

REVIEW OF HISTORICAL DEVELOPMENT IN THE ALBANIAN CRIMINAL CODE OF THE NARCOTIC PROBLEMS

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Abstract

The purpose of this paper is the presentation and the legal comparison of offenses of narcotics and the approach in time under the Albanian Criminal Code. In the early 90 Albania changed its economic and political system. Our country was opened to the western countries undertaking reforms in each field to build a free and democratic society. Except the positive sides these changes were accompanied also with some negative, antisocial phenomena as the drug, the prostitution, different illegal traffics etc. Due to the high social risk of this phenomena raised the necessity of their fighting with all the possible tools. One of these tools are also the judicial-penal measures.

The Criminal Code of Zog inspired by the Western Criminal Codes, certainly made a very good adjustment for the time and the conditions in which this Code emerged. Also to help the justice and in order to not allow the avoidance by the criminal sentence of the persons who performed such activities and who were related to the drug at this time was signed also the Treaty of extradition between the United States of America and the Albanian Kingdom.

The later Criminal Codes as the one of 1952 and 1977 made again a legal adjustment of the drug offenses in a provision, a regulation that was very restricted compared with the one of Zog, but that was probably such because the political situation was the same where the control was very powerful and as shown by the judicial practice few or no person was convicted for this offence.

The further developments, as for the other offences, brought the necessity of a more complete and accurate legal regulation. These regulations were made with the Criminal Code of 1995.

The paper will focus on these issues: The theoretical development of the Albanian Criminal Code in relation to the offences of narcotics. Suggestions for the improvement of the legal framework in relation to the fight against the offences of narcotics.

Keywords: Narcotic drugs, negative phenomena, criminal sentence, criminal code

Introduction

The purpose of this review is the development of the Albanian legislation in relation to the offences of narcotics since their provision for the first time¹ until the provision of criminal organizations.

Until the end of the XIX century, by the 1800s the use of opium, cocaine or hashish as a narcotic substance was still unknown. The only purpose for which those substances were used was for medical purposes. The increasingly use of these substances grew the demand for them increasingly and the subjects who used these substances under their effect started to realize different crimes. Transformed in a phenomena of the young people, the drug that since then was a medical product with positive values was converted into an instrument of aggression among young people who were placed in front of the family and the society.

The legislations certainly did not help to clarify such a thing because if we see the historical development of all the European legislations, they have considered the use of drug as a crime and nevertheless this did not affect the reduction of the number of subjects who realized this offence but only in their increasing. The volatility of such actions in Albania² apparently started about the 25s and to prevent such a thing the Albanian legislation penalized such activity introducing into the Criminal Code a series of provisions related to the drug. The Criminal Code of Zog inspired by the western Criminal Codes, did certainly a very good regulation for the time and the conditions in which this Code arise. Also to help the justice and in order to not allow the avoidance by the criminal sentence of the persons who performed such activities and who were related to the drug at this time was signed also the Treaty of extradition between the United States of America³ and the Albanian Kingdom⁴. The later Criminal Codes as the one of 1952 and 1977 made again a legal adjustment of the drug offenses in a provision, a regulation that was very restricted compared with the one of Zog, but that was probably such because the political situation was the same where the control was very powerful⁵ and as shown by the judicial practice few or no person was convicted for this offence. After the 90s “the drug” phenomena already an international problem found its way

¹ Shtjefan Kostandin Gjecovi, Canon of Leke Dukagjini, Tirane 1993.

² E. Lala, “Canon of Leke Dukagjini” (in the area of Puke) manuscript 1980

³ H. Islami, A. Hoxha, I. Panda “Criminal Procedure”, Morava Editions, Tirane, 2010, pg. 659. With the Treaty for the extradition of 1 March 1933 The Republic of Albania accepted the extradition in USA.

⁴ Law No. 10193, date 3.12.2009 “For the jurisdictional relations with foreign authorities in criminal cases that defines the procedural rules in the field of jurisdictional relations with foreign states for criminal cases as letter-orders, extradition etc.

⁵ Elezi, I. “Criminal Law Special Part”, Tirane 2005, pg.145

in Albania, which is now not only a channel of the drug passing to Balkan but also is producing and processing itself the drug. Therefore, since 1995 when the new Criminal Code was approved until today considering also the critical condition in which the country is, changes are made in the Criminal Code of the offences of drug perfecting them and adding also elements and provisions that do not exist before, this in the spirit of the conventions in which Albania is a member and that will be part of this review.

Except the 2 conventions Albania has signed also bilateral agreements with Hungary “For the collaboration in the fight against the terrorism, the drug traffic and the organized crime”, also we signed bilateral agreements with the Republic of Slovenia “For the collaboration in the fight against the terrorism, the drug traffic and the organized crime”.

To fulfill the legal framework on 26.07.1995, emerged the law No. 7975 “For the narcotic drugs and psychotropic substances” which together with the changes of the Criminal Code constitute the legal rule of the manner of production, circulation and use of narcotic substances and psychotropic substances.

The Criminal Code of Zog

The offences in the field of narcotics under the Criminal Code of Zog. The Criminal Code of Zog as the other codes of this period was inspired by the western legislations and this is the reason that it is a great achievement, because until that time the Albanian legislation biased by proximity with the eastern legislations and especially the Turkish one.

The offences in the field of narcotics are part of the second part of the Criminal Code of Zog, therefore at the offences, title VII “Offences against the public entirety”, chapter III, “Offences against the public health and food”, article 358 provides “Everyone who enter as a contraband within the Republic, opium or its extracts, morphine or its salts or bi- clorarut of opium and its salts or contents, cocaine or the salts or contents, hashish or its contents, also everyone who transport them from a place of the Republic into another or sells them or take them without the permission of the government, holds them near or intermediates with any method to the buying and selling or facilitates their use is punished with imprisonment from one month to one year or with a fine of 100 to 1000 gold francs”.

As shown in the provision of the Criminal Code of Zog the drug keeping incriminates the subject even when it is in small doses or only for personal use. If we see all the other western legislations of that time considered the keeping or the personal use as an offence. The performance of one of the above mentioned actions from the subject of the offence constitutes in a full consumption of the offence figure.

The second paragraph of the Article 358 is a judicial procedural norm because provides how to operate with the captured drug, that under this article shall be subject to confiscation. Also the second point of the article 358 provides that when a denunciator denounces in relation to this offences half of the confiscated drugs would be given to him. This was made to help the capture of the crime authors through the encouragement of the persons to tell the authors who deal with such criminal actions. Article 359 of the Criminal Code of Zog has this content: “Everyone who gives or takes with a false recipe the above mentioned drugs, is punished with imprisonment of one month or fine from 15 to 200 gold francs.”

In the articles 360, 362, 363 is provided the performance of the offence provided in the articles 358, 359 in specified circumstances and as a result the type and the extent of the sentence will be higher.

Let we analyze them:

The Criminal Code of Zog⁶ provides: “If by one of the faults provided in the articles 358, 359 is caused the death or the bodily injury of any person, the severe imprisonment can not be less than 5 years in the first case and not less than 3 months in the second case”. As expressed by the provision itself, as a specified circumstance here is the consequence of the offence. And when the person is guilty for one of the offences provided by articles 358, 359 and as a consequence comes the death of the person the legislator provided as a minimal sentence the imprisonment with not less than 5 years while when the consequence is slighter so the bodily injury of the person, the sentence is not less than 3 months.

Ongoing the article 360/2 provides⁷: “If from the above faults is caused the death of two or more persons or the death or one and the bodily injury of one or more others the imprisonment is not less than 1 year. This article provides the consequence as a specific circumstance as a result at the second paragraph of the article 360/2 is more severe because now we have a consequence first the death of two or more persons, secondly the death of a person and the bodily injury of one or more others. So, the social volatility of the offences is higher, as a result the sentence provided for this offence is not less than 10 years.

While the third paragraph provides as a consequence only the bodily injury of two or more persons providing a sentence not less than 6 months⁸. Article 362 of the Criminal Code of Zog provides: “When one of the offences provided in this title is conducted by a person

⁶ Article 360 there.

⁷ There.

⁸ The Criminal Code of Zog, article 360/3

that is charged with services, work or the store of materials which are shown in this chapter, to the sentence for the fault is added also 1/6 or 1/3 of it. If in the Article 360 of the Criminal Code of Zog as specific circumstance is the consequence of the offence, the article 362 provides the subject who performed the offence as a specific circumstance.

Therefore, as a specific circumstance is the subject who is a special subject charged by the law to serve, to perform workings or to store the drugs provided in that title who abusing with his task performs this offence. Also based on the volatility of his actions the legislation provided to add the sentence with 1/6 or 1/3 of the sentence for their offence. Articles 360, 362 provide aggravating specific circumstances while article 363 provides facilitating specific circumstances and the content of this article is: “If in the offences provided in the first chapters of this title, the risk caused by the fault is small or the author cared and acted effectively for the prohibition or restriction of the consequences of that risk, the punishment can be reduced with 1/3 to 2/3.

Offences of narcotics according to the Criminal Code of 1952

The Criminal Code of 1952 provides these offences in its special part, Chapter XI against the administrative order, chapter VII against the health of the population in the article 284, paragraph 2,3,4 expressed as follows:

“The planting of hashish, without the appropriate permission, is punished with corrective work or with imprisonment up to 2 years and whenever with confiscation of the crops”. The preparation and the keeping with the purpose to sell, and also the selling of cocaine, opium, morphine and other narcotic substances without the appropriate permission are punished with corrective work or imprisonment up to 1 year and whenever with confiscation of the above mentioned substances. The actions performed in the above mentioned paragraphs performed skillfully are punished with imprisonment up to 3 years and with the confiscation of the above mentioned substances.

For the first time the Criminal Code of 1952 provided as an offence the planting of hashish. This happened because Albania had a very good climate for the cultivation of hashish and the planting of hashish out of norms and in conflict with the law started to become an international problem. Important is the fact that this planting was made without the permission of the competent bodies, so in an illegal form. Also for this offence not only the subject would be punished but also the planted hashish would be confiscated. The third paragraph of the article 284 defines the illegal actions that constitute an offence. The performance of one of these illegal actions by the subject consumes totally the offence. As shown the offences of narcotics are more incomplete than in the Criminal Code of 1952 than

in the Criminal Code of Zog, because the Criminal Code of 1952 does not provide as an offence the import, transportation, keeping, intermediation for selling and buying and the facilitation of their use. This came as a consequence of the conditions in which Albania was, where the ruling party monopolized everything. But strange is the fact that was not provided as an offence the drug keeping for personal use. The subject of this offence can be each person who has reached the age for criminal responsibility and is responsible. According to the third paragraph of the article 284 the crime is conducted in specific circumstances because it is conducted skillfully. So, should be clarified the fact that what we call skill. I believe that the Criminal Code with this paragraph intended the administration of such drugs in pharmacists, doctors etc. At these times can not be spoken for criminal organizations related to the drug traffic.

The offences of narcotics according to the Criminal Code of 1977

The Criminal Code of 1977 also provided the offence of narcotics. Although the phenomena of abuse with drug almost was not existing, maybe due to the judicial tradition and the social volatility of the offence the legislator provided this offence in one provision. The offences of narcotics were introduced by the legislator in the Chapter VIII Crimes against the administrative order, session V Crimes against the social security in the article 134/2. The article 134/2 provides: “The preparation, keeping and selling of narcotic substances is punished with reeducation through the work or with imprisonment up to 10 years. The jurisprudence explains the meaning of narcotic substances in the meaning of the Criminal Code. Narcotic substances are those substances that can bring major damages for the health, serious diseases (drug addiction) or death (morphine) opium, cocaine and hashish.

To consume this figure of the offence the selling of the narcotic substances should be made without permission. Since the preparation, keeping and selling of narcotic drugs put at risk the health of people, they form a crime without the necessity of the criminal consequences.

These crimes are realized only intentionally. Also in this period was not provided the creation of criminal organizations that exercise this criminal activity. Even for this provided figure of crime the cases were very rare. It is noted a very high punishment up to 10 years of imprisonment.

Offences of narcotics according to the Criminal Code of 1995

After the 90s the wind of changes in Albania demanded as a very important necessity the change of all the Albanian legislation, because Albania now started to face with dangerous actions that socially were not provided as offences. Therefore as a necessity of the

time and the conditions that Albania was passing, on 1 June 1995 entered in force the new Criminal Code. This Code in the chapter VIII Crimes against the authority of the state, session III Offences against the order and public security provided also the offences of narcotics that are listed in the 4 articles 283⁹, 284¹⁰, 285¹¹, 286¹².

But on 23.12.1996, the Popular Assembly motivated on the strengthening of the fight against criminality especially the organized crime which put its roots in Albania approved the Law 8175 “For some changes in the Law 78554, 27.01.1995”, were added more provisions that do not exist before and were made regulations of the gaps of the previous legal provisions. And one of the most important news that seek time and that brought this new law was the addition made to article 284/a¹³. It was this provision of this offence and also the work of state institutions to fight in maximum the criminal organizations¹⁴ which had as their main activity the drug, that brought to the justice the first criminal organizations¹⁵ and that would serve in the future as a base to cut the roots of the international networks of drug organizations.

The production and selling of narcotics from the judicial-criminal aspect also in Albania is regulated with the Criminal Code of the Republic of Albania. In accordance with the international obligations and international agreements and conventions and also of the constitutional principles (1998) and with the ratification of the international acts by the Albanian state, was demanded the necessity of legal reforms and in the Criminal Code (the special part), were made numerous and important amendments and changes where we have new figures of offences in accordance with the new requests of the fight against the organized criminality in general.

Fulfilling the obligations that arise from the international conventions and different agreements for the prevention and the fight of the criminality organized with narcotics and of the phenomena of drug addiction as a result of the misuse and consumption of the different narcotic substances or drugs and of the risk of the population health and of the order and

⁹ Production and selling of narcotics

¹⁰ Cultivation of narcotic plants

¹¹ Keeping of equipment for the production of narcotics

¹² Encouragement for the use of drug

¹³ “Organization, leading and financing of criminal organizations with the purpose of the cultivation, production, manufacturing or illegal traffic of narcotics is punished not less than 20 years.”

¹⁴ Elezi, I., and Hysi, V., “Criminal politics”, PEGI, Tirane, 2006 pg.11

¹⁵ “The National Strategy of the fight against the traffic of human beings 2008-2010 edition of the Office of the National Coordination for the fight against the traffic of human beings, Tirane 2008. Related to the design of this strategy are given donations from international organizations but it was possible also a technical assistance given primarily by the European Commission.

public security, Albania in our Criminal Code has provided different figures and forms and different manners of the performance of offences at the criminality organized with narcotics.

As a criminal offence the production and the selling of narcotics in contradiction with the provisions of Article 283 of the Code in question, the narcotics traffic according to the provisions of article 283/a, the cultivation of narcotic plants¹⁶, the production and manufacture of narcotic and psychotropic drugs, the keeping of equipment for the production of narcotics, the maintenance, the production and transportation of narcotics¹⁷ and promoting and use of drugs¹⁸ are one of the most typical forms of organized crime with narcotics according to the Criminal Code added on 24.01.2001.

This Code makes a complete change of the penal and legal aspects in Albania. As all the offences as well as those in the field of narcotics had a complete regulation adapting to the international acts in this field. Were provided all forms of the commission of these offences from planting of narcotic, production, manufacture, import, export, trade, distribution and the illegal use of narcotic and psychotropic drugs. These are provided in the chapter of the offences against the order and the public security¹⁹.

The implementation of the Code in practice points out the need of improvements that should be made, especially in terms of the organized crime in the field of narcotics, the help given by the persons due to their task in their performance and the regulation of the institute of the repentant as an aid for the detection and prevention of these offences.

Despite the measures taken by the Albanian state, including those above, the phenomenon of the drug abuse and their traffic continued to grow turning into a phenomenon with dangerous social and economical consequences. This was also due to the special geographical position that Albania has and its political instability. These reasons has encouraged different international organizations of trafficking drugs to use Albania as a crossing place for drugs by the producers of the east in the consuming countries of the west. These developments brought the need for further improvement of the Criminal Code for drug offences as well as the individualization and severity of the convictions. This was realized by Law no. 8733, on 24.01.2001. “For some additions and changes in the Law no. 789, on 27.01.1995 “For the Criminal Code of the Republic of Albania”.

These changes make a clear separation of the offences of narcotics based on the objective side of their performance. The process of the illegal narcotic activity is complex. It

¹⁶ Article 284 “changed paragraph I and II added paragraph II with the law no. 8733 on 24.01.2001 article 66”

¹⁷ Article 285 “changed with the law no. 8733 on 24.01.2001 article 68”

¹⁸ Article 286 “changed with law no. 8733 on 24.01.2001 article 70

¹⁹ Concretely in articles 283 to 287 of the Criminal Code

starts from the narcotics planting, elaboration and extraction of narcotic and psychotropic drugs, import, export, transition (because drugs are often produced in another country and consumed in others), distribution and use. The actual Criminal Code with all the changes provides separately all the moments of this criminal activity. So it provides the import, export, transition in the article 283/a and also the sale, distribution and maintenance in all kind of forms in article 283, the cultivation of narcotic plants in the article 284, their production and manufacture in the article 284/c.

Also the Code provides other forms of offences as the establishment of facilities for the drug taking article 283/b, the organization and leading of criminal organizations article 284/a, the help in the detection of crimes, article 284/b, the production, trade and illegal use of precursors, article 284/c, keeping of equipment for the production of narcotics, article 285, the adaption of the local for the drug use article 285/a, the disposal of abandoned syringes, article 285/h, encouragement for the use of drugs article 286, use of high technologies, article 286/a, cleaning of offences products, article 287²⁰ and opening of anonymous accounts, article 287/a.

Taking into account the position that these offences have in the Criminal Code in the field of narcotics we conclude that their group object are the judicial relationships established by the state to provide the legality and the control of the production, trade, distribution and use of narcotic and psychotropic substances due to the high risk that they present for the public health and the necessity of their use in medicine.

²⁰ Changed with law no. 9086 on 19.06.2003, article 8, added letter “dh” with the law no. 9275, on 16.09.2004, article 24, changed letter “a” of the point 1, invalidated letter “ç” with law no. 9686, on 26.02.2007, article 24 “1.

Cleaning of the offence products performed through:

a) the exchange or transfer of the property, that is known as a product of the offence, for the hiding, cover of origin of the property or giving help, to avoid the judicial consequences, related to the performance of the offence;

b) hiding or cover of nature, resource, place, placing or displacing of the property or other rights related to the property that is a product of the offence.

c) performance of financial actions and transactions fragmented for the avoidance from report, under the law for the money cleaning;

ç) invalidated

d) consulting, encouragement or public call to perform one of the actions described above;

dh) use and investment in economical or financing activities of moneys or objects, that are products of the offences, are punished with imprisonment from three to ten years and with fine from 500000 ALL to 5 million ALL.

2. When this offence is performed during the exercise of a professional activity, in collaboration or more than one time is punished with imprisonment from five to fifteen years and with fine from 800000 ALL to 8 million ALL, while when it brings severe consequences is punished with imprisonment not less than 15 years and fine from 3 million ALL to 10 million ALL.

3. The provisions of this article are applied also in cases when the person who performed the action from which originate the products of the offence, can not be an accused, can not be punished, exist a cause that extinguishes the offence or one of the conditions of the criminal proceeding is absent for such an offence”.

Some of the narcotic and psychotropic substances due to their curative and unpleasant effects they have are used in an indispensable way in medicine. But the abusive and extra-medical use of them brings high risks for the health because the users fall in the condition of dependence and the person can not live without the use of drugs. This continuous use and in great amounts brings the physical and mental destruction of the person until the death of the person. For the above mentioned reasons the production of narcotic substances can not be stopped but, should be taken comprehensive measures including those judicial-criminal, for the limitation of their production and use only for medicinal purposes.

Referring to every disposition the object of the figures is specified based on their content. But by observing special dispositions we ascertain that the object of some special figures is not directly related to the narcotic substances and psychotropic. For example in the figure of dirty money clearance its object are the juridical relations set to ensure the legitimacy and the transparency of the performance of financial operations, to prevent the circulation of money which derive from criminal activity. But however this criminal activity is related the narcotic penal actions, as it guarantees to its authors the circulation of the financial incomes, by motivating them, and creates the confidence in the performance of other penal actions. Other such figures are even the adaption of the bar for the drug use, the throwing of abandonment of syringes, the use of high technology etc.

Subject of such penal actions may be every person who has accomplished the age for penal responsibility. So we have to do with general subjects, except the article 283/b. Related to the creation of facilities for the assumption and the drug use from person who as cause of the duty do administer it. In this case the subjects are special as physicians, pharmacists, dentists etc.

On the subjective side the penal actions of narcotics are performed consciously in both direct and indirect forms. The indirect willingness stays only in the case of the performance of penal actions in collaboration and concretely the person who collaborates in the role of the assistant. The motive and aim are not important. The implicit aim of all these penal actions is the realization of monetary profit or of every other kind. However these are not necessary elements of the crime figure, but the investigation of the aim and motive are simply important for the individualization of the concrete condemnation toward the concrete author.

Narcotics may be produced, may be exported, may be imported and may be set in circulation only for veterinary medical aims, for scientific-research when they are permitted under the provided legal conditions and by the permission of the competent state Ministry for

the health and in conformity to the legal dispositions no. 7975, date 27.7.1995 of the convention “For narcotics medicaments and the psychotropic substance”, of the “Anti Drugs” Department of the “Ministry of Intern”

So the various actions for the production and sale of various narcotics substances or drugs do present the performance of the penal action according to the article 283 of the Penal Code of the Republic of Albania when they are performed consciously in an unauthorized way, and in other cases when we have to do with an organized performance of these penal actions. All the incriminated actions according to the code in question are presented as penal action the action in contradiction with the legal dispositions of the Penal Code of the Republic of Albania, the production, mixture, preparation, distribution, possession, offering for sale, the sale, and distribution in every manner, transport of every kind of drug or narcotics substance or psychotropic substance.

The narcotics production and sale the incriminated in the Penal Code and the cultivation of narcotics plants.

As amended by the Law no. 8733, dated 24.1.2001, Article 65 "Creation of facilities for receiving and using drugs", "Creation by the people, who because of the duty do administer drugs or psychotropic substances, facilities for the receipt and use of these substances, in violation with the relevant legal provisions, punishable by three to seven years"²¹

It has to do with the creation of narcotic drinks, natural, synthetic or semi-synthetic, present criminal action and that no matter which drugs or narcotic substances in question. With the production of narcotics or narcotic plant we mean even those cases where the manufacturer of drugs to different trades narcotic herbs and seeds used for the production of drugs, narcotics or psychotropic substances, without permission collects leaves from the branches of the plant cannabis sativa (Indian rope) than brings home the whole, mixed, and prepares and so he gets marijuana, even this, even if made only for its own needs, this does not exclude the responsibility as the perpetrator of the crime, because it has produced the narcotic drink intentionally and in an organized way, so is punished.

To exist the offense or the criminal figure under the article 283 to the Criminal Code, is sufficient data showing that it was made to offer for sale or sale of narcotic or drug, but it is not important who is buying, to whom is sold, etc. Qualified other form of criminal act is also

²¹ Prof. Dr. S. Begeja paper cited previously

the way of putting in circulation which is performed with the import, exportation, transition and trading contrary to the law of psychotropic substances and narcotic plant seeds to their purchase, holding or transfer for the purpose of sale.

The Code criminalizes as an offense even the form of mediation during the purchase or sale of narcotic. Serious form of the offense is also the organization, the management and funding to purchase drinks or narcotic drugs in a different way and keeping them, or their transport and other substances, if this has been done intentionally for the purpose of sale in order to illegal enrichment.

Even before the Law no. 5591, dated 15.06.1977, in the Criminal Code of the Republic of Albania and in the earlier criminal codes, were set criminal acts that threaten or damage the health of the people. As an offense was considered the preparation or sale of poisonous substances without proper permission, such as cocaine, opium, morphine, and other narcotics. As a serious form of the offense was considered "the preparation or sale of poisonous substances, which neatly done were punished with deprivation of freedom to 3 years, and the confiscation of toxic substances."

Previously, this demonstrates that even in the previous criminal codes of Albania are provided for these offenses and that in different figures or forms in order to prevent and to fight these criminal acts.

If we make a comparison between previous criminal codes and to the Criminal Code that is in effect, the legislator has provided new innovation of perfection compiling to be easily understood not only by the lawyer but also by the popular masses, however, there are several light graphic-lexicon suffocation, words and legal borrowed expressions from foreign languages, but all these can not to hinder the attentive reader to understand of the Penal Code, for example, to Article 283/a where is used the designation, "narcotics trafficking", rather than to use the term "Trade in drugs or illegal transfer of narcotics", these concessions of the lawmaker can be of a technical nature and with size of such nature that you cannot do any possible objection to this code with the highest value and the major message prevent the crime in general.

With all the above settings, the RSH Criminal Code suffered other changes in January 2001 and in the following months. So, the law nr. 8733, date 24.10.2001 and the law 8750 date 26.3.2001 "For the Narcotics" have improved the Criminal Code and the legal basis of the fight against crime in the field of narcotics. Changes have included the article 283 of this code by specifying better format of committing this crime.

After these changes, the Criminal Code treat as a criminal offense the narcotics trafficking (Article 283/a), narcotics cultivating (article 284), organization and management of criminal organizations (284/a), production and manufacture of narcotic drugs and psychotropic substances (284/c), maintenance, production and transport of chemical substances (285). Law has made a detailed adjustment rate when narcotic drugs or psychotropic substances.

In addition to these offenses there are also a number of other works as promoting drug use, illegal use of high-tech (286/a).

Along with changes in the content of these articles, the law toughened penalties against persons who are involved in trafficking, and those who organize, manage and finance narcotics trafficking and criminal organizations in this field. The offense, “Production and sale of narcotics”, different from previous elections, suffered changes in the content and added to a new paragraph. Thus, the law provides severe penalties if this act is performed in collaboration or more than once Penal Code provides for punishment with imprisonment of 7 (seven) to 15 (fifteen) years.

Our Penal Code has also incriminated some offenses such as dangerous preparatory actions when providing or sharing equipment for producing narcotics, drugs or psychotropic substances that are used or will be used which are known to be destined for production of narcotic drugs. For this crime figure or form of the offense provided for in section 285 of the Code, the penalty which varies from three to ten years, as well as for the production and sale of narcotics all in violating of legal provisions, envisaged penalty imprisonment of up to 10 (ten years).

Although for these offenses is provided the punishment of imprisonment for a long time, it does not mean that is the only sentence that can be given to the offender, because under Article 34 of the Criminal Code of the Republic of Albania, the author of the offense provided by Article 283 of this Code, might be given a fine as punishment. The fine is from 100 thousand ALL until

"The import, export, transit and trade, against the law, of narcotic or psychotropic substances, as well as poppy seeds, is punished with imprisonment from seven to fifteen years. Same act, if committed in collaboration or more than once, is punished with imprisonment from ten to twenty years. Organization, management or financing of this activity is illegal and punishable by imprisonment for not less than fifteen years. "

Based on the legislative practice of different countries, for several penal actions are provided even the conditional sentences, The Penal Code of the Republic of Albania enables

the possibility of suspension of the execution of imprisonment decision by the competent court, when it provides conditional sentence until 5-years, it may decide in sentencing even in another form that the prisoner may be set on a prove, with the condition that during the probation period not to commit any other penal action as dangerous or hazardous in a period of 18 months until 5-years.

I think that with the addition of different types of penal action under Article 283 of our Code, the courts will have greater opportunities in giving punishment to include all qualifying forms and the ways of committing a penal action and this way will give appropriate punishment which would influence the prevention and fight against organized crime with narcotic drugs as a typical form of criminality and antisocial behavior, dangerous for the society and for the good of mankind where in particular this applies to the youth.

Conclusion

At the end of this paper from the perspective of the entire legal framework analysis narcotic actions but also institutional arrangements of the state institutions our opinion is that the fight against drug trafficking will be more efficient when we consider some recommendations as follows:

A factor that affects the development of a penal politics is the reported incidence of crime and its format. The Albanian government has adopted a strategy in response to the needs of prevention and fight against crime in general and drug trafficking in particular.

First, the state should let him fight to reduce to a minimum the supply of drugs. So it should fight against narcotics planting, production, trafficking and distribution of narcotic drugs and psychotropic substances. Should strengthen the enforcement of laws in this area, including the penal one, condemning with severity all the authors of these penal actions.

Second, the state should seek to reduce the demand for drugs. This way is argued by the fact that the real problem with drugs lies in the need that the people have for illegal drugs. As long as will exist this need, will also exist drug trafficking. The government needs to focus more on drug users. It should investigate and to put into application special education and medical programs against poverty.

Finally, the government needs to address its policies and programs to the roots of drug abuse, poverty, unemployment and illiteracy. These are the main problems in every society and their solution will definitely lead to reduction of drug abuse.

Both these ways require a higher international collaboration, as only in this way can fight with efficiency the drug trafficking.

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