

Gang formation and criminal organisation(s):

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A criminal organisation is an association of more than two persons. In it, the members conspire to commit crimes or misdemeanours punishable by imprisonment for three years or more. The persons in the association use violence, corruption or threats to do so and want to gain a financial advantage.

Essential to a criminal organisation is its organised character. It is an organisation in which there is a hierarchy and everyone has their own task or function within the organisation.

Every person involved is punishable as a member of the criminal organisation, even if the assistance provided is not in itself punishable. Consider, for example, the pub owner who makes his room available for meetings of the criminal organisation, knowing that they are committing criminal acts. The pub owner may then be punished as a member of a criminal organisation.

A distinction is made between the members and the executives of the criminal organisation, with the executives receiving heavier sentences.

Gang affiliation is the milder form of criminal organisation. It refers to any association whose aim is to carry out attacks on people or property. Being a member of these associations is also punishable. In order to be considered a member, it must be proven that the person knew about the criminal activities and that they committed an act to contribute to these activities. Unlike criminal organisations, mere membership without direct assistance is not sufficient to be convicted. Moreover, in the case of gang formation, it is not necessary for there to be an organised character.

In most cases, the formation of a gang will be an aggravating circumstance in another crime.

For more information about this crime, a concrete punishment and/or tailor-made advice, contact our criminal lawyers at info@studio-penale.be.