state against perpetrators of crimes, the criminal law also foresees the individual defense, which can be done by citizens themselves under certain conditions and circumstances, a defense that is in line with the fundamental principles of a democratic state, international law and fundamental human rights and freedoms.

With necessary defense as a rule, intervention of competent state authorities takes

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order to find and collect physical evidence or objects used in a criminal offence, and shall perform arrests and apprehensions as per judicial decisions etc. And of course the above actions apart from not causing a risk to society are on the contrary in the interest of the society.

place after the criminal event has occurred in order to have the author of the attack face criminal justice.

One of the reasons why there is small number of cases of necessary defense in judicial practice is that state prosecutors who after assessing the grounds of such cases decide to reject criminal reports upon conclusion that there are circumstances that exclude criminal prosecution, and this means that cases do not reach competent courts.

## References

- Casses, A. (2003): International Criminal Law, Oxford Press.
- Elezi I, Kaçupi S, Haxhia M. (2004). Commentary of the Criminal Code of the Republic of Albania" Tirana.
- Laska, M. (2004). Mbrojtja e Nevojshme. Tirana.
- Muçi, Sh. (2007) Criminal law, general part, Tirana.
- Salihu, I, (2008). Criminal law, general part, Pristina.
- Stephen, J. (1964). History of criminal law, London.
- Vessel, Beukle. J. (2000). Strafrecht Allgemeiner Teil, Nuller Verlag, Heidelberg.
- Xhafo, J. (2009) The International criminal law, Tirana.
- Criminal Code of Kosovo, 2003/25, 2003 Pristina.
- Criminal Law of Peoples Republic of Albania, 1982, Tirana.
- Criminal Code, Republic of Albania 1995, Tirana.
- Albanian Criminal Code, 1928, Tirana.
- Criminal Code of Peoples Republic of Albania , 1952, Tirana.
- Criminal Code of Albania 1977, Tirana.
- Criminal Code of Croatia, 1997, Zagreb.
- Criminal Code of Italy, 2009, Rome.
- Compendio del Diritto Penale, Parte Speciale, a cura del Rocco Pezzano. 2002.
- European Convention on Human Rights, 1950.
- Decisions of Court of Appeals, 2002, Tirana
- Decisions of Basic Court 2008 – 2010, Prizren.
- Strfgesetzbuch, 36. Auflage 2001; Beck-Texte im dtv, Germany.
- Theories of Criminal Law- <http://plato.stanford.edu/entries/CriminalLaw>.
- <http://www.albasoul.com/modules.php?op=modload&name=news&file=articleand>.