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**“ YELLOW HOUSES IN THE BALKANS – TRAFFICKING
IN HUMAN ORGANS AND TISSUE “**

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As wise Socrates once said – Scio me nihil scire, or, “I know that I know nothing”, I know that now I know a lot of information regarding the darkest things of humanity’s actions, such as war, organized crime and similar happenings from my closest environment. But, I still don’t know how and would I survived them, and would I, if they ever happen again. My thesis is an informational paper, containing a lot of names, events and history, but not the knowledge to suppress them, survive them or to permanently eradicate them. That knowledge comes in the minute of decision and lies in all of us humans, it comes with pure heart and a clear mind. So, be positive and try to do best for you, and you will for whole humanity. EVERY ACTION COUNTS.

Many thanks to all my teachers in life and teachers in life at the University of South East Europe for this opportunity and all I have learned thanks to them.

ABSTRACT

Trafficking in human beings, especially for the purpose of organ and tissue removing and the sole existence of trafficking, is a real and increasing problem of the 21st century. The slogan of capitalism that everything has a price has outreached its potential. Nowadays, even humans and their lives have a price tag. Human beings are bought and sold as a commodity. The criminals responsible for this massive violation of human rights and the rule of law are buying and selling human beings for different reasons, but the trafficking for the purpose of removing organs and tissue is clearly one of its most abhorrent forms. In spite of that fact, this form of trafficking has been relatively neglected and insufficiently researched.

Public awareness and improving the legal mechanisms are important for ending trafficking and slavery, but political will and the resources needed to protect and rehabilitate the victims are also necessary. Human trafficking and other forms of modern slavery are global problems that need to be stopped.

АПСТРАКТ

Трговијата со луѓе, особено заради отстранување на органи и ткива и самата појава на недозволената трговија воопшто, е реален, постоечки проблем кој е во пораст особено во 21 век. Слоганот на капитализмот дека се има своја цена, го надмина својот потенцијал. Во денешно време, дури и луѓето и нивните животи имаат своја цена. Човечките суштества се купуваат и продаваат како обична стока. Криминалците одговорни за ова масовно кршење на човековите права и воопшто, владеењето на правото, купуваат и продаваат човечки суштества од различни причини, но трговијата со луѓе со целотстранување на нивните органи и ткива со цел за нивно пресадување, е јасно и недвосмислено една од најстрашните појави на недозволената трговија денес. И покрај овој факт, овој вид на недозволена трговија е сеуште недоволно познат за јавноста и истражен. Јавната свест и подобрувањето на правните механизми се многу важни, од клучно значење за да се стави крај на трговијата со луѓе и модерното ропство, но исто така се неопходни и политичка волја и ресурси потребни за заштита и рехабилитација на жртвите. Трговијата со луѓе и другите форми на модерно ропство се глобални проблеми кои треба да бидат сопсени.

USED ABBREVIATIONS

UNCTOC - United Nations Convention against Transnational Organized Crime

UNODC – United Nation’s Office on Drugs and Crime

WHO – World Health Organization

ICMP – International Commission of Missing Persons

EULEX – European Union Rule of Law Mission in Kosovo

SFRY – Social Federal Republic of Yugoslavia

CoE – Council of Europe

OTC – Organs, Tissue and Cells

NCA – National Crime Agency

UNVTF – United Nation’s Voluntary Trust Fund for Victims of Trafficking in Persons

ESOT – the European Society for Organ Transplantation

TIP – Trafficking in Persons

SOM – Smuggling of Migrants

WCO – World Customs Organization

CEE – Central and Eastern Europe

CIS – Commonwealth of Independent States

KLA – Kosovo Liberation Army

NATO – North Atlantic Treaty Organization

KFOR – the Kosovo Force, led by NATO

UNMIK – United Nations Bread Administration Mission in Kosovo

ICTY - International Criminal Tribunal of Former Yugoslavia

FYROM – Former Yugoslav Republic of Macedonia

UDHR – Universal Declaration of Human Rights

KEYWORDS: *trafficking with organs and tissue, transplant tourism, organized crime, SEE, Kosovo, Yellow Houses, Medicus Case, organ removal, war crime, Hague, crimes against humanity, ethnic conflict, human rights,*

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INTRODUCTION

Trafficking in human beings, especially for the purpose of organ and tissue removing and the sole existence of trafficking, is a real and increasing problem of the 21st century. The slogan of capitalism that everything has a price has outreached its potential. Nowadays, even humans and their lives have a price tag. Human beings are bought and sold as a commodity. The criminals responsible for this massive violation of human rights and the rule of law are buying and selling human beings for different reasons, but the trafficking for the purpose of removing organs and tissue is clearly one of its most abhorrent forms. In spite of that fact, this form of trafficking has been relatively unknown and insufficiently researched. I'm afraid that what we were seeing in the movies and reading in the fictional crime stories and books, is slowly and silently approaching, and it seems to be a sad and terrifying reality all over the world. This phenomena exists for many reasons, but particularly because of extreme poverty and discrimination, as well as uneven distribution of capital and finance all over the world. In addition to the unequal distribution of wealth in the world, it is widely recognized that the main root cause of trafficking of organs and tissue and trafficking in human beings for the purpose of organ removal is shortage of organs for transplantation purposes. And, as every good in this world and this time, organs are sometimes even freely offered on the market by those who need finance to survive and keep their family alive and together. Slavery is a part of our history, but never disappeared; instead it has taken a different form (Institute for Trafficked, Exploited & Missing Persons [ITEMP], 2014). An increase in world population and global traveling, as well as rapid social and economic changes have made moving people around the world

easier, but have also changed slavery into a different form to human trafficking. Human trafficking is the modern day form of slavery and involves the movement of people by means of violence, deception or coercion for the purpose of forced labor, servitude or slavery like practices. Today, human trafficking is the third largest criminal industry in the world, after arms and drug dealing and it is growing fast (ITEMP, 2014).

Public awareness and improved legal mechanisms are important for ending trafficking and slavery, but political will and the resources needed to protect and rehabilitate the victims are also necessary. Human trafficking and other forms of slavery are global problems that need to be stopped.

CHAPTER I

1. Trafficking in organs and tissue – primary notion determination

Almost every country in the world is affected by trafficking, whether as a country of origin, transit or destination for victims. Victims are often recruited, transported or harboured by force, coercion or fraud in exploitative conditions, including sexual exploitation, forced labour or services, begging, criminal activities, or the removal of organs¹ It is a severe violation of individual freedom and dignity and a serious form of crime that often has implications which individual countries cannot effectively address on their own.

According to Charis (2013), although there is no consistent use of the definition amongst governments and organisations, it is generally agreed that at the heart of human trafficking is a process where human beings are treated as a commodity, being bought or sold for the purpose of exploitation.

1.1. Defining the notion of organ and tissue trafficking

The 2008 Declaration of Istanbul was the first document ever that has defined the term *“organ trafficking”*.

According to this declaration, organ trafficking is:

“the recruitment, transport, transfer, harboring or receipt of living or deceased persons or their organs by means of the threat or use of force or other forms of coercion, of abduction,

¹ European Commission, 2014

of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation."

But, like all other issues in the law-sphere, there is not a single document, or a single definition regarding the notion and the incrimination of the criminal activity.

According to the United Nations Office on Drugs and Crime², *"trafficking in persons is a serious and a grave violation of human rights"*.

According to World Health Organization (WHO), the most widely cited definition of human trafficking is incorporated in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ³ (UNCTOC).

The Article 3, paragraph (a) of the UNCTOC (2014) *defines Trafficking in Persons as " the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."*

This definition is by far, the most used definition in international agreements and debates, so it's one level above all the other notion determinations and conventions, declarations

² https://www.unodc.org/documents/AnnualReport2014/Annual_Report_2014_WEB.pdf

³ <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

and reports. So, in this paper, further on when I talk about organ trafficking and trafficking in persons, I will have this definition and notion determination in mind.

1.2. Incrimination of “organ and tissue trafficking”

In all modern, democratic and human-rights respecting societies, the question regarding the healthcare is becoming a question of a primary concern, and also, from many different aspects in the everyday human life and functioning society, such as financial aspects, as a basic factor on which the economic development and the quality of human life depends. The social interest in protecting the health and well-being of the population, on one hand, and the possibilities of that realization which modern medicine opens up, on the other hand, have led to a significant expansion of the legal regulations in this area.

The adoption of laws that process transplantation confirms the thesis that, the transplantation is raised at the level of physical management of the human death. In this way, transplantation ceased to be narrowly specialized exclusively medical question. It has become a serious social and cultural problem. The current legislation is provided by the Law on taking and transplanting parts of the human body for healing.

The actual realization of such wide involvement can not be atomized into smaller communities or left to the subjective will of the individuals. This is also the justification for the penal - legal intervention, expressed through the separation of special incriminations. The need for enhanced protection, including through penal legal norms, does not result solely from the awareness of the real values of this basic human well-being, but also, from

its exposure to ever-more difficult and more manageable risks, such as the ones the new age brings along with its development. ⁴

1.3. International conventions and agreements

The 2008 Declaration of Istanbul⁵ was the first document to define organ trafficking.

According to this declaration, organ trafficking is: *"the recruitment, transport, transfer, harboring or receipt of living or deceased persons or their organs by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation."*

The Declaration is promoted, implemented and upheld by the Declaration of Istanbul Custodian Group and endorsed by the World Health Organization (WHO).

Trafficking in organs is also defined in the new draft Council of Europe Convention against Trafficking in Human Organs. This convention⁶ was adopted beginning of 2014.

⁴ Davitkovski, B., Tupanchevski, N., Pavlova-Daneva, A., Deanoska-Trendafilova, Karadzinska-Bislimoska, J., Spasovski, M., Chakar, Z., Kjosevska, E., 2009, "Law and Public Health", Faculty of Law "Iustinianus Primus", Skopje

⁵ <http://files.sld.cu/trasplante/files/2010/08/declaracion-estambul.pdf>

⁶ <https://rm.coe.int/168008371d>

According to this new convention, trafficking in human organs is, when committed intentionally, any of the following activities:

- the removal of human organs from living or deceased donors where the removal is performed without the free, informed and specific consent of the living or deceased donor, or, in the case of the deceased donor, without the removal being authorised under its domestic law;
- the use of these organs for purposes of implantation or other purposes than implantation;
- the preparation, preservation, storage, transportation, transfer, receipt, import and export of these organs;
- aiding or abetting the commission of any of these criminal offences or the intentional attempt to commit any of these criminal offences;
- the solicitation and recruitment of an organ donor or a recipient, where carried out for financial gain or comparable advantage for the person soliciting or recruiting, or for a third party;

- the promising, offering or giving by any person, directly or indirectly, of any undue advantage to healthcare professionals, its public officials or persons who direct or work for private sector entities, in any capacity, with a view to having a removal or implantation of a human organ performed or facilitated, where such removal or implantation is illicit as defined above;
- the request or receipt by healthcare professionals, its public officials or persons who direct or work for private sector entities, in any capacity, of any undue advantage with a view to performing or facilitating the performance of a removal or implantation of a human organ, where such removal or implantation is illicit as defined above.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially woman and children (Trafficking in Persons Protocol) supplementing the United Countries Convention against Transnational Organized Crime (Organized Crime Convention) requires State parties, in article 5, to criminalize trafficking in people for organ trafficking as characterized in article 3. The Trafficking in Persons Protocol is the first ever worldwide legitimate instrument that gives a meaning of trafficking in people for the purposes of organ trafficking.

According to article 3(a) of the Trafficking in Persons Protocol, the definition of the incriminated deed is the following:

“Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. “

As it seems, we have three combined elements in this definition, constructing a specific and unique criminal deed. Those are:

<ul style="list-style-type: none"> • The act – WHAT is done. Here we mostly have the actions of the deed itself, like recruiting, transportation, transfer, harboring or receipt of people etc.;
<ul style="list-style-type: none"> • The means, or, organization – HOW it is done. The instruments that are mostly used by human traffickers are: <ul style="list-style-type: none"> - Threat - Use of force - Coercion - Abduction - Fraud - Abuse of power or position of vulnerability - Deception - Giving or receiving payments or other benefits to achieve the consent of a person in control of the victim
<ul style="list-style-type: none"> • The purpose – WHY it is done. This element is the one that doesn’t have so many different varieties in each case, because mostly, the means of human trafficking for organ removal is the purpose of exploitation, including the removal of organs.

Table 1: Features of the criminal deed “trafficking in persons”

According to the Trafficking in Persons Protocol, all three elements must be included to constitute the deed 'trafficking in people'. The only special case of exclusion is the

situation of trafficking in children, while, as article 3(c) of the said Protocol states, the 'act' and 'purpose' components are sufficient to be present to state the crime of human trafficking, and no 'means' should be included.

The definition contained in article 3 of the Trafficking in Persons Protocol is meant to provide consistency and consensus around the world on the phenomenon of trafficking in persons (UNODC, 2014). According to UNODC (2014) article 5 requires that the conduct set out in article 3 be criminalized in domestic legislation, which from its side does not need to follow the language of the Trafficking in Persons Protocol precisely, but should be adapted in accordance with domestic legal systems to give effect to the concepts contained in the Protocol. Another recommendation in this regard came from the When transposing the Directive into national legislation, Member States are encouraged to define human trafficking as a violation of human rights and a crime (European Parliament and the Council of Europe, 2011).

The Trafficking in Persons Protocol is the first ever document to speak about the incrimination of this deed, but not the only one. Trafficking in persons for organ removal is also defined and prohibited in other international and regional instruments, in the continental law system, such as ours. I would mention the following:

- **The Council of Europe (CoE) Convention on action against trafficking in human beings.** This Convention applies the definition of trafficking in persons as laid down in the UN Trafficking in Persons Protocol and seeks forward to strengthen the protection guaranteed by the Protocol and other international instruments. The treaty is open for signature by the 47 CoE Member States, the non-member

States that have participated in its elaboration, and by the European Union, as well as for accession by other non-member States.

- **The Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims.**⁷

The terms *organ trafficking or trafficking in organs* and *trafficking in persons for organ removal* are very usually used reciprocally. However, in reality, the situation is not quite the same. Trafficking in persons for organ removal does not beset the term trafficking in organs/organ trafficking. To avoid further misconception, in 2008, the Council of Europe and the United Nations agreed to prepare a “Joint Study on trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs”. The study was published the next year, in 2009 and distinguished various issues identified with the trafficking in human organs, tissues and cells, which merited further consideration.

The most relevant conclusion in the Joint Study⁸ was the fact that trafficking in organs and trafficking in persons for organ removal are **different crimes**, though frequently confused in public debate and among the legal and scientific communities. In the case of trafficking in organs, the object of the crime is the organ, whereas in the case of human trafficking for organ removal, **the object of the crime** is the person. Trafficking in organs may have its origin in cases of human trafficking for organ removal, but organ trafficking will also frequently occur with no link to a case of human trafficking. The mixing up of these two phenomena could hinder efforts to combat both phenomena and provide comprehensive

⁷ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

⁸ https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/osce_organ_removal_0.pdf

victim protection and assistance. There was, however, no single definition of trafficking in organs that had achieved international consensus, even though such consensus was essential to combat the practice. Furthermore, none of the current worldwide legitimate instruments tended to the consensual removal of organs for monetary benefit and financial gains.

The report distinguished a need to build up a devoted universal legitimate and legal tool, which builds on an agreed upon definition of trafficking in organs includes provisions for the criminalization of this practice, along with provisions targeted to its prevention, and to the victim protection and assistance.

That being stated, the Committee of Ministers of the Council of Europe (CoE) has established an ad-hoc Committee of Experts on Trafficking in Human Organs, Tissues and Cells and entrusted it with the elaboration of a draft criminal law tradition against trafficking in human organs and tissue. After a total of four meetings which were held by the ad-hoc Committee, a draft Convention against Trafficking in Human Organs was adopted. The draft content of the Convention was concluded by the European Committee on Crime Issues in December 2012. **The Council of Europe Convention against Trafficking in Human Organs⁹** was inevitably adopted by the Committee of Ministers in Strasbourg, on 9 July 2014. So far, the Council of Europe Convention against Trafficking in Human Organs is the main *worldwide treaty* that particularly manages trafficking in human organs, looking forward to counteract and battle trafficking in human organs, to ensure the privileges of casualties and to encourage co-activity at both national and international levels.

⁹ <https://rm.coe.int/16806dca3a>

According to the Convention, an intentionally committed activity can be defined as “trafficking in human organs” when:

<ul style="list-style-type: none"> • The illicit removal of organs: <ul style="list-style-type: none"> - removal without the free, informed and specific consent of the living donor, or, in the case of the deceased donor, without the removal being authorized under its domestic law, OR - where in exchange for the removal of organs, the living donor, or a third party, has been offered or has received a financial gain or comparable advantage, OR - where in exchange for the removal of organs from a deceased donor, a third party has been offered or has received a financial gain or comparable advantage.
<ul style="list-style-type: none"> • The use of illicitly removed organs;
<ul style="list-style-type: none"> • The illicit solicitation or recruitment (of organ donors or recipients), or the offering and requesting of undue advantages;
<ul style="list-style-type: none"> • The preparation, preservation, storage, transportation, transfer, receipt, 19 import and export of illicitly removed human organs;
<ul style="list-style-type: none"> • Aiding or abetting and attempt.

Table 2: the deed “trafficking in human organs”, defined by the Convention against Trafficking in Human Organs

1.4. Trafficking in organs and tissue in domestic legislation

After the dissolution of the former SFRY, the wars that came along with that process, caused great exodus from all former republics in Yugoslavia's premises, towards abroad. In this context of circumstances, the Republic of Macedonia, however, remained relatively a peaceful area, that was favorable for escaped migrants from other countries, where they could peacefully be staying and living. Thus, the Republic of Macedonia experienced the

Bosnian exodus with a great influx of refugees, furthermore, experienced the Kosovo exodus and the several hundred thousand refugees that came along. The Republic of Macedonia suffered the dissolution of the Republic of Albania, which also brought us a large number of refugees. Such circumstances contributed to the Republic of Macedonia becoming a transitory area, or, area which heavy crimes, among which even human trafficking was committed, also organ trafficking, weapon trafficking, drug smuggling, cigarettes trafficking etc.¹⁰ Also, in this context is the subject of my thesis – trafficking in human organs and tissue, which recently, has also been listed as one of the crimes common for this area.

The legislation in our country was obtained with the adoption of the Law on Ratification of the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (adopted on 04.06.1997 in Oviedo) with the Additional Protocol for the Prohibition of Cloning of human beings (adopted on 12.01.1998 in Paris) and the Additional Protocol for the Transplantation of organs and tissues of human origin (24.01.2002 in Strasbourg, within the Council of Europe).

Organ trafficking in our penalty law legislation is not incriminated as in particular a criminal act, a distinctive criminal act, but in some way, by being contained in the *Law on taking and transplanting parts of the human body for health treatment*, but is also elaborated through criminal offenses of “*trafficking in human beings*” and “*inadmissible transplantation of parts of the human body*”.

¹⁰ Arnaudovski, Lj., Stojanovski, T., 2002, “*Human trafficking – criminality*”, Scanpoint, Skopje, pp. 77-78

As we can see from the section on the law incrimination of the act of trafficking in human beings, organ trafficking is inserted into incrimination as human trafficking and inadmissible transplantation of human body parts, or otherwise, the deprivation of human organs and parts of the body. Defined in this way, human organ trafficking is a form of exploitation of persons who have been recruited for these reasons, and as a consequence of recruitment, they remain without their organs, and mostly, in the end, even without their lives.

According to the Penalty Code¹¹ as we have seen previously, trafficking in human beings is the *“recruitment, transporting, transferring, buying, selling, sheltering or accepting persons for exploitation by means of prostitution or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced fertilization, illegal adoption or a similar relationship or inadmissible transplantation of parts of the human body, all with the use of force, serious threat and misconduct or other forms of coercion, abduction, fraud, abuse of their position or condition of pregnancy, powerlessness or physical or mental incapacity of another, or by giving or receiving money or another benefit for obtaining consent of a person who has control over another person or another way “*.

Unauthorized transplantation of parts of the human body, or otherwise well-established in the professional literature as *“inadmissible seizure of human organs and parts of the body*

¹¹ Penalty Code of the Republic of Macedonia", "Official Gazette of the Republic of Macedonia" Macedonia ", no. 37/96, Article 418-a, st.1

”¹², involves “unlawful seizure, offering a sale, sale or purchase of human organs or tissues, or their replacement for other material benefit”. ¹³

As we can see from the given incrimination, the nature and the type

of matter that is subtracted from the human body, subject to trade can be:

human organs and / or parts of the human body. However, the current legal solutions do not quite distinguish between *“parts of the body”* and *“human organs”*, or parts of its body, would mean that organs, tissues and cells that represent a functional whole, which are kept under special conditions that prevent their qualitative change. This crime is incriminated by the Penalty Code of the Republic of Macedonia, in the chapter twenty-first, entitled: *“Crimes against human health”* and is an addition to the new transposition legislation in the field of organ transplantation and tissues of human origin.

An **object of protection** of this crime is the health of the people. Namely, this is a *constitutional category*. Thus, the Constitution of the Republic of Macedonia proclaims *the right to health care* that applies equally to every person: *“Every citizen is guaranteed the right to health care. The citizen has the right and the duty to keep and improve his / her health and the health of others”*. With The Penalty Code, what is being prohibited and sanctioned is the inadmissible transplantation of parts of the human body, trafficking in human beings due to inadmissible transplantation of parts of the human body parts and trade with a minor because of inadmissible transplantation of the human body. The

¹² Article 210 of the Penalty Code of Republic of Macedonia

¹³ Mijalkovikj, S., 2007, *“Trafficking in human organs and parts of the body”*, Law Life – Magazine of law theory and practice, no.9, Law Association of Serbia, Belgrade, pp.109-126

perpetrator is a doctor, therefore the work is a **delictum proprium**. Although, this is not explicitly stated in the legal description, however, this arises from the legal dictum according to which the transplantation should be carried out contrary to the medical profession or science, and the rules of that profession or science bind only the doctor.¹⁴ This deed, would not be a crime, if we have consent on the side of the donor. In this case, the **consent** should be emphasized, which should be clear and unambiguous, given before commencing any medical intervention. The existence of the deed is not excluded if there is only a presumed consent. The form of consent is not important. This incrimination protects the so-called “golden standard” of the medical procedures, in this case, the transplantation, that is, consent, which according to the law should be “*pronounced, clear and free.*”¹⁵

Trafficking in organs as part of trafficking in human beings, inserted into *criminal offenses against humanity* and international law, is based on the protection of the attack on the existence and the progressive and rapid development of the nations, as well as the protection of the actions taken against fundamental freedoms and human rights, such as the right of life, the right of bodily integrity and other basic values. Such a legal solution is due to the fact that acts of trafficking are considered sufficiently severe and can be qualified as crimes against humanity.

Republic of Macedonia also has an incrimination about the trafficking in children organs, within the crime “**trafficking in minors**”, where “the activities of recruiting, transporting,

¹⁴ Kambovski, V., 1997, “Penalty law – distinctive part”, Prosvetno Delo, Skopje, pp. 262

¹⁵ Deanoska, A., 2006, “Illegal transplantation and trafficking in human organs and tissue”, First private University, FON, Faculty of Law, Skopje, pp. 151

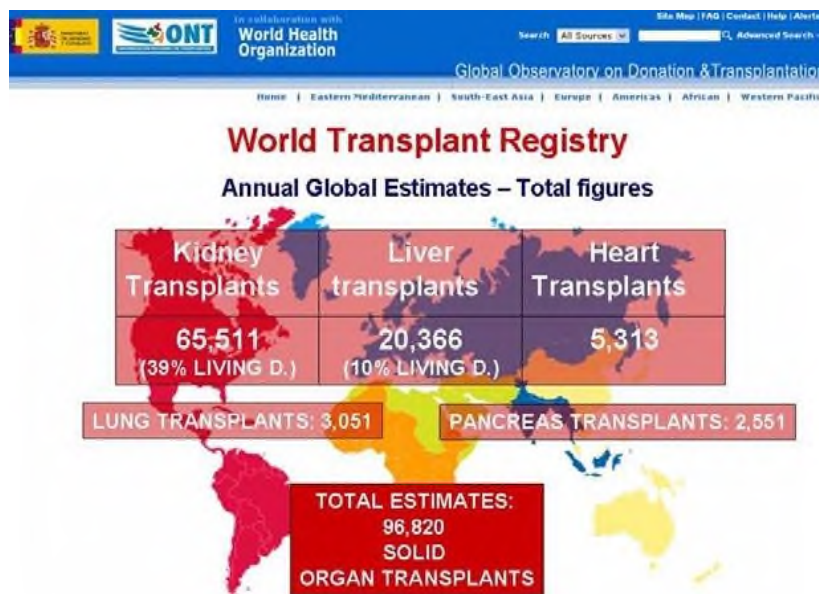
transferring, buying, selling, sheltering or accepting a minor for the purpose of exploitation by means of prostitution or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced fertilization, illegal adoption or a similar relationship or inadmissible transplantation of parts of the human body “.¹⁶

CHAPTER II

¹⁶ Article 481, p.G, Penalty Code of Republic of Macedonia

2. Historical genesis and factors affecting the organ and tissue trafficking

Since the first successful kidney transplantation back in the 1954 in Boston at the Birmingham Hospital¹⁷, organ transplantation has developed into a well – established clinical therapy that saves lives and improves the quality of the life of thousands of patients every year. Nowadays, liver, heart and lung transplantation represents a unique therapeutic approach for patients that have organ failure. The consolidation of organ transplantation is clearly demonstrated by the large number of procedures performed every year. According to data provided by the Global Observatory on Donation and Transplantation¹⁸, almost 100 000 patients worldwide receive a solid organ transplant every year.



¹⁷ Merrill JP, Murray JE, Harrison JH, Guild WR. Successful homotransplantation of the human kidney between identical twins, J Am Med Association 1956, 160(4): 277 - 282

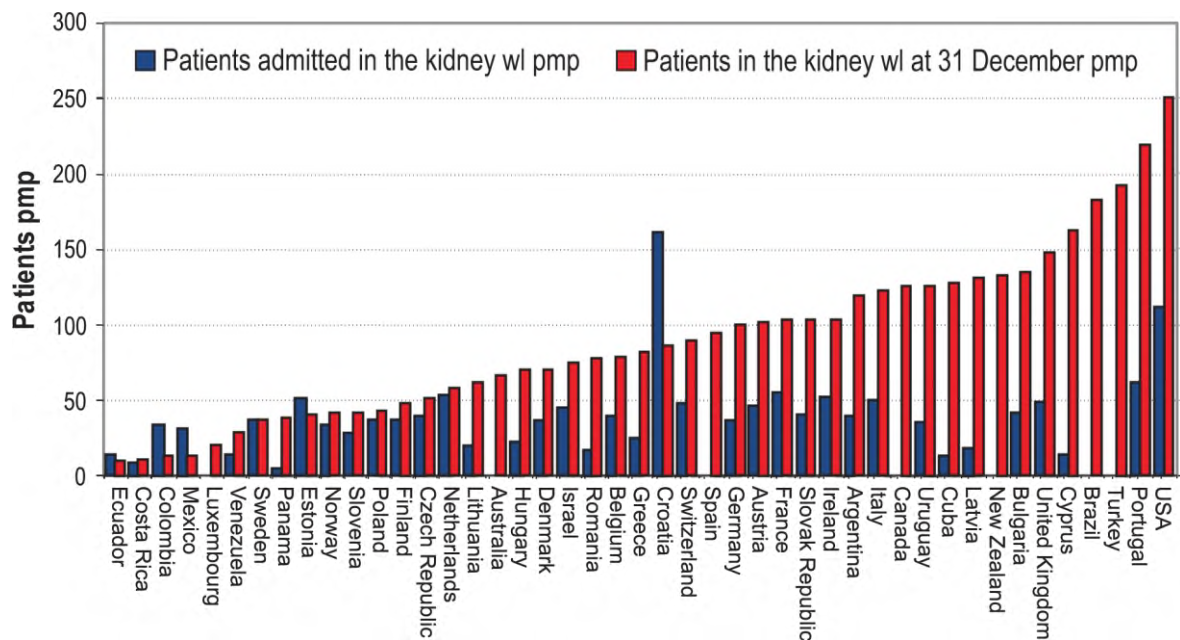
¹⁸ Global Observatory on Donation and Transplantation, <https://www.transplant-observatory.org/default.aspx>

Picture 1: Estimates of the number of solid organ transplants performed annually worldwide, according to the Global Observatory of Donation and Transplantation

Continuing with the historical facts analysis, the description of brain death back in 1959¹⁹ and the wide scientific and legal acceptance of its diagnostic criteria resulted in brain-dead donors gradually becoming the main source of solid organs transplants in subsequent years, at least in the ore developed countries. In many countries, however, cultural, socio-economic and healthcare structural factors have prevented the development or consolidation of deceased donation activity. For example, there seems to be a significant link between the Human Development Index (HDI) and deceased donation activity in terms of donors per million population, suggesting that there is a minimum degree of development below which having a consolidated deceased donation programme is highly complex. Although many problems still have to be resolved in the field of organ transplantation, the main challenge remains organ shortage, which is increasing every year. In addition, as their skills increase, transplant teams are willing to accept far sicker patients than were put on waiting lists only twenty years ago. Third, as populations age in the developed world, more and more people find themselves afflicted with diseases that lead to organ failure. Fourth, changes in diet and lifestyle are causing significant increases in the incidence of diseases such as diabetes and coronary vessel disease which lead to organ failure and, thus, the need for more transplants. And, lastly, people who have received transplants are living longer but, as a result, they increasingly require retransplantation. The most serious consequence of the shortage of organs to meet the demand for

¹⁹ Mollaret P, Goulon M. *Le coma dépassé* (preliminary memoir). Rev Neurol (Paris) 1959 Jul; 101: 3-15.

transplantation is the fact that many patients will never be placed on the waiting list. There are clear variations in the figures for transplantation throughout the world.



Picture 2: Number of patients pmp placed on the waiting list (blue bars) and on the waiting list at the end of the year (red bars) for a kidney transplant in several countries of the world in 2007. Source: Council of Europe. Newsletter Transplant

These differences largely depend on variations in the prevalence and incidence of end-stage organ diseases throughout the world and the existence of basic infrastructure in the countries for the actual performance of transplantation. However, they may also be explained by variability in the flexibility of inclusion criteria, largely due to the problem of shortage of organs for transplantation, as already pointed out. For patients on the lists, organ shortage results in longer waiting times, meaning patients may deteriorate or even die while waiting for an organ. These deaths are especially tragic, as many could be

prevented if there were more organs available to transplant. Since there are not, hard choices have to be made about who will live and who will die. Lastly, the desperation of patients waiting for transplants leads to another tragic consequence, namely trafficking in OTC (off-exchange trading) and the most terrible form of trafficking in this regard, trafficking in human beings for the purpose of organ removal. Organ transplantation exists in a world of extreme economic disparity. There are also huge inequities in the access which people throughout the world have to transplantation services. For a variety of reasons, many countries have also not engaged in policies that would enable them to become selfsufficient in terms of the supply of OTC for medical purposes. The great scarcity affecting the supply of organs and the growing demand for organs and tissues as medicine advances produce circumstances in which trafficking in human beings to obtain organs, organ trafficking and what is sometimes referred to as transplant “tourism” can flourish. These circumstances also encourage trafficking since the rich can shorten the time they have to wait for a transplant by exploiting the disadvantages faced by the very poor. Lack of organs as an immediate solution for patients in need leads them to search for alternative solutions and cut corners in order to secure a transplant. Criminal groups take advantage of this desperation which is added to that stemming from poverty and misery in many areas of the world. All these factors provide the basis for the development of these practices as a modern horror added to the endless list of tragic disasters affecting the whole world.

2.1. The occurrence of the trafficking in organs and tissue

The human trafficking as a modern form of slavery has been a global concern since the mid-nineteenth century as highlighted by William Wilberforce in his quest for the abolition of the slave trade (Kempadoo, Sanghera, Pattanaik, 2005). Since then it has been classified by political leaders along with terrorism and drug trafficking, as one of the three 'evils' that haunt the globe human trafficking and slavery date back to the ancient Egyptians, more than 3000 BC (Kempadoo et al., 2005). Trafficking also occurs in several ways. Sometimes, organ donors themselves are moved from their place of residence to another country where their kidney (or, less frequently, a portion from their kidney) is removed and transplanted into a waiting patient. Thus, for decades, patients from Europe and the Middle East have travelled to Turkey, and in the past decade, even to the former Republic of Yugoslavia, where unemployed people from countries in South-East Europe, such as Moldova and Romania, who had been lured with the promise of a job, become their kidney suppliers.

Similar activities led to young Brazilians being the source of kidney transplanted to foreign patients in South African Hospital in the early years of this century.²⁰

More commonly, some hospitals and clinics in low-income countries whose laws against selling organs are weak or not well enforced, such as Egypt, Pakistan, India, Sri Lanka and the Philippines have even used the Internet to offer transplants including not

²⁰ Shimazono, Y., 2007, *The state of the International Organ Trade: A provisional picture based on integration of available information*, Bulletin of The World Health Organization, pp.85

only the surgery, but also, the organ as well. In these commercial transplant “hotspots”²¹, brokers usually recruits financially desperate and poorly informed persons from the slums to supply kidneys and other organs for “transplant tourists” from wealthy countries who could pay, for example, 70.000 USD to 160.000 USD for “renal transplant package”²². Also, because of the poor connections status and low finances, the donors could not really do anything to prevent this, and on the other side, the people from which the organs are harvested are mostly un-informed and un-educated people, who rarely know how to read, not to talk about knowing their basic human rights and potential violations. Thus, cases where, after the removal of the organ and the end of the transplantation process, many donors don’t even get their money for exchange of the organ they “voluntarily” gave.²³

²¹ Dannovitch, G. M., Chapman J., Capron A. M., Levin A., Abbud-Filho, M., Al Mousawi, M., Delmonico, F. L. (2013) *Organ Trafficking and Transplant Tourism: The role of global professional ethical standards – The 2008 Declaration of Istanbul, Transplantation*, pp.95, 1306-1312

²² Shimazono, Y., 2007, *The state of the International Organ Trade: A provisional picture based on integration of available information*, Bulletin of The World Health Organization, pp.955 - 960

²³ Gnosh, D., (2014, July 23). *Kidney trade thrives in Bengal. The times of India*

2.2 Criminogenic factors that influence the occurrence of the criminal deed

“trafficking in organs and tissue”

Trafficking can be linked to four broad categories of exploitation: Sexual exploitation; forced labour; domestic servitude and organ harvesting. Sexual exploitation, involves abusive sexual acts that are performed without the victims consent and can include, but is not limited to **prostitution, pornography and escort work** (National Crime Agency, NCA, 2014). Victims include those who have been deceived with the promise of a better life, which then become controlled through violence and abuse²⁴. According to Grant (2012) critics argue that trafficking is not just about sexual exploitation, and that feminist and faith groups who define trafficking as forced sex work make it difficult for victims of forced labour who are often ignored as trafficking victims. Victims of **forced labour** usually consist of large numbers of individuals housed in single dwellings that are used in the manufacturing, farming, entertainment and travel industries, as well as for prostitution and sexual exploitation. Victims of **domestic servitude** can be forced to work in private households, their movement is restricted and they are forced to perform household tasks.

According to Charis (2013), even though each case of domestic violence is very specific each case involving trafficking carries its own set of causes and effects:

²⁴ https://www.unodc.org/res/human-trafficking/UNVTF_2nd_Grant_Cycle_Achievements.pdf

- the *socio-economic factors* comprise: **poverty; lack of education; lack of employment, lack of resources and opportunities**²⁵;
- The *social factors* include: **attitudes to gender and the demand for prostitution**;
- The *political factors* incorporate: **government corruption; political instability; organized criminal entrepreneurship; poor law enforcement; weak education campaigns**;
- *National and international legal regimes factors* include **economic pressures and economic deprivation**;
- Environmental factors involve population pressure

Other factors include the effect of globalization, situations of economic²⁶.

One of the key factors that let the criminal networks gain so much profit and give them a very wide range of action, is the massive presence of corruption in the institutions of Kosovo. Corruption is a profoundly radicalized phenomenon in every level of the State Apparatus and it is engaged by most of politicians, police functionaries, and also common civilians who, living in difficult conditions, are most likely willing to exploit corruption for better life conditions²⁷. The situation seems to be totally out of control and, as stated in an interview in the International Crisis Group by Blerim Reka, Ambassador of the Republic of

²⁵ Trafficking in humans: Social, Cultural and Political Dimensions, Sally Kameron and Edward Newman, United Nations University Press, February, 2008

²⁶ Kevin Bales, What Predicts Human Trafficking, 2011

²⁷ Kramer H., Džihic V., „*Die Kosovo Bilanz. Scheitert die internationale Gemeinschaft?*“, 2005. *Kosovo: toward final status*, Europe Report n. 161, 24. Jänner 2005, International Crisis Group, <http://reliefweb.int/sites/reliefweb.int/files/resources/B54ABFA2910AB31649256F9300079D8C-icg-scg-24jan.pdf>, viewed on 02.03.2012.

Macedonia at the UN: "Kosovo is a Colombia in Europe, and an El Dorado for the organized crime."¹

The aim of the network is of course the economic power and the control over the area. By controlling the illegal economy, the networks damage the State with an untaxed GDP of around 30% of the entire national GDP, and keep control over the economical investments in the country²⁸.

Putting the situation in this way, trafficking in human beings gives us the task of explaining the etymological basis of human organs trafficking and parts of a body that is composed of the economic laws of supply and demand whose action is based on four factors²⁹:

1. **The fact that** the widespread use of human organs and parts of the human body can be used directly for transplantation in the pharmaceutical industry, the cosmetic industry, the lab's research objectives, and various types of safety tests. "Crash" tests;
2. **The fact that** everyone can be a donor of a human organ or part of the body. Each individual is a potential donor of 25 different organs and tissues that can be used for transplantation;
3. **"Great demand" for human organs**, above all by those people whose problems can not be resolved without transplant; and
4. **The "small offer"**, that is, the limited possibilities of legal transplantation that can not meet the demand. Namely, it is assumed that every thirteen minutes a person dies in the world due to a failure to perform a transplant.

²⁸ "Survey on the extent and prevention of the illegal economy and money laundering in Kosovo", UNMIK, http://www.eulex-kosovo.eu/training/police/PoliceTraining/ORGANIZED_CRIME/DOCUMENTS/2.pdf, viewed on 15.03.2012, P.34

²⁹ Tomashich, L., 2003, "human organs trafficking", Authonumus Author issue, Zemun

In the constellation of these factors, as well as many others, such as the crisis or powerlessness of the security system, it creates free space for the establishment and development of the black market for human organs and body parts as a regulatory factor for equalizing the permanent supply and demand.³⁰

2.2.1. Poverty as a factor of particular importance for the trafficking in organs and tissue

Poverty is the state for the majority of the world's people and nations. Why is this? Is it enough to blame poor people for their own predicament?

Behind the increasing interconnectedness promised by globalization are global decisions, policies, and practices. These are typically influenced, driven, or formulated by the rich and powerful. These can be leaders of rich countries or other global actors such as multinational corporations, institutions, and influential people. The poorest people will also have less access to health, education and other services. Problems of hunger, malnutrition and disease afflict the poorest in society. The poorest are also typically marginalized from society and have little representation or voice in public and political debates, making it even harder to escape poverty.

³⁰ Mijalkovikj, S., Miloshevska, T., 2009, *"Trends in illegal trafficking in children, infants and human organs – a new challenge to the system of national security"*



Picture 3: selling organs for survival, Punjab, Pakistan³¹

By contrast, the wealthier you are, the more likely you are to benefit from economic or political policies. The amount the world spends on military, financial bailouts and other areas that benefit the wealthy, compared to the amount spent to address the daily crisis of poverty and related problems are often staggering.

Organ brokers interested in trafficking in organs and tissue find communities where individuals have little, or to say, no opportunity to escape and overcome poverty. That's why victims of organ trafficking mostly come from financially poor and undeveloped countries. The organ brokers approach individuals that appear relatively healthy and are willing to sell their kidneys, lungs, livers or in some cases, even their hearts for money and financial gain. The medical procedures that are performed in these cases are somewhere around, but NOT in hospitals, though most of them are performed by true professional doctors. Despite the risk of infection, a lack of qualified medical staff executing the organ

³¹ <https://scroll.in/article/850288/selling-kidneys-for-money-in-pakistans-punjab-the-organ-trade-business-is-cashing-in-on-debt>

extraction and a lack of follow – up treatment, poverty stricken individuals sell their organs for silly prices. Often, there are waiting lists of sellers willing and ready to sell their organs. For those living in extreme poverty, economic opportunities are scarce and they are at the mercy of several disadvantages, such as little to no access to health care, education and other important civil and human services. The poorest individuals in the society and communities are often marginalized from society and have little to no representation or voice. These factors make it even harder to escape poverty and overcome the financial instability. A black market has developed in many poorer countries. Allowing and enabling those who are wealthy enough to buy organs and so exploit those who are desperate enough to sell them. It is also the case that people will travel to other countries to buy organs³² that they can't find at home. Globalism, combined with supply and demand economics means that developed countries, which demand more organs that can be domestically supplied, seek out donors in developing or undeveloped nations, to provide organs and meet their demands, mostly – illegally.

Organ trafficking statistics indicate that organ trafficking is on the rise globally, in tandem with the number of transplant surgeries.

According to a report³³ produced by the United Nations, "Trafficking in organs is a crime that occurs in **three broad categories**." Organs which are commonly traded are kidneys and the liver. In the first category of criminal organ trade, traffickers force or deceive victims into giving up an organ. In the second category, victims formally or informally agree to sell an organ and are cheated because they are not paid for the organ

³² This phenomenon is called "*transplant tourism*"

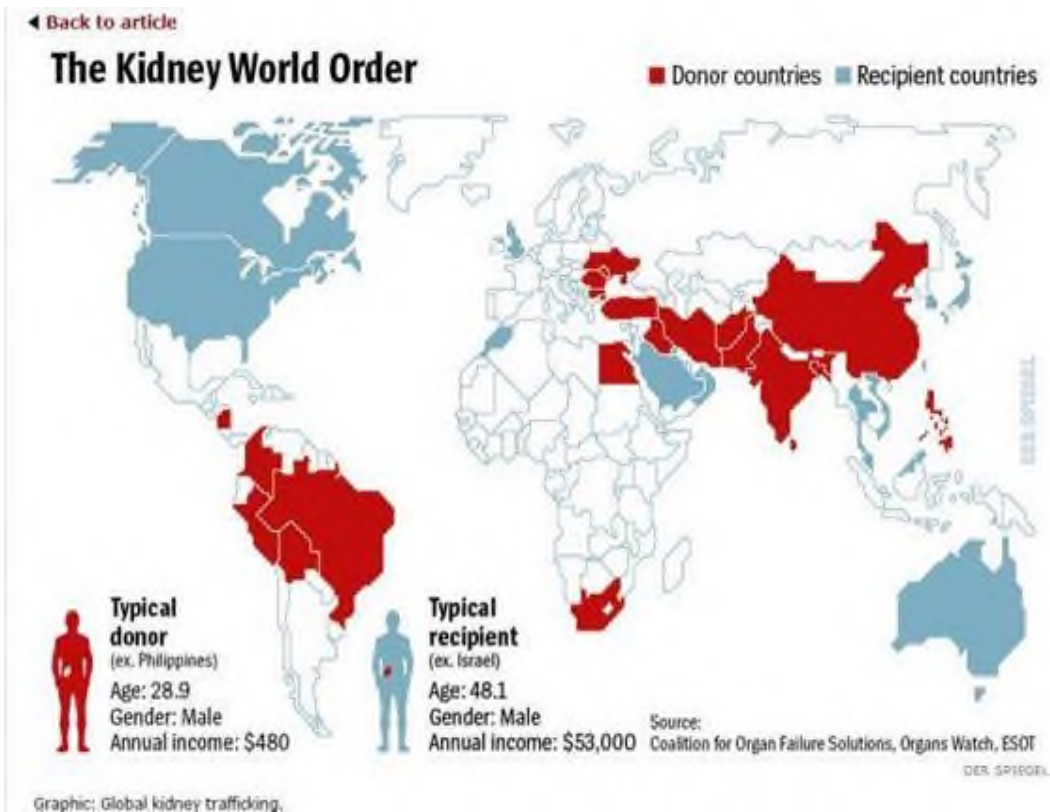
³³ <http://www.ungift.org/>

or are paid less than the promised price. And in the third category, vulnerable people, including as migrants workers, the homeless, or the illiterate, are treated for an ailment which may not even exist and then their organs are removed without their knowledge.

In the United States, 4,000 people who need kidney transplants die each year. As of 2013, 121,272 Americans waited for an organ. It is estimated that 28,954 people received an organ and 14,257 others donated organs. Based upon these factors, unless some of these donors had given up two or more organs, half of the recipients must have obtained their organs illegally. Low rates of donation present limited options other than the black market.

Another research indicates that people who go overseas for organ transplants have an increased risk of injury, organ failure and death.

Over 114,000 organ transplants are done annually in over 100 countries around the world.



Picture 4 : Organ recipients vs. organ donors and their financial status

Let's just take a look at the following examples, given as a comparative example for analysing.

- Multiple instances of illegal organ trades in Iraq have made the news recently. Since over 22% of the Iraqi population lives in poverty, families sometimes take desperate measures to make money. In Iraq, gangs offer up to \$10,000 for a kidney on the black market. In Iraq, it is only legal to donate organs to relatives, but illegal traders find ways (ie forging documents or signatures) around this rule. A surgeon³⁴ in Baghdad explains that healthcare workers are not held responsible for illegal donations because "... in

³⁴ <https://borgenproject.org/poverty-in-iraq/>

some cases, we have doubts, but this is not enough to stop the surgery because, without it, people will die.”

An Iraqi human rights lawyer³⁵ feels sympathy for those who turn to selling organs saying, “Picture this scenario: an unemployed father who does not have any source of income to cater for his children. He sacrifices himself. I consider him a victim and I have to defend him.”

Illegal organ trading is also prevalent in Bangladesh, where many poor citizens are faced with repaying loans from non-governmental organizations that they cannot afford. Some individuals grow tired of dodging debt collectors and see the organ black market as their only option.

A University of Michigan anthropology professor³⁶ explains that these exchanges are often done under sub-par conditions. “There is no safeguard as to where the organs are coming from and how safe they are, and on the other hand, the seller’s health deteriorates after the operation. That has a huge impact on their earning capacity because they cannot go back to their old physically demanding jobs.” Unfortunately, due to the economic exploitation of global poverty, organ trafficking continues to exist in even larger scales.

³⁵ <https://www.bbc.com/news/world-middle-east-36083800>

³⁶ <https://www.bbc.com/news/world-asia-24128096>

2.3. Statistical analysis and top facts about organ and tissue trafficking worldwide

However, in practice, it is not always clear when someone has been trafficked. For instance, individuals who sell an organ but do not clearly satisfy **all three elements** required to establish the offence of 'trafficking in persons' are unlikely to be recognized as victims of trafficking.³⁷ This might explain why there have been relatively few cases concerning trafficking in persons for organ removal to appear at the judicial level. Moreover, in the majority of states where it is a criminal offence to buy or sell an organ (Iran being the exception), organ sellers who do not identify as trafficked victims are liable for prosecution. Hence, individuals who have been exploited for their organs are unlikely to report any instances of abuse that they may have experienced as a consequence of their involvement in organ markets, making it difficult to determine the actual nature and extent of organ trading. Based on these facts, we can say that there is a dark and grey area in the occurrence of this crime and even if there are numbers presented, they're not complete and the results based on that data is irrelevant for this research. So, instead of that, I will present facts that are based on data accessible, relevant and valid at this point.

- 1) Organ trafficking accounts for 5% – 10% of ALL kidney transplants worldwide.

³⁷ Campana, P. and Varese, F., 2016, *Exploitation in Human Trafficking and Smuggling*, European Journal on Criminal Policy and Research, pp.89-105

Picture 5: Prices for organs in different parts of the world

- 4) According to Organ Failure Solutions³⁹ , Organs Watch and ESOT⁴⁰, the typical organ donor is a male of about 28 years old with an annual income of 480\$, while the typical recipient is a male of about 48 years old, with an annual income of 53,000\$.
- 5) Those who choose to go through an illegal organ transplant face great dangers as the organs are NOT guaranteed to work and many of them, in fact, fail after the operation.
- 6) Organs are used for other purposes – NOT just transplants! For an example, there is a demand for illicit experimentations from unethical scientists and even parts like the genitals are used in those experiments.
- 7) According to the Department of Health and Human Services⁴¹, every month, more than 2 000 new names are added to the national waiting list, which had 120 675 patients as of publication.
- 8) About 18 people die everyday while waiting for an organ transplant in the United States.⁴²

³⁹ <http://cofs.org/home/>

⁴⁰ <https://www.esot.org/>

⁴¹ <https://www.hhs.gov/>

⁴² <https://www.organdonor.gov/statistics-stories/statistics.html>

- 9) Many doctors say that, since demand is so high and waiting time from organs to cadavers so long, organ sales should be legalized, but at the same time, tightly regulated.
- 10) According to an evidence collected by the worldwide network of doctors, traffickers are cashing in on rising international demand for replacement kidneys driven on by the increase in diabetes and other diseases.
- 11) In spite of the risks and exploitation associated with organ trafficking, 70% of the victims see the situation as a chance to save someone's life at the same time at the need of money.
- 12) People from poor and undeveloped countries usually become victims of body snatching or involuntary organ donation.
- 13) Sadly, human trafficking for organs is still generally seen as a VICTIMLESS CRIME that benefits some very sick people at the expense of other, more invisible – or at least dispensable – people.
- 14) The organ trafficking trade involves a network of human traffickers involving mobile surgeons, brokers, patients and sellers.
- 15) Network sites of illicit transplant have expanded from Asia to the Middle East, Eastern Europe, South Africa, Central Asia, Latin America and the US.

- 16) Some donors have resorted to selling their organs on E- bay.
- 17) In spite of its awareness, trafficking in every field is still increasing,
- 18) Estimates state that Kidneys make up 75% of the global illicit trade in organs and because of the rising rates of diabetes, high blood pressure and heart problems the demand for kidneys far outstrip supply.
- 19) NATO documents leaked in 2011 claimed that Kosovo's prime minister, Hashim Tachi, was the "head" of a mafia – like network responsible for organ trafficking among other things.⁴³
- 20) Lack of law- enforcement in some countries and lack of laws in other countries, make it easy for traffickers to offer financial initiatives for poor people to part with organs.
- 21) Organ brokers in China advertise their services by using clever slogans such as "Donate a kidney, but the new I – pad!"
- 22) Patients (many of whom go to China, India or Pakistan for surgery) can pay up to \$200 000 for a kidney for traffickers who harvest organs from vulnerable, desperate people, sometimes for as \$5 000.

⁴³ <https://www.globalresearch.ca/kosovo-s-mafia-like-prime-minister-hashim-thaci-human-organs-trafficker/22434>

CHAPTER III

3. Trafficking in organs and tissue as a part of organized crime

The threat of transnational organized crime underpins the rationale behind the anti-trafficking framework. This threat is conveyed in various reports, academic commentaries and media sources, which attest to the virulence and menace of an international criminal order, threatening to undermine the integrity and survival of democratic governments⁴⁴. In this contemporary narration of organized crime, the conventional representation of criminal organizations, as hierarchically structured homogenous groups, has been revised with the addendum of transnationality, suggestive of a widening domain of criminality under the control of a new 'global mafia'⁴⁵. Admonishing against the common threat to nation states presented by transnational organized crime, the preamble to the *United Nations Convention against Transnational Organised Crime* (2000) declares:

“ If crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means. If the enemies of progress and human rights seek to exploit the openness and opportunities of globalization for their purposes, then we must exploit those very same factors to defend human rights and defeat the forces of crime, corruption and trafficking in human beings” .⁴⁶

⁴⁴ Sterling, C., 1994, *Thieve's World: The Threat of the New Global Network of Organized Crime*, Simon * Schuster,

⁴⁵ Galeotti, M., 2014, *Global Crime Today: The changing Face of Organized Crime*, pp.1-6

⁴⁶ UNODC, 2000, Preamble

The language of risk and security associated with traditional organized crime has been augmented with an emphasis on the transnational, creating a sense of urgency around interventions targeting the mobility of suspected criminals. Terms such as ‘transnational’ and ‘cross border’ are indicative of an ‘alien conspiracy’ with designs to infiltrate and corrupt the integrity of the nation state.⁴⁷ Problematized in this way organized crime is conveyed as an external threat, acting **upon** the state rather than **within** it.

Transnational criminal organizations are said to be responsible for all manner of social ills, resulting in the victimization of millions of innocent people (UNODC 2015). However, it is the moral outrage associated with human trafficking that has elevated transnational crime to the forefront of the global political agenda. Allied to the transnational discourse of organized crime, the narration of threat advanced by the meta-narrative of human trafficking is conveyed through the victimization of trafficked persons.⁴⁸

Human trafficking is a global problem and one of the world’s most shameful crimes, affecting the lives of millions of people around the world and robbing them of their dignity. Traffickers deceive women, men and children from all corners of the world and force them into exploitative situations every day. A populist vernacular is composed through the suffering of idealized victims, exemplified in sensational accounts of human trafficking, i.e. defenceless women being sold into sexual slavery or young children being kidnapped for their organs by unscrupulous traffickers.

As for the whole Balkan region, it is not an easy task to define the criminals behind THB and how the network actually works.⁴⁹ Nevertheless, we know that criminality doesn’t have racial or religious problems, and all the ethnical components of Kosovo, which have been fighting each other for political reasons, are happily willing to cooperate and share duties and incomes of the criminal activities, whose THB is one part strictly connected to organized crime with drugs and weapons.⁵⁰

Among the three major criminal activities,

⁴⁷ Ruggiero, V., 2000. Transnational Crime: Official and Alternative Fears, *International Journal of the Sociology of Law*, pp.45

⁴⁸ Snajdr, E., 2013, *Beneath the Master Narrative: Human Trafficking, Myths of Sexual Slavery and Ethnographic Realities*, *Dialectical Anthropology*, pp.67

⁴⁹ Anastasijevic, D., “Organized Crime in the Western Balkans”, 2009, pp. 1-3.

⁵⁰ Cuzzocrea, L., “Internationale Organisationen im Kosovo: Eine kritische Analyse“, University of Vienna, 2012, p.81.

- Trafficking in weapons ;
- Trafficking in drugs ;
- Trafficking in human beings,

And in spite of the fact they're all strictly bound together, the later shows features which are particularly worrying in The Republic of Kosovo, regarding mostly to the lack of a strong and functioning judicial system.

However, in practice, it is not always clear when someone has been trafficked. For instance, individuals who sell an organ but do not clearly satisfy **all three elements** required to establish the offence of 'trafficking in persons' are unlikely to be recognized as victims of trafficking.⁵¹ This might explain why there have been relatively few cases concerning trafficking in persons for organ removal to appear at the judicial level. Moreover, in the majority of states where it is a criminal offence to buy or sell an organ (Iran being the exception), organ sellers who do not identify as trafficked victims are liable for prosecution. Hence, individuals who have been exploited for their organs are unlikely to report any instances of abuse that they may have experienced as a consequence of their involvement in organ markets, making it difficult to determine the actual nature and extent of organ trading.

3.1. The notion of organized crime

⁵¹ Campana, P. and Varese, F., 2016, *Exploitation in Human Trafficking and Smuggling*, European Journal on Criminal Policy and Research, pp.89-105

Organized crime does not exist as a criminal offense in any legislation, because it represents a set of interconnected criminal acts in terms of the potential criminal advantage committed by several perpetrators. The execution of the offenses consists in coordinated action among several perpetrators. The perpetrators are members of a criminal organization (a group, a criminal association, a gang) in which relations are hierarchically set.

Generally, organized crime would be considered as “the performance of heavy criminal offenses by an organized group for the purpose of achieving a high property benefit”. However, the definition of the notion of organized crime is quite difficult, due to the existence of certain objective but also subjective causes.

In fact, as we have already mentioned, in literature and in practical work, there is no unified and general - accepted definition of this phenomenon. The reasons for this situation lie above all, in the fact that until a certain period of time organized crime was determined to exist only in highly developed countries, that is, in democratically developed and “conscious” societies (with the exception of Russia and Bulgaria as countries in “transition”) who did not try to conceal this situation, nor deny the worrying extent of expansion. Another reason of a subjective character is the understanding of the connection of organized crime with the structures of power, which makes its definition impossible because of the interference of political structures, to a state of concealment of the existence of this phenomenon.

Internationally, a number of conferences, summits and meetings were held, on which a number of documents, conventions, agreements were adopted, in which efforts were made to define minimum elements, ie characteristics and common points for

facilitating the definition of organized crime and they are generally accepted by the entire international community. Particularly significant is the *UN Palermo 2000 Convention*⁵² in which attempts have been made to reduce and mitigate the conceptual and theoretical differences in the definition of transnational organized crime, where the acts on which the Convention is applicable will be determined, and at the same time a definition for an organized criminal group. Accordingly, in the Global Plan for Action Against Organized Transnational Crime adopted at the UN Conference in Naples in 1994, the following *characteristics of organized crime* have been identified:

- A) the organization of a group for the enforcement of a criminal offense;
- B) hierarchical relationships in the group that allow its leader to control;
- C) violence, intimidation and corruption as a means of exercising profit or controlling territories or markets;
- D) laundering of illegally acquired benefits and infiltration into the legal economy;
- E) the ability to expand in any new activity beyond the national borders;
- F) cooperation with other organized transnational groups

The Macedonian legislator has defined the criminal association in this way: “A group, gang or other criminal association or organization means at least three persons who have joined together to commit criminal acts, including the organizer of the association”⁵³. Accordingly, the legislator does not determine organized crime in the Penalty Code, but tries to define it through the notion of criminal association. However, any association of

⁵² https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THEREON.pdf

⁵³ Penalty Code of Republic of Macedonia, 2004, 51, Article 394

this kind is not obligatory to correspond with any of the emerging forms of organized crime, because the same association may be formed to commit a single criminal act or several acts that are not interconnected.

On the basis of all of this, it can be concluded that *organized crime represents an organized (coordinated) conduct of mutual (causal) related crimes of two or more associates in order to obtain a large unlawful property benefit and (or) political power by applying violent, bribing and blackmailing methods*. Organized crime is carried out by an organized group for the commission of criminal offenses, whose relations are arranged hierarchically. It stands apart with the ability to expand beyond national borders (organized crime knows no borders). The success of these groups is due to their mutual cooperation at the international level. They are characterized by a high degree of secrecy and impunity to their structure, successfully masking their activities by demonstrating the immunity of standard measures taken by the security authorities in the fight against classic forms of criminality.

3.2. Trafficking of human beings and smuggling of migrants

“Human trafficking” and “migrant smuggling” are two words that are mostly used together, however, their notion and meaning completely differs from one other. Human trafficking is a crime involving the exploitation of an individual for the purposes of compelled labor or a commercial sex act through the use of force, fraud, or coercion. This meaning is reflected in international law, specifically in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*⁵⁴, distinct crimes that often are erroneously conflated or referred to interchangeably.

Migrant smuggling occurs when a person voluntarily enters into an agreement with a smuggler to gain illegal entry into a foreign country and is moved across an international border. It is defined in the Protocol against the Smuggling of Migrants by Land, Sea, and Air.⁵⁵ But, what do these definitions actually mean?

The term “**human trafficking**” may suggest movement, however no movement is required. It is a crime that can be committed against an individual who has never left his or her hometown. Individuals may be considered trafficking victims regardless of whether they were born into a state of servitude, were transported to the exploitative situation,

⁵⁴ 12.a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November, 2000

⁵⁵ https://www.unodc.org/documents/middleeastandnorthafrica/smugglingmigrants/SoM_Protocol_English.pdf

previously consented to work for a trafficker, or participated in a crime as a direct result of being subjected to human trafficking. Trafficking victims include women, men, and transgender individuals; adults and children; citizens and noncitizens alike.

Migrant smuggling often involves procuring fraudulent documents and transportation across a country's border, although in some countries it can also include transportation and harboring once in the destination country. The migrant consents to being moved and the transaction between the migrant and the smuggler is typically over once he or she has crossed the border and the smuggler has been paid in full.

Nevertheless, people who are smuggled can be extremely vulnerable to human trafficking, abuse, and other crimes, as they are illegally present in the country of destination and often owe large debts to their smugglers. Smuggled migrants sometimes flee violence in their home country; others simply seek better lives, economic opportunities, or to reunify with family members abroad. Some smuggled persons may be subjected to sex or labor trafficking while in transit or at their destination, and these individuals are trafficking victims. However, not all smuggling cases involve human trafficking, nor do all cases of human trafficking begin with migrant smuggling. Human trafficking and migrant smuggling often overlap in reality, which makes it particularly important that policymakers, law enforcement, immigration officers, and civil society organizations are conscious of the differences between them. When human trafficking is confused with migrant smuggling, *trafficking victims may not receive the protections, services, or legal redress to which they are entitled and may be vulnerable to being re-exploited.*

Trafficking in persons (TIP) is a serious crime entailing multiple violations of human rights. Trafficking in persons is the deliberate exploitation of human beings and is considered as modern slavery, taking the form of forced labour, sexual exploitation, forced marriage, prostitution, forced begging, sale of organs, bonded labour or debt bondage and the unlawful recruitment and use of child soldiers. This is a phenomenon of global concern because it affects the majority of the countries in the world. Women, children and vulnerable people are especially exposed to traffickers, who mainly prey on the weaker members of societies, including economic and climate migrants, and asylum seekers. Trafficking in persons (TIP) is frequently associated with smuggling of migrants (SOM), even though differences exist between the two phenomena. Smuggling is always a transnational crime, defined as the illegal entry (in breach of national laws of immigration) of a migrant in exchange for a financial or other material benefit. However, migrants may be exploited during the travel or after having crossed a State's border. In this way migrants can become victims of trafficking against their will (although trafficking does not necessarily imply that the victim enters another state). r legal redress to which they are entitled and may be vulnerable to being re-exploited.

Some of the key differences between trafficking and smuggling include⁵⁶ :

- Human trafficking is a crime against a person. The criminal purpose is to exploit a person. Victims of trafficking are accorded a number of assistance and protection rights.

⁵⁶ ICAT, Issue Brief #01, What is the difference between trafficking in persons and smuggling of migrants?, 2016

- Migrant smuggling is a crime against a state; it is not in itself a human rights violation. The criminal purpose is financial or material benefit for the smuggler. The offence may be aggravated when it is perpetrated in a way that endangers lives or safety, or entails ill-treatment of migrants. The rights to protection and assistance⁵⁷ are linked to the circumstances endured by migrants in this context, including due to other crimes committed against them by abusive smugglers or other actors.
- Transnationality - smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims move between states or within a state's borders.
- Source of criminal income - the profits of migrant smuggling are derived from the fee for transportation or facilitation of the irregular entry in another country, while in human trafficking, profits are derived from exploitation, including for sexual exploitation, forced labour or slaverylike practices.
- Consent - trafficking victims have never consented to the intended exploitation. Consent issues can be difficult to define in situations of smuggling. While smuggling initially involves some consent of the migrant, smuggled migrants may also retract their consent en route but may be forced to continue, for example, below deck in overcrowded smuggling vessels.

⁵⁷ Smuggling of Migrants Protocol, Articles 4 and 16

The majority of the cases of detected trafficking in persons involve the crossing of international borders – while some 42 per cent of detected victims are trafficked domestically. According to data collected for the 2016 Global Report on Trafficking in Persons, between 2012-2014 more than 63,000 victims of trafficking were reported in 106 countries⁵⁸. Yet, only a small proportion of trafficked victims are currently identified. Over the last 10 years, the profile of detected trafficking victims has changed. Most detected victims are still adult women. Together, women and girls account for 71% of all trafficked victims detected globally. Yet, the share of children and men victims of trafficking has increased as compared to a decade ago. In 2014, children and men comprised 28 percent and 21 percent of detected victims respectively, compared to 13 percent each in 2004⁵⁹.

Trafficking for sexual exploitation remains the most detected form of trafficking but has been decreasing in recent years in terms of the share of all forms of detected trafficking, with trafficking for forced labour increasing⁶⁰. In 2007, 59 per cent of detected victims were trafficked for the purpose of **sexual exploitation**, whereas in 2014, the share was 54 per cent. For trafficking for **forced labour**, the shares were 32 per cent in 2007 and 38 per cent in 2014. Changes in the percentages of detected crimes may, however, reflect a greater willingness amongst trafficked persons to come forward, enhanced law enforcement, or changes in existing anti-trafficking responses to particular types of trafficking, rather than actual changes in trafficking practices themselves. Detection of cases of other trafficking,

⁵⁸ UNODC, Global Report on Trafficking in Persons, 2016. On the Eastern and Central Mediterranean routes, over a third (39%) of the 22,000 migrants interviewed by IOM between 2015-2017 answered positively to one of the indicators of trafficking and other exploitative practices, with many reporting direct experiences of abuse, exploitation and practices which may amount to human trafficking.

⁵⁹ UNODC, Global Report on Trafficking in Persons, 2016, pp. 6, 7 and 11

⁶⁰ http://www.ilo.org/wcmsp5/groups/public/-/ed_norm/declaration/documents/publication/wcms_182004.pdf

including **forced marriage, begging, petty crime, benefit fraud, and for the purpose of organ removal**, have remained at approximately 10 per cent of the global total.

3.3. Corruption of the custom services

Trafficking in humans for the purpose of organ removal is, as we've seen, just a very small part of the corruption and organized crime, but it just might be the cherry on top of the pie, considering the importance of human life. As in all forms of trafficking, the element of illegal trespassing the borders of a country, or illegally taking something across the borders, is absolutely present and a "must have" element of this type of crimes. The openness to trade with other nations plays a very significant role in strengthening the economy and also, the role in the international community of a country. This happens through two-way flow of resources to augment or complement each other's basic needs. It can also be an exchange of everyday use items in case of surplus production. In the majority of the countries, this exchange / entry and exit of goods are handled by the Customs departments of those countries. Sometimes, in emergency situations such as war, earthquakes, floods, forced migrations and other natural disasters, the custom security and control is not so strict or it doesn't exist at all.

It's a simple fact that customs officials, even at junior levels, enjoy extensive discretionary powers and interact daily with traders who have a strong incentive to

influence their decisions.⁶¹ Moreover, the fact that many customs officials work in situations where careful supervision is practically impossible creates an environment ripe for corruption. Add to the mix the poor pay and difficult working conditions 4 Volume 7, Number 2 International Network of Customs Universities customs officials in many countries have to contend with as well as very little probability of getting caught and it is no real surprise that Customs continues to be perceived as amongst the most corrupt of government institutions. Complicating matters further is the fact that many corrupt transactions occur side-by-side with honest ones and are conducted between parties that are frequently part of the same extended informal social and business network. As a former Secretary General of the WCO noted:

“There are few public agencies in which the classic pre-conditions for institutional corruption are so conveniently presented as in a Customs administration. The potent mixture of administrative monopoly coupled with the exercise of wide discretion, particularly in a work environment that may lack proper systems of control and accountability, can easily lead to corruption.⁶²”

According to Yang, there are essentially two forms of customs corruption.⁶³

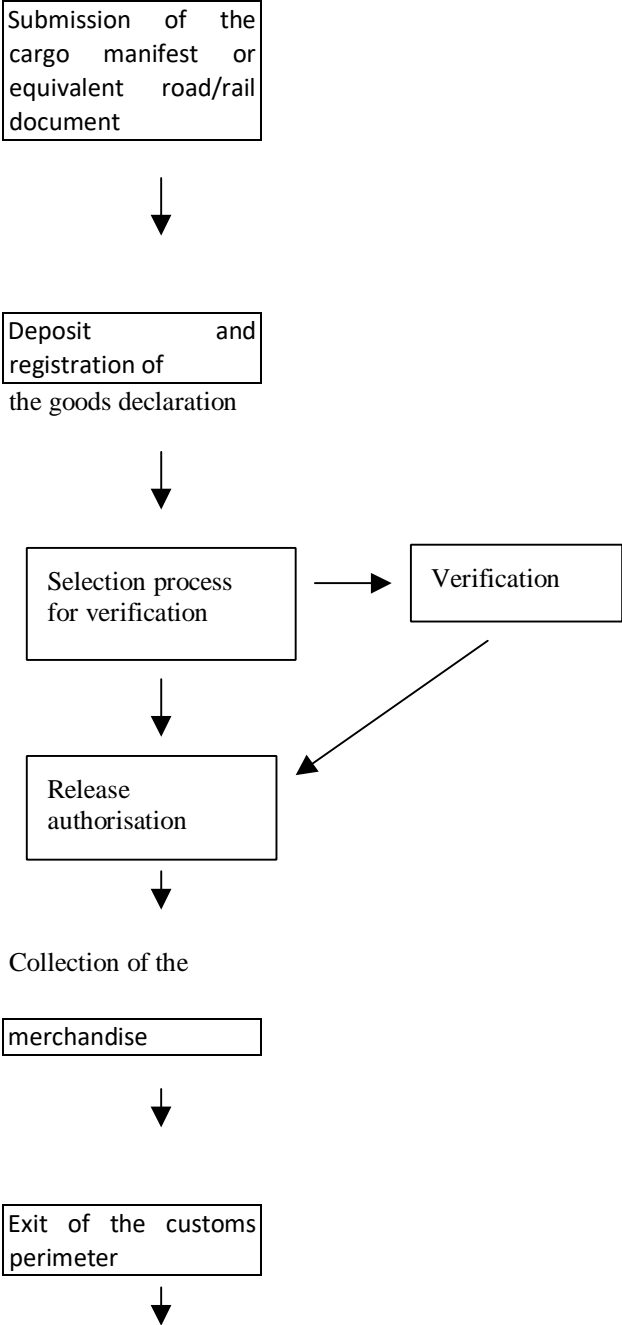
- 1) Theft of government resources. This form is a simpler form of this crime. A corrupt customs bureaucracy may turn over to the government treasury only a fraction of monies collected from importers, simultaneously falsifying import documentation to mask the revenue theft.
- 2) The extraction of bribes from importers.

⁶¹[http://worldcustomsjournal.org/Archives/Volume%207%2C%20Number%202%20\(Sep%202013\)/03%20M%20Linden%20and%20Durrani.pdf](http://worldcustomsjournal.org/Archives/Volume%207%2C%20Number%202%20(Sep%202013)/03%20M%20Linden%20and%20Durrani.pdf)

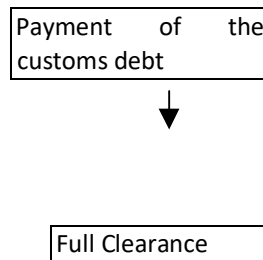
⁶² JW Shaver, Secretary General of the WCO, 1994-98.

⁶³ Yang, D 2006, 'The economics of anti-corruption: lessons from a widespread customs reform', in S RoseAckerman (ed.), International handbook on the economics of corruption, Edward Elgar, Cheltenham, pp. 512-45

Chart 1: A Standard Customs Clearance Procedure⁶⁴



⁶⁴ This description is inspired from *École Nationale des Douanes de Neuilly*, 1995.



The steps set out above are the full normal procedure. Most customs administrations offer other clearance procedures that are simpler for the operators. The normal procedure is based on two principles: the deposit of a customs declaration and the presentation of the goods at a customs post. The other procedures that can be available depart from these two requirements. For instance, under the post-entry audit procedure, goods consigned to traders with satisfactory compliance record can be released on the basis of very limited control data, and the transaction is then cleared by subsequent provision of full relevant information by the importer derived from his commercial computerised system, which has been audited and approved by customs. Under the procedure of clearance on trader's premises, goods are directly transported to the importer's offices. The importer informs the customs administration that the goods have arrived, usually in sealed containers or road vehicles and are available for examination.

When a specified time has elapsed without customs appearing or informing the traders that they intend to do so, the goods are considered as released, subject to the subsequent completion of declaration and related procedures. Operators have to apply to the customs authorities for the authorisation to operate under these simplified procedures in the same way as for suspensive procedures.

The practices observed in most of the countries show that each step of the customs chain can present an opportunity for a corrupt act.⁶⁵

While all such acts involve the use of public office for private gains (a customary definition) they vary in nature. They may be of three types:⁶⁶

- *Routine corruption*: private operators pay bribes to obtain a normal or hastened completion of customs operations.
- *Fraudulent corruption*: operators try to pay less tax than due or no tax at all, by not accomplishing properly the customs clearance process. They pay bribes to buy customs officers' blind eye or their active co-operation.
- *Criminal corruption*: operators pay bribes to permit a totally illegal, lucrative operation (drug trafficking, abuse of export of promotion scheme, etc.).

⁶⁵ IECC, 1998

⁶⁶https://www.researchgate.net/publication/5204356_Fighting_Corruption_in_Customs_Administration_What_Can_We_Learn_From_Recent_Experiences

3.4. Corruption and taking bribes in the field of medicine

Corruption is part of doing business in the healthcare sector all over the world. this prevents vulnerable people and actual patients in need accessing the care or products they need, and on the other hand, is reachable for rich and not so ill patients with deep pockets, a report has found. The highest attainable standard of health is one of the fundamental rights of every human being, incorporated in Article 12 of the International Covenant of Economics, Social and Cultural Rights⁶⁷. Corruption – alongside poverty, inequity, civil conflict, discrimination and violence – is a major issue that has not been adequately addressed within the framework of these basic rights. It leads to the skewing of health spending priorities and the leaching of health budgets, resulting in the neglect of diseases and those communities affected by them; it also means that poor people often decide against life-saving treatment, because they can

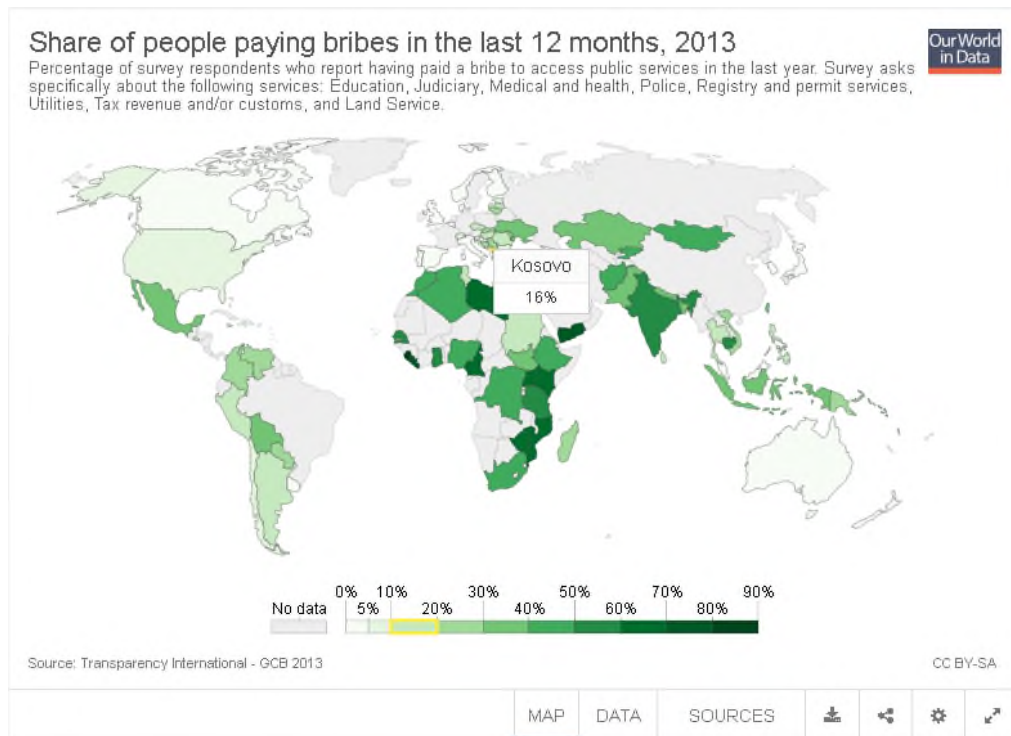
⁶⁷ International Covenant on Economic, Social and Cultural Rights

not afford the fees charged for health services that should be free. Corruption in the health sector affects people all over the world, as the essays featured in the Global Corruption Report 2006⁶⁸ reflect. Money that should be spent on alleviating poverty and illness, ends up instead in private pockets. In this way, corruption literally violates human rights, as people are denied the care that their governments are obliged to provide for their citizens. Health experts and anticorruption specialists interviewed for the report said that the whole system was broken, as many people, companies, and groups involved in health care were placing their private self-interests over wider public health goals.

By creating everything in such favorable conditions, trafficking in human organs for a relatively short period of time is transformed into a very spiritual branch of organized crime. The high level of corruption in the field of medical environments, which takes a significant part in this criminal business, is a very important factor for this rapid development of this heinous crime.⁶⁹

⁶⁸ <http://www.bvsde.paho.org/bvsacd/cd60/etica/global.pdf>

⁶⁹ Kotovchevski: 2008, pp.. 91



Picture 6: Share of people paying bribes in Kosovo in the year 2013

The diversity of health systems worldwide, the multiplicity of parties involved, the paucity of good record keeping in many countries, and the complexity in distinguishing among corruption, inefficiency and honest mistakes make it difficult to determine the overall costs of corruption in this sector around the globe. But the scale of corruption is vast in both rich and poor countries.

Certain characteristics make all health systems – whether public or privately funded, in rich and poor countries – vulnerable to corruption:

- 1) An imbalance of information prevails in health systems: health professionals have more information about illness than patients, and pharmaceutical and medical device companies know more about their products than public officials entrusted with spending decisions. Making information available can reduce losses to corruption.

2) The uncertainty in health markets – not knowing who will fall ill, when illness will occur, what kinds of illnesses people get and how effective treatments are – is another challenge for policy-makers, as it makes it difficult to manage resources, including the selection, monitoring, measuring and delivery of health care services and the design of health insurance plans. The risk of corruption is even higher in humanitarian emergency situations when medical care is needed urgently and oversight mechanisms are often bypassed.

3) The complexity of health systems, particularly the large number of parties involved, exacerbates the difficulties of generating and analysing information, promoting transparency, and detecting and preventing corruption. The relationships between medical suppliers, health care providers and policy-makers are often opaque and can lead to distortions of policy that are bad for public health.

The types of corruption in health Regulators, payers, health care providers, suppliers and consumers face a complex mix of incentives that can lead to corruption. Forms of corruption in the health sector include: ⁷⁰

- Embezzlement and theft from the health budget or user-fee revenue. This can occur at central or local government level or at the point of allocation to a particular health

⁷⁰https://www.transparency.org/whatwedo/publication/global_corruption_report_2006_corruption_and_health

authority or health centre. Medicines and medical supplies or equipment may be stolen for personal use, use in private practice or resale.

- Corruption in procurement. Engaging in collusion, bribes and kickbacks in procurement results in overpayment for goods and contracted services, or in failure to enforce contractual standards for quality. In addition, hospital spending may include large investments in building construction and purchase of expensive technologies, areas of procurement that are particularly vulnerable to corruption.

- Corruption in payment systems. Corrupt practices include waiving fees or falsifying insurance documents for particular patients or using hospital budgets to benefit particular favoured individuals; illegally billing insurance companies, government or patients for services that are not covered or services not actually provided, in order to maximise revenue; falsification of invoice records, receipt books or utilisation records, or creation of 'ghost' patients. Other forms of corruption that relate to payment structures are: buying business from physicians by creating financial incentives or offering kickbacks for referrals; physicians improperly referring public hospital patients to their private practice; and performing unnecessary medical interventions in order to maximise fee revenue.

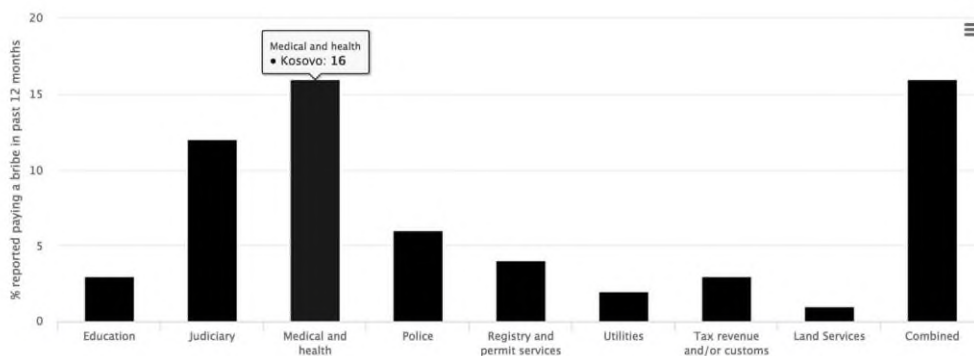
- Corruption in the pharmaceutical supply chain. Products can be diverted or stolen at various points in the distribution system; officials may demand 'fees' for approving products or facilities for clearing customs procedures or for setting prices; violations of industry marketing code practices may distort medical professionals' prescribing practices; demands for favours may be placed on suppliers as a condition for

prescribing medicines; and counterfeit or other forms of sub-standard medicines may be allowed to circulate.

- Corruption at the point of health service delivery can take many forms: extorting or accepting under-the-table payments for services that are supposed to be provided free of charge; soliciting payments in exchange for special privileges or treatment; and extorting or accepting bribes to influence hiring decisions and decisions on licensing, accreditation or certification of facilities.

3.4.1. Corruption in the field of medicine in the SEEU countries

Informal payments for health care in the countries of Central and Eastern Europe (CEE) and the Commonwealth of Independent States (CIS – the former Soviet Union excluding the Baltic states) are widespread. Informal, ‘under-the-table’ or ‘envelope’ payments are typically defined as direct payments by patients for services they are entitled to for free, usually in a public health system. Informal payments range from the ex ante cash payment to the ex post gift-in-kind. While the common practice of gift giving as an expression of gratitude is, in principle, benign, informal payments that resemble fee-for-service have potentially serious implications.



Picture 7: paying bribe in the health care system in Kosovo⁷¹, 2015

⁷¹ <http://opendatakosovo.org/blog-posts/2015/07/06/corruption-in-kosovo-a-comparative-analysis/>

They can undermine official payment systems, distort the priorities of the health system, reduce access to health services and impede health reforms. They can also provide undesirable incentives and encourage unprofessional behaviour, including rent-seeking behaviour by health workers. It is difficult to disentangle the specific form of informal payment and decipher what constitutes corruption; the different manifestations of informal payment can be placed on a continuum of gravity ranging from nuisance to obstacle to barrier and, ultimately, to self-exclusion.⁷² Reducing the extent of informal charging is far from straightforward and represents an enormous task for policy-makers. Informal payments exist for several reasons, including economic ones such as a general scarcity of financial resources in the public system; and socio-cultural ones, such as the lack of trust in government and a culture of tipping. Most of the CEE and CIS countries' health systems were modelled on the Soviet Semashko system of universal health care coverage, with a virtually exclusive role for the state in financing and delivery. Informal payments became a common feature of these health systems, since the state could not deliver what it promised. Following the economic and social crisis with the fall of communism and the break-up of the Soviet Union, health care suffered even further in terms of resource availability and service quality. Health system characteristics that may help explain the prevalence of informal payments include an excess supply of capital and human resources, low salaries, lack of accountability and government oversight, and an overall lack of transparency. Human resource shortages may also drive informal payments as it may lead to providers giving priority to those patients that can afford to pay. A paucity of private

⁷² J. Killingsworth, *Formal and Informal Fees for Health Care* (Manila: WHO Regional Office for the Western Pacific, 2003)

services may also drive informal payments, as wealthier patients have fewer options outside of the public system. Also, the population may not be adequately informed of the health services they are entitled to free of charge. Corruption and health Some scholars argue that informal payments arose as a reaction by dissatisfied patients and providers to shortcomings within the health system during the communist era.⁷³ Given the deficiencies regarding quality and availability, there were no opportunities for dissatisfied patients to opt out, as there was no private sector alternative, nor to voice their complaints, as these were regarded as direct criticism of the government. Providers were faced with low salaries and no explicit state-organised rationing mechanisms. Thus informal payments became an established practice and served as an alternative method of enabling patients to pay for better quality. Throughout the 1990s, staff salaries in CEE countries were, and many continue to be, very low and payments were often delayed. In Lithuania and Ukraine, health care workers are reported to have waited up to three months to be paid, with even longer waiting times in Russia.⁷⁴ Money was instead sought directly from patients and provided to staff. While these informal payments allowed health care staff to continue providing services during periods of economic difficulty, the demand for payments also resulted in the exclusion of those unable to pay. Those most severely affected were the poorest and the chronically ill.

In the health sphere corruption encompasses bribery of regulators and medical professionals, manipulation of information on drug trials, the diversion of medicines and

⁷³ P. Gaál and M. McKee, 'Informal Payment for Health Care and the Theory of "INXIT"', *International Journal of Health Planning and Management* 19, 2004.

⁷⁴ J. Healy and M. McKee, 'Health Sector Reform in Central and Eastern Europe', *Health Policy and Planning* 12(4), 1997, pp.

supplies, corruption in procurement, and overbilling of insurance companies. It is not limited to abuse by public officials, because society frequently entrusts private actors in health care with important public roles. When hospital administrators, insurers, physicians or pharmaceutical company executives dishonestly enrich themselves, they are not formally abusing a public office, but they are abusing entrusted power and stealing precious resources needed to improve health.

CHAPTER IV

4. Case study – the trafficking of organs and tissue in the “Yellow Houses” in the Balkans

The war is the most terrible thing a country and a region could suffer from. The victims are not only the families and people who died and suffered, but the weakening of a country, the disturbance of peace and normal living and functioning, the disturbance of international relations and collaborations etc. in the end, there are nothing but pieces to be put back together, with the idea and hope of future and restoration of peace and normal life and functioning. However, this processes take time. I mean, even the process of the breakup of Former Yugoslavia took 10 years. New autonomous states and borders were made, new international relations were placed, and normally, new conflicts begun. Such as the Kosovo conflict – the last of the Yugoslavian breakup drama.

The UN special international tribunal for solving the cases of the separation of the states of Former Yugoslavia (ICTY) opened up an investigation for alleged human trafficking ring, for the purpose of organ removal and transplantation. The mentioned incident

occurred in the times of war, to be more precise, after the Massacre in Cuska, where Albanian population civilians were murdered by the Serbian army troops. After this and many cases of torture and abuse, denationalization and forced moving of the Albanian population by the Serbs, governed by Milosevic and his regime to take away the autonomy of the territory of Kosovo and Metohija, which at that time was a part of the Republic of Serbia, the fury on the side of the Albanian population started to raise. At one point of time, peaceful protests were heard by the powerful and wealthy United Nations and the rest of the powerful West, who decided to step in and help the Albanians, which were obviously terrorized by the Serbians, and along with that, breaking the international peace treaties and the basic Convention of Human Rights. Soon, the situation turned against the Serbs, who “took a taste of their own medicine”, being tortured, killed and taken hostage by the Kosovo Liberation Army, who was enforced with KFOR and NATO soldiers and artillery. But, what anger can do, nobody can understand and repair afterwards. The furious KLA went further with their actions – in times of war, blur lines between crime and allowed behavior exists and everyone is trying to gain finance. So, what the KLA did, was further violation of the human rights, which the UN tried to stop with their interference – dehumanization of the human body – trade with organs taken from the thousands of killed soldiers and Serbian civilians, sold outside of the country. However, the investigation was stopped and the collected evidence – destroyed, which made this case even more interesting and gained attention in the international community. The “scandal” was even described by Carla del Ponte, the United Nation’s ex- Chief Prosecutor. The whole case very soon got the name “The bloody Yellow Houses in Kosovo”, after the color of the alleged family farm were supposedly, the operations for organ harvesting took place.

4.1. The Kosovo Independence War

Kosovo's incident was regarded as the last major unfinished business from the wars of the Yugoslavian succession during the 1990s. In 1998 and 1999, the United States and its NATO partners occupied, with collective action to end heightening viciousness in Kosovo. These endeavors finished in a 78-day NATO bombing effort (**Operation Allied Force**)⁷⁵ against Serbia from March until June 1999, when then-Yugoslav pioneer, Slobodan Milosevic consented to pull back his powers from the region. A short time after, Kosovo was governed through a combination of U.N. and local Kosovar interim governing structures... Under the terms of U.N. Security Council Resolution 1244 (1999)⁷⁶, the U.N. Break Administration Mission in Kosovo (UNMIK) held extreme political expert in the area. A NATO-driven peacekeeping power, KFOR, was accused of providing a secured environment.

⁷⁵ <https://www.afhistory.af.mil/FAQs/Fact-Sheets/Article/458957/operation-allied-force/>

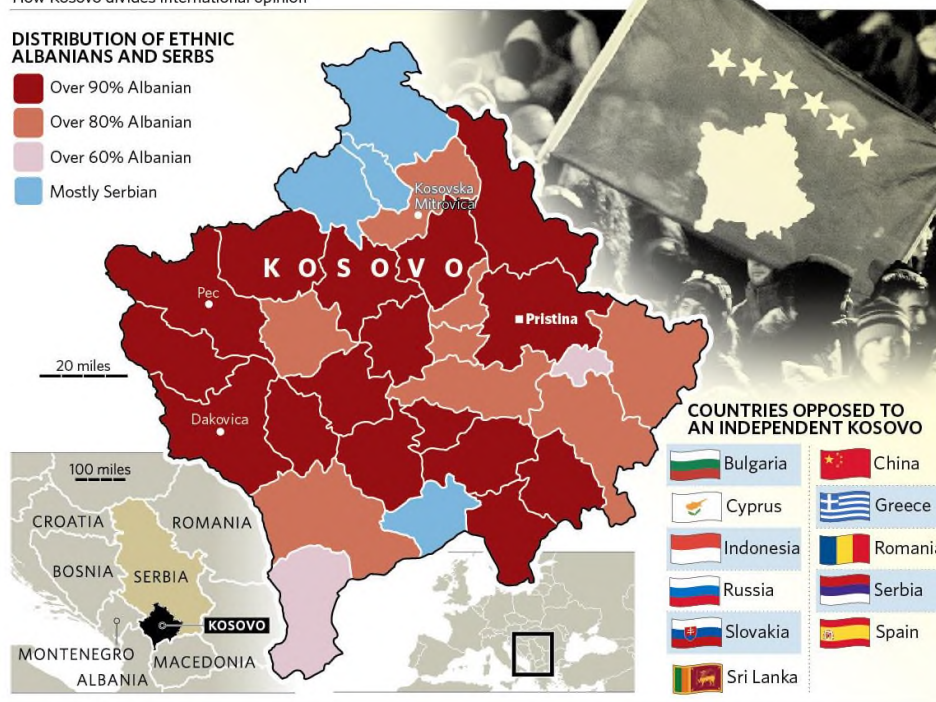
⁷⁶ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>

A nation is born

How Kosovo divides international opinion

DISTRIBUTION OF ETHNIC ALBANIANS AND SERBS

- Over 90% Albanian
- Over 80% Albanian
- Over 60% Albanian
- Mostly Serbian

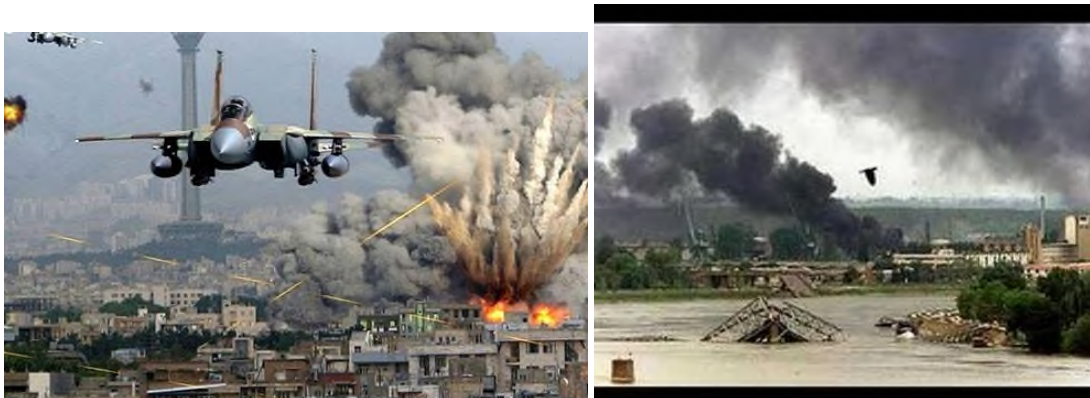


Sources: OSCE, US Institute of Peace

Picture 8: location and ethnic diversity of the population in Kosovo

Although the war in Kosovo had deep historical and ethnic roots, its immediate causes can be found in the decision of Milosevic regime in Serbia to eliminate the autonomy of its Kosovo province in 1989. This regime followed up widespread human rights abuses in the upcoming decade. In the beginning, the Albanian majority which lived in the Kosovo territory was protesting, but non-violently. However, things escalated in 1998, when ethnic Albanian guerrillas, calling themselves the Kosovo Liberation Army (KLA) began attacks on Serbian police and Yugoslavian army troops. Milosevic's regime responded with increasingly violent and indiscriminate repression. From February 1998 until March 1999, conflict between the KLA and Serb forces (as well as armed Serb attacks on ethnic Albanian civilians) drove more than 400,000 people from their homes and killed more than 2,500 people. The United States and other Western countries used

sanctions and other forms of pressure to try to persuade Milosevic to end the repression and give back the autonomy to Kosovo. None of these persuasions were successful. The increasing deterioration of the situation on the ground led the international Contact Group (United States, Britain, France, Germany, Italy and Russia) to agree on January 29, 1999 on a draft peace plan for Kosovo. They invited the two sides to Rambouillet, near Paris, to start peace talks based on the plan on February 6. As an inducement to the parties to comply, on January 30 the North Atlantic Council agreed to authorize NATO Secretary-General Javier Solana to launch NATO air strikes against targets in Serbia, after consulting with NATO members, if the Serb side rejected the peace plan. NATO said it was also studying efforts to curb the flow of arms to the rebels. The draft peace plan called for three-year interim settlement that would provide greater autonomy for Kosovo within Yugoslavia, and the deployment of a NATO-led international military force to help implement the agreement. On March 18, 1999, the ethnic Albanian delegation to the peace talks signed the plan, but the Yugoslav delegation rejected it. After this, NATO began air strikes on Yugoslavia on March 24, 1999.



Pictures 9, 10: scenes of the NATO bombing of Former Yugoslavia

Understanding the direct threat, Yugoslav forces didn't accept the peace agreement, but they moved even more rapidly to expel most of Kosovo's ethnic Albanians from their homes. A December 1999 State Department report⁷⁷ estimated the total number of refugees and displaced persons at over 1.5 million, over 90% of Kosovo's ethnic Albanian (Muslim) population. The report said that Yugoslav forces killed about 10,000 ethnic Albanians, and abused, tortured and raped others. With this specifications, this war is followed up by unimagined human rights violation events, based on their ethnicity and religion. After 78 days of increasingly intense air strikes that inflicted damage on Yugoslavia's infrastructure and its armed forces, President Milosevic finally agreed to a peace plan based on NATO demands and a proposal from the Group of Eight countries (the United States, Britain, France, Germany, Italy, Canada, Russia, and Japan). It called for the withdrawal of all Yugoslav forces from Kosovo; the deployment of an international peacekeeping force with NATO at its core; and international administration of Kosovo until elected interim institutions are set up, under which Kosovo will enjoy wide-ranging autonomy within Yugoslavia. On June 9, 1999, NATO and Yugoslav military officers concluded a Military Technical Agreement (the Kumanovo Agreement)⁷⁸ governing the withdrawal of all Yugoslav forces from Kosovo. On June 10, the U.N. Security Council approved UNSC Resolution 1244, based on the international peace plan agreed to by Milosevic. KFOR began to enter Kosovo on June 11. The Yugoslav pullout was completed on schedule on June 20. On June 20, the KLA and NATO signed a document on the demilitarization of the KLA.² Within weeks of

⁷⁷ https://1997-2001.state.gov/global/human_rights/kosovoii/pdf/kosovii.pdf

⁷⁸ <https://webarchive.nationalarchives.gov.uk/+http://www.operations.mod.uk/isafmta.pdf>

the pullout of Yugoslav forces from Kosovo and the deployment of NATO-led peacekeeping force KFOR, the overwhelming majority of ethnic Albanian refugees returned to their homes. At the same time, more than 200,000 ethnic Serbs and other minorities living in Kosovo left the province, according to the U.N. High Commissioner for Refugees. International officials estimate the number of Serbs living in Kosovo at about 100,000. Serbs in the northern part of the province are concentrated in or near the divided town of Mitrovica. The rest are scattered in isolated enclaves in other parts of the province, protected by KFOR troops. The main reason for the departures is violence and intimidation by ethnic Albanians, although some departures have been voluntary. Meanwhile, some 15,000 so-called “minority returns” — or returns of displaced persons to their homes in which they constitute an ethnic minority — have been reported over the last several years, although even this amount has been offset by other minorities who have since left the province. Kosovo Serbs say that since the pullout of Yugoslav forces, more than 1,100 were killed and over 1,000 are missing. Hundreds of houses of Serb refugees have been looted and burned. No records about these missing persons were found, except the memo which started the investigation about the trafficking in human tissue and organs, written by journalist Michael Montgomery and the book published by Carla del Ponte, the former Chief Prosecutor of two UN international criminal law tribunals, in her book.⁷⁹

⁷⁹ Carla del Ponte, *The Hunt: Me and the war criminals*, published by FISCHER Taschenbuch (2010), in collaboration with Chuck Sudetic

4.2. Corruption of power and institutions

In times of war, the system governing the state in war is not functioning properly, or, not functioning at all. Even before the start of the war, the institutions and public services probably didn't even function as they should, because war is mostly a result of improper governing, which is a result of improper functioning (corruption) of the key institutions and systems, such as the judicial system, health system, education, public services, border security etc.

From a systematically point of view, corruption has caused, and it continues to do so, many concerns in all countries on Earth, and especially in Kosovo. Kosovo is well known as one of the poorest country of European countries. The level of unemployment is considered to be 42%, which stands for the highest in Europe. Therefore, with that high percentage of unemployment and poverty the corruption in public sector blossoms. Today, in the world, all states are, or strive to be, democratic states. This particularity or form of self-government has its negative side, so except new benefits and new possibilities for society, brings different problems in society. One of the problems that democracy brings is corruption that is usually, as a phenomenon, distinct in all states. Corruption as a phenomenon enables the leaders to get rich – the rich that are corrupted, but immediate

harms the state and indirectly the middle and lower level of society. Depends on the level of democracy and economic development the presence of corruption varies.

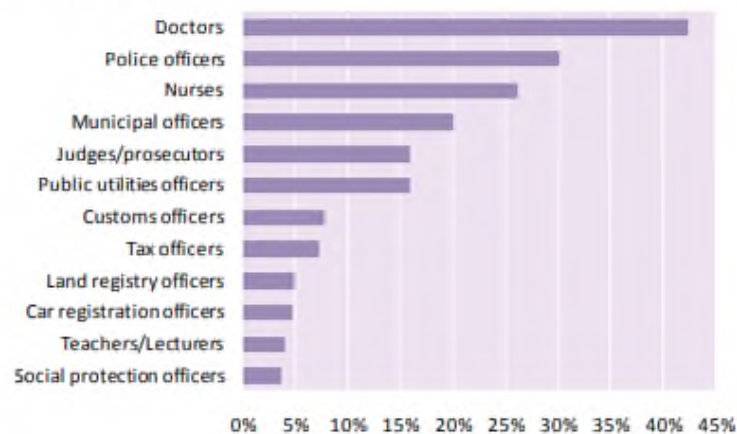
Corruption can occur at different levels. A distinction is usually drawn between

G) grand and

H) administrative (petty) corruption,

with the former referring to corrupt practices affecting the legislative process and policymakers, and the latter referring to dealings between civil servants and the public. In either case, it has a **devastating impact** on the rule of law, hinders equal access to public services, affects trust in public institutions and is a hurdle to economic and social development, especially in young democracies.

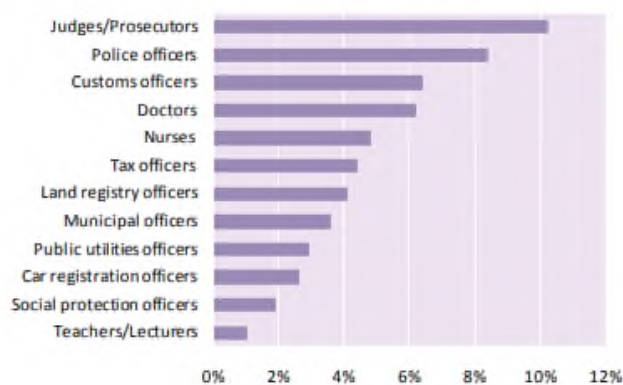
Figure 8: Percentage distribution of bribe-payers who paid to selected types of public officials, Kosovo (2010)



Note: The sum is higher than 100 per cent since bribe-payers could have made payments to more than one public official in the 12 months prior to the survey.

Picture 11: representation of professions which are most corrupted in Kosovo, statistical analysis taken from Corruption Kosovo Population⁸⁰

Figure 9: Prevalence of bribery for selected types of public officials receiving the bribe, Kosovo (2010)



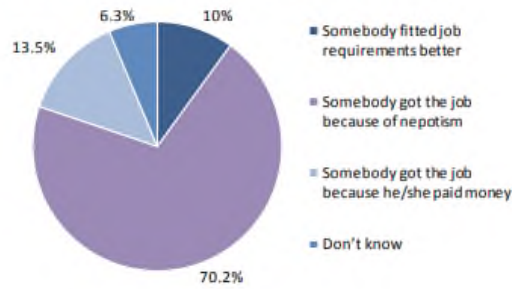
Picture 12: bribery prevalence rates calculated as the % of people who paid a bribe to a selected type of public official

Other forms of corruption that were and are present in Kosovo, as the further analyses in the Corruption Kosovo Population reveals, besides bribe and extortion, are:

- **vote-buying**
- **public sector recruitment**

⁸⁰ https://www.unodc.org/documents/data-and-analysis/statistics/corruption/CORRUPTION_KOSOVO_Population.pdf page 17

Figure 14: Percentage distribution of adult population who applied for a job in the public sector in the three years prior to the survey and were not hired according to perceived reason for not being recruited, Kosovo (2010)



Picture13: statistical analysis on corruption in the public sector recruitment

- **reporting of crimes**
- **embezzlement**

As we can see and conclude, corruption is a complex crime with blurred boundaries making it often difficult to distinguish between culprit and victim. But it is clear that is a parasite, that weakens and rots the country from the inside out, making citizens untrustworthy and doubtful towards the governing bodies, which weakens the governing bodies and their international representation and power of deliberating and making deals, which after wouldn't be accepted by the citizens who have lost trust and loyalty to their nation. It is not necessarily a one-dimensional transaction in which an active perpetrator coerces a passive party: both sides may benefit, and the victim might be a third party or the community at large.

The timeframe and the process of democracy development can be an indicator of spreading and development of different forms of corruption. The processes of in ex-communist countries, as well as the move from authoritative to democratic rule, it is notable that the possibilities for appearance and spreading of corruption were created to a level of concern. In process of transition Kosovo as well goes through big challenges. Since

the proclamation of independence Kosovo went through numerous of big and important processes of state building as well as the establishment of the mechanism for functionality of a juridical state, democratic and credible towards its citizens.⁸¹

4.3. War crime

A memo written back in 1999 by the US journalist Michael Montgomery, ultimately and eventually led to the establishment of a new war crimes court – the International Criminal Tribunal of Former Yugoslavia - ICTY⁸². The memo written by the US journalist brought to knowledge an international human organ trafficking chain. Allegedly, the organs were harvested by the Kosovo Liberation Army (KLA) from the bodies of the killed Serbian soldiers (and apparently, other non- Muslim population) who couldn't get out of the Kosovo territory while the war still took place.

Back in 1999, Montgomery was the Balkans correspondent for the London-based *Daily Telegraph*⁸³, and covered the conflicts which occurred in Kosovo, Bosnia and Herzegovina, and Croatia. After the situation calmed down a bit and the warring parties

⁸¹ Krasniqi, A., Corruption, Forms of Appearance and Suppression, Pristina, 2013, pg.51

⁸² <http://www.icty.org/>

⁸³ <https://www.telegraph.co.uk/>

cooled their relations, Montgomery came back to Kosovo to record the war documentary “Massacre at Cuska – Anatomy of a war crime”⁸⁴, which described the cold blooded murders of Kosovo Albanian villagers by Serbian forces. Moving around in the war zone, Montgomery heard rumors about human trafficking, mostly civilians from different ethnic and religious background (Serbs, Roma, Albanian villagers etc.) disappearing without any trace. Digging furthermore, making contacts within the Kosovo Liberation Army, he started contacting low-level army officials, who told him that the rumors are true and that those people are already out of the war zone. With further digging, he found out they were moved in Albania, but he still didn’t know why, because the low-level officials didn’t know the full story and operation details.

According to Montgomery, he and his team didn’t have enough corroboration to publish a story, so they wrote the famous memo and sent it to the UN Mission in Kosovo, UNMIK, which was the administrative authority in Kosovo after the ending of the war. After this, the memo went to the UN – backed International Criminal tribunal for the Former Yugoslavia – ICTY, which then opened an official investigation about the crimes committed during the Kosovo Independence War.

Later on, in 2004, Montgomery and his team were asked for help by the investigators. They asked them if they knew more specific information about the alleged crimes, described in the memo, such as names of the people, locations of the crimes, officers that gave commands etc., after which Montgomery told them about the few houses they visited back in 1999 under suspicion that those were the places where the civilians

⁸⁴ About 41 Albanian civilians, all men between 19-69 years were killed in this massacre. You can check the documentary on the following link <https://www.learnoutloud.com/Free-Audio-Video/History/World-History/Massacre-at-Cuska/13733>

have been kept and harvested for their organs. That's how they came to the farmhouse in the Albanian town Burrel.



Picture 14: the notorious farmhouse called “Yellow House” – property of Albanian family Katuci in Rippe

Later, in 2010, Dick Marty, a Swiss politician and former prosecutor, acting by the motion for a Resolution (doc. 11574), conducted a thorough investigation in Kosovo and Albania, looking closer in the acts mentioned by Carla del Ponte, in order to “ascertain their veracity”.⁸⁵

It was alleged that Serbian prisoners were taken by the KLA forces to this specific farmhouse. After the crime investigation by the forensic investigators team, medical equipment was found, including syringes, intravenous drip bags and stomach tranquilisers. However, later on in the investigation, this collected evidence was destroyed by the ICTY, with the explanation that this, by itself, is not a firm proof. The investigation was stopped

⁸⁵ Mr Dick Marty, “*Inhuman treatment of people and illicit trafficking in human organs in Kosovo*”, Committee on Legal Affairs and Human Rights, 12 December, 2010, pg.6

because there was not enough proof to mount prosecution. This brought up an increased attention to the case and international questioning of the reasons for the tribunal's action.

4.4. Victims

In war, everyone is a victim. Some more than the others. But, my point is, even those who gained financial gain and other sorts of wealth during the war, is a victim of war, because

they were forced to act in the worse unhuman ways to stay alive, to stay on the top, to keep their homes, to keep their families, or even their lives.

The former head of the UNMIK Forensics and Missing Persons Office⁸⁶, Jose Pablo Baraybar, claimed that the UN mission in Kosovo first received information regarding a case of organ harvesting at the end of 2002, or early 2003 from eight witnesses, some of whom were from Prizren, and the others from Albania. The UNMIK had information about this even before, during the war, by the memo of the English journalist Michael Montgomery, but they didn't have firm proof to continue. This gave a new, fresh point of where the investigation should be headed. Jose Pablo himself with a team of forensics experts visited the notorious Yellow House, which was actually a family farm in the town of Burell. Some of the witnesses claimed that they had already been to the Yellow House, others – that they had seen bodies being carried out of there and buried at a local cemetery. Some even said that they had transported people from Kosovo to Albania. The witnesses all claimed that the people who were taken there were mostly Serbian captured soldiers during the bombing on Yugoslavia, who didn't manage to go back to Serbia and were taken by the Kosovo Liberation Army. By the end of the Kosovo conflict in June 1999, it was estimated that 4 000 to 4 500 people were still missing. To this date, International Commission of Missing Persons (ICMP) has issued DNA identification reports to Serbia, UNMIK and later EULEX reliably accounting for 2,466 missing persons. Unfortunately, these cases haven't been solved yet, mostly due to the "structure of Kosovar Albanian society, still very much

⁸⁶ <https://www.icmp.int/where-we-work/europe/western-balkans/kosovo/>

clan-orientated, and the absence of a true civil society, which makes it extremely difficult to set up contacts with local sources.”⁸⁷

ICMP’s work in Kosovo focuses on ensuring that transparency and human rights standards are fully applied when determining the fate and whereabouts of the missing. ICMP has supported efforts to improve dialogue between Belgrade and Pristina and has worked to promote the capacity of the Kosovo Government Commission on Missing Persons (GCMP) since it helped the Kosovo authorities establish the Commission in 2006.

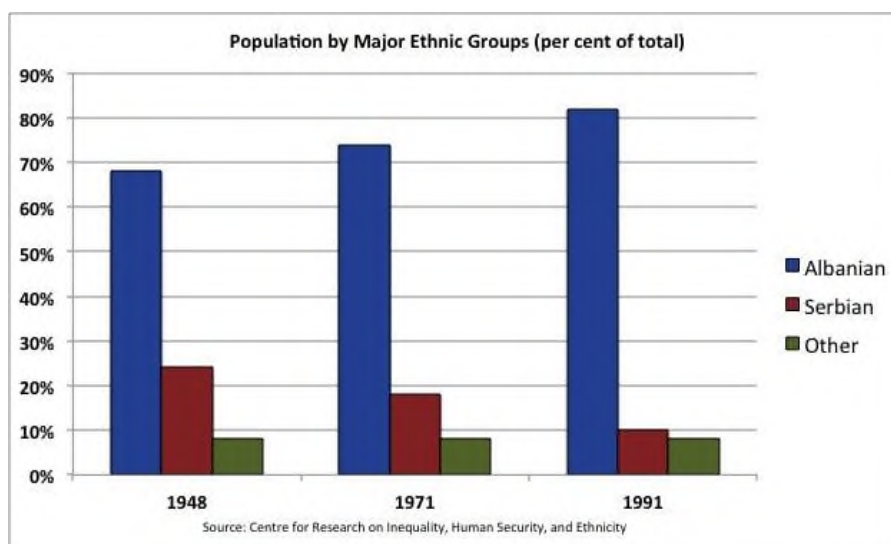
To date, ICMP has collected 97 percent of family DNA reference samples needed to assist in the identification process; however, in more than 1,700 cases, including approximately 400 cases in the Pristina mortuary, it has not been possible to make DNA matches. In 2010, ICMP issued “The Situation in Kosovo: A Stock Taking” report⁸⁸, in which it called on local and international authorities responsible for the issue in Kosovo to take all necessary steps to resolve Kosovo’s continuing missing persons problem.

⁸⁷ Mr Dick Marty, “*Inhuman treatment of people and illicit trafficking in human organs in Kosovo*”, Committee on Legal Affairs and Human Rights, 12 December, 2010,pg.6

⁸⁸ <https://www.icmp.int/wp-content/uploads/2017/05/Kosovo-stocktaking-ENG.pdf>

4.5. Hague trials

Kosovo, with a 90% ethnic Albanian and Muslim majority, declared independence from Serbia, officially in 2008 and has been recognized in the international community, but still not recognized by Serbia and Russia. In this painful process of separation, many people have lost their lives and homes, many are still suffering, but the fact is, while this process was taking place, serious crimes, such as organized crimes in the field of trafficking and smuggling people and organs, murders and rapes, which are one of the most serious crimes in the criminal law, have occurred.



Picture 15: The rise of Albanian population on the territory of Kosovo between 1948 and 1991

The Serbian military forces have started it with the Massacre in Cuska, after which NATO and KFOR were sent to help. But, the Kosovo Liberation Army was no better. Under protection from the West, it continued the massacres and inhuman treatment towards the Serbians.

Having on mind that war crimes and organized crime such as the alleged ones are prosecuted by the international community, The Hague Tribunal would have a lot in its hands. That's why, to make the process easier and more sufficient, separated Tribunals under The Hague Tribunal were constituted for this purpose. The Criminal Tribunal for Former Yugoslavia is one. The ICTY, which addressed crimes mainly in the former Yugoslav Republic, indicted 161 people all in all, and convicted 83, including president Slobodan Milosevic⁸⁹ and former Bosnian - Serb military commander, Ratko Mladic. But, after reaching a verdict in the case against Mladic, the ICTY was closed down.

⁸⁹ Slobodan Milošević was a Yugoslav and Serbian politician and the President of Serbia from 1989 to 1997 and President of the Federal Republic of Yugoslavia from 1997 to 2000. He also led the Socialist Party of Serbia from its foundation in 1990. – source: Wikipedia

4.5.1. The case against Slobodan Milosevic

Milošević was indicted in May 1999, during the Kosovo War, by the UN's International Criminal Tribunal for the Former Yugoslavia – ICTY, for crimes against humanity in Kosovo. Charges of violating the laws or customs of war, grave breaches of the Geneva Conventions⁹⁰ in Croatia and Bosnia and genocide in Bosnia were added a year and a half later.



⁹⁰ The 1949 Geneva Conventions

The first Geneva Convention protects wounded and sick soldiers on land during war.

The second Geneva Convention protects wounded, sick and shipwrecked military personnel at sea during war.

The third Geneva Convention applies to prisoners of war.

Picture 16: Former Serbian President, Slobodan Milošević

The charges on which Milošević was indicted⁹¹ were: *genocide; complicity in genocide; deportation; murder; persecutions on political, racial or religious grounds; inhumane acts/forcible transfer; extermination; imprisonment; torture; willful killing; unlawful confinement; willfully causing great suffering; unlawful deportation or transfer; extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; cruel treatment; plunder of public or private property; attacks on civilians; destruction or willful damage done to historic monuments and institutions dedicated to education or religion; unlawful attacks on civilian objects.* The trial began at The Hague⁹² on 12 February 2002, with Milošević defending himself. The prosecution took two years to present its case in the first part of the trial, where they covered the wars in Croatia, Bosnia, and Kosovo, and was followed by a wide public. Milošević was indicted for crimes during the Kosovo war, charged with violating international humanitarian law on five counts during 1 January-20 June 1999.

- The first charge was Deportation (a crime against humanity). The prosecution stated in their case against Milošević that he was part of a criminal enterprise and involved in orchestrating a campaign of violence and terror to force a sizable part of the Kosovo Albanian population to leave and maintain Serb control over Kosovo.

⁹¹ The charges are in coordination with The Nuremberg principles, which were a set of guidelines for determining what constitutes a war crime. The document was created by the International Law Commission of the United Nations to codify the legal principles underlying the Nuremberg Trials of Nazi party members following World War II.

⁹² The Hague in Netherlands is a home to the U.N.'s International Court of Justice, headquartered in the Peace Palace, and the International Criminal Court

- The second charge was Other inhumane Acts - Forcible transfer (a crime against humanity), which is similar to the charge of deportation though additionally implying use of force encompassing internal displacement.
- The third and fourth charge entailed Murder (combined in this instance as a crime against humanity and violating the customs and laws of war). Six hundred Kosovars were identified in the indictment as being killed in sixteen individual incidents during mass expulsion. In addition based upon the exhumations of mass graves and the number of missing persons, human rights organisations estimated around ten thousand Kosovars being killed during hostilities, with KLA combatants only forming a small minority of the deceased. Also counted were unarmed combatants killed in violation of the ICTY statute and Geneva Conventions.
- The fifth charge was Persecutions (a crime against humanity). The indictment referred to Milošević using mass forced population deportation and transfer, sexual assault, murder, along with damage or destruction of Kosovo Albanian religious sites "to execute a campaign of persecution against the Kosovo Albanian based on political, racial or religious grounds".

But, Slobodan Milosevic didn't wait to hear the verdict. Milošević was found dead in his cell on 11 March 2006, in the UN war crimes tribunal's detention center, located in the [Scheveningen](#) section of [The Hague](#), Netherlands. Due to Milošević's death during the trial, the court returned no verdict on the charges.

4.5.2. The Special Chambers

The impending vacuum at the top of the Kosovo tribunal also comes at a precarious time in the region. Ten years have passed since the Kosovo Independence, though, in our region, many unresolved issues still remained unresolved. Now, years later, a European Union prosecutor⁹³ has declared that he has evidence to prove that such attacks were not just individual acts of fury but something far more sinister - a campaign of ethnic cleansing organised by several top commanders of the Kosovo Liberation Army, the guerrilla group that fought Serb forces in the late 1990s and helped draw NATO into the conflict. For that reason, a new Tribunal was formed. The court, known as the Specialist Chambers⁹⁴ was set up in 2016. The court has made substantial progress towards indicting several leaders of the Kosovo

⁹³ John Clint Williamson is a U.S. diplomat and prosecutor who has served in a variety of senior-level roles with the United States Government, the United Nations, and the European Union

⁹⁴ <https://www.scp-ks.org/en>

Liberation Army for atrocities against ethnic Serbs and opposition Kosovans during and just after the 1998-1999 conflict.

The Kosovo Specialist Chambers and Special Prosecutor's Office are, in fact, a part of the judicial system of the Kosovo court system, but they are kind of special. The Chambers are attached to each level of the Kosovo court system. They were established by a Constitutional Amendment and a Law adopted by the Kosovo Assembly to conduct trials for allegations stemming from the 2011 Council of Europe report and ex-tribunal prosecutor, Carla del Ponte's allegations, which allege serious violations of the international law and the basic human rights. They are of temporary nature and with a specific mandate and jurisdiction, namely over certain crimes against humanity, war crimes and other crimes under Kosovo law, which allegedly occurred in the time of the conflict, between the beginning of 1998 and the end of 2000. The absence of war crime charges for KLA is seen as a deep injustice by most Serbs and many Kosovans complain that a culture of impunity has been allowed to grow, entrenching organized crime and government unaccountability. The Kosovo Specialist Chamber was set up in The Hague, following US and European Union pressure on the Kosovo government to confront allegations of atrocities against ethnic Serbs by Kosovo Liberation Army. The court, which could indict or call as witness current officials in Pristina's government, was imagined to function under Kosovo's law, but operate in the Netherlands, and to be staffed with international judges, prosecutors and staff, to minimize the risk of witness intimidation and judicial corruption in Kosovo.

Senior officials in the current Kosovo government are reported to be among the suspects (the current president of Kosovo, Hashim Tachi), and this January the ruling party made an attempt to repeal the legislation underpinning the court's existence. Since it's creating, the Chief Prosecutor was David Schwendiman. But, from this year on, he was retired and Jack Smith, a US prosecutor with experience in high-level political investigations and international criminal investigations, has been appointed by the EULEX. No new trials have been scheduled yet, but the work and investigations by the previous Prosecutor will continue very soon. There's a suspicion that the war-crime Tribunals are in fact, a major tool of the big and powerful Western countries and the European Union to win their ideals and future plans for the always transitioning Balkan territory. However, these are only speculations with no proof.

4.6. Consequences and a post-war situation in Kosovo

Like I previously mentioned, Kosovo has declared its independence from Serbia, officially in the year of 2008 and has been recognized in the international community, but still not recognized by Serbia and Russia. Though the West forces helped in the obvious attempt by the Serbs to eliminate Albanians from Kosovo and try to take it's authonomy, the failure to establish post-war order was hugely costly. Not learning from this mess was costlier still. Kosovo should have taught Western governments that any country or coalition taking military action must fill the subsequent vacuum swiftly and firmly. Otherwise it will be filled by violence. The failure to learn that lesson reverberates today, in Afghanistan, in Libya and

most catastrophically in Iraq. Right after the end of the war with Serbia, Kosovo found itself in a peculiar political position. Divided into 5 zones, supervised by the United Kingdom, Germany, France, the USA and Italy, the new Balkan political entity needed to start over. Once the fights were ended, international and local attention moved deeper to other issues, such as criminality, lack of order and of a stable judicial system.

- The economic consequences

As discussed in EBS/99/59⁹⁵, the crisis is affecting the economies of individual countries through a variety of channels. Although the six most affected member countries (Albania, Bosnia-Herzegovina, Bulgaria, Croatia, FYRM, and Romania) share a basic fragility of economic structures, they are exposed to the crisis in differing degrees and through different channels. The main channels of influence are: the influx of refugees; the disruption to international trade in goods and services; closing of transportation routes through FRY; damage to consumer and investor confidence; reductions in access to international capital markets; and setbacks to the process of structural reform and development, including weakened governance.

- The refugee wave

The total flow of refugees from Kosovo has now almost touched the one million mark.⁹⁶ The major **refugee influx** has been to Albania and the FYROM, with the latest estimates of refugees in the two countries amounting to 430 thousand and 200 thousand. These totals are equivalent to 13 percent of the local population of Albania and 11 percent of that of Macedonia. The third largest number of refugees is in Bosnia and Herzegovina.⁹⁷ While a large part of the direct costs of providing humanitarian relief to refugees (food, shelter, medicines, clothing) is being borne directly by the foreign agencies, a significant part of this humanitarian relief cost is also being borne by the budgets of the host countries, putting pressure on their already weak fiscal positions.

⁹⁵ Albania: Staff Report for the 1999 Article IV Consultation, Request for the Second Annual Arrangement under the Enhanced Structural Adjustment Facility and Request for Augmentation, 1999, International Monetary Fund, Washington, DC

⁹⁶ Refugee data used by the staff are estimates as of mid-May provided by the UNHCR.

⁹⁷ Montenegro, an autonomous republic within the FRY, has also received a large number of refugees.

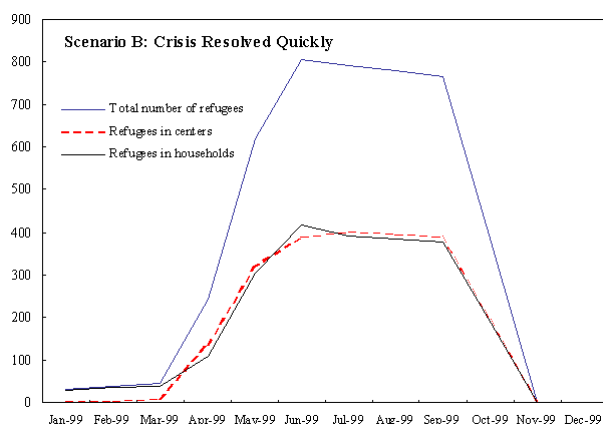
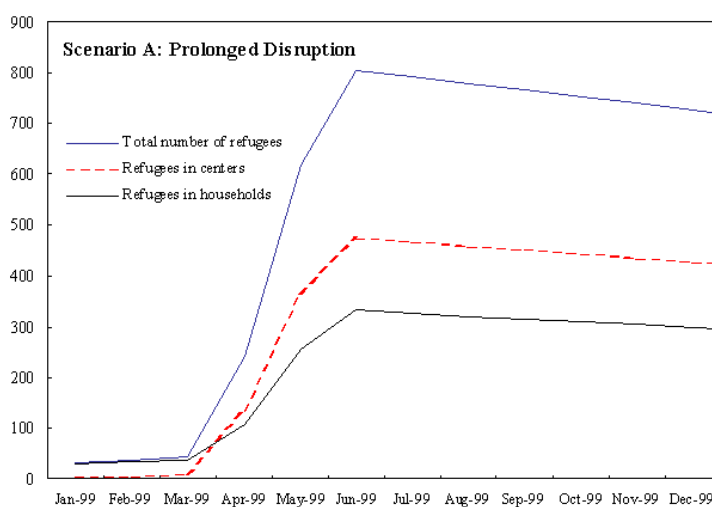


Figure 1. Number of Refugees in Most Affected Countries, 1999 1/
(In thousands)



Picture 17: number of refugees in most affected countries, Source: UNHCR and IMF Staff estimates.⁹⁸

The presence of a large number of refugees is also having a destabilizing impact on the social structures of host countries, which already have weak structures of governance. Maintaining law and order is thus a major challenge. Moreover, the stress of the refugee influx, as well as attempts to deliver humanitarian relief, have begun to strain the economic infrastructures of the host countries, as exemplified by the heavy congestion of ports in Albania.

- Structural reforms

⁹⁸ In these estimations, Albania, BiH, Montenegro, FYROM, Croatia, Bulgaria and Romania are also included.

In a number of the affected countries, **the process of structural reform** could suffer major setbacks as administrative capacity becomes more thinly spread in some countries and consensus for reform becomes difficult to sustain under weaker economic conditions. For instance, in FYRM, there is a risk that quasi-budgetary expenditures will escalate as a result of increased indirect subsidies to enterprises. Enterprises are likely to run arrears to government, suppliers and banks, undermining credit availability and confidence, and further burdening the budget. In Albania, tax collection efforts could suffer, and in several countries, privatization prospects have worsened.

The full consequences of this episode are still to be determined, however, the prospects of a constructive outcome are gravely endangered by reverberations that weren't yet acknowledged, and not yet mastered. It is judicious to expect that the savagery caused and the resentment embedded have put the reasonability of the coherent government into inquiry all through the territory and that political reproduction will require efforts well past anything yet structured. On the other hand, it is also very obvious that NATO's bombing effort solidified a feeling of danger in Russia liable to influence the monstrous inner - change happening there, and Russia's intense affectability is reflected in calmer frame all through the world. The commitment of the most skilled partnership with a little nonconformist state is essentially an issue that directions worldwide consideration. General lessons will be drawn from this experience. The fundamental conditions of international security and human rights respect will be reshaped, as the outcome continues to unfold.

4.7. The Medicus Case

Right after the end of the war with Serbia, Kosovo found itself in a peculiar political position. Divided into 5 zones, supervised by the United Kingdom, Germany, France, the USA and Italy, the new Balkan political entity needed to start over. Once the fights were ended,

international and local attention moved deeper to other issues, such as criminality, lack of order and of a stable judicial system. As today, a conflict within the old Yugoslavian countries is unlikely to happen, criminal networks found a new and highly profitable markets in the region.⁹⁹

International organizations immediately after the end of the conflict realized the gravity of the tendency and launched already in 1999 projects and proposal in order to fight this plague and to help local institutions to be conscious about the problem and to raise their attention on it.¹⁰⁰

The illegal transplant activities at the Medicus Clinic in Pristina, Kosovo, first attracted attention at October back in 2008, when the Kosovo police and the Immigration service noticed foreigners arriving at the airport, carrying letters of invitation to the Medicus Clinic for the treatment of heart conditions. The Medicus Clinic was not particularly renowned for treating this particular disease. Subsequently, in November the same year, two persons, who turned out to be an Israeli organ broker, another one was an organ supplier on his way back to Istanbul, and the third person, who turned out to be the brother of the recipient to whom the supplier has given his kidney, were stopped by suspicion at the airport. The supplier was questioned, but was found to be in a very poor health condition. He confessed that he recently had his kidney removed. After this event, the Medicus Clinic was searched by local police, the Department of Organized Crime and UNMIK International Police. The recipient of the kidney was actually still present at the Clinic. The director and the owner were immediately arrested, along

⁹⁹ Anastasijevic, D., *“Organized Crime in the Western Balkans”*, 2009, p.p 1-3, Forum, The Magazine of FER

¹⁰⁰ *“Feasibility study and Market Assessment”*, International Organization for Migration, 2009, <http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnEU/cache/offonce/lang/en?entryId=28473>,

with all the records and computers seized. UNMIK Police took over the lead of the investigation from the local police because of the sensitive political situation in Kosovo back in 2008 – a war was on the way.



Picture 18: The Medicus Clinic in Kosovo

During the investigation and prosecution, it was established that the owner of the Medicus Clinic (a doctor – urologist, named Lutfi Dervishi) has already, back in 2005, made contacts in Turkey to set up the trafficking network. In the following years, a Turkish transplant surgeon (Yusuf Ercin Sonmez) was contracted to perform transplants in Pristina and was granted a licence by the Kosovo Ministry of Health (by the Kosovo’s prime minister Hashim Tachi, as the investigation found out) in the year of 2008. The Ministry of Health also approved a licence for the Medicus Clinic to perform transplants, in spite of the fact that the Kosovo Health Law prohibited organ transplantations.¹⁰¹In 2008, at least 24 organ suppliers were recruited in foreign countries (Moldova, Israel, Ukraine, Beloruse, Russia and Kazahstane) and transported to Kosovo. These suppliers

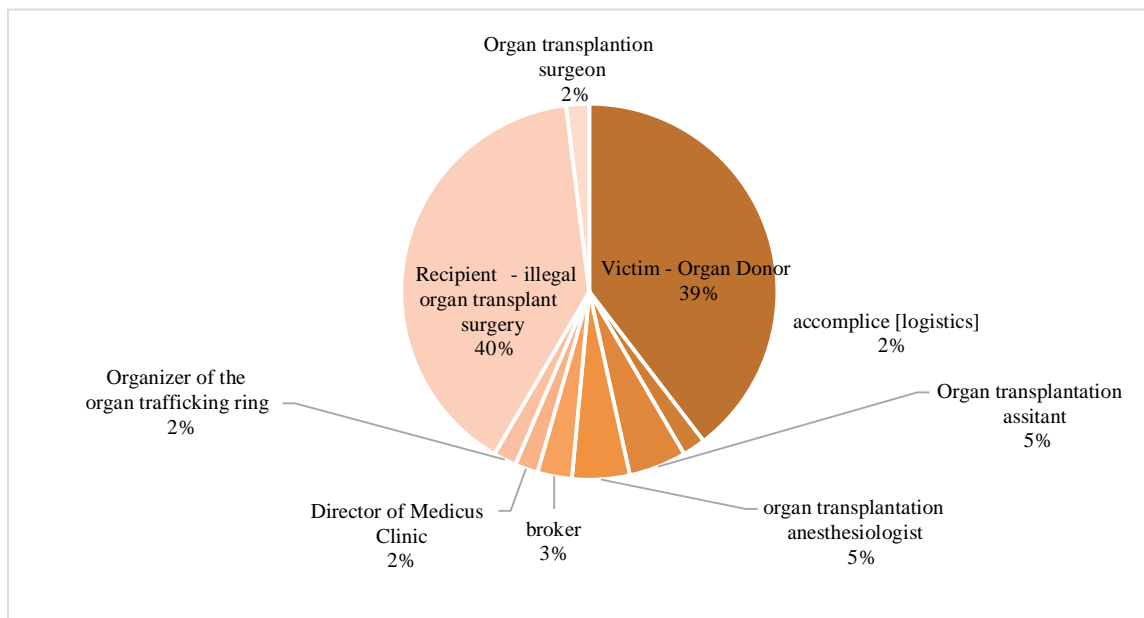
¹⁰¹ Section 110 (1,2 and 3), Kosovo Health Law, Law No. 2004/4, http://www.unmikonline.org/regulations/2004/re2004_31ale04_04.pdf

were matched to 24 recipients (from Israel, Ukraine, Poland, Turkey, Germany and even Canada) and the transplantation process took place. The nationality of nine suppliers and five recipients could not be traced. All suppliers had to sign a document saying that they donated their kidney voluntarily to a relative or altruistically to a stranger, without any additional payments. Also, they were given only a short time to agree and had to sign false declarations in the local language, without any explanation of the content. After 4-5 days, the suppliers were discharged and sent on their way home. Suppliers were promised in advance “a fee” up to 30.000 American dollars. A number of them received only a part of the money and some of them – nothing at all. They were promised to get the remain of the money, under the condition that they themselves would recruit other “donors”. In total, six suppliers testified at the trial¹⁰².

The recipients contacted the main brokers through word of mouths, and payments for the transplants were agreed for a total of 108.000 USD, to be paid in advance in instalments or in cash at the arrival at the clinic. Most recipients would fly over Pristina via Istanbul, and were often escorted. They were issued letters of invitation for undergoing medical treatment at the Medicus Clinic to show at the airport immigration desk, some were instructed to tell that they were on travelling for leisure. After the transplant surgery, they were discharged after a short period of time and were given information on their treatment to present to doctors in their home countries.

¹⁰² As protected witnesses, they were given code names. Code names for the suppliers of organs who testified are: DOA, DOP, DOAR and VI-ORDOD 1-19, the recipient are RERK,

When the EU Rule of Laws Mission (EULEX) was deployed in Kosovo, the prosecution of the trafficking case was handed over to EULEX. The investigation was complicated by the fact that the Kosovo political elite was under suspicion of being involved in the trafficking (e.g. the MOF haven given out a license to the clinic and the surgeon). Another problem was that no official search warrant had been issued at the time of the clinic search by the police. Also, the actual legal assistance and logic support by the local court administration proved extremely difficult and challenging. From an international legal point of view, making requests for legal assistance proved complex, because the autonomous status of Kosovo was not unanimously recognized by all the other countries (e.g. cooperating with Russia was nearly impossible). Later on in the prosecution, once the relations with foreign specials were firmly established, international cooperation became smooth.



Picture 19: A visual representation of the activities in the Medicus Case organized criminal network¹⁰³

In April 2013, the defendants were found **guilty** on trafficking in persons and organized crime, the owner of the clinic was also found guilty of unlawful exercise of medical care. Other charges, such as abuse of official position, inflicting grievous bodily harm, fraud and forging documents were rejected. Sentences included imprisonments up to eight years and a EUR 10.000 fine. Two other defendants were acquitted.

Yusuf Somnez and Moshe Harel remain fugitives and wanted by Interpol. In the trial, seventy-eight witnesses were questioned. Also, 30 requests for international legal assistance were initiated with various countries, including Israel, the United States, Canada, Ukraine, Turkey, Moldavia, Russia, Poland and others. It was confirmed that 24 patients supplied their kidneys and 24 others received them. The Prosecution proved that 9 kidney recipients paid a total of more than 700,000 euros¹⁰⁴. The Israeli broker, Moshe Harel, was finally arrested in Israeli in 2012 on the basis of the Interpol warrant, and accused of separate organ trafficking acts. Their prosecution and sentencing in the Kosovo case now depends on their extraditions.

¹⁰³ The Global Observatory of Transnational Criminal Networks: no.14: "The Medicus Case: Organ Trafficking Network in Kosovo, by Eduardo Salcedo Albaran, Diana Santos, Luis Jorge Garay Salamanca, 2017, pp.23

¹⁰⁴ Justice in Kosovo (2013) Monthly Bulletin, No 29, April

4.8. Acceptance and respect for Human Rights

As we have seen by the previously mentioned in this chapter, war crimes are mostly crimes against humanity and the failure to respect the basic Human Rights. Besides the economic consequences and migration waves that were huge problems striking the territory after the conflict, the instability and normal working of the institutions, the corruption problem in almost every level of functioning, the “spider-web of rules” which obviously allowed these things to happen, needed to be changed and empowered towards promotion and respect for human rights and other reforms for social and economic stability.

Inclusion of Ethnic Minorities Within Government

Having in mind that the whole conflict that opened up the Independence War in Kosovo and occurred with even more deviant forms of cruelty, such as human and organ trafficking and abductions, were results of ethnic conflict and tries on both sides, Serbian and Kosovar, after the situation has calmed down, the issues on the community life under one flag and nation between those same ethnicities as in the war – needed to be solved. In 2001, under UN authority, Kosovo held its first parliamentary elections. According the the UNMIK Regulation 2001.9¹⁰⁵ Section 9.1.3,

¹⁰⁵ <http://www.unmikonline.org/regulations/2001/reg09-01.htm>

Kosovo shall, for the purposes of election of the Assembly, be considered a single, multi-member electoral district. And the distribution of votes, under this Regulation, shall be as following:

- 100 out of 120 seats at the Assembly shall be distributed amongst all parties, coalitions, citizens' initiatives, and independent candidates in proportion to the number of valid votes received by them in the election to the Assembly;
- 20 of the 120 seats shall be reserved for the additional representation of non-Albanian Kosovo Communities as follows:
 - I) 10 seats shall be allocated to parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the Kosovo Serb Community
 - J) 10 seats shall be allocated to other Communities as follows: the Roma, Ashkali and Egyptian Communities – 4 seats, the Bosniak Community – 3 seats, The Turkish Community – 2 seats and the Gorani Community – 1 seat.

Expanding the rights on women

Under the United Nation's Mission in Kosovo (UNMIK), Kosovo began incorporating women into politics, a move facilitated by international pressures. So, in the November 2000 elections, not long after the NATO air strikes, the first gender quota elections laws were enacted on the local level. The UNMIK put in place a quota requiring 33% of candidates be women. As Dahelrup notes in *Women, Quotas, and Politics*, while good in theory, the idea backfired. Because parties needed to quickly mobilize large groups of women in order to be eligible to win elections, leaders assembled groups of women with little to no political knowledge just to fill quotas. The resulting actions led to women resigning from their

offices immediately after elections. Thus, only 8% of locally elected councilors were women. However, in a 2015 Survey taken by the Kosovo's Women Network¹⁰⁶, 68% of women respondents have experienced domestic violence in their lifetime. Given this fact, we could conclude that though 10 years after the Independence have passed, a 10 year period of time is not enough for changing the mindset of a person, and people are those who work in institutions and make policies, so, more time is needed for efficient changes and uprisings. The government promoted a new National Strategy and Action Plan against Domestic Violence¹⁰⁷ in April, 2017, which empowers women's rights and is expected to prevent domestic violence where the most common casualties are women.

Freedom of media

According to a Human Rights Report from 2017 by the United Nations Department of State, threats and attacks against journalists continued in 2016; investigations and prosecutions were slow. Between January and July, the Association of Journalists of Kosovo registered eight cases of threats and violence against journalists.

In March, Vehbi Kajtazi, an investigative journalist, stated that Kosovo Prime Minister Isa Mustafa threatened him over the phone, saying that Kajtazi would "pay heavily" for a piece Kajtazi had written criticizing the Kosovo health service, including a reference to Mustafa's brother and his health treatment abroad. Mustafa denied making threats. Kajtazi reported the threat to the police, however, it didn't result with a case and prosecution, thus we

¹⁰⁶ <https://womensnetwork.org/>

¹⁰⁷ <https://abgj.rks-gov.net/NewsAdmin/tabid/96/articleType/ArticleView/articleId/379/language/en-US/NATIONAL-STRATEGY-OF-THE-REPUBLIC-OF-KOSOVO-ON-PROTECTION-FROM-DOMESTIC-VIOLENCE-AND-ACTION-PLAN-2016-2020.aspx>

could say that corruption network is still widely expanded, or that Mustafa's accusations were false.

4.9. Key International Actors and their statements on human right development in Kosovo

- European Union High Representative Federica Mogherini¹⁰⁸, following a meeting in June with President Hashim Thaci, welcomed the extension of the EULEX mandate and stressed the need for continuing normalizing relations between Kosovo and Serbia but failed to raise human rights or rule of law concerns in Kosovo. The EU has supported, and is funding, the special court for serious crimes that is expected to begin operating soon in The Hague.

-The November EU Commission progress report on Kosovo¹⁰⁹ stated that administration of justice is slow and inefficient, there is insufficient accountability for judicial officials, and the judiciary is subjected to undue political influence. The report stated that threats and attacks against journalists continued and called on authorities to effectively investigate and prosecute cases. The report also stated that while some progress was made in human rights protection, particularly on lesbian, gay, bisexual, and transgender (LGBT) issues, authorities must significantly strengthen the rights of minorities and people with disabilities.

-In a May quarterly UN report on the situation in Kosovo, UN Secretary-General Ban Ki-moon¹¹⁰ stated that much work is needed to ensure the protection of minority rights, facilitate the return of displaced persons, and safeguard religious traditions.

-The UN special rapporteur on human rights for internally displaced persons, Chaloka Beyani, in September urged authorities in Kosovo to intensify efforts to achieve durable solutions for the 16,000 IDPs with displacement related needs.

The US State Department Human Rights Report on Kosovo, published in June, raised concerns about opposition parties violently obstructing parliament, resulting in the **blocking of free debate and passage of legislation, endemic government corruption, and lack of accountability for corruption**. The report also noted **violence and discrimination**

¹⁰⁸ High representative of the Union of Foreign Affairs and Security Policy/ Vice-President of the Commission

¹⁰⁹ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_kosovo.pdf

¹¹⁰ United Nations Secretary

against minorities, police mistreatment of detainees, intimidation of media, and violence against displaced persons seeking to return to their homes.

CONCLUSION

Throughout history, criminality and deviant behavior of human beings has been a big problem for sustaining a normal-functioning society. Ever since the primal ages, murder over territory, over fertile women or food has been natural in the human society. As we have developed into homo sapiens-sapiens, we have developed rules, that are still developing, towards promotion of the greatest values in our life, and above all stands the live of the human being. Other basic human rights, according to the Universal Declaration of Human Rights - UDHR are the right of education, health care, social security, the right for democracy, right to life, liberty and personal security. Also, the right to equality is one of the basic human rights, so that every single human being, not depending on race, gender, nationality or religion, has the right to all mention human rights in the Declaration. However, in countries experiencing transition, the respect for basic human rights is not the same as in developed countries. Although we have come this far, rules are always broken, and especially by those who should respect them the most –the authorities and government of states. Somehow, they have fallen in an ideological trap, that sacrificing individuals for a greater good and a brighter future for the nation isn't a crime and isn't a deviant behavior. I disagree completely. Every life matters. Being rich or poor, you are still human. In this study, I showed you the correlation of this “super-crime of the 21st century”, the “modern type of slavery”, with the insufficient human rights treatment by the governing bodies and state authorities and officials. If people aren't well educated, don't know which are their most basic human rights, don't have access to everyday valuable

information on different subjects, aren't getting the right treatment by the police, the doctors – they wouldn't appeal and would continue to suffer in silence, because they wouldn't know that they have a legal right to appeal to this kind of inhuman treatments. It seems that inhuman treatment happens to the lower and not educated and financially poor social categories in the society. This is a direct violation to the UDHR.

The SEE region of Europe is a region where huge changes and political processes still take place, mostly from the break of the major world force Yugoslavia. As in many examples of transitioning countries, corruption and organized crime are a major problem in this region. "The problem is aggravated by the fact that criminality, corruption and politics are so closely intertwined."¹¹¹ As we have shown in this paper, which is also supported by numerous facts, evidence and statements, around 2,500 missing persons during the war conflict in Kosovo were never found, and the culprits still haven't been brought to justice, simply because there are not enough material evidence for a prosecution and for a solid case. Many sources, such as material forensic evidence, such as physical samples collected at the alleged Yellow House in Rippe, photographs, (which have been destroyed by the ICTY right after being collected)¹¹², witness statements, telling that this case was a huge network of human and tissue trafficking, where there were many houses, or how they called them, "detention facilities"¹¹³, are implying that in the war period and shortly afterwards, while the international forces still haven't been able to manage the conflict, in

¹¹¹ Mr Dick Marty, "*Inhuman treatment of people and illicit trafficking in human organs in Kosovo*", Committee on Legal Affairs and Human Rights, 12 December, 2010, pg.8

¹¹² Mr Dick Marty, "*Inhuman treatment of people and illicit trafficking in human organs in Kosovo*", Committee on Legal Affairs and Human Rights, 12 December, 2010, pg.10

¹¹³ Mr Dick Marty, "*Inhuman treatment of people and illicit trafficking in human organs in Kosovo*", Committee on Legal Affairs and Human Rights, 12 December, 2010, pg.18

these area there was indeed “ detention facilities as elements of a well-established, coordinated and joined-up network of unlawful activity, of which certain senior KLA commanders maintained control and oversight”.¹¹⁴

I believe I have successfully shown that in the very heart of Europe, the organized crime is “blooming”, and it’s a dreadful problem that affects Serbia, Albania, Montenegro, Kosovo and Macedonia – a region still outside of the control and the big family of the European Union. Unfortunately, due to the corruption and shady political games, it’s impossible to bring justice to all families, both from Serbian and Albanian nationality, who have lost beloved family members and still haven’t received a verdict to at least justify their tears and pain. Hopefully, truth and accountability will prevail once the European Union and NATO join forces and help this region to be lawful, just and stable.

At the end, I would quote a part of the Hippocratic Oath : “ I will use treatment to help the sick according to my ability and judgment, but never with a view to injury and wrong-doing. Neither will I administer a poison to anybody when asked to do so, nor will I suggest such a course. Similarly I will not give to a woman a pessary to cause abortion. But I will keep pure and holy both my life and my art. I will not use the knife, not even, verily, on sufferers from stone, but I will give place to such as are craftsmen therein.

Into whatsoever houses I enter, I will enter to help the sick, and I will abstain from all intentional wrong-doing and harm, especially from abusing the bodies of man or woman, bond or free. And whatsoever I shall see or hear in the course of my profession, as

¹¹⁴ Mr Dick Marty, “*Inhuman treatment of people and illicit trafficking in human organs in Kosovo*”, Committee on Legal Affairs and Human Rights, 12 December, 2010, pg.18

well as outside my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets.”

I've chosen this citation just because we've seen that in the commitment of the crime “trafficking in organs and tissue”, a doctor is unnecessary, among the other actors in this terrible type of organized crime. It is our job as citizens, even more as future legal workers to constantly judge this type of violations and breaking of the ethic code, though we are not judges. Maybe we can't judge them, but we can inform someone who can. Information is the most expensive thing that doesn't have a price. Right informations can help change or save someone's life. We can never say “the system is crushing on us” because we are a part of that system we keep on blaming. We pick the government. We can also change it if it's corrupt. It is not our duty to oblige laws that are unjust, it is our duty to change them.

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