Crime and criminality - serious threats of the harmonious and balanced development of the Romanian State

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Abstract: The current development of the Romanian society shows that, although the actions of specialized public institutions against acts of crime have intensified, there is still a high recrudescence and multiplication of illegal acts committed in the social, economic and financial, banking sector, including blackmail, corruption, with even more violence and aggression. Thus, high crime acts committed by violence and corruption tend to be very intense and dangerous for the stability and security of the institutions, groups and individuals, being often associated with organized crime, terrorism and institutionalized violence.

Crime, criminality, their threats and the fight to prevent and control them are complex and multidisciplinary concepts involving multiple conceptual and operational approaches, from a social legal, political, criminological, philosophical, logical and systematic, ethical, perspective.

Keywords: crime; criminality; organized crime; corruption; consequence; risks; prevention.

INTRODUCTION

The confusion and economic and social degringolade, following 1990, have favoured the emergence in Romania of a new type of individual, an individual who is mischievous, arrogant, dishonest, greedy and stingy, aggressive and limitless, especially relatively unable to recognize, appreciate and respect the value of legal or moral rules, on his way to capital accumulation, multiple power and great influence. For such persons, with a strong antisocial orientation of their personalities, the post December 1989 was seen as an excellent opportunity for committing crimes and antisocial acts, regardless of the level of risks taken into account; these acts were oriented towards getting an easy profit and excessively increase the profit and personal assets. In order to achieve the proposed goals, such individuals have acted without fear, proved able and inventive and created at the same time, a fabulous mechanism of relationships and complicity, mafia type, which was and still is, be very difficult to combat, due to endemic and institutionalized corruption and bureaucracy.

As a legal phenomenon, crime “comprises all human behaviours considered offences, incriminated and sanctioned as such, in certain conditions, in the context of a criminal law system, concretely determined geo historically”[Dr. N. Moldoveanu, 1999, p. 13].

In the circumstances where the offence is an event, crime is a social phenomenon, which shows a particular increasing or decreasing trend, determined by the regularity or stability of frequency in committing crimes. Crime, being related to society, has existed and will always exist, which is why, in the specialists’ opinion “it is a utopia to think about the absolute eradication of crime, all we can do is to reduce it and tame it.”[Dr. Tr. Pop, 1928, p. 67]. Also, according to Emille Durkheim, one of the greatest sociologists of time, “crime and criminality are part of the society, being as common as birth and death, and a society without crime would be pathologically over-controlled”, so that, “theoretically crime could disappear altogether only if all of the members of society had the same values, but such standardization is neither possible nor desirable”[Tudor Amza, 2002, p. 420].
The phenomenon of criminality has a national dimension, consisting of the sum of offenses committed in the territory of a state, which does not contain aspects of transnational criminal cooperation and a transnational dimension, consisting in all crimes that are committed and are consumed by international cooperation between law breakers, which acts on the territory of more than one member states.

Mutations in the socio-economic and political environment, at a global level, led to a series of important developments with regard to large-scale organised crime. States continue to be threatened by new forms of criminal organizations, in which case there are a number of risks and threats, and vulnerabilities, which should alert the State authorities responsible for preventing and combating organised crime.

In order to establish the measures needed to reduce and “tame” crime, for the prevention and control of organized crime, it is very important to examine the factors generating crime and the social, economic, human, psychological consequences that occur or are likely to occur through committing offences, and which can be measured and assessed by scientific means decreased in relation to the designed strategies and allocated resources.

1. CRIME AND CRIMINALITY - SERIOUS THREATS OF THE HARMONIOUS AND BALANCED DEVELOPMENT

In the last twenty years in Romania, crime has witnessed a mainly upward trend, so that the feeling of insecurity of citizens has been amplified. Thus, it is certain that, in post-Communist Romania, to the great scourges in the Communist period, such as: poverty and alcoholism, there have been added other more serious ones, i.e. those relating to unemployment, drug trafficking and consumption, rural and urban environmental degradation, promotion of violence through the media, promoting the abuse and discrimination, etc. Also, the absence of a rigorous social control and a tolerant and inefficient judiciary, corruption and organized crime has reached high levels so that the confidence in State institutions came to be as non-existent.

The close relationship between corruption and organized crime in Romania is the result of “the capturing of the State” by criminal organisations, the main purpose being to influence decisions for their own benefit, as well as ensuring impunity in front of justice. Thanks to the opportunities offered by the modernisation and diversification of the means of communication, and to a greater opening of the borders in Europe, the manifestations of the organized crime in Romania took a transnational character, developing, for most of the time, within the corruption of public servants, with judicial and financial powers of times, or of customs officials or police officers providing security at the borders.

The general characteristic of the evolution of crime in Romania under the persistence of a generalized economic and financial endless crisis is the maintaining of an uptrend, which represents a serious threat to the harmonious and balanced development of the Romanian state subject to the rule of law. And this is all the more obvious, as it is now proven that “the great criminal edifices of transnational dimensions, are built and developed with the interest and assistance of the State authorities”, and “their genesis must be sought within the perimeter of interests of power, for it is clear that in most advanced democracies, there has been a merger of power elites and organised crime”[Costică Voicu, 1997, p. 14].

From the point of view of risk intensity and the produced social danger, one can make a distinction between: little crime and great crime.
Little crime is represented by “shop window” crime, produced by: shoplifting, house thefts, pickpocketing, car thefts, prostitution, etc., which is the most sensitive and with direct impact on the citizens, who are affected by the frequency with which such acts are accomplished.

Great crime is represented by the legal, economic and financial crime, by transnational crime and organized crime. Antisocial facts belonging to the great crime phenomena are facts which bring serious violations to the most fundamental principles, the principles of the state subject to the rule of law, principles which are at the basis of the organization and functioning of modern and performing societies.

1.1. The legal and economic-financial criminality, in which the legal criminality is made up of offences against life, health and body integrity, and legal offences against property, particularly homicides, robberies, rapes, armed robbery, car thefts, etc., committed with varying degrees of violence, and economic and financial criminality is constituted of job offences and in connection with the job, economic offences against property, the offences of false coins, stamps or other values, offences to the established system for certain economic activities, as well as “money laundering and lack of vigilance in respect of financial operations” [N. Queloz, 2002, p. 126]. The greatness and complexity of crimes, as well as the evolutionary trends, to a high degree of criminals, have defined the characteristics of economic and financial criminality, during the last years of the post-Decembrist period in Romania.

Amid some cumbersome working procedures and a legislation failing to adapt to the real situation [in this situation, one has in view the fact that “the law application system is segmented without powerful legal instruments for fighting against fraud”], in conjunction with the opening of borders, in order to achieve a free trade between European Union States, the level of judicial and economic-financial criminality, in general, and of the informal economy, in particular, were in a constant increase, constituting a solid basis for the development of organised crime in Romania and the further development of the transnational criminality, being an action subsequent to the irreversible phenomenon, of globalisation.

1.2. Organised criminality is crime of “professionals”, which has its origins in various ventures with criminal character, in the operation of some ghost companies and tax shelters, with the aim of committing ordered crimes, the non-observance of tax payment obligations, the exploitation of weaknesses to obtain huge gains and profits, great influence and power, by whatever means, legal and illegal. The methods used in organised crime, in order to achieve the goals, are related to the exercise of violence, threats, blackmail, elimination, various forms of organized trafficking, but also “extortion, corruption, manipulation, fraud, money laundering, the harmed values being: life, liberty, physical integrity, public security and democratic freedoms” [Costică Voicu, Adriana Camelia Voicu, John Geamănu, 2006, p. 18].

The highly sophisticated and diversified methods and means, used by organised crime, are liable to weaken the civic confidence and security, by undermining the State subject to the rule of law and the credibility of public authorities. Thus, quite often, the criminal activities carried out by organised crime groups, are favoured by the corruption and the complicity of high-ranking officials of the administrative institutions and law enforcement officials, in particular management position officials, which require the intensification and diversification of measures for the prevention of corruption acts and facts, in which representatives of State institutions are involved.

Although it is the evolutorial feature for the last two decades of Romania, organised crime is not a new phenomenon emerged on the world scene; what is new, however, is its faster propagation current pace, the networks that support it and the ease with which they circumvent the law, with the complicity of officials
and higher qualification experts, in order to increase profits, on the basis of the principle of “the end justifies the means”. In this regard, a serious alarm signal has been sent to the heads of State and Government, by means of the European Union Report on organised crime, presented in Brussels on 6th November 1998, which stated that: “it is known that the organised crime groups and explore and exploit new criminal spaces today with the same force as legal firms. They are concerned with those to be involved in criminal activities that generate large profits and lower risk for the villains involved.”

As regards Romania, it should be noted, in the latest period, the great dangerousness of the typology of present criminal groups, which determines, internally and internationally, real threats through:

- the increased interest for Romania of foreign criminal groups, the cause being the important geostrategic position;
- the permanent specialization of criminal groups, the access to the latest technology and employment of people and experts with diverse qualifications necessary for criminal purposes;
- the faster financial evolution of criminal groups in Romania, through their connection to international networks of organised crime and by placing illicit gains, in different geographical and economic areas;

In the context of multiplying and diversifying threats towards the state subject to the rule of law, the public order and safety, through the ongoing evolutions of the internal security environment, there can be identified an increase in the aggressiveness of anarchist organizations, of anti globalisation groups or of pseudo religious sects, attracting a growing number of followers, as well as the increase the frequency of these organisations’ actions.

Related to the organised crime, an increasingly present phenomenon in Romania, is the phenomenon of cybercrime, which is manifested by the increase in the number of registered cases and the organization of those who commit such acts in real criminal groups, as well as the reorientation of criminal groups which, in the past, committed crimes of human trafficking, car and drug trafficking, towards offences relating to computer science.

The main factors that led to the reorientation of criminal groups towards computer crimes are related to obtaining big material gains, in a relatively short time and with relatively low risk. This phenomenon affects, firstly, the image, whereas criminal activities have targeted major financial and public institutions or foreign citizens, fact that leads to the weakening of confidence in the responsible institutions and authorities in Romania.

1.3. Transnational Crime includes all forms of organised crime and is related to globalization in general and, as a result of the globalization of crime, in particular, so the biggest problem of the 21st century, which implies the necessity of strengthening the articulation and consolidation of efforts of all States, with a view to combating and keeping under control the forces of international criminal groups. The acts and deeds of transnational crime, such as those of corruption, money laundering, mafia-type activities and terrorism, affects a growing number of States, representing a real threat on democracy and on the establishment of the various reforms in the political, social and economic-financial environment, in compliance with the principles of the state subject to the rule of law.

Under the conditions of the amplification of globalization trends of the phenomenon of crime, I consider that we should agree with the German sociologist Ulrich Beck, who, since the early ‘90s, appreciated that we are members of a “global risk society” [Beck Ulrich,1998] [In Beck’s opinion, the risk is a product specific to society; it is a result of the powerful effects of the modern technique, so that problems
can no longer be controlled by common policy. The risk has become global, and the national state is, therefore, over solicited. This is the negative part of globalization, which consists in increasing the economic expansionism and the technical risks, beyond the institutional control of states. In these circumstances, there has to be a reaction, in a form specific to globalization, which can consist in the formation of new alliances and global networks, without taking into account borders, so as to face global problems, at global level.

Romania and its citizens are members of the global risk society, bearing in mind that criminal groups are those that take advantage of the full liberalisation of the movement of persons and goods, but especially the exponential progress of technology and communications, represented by the internet, email, mobile telephone, etc., which have opened up new possibilities of ascension for national and international criminal activities.

In terms of technological development and access to information, global risk society is characterised by the production of spectacular mutations, i.e. through the transition from amateur to professional and well organized killer, to minimize the risks involved in criminal activity. In this respect, the institutions of the police and the F.B.I, those members of INTERPOL-O.I.P.C., have developed a very pragmatic approach to this phenomenon, which shows that the main characteristics of the professional criminal are those relating to [A study in Revue de science criminelle et de droit penal comparé, nr.4/1997, pp.90-92]:

- **planning and preparing criminal acts**, consisting in a rigorous and systematic preparation, adapted to the lawful and illicit markets as well as the use of important financial resources, in order to achieve its goals;
- **the execution of criminal acts** are carried out in an extremely professional way, using highly evolved knowledge and techniques, and, where appropriate, by the use of specialists and experts in fields of major interest, ensuring a proper allocation of tasks;
- **the use of products resulting from crimes**, is directed towards a high yield by recycling or laundering money coming from offences and its reinjection in the legal economy, with the help of national, regional and transnational criminal ramifications and links;
- **the relationships between authors** are based on mutual observation, privacy, compartmentalized activity, cover names and coded language, etc.;
- **the structure of criminal organisations or groups** is hierarchical, with authoritative and highly complex dependencies;
- **the support for members of the criminal group**, consists in providing assistance to flee, recourse to experienced lawyers or legal advisers, offering bail, threat, intimidation and the disappearance of key-witnesses, assistance during detention and amounts of money for the maintenance of relatives, etc.;

2. THE RISKS AND THREATS OF CRIMINALITY TOWARDS THE STATE SUBJECT TO THE RULE OF LAW AND THE PUBLIC SAFETY

The phenomena of globalization have brought great paradigm changes in addressing the phenomenon of crime associated with them, which involves the consideration of activities of global actors of the anti-social crime, with strong negative impact on the economic and financial stability of the State, in ensuring and maintaining the integrity of the staff of public institutions, as well as the public order and safety in general. In these circumstances, the main risks and threats of crime in Romania, towards the state subject to the rule of law and public security are important factors in the domestic and international environment.
2.1. Internal risk factors

The social and economic transformations produced in Romania in the last 20 years have resulted in significant mutations, in the exercise of the rights and freedoms of citizens, the attitude towards property and State institutions, in the organization of society, in the structure and dynamics of crime and, by default, in the field of law and public safety. Romania’s internal environment, characterized by the spread, in certain social environments, of non-conformist behaviours denying Christian morality values, the expansion of the illegal use and addiction to drugs, while reducing the chances of social integration. The lack of active reaction of citizens towards the need to prevent the phenomenon of crime has a significant negative influence on the State of public order and safety. Yet, the most serious risk factor, as described by Ion Pitulescu, former head of the Romanian police, is: “the friendship of highly-ranked policemen, the goodwill of prosecutors and fervent clemency of certain Courts”, in dealing with persons involved in organized crime, [Ion Pitulescu, 1996].

Currently, the phenomenon of crime in Romania has the following characteristics: complexity and the perpetration of new types of offences, such as those relating to cybercrime and commercial piracy, etc., professionalism and specialisation of criminals, the presence of large corruption and the amplification of the cross-border crime phenomenon. Organized crime, illegal migration, corruption, economic and financial crime, thefts, command murders or for the purpose of robbery as well as the theft from the public and private wealth have a negative influence on the quality of life of citizens and public safety.

The main risks and threats to the State and public security [Risk in the field of order and public safety represents the existence of a probability, as a present threat, to be able to exploit a present vulnerability that can create loss. Threat in the field of public order and safety represents the existence of potentiality, to create a danger for the public order. Vulnerability, in the field of order and public safety, represents the existence of a weakness which allows a present or potential threat to produce loss] are the following:

- a. the degeneration of socio-economic, interfaith and interethnic tensions into spontaneous actions of violence and open confrontations between extremist groups as well as between them and the legal authorities of the Romanian State;
- b. the increase of unemployment and social exclusion;
- c. the reduction of the level of persons’ security;
- d. conducting psychological warfare specific actions in order to undermine the trust in State institutions, creating confusion and panic;
- e. the decrease of some State institutions’ authority, as a result of failing to comply with statutory duties properly;
- f. the decline in the population’s confidence in the State institutions, particularly in the capacity of action of the forces of order and public security;
- g. the worrying expansion of corruption at the level of decision makers from Central and local public administration;
- h. anti-national, separatist and extremist, xenophobic events;
2.2. International risk factors

The international environment is characterized by an unprecedented dynamics in both regional and global environment. The social, economic, political and military changes, which occurred in the early 1990s and continued subsequently, radically changed the geostrategic configuration of Europe. As a result, the risks that can threaten the security and stability of the Eastern European States, including Romania, are mainly rendered by: the tensions manifested at the level of entire area, generated by the trends of various ethnic, cultural and religious communities, of autonomisation and integration at the regional level, the extension in the Eastern and South-eastern Europe of some phenomena, such as international terrorism, illicit human trafficking, the traffic of goods, drugs, weapons, nuclear, radioactive and toxic materials and substances, and the environmental and technological disasters caused intentionally.

The main risks and threats to the State and public security, identified in the international environment, are:

a. the development, consolidation and overspecialization of organised crime, its internationalisation and attraction of some elements and indigenous groups, including the territory of our country in the international circuit of clandestine migration, drug trafficking, human trafficking, traffic of arms, explosives, toxic and radioactive substances as well as counterfeit;
b. the increase of the terrorist danger, the proliferation of weapons of mass destruction, the traffic with technologies and materials subject to their final destination;
c. the increase of the interest in some business environments from abroad, in order to obtain illegal financial operations, the majority of shares at some companies producing and using chemicals, materials and strategic technologies in our country, with a view to exportation, either directly or through an intermediary, in areas of conflict or under embargo;
d. diversification of forms and processes used for money laundering, for the crime product, involving groups acting in the European area, which have as a result the passage of the foreign currency across the border, or through bank transfer, of the amounts resulting from illegal operations carried out on the territory of Romania;
e. the proliferation of illegal trade in light weapons and increase the possibility of, of the systems for the management and control of weapons of mass destruction;
f. the manifestation of autonomy trends in some areas or even regions, based on ethnic or religious criteria;
g. the reduction in the access to strategic resources, information technologies and equipment;
h. the amplification of the phenomenon of illegal migration, etc.;

CONCLUSION

In the case of the unprecedented rise of organised crime in Romania, institutionalization of criminal relations occurs at a similar pace because of the great, systemic and endemic corruption, a syndrome of over adaption in the client-type relationships that reaches out to rest on the negative values of the state and institutional system. Thus, the perverse aspect of the great crime Romania is represented by the fact that certain official and legal representatives have come to commit illegal acts of high crime, which constitutes a threat to the State, a State that should operate solely on the basis of the recognised principles of the rule of law.
The new trends in the contemporary evolution of crime in Romania demonstrate the danger and its threats to the rule of law on the sustainable, coherent and harmonious economic and social development, as well as on the right of citizens to live in safety.

Indicators of the criminal status in Romania demonstrates that, in order to stop the wave of threats to the rule of law, public order and safety, produced by crimes of great violence, by the economic and financial crime, organised crime and transnational crime, all associated with bureaucracy and endemic corruption, it is necessary to create a new approach, much more complex and flexible, in an integrated system, with the participation of all national and international decision-makers.

To increase the effectiveness and efficiency in preventing and combating organised crime, it is imperative to create also conditions for: enhancing the capacity of investigation of institutions and the ability to expeditiously track offences specific to great crimes, attracting funds and human resources development in the field of police and justice, enhancing the capacity of identification of suspicious transactions, improving procedures for the confiscation of funds resulted from crimes, facilitating the exchange of best practices with the competent authorities of the other Member States, etc.

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