The concept of crime in the context of globalization

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Abstract
The autor present the influence of globalization on the concept of crime, this process might be reflected in the stimulation of the unification of the different conceptions at the European and world level, defining the crime and the conditions for criminal responsibility.
Keywords: *criminal, globalization, the unification*

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1. As it is known, currently all over the world mankind is facing a social phenomenon with wide implications, namely globalization.

Globalization is characterized by intensified global cooperation of the states in order to create a single market, to give up the customs duties, to intensify the movement of goods, to identifying new sources of raw materials and product sales opportunities.

In fact, Professor George Antoniu believes that globalization fosters the creation of unions of states in which cooperation is increasing to finally reach a unitary state at continental and global levels.

In other words, this process of globalization should have the character of a process that will intensify in the future the economic and cultural needs that are in constant growth and complexity.

2. In this regard, it would be necessary to consider whether globalization influencing the concrete manifestations of the offense will influence the very definition of this concept [1]. In other words , if there will continue to subsist as traits of the concept of offense those traits currently stipulated the Penal Code in Article 15, namely to exist

an offense under the criminal law committed with guilt and also imputable [2] (as a positive trait) and unjustified (as a negative trait [3]).

It should be noted that the new law-maker, following the tradition of the previous Penal Code defines the offense in a text of the Code, although in most laws there is no such definition, as it is regarded to be in the jurisdiction of the doctrine, not of the law-maker.

Referring to the new definition of the crime, we notice the removal of the requirement that the offense should represent a socially dangerous act. It was satisfied thus an older requirement of the doctrine to be adopted a formal, and not a substantial definition of the offense.

In this respect, the new definition is a step forward and brings the Romanian doctrine closer to other penal which define criminal offense this way (crime is the offense which according to the criminal law is committed with guilt). The new definition of the crime is not limited to this, but includes also two new features, namely that the act should be unjustified and imputable to the person who committed it. The first requirement would establish the idea that the criminal offense involves the lack of the justifying cases. Although this corresponds to reality, as the crime is also defined by a negative demand (not only the positive ones that we mentioned above), namely the lack of the justifying cases, the notion of "unjustifiably" is not adequate, in our view, to render the reality to which we refer. In the Romanian language this concept has multiple meanings (unjustifiably severe, mild, unjustifiably in the sense of not having a reason, a ground, etc.), and not only that of the lack of the justifying causes. As such, globalization could act also with the aim of unification of the justifying causes and the non-imputability causes, unification that would be necessary both as regards the definition of these cases and their field of application, and the consequences that would produce, in rem and in personam.

A certain unification of these definitions imposed by globalization, in case it could be done, would consist, in our opinion, of a future unified doctrine in formulating a simplified definition of the concept of crime, conceived as an offence committed with guilt and stipulated by the penal law, without reference to other features of the concept.

Also, there were reflected in the provisions of the new Penal Code the progressive ideas related to the execution of criminal penalties, possibly in an open environment, which emphasizes the alignment of the Penal Code to the important trends of the science of penal law.

Also in the Romanian criminal doctrine it has been raised the question whether the purpose of the penal law should or should not occur in the content of the penal law?

This question was answered, according to an opinion, (C.Buali) that the penal laws of the former socialist countries used to stipulate a provision with this content.

Other authors (George Antoniu) claimed that this issue belongs to the criminal doctrine and not the law-maker (the Western countries).

The law-maker of thee new Penal Code followed the last opinion, renouncing to an explicit provision regarding the purpose of the penal law.

This different position on the need to include or not in the penal law an explicit provision regarding the purpose of the penal law is not an ad-hoc option, but it reflects a certain way of conceiving the role and general significance of the penal law in the context of globalization.

It should be noted that globalization could affect the principle of legality of incrimination and punishment at most in terms of formulation (we consider more appropriate a unitary formulation of the principle of legality of incrimination and punishment, as provided in most of the penal legislations and not a separate formulation of the of legality of incrimination and of legality of punishment like in the new Romanian Penal Code, according to the Spanish model, article 1 and 2).

In connection with this, the recent doctrine defines general principles of law as fundamental prescriptions containing key ideas that should be included in any rule of law, with a creative role on judicial phenomenon , and conditional in that they contain the objective conditions that must exist in any law [4].

Referring to the influence of globalization on the concept of crime, this process might be reflected in the stimulation of the unification of the different conceptions at the European and world level, defining the crime and the conditions for criminal responsibility.

Also, some authors of penal law [5] have reported that at present, both in our country and in other countries there is a process of decriminalization of certain acts that do not present anymore a social hazard or of depenalization of other acts, i.e. their removal from the field of the penal law, as they will be punished in other ways (misdemeanors, civil wrongs).

In the stipulations of the Code, we see the reflection of ideas of classical penal school of the positivist schools.

At the same time, there will also be highlighted new categories of offenders appearing in the context of globalization. Within these categories an important place will have not only people who becomes insolvent, in state of poverty beyond a rational admissible limit, but also people will break the penal norms that protect the economic relations and that are concerned with their fast enrichment and with speculating the poor living conditions of most of the citizens to accumulate wealth at the expense of society and the people deprived of other means.

The latter category should also include the legal persons who violate the existing regulations to accumulate significant capital to be distributed among the members of those companies.

It is also likely that the globalization process should lead to the incrimination of new illicit acts committed by individuals and by legal entities.

3. It can be concluded that the Romanian law-maker has succeeded to achieve a certain unification of the appropriate regulatory framework capable of providing adequate suppression of illicit acts committed under the influence of globalization.

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