

ON UNLAWFUL DEPRIVATION OF LIBERTY (ARTICLE 110 OF THE CRIMINAL CODE)

Mirela Kapo

University of Tirana, Faculty of Law, Albania, e-mail: mirelakostaqi@yahoo.it

Abstract

Criminal justice is on the pillars of rule of law. It is currently facing new sophisticated forms of criminality that require increase of effectiveness of the legislation and activity of institutions, units and agencies specialized in the combat against crime. Selection of the topic of “Unlawful deprivation of liberty” as subject to advanced studies is due to the problems of that legal provision in practical terms. Personal freedom is a prerequisite that everyone should generally enjoy. Privation from this right causes an adverse effect regarding the enjoyment of a number of other rights, starting from the family law, to proceed with the freedom of assembly, expression and ending up with the right to free movement. Following this concept, the lawmaker has provided for the criminal offence of “unlawful deprivation of liberty” in Criminal Codes of 1928, 1952, 1977 and the present criminal code. The overall social development establishes new norms incriminating criminal behaviors prejudicing the person’s freedom. Notwithstanding the society evolution, criminal offence of “unlawful deprivation of liberty” has suffered regress from the time of incrimination of that offence. With a view of full elaboration of that topic, the structure consists of five chapters preceded by a historical overview of the criminal offence of “unlawful deprivation of liberty”. A special importance in this study, specifically in the second chapter, is attached to the analysis of the figure of criminal offence. Regarding the practical problems of this criminal offence, a qualified opinion is rendered by the Joint Benches of the Supreme Court through their unified position. The fourth chapter provides a comparative view with the Italian criminal law. Finally, in addition to the conclusions of this study, relevant measures are adopted with a view of prevention and elimination of unlawful acts. Analyses carried out under this topic are intended to assist to improve the legal framework of the figure of criminal offence by respecting *in primis* the principle of lawfulness by providing adequate criminal legal defense against the individual’s freedom.

Keywords: *Criminal justice, joint benches of the Supreme Court, principle of lawfulness and individual freedom.*

