



**Supreme
Court of
Republic of
Kosovo**

Imposition of fines as a sanction in criminal offenses from the Criminal Code of the Republic of Kosovo

Specific Guidelines

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Code of the Republic of Kosovo**

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February 2020



REPUBLIKA E KOSOVËS
REPUBLIKA KOSOVA – REPUBLIC OF KOSOVO
GJYKATA SUPREME E KOSOVES
VRHOVNI SUD KOSOVA- SUPREM CORT KOSOVO

The General Session of the Supreme Court of Republic of Kosovo, after reviewing the Kosovo Specific Guidelines on imposition of Criminal fines, in accordance with Articles 26 and 27 of the Law on Regular Courts, on 27.02.2020, with the majority of votes, adopted: |

SPECIFIC GUIDELINES FOR IMPOSITION OF FINES AS A SANCTION FOR CRIMINAL OFFENCES¹

Reasoning

On the 2nd anniversary of the adoption of the General Sentencing Guidelines in February 2018, the General Session of the Supreme Court of Republic of Kosovo, on February 27, 2020, with unanimous votes of judges present adopted the Specific Guidelines on “Imposition of fines as a sanction in criminal offenses from the Criminal Code of the Republic of Kosovo.”(herein: *Guidelines*)

The Guidelines represent an additional step taken by the Supreme Court in harmonizing the approach in imposition of criminal sanctions, in line with the competencies of this Court given by articles 26 par.1.4 and 27 par.1 of the Law on Courts.²

The purpose of the Guidelines is to develop a system that would ensure that fines as economic sanctions are imposed in line with the provisions of the Criminal Code of the Republic of Kosovo and the respective international standards that address this issue, including the Recommendation of Committee of Ministers of Council of Europe on consistency in sentencing.³

¹ *Unofficial translation of the decision from Albanian to English*

² Law on Courts, Articles 26 and 27, [Official Gazette of the Republic of Kosovo/ No.22/ 18 December 2018](#), Pristina.

³ Council of Europe Recommendation No. [R\(91\) 17](#) of the Committee of Ministers to Member States concerning consistency in sentencing/ 19 October 1992.

The fine system will contribute to individual deterrence and individualization of the punishment as two of the key principles in criminal justice system, taking into consideration other aspects of sentencing. Considering that fines as sanction are stipulated in almost all articles of the Criminal Code, the Guidelines offer a more detailed elaboration of the existing provisions of the applicable criminal legislation in regards to fines by developing further an automated calculation system to establish the fine starting point. Such a system contributes to bigger transparency and predictability of the sanction by the public. The final imposition of fine still remains under the discretion of the court after a careful review of the applicable mitigating and aggravating circumstances.

The Guidelines were developed with the assistance of experts from the United States Department of Justice in Pristina. The draft was reviewed and analysed by the Kosovo Advisory Sentencing Commission⁴, followed by submission to the Supreme Court judges for their review and adoption as the ultimate authority under the Law. After review of the Guidelines by the Supreme Court judges, the General Session adopted the same with unanimous votes of judges present in an open voting process. Just as the case with the General Guidelines, these Specific Guidelines, are offered as a means to avoid unwarranted disparity in imposition of fine and also aimed at structuring of the judicial discretion.

Finally, after the adoption of the Guidelines the Kosovo Judicial Council will incorporate an automated fine calculator into their websystem which will serve as a tool for judges imposing such a sanction.

The Guidelines shall be published in the Supreme Court Webpage. Hardcopies of the Guidelines will be provided for all criminal judges and prosecutors and other legal professionals with interest in this field.

PRESIDENT OF COURT

Enver Peci

⁴ Kosovo Advisory Sentencing Commission was established in August 2018 and has since been continuously monitoring the sentencing policy in all courts throughout Kosovo. The Commission is comprised of representatives from all three levels of court, representative from the Chamber of Advocates and the Justice Academy.

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1. General provisions for calculation of fines

One of the most challenging tasks in drafting the guidelines is to find a way to harmonize the imposition of fines so as to achieve their purpose in an equal manner for all offenders. The following is an elaborate of the calculation of fines which aims to ensure better consistency in the approach of imposing fines in cases where the Criminal Code of the Republic of Kosovo provides for a fine as one of the types of sanctions.

One thing that is worth noting at the beginning of this guideline is the necessity for active involvement of both the prosecution authorities and the defense in providing the necessary information during the proceedings in order for the court to be able to impose an adequate individualized sanction on the perpetrator. Article 7 of the Criminal Procedure Code expresses the obligation of justice institutions (court and prosecution) to fully and accurately establish the factual situation *“The court, the state prosecutor and the police participating in criminal proceedings must truthfully and completely establish the facts which are important to rendering a lawful decision”*¹

As a general principle, the amount of the fine should reflect the gravity of the offense and take into account the financial circumstances of the offender ensuring that the level of fine is not higher than the perpetrator's ability to pay. It is important to note that in many cases even the imposition of a fine as an economic punishment can hit the offender much harder than the imprisonment punishment. However, due to frequent use of one-size-fit-all fining, fines affect far more perpetrators with poor financial standing than perpetrators who are financially well off.

¹ Criminal Procedure Code of the Republic of Kosovo No.04/L-123, Article 7, General Duty to Establish a Full and Accurate Record, official Gazette of the Republic of Kosovo, 28.12.2012

A wealthy perpetrator is often unaffected by the fine and may be willing to treat the fine as an acceptable cost that he/she must pay in return for engaging in prohibited conduct. A low fine, on the other hand, can destroy a defendant with limited financial means, as it can create economic hardship for him/her and the family.²

Criminal Code³ states that in determining the fine the court shall take into account:

- the financial standing of the offender, and,
- in particular, the amount of his/her personal income,
- other income,
- assets and
- liabilities.

The purpose is for the fine to have an equal impact on perpetrators of different financial standing. When the perpetrator's living expenses are substantially lower than would normally be expected, it may be appropriate to adjust the amount of the fine to reflect that. This may be the case, for example, where a perpetrator does not contribute financially to his/her living expenses. Conversely, in cases where the perpetrator receives a high income and is convicted, for example, for a criminal offense of corruption, due to material benefit often associated with these offenses, the fine should be imposed in accordance with the above principles by taking into account the specific categories of fines and the gravity of the offense.

It should be clear that the purpose of the fine is not to take away the material benefit obtained by the offender from the offense. This because, the fine is a punishment and must be calculated in accordance with the provisions applicable to calculation of the punishment. The matter of taking away proceeds of the offense on the other hand is addressed in accordance with Article 92⁴ of the Criminal Code, the relevant provisions of the Criminal Procedure Code and the Law on Extended Powers for Confiscation of Assets⁵.

² Model Penal Code: Sentencing Reporters' Introduction], Kevin R.Reitz, Rapporteur, Cecelia M.Klinge, Assistant Rapporteur, pg.174, 2019.

³ Criminal Code of the Republic of Kosovo, No. 06/L-074, Article 69 General Rules on Calculating Punishments, Official Gazette of the Republic of Kosovo, 14.01.2019.

⁴ Ibid. Article 92, Confiscation of means and material benefit of criminal offenses.

⁵ Law No. 06/L-087 on Extended Powers for Confiscation of Assets, Official Gazette of the Republic of Kosovo, 26.12.2018.

When considering provisions of the Criminal Code that refer to the legal consequences of sentencing⁶, according to which there are no legal consequences of sentence when the perpetrator is imposed a fine or judicial admonition, this automatically requires a deeper assessment by the court in what cases the imposition of the fine will serve as an individual or general deterrence and prevention for commission of the criminal offense, if no consequences are created for the perpetrator. Therefore, it would be worrying if the perpetrator would pass so easily for commission of very serious criminal offenses, which cause great harm to individuals and the society. This is especially true in cases where, no other restrictive measure or accessory punishment is imposed on the perpetrator in addition to the punishment of fine for the crime committed (for example, restitution, additional obligation or confiscation of assets).

1.1 The gravity of the offense according to the level of damage caused

Considering that one of the basic principles for imposing a sanction on a perpetrator, not only when imposing imprisonment sentence but also in fines, is the gravity of the offense, the purpose of the guidelines is to specify the extent of the damage. The provisions of Article 113 par.31-34 provide for categorization of the extent of the damage, when it can be quantified. Hereunder we will elaborate on these provisions by dividing them into groups for easier reference:

- **Group A. - Damage - when the value of the benefit and/or damage is up to or less than € 5,000.** This subcategory includes cases where the value of the damage is either specifically referred to as the amount below € 5000 or is estimated to be up to that amount especially where the other paragraphs of the same articles determine a damage higher than € 5000.

- **Group B - Considerable damage when the value of the damage/loss is higher than € 5,000 and less than € 15,000.** The CC contains two different provisions related to the level of damage: those determining the damage/benefit above € 5,000 and those providing for cases where the damage is less than € 15,000. Considering that these categories are within the same range of damage (> 5,000 <15,000 €), such provisions were grouped into a single group because the range of damage/loss may vary. The court will only have to keep in mind the definitions of damage in Article 113 of the Code to give proper reference to damages.

⁶ Ibid.supra note 3, Article 93 Legal consequences of the punishment, par 2.

- **Group C. Grave damage, substantial damage or substantial loss - When the value of the damage/loss is more than € 15,000 up to € 50,000.** Although the Criminal Code usually only refers to the minimum range in the relevant category, due to the fact that the subsequent group refers to a damage of more than € 50,000, the Guidelines provides the maximum range for this group in accordance with the categorization provided for in the Criminal Code.

- **Group D. Large scale damage, large scale destruction or large scale loss - when the value of the damage/loss is over € 50,000.** This group includes all criminal offenses, which in themselves contain the highest damage/loss provided for by the Code. As such, the court must be very careful when deciding to impose lighter sentences and fines for this category, as this would not be in line with the legislator's intent. Of course, as stated in the General Sentencing Guidelines, judges should first consider confiscation of illegally acquired assets and/or material benefit, restitution, imprisonment, and finally determine the level of fine.

The reason for determining the range of damage/loss is a very important factor for criminal offenses committed for the purpose of gaining profits, especially those related to corruption, as one party's damage can imply benefit for the other party in the same value.

1.2 Provisions for minimum and maximum ranges of sentences under the Criminal Code

Article 43⁷ of CC in paragraph 1 sets the minimum and maximum sentence ranges:

*"The punishment of fine may not be less than **one hundred (100) Euros**. (hereinafter "EURO"). The punishment of a fine may not exceed **twenty five thousand (25,000) EUR**, while in the case of criminal offenses related to terrorism, trafficking in persons, organized crime or criminal offenses committed to obtain a material benefit, it may not exceed **five hundred thousand (500,000) Euros**."*

The above provision clearly indicates that in the offenses committed with the intent of obtaining material benefit the court's discretion in imposing a fine is too high, which may lead to inconsistency in imposing fines for similar criminal offenses. Therefore, in order to ensure a more uniform practice, there is a need for more guidance for judges in order for them to

⁷ Ibid.supra note 3, Article 43 Punishment of fine.

reflect the basic principles of calculation of fines by taking into account the main circumstances mentioned above.

The same article of the Criminal Code provides for the possibility of payment of fine in installments. This is regulated in Article 43 par 2 which provides:

“The judgment shall determine the deadline for the payment of a fine. The deadline may not be less than fifteen (15) days or more than three (3) months, but in justifiable circumstances, the court may allow the fine to be paid in installments over a period not exceeding two (2) years. The judgment shall also determine when the installments are to be paid and state that the privilege of paying by installments will be revoked if the convicted person fails to pay an installment on time.

2. Elaboration of types of fines according to the Criminal Code

2.1 Categorization of fines

There is a large number of provisions in the Criminal Code that provide for a fine in addition to other sentences against perpetrators. Such provisions are found in all chapters of the Criminal Code. Given the variety of provisions of the Criminal Code that refer to the imposition of a fine as a sanction, it is necessary to make two types of categorization of offenses in order for the determination of fine to be as fair as possible.

Generally, the Criminal Code provides for two groups of criminal offenses:

- **Category I. - Criminal offenses committed for the purpose of obtaining material benefit;** and
- **Category II. - Other criminal offenses committed for purposes other than obtaining a material benefit.**

The above breakdown is important because it sets out the criteria for determining the starting point and calculation of fine. Thus, while in the first category one of the defining criteria is the value of the damage caused or profit of the perpetrator and the level of income and assets of the perpetrator, in the second category the primary criterion is the level of income and assets.

In each of the two above mentioned groups of criminal offenses in the Criminal Code, one can find provisions for determining the fine according to the "**or**" a fine or "**and**" a fine system. For easier reference these two subcategories will be classified as follows:

- **Subcategory A.** - Provisions providing for imprisonment "**or**" a fine
- **Sub-category B.** - Provisions providing for imprisonment "**and**" a fine

The first step in calculating the fine is to determine the category and sub-category of the offense. This is significant because each of the above categories and subcategories of the level of criminal offenses contain different starting points. For example, while under subcategory A ('or a fine') the fine serves as a substitution for imprisonment rather than an aggregated imprisonment and fine sentence, in subcategory B ('and a fine') the fine is imposed together with the imprisonment sentence and as such is automatically, in the sense of the law, a more severe punishment.

In order to further elaborate on the manner the legislator has defined provisions of the fine sentence, the following will provide some explanation of the differences noticed in the Criminal Code with regard to the definition of these fines in both the "or" a fine and the "and" a fine provisions, because of the inconsistency we encounter in these provisions.

2.2 Provisions with imprisonment "or" a fine

This category of fines is imposed for offenses that carry a lower imprisonment sentence which may be substituted with a fine by the court. For all criminal offenses that provide for the possibility of imprisonment "or" a fine, the maximum sentence provided is 8 years of imprisonment, which may be replaced by a fine. Because it is imposed as an individual punishment, a higher level of fine should serve as a deterrent factor for the perpetrator for commission of such offences.

Most of the provisions that provide for the possibility of imposing a sentence of imprisonment or a fine provide for the possibility of imposing a fine only, without providing a specific range of maximum or minimum fine. Generally, in these cases the determination of whether the court should impose a prison sentence or a fine should be based on the level of damage, guilt and impact that the sentence will have not only on individual and/or general deterrence, but also the overall impact it will have on public confidence in the judiciary. This

means that in all these cases the rules of the general maximum for imposing a fine under the Criminal Code apply.

Except as stated above, of all the provisions of the Code which provide for an imprisonment sentence "**or**" a fine, only one provides for a fixed fine. That is Article 140, paragraph 1, (Unauthorized border or boundary Crossings) which provides that for this criminal offense the perpetrator shall be punished by a fine of **two hundred and fifty (250) EUR** or by imprisonment of up to six (6) months.

Another provision of the Code, unlike other provisions, provides for a minimum and maximum fine. That is Article 404 paragraph 4 (Participating in a crowd committing a criminal offense and hooliganism), which provides for hooliganism with minor consequences the perpetrator shall be punished by a **fine of two hundred (200) to ten thousand (10,000) Euros**.

Finally, the table below provides for all those provisions of the Criminal Code that provide for the maximum fine that can be imposed instead of imprisonment.

Article	Title of the Article	Maximum fine	Imprisonment punishment.
140 p.2	Unauthorized border or boundary crossings	€2,500	Up to 6 years
366 p.1	Unauthorised ownership, control or possession of weapons	€7,500	Up to 5 years
368 p.1	False weapons permits, consents and licenses and provision of false information	€5,000	Up to 3 years
368 p.2	False weapons permits, consents and licenses and provision of false information	€5,000	Up to 3 years
368 p.3	False weapons permits, consents and licenses and provision of false information	€2,500	Up to 3 months
385.p.2	False statements of co-operative witnesses	€500	Up to 3 months

Table 1.

2.3 Provisions with imprisonment "and" a fine

The Criminal Code and other laws that contain criminal provisions allow for a combined sentence of imprisonment and a fine. This is especially important for criminal offenses where the perpetrator has benefited financially. The combination of these sentences is most likely appropriate especially when the prison sentence is short and/or when the perpetrator clearly has, or will have, the means to pay.⁸

⁸ UK Sentencing Council, imposing imprisonment sentences,

With the provisions of imprisonment “and” a fine, there are several types of fines defined.

1. Provisions which provide for a very fixed amount of fine are found in the following articles:

- **Article 274** - Conversion or transfer of property derived from offenses in this Chapter (Narcotic Drug Offenses). Paragraph 1 of this Article provides that the perpetrator, in addition to the imprisonment sentence of up to 10 years, **shall be punished by a fine three times the value of the transferred or converted property**. If we refer to the Law on prevention of money laundry and combating financing of terrorism, this law also uses the same type of calculation of fine in Article 56 which states: *“Whoever, knowing or having reason to know that certain property originates from any form of criminal activity, such property that is actually acquired by a criminal offense, or whoever, believing that the assigned property is acquired by any form of criminal activity based on representations made as part of an investigative action conducted in accordance with Chapter IX of the Criminal Procedure Code of Kosovo, conducts the following acts, shall commit a criminal offense punishable by imprisonment of up to ten (10) years and a fine up to three (3) times the value of the property which is subject to the criminal offense,...”*⁹
- **Article 295** - Misuse of the position of monopoly (Chapter of Criminal Offenses Against the Economy). Paragraph 2 thereof provides that the offender, besides imprisonment sentence of 1 to 5 years he/she shall also be sentenced with **a fine equal to 25% of the value of the goods sold by his or her business organization** which were subject to the collusive agreement.
- **Article 312** - Avoiding payment of mandatory customs fees or excise fees. Paragraph 5 of this Article provides that if the excise amount exceeds twenty five thousand (25,000) EUR, the perpetrator shall be punished with **imprisonment of up to 5 years, and by a fine of up to five times the unrecorded or unpaid excise amount**. It is worth noting that while paragraphs 1-4 of this Article also provide for fine and imprisonment which are distinguished according to the value of the damage caused, these paragraphs do not provide accurate guidance for defining the fine as defined by paragraph 5 of this Article.

⁹ Law on Prevention of Money Laundering and Combating Terrorist Financing L.Nr.05/L-096, Article 56 Criminal Offense of Money Laundering, par.1, Official Gazette of the Republic of Kosovo, 14.06.2016.

What remains to be emphasized for the three provisions indicated above is the fact that all three provisions relate the amount of the fine to the amount of damage caused.

2. Provisions providing for a maximum fine. The following table reflects these provisions and the maximum amount foreseen:

Article	Title of the Article	Maximum fine	Imprisonment punishment.
164 p.2	Smuggling of migrants	Up to € 500,000	Up to 5 years
164 p.5	Smuggling of migrants	Up to € 500,000	7 -20 years
164 p.10.4	Smuggling of migrants	Up to € 500,000	/
165 p.3	Trafficking in persons	Up to € 500,000	7 -20 years
277 p.1	Participation in or organization of an organized criminal group	Up to €250,000	7 years
277 p.2	Participation in or organization of an organized criminal group	Up to €500,000	10 years
277 p.3	Participation in or organization of an organized criminal group	Up to €500,000	10 years to life
364 p.1	Unauthorised import, export, supply, transport, production, exchange, brokering or sale of weapons or explosive materials	Up to €7,500	1 -8 years
367 p.2	Use of a dangerous weapon or device	Up to €10,000	1 -10 years
387	Intimidation during criminal proceedings	Up to €125,000	2 -20 years

Table 2

3. Determination of the starting point for calculating the fine for each category

All the provisions of the Criminal Code which are not mentioned in the two subcategories above ("and" "or" a fine) are provisions that only determine the possibility of a fine as a cumulative sentence with the sentence of imprisonment or as a substitute of imprisonment, but they do not provide for a minimum or maximum fine range. In all these cases, the general provisions for minimum and maximum fine range apply. In order to clarify the requirements for determining the starting point, each of the categories and subcategories will be explained separately below in tabular and narrative way. **To clarify, the starting point only serves as a guidance for the court on how the fine should be calculated, given the relevant factors that may have an impact in calculation of the fine based on principles of Article 69 par 5 of the Criminal Code and is in no way used for precise determination of the amount of fine.** This is because the court has the discretion to determine the amount of fine depending on

the relevant mitigating or aggravating factors applicable in a particular case and having regard to the general provisions of the Code on the minimum and maximum fine.

To facilitate the calculation of the fine according to the principles set out in this guide, which are based on provisions of the Code and international standards, a calculator will be made available to judges whereby judges will only need to enter some of the data required and the system will provide the final calculation based on the starting point.

3.1 Criminal offenses committed with the intent of obtaining material benefit

In this category of offenses, as mentioned above, the calculation of the starting point is based on the value of the damage/benefit (as factors for determining the severity of the offense) and the financial status of the offender. To be clear, considering that imprisonment sentence or fines are not the only possible measures provided for by law, the Court must bear in mind that the purpose of the fine is not to recover the damage caused or the benefit of the perpetrator. That purpose is achieved through **reparation, i.e. confiscation of the material benefit obtained through criminal offense, which always take precedence over the imposition of fines.**

The following is an example of how the starting point is determined based on this category and the difference that is made in the calculation of each subcategory and in the calculated percentage (%). To make it clearer for both sub-categories, we have taken into account the same value of damage/benefit, same sentence height, income and other property of the perpetrator:

CALCULATION OF A FINE IN CRIMINAL OFFENSES COMMITTED WITH THE INTENT OF OBTAINING MATERIAL BENEFIT							
CATEGORY I.A. Fine “or” Imprisonment provision (fines of up to 8 years)							
a. Imprisonment expressed in months	b. Imprisonment converted in days	c. Sub-total	d. The value of damage/benefit	e. 30% of the damage value	f. Monthly income	g. % of income x imprisonment length	h. Preliminary starting point
6	180	720.00 €	5,000.00 €	1,500.00 €	170.00 €	306.00 €	2,166.00 €
					1,020.00 €		
					i. The value of offender's other property	j. Total debt and liabilities for this period	k. Final calculation of starting point
					10,000.00 €	5,000.00 €	3,666.00 €
					1,500.00 €	5,000.00 €	

Table No.3

CALCULATION OF A FINE IN CRIMINAL OFFENSES COMMITTED WITH THE INTENT OF OBTAINING MATERIAL BENEFIT							
CATEGORY I.B. Fine “and” imprisonment provision (sentences up to life-long imprisonment)							
a. Imprisonment expressed in months	b. Imprisonment converted in days	c. Sub-total	d. The value of damage / benefit	e. 30% of the damage value	f. Monthly income	g. % of income x imprisonment length	h. Preliminary starting point
6	180	720.00 €	5,000.00 €	1,500.00 €	170.00 €	306.00 €	1,083.00 €
<p>Note: In the case of a suspended sentence, the calculation under Category I.A. applies</p>					1,020.00 €		
					i. The value of offender's other property	j. Total debt and liabilities for this period	k. Final calculation of starting point
					10,000.00 €	5,000.00 €	
					1,500.00 €	5,000.00 €	2,583.00 €

Table No.4

The following will explain the contents of Tables 3 and 4 and how the starting point is calculated. Initially, it should be clarified that in Category I.A the perpetrator avoids prison time and therefore the calculation differs from the calculation in Category I.B where the offender is sentenced to imprisonment and a fine under the Code. In addition, it elaborates all element that are taken into account in each calculation. The tables do not imply that the judge will complete all of these fields, but are intended only to clarify how the fine is calculated, while only fields highlighted in blue are to be completed by the judge:

- a. **Imprisonment expressed in months.-** This field specifies the amount of sentence expressed in months which should be determined by the judge initially in order to finally determine the gravity of the offense and the relevant fine. This is because the range between the minimum and maximum punishment within the same provision is often very large therefore, the court must also decide what would be the appropriate punishment, if it were expressed in imprisonment sentence. This field must be completed by the judge. In the concrete case, these charts show imprisonment sentence of 6 months. It should be borne in mind that it is necessary to taken the prison sentence expressed in months as the basic criterion for imposition of a fine due to the fact that together with the damage caused it constitutes the basic elements for determining the degree and severity of the offense.

- b. **Imprisonment converted in days.-** This field only represents the sentence determined by the judge in the field (a.) automatically converting it to days in order to enable reflection of calculation of the fine value per day in the field (c.).
- c. **Sub-total.-** This field represents the daily value of the fine which equals to 2-4 € per day determined solely for the purpose of calculating the starting point and not the final fine. It should be borne in mind, as reflected in the tables in this guide, that imprisonment and the income received as an example in this guide are at minimum values. If in a particular case we are dealing with 10x higher monthly income, 10x higher material damage or even 10x higher perpetrator's wealth, then the final starting point would be much higher. Therefore, in calculating the fine we must also take into account the maximum penalty ranges provided by the Code, so it is not possible for the daily value of the fine to be higher than that, especially given the high unemployment rate and the difficult economic situation prevailing in Kosovo.
- d. **Value of damage/benefit.-** The value of damage in offenses committed for the purpose of obtaining material benefit is a very important factor which is also indicative of the seriousness of the offense. We also note this importance in the fact that the Criminal Code itself divides offenses according to the amount of damage caused. Field (d) is a field that the judge must complete and it is not necessary that the value of the damage be precisely specified. If the judge does not have accurate data about the amount of damage, an approximate figure can be set according to the definition of damage in the Criminal Procedure Code, which states that "*The court may order the payment of damage based on a reasonable assessment of the monetary value of the damage directly or indirectly caused as a result of the offense.*"¹⁰ This is due to the fact that in the present case when it comes to determining the fine we are not talking about restitution but only the determination of the amount of damage. In the tables, the amount of € 5,000 was taken as an example of value of the damage. Regardless of which category the criminal offense falls into, the level of damage and/or material gain is very significant. We will take the example of Article 415 (The abuse and the fraud in public procurement) par.3: "*If the perpetrators of the criminal offenses referred to in paragraphs 1. and 2. of this Article, acquire or cause substantial property damage, in values over five thousand (5,000) Euros*". When analyzing the word "substantial" in the spirit of Article 113, paragraph 2 of the Code, this damage covers the interval between

¹⁰ Ibid.supra note.1 Article 19 Definitions, par.1.14 (Damage).

5,000 and 15,000 Euros. However, if the damage for the same offense is higher than EUR 15,000 or EUR 50,000, then the starting point for that offense will naturally be much higher, corresponding to the level of damage.

- e. **Percentage of damage value.** 30% of the total value of the damage or benefit is taken in calculating the amount of damage. The percentage was limited given that when it comes to the 100% value of the damage, the perpetrator will pay restitution which should always take precedence over the fine in terms of its execution.
- f. **Perpetrator's income** – This field represents one of the court obligations, that derives from Article 69 par 5 where the lawmaker requires that the perpetrator's income be one of the requirements for assessing the severity of fine. In this area the judge is required to look into perpetrator's monthly income, from salaries or other sources. In the area reflected in all four tables a minimum wage of € 170 was considered. Thus, the higher the income, the higher the fine.
- g. **Percentage of Perpetrator's income.-** Of course, when imposing a fine based on the perpetrator's monthly income, it should **be borne** in mind that the perpetrator often has obligations to support family members or other obligations and not to risk the necessary means for the family. Therefore, as a starting point for calculation purposes, 30% of income (same as with the value of damage) is taken, which is multiplied by the duration of the fine provided in field (a.). Such a system of calculation of income is also applicable in the British system of determination of damage where the initial point is the amount of the perpetrator's income. However, given that under the Criminal Code a perpetrator can be sentenced to imprisonment of less than a year, or because they may not have stable employment, it was not considered reasonable to set the value of the fine pursuant to the annual salary.
- h. **Preliminary starting point.-** This field provides the preliminary fine by taking into account fields (c.), (e.) and (g.). It should be borne in mind that in the sentences that provide prison "and" a fine the perpetrator will serve the sentence and is obliged to pay a fine, thus in this category (Category IB) the total starting point in the field (h.) is reduced by 50%, which is not the case in Category I.A where the perpetrator does not serve the prison sentence. **It is very important to note that if the perpetrator is sentenced with a suspended sentence, the 50% deduction is not applicable and the calculation is made automatically based on Category I.A.**
- i. **The value of the offender's other property.-** Completing this field along with the field (s) is very important if the punitive purpose of the fine as punishment for the

offender is really to be achieved. The reason why the overall financial situation is included in the calculation is because there are perpetrators who can realistically and legally generate low income compared to their overall financial position. Therefore, if we were to rely solely on the perpetrator's monthly income for a perpetrator who stands very well materially, we would not really achieve the punitive effect of the fine as he/she would easily pay the fine. This calculation as mentioned above on the data entered in the field (j.) are fully in accordance with provisions of Article 69 par. 5 of the Criminal Code which states that “When determining the punishment of a fine, the court shall consider **the material situation of the perpetrator, and, in particular, the amount of his or her personal income, other income, assets and obligations.** *The court shall not set the level of a fine above the means of the perpetrator.*”¹¹ Determination of this amount does not require the exact value of the offender's assets.

- j. Total debts and liabilities of the perpetrator.-** Listing of debts and liabilities of the perpetrator is very important even if their value is not known precisely. Whenever imposing a fine we need to bear in mind both the perpetrator and members of his/her family, who are supported by him/her so that they can retain sufficient funds even after the payment of fine.
- k. Final calculation of the starting point of the fine.-** The final calculation of the fine represents the final act in determining the starting point for calculating the fine. This includes 30% of the value of the offender's assets by deducting liabilities/debts.

The table and description above indicate that when deciding on the appropriate fine for the perpetrator, financial data on the perpetrator needs to be available for the court. As stated above, **such data should be obtained during criminal proceedings, in particular through direct engagement of prosecution office directly or through relevant institutions in accordance with applicable legislation. The defense, on the other hand, shall have the possibility to challenge the data provided by the prosecution by presenting data from the side of defense.** Financial data is indispensable for the process, especially when it comes to investigating offenses committed for the purpose of obtaining material benefit as these data are relevant for potential confiscation of assets.

¹¹ Ibid.supra note 3.

3.2 Criminal offenses not committed with the intent to obtain a material benefit

As stated above, a fine is not provided as a punishment only for criminal offenses committed with the intent to obtain a material benefit but also for many of the other offenses provided in the Criminal Code. The primary criteria for this category of offenses in determining the level of fine is the income and the assets of the perpetrator, since such offenses are not committed with the intent to obtain a material benefit. Of course, the general rule that restitution has priority over a fine also applies to these offenses.

There are provisions under these offenses too which provide for the two subcategories of punishments: imprisonment **and** a fine, and imprisonment **or** a fine.

Below is a table illustrating the calculation of fines for this category of offenses.

CALCULATION OF A FINE FOR OFFENSES NOT COMMITTED WITH THE INTENT TO OBTAIN MATERIAL BENEFIT					
CATEGORY II.A. Imprisonment “or” Fine (up to 8 years of imprisonment)					
Imprisonment expressed in months	Imprisonment converted in days	Sub-total	Monthly income	Percentage of income x imprisonment length	Preliminary starting point
6	180	360.00 €	170.00 €	306.00 €	666.00€
				1,020.00€	
			The value of offender's other property	Total debt and liabilities for this period	Final calculation of starting point
			10,000.00€	5,000.00 €	2,166.00€
			1,500.00€	5,000.00€	

Table 5.

CALCULATION OF A FINE FOR OFFENSES NOT COMMITTED WITH THE INTENT TO OBTAIN MATERIAL BENEFIT					
CATEGORY II.B. Imprisonment “and” Fine (up to life-long imprisonment)					
Imprison-ment expressed in months	Imprison-ment converted in days	Sub-total	Monthly income	Percentage of income x imprisonment length	Preliminary starting point
6	180	360.00 €	170.00 €	306.00 €	333.00€
				1,020.00€	
<p>Note: In case of a suspended sentence, the calculation applies according to Category II.A</p>			The value of offender's other property	Total debt and liabilities for this period	Final calculation of starting point
			10,000.00€	5,000.00 €	1,833.00€
			1,500.00€	5,000.00€	

Table 6.

As shown in tables 5 and 6, the calculation of a fine for category II (A and B) is generally conducted using the same system as for category I (A and B). The difference between the two types of offenses is only in the following:

- a. **Non-inclusion of the amount of damage in the calculation of a fine** – Considering that offences were not committed with the intent to obtain a material benefit, as a rule we are not talking about financial damage, as such offences are committed for other motives, it is reasonable not to include the amount of any damage in the calculation of a fine. The important thing for these types of offenses is to calculate the amount of damage caused to the victim for the purposes of restitution, but not for the purposes of determining the fine.

4. Factors that impact the level of fine

In the chapters above, the separation of categories of fines and the calculation of the starting point were elaborated. It must be borne in mind that the starting point does not automatically mean the final fine. The court has the discretion to increase or decrease the fine based on relevant mitigating or aggravating factors of the case. The mitigating and aggravating factors provided for in Article 69 of the Criminal Code also apply to fines. The purpose of elaborating these factors below is not to repeat or replace the instructions provided in the 2018 Sentencing Guidelines. It is rather meant to show how much those factors may or may not be applicable in

determining the fine. This is also in line with the principles set forth in the Law on Liability of Legal Persons for Criminal Offenses, which foresees important factors in determining the fine for legal persons.¹²

We will provide some suggestions and references below on how certain factors may impact the amount of fine, always keeping in mind the fact that the factors which had an impact in determining the starting point should not be recounted for aggravation or mitigation.

4.1 The factors that may be considered for aggravation

If we refer to the factors provided for in the Criminal Code, we may generally conclude that, apart from recidivism and where the offence was committed as a part of organized criminal group activity, almost all other factors merit a similar percentage in aggravation of sentence. There is of course an exception for some of the more specific offenses for which there are very specific factors that may lead to a higher fine. Other aggravating factors may apply and the court may give them certain percentage for aggravation depending on their weight to the criminal offense. Calculation of aggravating factors is conducted by adding the appropriate % of this factor to the starting point calculated beforehand in the calculation system indicated above. It is important to note that, unlike the starting point which is largely based on the perpetrator's financial status, the presence of the following factors does not only help in determining the amount of the fine. These factors should further assist the judge in deciding whether the offense committed by the relevant perpetrator, due to the gravity of the offense and the damage caused (whether financial or material or psychological), merits conversion of a sentence into one fined sentence only, leading to no legal consequences for the perpetrator, or the offense is of a nature and gravity that does not justify the imposition of a fine as the sole sanction.

Hereunder is a list of factors provided for by the Code¹³ by combining those factors which are more or less similar to each other in order to avoid double counting:

- a. **A high degree of participation of the convicted person in the criminal offense (p.2.1) and A high degree of intent on the part of the convicted person (p.2.2)** - These two factors are very important in determining the sentence of the perpetrator because it

¹² Law no.04/L-030 on Liability of Legal Persons for Criminal Offenses, Article 10, Evaluation of the punishment by fine, Official Gazette of the Republic of Kosovo, 14.09.2011.

¹³ Ibid.supra note 3, Article 70, General rules on mitigation or aggravation of punishment, par. 2.

establishes the degree of criminal liability as required by provisions of the Criminal Code. This should not only apply to organized crime, but also to criminal offenses committed in co-perpetration (Article 31) and the agreement to commit a criminal offense (Article 35) by making the distinction based on the degree of criminal liability of each person individually – the higher the criminal liability, the higher the fine, always taking into account the perpetrator's financial standing.

- b. The presence of actual or threatened violence in the commission of the criminal offense (p.2.3), Whether the criminal offense was committed with particular cruelty (p.2.4), Whether the criminal offense involved multiple victims (p.2.5), Whether the victim of the criminal offense was particularly defenseless or vulnerable (p.2.6), The age of the victim, whether young or elderly (p.2.7), Evidence of a breach of trust by the convicted person (p.2.10), and If the offense is committed within a domestic relationship (p.2.14)** – All the factors that relate to the victim were intentionally grouped into one category. This was not done to reduce the importance of this factor. In fact, it is the opposite. These are some of the most important factors, especially for some of the offenses that relate to the body and sexual integrity of the victim, in determining the gravity of the criminal offense and the degree of liability of the perpetrator. However, we consider that in relation to these factors, the appropriate restitution of the victim and the confiscation of unlawfully obtained assets in order to compensate the victim is more important than the fine.
- c. Any abuse of power or official capacity by the convicted person in the perpetration of the criminal offense (p.2.9)** – This factor will be an element of the criminal offense in almost all cases and as such would rarely be used as an aggravating factor in determining a fine. However, when talking about this factor, same as in point a) it should be borne in mind that the court must distinguish between a person in a high official position over someone in a much lower position and with much less authorizations.
- d. If the criminal offense is a hate act (p.2.12)** – Unless if this factor constitutes an element of the criminal offense, it is an important element of the motive for the commission of the criminal offense and as such it also represents an indicator of the degree of liability of the person and the gravity of the criminal offense. If it is not taken into account in determining the starting point, it could be considered in determining the fine but there is no clear answer as to how much this factor would impact the aggravation of fine.
- e. Whether the criminal offense was committed as part of activities of an organized criminal group (p.2.11)** – This factor usually constitutes an element of the criminal

offense and thus rarely will be used in aggravating the sentence. Article 277 of the Criminal Code provides for a maximum fine of 250,000.00€ and 500,000.00€. Since the starting point in the table does not include the element of organized crime, the judge, in determining the fine, should consider the multiplication of the starting point in order for it to be in compliance with the minimum and maximum fine range foreseen for the organized criminal group activity.

- f. **Any relevant prior criminal convictions of the convicted person (p.2.13)** – Similarly to factors that refer to activity of a criminal group, recidivism is also one of the factors that may greatly affect determining a higher fine. This factor not only affects the aggravation of punishment within the maximum range provided for by the law, but also refers to the aggravation of punishment because of recidivism, which permits a punishment that is higher than the maximum provided for by the law. *“The court may impose a more severe punishment by adding no more than an additional half of the maximum punishment to the punishment for the recidivist.”*¹⁴ Since the starting point in the table does not consider the element of recidivism, the judge, in determining the fine, should always consider multiplication of the starting point in order for recidivism, in which case the aforementioned provisions would apply for aggravation of the sentence beyond the maximum provided for by the law. Whereas, for aggravation within the maximum range, other relevant factors related to the perpetrator and the type of offense would also be considered.

4.2 Factors that may be considered for mitigation

The aggravating factors, just like mitigating factors, may be used to determine the appropriate fine for the perpetrator. Below is the list of mitigating factors set forth by the Criminal Code.¹⁵ The calculation of mitigating factors is done by reducing the fine depending on the applicability of such factors.

- a. **Diminished mental capacity (p.3.1)** – This factor is quite important as it may have a great impact depending on the material situation of the perpetrator. If the perpetrator has no income or assets, this factor may realistically and automatically make it impossible to impose a fine on such categories of perpetrators.

¹⁴ Ibid.supra note 3. Article 75, Aggravation of punishment for multiple recidivism.

¹⁵ Ibid.supra note 13.

- b. Evidence of provocation by the victim (p.3.2)** – As elaborated in the Sentencing Guidelines,¹⁶ provocation may present an important factor for several categories of criminal offenses in determining the severity of the punishment for the perpetrator, but it would have little importance in determining the fine for the perpetrator, with the exception of cases when imprisonment is converted into a fine (provisions imprisonment “or” a fine), in which case this factor may be important in initially determining the imprisonment sentence that is later converted into a fine.
- c. Personal circumstances and character of the convicted person (p.3.3) and the age of the convicted person, whether young or old (p.3.6)** – Factors from par. 3.3 and 3.6 are intentionally grouped together because they refer to personal circumstances of the perpetrator. They are two of the factors most frequently applied by the courts in their decisions and were often overvalued compared to other factors. This is something to keep in mind in determining the fine when referencing personal circumstances of the perpetrator, which are generally cited as the marital status and having dependents. If we are to go back to the tables above, these factors are in fact included in determining the starting point, because only 30%, respectively 20% of the income and the assets of the perpetrator were taken into account after removing the debts and obligations of the perpetrator. Therefore, the calculation of these factors again in mitigation would constitute double counting of such factors. Regarding the age, it again relates to the material ability of the perpetrator to pay.
- d. The convicted person played a relatively minor role in the criminal offense (p.3.4) and the fact that the convicted person participated in the criminal offense not as the principal perpetrator (p.3.5)** – These two factors were also combined because they are very similar. These two factors combined may have quite an important role in the final fine because the degree of liability, similar to an imprisonment sentence, should also be considered in determining a fine when involving offenses committed in co-perpetration. The individual punishment for each perpetrator should not be the same as it would violate one of the basic principles of criminal law on the degree of criminal liability.¹⁷
- e. Restitution or compensation to the victim (p.3.7)** – As noted several times in this Guideline, the restitution of the victim or injured party always takes precedence over

¹⁶ Sentencing Guidelines, adopted by the Supreme Court of the Republic of Kosovo, February 2018.

¹⁷ Ibid.supra note 3.

any fine against the perpetrator. On the other hand, the remorse shown by the convicted person (par.3.11) may also be considered as a mitigating factor, thus it may have an impact in reducing the punishment.

- f. General cooperation by the convicted person with the court (p.3.8) and Voluntary cooperation in a criminal investigation or prosecution (p.3.9)** – These two factors were intentionally combined because both of them may be indicators of the willingness of the perpetrator to cooperate and facilitate the conduct of legal proceedings, depending on its current stage. Article 277¹⁸ of the Criminal Code under organized crime provides that the court may reduce the punishment of a member of an organized criminal group who reports the case and gives information on the criminal group. The provisions of plea bargaining could also be applied in these cases to either impose a lower sentence within the sentencing range or to mitigate the punishment as provided under Article 71¹⁹ of the Criminal Code when the court finds particularly mitigating factors. However, their impact in reducing the fine in a certain case would depend on the court's assessment.
- g. The entering of a guilty plea (p.3.10) and Any remorse shown by the convicted person (p.3.11)** – Both these factors could have an impact in reducing the fine, but only combined. It is the court that determines during its decision-making as to whether the guilty plea and the expression of remorse are sincere in order to determine the appropriate fine that would have a punitive effect on the perpetrator.
- h. Post conflict conduct of the convicted person (p.3.12)** – This factor could easily be combined with the factors from paragraphs (f.) and (g.) and be counted as one factor if they have the same goal, or be counted as a standalone factor in cases when it refers to the assistance that the perpetrator may have offered to the victim following the commission of the criminal offense. As to the latter, this factor would have a greater impact on the level of fine in cases involving criminal offenses for which the fine is imposed as a substitute to imprisonment.
- i. Renouncing terrorist activity before any grave consequences have resulted therefrom and providing authorities with information (p.3.14)** – There are only two provisions in the Criminal Code that explicitly provide for a fine for terrorism offenses – Article 131 (Facilitation and financing of the commission of terrorism) and Article

¹⁸ Ibid. Article 277, Participation in or organization of an organized criminal group.

¹⁹ Ibid. Article 71, Mitigation of Punishment, par.1.3.

136 (Organization and participation in a terrorist group). Both provisions provide for a maximum fine of 500.000.00€. Therefore, if the court determines that the factors from this paragraph have great impact in determining the sentence, such factors may also have a great impact in the level of fine, which carries a very high maximum anyways. It must be borne in mind that the Law on Prevention of Money Laundering and Combatting Terrorist Financing²⁰ provides for the same maximum fine for the criminal offense of terrorist financing.

4.3 Inability of the perpetrator to pay the fine

The purpose of fine, similar to the purpose of other punishments provided in the criminal law, is to achieve a punitive effect on the defendant. This purpose can be accomplished only if the imposed sentence is proportional to the gravity of the criminal offense and the financial ability of the perpetrator to pay the fine. Imposing random fines goes to the detriment of the punitive effect and in fact aggravates the position of the perpetrator and precludes his rehabilitation if the perpetrator is poor. In determining the sentence, the Criminal Code provides that “...the court shall not set the level of a fine above the means of the perpetrator.” Therefore, the court does not have to determine the level of fine according to the table for finding the starting point, but simply if the provision imperatively requires the imposition of a fine, the court may also decide to impose the minimum sentence provided for by the provisions of the Criminal Code (under Article 43) when the perpetrator is unable to pay restitution or minimum fine. In cases when it is easy to determine that the defendant cannot pay or is unable to pay the fine, it is unnecessary to determine the level of fine because no fine will be imposed. However, it should be borne in mind that even in cases where the defense presents the above allegations, the prosecutor and the court must still take all necessary actions to substantiate such allegations, rather than taking them for granted. After all, such information on the perpetrator's financial situation should be available to the justice authorities from the outset of criminal proceedings in order to determine whether the perpetrator can hire a defense counsel or whether one should be engaged ex officio.

²⁰ Law No.05/L-096 on the Prevention of Money Laundering and Combatting Terrorist Financing, Official Gazette of the Republic of Kosovo, 15.06.2016.

4.4 Other considerations in calculating the fine

The calculation of a fine for criminal offenses as well as the % of mitigation or aggravation of a fine based on mitigating and aggravating factors does not have to be an exact mathematical calculation. The important thing is to have the calculation of a fine and the punishment of a perpetrator generally understood as a process which encapsulates all the relevant provisions of the Criminal Code, and not only consider one of the provisions because this would violate the principles and the concepts of the criminal law.

4.4.1 Calculating fines for concurrent criminal offenses

During calculation of a fine, it is also important to address the issue of calculating a fine in cases where the perpetrators are charged with more than one criminal offense. This would lead to a different calculation of a fine because in this case the principle of calculating a fine as an aggregate punishment for concurrent criminal offenses applies as provided for under Article 76 of the Criminal Code. *“If the court has imposed a punishment of a fine for each criminal offense, the aggregate punishment of a fine is the total sum of all fines but it may not exceed the amount of twenty five thousand (25,000) EUR or, when one or more criminal offenses are committed with the intent to obtain a material benefit, the amount of five hundred thousand (500,000) EUR.”*²¹ According to this provision if the perpetrator is to be found guilty for two or more criminal offenses and if each of these criminal offenses provides for a maximum punishment of a fine, the sum of all fines may not exceed the maximum fine of 25,000.00€, respectively 500.000.00€.

4.4.2 Calculating fines for legal persons

The principles elaborated in this Guideline apply to perpetrators who are physical persons and in certain points also include cases when legal persons are included in the commission of the criminal offense. For the latter, the amounts of fines are specifically provided for by the Law on Liability of Legal Persons for Criminal Offenses²² and various provisions provide for the minimum and maximum fines depending on the gravity of the criminal offense and the sentence provided by the Criminal Code for such offenses. As mentioned above, almost the

²¹ Criminal Code of the Republic of Kosovo, No.06/L-074, Article 76, Punishment of concurrent criminal offenses, par. 2.4, Official Gazette of the Republic of Kosovo, 14.01.2019.

²² Law no.04/L-030 on Liability of Legal Persons for Criminal Offenses, Article 9, Punishment by fine, Official Gazette of the Republic of Kosovo, 14.09.2011.

same principles that apply in determining the punishment according to the Criminal Code are also relevant for legal persons – with the exception of a few specifics that are slightly different in this Law.²³ In compliance with this law, the court shall take into consideration the fact that when a criminal offense is committed by a legal person, it is necessary to appropriately determine the level of damage and guilt caused by a legal person and determine an appropriate fine. The Law sets forth the following factors for determining the gravity of the criminal offense:

- 1.1. the gravity of the committed criminal offence;
- 1.2. the consequences that have occurred or could have occurred;
- 1.3. the circumstances under which the criminal offence was committed;
- 1.4. the economic power and the competencies of the legal person;
- 1.5. the function and the number of responsible persons in a legal person, who have committed a criminal offence;
- 1.6. the conduct of a legal person after the committal of the criminal offence;
- 1.7. the measures that were taken by the legal person with the purpose to omit and report the criminal offence;
- 1.8. the relationship with the victim of the criminal offence;
- 1.9. the conduct of the legal person for the criminal offence, including the acceptance of responsibility for the committed criminal offence.

The same Article also provides that the court shall particularly consider whether:

- the legal person has any previous criminal record,
- the type of the criminal offence committed previously is the same as the new criminal offence, and
- how much time has passed since the first sentence.

In determining a fine for recidivism, the Law stipulates that multiple recidivism shall exist if:

- **the legal person was convicted at least twice for a similar criminal offence by more than thirty five thousand (35.000) Euros** and if since the serving of the last punishment, have not elapsed more than five (5) years;
- **for similar criminal offences has been sentenced to imprisonment at least two times or punished by a fine of fifteen thousand (15.000) Euros**, if from the last punishment by

²³Ibid. Article 10, Evaluation of the punishment by fine.

imprisonment that was imposed on that person, not more than five (5) years have elapsed and if the perpetrator has the affinity to commit such criminal offences.

4.4.3 Applicability of principles of this Guideline in other criminal offenses provided for by other criminal legislation

Even though provisions of the Criminal Code are the primary reference of the Guideline, there is nothing that prevents courts from applying these principles in other laws which provide for criminal sanctions or may provide so in the future. One of these laws is the Law on Prevention of Money Laundering and Combatting Terrorist Financing,²⁴ which refers in several provisions to various administrative and criminal fines issued in accordance with this Law. However, for the purposes of this Guideline, as previously noted under the elaboration of aggravating factors, Article 56 of this law is the most relevant article in determining appropriate fines. It is interesting to note that due to the gravity of such offenses, par.1 of this Article provides for the manner of calculating a fine:

1. Whoever, knowing or having cause to know that certain property is proceeds of some form of criminal activity, and which property is in fact proceeds of crime, or whoever, believing that certain property is proceeds of crime based on representations made as part of a covert measure conducted pursuant to Chapter IX of the Criminal Procedure Code of Kosovo, conducts the following actions, commits a criminal offence punishable with imprisonment of up to ten (10) years and a fine of up to three (3) times higher in the value of the property which is the subject of the criminal offence.” As evidenced by this Article, the Law provides for very high amounts of fines for these criminal offenses, which are considered as the most serious based on their nature in the category of criminal offenses committed for material benefit. This same approach could be used in criminal offenses that include large scale damage.

²⁴ Ibid.supra note 20.