THE INSTITUTION OF THE CRIME IN THE CRIMINAL LEGISLATION OF THE COUNTRIES IN THE EUROPEAN COMMUNITY: A COMPARATIVE STUDY

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Abstract: *The ideas in this article are in the context of analyzing the causes that lead to the commission of crimes in the community space. The analytical deepening of the institution of crime leads us to identify the causes that lead to the violation of legal norms in the community space; the nature, character, and value of legislative behaviors and customs in the community space; the behavior of a person or a community from a legislative point of view. Crime has become more complex and has spread globally in recent times. Crime is facilitated by the internet and continues to develop with the use of mobile devices, despite the efforts made by local, national, and community agencies in the EU.*
The European Commission is set to propose a new legal status for Europol, which is an important opportunity to further improve democratic accountability in the European community space, and also to enhance Europol's efficiency as an agency for combating crime.

Key Words: *law, crime, European space, criminal, EU.*

Introduction

The institution of the crime is one of the fundamental pillars of any system of criminal law, defining the framework within which an act becomes relevant to law enforcement and ultimately to the judicial system. In the countries of the European Union, but also in countries aspiring to integration, such as the Republic of Moldova, the regulation of the concept of "crime" has over time acquired specific variations, adapted to their own legal traditions and changing social requirements. The purpose of this study is to provide a comparative overview of the approach to the institution of crime in the criminal legislation of some EU Member States, as well as in the Republic of Moldova and Romania. The aim is to highlight the common elements and significant differences, the causes that determine the criminal nature of the facts and the doctrinal developments that have gradually led to the harmonization of general principles in the European criminal law. At the same time, the relevance of such an analysis arises in the context in which the Republic of Moldova is intensifying its efforts to approximate to the acquis communautaire, and it is expected that its criminal legislation will continue the process of adjustment to the EU standards.

Methodological and doctrinal landmarks on the institution of the crime in the criminal legislation of the countries in the European Community

The discussion of crime, in the broadest sense, refers to the idea of a concrete act, committed with guilt and provided for by the criminal law, which harms protected social values. Although the general concept is common, each Member State has its own conceptual and methodological framework for delimiting what falls within the scope of the crime. There has been much discussion in European criminal law doctrine about the criteria which turn a simple unlawful act into a crime. These criteria include the social danger of the action or omission, the degree of fault, the quality of the subject, the protection of values essential to society (such as life, physical integrity, property, public order and others). From a methodological point of view, the comparative study of crime requires an analysis of the legal texts, doctrine and case law in order to follow not only the formal definition but also the way it is applied and interpreted in practice.

Analysis of approaches regarding the institution of crime in the Republic of Moldova and Romania

The Republic of Moldova and Romania share a common legal tradition, influenced by similar historical sources, which leads to a significant approximation of their criminal legislation. In the Republic of Moldova, Article 14 of the Criminal Code in force (Law No 985 of 18.04.2002) defines a crime as a socially dangerous act, committed with guilt and prohibited by criminal law under threat of punishment. This definition, which is as concise as it is comprehensive, reflects a perspective focused on social danger, which is the crucial element in separating the crime from other forms of unlawful acts.

In Romania, the Criminal Code (Law No 286/2009, which entered into force on February 1, 2014) states in Article 15 that the crime is the act provided for by criminal law, committed with guilt, unjustified and imputable to the person who committed it. This approach emphasizes the form of guilt and the unjustifiability of the act, adding further rigor by referring to imputability, which is directly linked to the criminal responsibility of the perpetrator. We note that both codes emphasize the essential requirement of the typicality of the act, i.e. that it must be expressly covered by the criminal law, the requirement of social danger (more explicit in the Criminal Code of the Republic of Moldova) and the need for the act to be committed with guilt.

The emergence of specific nuances in the two codes is also related to the general conception of crimes with a low degree of social danger, which, in certain situations, the legislation of Moldova could treat as "contraventions" or "less serious crimes", depending on the social value violated and the intensity of the harm. In Romania, the new Criminal Code has largely clarified the distinction between crimes and acts falling under the contraventional legislation, emphasizing also the subjective aspect of the crime in order to outline the scope of guilt.

Methodological guidelines for a comparative study of the institution of crime in the countries of the European Union

The methodology of a comparative study of the crime is aimed not only at comparing the legal definitions, but also at comparing the framework of fundamental principles: the legality of incrimination, the condition of guilt, social risk, justifications and grounds for exemption from criminal liability, as well as the unified interpretation of these elements in the practice of the courts.

In the countries of the European Union, although there is a remarkable diversity of criminal law traditions (Romano-Germanic systems, the common law system in Ireland, Malta and Cyprus, or mixed influences in other countries), there is nevertheless a gradual convergence. The national courts and the Court of Justice of the European Union, in certain specific criminal matters (e.g. money laundering, trafficking in human beings, cybercrime), are attempting to harmonize the basic principles and homogenize the interpretation of European rules.

Therefore, the comparative research focuses on both terminology and substance in the definition of the crime, with an emphasis on the points of divergence and convergence.

The crime in the criminal legislation of European Union countries

The analysis of types of crimes in the criminal legislation of the Republic of Moldova and Romania

In terms of national specificities, Moldova and Romania traditionally have a system that emphasizes the idea of social danger and culpability. In the Republic of Moldova, Articles 14-18 of the Criminal Code define the crime and establish the forms of culpability (direct intention, indirect intention, recklessness and simple negligence). In Romania, Articles 15-19 of the Criminal Code also clarify the conditions and forms of culpability, complemented by provisions on the grounds of justification and non-culpability (Articles 18-31). There is a similar structure of the codes, justified by the approximation of the legal systems and their alignment with European standards.

With regard to the typology of crimes, the Republic of Moldova and Romania have the same basic categories in their criminal codes: crimes against the person, property, state security, public order and

public safety, etc. In procedural terms, most of these crimes are prosecuted ex officio, as they are considered serious crimes in terms of the public interest affected. Both in the Republic of Moldova and in Romania, some crimes can be prosecuted on the basis of a prior complaint by the injured party (e.g. assault or other minor violence), but even in this case, the State retains the possibility of intervening to punish conduct which is highly dangerous to society.

The crime in the criminal legislation of the French Republic, Germany, Italy

The French legal system is characterized by its own tradition, derived from the French Criminal Code, which classifies criminal acts into crimes, délits and contraventions, according to their seriousness. Article 111-1 of the French Criminal Code stipulates that crimes are classified into these three categories, while Article 111-2 states that "the law determines crimes and misdemeanors, and the regulations determine contraventions". This way of classifying the crimes in question highlights the hierarchy of crimes and determines the jurisdiction of the courts and the applicable procedure. The general concept of "infraction" is therefore conditioned by the specific classification in one of the three categories, each of which has a different penalty regime.

Germany provides another perspective, through the Strafgesetzbuch (StGB), where there is no single article defining the crime as such, but there is a definition of Verbrechen and Vergehen in § 12 StGB. Verbrechen are crimes punishable by imprisonment of at least one year, while Vergehen are crimes punishable by imprisonment of less than one year or a fine. Although there is no single "definition of crime" article, the German system clearly emphasizes the principle of legality in § 1 StGB ("Keine Strafe ohne Gesetz") and recognizes the necessity of guilt in § 15 StGB (which states that the punishment presupposes intent unless the law provides otherwise). Thus, the elements of typicality, unlawfulness and culpability are essential to identify any act as a crime.

In Italy, the Codice Penale (R.D. 19 ottobre 1930, n. 1398) is structured in a way that starts from the principle of nullum crimen sine lege, enshrined in Article 1, which states that no one may be punished for an act that is not expressly provided for by law as a crime, nor with penalties that are not established by the law. The Italian criminal justice system divides crimes into delitti and contravvenzioni, depending on their seriousness and the type of penalties foreseen. The definition of the crime, in a broad sense, is the result of the combined interpretation of several legal texts and of the doctrine, which emphasizes the conditions of typicality, anti-juridicity and culpability. The Italian Criminal Code, therefore, although it does not provide a single article devoted exclusively to the definition of the crime, derives it from systemic reasoning starting from Article 1 and continuing with the principles relating to criminal liability and the classification of prohibited acts.

The crime in the criminal legislation of the Republic of Poland, Croatia, Bulgaria

In Poland, Article 1 of the Criminal Code (Kodeks karny, adopted by Act of June 6, 1997) emphasizes that only a person who has committed an act prohibited by law and committed with guilt is criminally liable. This principle of legality is at the core of the Polish concept of crime. The concept of 'czyn zabroniony' (prohibited act) includes all the elements necessary for conduct to be considered a crime, with an emphasis on guilt and social danger.

Croatia, in its Kazneni zakon (adopted in 2011, in force since 2013), defines in its first articles the general principles of criminal law, including the concept that an act constitutes a crime only if expressly provided by law and if the perpetrator acts culpably, except in cases where the law expressly provides for liability for negligence. Even if the text is not condensed in a single article under the heading "definition of the crime", the concept is apparent from the analysis of several provisions enshrining the principle of legality, the classification of acts and the conditions of criminal liability.

In Bulgaria, the Criminal Code adopted in 1968, with many subsequent amendments, provides in Article 9 that an act is considered a crime if it is dangerous to society, committed with guilt and declared by law as a crime. The concept of "danger to society" is expressly maintained, which is in line with the Eastern European tradition and emphasizes the aim of protecting the essential values of the community. Similar to other states in the same region, Bulgaria clearly distinguishes between

crimes and misdemeanors, and the Bulgarian concept of "culpability" includes the forms of intent and negligence, with the legal conditions for liability in each case being specified.

Analysis of the institution of "crime"

The subject of the "crime"

The definition of the subject of the crime, in the general European sense, is based on the idea that the perpetrator of the crime can, as a rule, be any natural person who is of sound mind and has reached the minimum age required by law to be criminally liable. Across the European Union, the age of criminal responsibility varies from 14 to 16 in most countries, with some variations. In Romania, Article 113 of the Criminal Code establishes the criminal liability of minors, and in the Republic of Moldova, Article 21 of the Criminal Code regulates the age at which criminal liability can arise (14 years for serious crimes, 16 years for other crimes). In Germany, the Jugendgerichtsgesetz (Act on Juvenile Courts) provides in § 1 that minors under 14 years of age are not criminally liable. The same criterion of being of sound mind and minimum age for participation in criminal proceedings as a defendant is therefore maintained.

Moreover, in most European countries, the possibility of criminal liability of legal persons exists, which is becoming increasingly relevant in the context of economic globalization. In Romania, for example, Article 135 of the Criminal Code regulates the conditions under which a legal person can be an active subject of the crime. In France, Article 121-2 of the Criminal Code also provides that legal persons may be held criminally liable for crimes committed in their name and in their interest. Such legislative provisions underline the evolution of the concept of "subject of the crime" and the broadening of the scope of criminal liability to discourage systemic unlawful conduct going beyond individual actions.

Discrepancy between the causes influencing the criminal nature of the crimes

The comparative analysis of the institution of crime in these European countries reveals the existence of divergences arising from political and social particularities, historical developments and the dominant values in society. One example is the way the legislators in different countries deal with crimes related to public morality, freedom of expression or protection of personal data. In some countries (e.g. France or Germany), these crimes are specifically incriminated in the Criminal Code, with a rich jurisprudence on the limits of individual freedoms. In other countries, such as Bulgaria or Poland, the regulation may be divided and the interpretation of the facts is conditioned by local legal tradition and cultural factors.

The intensity of sanctions and the rigidity of their legal framing also differ. In Germany, the approach is often more nuanced, with a re-education-oriented penal culture, especially for crimes committed by young people and vulnerable minorities. In Italy, court practice places particular emphasis on the analysis of mitigating circumstances, often combining a repressive and a re-educative perspective. In Romania and the Republic of Moldova, although the criminal codes include punishments that can reach high limits, in recent years the courts have increasingly applied suspended punishments and alternatives to imprisonment to avoid prison overcrowding and to allow the social reintegration of low-danger criminals.

Another aspect influencing the criminal nature is the implementation of European policies to combat cross-border crime. Member States adopt European directives and regulations aimed at harmonizing legislation in areas such as terrorism, drug trafficking, money laundering and corruption. The transposition process may lead to temporary or even permanent differences in the definition of crimes and their constituent elements, but in the long term these rules lead to a greater degree of uniformity in European criminal laws.

Harmonization of criminal legislation of the Republic of Moldova in the context of European integration

The Republic of Moldova is going through a process of alignment with the European Union standards, which is also reflected in criminal legislation. The institution of the crime, regulated in Article 14 of the Criminal Code, is being adapted to meet the requirements of clarity, predictability and respect for fundamental rights, as recognized at European level. One example is the amendments relating to the crimes of corruption, money laundering and organized crime, where European Union directives have been gradually implemented, with the aim of defining these crimes as rigorously as possible and establishing deterrent penalties.

In practice, harmonization involves reassessing the level of social danger that the law of the Republic of Moldova associates with certain acts, in order to balance it with the European vision of crime and the principle of proportionality of penalties. Also, the grounds of justification and non-imputability, such as self-defense, necessity, moral or physical coercion, must be interpreted in the light of European case-law which aims at the consistent protection of human rights and fundamental freedoms.

Although the process of harmonization does not imply the complete unification of legislation, the Republic of Moldova is constantly striving to take over from the Criminal Codes of other Member States those elements considered good practice, from the clear definition of the crime to the methods of punishment aimed at rehabilitation. At the same time, the State preserves certain historical and cultural particularities, so that the mechanical adoption of foreign rules is avoided, preferring careful adaptation, including to ensure respect for internal constitutional principles and the internal coherence of the Moldovan legal system.

Conclusions

The legislative course of criminal crimes in European and Eastern European countries reflects a complex historical and doctrinal evolution, with different emphases, but with a common background provided by the fundamentally accepted principles: legality of incrimination, guilt, social danger and protection of essential values. In Romania and the Republic of Moldova, due to their common legal roots and ongoing efforts for reform, the crime is defined in a convergent manner, with the emphasis on the need for the act to be provided for by criminal law, to be committed with guilt and to present a degree of social danger. States such as France, Germany and Italy, each with its own tradition, emphasize the same principle of legality, but differentiate crimes into categories (crime, délits, contraventions; Verbrechen, Vergehen; delitti, contravvenzioni), stressing the seriousness of the act and imposing penalties adapted to each category.

In Central and Eastern Europe, the examples of Poland, Croatia and Bulgaria reveal the same basic structure, but adapted to the specific cultural and legislative history of each country. In these countries, too, the crime is conceived as an act that jeopardizes fundamental values, requires guilt and is expressly provided for by law, but the way it is classified or the intensity of penalties may vary. These differences can be explained by different doctrinal views and the need to deal with the domestic particularities of each country.

Inevitably, the process of European integration, coupled with technological change and globalization, has generated a harmonization drive. European directives and regulations aim to provide a common framework to fight serious forms of crime, ensure respect for fundamental rights in criminal proceedings and facilitate judicial cooperation between Member States. The Republic of Moldova, as an EU-associated state on an integration-oriented path, has started to adjust its criminal legislation, taking on board elements such as more proportionate sanctions, strengthening the liability of legal persons and a more precise definition of cross-border crimes.

However, harmonization of legislation does not mean total uniformity. Each Member State retains the right to set its own criminal policy priorities and its own methods of punishment, as long as they do not run counter to the general principles enshrined at EU level. In this diversity, the institution of

crime plays, in each individual Member State's legislation, the defining role of protecting social values, guaranteeing the legal order and responding to acts that jeopardize the smooth functioning of society. The comparative analysis in this study demonstrates that, despite the differences in regulation, the substance of the institution remains common and coherent, based on the need for a typical, unlawful and imputable act to be punishable by criminal law in order to protect the fundamental interests and values of each community.

Therefore, the study of the crime in the legislation of the European Union countries, as well as in the Republic of Moldova and Romania, highlights an evolutionary path that tends to strengthen the traditional principles of criminal law, while simultaneously adapting them to the requirements of the modern world. Doctrinal convergence, the mutual recognition of judgments and the intensification of police and judicial cooperation between Member States are the foundations for the future consolidation of the common European criminal law area. In this context, the Republic of Moldova has the opportunity to shape the institution of crime in a way that both protects the values of the Moldovan society and meets the requirements of the European Union, emphasizing the protection of human rights, the effectiveness of sanctions and crime prevention. In this way, the institution of crime remains a fundamental benchmark for public order and social balance, governed by clear principles, verified by practice and case-law, and naturally integrating the diversity of national regulations into an increasingly cohesive European doctrinal framework.

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