



**TECHNIUM**  
**SOCIAL SCIENCES JOURNAL**

**Vol. 38, 2022**

**A new decade  
for social changes**

[www.techniumscience.com](http://www.techniumscience.com)

ISSN 2668-7798



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## Trafficking human beings and organized crime

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**Abstract.** According to the United Nations Protocol, Trafficking in Human Beings (HRT) means: "The recruitment, transportation, transfer, concealment or taking of persons for any purpose or in any form by threat or use of force or by abduction, deception, cunning, coercion or abuse of power in order to slavery, forced labor, and slavery". Trafficking is a global problem. Based on the statistics of different world organizations, every year around 2,000,000 men, women and children are trafficked, with 80% of them being women and girls, while about 50% are juveniles. Trafficking in human beings, after trafficking in narcotic drugs and weapons, is considered to be the most widespread criminal activity in the world. Looking at the monetary aspect the figures are astronomical. The United Nations Center for Crime Prevention estimates that the global profit from this type of crime is over \$ 8 billion. The International Convention of 2000, with the term "Organized Criminal Group" means a structured group of consisting of three or more persons who exist for a certain period of time and who cooperates in order to commit one or more serious crimes or offenses established by this Convention with a view to obtaining direct or indirect benefits property or financial. What is most tempting for "organized crime" is the exploitation of markets where there is a high demand for certain services and goods, which, because of the restrictive laws and regulations currently in that country, can not be filled in legally. Factors that promote organized crime are factors of political, social and economic character. These various factors and circumstances have influenced the emergence of early forms of illicit organized activities as well as the evolution and sophistication to the present day.

**Keywords.** United Nations Protocol, Human Beings, Organized Criminal Group

### 1. Introduction

Trafficking in human beings means the recruitment, transportation, transfer, harboring or acceptance of persons through the threat or use of force or other forms of coercion, kidnapping, fraud, diversion, abuse of a sensitive position or by giving or receiving of payments or benefits to obtain the consent of the person who has control over the other person for the purpose of exploitation. (Maloku & Maloku. 2021:90). The term "exploitation" includes, but is not limited to, the exploitation of the prostitution of others, pornography or other forms of sexual exploitation, charity, service or forced labor, slavery or acts similar to slavery, slavery or organs of deprivation. or cells. The author Halli (2021), in his book Criminology elaborates on the forms of criminality, especially the trafficking of human beings. He analyzes extremely well the importance of preventing and fighting crime. The increase in criminality among the population shows the fear (Maloku, 2015) of criminality, therefore it should be extremely well fought and prevented with all possible means. A human trafficker is any person convicted by a

final decision for the criminal offense of human trafficking (Maloku, 2021:356). The criminal aspect of combating this negative phenomenon is explained by the author Salihu in his book *Criminal Law* (separate part), while the criminal procedural aspect is clarified and analyzed by Jasarevic and Maloku (2021) in their book *Criminal Procedure Law I and II*. Human trafficking is one of the most sensitive topics to discuss as well as one of the most fragile forms of human exploitation, due to the fact that it constitutes a violation of human rights, including the right to life, the right to integrity and dignity of identity, freedom and security, education, work, marriage, health services, the right not to be subjected to torture and cruel treatment. Trafficking with human beings involves not only a crime in itself, but, in most cases, it is a crime with multiple activities and with multilateral organizational structures. (Maloku & Maloku, 2020:21) It is worth noting that the consent of the victim of human trafficking, defined above, is used against such a victim. It should also be added that the recruitment, transportation, transfer, harboring or reception of a child for the purpose of exploitation is considered "human being for the purpose of exploitation is not considered when any of the trafficking", even if it does not involve any of the means described above.

## **2. Methodology**

The importance of this paper lies in the importance of the problem it deals with. (Maloku, Kastrati, Gabela & Maloku, 2022:141) This study is based on the use of numerous research methods. The particular scientific methods, used in this, paper are primarily the method of analysis and synthesis, which will be particularly useful when researching the theoretical views of domestic and foreign authors, (Maloku; Jasarevic and Maloku: 53) who have studied and analyzed human trafficking as a form of criminality.

## **3. Results and Discussion**

### **3.1. The phenomenon of human trafficking**

Crime is a social phenomenon that refers to the sum of criminal acts or crimes committed in a certain location and at a specific period. (Maloku, Qerimi & Maloku. 2021:176). The authors Shabani and Maloku (2021) have elaborated exceptionally well on the aspect of criminality in terms of sociological terrors on criminality in their book *Sociology*. While the classification of pathological social phenomena such as criminality and the typology of criminality, the same authors Shabani and Maloku (2021) in their book selected topics from *Social Pathology* analyze these negative phenomena analytically. Trafficking in human beings is one of the most serious forms of violations of human rights, of the basic values of a democratic society as a criminal activity. Trafficking in human beings is now also known as modern slavery in the 21st century. The authors Jasarevic and Maloku (2021) in their book *Criminology* (the etiology and phenomenology of criminality) write about the appearance of criminality and its forms from the earliest times to the present day. They also analyze the emergence and extent of human trafficking as a form of organized crime. In the penological aspect, the author Halili (2009) makes an extremely large contribution. And in terms of the investigation, discovery and argumentation of the criminal offense of human trafficking, the author Veseli (2011) in his book *Criminalistics* provides great help. In Kosovo, human trafficking has been specified as a criminal offense since 2013. According to the International Labor Organization (ILO), 4 million people are reported to be trafficked annually, most of whom are women and children.

- Profits from this activity amount to 32 billion dollars per year.
- Trafficking practices transform human beings into commodities.

### **3.2. Principles for combating human trafficking**

Respect for human rights and freedoms, especially for victims. Recognizing trafficking as a criminal offense that affects basic human rights, dignity, freedom and integrity. Lawfulness. Free access to legal representation, Access to medical services and free treatment for injuries caused by trafficking. Treatment of victims of TQNJ the TQFD approach and the treatment of Trafficking Victims goes through the National Referral System (NSS) and this document divides the roles and responsibilities of each institution as:

- Identification;
- First aid and protection;
- Further assistance and social inclusion;
- Assisted voluntary return or reintegration
- Criminal and civil procedures

Reference and Identification of Trafficking Victims

Based on the Law on Prevention and Combating Trafficking in Human Beings and Protection of Victims and Standard Procedures for Trafficked Persons:

Trafficking victims are referred to:

Various government institutions and other law enforcement units

Various local and international NGOs

Citizens in general.

- Identification of victims of trafficking is:
- Police/Investigating Police from DHTQ
- Lawyer
- Defenders of Victims (State Prosecutor's Office) and Social Workers from the PSC

### **3.3. Causes of traffic**

- Poverty/unemployment.
- Lack of proper family and parental care.
- Low level of education
- Fake marriages/divorces
- Domestic violence
- Loss of the value system
- Desire for a better life to go abroad.
- Political and social transition.
- High level of corruption

### **3.4. Some of the recruitment methods used by traffickers.**

- Job offers (waitresses, dancers, bartenders, promising good monthly salaries and legitimate jobs)
- Offers for modeling/fashion/beauty contests etc.
- Promise to study or work abroad
- Fraud / false promises of marriage or cohabitation.
- Contacts through social networks (Facebook, Tweeter, Gmail, etc.)
- Fraud through half-truthful promises.
- Transports victims away from their country of origin.

### **3.5. Identification marks of a trafficked victims**

- Missing relations with family, friends and relatives.
- Socializing with presidents/surrounding strangers
- Receiving gifts (clothes, phones, gift items, etc.)
- Limited/controlled freedom of movement.
- Compulsory work (prolonged and without adequate pay)
- Dropping out of school
- Healthy state of health
- Difficult living conditions
- Constantly kept under control by someone (driving, telephone, companionship, etc.)
- Communication with others is limited.

As in all other transition countries in Kosovo, a large number of people are unemployed, and the poverty rate is high. In the current circumstances where the institutions of the system are still not at the proper level of functionality, they create favorable conditions for the activity of organized criminal groups as well as for individual criminal actions. This state of criminality-criminal actions represents the biggest obstacle for the well-being of the people, it is an obstacle for foreign investors as well as for the security of the people of our country, then serious crimes have a great negative impact on the economy, the democratic development of the country and what is very significant is the loss of public and individual income is unimaginable due to crimes, especially economic crimes. Against this background, this situation hinders the strengthening of the rule of law as well as the implementation of the reforms requested by the European Union. Criminal offenses, especially those of organized crime, are quite dangerous for countries in transition. Kosovo as a new country is particularly vulnerable and represents a suitable ground for contemporary organized crime that is not limited to the era of globalization. A characteristic of perpetrators of criminal offenses, especially organized crime, is that the main motive is material gain, violence, extortion and corruption as methods of committing various criminal offences.

### **3.6. The fight against corruption and organized crime**

The prevention and fight against corruption and organized crime is a prerequisite within the framework for membership, under political criteria and European standards of justice, freedom and security. In order to meet the requirements for membership and the long-term goals presented above, Kosovo will significantly reduce corruption and organized crime. The legislation of Kosovo, especially the Penal Code, sufficiently covers corruption, defining abuse of office or official authority, conflict of interest, fraud in office, taking and giving bribes and issuing illegal court decisions as criminal offenses. The diagnostic phase has confirmed that corruption in Kosovo is thought to be widespread in all sectors. It can be divided into three categories:

- Abuse of official position,
- receiving bribes and giving bribes

Domestically, organized crime is often seen as an obstacle to the country's overall development, especially in establishing the rule of law (including the ongoing visa liberalization process) and achieving the level of economic growth necessary to address the high of unemployment and poverty. Kosovo's legislation clearly defines all forms of organized crime: money laundering and other economic and financial crimes, human trafficking and migrant smuggling, drug production and trafficking, arms trafficking and terrorism.

Additional provisions that contribute to the fight against organized crime include:

- Law on Police,
- The Law on Witness Protection,
- Law on Judicial Cooperation in Criminal Matters,
- Law on Extended Powers for the Confiscation of Assets Obtained by Criminal Offenses,
- Law on State Border Control,
- The Law on the Forensics Agency of Kosovo among its provisions.

In order to achieve the main goal in this chapter, Kosovo will promote the creation of effective mechanisms for fighting corruption and organized crime, the effective implementation of policies and legislation against organized crime and corruption, and the effective rule of law. Preventing and fighting corruption and organized crime directly contribute to political stability, social and political development, sound economic development towards a competitive market economy, as well as institutional integrity, performance and results. Kosovo has a number of institutions responsible for preventing and fighting corruption and organized crime. ([www.evropaelire.org/a/27754913.html](http://www.evropaelire.org/a/27754913.html)). The problem of criminality is undoubtedly one of the most current problems of building the rule of law in our country. Over the last few years, crime has been increasingly talked about and written about as one of the most negative aspects and the main inhibitor of the continuous development of the country. Compared to the pre-war period, current criminal offenses are much more complicated to investigate. If we make a statistical comparison of the percentage of criminal offenses detected with the current percentage, we see that at the time of the change in the social system, the detection of crime has a lower level. In democratic legal states, primary importance is given to human rights guaranteed by the country's constitution and international conventions. As in all other transition countries in Kosovo, a large number of people are unemployed, and the poverty rate is high. In the current circumstances where the institutions of the system are still not at the proper level of functionality, they create favorable conditions for the activity of organized criminal groups as well as for individual criminal actions. This state of criminality-criminal actions represents the biggest obstacle for the well-being of the people, it is an obstacle for foreign investors as well as for the security of the people of our country, then serious crimes have a great negative impact on the economy, the democratic development of the country and what is very significant is the loss of public and individual income due to crimes. And especially from economic crimes. Against this background, this situation hinders the strengthening of the rule of law as well as the implementation of the reforms requested by the European Union. Criminal offenses, especially those of organized crime, are quite dangerous for countries in transition. Kosovo as a new country is particularly vulnerable and represents a suitable ground for contemporary organized crime that is not limited to the era of globalization. A characteristic of perpetrators of criminal offenses, especially organized crime, is that the main motive is material gain, violence, extortion and corruption as methods of committing various criminal offences. International Convention 2000, the term "Organized Crime Group" means a structured group consisting of three or more persons existing for a specified period of time and cooperating to commit one or more crimes or offenses serious criminal offences, created by this Convention in order to benefit from direct or indirect benefits. What is most attractive to "organized crime" is the exploitation of markets where there is a high demand for certain services and goods which, due to the currently restrictive laws and regulations in that country, cannot be legally fulfilled. The factors that promote organized crime are political, social and economic factors. These various factors and circumstances have influenced the emergence of early forms of organized illegal activities, as well as their evolution and sophistication to the present day. The drafting

of this strategy is not only an obligation derived from the priority set by a state to fight organized crime and all forms of its manifestation, but derives from the need to implement the obligations derived from the approved regional strategy that derive from the need to improve. Coordinate all specific strategies approved or in the process of approval so far. This strategy undertakes to define the strategic priorities of the fight against organized crime, to define the objectives of all institutions that are required to fight organized crime and to harmonize inter-institutional actions to achieve the defined objectives.

It also aims to:

- Broadly identify the phenomenon of organized crime and other phenomena as part of this strategy, making a fundamental analysis of the causes and factors of development;
- reflect the institutional activity of all actors who are obliged to fight organized crime;
- To diagnose the situation in which our country is located, mainly through documents, mass media or information of international institutions;
- to determine the priorities and objectives to be achieved in the minimization of organized crime, mentioning the main forms of organized crime;
- To determine the measures that will be taken by various institutions to achieve the objectives; - Determine the ways of monitoring the implementation of the strategy.
- To determine the financial needs or possible financial resources for the realization of activities in function of the implementation of this strategy or other sectoral strategies.

The fight against organized crime should not be seen and understood simply as the sole responsibility of the state police. Partnership between different actors is a very necessary element of the effectiveness of this fight. Therefore, the strategy undertakes to share the tasks and measures to be undertaken by the various institutions.

### **3.7. Participating in or organizing an organized criminal group**

1. Anyone who knowingly and knowingly either the purpose and the general activity of the organized criminal group or the group's intention to commit one or more criminal offenses which are punishable by imprisonment of at least four (4) years, actively participates in the criminal activities of the group knowing that such participation will contribute to the realization of the criminal activities of the group, shall be punished by a fine of up to two hundred and fifty thousand (250,000) Euros and imprisonment of at least seven (7) years.

2. Anyone who organizes, establishes, supervises, manages or directs the activities of an organized criminal group, shall be punished by a fine of up to five hundred thousand (500,000) Euros and imprisonment of at least ten (10) years.

3. When the activities of the organized criminal group provided for in paragraph 1. Or 2. Of this article result in death, the perpetrator is punished with a fine of up to five hundred thousand (500,000) Euros and imprisonment of at least ten (10) years or life imprisonment.

4. The court can mitigate the punishment of the member of the organized criminal group who, before the organized criminal group has committed the criminal offense, reports to the police or the prosecutor, the existence, formation and provides information about the organized criminal group in sufficient detail to enable the arrest or prosecution of such group.

It is important to emphasize in the introductory part of this document that the fight against organized crime requires vision, determination of objectives and necessary resources as well as the ability to handle this phenomenon. This strategy brings new methods and models in the management of these resources as well as increasing the skills of police officers who deal with the fight against this phenomenon. As a conclusion, the ambition of the police organization and all other institutions that have obligations in this direction, is and will remain, that through

the implementation of these objectives and the implementation of the measures provided for in this strategy as well as in other sectoral strategies, as well as improve the quality of life of citizens.

-Currently, Albania is a participant in a number of regional and wider initiatives and is a member of SECI, Interpol; it has also ratified and signed a number of conventions and international agreements. Based on the above and the analysis of political-social, economic, legal and technological factors, the main priorities of the state police in the fight against organized crime will be:

- War against drugs;
- The fight against illegal traffic and specifically:
- The fight against human trafficking and people smuggling;
- The fight against arms trafficking;
- Fight against the trafficking of stolen cars;
- The fight against the trafficking of works of art;
- Fight against money laundering and corruption.
- The fight against terrorism.

For years, the response to a growing criminal situation has been weak, reinforced by other factors such as pressure, corruption, fear and insecurity, etc. It was the great pressure from international organizations and from the community itself that led to take institutional steps in the fight against organized crime in Albania as well as some forms of its manifestation such as - the fight against trafficking in people, women or children, the fight against arms trafficking, the fight against car trafficking, drug trafficking and the cultivation of narcotic plants. A positive impact on the fight against organized crime was also the beginning of heavy prison sentences for people caught for illegal traffic, and other serious crimes related to organized crime. The positive situation that appears in the fight against organized crime is as a result of the adoption of efficient legal instruments as well as the application of the best experiences in this direction, the acceptance, ratification and implementation of international acts for the fight against organized crime and terrorism. The implementation of law no. 9284 dated 30.9.2004 "On the prevention and suppression of organized crime" made it possible to increase the quality of the level of identification, investigation and collection of evidence for the suppression of perpetrators who commit criminal offenses related to organized crime or forms of its manifestation, create the possibility of carrying out actions for the seizure and confiscation of the property as a result of the criminal activity, as well as the creation of the Advisory Committee for Measures against Organized Crime to monitor the activity of coordinating the work of institutions in accordance with the law, for evaluating the progress of the administration and use of seized and confiscated assets, for giving an opinion on requests for project financing from the Special Fund for Crime Prevention and Legal Education, as well as for other related issues with the prevention and attack of organized crime.

### **3.8. Some measures taken to fight organized crime**

The government in its program defined as one of the main priorities the fight against Organized Crime and the destruction of criminal organizations and the unreserved participation in the global fight against terrorism alongside the USA and other Western countries.

In the Government's program (2005-2009) for the Ministry of the Interior, the strengthening and guarantee of order and public, individual and community security was emphasized as a primary commitment with the motto "Zero tolerance to crime".

The fight against organized crime, trafficking in general and human beings in particular, as well as the fight against money laundering will be a priority.

For this purpose, legal changes will be made, providing for maximum punishments and a certain level of punishment for these criminal offenses.

There is still no generally accepted definition of organized crime, due to the rapid development and changing forms in which organized crime appears. Since high professionalism, organization and almost unlimited financial means are the characteristics of organized crime, the situation in this area is constantly getting worse. The profits represent an ever-increasing risk for the state and society, since organized crime invests them on the one hand in entirely legal businesses - money laundering - while on the other hand they represent a great potential for corruption. That is why politics comes into question here, that is, how can a certain society take care of the safety of its inhabitants and its own state as an organization. Therefore, a uniform worldwide definition is necessary because of the internationalization of the problem of organized crime and because of the danger that this phenomenon represents for the whole society. It is impossible to talk about a national state of organized crime as independent from the influences external due to existing international connections. The internationalization of criminal groups, countries and their activities made coordination of international police investigation and analysis more difficult. We therefore need a coordination of valid legal rules in the field of criminal justice, criminal procedural legislation, administrative, judicial and constitutional. As long as Europe remains a state formation with different legal systems, cooperation will repeatedly face various limitations, which do not limit the perpetrators of the crime, since the role of national governments remains a real problem for all who see the formation of Europe as incomparable to nation states. So, the border between international legislation and national security becomes more and more important. Therefore, it is necessary to agree with the fact that organized crime is mainly a problem of the state in which it is active (Wilton Park Newspaper, 1994). Unfortunately, many judgments of European countries in the field of international cooperation, focused on the search for new strategies and tactics to attack organized crime, have given only poor results. Thus, the establishment of the TREVI Group (International Counter-Terrorism Group). The Schengen and EUROPOL agreement was accompanied by many problems, of a political and legal nature, and for this reason the success of the cooperation has fallen far behind expectations. From the analysis of data obtained from different countries, it can be concluded that organized crime is very difficult to measure due to:

different definitions of organized crime across Europe, as well as in the world;

Differences in judicial systems;

Differences in police methods for registering organized crime;

Differences in the registration of criminal offenses and police activities. The efforts of the States, united within Europol, to join the fight against organized crime, are constantly stopped due to numerous differences. Different countries apply different tactics in the fight against organized crime. The power of organized crime varies from country to country and the forms of organized crime are different mainly due to the geographical, economic and social factors of individual countries. Due to the lack of unique definitions of organized crime and the impossibility of access to data and due to data protection legislation in different countries, it is difficult to compare the data related to the circulation of organized crime in Europe. The difference in measurements derives from the different notifications of different countries (there is a difference in the data related to ongoing and completed investigations, some of the countries only jointly present the data (Heijden, 1995). The long-term strategic goal of the

implementation of this strategy is "to build a society, without threats from organized crime, in peace and in the continuous improvement of the quality of life of the citizens, thus giving the image of a peaceful country with standards high security". The main condition for fulfilling the objectives of this strategy is the increase of cooperation, the acceptance of obligations by all institutions and actors aiming at a proactive response of all law enforcement agencies against organized crime, illegal traffic and terrorism.

The strategy provides for the responsibility of drafting initiatives for coordination and cooperation between different institutions:

- Collect the special duties of all other institutions;
- To take the initiative for reworking and updating other sectoral strategies with the policies and objectives foreseen in this strategy.

Monitoring of these results will be internal and external. Internal monitoring will assess the progress made based on the following indicators:

- As internal indicators will be:
- Destruction of criminal groups involved in these activities;
- Confiscation of assets derived from these illegal activities;
- The arrest of persons with a criminal career;
- Indicators of the illegal market;
- Minimization of corruption and ranking in the countries that effectively fight corruption;
- The use of special investigation forms and tools

#### **4. Conclusion**

Trafficking as a global problem is presented based on various world statistics. According to the global report for the year 2020 of the United Nations, for 10 victims, 5 are women and 2 children. Every year, up to 2,000,000 men, women and children are trafficked in the world, 50% of whom are minors. After the trafficking of narcotics and weapons, it is considered the most criminal activity in the world. Organized crime is a major problem in most European countries. Despite this, there is still no generally accepted definition of organized crime. Therefore, it is essential that in the fight against organized crime we systematically collect and analyze data related to organized crime. For this purpose we need for defining an appropriate policy to fight organized crime and an internationally accepted definition of organized crime. Since we do not have such a definition, it is difficult to compare the relevant data. In this regard, there are also differences in the judicial systems, in the methods of police registration, of criminal offenses and police activities.

However, common is the understanding of the features that characterize the way in which organized criminal groups operate. This is why we need to compare the characteristics of organized crime in different countries to work on the basis of the future definition of crime. Organized. Unfortunately, many judgments of European countries in the field of international cooperation, focused on the search for new strategies and tactics to attack organized crime, have given only poor results.

**In summary:** These are active conspiratorial organizations engaged in illegal activities as a mechanism for generating income (black money).

Structured as a business with pyramid-shaped hierarchies, they freely use violence and bribes to continue their operations, threaten and punish severely (including murder) to maintain internal and external control, exercise brutality and contribute to election campaigns to buy political patronage for immunity from exposure and prosecution.

The paper contributes to the existing scientific literature, (Maluku, 2021:76) especially in the field of criminal law, procedural law, criminology and criminology.

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