

Corruption in the field of Urbanism and turnover of Real Estate in Kosovo

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Abstract

The degree of development of urbanism and the circulation of real estate also determine the degree of development and civilization of a country. Kosovo, as a new state, is not immune to the phenomenon of corruption in the field of urban planning and the turnover of real estate, which undoubtedly poses a great danger to contemporary society.

Corruption¹ is a form of economic crime that is widespread, both in Kosovo and abroad. Corruption poses a great threat to the political, economic, social stability of any country; therefore there are no common forms of corruption that are easily ascertained.

Corruption cannot be tackled and studied, separated from organized crime in the field of urban planning and real estate turnover. Therefore, corruption is often associated with organized crime, becoming a carrier of crime and the functioning of links with state authorities, with powerful financial-economic entities as a form of covering criminal actions.

Keywords: Corruption, urban planning, real estate, crime, money laundering, etc.

1. Introduction

In Kosovo, operates² such a form of corruption, which can be ascertained from the large number of buildings built as well as from different types of real estate, without a proper urban plan, without a building permit and with a large number of abusive transactions of real estate.

Corruption is not a common abuse of official position by any official person, but it includes all those who abuse their position, whenever possible, to realize benefits as easily and as possible, where one of those areas is that of urbanization-construction and real estate turnover. This phenomenon means something much greater than the "hidden" cooperation between officials on the one hand and people in the field of business, on the other hand, in order to realize material benefits illegally.

Such a form of corruption that is associated with certain structures of public officials for the purpose of profit from urban crime and the circulation of real estate has been present in Kosovo in recent decades, with special emphasis during the period 1999 - 2015. Presentation of the phenomenon of corruption in Kosovo is determined by

¹In the field of justice there is no criminal offense called corruption. The term corruption is commonly used to refer to a group of criminal offenses involving corruption. Corruption in the classical sense means taking and giving bribes, while modern corruption is related to the exercise of official duty.

²According to the Criminal Code of Kosovo, corruption is a criminal offense which manifests itself in: abuse of official position or authority; conflict of interest; office abuse; office fraud; unauthorized use of property; accepting bribes; giving a bribe to a foreign public official; influenza trading; failure to report or false reporting of property, income, gifts or other beneficial materials or financial obligations, and illegal collection and redemption, etc.

many favourable factors and circumstances, especially the post-war period (1999), when the justice system and its mechanisms were very inefficient in the field of crime prevention with real estate.

It is considered that the lack of a clear political will to fight corruption in general, and in particular in the field of urban planning and the turnover of real estate due to the low level of implementation of legal measures, are the main reasons for such a situation. However, there are those who link the phenomenon of corruption in certain areas with the unsatisfactory salaries of public officials, the lack of proper administrative controls, the inefficiency of the legal system, the problems inherited from the previous system, with the desire to get rich quick (Gashi, 2009).

Many factors influence the spread of corruption in the field of urbanism and the turnover of real estate, such as: political, economic, social, legal, etc.

The most common forms of corruption which are related to these areas are:

- corruption in administrative bodies and
- corruption in the judiciary.

1.1 Corruption in administrative bodies

Corruption in administrative bodies is widespread and concerns state administration officials, who, in order to realize material benefits, illegally issue certain acts to certain persons so that they can exercise a certain "right" in the field of real estate turnover or in the field of urbanism, to enable the construction of a collective, individual, business facility, etc. without a construction permit and contrary to the general urban plan. According to the public opinion research, there is a high degree of corruption in many local and central administration institutions (Latifi, 2002).

The data obtained from the questionnaire conducted with the citizens as well as the numerous debates with representatives of various entities; prove that there are many reasons to suspect that corruption is present in local government institutions in Kosovo. According to the results of a survey conducted in the city of Theranda, it turns out that a very large percentage of respondents have reasoned that in the Municipal Council and the Court, the phenomenon of corruption is more than present. From the deriving data from the questionnaire conducted by the NGO "Our Future" has proven that about 70% of respondents have stated that there is corruption in local government institutions. Given the fact that this phenomenon is manifested in a very perfidious way, it is difficult for the person who commits the corrupt act to be caught in the act, without any investigation by the competent authorities (Beka, 2007).

1.2 Corruption in the judiciary

Corruption in the judiciary in the field of real estate turnover can be committed by taking and bribing the person of the court, in order for him to take certain legal action to issue a judgment or ruling that a certain person to be recognized and legitimized as the "legitimate owner" of any immovable property. There have been many such cases in the judicial bodies of Kosovo, despite the fact that there is no special statistical data for such a phenomenon (Beka, 2015).

In the judicial system of Kosovo and in a part of the Kosovar society in the period after 1999 there was a lot of corruption and there was tolerance for this phenomenon since

there were certain institutions where people were engaged in conducting suspicious transactions. As jobs in judicial institutions, in which corruption in the field of real estate has been most pronounced, have been mainly administration officials and judges.

After the war in Kosovo, in 1999, real estate transactions were abusively carried out, where their perpetrators are persons with special social status, such as: lawyer, notary, senior public official, civil servants in Kosovo institutions, MPs, ministers, etc., but also various criminal groups who have turned social, municipal and public property into private property (Beka, 2007).

Various entities of the justice system have also played a negative role in the spread of abuses in the field of real estate in Kosovo. For this reason, investigations have been conducted among prosecutors and judges regarding the phenomenon of the spread of corruption in Kosovo. The data show that over 35% of judges think that corruption in their ranks is not present at all, while 29% of surveyed judges say that corruption in their ranks is a rare occurrence. Prosecutors have almost the same opinion. The unwillingness of judges and prosecutors to be more objective about the presence of corruption in their ranks hinders the acquisition of a more realistic picture of the extent of this phenomenon in the judiciary. Less than 2% of judges and prosecutors think that corruption in the judiciary is widespread (Riinvest, 2002).

Among the factors that affect the relatively low level of trust in the courts should be sought their low efficiency and the opinion of respondents on the presence of corruption, one of the forms of organized crime in these institutions.

2. Corruption as a form of “white collar” crime in the field of urban planning and real estate turnover

One of the contemporary forms of crime is that of “white collars”³. This type of crime is committed by persons who, due to the profession or activity they practice, have a high social status, manifest fine behaviour, are highly educated and enjoy respect in the environments where they live and work. These persons commit criminal offenses in the field of urban planning and real estate turnover at a higher professional level, in a “masked” manner and with extremely serious consequences for the wider social community and in principle they are positioned in important institutions of the level central, important public boards, etc.

The perpetrators of “white collar” crimes are, as a rule, “not” considered criminals, but business people who take advantage of privileged circumstances and who show the ability to be present in public, exploiting the weaknesses of society, to ensure greater benefits and social impact (Kambovski, 2006).

The corruption of the “white collar” in the field of urbanism and real estate circulation means bribery - bribery for construction, sale of real estate by various business entities with the help and abuse of public officials, who give permission for the construction

³ The former definition of “white collar” crime as criminal offenses committed by persons with authority and high social status in the exercise of their profession, today has undergone a substantial change. With the advancement and use of technical-technological, as well as modern means of mass communication, members of the lower level of society increasingly have the opportunity to be involved in this type of crime, and in particular committed through cybercrime.

of buildings different in Protected Areas - National Parks in Kosovo, in different parts of cities, etc., in complete contradiction with the urban plan and spatial planning. Such actions are considered very harmful for the Kosovar society, because in those cases the high official-state position is used, the power that the individual has and the privilege to gain large amounts of material goods, all at the expense of society. In these cases we have an abolition of police, prosecutorial and judicial prosecution, because the perpetrators of these criminal offenses are officials and businessmen "honest and authoritative", who "enjoy immunity". All this undermines social morality while promoting both abuse and social disorganization (Konstantinović Vilić, Nikolić-Ristanović, 1998).

1.1 Characteristics of "white collar" corruption in the field of urban planning and real estate turnover

Some of the characteristics of "white collar" corruption in the field of urban planning and real estate turnover are:

- Specific areas of manifestation and action (field of construction, drafting of urban and spatial plans, sale and purchase of real estate, banking related to mortgages, real estate, development of the real estate sector - construction and sale as inter-related processes, etc.) ;
- Protection of perpetrators (from investigation, indictment and sentencing);
- The manner of committing criminal offenses (with corruption, material gain) (Nikać, 2003);
- Committing criminal offenses by persons who have a high social status, who enjoy authority in society and are in power (persons belonging to the elite of society);
- Perpetrators are persons who use their authority and influence (prestige in society and economic capacity, high position in the social hierarchy) to violate legal norms without consequences;
- They commit the acts within the professional activity they exercise (violation of the legal provisions which regulate their professional activity);
- With their activity they aim to achieve enormous material benefits (since real estate in general has a high market value);
- With their activity they cause serious disturbances in the economy, especially in the real estate market: construction, sale, etc. ;
- Their actions cause social disorders (especially in the economically disadvantaged strata of the population and their family finances depend on the turnover of their real estate);
- Possess the ability to adapt to the current economic system and the way it is organized and operated in the field of real estate turnover;
- They feel more than confident that they will not face the judiciary, avoid criminal liability and criminal sanctions (Kambovski, 2006).

Conclusions

The phenomenon of corruption in general and in particular in the field of urbanism and real estate turnover is an obvious problem in Kosovo. During the period 1999-

2008, Kosovo was under the administration of the UNMIK mission. Despite the fact that this mission has made a contribution to building post-war institutions, its greatest failure has been its inefficiency in preventing and combating the phenomenon of corruption and organized crime. Also, the subsequent EULEX mission, despite the results achieved in the field of strengthening the rule of law, has not achieved the desired result in the field of fighting corruption and organized crime. Therefore, to this day these issues are a serious problem in terms of the overall stability of the country.

Corruption in the field of urban planning and real estate turnover is a serious obstacle, which makes it impossible to build a state governed by the rule of law. We can overcome this, if among other things:

- The “vetting” system is applied as a process of “cleansing” all abusive persons in the justice system, who, among other things, have a significant disproportion between the declared income on the one hand and the actual property, in particular real estate, but always with a careful care not to “hurt” the established justice system, in which much has been invested by the (especially) international factor;
- Kosovo Anti-Corruption Agency⁴ to expand the legal basis for market price assessment mechanisms and verification of all declared real estate of public officials, but by expanding the circle of subjects for verification of assets to other important public, professional positions in Kosovo society;
- Investigative journalism is further developed, which is a powerful mechanism for detecting perpetrators of corrupt crimes in the field of urbanism and real estate turnover.⁵;
- Professional and continuous education of entities that are (senior) public officials and beyond is done;
- Institutions of the justice system in the fight against corruption are led by professional people with experience in professional anti-corruption activities;
- Prosecution and judicial bodies detect and bring to justice the perpetrators of criminal offenses of a corrupt nature in the field of urbanism and real estate, by implementing in practice more often the covert measures and technical measures of surveillance and investigation, as well as cooperation with whistleblowers, etc.

References

- Beka, A. (2007). Abuses in the field of real estate turnover in Kosovo, Prishtina, “AAB” College.
- Beka, A. (2015). Organized crime in urbanism and real estate turnover, Prishtina, European College “Juridica”.
- Gashi, R. (2009). Organized crime, Prishtina, Law Faculty.
- Kambovski, V. (2006). Basic methodological issues of economic penal law, Skopje.
- Konstantinović-Vilić, S. & Nikolić-Ristanović, V. (1998). Kriminologija, Niš.
- Latifi, V. (2002). Problems of organized crime in Kosovo, cooperation at national, regional and international level in the fight against organized crime. Scientific Journal “Law”, 4, 34-37.
- Riinvest Institute (2002). Survey with judges and prosecutors, Prishtina.