



PREVALENCE, CAUSES AND TREATMENT OF THE CRIMINAL OFFENSE OF THEFT ACCORDING TO THE CRIMINAL LEGISLATION OF THE REPUBLIC OF KOSOVO

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Abstract:

The Constitution of the Republic of Kosovo determines that the right of property is guaranteed and arbitrary deprivation of property is prohibited. Crime against property includes the acts of misappropriation of another's property by violence, acts of damage to another's property without legally justifiable motives, changing the property of another without his permission or knowledge, etc. This paper tries to give a general illustration on the crimes committed against property, the forms of commission and the punishments carried out according to the relevant laws. Through this investigation, an attempt is made to give a clearer meaning of the term theft from a professional and social perspective. To achieve the required results a questionnaire consisting of several questions was used, most of which contained alternatives with the possibility of multiple choices. The questionnaire is distributed and monitored online. The research method is quantitative through which the data will be interpreted in such a way as to obtain numerical values about the various aspects related to the act of theft. The frequency of thefts in Kosovo takes a numerical value above eighty percent of all surveyed cases. Acts of illegally taking the property of another individual in the Republic of Kosovo are more pronounced during the summer season. The material goods that are most often stolen in the Republic of Kosovo are coins and gold. Technological devices and household appliances, especially mobile telephones, are the second most stolen category in Kosovo. In Kosovo, even personal cars are subject of theft in a smaller percentage. Fewer thefts in the Republic of Kosovo are committed on domestic animals. Thieves in Kosovo commit the act of illegally taking another's property in most cases secretly and the most frequent places in which the act of theft is committed in Kosovo are private houses or apartments. Most of the theft cases in Kosovo do not have a perpetrator discovered by the Kosovo justice authorities. The main cause of theft in Kosovo is the lack of suitable economic conditions and the financial crisis.

Keywords:

Theft, Property Right, Stolen Property, Perpetrators

1. Introduction

Criminal offenses represent a large corpus of classification, which differ from each other in many aspects, but still remain the same at the same point: each of them produces the injured party. This paper tries to give a general illustration on the crimes committed against property, the forms of commission and the punishments carried out according to the relevant laws. Further, the paper tries to shed light on one of the branches of criminality against property, that of theft. Through this investigation, an attempt is made to give a clearer meaning of the term theft from a professional and social perspective. An attempt is also made to reveal the phenomenon of theft as statistical data, based on the most common and frequent aspects related to it, such as the number of cases of theft, causes of theft, time, method of theft, etc.

In order to create a general overview of the negative phenomenon of theft in Kosovo, a questionnaire consisting of several questions was used, most of which contained alternatives with the possibility of multiple choices. Eighty-nine randomly selected individuals were submitted to the questionnaire. The questionnaire was composed of seven questions, two of which were single-choice, while the other five had the possibility of answering with more than one alternative. The questionnaire is distributed and online-monitored. The data obtained will be interpreted in a quantitative way to give a numerical value about the various aspects related to the act of theft.

Through this work, an attempt is made to verify the following hypotheses:

H1: Theft in Kosovo is a phenomenon that belongs to the average frequency, in most cases it is done in or around houses or flats in a secret way, during which act mostly material goods such as money and gold are stolen and its perpetrators in most cases they are not discovered, and therefore they do not receive the punishment they deserve.

H2: Theft in Kosovo is more widespread during the summer season, while citizens think that the difficult economic conditions are the main incentive for individuals to commit acts of theft.

Through this work, an attempt is made to make a valuable contribution, among the contributions made in the field of justice, which would be a point of reference and a source of motivation for the creation and continuation of many future researches on the same topic or topics others which directly or indirectly have to do with the elaboration in question. Through the research work, an attempt is made to provide updated statistics on the crime of theft in Kosovo that can serve as useful information to be used for studies in the field of law, psychology, philosophy, social sciences and the academic world in general.

2. Crime Against Property

Regarding the protection and guarantee of the right to property, the Constitution of the Republic of Kosovo determines that this right is guaranteed and arbitrary deprivation of property is prohibited. (Constitution of the Republic of Kosovo, 2008). Institutional efforts and society's commitment to respecting this right are characteristics or features that prove how democratic the state is in general. At the same time, the security and respect of this right is also an element among several important elements of a legal state. The right of ownership is inviolable, which in human relations creates mutual rights and obligations and that this right serves the good of the individual or society in general (Zejneli, 2007).

Crime against property is a notion that is used to explain any type of act that is undertaken with the purpose of damaging another's property (Halili, 2007). This includes the acts of misappropriation of another's property by violence, acts of damage to another's property without legally justifiable motives, changing the property of another without his permission or knowledge, hiding the property of another knowingly and without reason, etc. The above-mentioned notion includes a much wider meaning of illegal actions against someone else's property than those mentioned and under whose umbrella several types of criminality against property are classified.

For each of the above-mentioned acts, certain arbitrations and punishments have been foreseen in many countries of the world, including the Republic of Kosovo. In Kosovo, the punitive actions against the person who commits crimes against the property of another individual are clearly defined in the Criminal Code of the Republic of Kosovo. Depending on the type of crime against property, the punishments determined by this legal act vary from imprisonment of the person who committed the crime and was found guilty, from several months to several years.

2.1. General Understanding of Theft as one of the Subtypes of Criminality Against Property

Theft is one of the subtypes that are part of the category of crimes against the property of others. "The crime of theft is a more frequent crime and when we talk about crimes against property, it is thought about the phenomenon of theft or taking a foreign object for the purpose of appropriation. This form of criminality against property dominates almost everywhere in the world" (Halili, 2007, pp. 207-208). A similar notion about theft was given by Latifi (2014) who says "theft is called a crime committed (completed) from the moment, when the owner or possessor is deprived of possession of the property (thing) and the subject of the crime throws it into his hand (takes it) property-thing) and can enjoy or dispose of it freely as if it were his property..." (pg. 443).

The protective object of the criminal offense of theft and its forms is movable property and that this property must belong to another person in order for this criminal offense to exist. According to the legal-criminal rules, the lost thing is not the subject of a criminal offense because the owner does not have the same thing (Salihu et.al, 2014).

Regarding when the taking of foreign property is considered a criminal offense, Salihu (2014) clarifies that if the taking of foreign property is done with the purpose of appropriation, then it is a criminal offense of theft.

So according to what we understand above, theft is an illegal act, which places two different subjects in front of each other: the thief or the person who committed the act of theft and the stolen or the victim against whom the theft was committed. For both of these subjects, there are certain legal provisions that determine the treatment of the case of theft from the point of view of both parties, the compensation for the damage, the deserved punishment, the regulation of the legal relationship between the two subjects, etc. Theft, in fact, is a very widespread negative

phenomenon all over the world. According to the statistics of the independent institute for statistics The Global Economy in 2016 theft was present in most countries of the world.

According to these statistics, Denmark, Sweden, Uruguay, Australia and Grenada were the five countries with the highest number of thefts in the world calculated per hundred thousand residents. Referring to the same statistics, Jamaica, Burma, Nepal, Kenya and Senegal had fewer cases of theft per hundred thousand inhabitants. From the general overview of the above statistics, we can draw a logical conclusion which says that the scale of the economy of a country is not a powerful influencer of the mass manifestation of the phenomenon of theft within that country.

2.2. Types of Theft According to the Criminal Code of the Republic of Kosovo

In the Criminal Code of the Republic of Kosovo, there are four types of theft: theft in general, aggravated theft robbery and theft in the nature of robbery (Criminal Code of the Republic of Kosovo, 2019).

Based on this legal act, general theft includes the definition and consequences as: "1. Whoever takes the property of another person valued at fifty (50) EUR or more with the intent to unlawfully appropriate it for himself, herself or for another person shall be punished by a fine and by imprisonment of up to three (3) years.

2. If the value of the stolen property taken is less than fifty (50) EUR, the perpetrator shall be punished by a fine or by imprisonment of up to six (6) months" (Criminal Code of the Republic of Kosovo, 2019, article 313).

For aggravated theft, among other things, the Code provides: "1. Whoever commits theft, as provided for in paragraph 1. of Article 313 of this Code, shall be punished by a fine and imprisonment of three (3) to seven (7) years if: 1.1. the offense was committed by breaking, passing, penetrating into locked vehicles, buildings, rooms, boxes, trunks or other locked premises through the use of force or the removal of obstacles with the intent to appropriate movable property; 1.2. the perpetrator acted in a particularly dangerous or brazen manner; 1.3. the perpetrator exploited a situation created as a result of fire, flood, earthquake, or any other disaster; 1.4. the perpetrator took advantage of the incapacity or any other grave condition of another person" (Criminal Code of the Republic of Kosovo, 2019, article 315).

For theft in the nature of robbery, the Criminal Code defines: "1. Whoever, surprised in the commission of theft and with the intent to retain possession of the stolen property, uses force or serious threat to attack the life or body of another person shall be punished by a fine and imprisonment of three (3) to ten (10) years.

2. When the offense provided for in paragraph 1. of this Article is committed by the perpetrator acting as a member of a group or while in possession of a weapon or dangerous instrument, the perpetrator shall be punished by a fine and imprisonment of five (5) to twelve (12) years.

3. When the offense provided for in paragraph 1. of this Article is committed by the perpetrator acting as a member of an armed group or the offense results in grievous bodily injury, the perpetrator shall be punished by a fine and imprisonment of seven (7) years to twelve (12) years. 4. When the offense provided for in paragraph 1. of this Article results in death, the perpetrator shall be punished by a fine and imprisonment of not less than ten (10) years or lifelong imprisonment" (Criminal Code of the Republic of Kosovo, 2019, article 316).

As for the last form of theft discussed here, that of robbery, the Criminal Code defines: "1. Whoever, by the use of force or serious threat to attack the life or body of another person, appropriates the movable property of such person with the intent to obtain an unlawful material benefit for himself or herself or another person shall be punished by a fine and imprisonment of three (3) to twelve (12) years.

2. When the offense provided for in paragraph 1. this Article involves a stolen object of a value exceeding five thousand (5,000) EUR, the perpetrator shall be punished by a fine and imprisonment of five (5) to twelve (12) years.

3. When the offense provided for in paragraph 1. of this Article is committed by the perpetrator acting as a member of a group or while in possession of a weapon or dangerous instrument, the perpetrator shall be punished by a fine and imprisonment of seven (7) to twelve (12) years.

4. When the offense provided for in paragraph 1. of this Article is committed by the perpetrator acting as a member of an armed group or the offense results in grievous bodily injury, the perpetrator shall be punished by a fine and imprisonment of seven (7) to fifteen (15) years.

5. When the offense provided for in paragraph 1. of this Article results in death, the perpetrator shall be punished by a fine and imprisonment of not less than ten (10) years or lifelong imprisonment" (Criminal Code of the Republic of Kosovo, 2019, article 317).

3. The Phenomenon of theft in Kosovo

3.1. Frequency of Thefts in Kosovo

Among the discussed questions that have been tried to be answered is that of finding out how frequent or how widespread the phenomenon of theft is in Kosovo. Out of the eighty-nine respondents, eighty-four of them have answered the question if they have faced the phenomenon of theft as a victim, whether they personally, their other close or distant relatives, or members of their society. Of this number, seventy-seven have affirmed that they have faced the phenomenon of theft at least once, being the victims. Of them, only seven have stated that they were not victims of theft, neither they personally, nor their family circle or their company. Expressed as a percentage, the above data are read as 86% of the respondents have experienced in one way or another case of theft, and 8% of them have not been victims of the phenomenon of theft.

The same respondents were also asked about the frequency of the occurrence of theft based on factors with longer time distances such as the seasons of the year. Only five of them do not participate in the answer. Fifty-one respondents think that summer is the favorable season for the perpetrators of this criminal offense to take action, regarding the question in which season of the year the phenomenon of theft is most widespread. On the other hand, thirty-three of them think that winter is actually it is the season that is used more by thieves to commit this illegal act. Expressed as a percentage, it means that a little more than half, or about 57%, have chosen summer, while the other 37% have chosen winter. While 6% have stated that they do not know.

3.2. Type of Property Stolen in Kosovo

In the flow of the questions of this research, there was also that of trying to find out which are the material goods or property possessions which are more often the focus of the perpetrators of the act of theft. From seven alternatives with multiple choices, these were the obtained results: 27% of them declare that among the most stolen things are gold and money or monetary wealth. 20% of respondents think that technological devices and household appliances are also among the things that attract thieves to steal them through illegal means, in this case through theft. The third most stolen material goods according to 14% of the questionnaire participants are mobile phones. Of them, 6% have declared cars as one of the targets of theft attacks, and 4% of them have chosen domestic animals as one of the assets that were stolen from them by the perpetrators of this crime.

The respondents had the space to express their free opinion also about other stolen things that are not listed in the list and based on the answers received from 2% of them it results that the other less expressed things that are stolen in Kosovo are: work. tools, bikes, hunting gear and cigarettes.

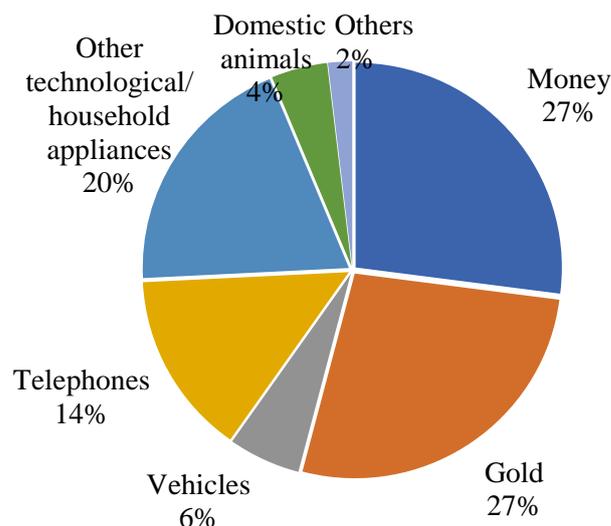


Figure 1: Presentation of the percentage of material goods most attacked by thieves

3.3. The Manner and Place of Committing the Crime of theft in Kosovo

The participants in the questionnaire were also asked about the ways in which the theft took place, with special emphasis on the ways of approaches to the object desired to be stolen. Among the different alternatives, the participants also gave different opinions, but the results of which were easy to interpret due to the large percentage differences. Of them, more than half or about 55% say that the way in which the act of theft took place is about entering the house secretly and without making noise, so that it is not distinguished from other individuals in the vicinity.

About 37% of the respondents stated that the theft experienced by them happened in the absence of their presence in the environment where the theft was committed. Of them, only 4% say that the theft happened in their presence, but in a secret way, not being able to distinguish the act or its perpetrator. From these collected statistics, only 3% of the respondents testify that they have experienced theft under duress or the threat of weapons. And a little more than 1% of them have declared about other ways of theft cases in which they have been victims.

Regarding the country where the theft took place, more than half of them or over 67% have stated that the theft was committed in the premises of their private homes or private apartments. All the other presented alternatives have had a much lower percentage of votes compared to the above-mentioned alternative. In more detail, about 13% of the respondents declared that the act of theft happened to them on a public road, without detailing whether they were frequented roads or on roads with less traffic. About 12% of them declared that the theft happened to them while they were in school, public transport or in any other frequented public space. Six percent of them claim that the theft happened to them in a vehicle. Three % of the respondents gave the same answer in the answer or independent opinion space, arguing that the theft against them happened in the spaces of animal farms, in animal stables and similar.

Through the above questions, respectively the given alternatives, an effort has been made to create a more accurate overview of the ways and places in which the citizens of Kosovo, whether they personally, their families, or members of their society have been victims of acts of theft.

3.4. The Causes of theft According to the Citizens of Kosovo

In the penultimate section, the participants were asked to answer one question which, unlike the others, belonged to a hypothetical context, where they had to use general thinking to reflect on the most frequent causes that force an individual or a group of individuals to commit a theft.

The question contained four multiple alternatives and a space for the expression of free opinion, and the result obtained from the participation of about 88 respondents was as follows: About 29% of the participants in the vote think that the main reason which is the incentive for undertaking the act of theft are the difficult economic conditions that our country is facing for several years now. According to them, to replace the financial lack, certain individuals think of using criminal methods such as theft.

Among them, 27% consider the use of drugs or alcohol as an incentive for committing the act of theft, in the absence of money to supply these items of dependence. Of them, 24% consider that the lack of education, that is, the lack of a professional education, is a trigger of negative behaviors in society, including the act of stealing other people's property. Of the respondents, 19% think that the reason why people steal is the lack of will to have an honest and legal financial source such as work. In this case, the respondents think that thieves use easier ways to get rich financially as they consider that they are lazy to follow a path of enrichment in which the property of another individual is not damaged. Contrary to all the above-mentioned answers, 1% of the respondents, expressed in quantitative numbers, two of the respondents mention the negative influence of society, as well as the theft treated as a mental illness as a trigger of the act of theft.

According to them, being accompanied by someone who is an attacker or an unjust and illegal appropriator of someone else's property brings negative impact and consequences on the individual, inspiring him in the negative context to become part of such criminal violations, whether by acting in independently, or acting in organized communities. And the last of this section is the hypothesis of having a mental illness, visible or physically invisible, which in some way forces the individual to commit theft, because it forms in him a kind of dependence without the action of which the person experiences psychic stress and feels inner emotional unfulfillment until the individual does not act on it.

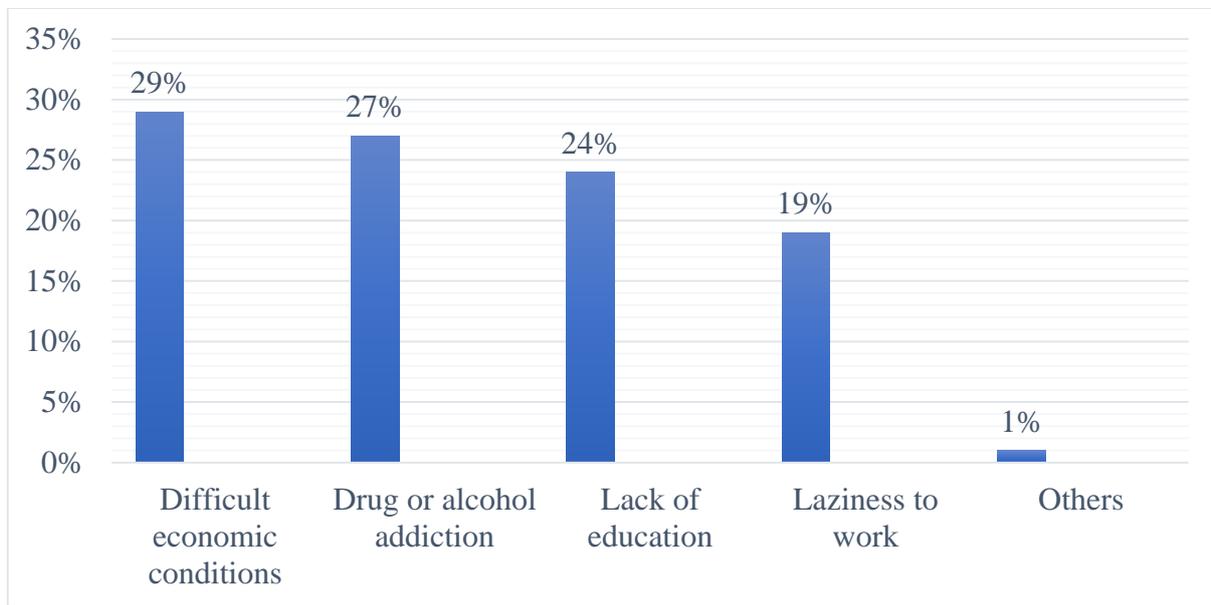


Figure 2: Tabular presentation of the influencing causes of theft

3.5. The frequency of the arrest of the perpetrators of acts of theft in Kosovo

Last but not least is to discuss the frequency of convictions against those who have successfully committed theft. In simple words, this discussion tries to find out how many of the theft cases the perpetrators were caught and received the deserved sentence. Out of the eighty-nine respondents, eighty-three of them answered the question in question. Among the options: the thieves were caught by law enforcement, the thieves were not caught by law enforcement, and I don't know, forty-six of them have stated that the thieves were not caught by law enforcement agencies and that of the same have either not been discovered and are unknown, or are known but for unclear and unknown reasons have not been caught, and such continue to be freely carried around the neighborhoods of different settlements.

Of this number, eighteen of them have stated that the perpetrators of the act of theft have been caught by the state authorities and that they have either been punished for the crime committed or they have not been punished for what they have caused to the property of another. And in the end, nineteen of the respondents have stated that they have no knowledge of the fate of those who attacked and illegally appropriated their property. They declare that they have no knowledge about the arrest or non-arrest of such individuals and beyond that they do not know either the cause or the outcome of the event afterwards.

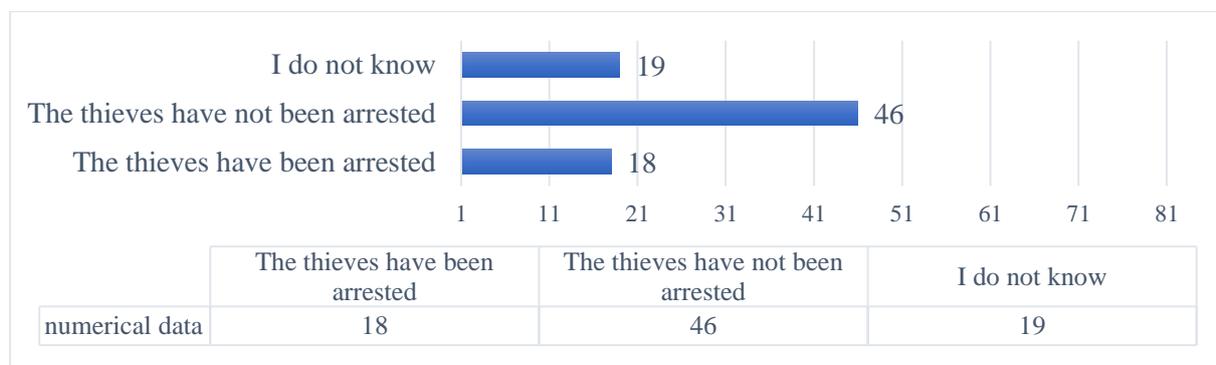


Figure 3: Tabular Presentation of Data on the Arrest of Thieves

4. Conclusions

From the data obtained through the questionnaire, this research has provided answers and a general framework about some of the features of the phenomenon of theft in Kosovo. The obtained results have been statistically interpreted and from them a general view has been drawn regarding the acts of theft that occur in the Republic of Kosovo, respectively the main aspects of this phenomenon.

My research has revealed that theft is a widespread phenomenon in Kosovar society, punishable by the Criminal Code of the Republic of Kosovo. In fact, it has been experienced at least once by more than half of the respondents, which dictates the frequency of theft in Kosovo to take a numerical value of over eighty percent of all surveyed cases. Acts of illegally taking the property of another individual in the Republic of Kosovo are more pronounced during the summer season. This can be justified by the fact that during the summer, people tend to be away from their homes and in constant motion creating a more favorable environment for thieves, without the presence of other people to commit theft. Such a thing would be more difficult during the cold winter season because most people are inside their homes or places most of the time, which makes it more difficult for a thief to break into their property intended without being noticed by others. My research supports a similar theory given by Carbone-Lopez (2012) who claims that the frequency of crimes, with special emphasis on theft, is greater during the summer months compared to the winter months.

Among the material goods that are most often stolen in the Republic of Kosovo are coins and gold. This can be explained by the fact that even small amounts of each of them capture large monetary values, which makes it easier to transport them without being noticed, since they fall into the hands of thieves. Technological devices and household appliances, especially mobile telephones, are the second most stolen category in Kosovo. Speaking of telephones, such a thing can be justified by the fact that they are among the most used technological devices at the moment by all age groups of society, which makes this technological component present in almost all possible spaces from where thieves they can commit the act of theft. In Kosovo, even personal cars are subject of theft in a smaller percentage. The reason for the lower frequency of attacks on this category may be related to the size of the cars, which are larger compared to the above categories. Fewer thefts in the Republic of Kosovo are committed on domestic animals, for the simple reason that, unlike in the past decades, today the number of owners of domestic animals, especially cows, horses and the like, is much smaller, which means that these animals are rarely found by thieves.

Thieves in Kosovo commit the act of illegally taking another's property in most cases secretly, when there is no one else in or around the area designated for theft. A very small percentage of theft cases in Kosovo are committed through direct threats with firearms or other means of violence. Such a thing can be argued with social views about the use of weapons, which is not expressed in Kosovar society, compared to other countries in the Balkans, especially Albania, where this form of theft is many times more widespread.

The most frequent places in which the act of theft is committed in Kosovo are private houses or apartments that citizens use for living and keeping personal belongings. They make up over sixty percent of the total number of thefts in our country. This can happen for the reason that thieves see various theft opportunities there without being noticed by any ocular witnesses. Secondly, the theft is also expressed on the street where about fourteen percent of the thefts from the total number of them happen precisely in the public spaces used for walking. After this, public facilities such as schools, offices, etc. are listed. Public transport and animal farms represent the places least attacked by the perpetrators of the crime of theft. The first can remain as such in order not to produce witnesses who may be numerous in public transport spaces and the second can be explained by the fact that the number of stables or animal farms in Kosovo is quite small.

The study also has given an insight into the fate of those who commit theft in Kosovo. It seems that most of the theft cases in Kosovo do not have a perpetrator discovered by the Kosovo justice authorities. More than half of the thefts committed in Kosovo remain unsolved and their perpetrators uncaught and unpunished. Only twenty percent of the general cases of theft in Kosovo are discovered and clarified in detail while their perpetrators are caught and sentenced with the deserved legal sanction.

This paper has also shed light on the opinion of the citizens of the Republic of Kosovo about the causes that can lead to the creation of an individual with a criminal precedent of theft. They think that the main cause of theft in Kosovo is the lack of suitable economic conditions and the financial crisis that has been going through our country for some time now, followed immediately by the use of drugs and alcohol, which are listed as the second reason that

motivates individuals. social to commit acts of theft against the property of others. The lack of education, followed by the lack of will to work and earn honestly and legally are the third, respectively the fourth cause, that leads individuals to commit theft. According to the citizens of the Republic of Kosovo, society has the smallest influence. Only one percent of the respondents considered that the reason for the thefts in Kosovo is the negative impact that the society of wrong values has on the individual. And the smallest reason that can encourage someone to commit theft are psychological reasons, where theft appears as a mental illness related to fixation and compulsion disorder. Bearing in mind that my work is not without flaws because it is a drop of water in the ocean among the many knowledges in the field of law, I wish that every reader considers open the possibility of enriching such a topic with even more information. valuable and treated in depth. I also hope that my work will serve as an interpretable basis on which many other studies of the same or similar topic will be built.

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