

DOI: 10.7596/taksad.v8i1.1873

Citation: Krasniqi, F. (2019). The Criminal Offense of Aggravated Theft under Hammurabi's Code, Law of the Twelve Tables, Albanian Customary Law and Criminal Code of Kosovo. *Journal of History Culture and Art Research*, 8(1), 228-236. doi:<http://dx.doi.org/10.7596/taksad.v8i1.1873>

The Criminal Offense of Aggravated Theft under Hammurabi's Code, Law of the Twelve Tables, Albanian Customary Law and Criminal Code of Kosovo

Fatmire Krasniqi¹

Abstract

The criminal offense of aggravated theft dealt with and listed under the so-called classic criminality continues to be a worrying phenomenon even in the contemporary period and not just for Kosovo's society. Despite the fact that the notion and content of the property as a protective object of the criminal offense of the aggravated theft has changed over time, property values depending on the period of development of the society, have been protective of the criminal offense in question, always adapted to the period in which prohibited acts of the form of criminal offense of aggravated theft have been incriminated as unlawful acts. Nevertheless, this analytical research initially focuses on the investigation of the history of reporting criminal offenses against property and continues with their elaboration in conformity with *the Hammurabi's Code and the Law of the Twelve Tables*. Among all criminal offenses against property, we will distinguish and examine the criminal offense of aggravated theft defined under *Albanian customary law* and which was set forth in particular by the rules of the *Code of Lekë Dukagjini*, *Code of Skanderbeg* and of the *Code of Labëria*, whereas the same social issues will be treated additionally in the legal and criminal aspect according to the legal definition of *the Criminal Code of the Republic of Kosovo*. The research is conducted based on the application of the *historical-legal method in particular*.

Keywords: Criminal offence of aggravated theft, the Hammurabi's Code, Law of the twelve tables, the Code of Lekë Dukagjini, the Code of Skanderbeg, the Code of Labëria, the Criminal Code of the Republic of Kosovo.

¹ The author is a Ph.D. candidate in the Faculty of Law of the University of Pristina "Hasan Prishtina", Pristina, as well as a *Teaching Assistant for a group of criminal law courses* at University "Kadri Zeka", Gjilan/Gnjilane. E-mail: fatmire.krasniqi@uni-gjilan.net

1. Introduction

While human society has consistently faced various types of criminal offenses against property, among which the criminal offense of aggravated theft is listed, attempts to prevent the criminal offenses in question have likewise been made in Kosovo as well. However, it can rightly be noted that not only Kosovo's society, but no society for any period of time, managed to prevent completely such unlawful behavior. Therefore, such criminal offenses are rightly listed in the framework of the so-called classical criminality.

Meanwhile, examining the particular nature of the criminal offense of aggravated theft as well as the high degree of its presence in Kosovo as one of the offenses against property, we chose to approach the treatment of such issues with particular emphasis on the historical-legal occurrence of its determination in the legal-criminal dimension.

In this regard, dealing with the criminal offense of aggravated theft will initially be approached from the consideration of the historical aspect of the occurrence of criminal offenses against property (among which is also the criminal offense of aggravated theft), to continue with the follow-up of fundamental data on how the same criminal offense was determined according to the rules of the *Hammurabi's Code* and the *Law of the Twelve Tables*. Though, the treatment of the criminal offense of aggravated theft will also be performed according to *the Albanian customary law*, to determine the legal-criminal aspects of such socio-legal issues including the legal-criminal provisions of *the Criminal Code of the Republic of Kosovo* (hereinafter referred to as CC of Kosovo).

Of course, such a way of dealing with a criminal offense of aggravated theft will be of particular interest, particularly for the fact that depending on the period of development in Kosovo, we will also note the peculiarities of legal-criminal treatment of the criminal offense in question.

2. Short History of Criminal Offenses Against Property

Looking back on the historical aspect, we can emphasize that the establishment of the state preceded a long period of development of human society (Ismaili & Sejdiu, 2009, p. 33). In this sense, in the early communities, there were no sound grounds for reporting and categorizing of criminal offenses. This does not mean that there was no anti-social behavior or reaction against such behavior during this period, but the division of the offenses was not defined yet. Nonetheless, even in such a period of human society, forms of reaction to criminal behavior were mainly forms related to disowning, vengeance, composition, and so forth. Such societies relied on unwritten social norms, often rooted in people's consciousness, thus were respected by all members of the society. Their respect meant proof of existence of these communities and their members, while disrespect jeopardized the collective life of the community, the traditional order, its integrity, its existence, and hence the existence of individuals (Latifi, 2003, p. 21).

The gradual development of human society, from the period of primitive times, grouped human society into so-called social classes. An important factor in this period is the gradual rise of awareness about processes and phenomena related to law and justice as a whole. In this regard, in such periods of the development of human society, criminal offenses have occurred, which are foreseen conducted since the oldest criminal norms. Among these offenses appear murders which are accompanied by greater emotional reactions, then incest, and ultimately with the appearance of the private property, appeared the criminal offenses against property which is strictly punishable (Latifi, 2003, p. 24).

Nevertheless, ever since the appearance of criminal offenses against property, they have been dealt with not only the customary law but with laws and codes of different societies, set out from time to time and always pursuant to the degree of their socio-legal development. However, the nature of the behavior considered criminal, the relative seriousness of the various crimes, and the ways in which criminal activities are punishable by state authorities, has changed significantly over the past two to three centuries (Giddens, 2004, pp. 125-126).

3. Criminal Offenses Against Property under *Hammurabi's Code* and *the Laws of the Twelve Tables*

Regulation and determination of criminal offenses against property is likewise set in *the Hammurabi's Code* and also in Babylon. As a rule, these criminal offenses were punishable by death or by hand cutting and the return of the stolen item. The thief would be sentenced to death (Elezi & Elezi, 2010, p. 15). Meanwhile, with the *Law of the Twelve Tables* the criminal offenses against property were divided into several types, but with their basic denomination called *furtum*. In this respect, the *furtum* was a delinquency that would mean a violation of someone else's property along with a simultaneous benefit for the delinquent. The object of the attack could be another person's movable property, while the aim of the attack is to obtain the unlawful material gain (Puhan, 1980, p. 372).

Moreover, criminal offenses against property have been foreseen and defined even in the period of feudalism. However, for such a fact likewise speaks the Byzantine Law according to which the criminal offenses against property were punishable with a beating and double compensation for the stolen or damaged item (Ismaili & Sejdiu, 2009, p. 145).

4. The Criminal Offense of Aggravated Theft under *Albanian Customary Law*

Based on the historical-legal aspect, the Albanian people are also characterized by a set determination of the criminal offenses against property, in particular, through clear and precise provisions highlighted in codes. We emphasize that the criminal offenses against property have been explicitly defined also in the: *Code of Lekë Dukagjini*, *Code of Skanderbeg* as well as in the *Code of Labëria*. However, such criminal offenses in the aforementioned codes were specifically regulated in a concrete manner, including not only their notion of meaning but likewise all other accompanying elements. Whereas in terms of a proper prevention and combating of the *theft* and *robbery*, through the relevant provisions of the codes is also defined the manner of punishment besides the manner of finding perpetrators of criminal offenses against property, mainly through traces. We emphasize that, in line with the development of the society of the period in which these codes have produced the respective effects, even the violated, damaged or endangered property has been more treated specially. Something of the sort we can say about the fact that, today, the notion of property could be qualified as a much wider notion because the constant development of society has brought to light other values that today can be violated, damaged or even endangered, so the notion of criminal offenses against property today can rightly be described as a much wider notion compared to the time periods for which the code rules apply more.

However, the customary law - namely the customs, has played a primary role in the early pre-state social formations, for regulating relations within a social group (Elezi, 2006, p. 12). Realistically, many customary law norms, in addition to the state's positive law, are kept in the consciousness of people and are complied with parallelly with them. Dualization or legal pluralism is a historical reality, despite the fact that the state has adopted and issued laws for the protection of private property (Elezi, 2002, p. 5). Even at present, where law and the rule of law basically is applied, customary law, in particular through the law provided by codes, still has effects on the consciousness and the actions of persons, and in certain cases, it becomes an important source of law.

As for the *Code of Lekë Dukagjini*, we can accentuate that the laws of the Code have served for a long time as social norms and as a self-governing system that prevailed in areas of northern Albania. The Code is of fundamental importance in the history of the Albanian people as it is an ancient document. Moreover, its rules and norms continue to exert a significant impact on the Albanians living in Albania and Kosovo, as well as in other places where Albanians have migrated (The Code of Lekë Dukagjini, 2010, p. 15).

Qualified theft, according to the *Code of Lekë Dukagjini*, was referred the one being directed against two objects, i.e., social relationships that ensured the inviolability of private property and against social relationships that ensured the honor and dignity of a certain person or a certain group. The codes attributed

a great importance to the protection of honor and personal dignity. In the *Code of Lekë Dukagjini* it was explicitly stated that “Thy whose honor was taken, by the code is considered dead” (paragraph 600) (Elezi, 2002, p. 22). Thus, in the *Code of Lekë Dukagjini* in such form was determined the qualified or aggravated theft, namely the criminal offense of aggravated theft.

An other important Code in regulating social relations was additionally *the Code of Skanderbeg*. This Code extended to Central Albania amongst the provinces: Krujë, Mat, Dibër, Valm (Elbasan) from the Mat-Fand Rivers on the north down to the Shkumbin River (Librazhd) on the south and from the Adriatic Sea in the west up to the eastern borders of Dibra and Ohrid in the east (Illia, 1993, p. 15). Meanwhile, aggravated theft, qualified under the *Code of Skanderbeg* as *ominous theft*, is defined as theft which apart from the livestock and damage, has violated one’s honor. Such a thief will be held liable according to the code and will pay a heavy fine (The Code of Skanderbeg, par. 3205). Nevertheless, correspondingly, it is emphasized that the ominous thief has a stigma of black sheep and shall pay for both the stolen or damaged goods and the other for the violation of the honor, such as 1) When an item is stolen from a friend or some other person, that is within the honor and protection of the house; 2) When an item is stolen or damaged in the Church that is under the protection of the village; 3) When an item is discovered after covenant, which is “the Water which everyone washes with” (The Code of Skanderbeg, par. 3206).

Social relations of importance among Albanian people were also regulated with the *Code of Labëria*. Regarding the geographic extent, in terms of the territorial aspect, it can be said that it was probably implemented in the villages of Vlora, Himara, the Coast as a whole, in Kurvelesh, in Rrëzomë, in Kardhiq, in Rrëzë te Tepelena, and wherever Lab communities reside, as well as in Mallakastra and on a more limited scale in the cities of Gjirokastra, Delvina, Tepelena and Vlora (Elezi, 2006, p. 7).

Consequently, in Article 728 of this code, it becomes clear that theft is aggravated when it is committed by taking women's underwear since this is called an insult of women’s honor. Similarly, the theft by a family friend is sentenced by expulsion from the village. The house theft committed by a friend from another village is punished with a boycott and a stigma of black sheep (odium) (The Code of Labëria, Article 728, par. 1 and 2).

Conceptually, by such regulation of the aggravated theft, we can say that the meaning and content of aggravated theft in parallel context with the criminal offense of aggravated theft incriminated today is quite different. But again, we reiterate that the code has adjusted and adapted to the social relations of the time in which its provisions have had an effect.

5. Historical Aspects of Legal-Criminal Treatment of the Criminal Offense of Aggravated Theft under the Criminal Legislation of the Republic of Kosovo

In the circumstances of treating the criminal offense of aggravated theft during the historical development of Kosovo’s criminal legislation, for the sake of the most thorough research of the criminal offense of aggravated theft under the legislation in question, we will treat it in three periods in terms of the existence and functioning of specific legal-criminal provisions for the respective periods.

If we look at the historical aspect of the gradual establishment of Kosovo's criminal legislation, we must first emphasize that with the new Constitution of Yugoslavia of 1974, Kosovo and Vojvodina were treated as constituent units of the Yugoslav federation (Salihu, 2015, p. 113). However, the *Constitution of Yugoslavia* of 1974 was of particular importance, especially for the fact that all Republics and Autonomous Provinces likewise issued their criminal laws, which came into force on 1 July 1977. Thus, Kosovo for the first time in its history issued its own Criminal Law, which also came into force on 1 July 1977 (Salihu, 2015, p. 114). Meanwhile, the Kosovo Criminal Law was in effect until 23 March 1989, when the then regime of Serbia unconstitutionally abolished Kosovo's autonomy under the Constitution of 1974, and also abrogated the Criminal Law of Kosovo. From March 1989 until the liberation of Kosovo on 12 June 1999, the Yugoslav

Criminal Law and Serbia's Criminal Law were applied in Kosovo. After the liberation of Kosovo, the criminal law of Kosovo came into force and with the intent of preventing legal vacuum in this very important area, it was decided that the Criminal Law of Yugoslavia should be enforced until the Criminal Code of Kosovo is issued (Salihu, 2015, pp. 115-116).

The *Criminal Law of the Autonomous Socialist Province of Kosovo* (hereinafter referred to as *Criminal Law of ASPK*), through legal-criminal provisions, explicitly defined the criminal offense of aggravated theft, which in this case is also treated in connection with the criminal offense of theft. Anyhow, such an interconnection treatment of aggravated theft is reasonable for the fact that the circumstances of the execution, the manner of committing, and the exploitation of the condition or situation in which the theft is committed, affect a criminal offense of theft to be qualified as such. Consequently, according to the legal provision set out in Article 134 of the *Criminal Law of ASPK*, it was determined that whoever takes away another person's movable property with the intention to obtain unlawful material gain for himself or for another person shall be punished with three months to five years imprisonment (*Criminal Law of the Autonomous Socialist Province of Kosovo*, 1977, Article 134, par. 1). If the perpetrator has returned the stolen movable property to the affected party before learning that the criminal procedure has been instituted, the court may exempt him from the punishment (*Criminal Law of the Autonomous Socialist Province of Kosovo*, 1977, Article 134, par. 2). Likewise, according to the relevant provisions of Article 134 of the *Criminal Law of ASPK*, are determined the points as: who may be the perpetrator of the criminal offense of theft, the protective object, the act of committing, the purpose of committing the offense in question, the punitive aspect and the possibility of release of the person from the punishment.

However, the commission of the criminal offense of theft in ways or circumstances (situations) also determined under the *Criminal Law of ASPK* was considered a criminal offense of aggravated theft. Such a thing is defined in the following article of this law, which among other things states that the perpetrator of the theft (Article 134) is sentenced to one to ten years of imprisonment if the theft was committed: by breaking into or by forcing the door of buildings, rooms, strongbox, cupboards or other closed spaces or by overcoming other major obstacles in order to reach the objects; by several persons who have associated themselves to commit a theft; in a particularly dangerous or impudent manner; by a person who was in possession of a weapon or dangerous tool for an assault or defense; during a fire, flood or any similar disaster; by taking advantage of a helpless person (*Criminal Law of the Socialist Autonomous Province of Kosovo*, 1977, Article 135, para. 1, subpar. 1.1, 1.2, 1.3, 1.4, 1.5 and 1.6). Yet, according to the legal provisions of the law in question, the same punishment is given upon the perpetrator of theft (Article 134) if the value of the stolen items exceeds thirty thousand dinars (*Criminal Law of the Socialist Autonomous Province of Kosovo*, 1977, Article 135, par. 2).

The *Provisional Criminal Code of Kosovo* also defined the criminal offense of aggravated theft quite accurately, but also in connection with the criminal offense of theft. However, committing a criminal offense of theft in certain ways, situations or circumstances meant that theft as such would not be considered a common offense but was to be qualified as the most serious form of it. Consequently, even under the legal-criminal provisions of the *Provisional Criminal Code of Kosovo* it was determined that whoever takes the movable property of another person with the intent to unlawfully appropriate it for himself/herself or for another person shall be punished by a fine or by imprisonment of up to three years, (*Provisional Criminal Code of Kosovo*, UNMIK/REG/2003/25, 6 April 2004, Article 252, par. 1) but the particularity of the provisions of this code was also the determination of the attempt of the criminal offense of theft which was punishable. Meanwhile, likewise in the previous law and according to the provisions of this code, it was determined the possibility that the perpetrator be released from the punishment, i.e., provided the perpetrator returns the stolen property to the injured party before he/she learns that a criminal prosecution has been initiated (*Provisional Criminal Code of Kosovo*, 2004, Art. 252, par. 3).

According to the *Code in question*, the offense of aggravated theft was also defined explicitly. Article 253 of the *Provisional Criminal Code of Kosovo* made it clear that whoever commits theft, as stated in Article 252 (1), shall be punished by imprisonment of six months to five years if the offence was committed in the following manner: by breaking into locked 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; by acting in a particularly dangerous or brazen manner; by exploiting a situation created as a result of fire, flood, earthquake, or any other disaster; or by taking advantage of the incapacity or any other helpless condition of another person (*Provisional Criminal Code of Kosovo*, 2004, Article 253, par. 1, sub-par. 1.1, 1.2, 1.3 and 1.4). Consequently, in terms of determining the circumstances that make the criminal offense an aggravated criminal offense, determination is similar to *the Provisional Criminal Code of Kosovo* as well as *the CC of Kosovo*, with the only difference in terms of punishment, which according to today's criminal code, the punishment turns out to be higher. Also, according to the *Provisional Criminal Code of Kosovo*, it was determined that whoever commits theft, as provided for in Article 252 (1), shall be punished as stated in paragraph 1 of the present article: when the stolen property is of a value exceeding 15.000 EUR and the perpetrator acts with the intent to appropriate the object of such value; when the stolen property serves a religious function, or it is stolen from religious premises or other premises where religious ceremonies are carried out; when the stolen property is of cultural value or of special scientific, technical, or artistic importance or when it is part of a public collection, a protected private collection or a public exhibition (*Provisional Criminal Code of Kosovo*, 2004, Art. 253 par. 2, subpar. 2.1, 2.2 and 2.3) while, whoever commits theft, as provided for in Article 252 (1) of the present Code, as a member of a group or while carrying a weapon or dangerous instrument with the intention to attack shall be punished by imprisonment of one to eight years (*Provisional Criminal Code of Kosovo*, 2004, Art. 253 par. 3). In this circumstance it is considered that such person has committed a criminal offense of aggravated theft.

In such legal setting circumstances, through the legal provisions of the *Provisional Criminal Code of Kosovo* which produced legal effects at the time to which they were applied, the legal determination was quite clear. In the meantime, all these forms of aggravated theft can be committed by any person. All of these forms of aggravated theft may only be carried out with the intention, even with the direct intention (Salihu, 2014, p. 272).

Upon a comparative look at the *Criminal Law of ASPK*, the *Provisional Criminal Code of Kosovo* as well as the *CC of Kosovo*, we can emphasize that the *CC of Kosovo* regarding the determination of the criminal offense of aggravated theft, the protection object in relation to the respective criminal offense is slightly broader and the punitive aspect is also more pronounced.

On the other hand, the criminal offense of aggravated theft, foreseen in Article 327 of the *CC of Kosovo*, is included in the chapter of criminal offenses against property, which protect movable property, respectively property values in their general sense. Moreover, under the legal provisions of *the CC of Kosovo*, the illegal taking of any property value of another person is considered a criminal offense. Thus, it is determined that any property value, small or large, that is taken illegally by another person, who at the same time is a legal owner of that property, is considered a criminal offense. Beyond the protective object in terms of this property value, small or large, with the legal provisions of Article 327 of the *CC of Kosovo* it is also determined that a protection object of the criminal offense of aggravated theft is also the property found or taken in locked vehicles, buildings, rooms, boxes, trunks and other locked premises, property taken from religious buildings, property of historical, cultural, scientific value, property stolen from the grave etc. (*Criminal Code of the Republic Kosovo*, No. 04/L-82, 2012, Article 327, par. 1, subpar. 1.1, 1.2, 1.3, 1.4 and par. 2, subpar. 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7). Thus, protection objects of the criminal offense of theft but also of the criminal offense of aggravated theft are considered to be movable items, items that are of a material nature, items that have property value and items belonging to their legal owner, but to whom the possession or disposition of his/her property is illegally precluded.

Given that the criminal offenses of aggravated theft are considered with a higher social danger or consequences, the legislator has also clearly highlighted the possible forms of its commission through the legal incrimination of the criminal offense in question. Such legal definition is important for the fact that the commission forms of the criminal offense of theft make for the criminal offense of ordinary theft, in certain situations caused by the actions taken by its perpetrator, to be qualified as a criminal offense of aggravated theft.

Initially, under Article 327, par. 1, subpar. 1.1, 1.2, 1.3 and 1.4 of the current *Criminal Code* is determined that a criminal offense of aggravated theft will be considered if the offense was committed by breaking, passing, penetrating into locked vehicles, buildings, rooms, boxes, trunks or other locked premises or by removing other obstacles with the intent to appropriate movable property; the perpetrator acted in a particularly dangerous or brazen manner; the perpetrator exploited a situation created as a result of fire, flood, earthquake, or any other disaster; or when the perpetrator took advantage of the incapacity or any other grave condition of another person (*Criminal Code of the Republic Kosovo*, Article 327, par. 1, subpar. 1.1, 1.2, 1.3 and 1.4). While through subsequent legal provisions it becomes clear that theft will be considered as a criminal offense of aggravated theft, when the stolen property or services have a value exceeding five thousand (5,000) EUR; when the stolen property serves a religious function, or it is stolen from religious premises or other premises where religious ceremonies are carried out; when the stolen property has a cultural, religious or historical value; is of special scientific, technical, or artistic importance; is part of a public collection, a protected private collection or a public exhibition; or, is a natural monument or object of nature under protection; when the property is stolen from a grave; when the stolen property is a weapon; the perpetrator carried a weapon or any other dangerous instrument; or, the perpetrator acted as a member of a group (*Criminal Code of the Republic of Kosovo*, 2012, Article 327, par. 2, sub-par. 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7). It can consequently be noted that the forms of the commission of this criminal offense are numerous and with special distinguishing features.

6. Criminal Responsibility and Punishment of Perpetrators of the Criminal Offense of Aggravated Theft under the Criminal Code of the Republic of Kosovo

To fully comprehend the meaning and content of the criminal responsibility of the perpetrators of the criminal offense of aggravated theft, we will follow-up and treat in reciprocal connection the inseparable notions named as: *criminal responsibility, guilt and intent*.

In this regard, criminal responsibility is a condition that must be fulfilled to be considered as a criminal offense and to enable its perpetrator to be sanctioned. A person is considered criminally responsible if at the time of the commission of the criminal offense he/she possessed certain psychic qualities and if he/she had a certain psychic relationship to the offense that he/she committed. In other words, a person is considered criminally responsible if at the time of the commission of the criminal offense he/she was accountable and guilty (Salihu, 2015, p. 276). Meanwhile, guilt is the psychic report of the perpetrator towards the offense committed. This psychic report expresses the consciousness of the action, the consequence, the mutual relationship between the action and the consequence presented for all the circumstances of the criminal offense committed, in existence of the will or in accordance with the consequence caused. This notion of guilt is a subjective element of the criminal offense. Therefore, guilt is the connection between the psychological personality of the perpetrator with the offense as an objective phenomenon which is presented in the outside world. The word guilt defines the opposite of innocence (Petrovic, 2006, p. 75).

Nevertheless, since two main forms of guilt are known, according to the legal provisions of *the CC of Kosovo*, the criminal offense of aggravated theft can only be carried out *with intent*. Thus, all forms of aggravated theft may only be carried out with a direct intention and with intention to gain a material benefit (Salihu,

2014, p. 470). Indeed, the intention (*dollus*) is the commission of the criminal offense with the consciousness and the desire. This is the form of guilt which is the most commonly presented and best describes the psychic relation of the perpetrator towards the offense, his/her attitude towards the consequences, his/her attitude to the consequences as changes in the object of the attack he/she has caused or contributed to its causation. For a criminal offense committed with intent the person is always responsible and is punished (Petrovic, 2006, p. 78).

On the other hand, the punitive policy regarding the criminal offense of aggravated theft is clearly reflected in the legal-criminal provisions of the *CC of Kosovo*. Through the current legal provisions regarding the criminal offense of aggravated theft, it is accentuated that the perpetrators of a criminal offense will be punished with a fine and imprisonment, for the fact that from the criminal offense of aggravated theft the perpetrator obtains material benefit gained in an unlawful way. However, Article 327 of the *CC of Kosovo* sees the possibility of imposing a punishment for the criminal offense of aggravated theft in two forms.

According to the first form, which can be seen in the par. 1 of the mentioned Article, with regard to the ways of committing the criminal offense of aggravated theft provided in subpar. 1.1, 1.2, 1.3 and 1.4, the punishment imposed will be in an accumulated manner, i.e., a punishment with a fine and punishment with imprisonment. Whereas, with regard to the punishment with imprisonment, the manner of its determination is made taking into account its special minimum and maximum. Consequently, together with the fine, to the perpetrator of the criminal offense of aggravated theft pursuant to legal-criminal provisions stipulated in Article 327, par. 1, subpar. 1.1, 1.2, 1.3 and 1.4 of the current *Criminal Code*, a punishment of imprisonment of three (3) to seven (7) years shall be imposed.

According to the second form, respectively according to the par. 2 of the emphasized Article, namely Article 327 of the current *Criminal Code*, on the ways of committing the criminal offense of aggravated theft provided for in sub-par. 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7, according to the legal definition, only one kind of punishment can be imposed on the perpetrator and that is punishable with imprisonment. This type of punishment will also be imposed taking into account its special minimum and maximum, because it is emphasized that the punishment with imprisonment will be imposed from three (3) to ten (10) years (*Criminal Code of the Republic of Kosovo*, 2012, Article 327, par. 1, subpar.1.1, 1.2, 1.3, 1.4 and par. 2, subpar. 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7).

Yet, we can point out that, with regard to the criminal offense of aggravated theft, the fine may be applied as well as the special minimum of punishment with imprisonment of up to three (3) years up to its special maximum of up to ten (10) years. Consequently, the importance of penal sanctions for the prevention of criminality is contained in the effects of general and individual prevention, whereby each criminal sanction, separately, has its own area of preventative action within its definition and application (Muratbegovic, 2007, p. 130).

Beyond the penalties provided for in the legal-criminal provision of Article 327 of the *CC of Kosovo* for the criminal offense of aggravated theft, in frequent cases alternative and additional punishments are also applied, while when the perpetrator of the criminal offense of aggravated theft is a minor, educational measures are frequently applied as well.

7. Conclusion

Based on the data presented in connection with the criminal offenses against property and in this sense likewise of the criminal offense of aggravated theft, we can conclude that criminal offenses against property are anti-social acts that have followed continuously the human society but without excluding Kosovo's society as well. Nonetheless, the expressive determination through socio-legal rules or legal-criminal provisions, despite the period of development of the society, has always aimed at preventing offenses in question in the most efficient manner. Though, notwithstanding the proper legal determination even in the

contemporary period, the criminal offenses against property and also the criminal offense of aggravated theft, with its presence and consequences caused continues to be considered a social problem. Theft crime is the most common crime and generally, crimes against property are referred to as theft or taking away of another person's item with the intention of appropriation (Halili, 2016, p. 207).

References

Criminal Code of the Republic of Kosovo, No. 04/L-82. 20 April 2012.

Criminal Law of the Autonomous Socialist Province of Kosovo. 29 June 1977.

Elezi, I. & Elezi, E. (2010). *History of the criminal law*. Tirana.

Elezi, I. (2002). *Criminal legal protection of property*. Tirana.

Elezi, I. (2006). *Code of Labëria*. Tirana.

Giddens, A. (2004). *Sociology*. Tirana.

Halili, R. (2016). *Criminology*. Pristina.

Illia, F. (1993). *Code of Skanderbeg*. Shkodër.

Ismaili, H. & Sejdiu, F. (2009). *History of legal and state institutions*. Pristina.

Latifi, V. (2003). *Criminal policy*. Pristina.

Muratbegović, E. (2007). *Prevention of criminality -Compendium of Crime Prevention and Crime Control*. Sarajevo/Pristina.

Petrović, B. (2006). *Criminal law*. Sarajevo/Pristina.

Provisional Criminal Code of Kosovo, UNMIK/REG/2003/25. 6 April 2004.

Puhan, I. (1980). *Roman law*. Pristina.

Salihu, I. (2014). *Criminal law – Special part*. Pristina.

Salihu, I. (2015). *Criminal law – General part*. Pristina.

The Code of Lekë Dukagjini. 2010. Shkoder. Botime.