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FACULTY OF LAW

DEPARTEMENT: CIVIL LAW

MASTER STUDY

THEME:

**CRIMINAL OFFENSES AGAINST THE SAFETY OF PUBLIC TRAFFIC  
IN THE TERRITORY OF FERIZAJ DURING 2000-2010**

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## **Object and aim of the study**

Study object of this paper are the criminal offenses against public traffic safety with emphasis on the endangering public traffic criminal offenses, as well as the penalties imposed in the Municipal Court in Ferizaj during 2000-2010.

The basic aim of this paper is to present a more realistic and characteristics of criminal offenses against the public traffic safety by giving greater importance the endangering public traffic criminal offense, with special analysis of this offense caused in the territory of Municipal Court of Ferizaj during 2000-2010, as well as the impact of these sanctions as a preventive measure.

This topic was not accidental but an actuality and immediate interest to criminal law, in the service of the justice system and being directly connected to the system through this paper I have tried to give my modest contribution in presenting real criminal offenses against public traffic safety in the law case of the Municipal Court of Ferizaj.

The paper labeled as criminal offenses against public traffic safety with emphasis on the territory of the municipality of Ferizaj during 2000-2010, means the research and study of these offenses in the theoretical and scientific aspects and their legal regulation. This study will include judicial practices particularly in the municipality of Ferizaj, as an important issue in contemporary life for the country, but also for the individual.

Criminality as a great evil has followed the individual at all stages of development, but with the acceleration of economic life in modern societies, this area has received very large dimensions.

These criminal offenses in Kosovo have intensified more particularly after 2000 when the streets of cities and villages were flooded with imported vehicles from the outside world, while road capacity, but also their technical preparation, and likewise the driver with low preparation driving, in most of the time without qualified preparation were among the very large growth factors of these categories of criminal offenses.

## **Work methodology**

In this topic, I have used these methods of work: historical method, theoretical analysis method, survey method, comparative method, and statistical method. Research method has a special place in this topic.

In the historical method, I mentioned the appearance of these crimes in different periods, ranging from the earliest times to the present day, to understand in more detail the study scope of this topic.

In the method of theoretical analysis, I made a theoretical analysis of the problem and have drawn general theoretical conclusions on the way, the size, and features of criminal offenses of public traffic safety. During this study, we have the scientific research and dynamics, as well as socio-economic circumstances of appearance and development of these offenses as a necessary evil to combat criminality.

I made a brief overview of the causes of these criminal offenses, the scene and removing traffic participants from the scene and preventive role of these criminal offenses.

In comparative method, by comparing the differences and similarities that exist in the most characteristic elements and issues of our state legislation and the legislation of the countries in the region and comparing the characteristic elements in different periods of time.

Research-statistical method is based on statistical evidence of the Public Municipal Court and Prosecutor in Ferizaj.

I researched and analyzed some verdicts for this category of criminal offenses by analyzing the causes of the appearance of these crimes as of subjective and objective factors.

## **Period and scientific research territory**

The timing of this scientific research is the period of ten years, during 2000-2010, but keep in mind that in 2004 when the Criminal Code of Kosovo entered into force, this field was analyzed with the provisions of the new Criminal Code.

Regarding the territorial aspect, it includes the territory of the Municipal Court in Ferizaj, including the municipality of Shtime and Shterpca.

The reason for setting such a period of research is that during this period all proceedings were completed and decisions are plenipotentiary, which makes the results of the research more valid.

### **Structure of the paper**

This paper except for the introductory section also contains five chapters, conclusion, literature used in the paper and the appendix.

I dealt with the object and aim of this issue such as criminogenic factors and explanation of criminal offenses in traffic, detection of the scene, detection of the victim, fixation of the scene results, drawing and photographing of the scene etc. with emphasis on territory that is covered by the Municipal Court of Ferizaj.

The first chapter discusses: Social significance and legal protection of the public traffic safety, role of international organizations and international conventions in the field of traffic, international organizations in the field of traffic, the most popular international conventions in the field of road traffic, criminal-law overview of criminal offenses of road traffic safety in Albania, criminal-law overview of criminal offenses of road traffic safety in Kosovo, in different periods, to see the reaction of society against crime and the measures taken against the perpetrators of the offenses.

In the second chapter, we treat the development and general characteristics of criminal offenses against public traffic safety, notions, and legal regulations for criminal offenses of public traffic risk under the legal provisions of the law on road traffic safety of the Republic of Kosovo, Law No.02/L-70, offenses of endangering public traffic, Article 297 of the Criminal Code of Kosovo, offenses of endangering public traffic due to intoxication, Article 298 of CCK, Offenses of endangering public traffic by dangerous acts or means, Article 299 of CCK, unconscious supervision of public traffic, Article 300 of CCK, denial of aid to the injured person in disaster of public traffic, Article 301 of the Criminal Code of Kosovo, misuse of international telecommunication signals, Article 302 of the CCK. Analysis of these criminal offenses are made under the new Criminal Code and the criminal offenses under Article 378-383 of the new Criminal Code of Kosovo. In the third chapter, I have treated: Phenomenology, characteristics and

criminogenic factors of the criminal offenses, criminogenic causes of these criminal offenses, objective and subjective causes. The fourth chapter: Preparation, control, and preservation of the scene, control of the victim and vehicle, technical condition of the vehicle, examination of eyewitnesses and passengers, fixation and photography of the scene, and communication and doctor expertise. The fifth chapter: Criminal offenses of public traffic safety under the Criminal Code of Albania, Criminal offenses of public traffic safety under the Criminal Code of Macedonia, Criminal offenses of public traffic safety under the Criminal Code of Croatia, Criminal offenses of public traffic safety under the Criminal Code of Bosnia and Herzegovina.

At the end of the paper, besides the conclusion we have an appendix that contains a characteristic judgment where it has gone through all instances of judgment ranging from the Municipal Court of Ferizaj, then the District Court in Pristina and the Supreme Court of Kosovo.

We have provided a special chapter of these criminal offenses during the issuance of the Kosovo Provisional Criminal Code on 6 April and that with the XXVI Chapter, where the field of public traffic is regulated with legal provisions, and that Article 297 up to Article 302 of the Criminal Code of Kosovo. The new Criminal Code of the Republic of Kosovo approved by the Assembly of Kosovo on 20 April 2012 which enters into force on 1 January 2013, Code No. 04/L-82, given the importance of these criminal offenses there is the special chapter of these criminal offenses also with the XXXXI Chapter, that has regulated these criminal offenses with legal provisions of Article 378 to Article 383 of the Criminal Code of Kosovo.

Followingly, I will analyze all criminal offenses of Public Traffic under the new Criminal Code of Kosovo and making a separate overview to each of these criminal offenses. Likewise, we will present in tabular form also the holding court hearings and the judgments in the Municipal Court in Ferizaj for the period 2000-2010, thus reflecting some criminal offenses in this field and judgments imposed in the territory in Municipal Court in Ferizaj, which court had (unfortunately) very large number of these criminal offenses, even growing. The causes that have contributed to the continued growth of these offenses are many, but as such could be categorized into objective and subjective.

## CONCLUSION

The movement of public transport in general and especially that of road traffic represents a very important social, economic, and cultural area. With the help of this activity, the exchange of material and spiritual goods becomes potential, transfer of people and goods, as well as various news. Given the great importance of this activity in all developed countries, including the Albanian state, but also the Republic of Kosovo, this activity has great importance. In this regard, there have been issued a series of international conventions, but also great contribution give certain international organizations and associations.

The criminal offenses in the laws of the Albanian in the field of traffic are grouped in the section of offenses against public order and security. Republic of Kosovo with its Criminal Code has grouped these offenses in Chapter XXVI of the Criminal Code and nominates them as offenses against public traffic safety and that of Article 297 to Article 302 of the Criminal Code. Protection subject of these offenses is general safety of people and property, life, and physical integrity of individuals, and likewise the private and social wealth. Analysis of these crimes but also criminal responsibility of the perpetrators of these criminal offenses, but also their punishment affects greatly reduce and prevent these offenses. Given the features of these offenses justifies classifying these offenses as specific offenses.

In this study, we have the analysis of criminal offenses, their characteristics and phenomenology in the field of traffic. Special analysis are the criminal offenses deemed to judgments of the Municipal Court in Ferizaj in the 2000-2010, which shows that the number of crimes in this area steadily increased, although some are classified as a misdemeanor, and the rest as criminal offenses, where about 78.86% in the Ferizaj municipality were the criminal offense of endangering public traffic from article 297 of the Criminal Code and punitive policy has been with conditioned convictions about 33.12%, punishment by fine about 43.32%, while the other part with effective jail results with sentence of 4 months to 3 years.

Offenses in this field are performed by a variety of subjective and objective factors. As most often factors of such offenses are: technical vehicle condition, road condition, weather and climatic conditions, high density of traffic, regular traffic failing to curb, majeure force etc. The study

analyzed the subjective factors that influence the appearance of these crimes, they are closely linked to the personality of the human and its psycho-physical position as participants in traffic.

As a result of violation of traffic rules according to the analysis in this study with emphasis to subjective criminogenic factors are mainly: the consumption of alcoholic beverages (wine), disregard of the movement speed, inability to driving (lack of driver's license), wrong overtaking, driving recklessly, but also imprudence of citizens as participants in traffic, and drivers' illness with psycho-physical problems to be driving.

From the research in this field show that because of violation of traffic rules, there are caused numerous fatalities, serious injuries of individuals, and causing material damage on a large scale.

The police, prosecutors and courts have an important role in uncovering and punishing offenders, whereas the preventive role is by the family and school as well. Controlling of the scene, automated expertise, and forensic examination are of a particular importance for these offenses. Thus, we can conclude that the procedure bodies have been very efficient and professional for the detection and confirmation of the identity of the perpetrators of these criminal acts, but also their punishment.

In the Republic of Kosovo, but also in the Republic of Albania in this field there give importance to the preventive measures, given the importance and consequences of these offenses. These measures were of general character as a political, economic, social, legislative, and administrative.

Besides preventive measures in the municipality of Ferizaj there were criminal sanctions or penalties for the perpetrators of these criminal acts. From 2000-2010 there are approximately 33 cases imposed with sentence of imprisonment of four months up to three years. Suspended sentence on the territory of Ferizaj are total of 222 cases, while penalties of a fine for the period stated are with a total of 302 cases.

During 2000 to 2010, we can conclude that the punitive policy was soft, particularly penalties imposed on the perpetrators of these criminal offenses committed by negligence (which by number were many). This analysis on the territory of Ferizaj municipality clearly reflects that the sentences in most cases were conditional sentences, but a greater number of them were imposed with fine. According to this research, it appears that the consequences of these crimes when they were not serious injuries, mostly perpetrators of these crimes were sentenced to conditional sentence,

whereas when the material damages have been large, the perpetrators of these crimes were imposed with fines. When the consequences of these offenses have been fatal, the perpetrators of these crimes were mainly imposed with prison sentences.

## **APPENDIX**

In this appendix, there will be presented three characteristic judgments that are a result of the same case, which has gone through three instances. Firstly, this case is judged by the Municipal Court in Ferizaj as a court of first instance, then passed through the respondent's appeal to the District Court in Pristina, as the second instance and at the end to the Supreme Court of Kosovo as the court of third and last instance.