

EMPIRICAL SURVEY OF THE ALBANIAN JUDICIAL PRACTICE ON CRIMINAL OFFENSE OF “MANUFACTURING AND SALE OF NARCOTICS,” PROVIDED BY ARTICLE 283 OF THE CRIMINAL CODE

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Abstract

Purpose: This paper will examine the implementation in practice by the Albanian courts of article 283 of the Criminal Code for the offense of "Production and sale of narcotics".

Methodology: The study of case law is made by analyzing a random sample of 100 decisions of the courts of first instance. The survey sample is stratified, since 50 decisions were selected from Tirana District Court and the other 10 respectively decisions by district courts of Shkoder, Durres, Vlore, Korce and Elbasan.

Findings: From the survey is found that 66% of cases declared guilty under article 283 of the Criminal Code are owned by drug keepers (58% for possession of cannabis and 8% for possessing hard drugs). Among other findings worth noting that most of the convicts were captured with small quantities of drugs and that 64% of cases the defendants were sentenced to the minimum that the law provides by imprisonment of 5 years.

Conclusion: Article 283 of the Penal Code is not focused on punishing the criminals who promote the consumption of narcotics, but to the users of narcotics. Most of the convicts under this article were seized small amounts of drugs which mostly is cannabis. Imprisonment terms are not affected by the kinds of narcotic substance seized (cannabis or hard drugs) or by the quantity of that (small or huge quantities), but at the other hand the Albanian courts have taken full advantage of legal opportunities by allocating defendants the minimum provided by this article.

Keywords: Albanian criminal law, use of narcotics, drug policy, criminal sentence

Introduction

After more than two decades of Albanian society expanding, offenses related to drugs has become a serious, social, health and public safety issue. Over the years the increasing number of consumers has led the need for willing people to provide and sell drugs, thus creating an internal market of narcotics in Albania. In the name of preventing the spread of offenses related to narcotics, the Albanian legislator enacted severe criminal sanctions, not only for manufacturing, trafficking or the dealing of narcotics but also for the possession of small quantities of that. Article 283/1 of the Albanian Criminal Code provides that the illegal transport, sale, or keeping of narcotic substances is sentenced by imprisonment from five to ten years and in the second paragraph this very act, when committed by accomplices, or more than once, is sentenced by imprisonment from seven to fifteen years.

Issues related to the meaning and interpretation of Article 283 of the Albanian Criminal Code have been continuously subjects to discussions of doctrine and jurisprudence, but in recent years the criminal approach to narcotics in general and to their users in particular has become the subject of extensive public debate. Social and audiovisual media in Albania are full of such debates, discussing the advantages and disadvantages of decriminalizing drug use. Even the Prime Minister Rama was pronounced recently about this sharp issue (gazeta-shqip.com, 2014).

From the data obtained from Statistical Annuals (2004-2011) published by the Ministry of Justice are shown that defendants convicted under article 283 of the criminal code occupy the largest number of convicts related to drug offenses. In these statistical annuals is given general information about applied sentences to those perpetrators under this section, but is not given any criminological clue about the nature or social dangerousness of these actions and authors who have been convicted under this article. To analyze the reasonableness and appropriateness of this provision and sentence measures it provides is needed to be deeply examined the phenomenology of behaviors it criminalizes in reality, by analyzing the country judicial practice. So given that this provision foresees ways of committing this offense the possession of narcotics for personal use and sale or transportation by not differentiating strong drugs and cannabis, also not differentiating holding of small quantities or selling large quantities, it is necessary to make a statistical survey of this phenomenology.

Methods

The subject of this survey are judicial decisions of courts of first instance with defendants found guilty of committing the offense of "Manufacturing and sale of narcotics" provided by article 283 of the Criminal Code. Each selected court decisions under survey is analyzed in

detail in the section that describes and justifies the commission of the offense. Because of recent digitization of the judicial system in Albania, the study of these decisions has been extended only for the years 2010, 2011 and 2012. Annual statistics from the Ministry of Justice show that under article 283 of the penal code in 2010 were convicted 254 individuals, in 2011 were convicted 406 and in 2012 were convicted 422 persons (so the population of this survey is 1082 convicted defendants). We have presented the findings in several separate charts, separating the cases of the first paragraph from the second and further grouping keepers, sellers and carriers separately. We have also collected data on the type and quantity of the drug seized, and the sentences that the courts have assigned to defendants in these cases.

After analysis with quantitative methods to Article 283 of the penal code, we made an analysis with qualitative methods for several decisions dealing with this criminal provision.

Sampling:

To perform this survey we have randomly chosen 100 judicial decisions where defendants were convicted for the commitment of this criminal offense. Albania is divided into several judicial districts and the court of the capital city of Tirana, because of its population (one third of the whole country) and the fact that drug consumption is an urban phenomenon, adjudicates a large number of drug criminal offences. For these reasons the selected sample is stratified, for as much as 50 decisions were selected from Tirana District Court, and the other 50 decisions were respectively collected from district courts of Shkoder, Durres, Vlore, Korca and Elbasan.

Decisions by the Court of Tirana, Korça and Shkodra (i.e. 70 decisions) have been randomly selected by me personally from the official website of these courts, while the other three courts (Durres, Vlore and Elbasan) decisions have been made available by the chancellors of these courts. In selecting this sample has been applied a correction rule, refusing more than 3 decisions taken by the same panel of judges in Tirana and no more than two decisions taken by the same panel in five other courts (smaller ones).

Short overview of the Albanian criminal legislation on narcotics.

Although drug offenses have been provided even in the criminal legislation during the communist regime, due to great isolation and repression of state, court cases have been almost non-existent. With the political changes of the 90s, after the mass emigration of young people in general and with the opening of Albanian society towards Western ones, first cases of drug consumption began to occur. In the new criminal code of 1995 (approved by Law No. 7895, dated 27.1.1995) were enacted four criminal provisions penalizing actions related to narcotics, specifically article 283

"Manufacture and sale of narcotics", article 284 "Cultivation of narcotic plants", article 285 "Keeping of equipment for the production of narcotics" and article 286 "Promoting the use of narcotics". Later these provisions have been made many amendments and modifications and currently there are a total of 13 criminal articles dealing with narcotic subjects. From these provisions, the most important are article 283 "Manufacture and sale of narcotics", article 283/a "Trafficking of narcotics", article 284 "Cultivation of narcotic plants" and article 284/c "The production and manufacture of narcotics and psychotropic drugs" (last two provisions were added by Law 8733, dated 24.01.2001). Although "The production and manufacture of narcotic drugs and psychotropic substances" now is provided in a separate provision in article 284/c of the Penal Code, article 283 of the penal code continues again to be entitled "Production and sale of narcotics" (still maintaining the term "production" in its title, without having it in its content).

For as much as the focus of this survey is article 283 of the criminal code and its practical impact, the content of this provision deserves to be fully quoted. This provision has a detailed descriptive clause determining that:

"Selling, offers to sell, giving or taking in any form, distribution, trading, transport, sending, delivering, and keeping except cases when it is for personal use and in small doses of narcotic and psychotropic substances and seeds of narcotic plants, in violation of the law, or in excess of their content, is sentenced to imprisonment from five to ten years.

The same act, if committed in complicity or more than once, shall be sentenced by imprisonment from seven to fifteen years.

Organizing, managing or financing this activity is sentenced by ten to twenty years of imprisonment."

As evidently can be noted from the content of this provision, although it is described by verbs that is performed in 10 forms, they can basically be summarized and grouped into 3 groups of actions distinct from each other: 1 through the sale (which includes provision for sale, giving, dealing and trading); 2 through transportation (which includes transport and delivery); 3 through keeping (which includes obtaining or getting in any form).

The issue of keeping narcotics and psychotropic substances for personal use is made subject to the judgement of the United Chambers of the High Court (Decision 1 dated 27.3.2008). The case before the High Court concerned a citizen who was arrested on flagrante, as on 22.09.2005 was caught with 1.9 grams of powder containing heroin. From the evidence obtained was proved that the defendant E. was a user of heroin of at least 4 years. Also, according to specialist called as an expert before the court, the

amount of the drug that was seized was enough for him to be consumed within 24 hours.

In the argumentation of the United Chambers of the High Court, it was stated that:

"According to the conclusions of experts, the amount of 1.9 grams of this substance is not only for one personal use, but for several ones during the whole day, which leads us to understand that the defendant E.Z. had available at the time of arrest, several small doses for several usages over 24 hours "

The High Court further stated that the restriction of the "small dose" only in quantity sufficient for a single use, besides the preventive role it holds for health care of users and people who are dependent on drugs, aims also to generally prevent the phenomenon of illegal use of these substances. With this reasoning the defendant E.Z. was found guilty and sentenced to 5 years imprisonment.

This unifying decision of the High Court can be criticized as it represents a tough prohibitionist attitude. The failure of prohibitionist approach is accepted in recent years by many countries and international organizations specialized in the fight against drugs. Global Commission on Drug Policy itself, in the 2011 report admitted that the war on drugs has failed. This unifying decision can be criticized also because in our view the High Court has not stayed strict to the literal wording of article 283 of the Criminal Code, which provides in plural the term "small doses" and not in the singular as it is expressed in the decision. From our point of view, the term "small doses" intends that a dose serves for a single usage; consequently many "small doses" should mean that they normally cannot be consumed in a single usage.

Following we will see that the above unifying decision which declared guilty the defendant E.Z. has contributed to the significant increase of cases of drug users who are arrested and sentenced according to article 283/1 of the criminal code. Here we can cite several decisions of Criminal Chamber of High Court. In Decision No. 544 dated 26.11.2008 the Criminal Chamber of the High Court affirmed the decisions of two levels of the judiciary which declared guilty and sentenced to 5 years imprisonment the defendant E.D. after being caught with an amount of 0.8 grams of cannabis in the pocket. Although he claimed he was a casual user (not a continual or addicted user of narcotics), the court was based exclusively on the act of toxicological expertise which ascertained no presence of cannabinoids in his urine sample. In this decision the Criminal Chamber refers to the above unifying decision to determine the quantity of the "small doses".

In another case, the Criminal Chamber of High Court with decision No. 217 dated 14.05.2008 has declared guilty the defendant G.S. since in his

apartment was found a quantity of 0.4 g heroin (including the weight of the package). Although from trial was proved that the defendant was carrying this substance for personal use (since it was a regular user of this substance), he was found guilty because on one occasion he had given for free his friend a dose of heroin to consume.

Also in decision no 367 dated 04.10.2007, the Court of Appeal Durres has decided to amend the decision of the First Instance Court of Durres by declaring the defendant A.H. guilty and sentencing him to five years imprisonment, because it was found in the pocket an amount of 1.2 grams of heroin (including the weight of the packaging) divided into three sacks. According to this decision the defendant had to be declared guilty, even though he was a user of narcotics, because its weight of 1.2 grams divided into three sacks did not constitute "small doses for personal use".

Criminal Chamber of the High Court with decision no. 125 (201) dated 06.12.2013 has taken a slightly softer attitude regarding possession of small amounts of narcotics. Criminal Chamber of the High Court has considered "small doses" for personal use the quantity of 7 grams of cannabis which were held by the defendant F.D. to be consumed along with his two friends, thus declaring them innocent. In this decision the Criminal Chamber of the High Court has raised the concept of "small doses" from the amount needed for a single use, to the amount of consumable drugs within a day.

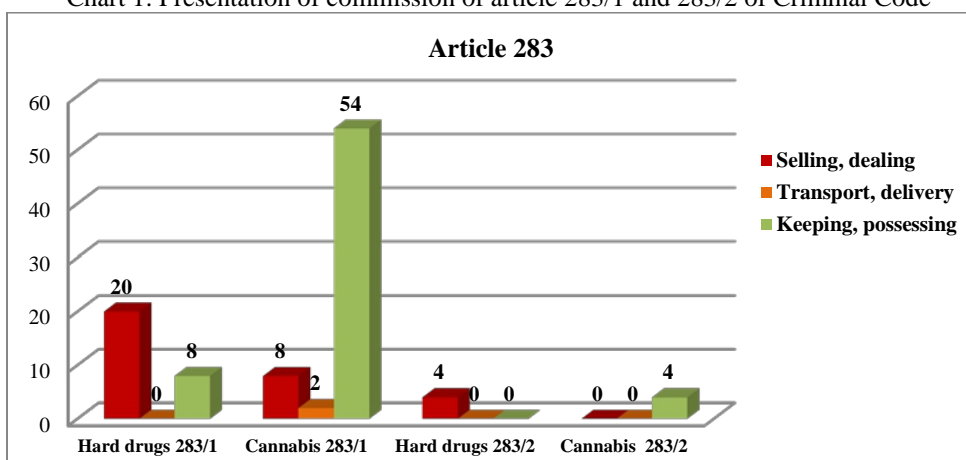
The disadvantage of this recent decision is that according to Albanian legislation it does not constitute a direct source of law, power which is applicable only by unifying decisions. Consequently lower courts will continue to refer to the unifying decision for the interpretation of the term "small doses", until the number of such decisions of the Criminal Chamber of the High Court should become a consolidated precedent, which indirectly will be binding for the lower instances of the Albanian judiciary.

Empirical overview of the judicial practice on criminal phenomenology according to article 283 of the Albanian Criminal Code.

To study in detail the criminal aspect of Article 283 of the Albanian Criminal Code, should be made a quantitative and qualitative analysis of judicial practice cases regarding this article. So, for a better presentation of the picture of this article, we will endeavor to identify the nature and seriousness of actions and persons convicted and the sentences stipulated to them by the Albanian courts under article 283 of the penal code. To do this we have randomly selected 100 court decisions that have convicted guilty the defendants for the commitment of this offense. Each selected court decisions is analyzed in detail in the section that describes and justifies the commission of the offense.

The first finding from the survey is that 92% of all defendants are found guilty under the first paragraph and the remaining of only 8% under the second paragraph (under the third paragraph is not faced any case). We mentioned above that this offense can be committed in three distinct forms (summarized into three groups of actions), respectively by selling, transporting and keeping narcotics. In the diagram below will present findings on the number of cases declared guilty for each of these forms of committing this offence. Also for each paragraph and for each form of committing this offense we have presented separately the cases of seizure of hard drugs from cannabis. The exposure of the findings for the two paragraphs of this article will be shown in the following chart.

Chart 1. Presentation of commission of article 283/1 and 283/2 of Criminal Code



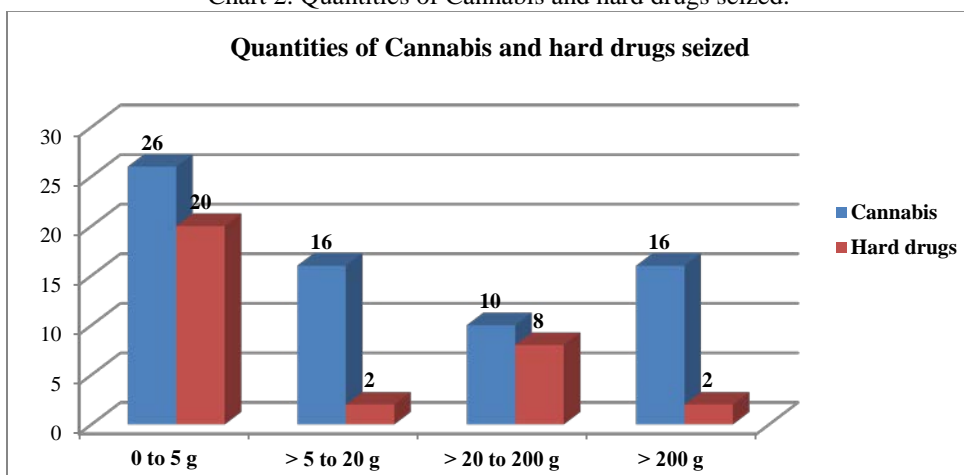
From the data obtained from this sample only 32% of cases were convicted for sale (28 under the first paragraph and 4 under the second paragraph), only two cases for transport and the remaining 66% of cases (62 under the first paragraph and four under the second paragraph) are declared guilty only for possession of narcotics. At this point should be added that in these figures presented above as sales are considered even 10 questionable cases, that in the court's decisions are not explicitly considered as such, but due to the discovery of drugs in several divisions or packages, for the effect of this study we have considered them as sale.

If we go deeper into the kinds of substances seized to defendants who were charged for possession (keeping or receiving), from the survey is found that 58% of all cases are convicted for marijuana possession (54+4), and 8% of possessing hard drugs, while the opposite is observed for sale where 24% are convicted for selling hard drugs (20+4) and only 8% for selling marijuana. Cases of conviction for transport are only 2% and all of them with marijuana. In total for the two paragraphs in 68% of cases have been seized

cannabis and 32% hard drugs (of which 24% heroin, 7% cocaine and 1% synthetic drugs).

To go to the heart of the matter to find out how dangerous they are and for what actions the defendants were convicted guilty under article 283 of the Albanian Criminal Code, we have collected data on the amount of narcotics seized for each of these cases. In order to facilitate their presentation, we have split the quantities of seized drugs into four groups. Hard drugs and cannabis are presented in the following chart in separate columns.

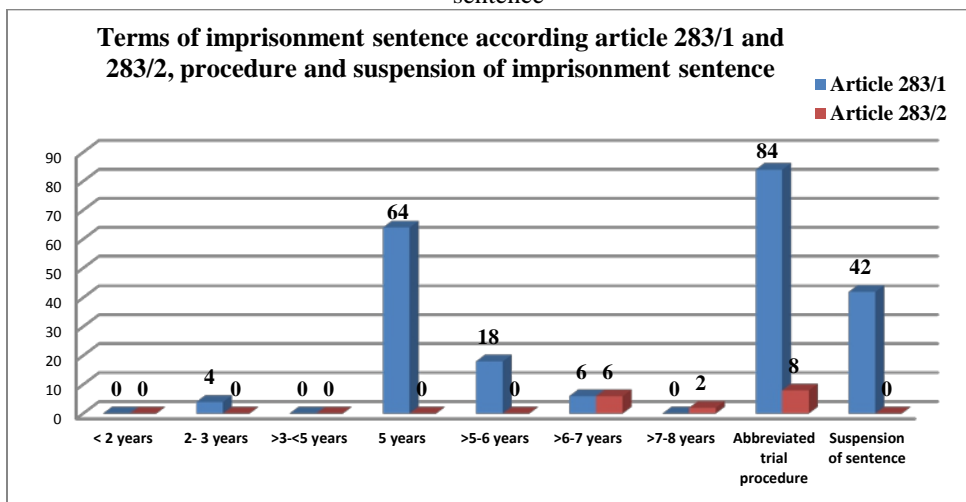
Chart 2. Quantities of Cannabis and hard drugs seized.



As the chart shows 20% of cases with hard drugs and 26% of cases with cannabis have been seized less than 5 grams of a narcotic substance (where should be clarified that the percentage of pure heroin substance, rarely exceeds 20% of the total weight, since it is mixed with other filling substances). On the other side, only 16 cases have been seized more than 200 grams of cannabis and in only 2 cases with more than 200 grams of heroin. In total, in 42% of cases were seized less than 20 grams of cannabis and in 22% of cases less than 20 grams of hard drugs.

Due to various procedural rules and mitigating circumstances taken into account by the courts towards offenders, in the majority of the legislation has a big difference between the sentences provided by law for that specific offence and those that are stipulated to defendants by the courts in practice. Sanctions provided by law do not always give a clear picture of the real punitive level of a certain phenomenon given to convicts by courts. Therefore below we are presenting the data on how much imprisonment and how many defendants have been sentenced by Albanian courts under article 283 of the penal code and also the procedure and the cases that court has suspended the imprisonment sentence.

Chart 3. Terms of imprisonment sentence, procedure and suspension of imprisonment sentence



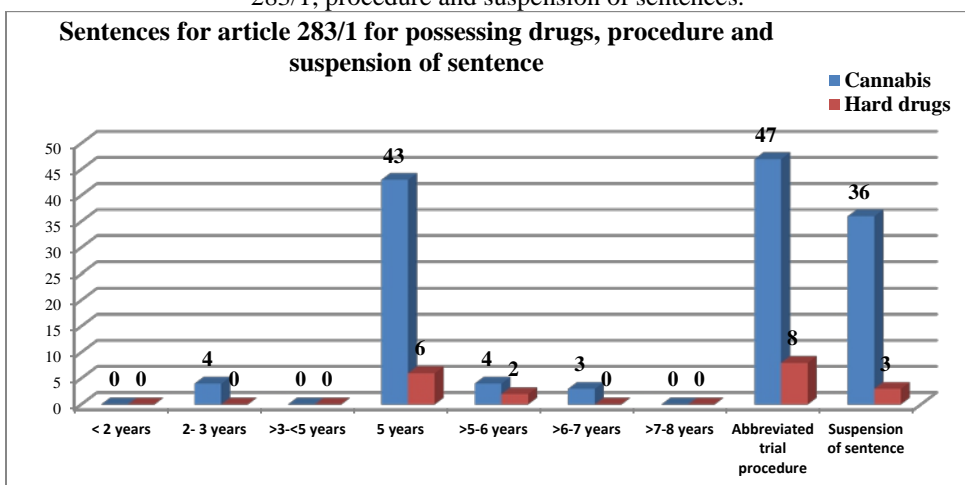
As clearly can be seen from this chart, except 4 minors who were sentenced less than 3 years of imprisonment (according the Albanian criminal code to minors the sentence is halved), 64 offenders were sentenced to 5 years of imprisonment, 18 offenders to 5-6 years, 12 offenders to 6-7 years of imprisonment, while in two cases were sentenced to 8 years of imprisonment. Here we should take in consideration that article 283 of the Penal Code foresees in the first paragraph an imprisonment sentence of 5 to 10 years and in the second paragraph from 7 to 15 years of imprisonment. As can be seen in the majority of cases the courts stipulate the minimum of imprisonment terms for the commission of this offence according the first and second paragraph of article 283 of criminal code. So in 70% of the cases under the first paragraph and in 75% of the cases under the second paragraph the courts have stipulated the minimum of the imprisonment sentence provided by law, while the difference is close the minimum. So from this chart it is clear that due to severe punishment measures provided by this article, courts have not fully exploited these margins even when the type of narcotic drug has been hard (cocaine or heroin), or when it has been seized huge quantities of that.

From the total, in 92% of these cases the procedure of judgement was abbreviated (a special type of judgment under Albanian legislation), taking advantage of a discount of one third of the sentence terms quoted above. Meanwhile the survey shows that in 42% of cases the court decided to suspend the execution of imprisonment sentence, while the rest of 58% have served the full sentence in prison (if the decision is not changed by other higher instances).

As the focus of this study is the keeping (or possession) of narcotics for personal use, below we will present in a new chart the findings on

sentences stipulated by the courts for this category of perpetrators, the procedure of the trial and the cases that the court has suspended the imprisonment sentence to convicts, only under first paragraph. As we saw earlier in the empirical analysis, keepers of narcotics for personal use convicted under the first paragraph occupy 62% of the total number of the convicted under article 283 of the penal code.

Chart 8. Imprisonment sentences for possessing drugs according to first paragraph of article 283/1, procedure and suspension of sentences.



From this chart we may see that from 54 cases of cannabis keepers found guilty under the first paragraph, 43 of them (79 %) were sentenced to 5 years of imprisonment, 4 (7.4%) to 5-6 years of imprisonment and 3 cases to 6-7 years of imprisonment. In 47 cases were proceeded by abbreviated trial procedure (by subtracting in the end one third of the sentence terms quoted above) and in 36 cases (66.6%) the imprisonment sentence is suspended. Also from this chart we can see that there is not noted any significant severity deference in imprisonment terms stipulated for the possession of hard drugs compared to cannabis. These findings suggests that the same sentences were stipulated also for possession of hard drugs where six cases (75%) were sentenced by 5 years and 2 cases (25%) by 5-6 years of imprisonment. Regarding the possession of hard drugs all cases were proceeded by abbreviated trial procedure and in only 3 cases (i.e. 37.5%) was suspended the execution of imprisonment sentence.

Disproportionality and social injustice noticed above through quantitative analysis, is deepened if we make a qualitative analysis of some of the most typical decisions taken from the sample.

Thus, in a given case from Tirana District Court in 2011 was sentenced to five years imprisonment the defendant A.M. because he was found in the trouser’s pocket a quantity of 0,885 grams of cannabis.

According to the toxicological forensic act resulted that the defendant was a user of this narcotic substance. In the argumentation of this decision (whether the seized amount is a small dosage or not) the court referred to the unifying decision of the High Court no.1, dated 27.03.2008 (cited above), stating that: "Based on the forensic examination has resulted that the amount of 0,885 grams of cannabis, which is not considered a small dose for personal use, but constitutes a harmful dose (poisonous) for an adult and consequently it's immediate use by a grown man as the case of the citizen P.M., would seriously harm his health". Based on these reasons, he was found guilty, but the court suspended the execution of imprisonment sentence to him.

Another case that deserves to be mentioned is another decision of the Court of Tirana where the defendant G.C. was sentenced to five years imprisonment after being found in his pocket two doses of narcotics suspected as heroin, weighing 0.410 grams. From the chemical forensic act of this substance was shown the presence of heroin in the average concentration of 22.6 % (so in the seized substance to the defendant was found less than 0.1 grams of pure heroin). Even in this decision the first instance court was referred to unifying decision of the High Court, since the forensic experts stated before the court that the quantity sequestered to the defendant is not only hazardous to health, but it even causes immediate death if consumed at a time (consequently according to court it cannot be considered small dose for personal use). For this case the court has not decided the suspension of execution of imprisonment sentence (so the defendant has suffered the full sentence in prison).

Although these two cases were presented for illustration, we should emphasize that the number of cases where defendants have been seized 2 grams or less of narcotic substances is 18% and less than 1gram is 5% of the total number of decisions under survey. On the other hand, undifferentiating by article 283 of the penal code of the drug types (i.e. the hard drugs from cannabis), of holders from dealers and seized quantities, has produced decisions like the one in 2012 against the defendant F.Y. who was seized the quantity of 556 grams of cocaine and at the end of the trial he was sentenced to the minimum sentence prescribed by article 283 of the Penal Code (i.e. 5 years imprisonment like the one who was caught with 0.4 grams of blended heroin). From the sample of decisions observed in this study, the cases where seized large amounts of cannabis (from 1 to 50 kg) has been even so sentenced to a minimum of 5 years imprisonment are 8% of all cases under study.

While politicians of both camps can boast that with criminal legislation we are struggling with an iron hand and uncompromised dangerous drug criminals, the data released by court decisions indicate that

mostly are being punished young people who consume drugs, most of which consume marijuana. Among them can be found users who because of social circumstances or the need to provide income in order to buy narcotics for themselves, may also sell small quantities of narcotics to others. At the other hand the practice of drug consumption has become a social phenomenon among young people and users may occasionally give to each other small amounts of narcotics for free, but it's not differentiated by law (article 283 of the penal code) and is considered the same as sale or dealing drugs for profit.

As discussed above not only those consumers of narcotics are being found guilty, but the punishments imposed on them are too severe, since article 283 stipulates that the minimum for the commission of this offence is 5 years imprisonment. Even if in recent years courts are suspending prison sentences for the majority of users who were seized very small quantities of drugs for personal use, on the other hand there is still a big number of those who were not suspended the execution of imprisonment sentence. Despite the emollient and human effect of imprisonment suspension, it should be noted that in large part the defendants until suspension of the decision remain in custody and then after suspending the sentence must maintain frequent contacts with probation services for 2 - 5 years.

Some other criminological considerations in the fight against narcotics in Albania

Due to the low level of income, Albania has a lower percentage of consumers of narcotics for 100,000 residents comparing to developed European countries (especially hard drugs which are more costly). According to UNODC (United Nations Office on Drugs and Crime), the 2008 annual report, estimates that 0.45% of the population of Albania from 15 to 64 years use opiates, 0.8% cocaine, 1.8% cannabis etc.

The trend for the number of consumers of narcotics presented above shows that the number is growing faster than the growth of the country's GDP (which in 2009 was 3.3%, in 2010-3.8%, in 2011 3.1%, in 2012 1.3% and in 2013 0.7%). Even though this is not what we want, but we all know that the number of Albanian consumers of narcotics will grow further in the years ahead. The incidence of this phenomenon presented from the study of Institute of Public Health YRBS (2006 and 2009) showed that 16% of those aged 15 to 18 years had experimented at least once in their lifetime with drugs. This clearly shows that in years to come young consumers of this age group will be added to the number of chronic addicted users and from this sum should be deducted only a very small number of rehabilitated dependent users.

Due to prison overcrowding, only in the segment of time less than 17 months Albanian legislature has enacted two laws of granting amnesty,

releasing from prosecution and serving the sentence many offenders (not for too heavy offences). But in both these amnesties (as in others before these two) drug users are excluded from the profit of them (being considered keeping narcotics for personal use a dangerous offense). Decriminalization of the drug use and possession of small quantities for personal use should not be done to alleviate the problem of overcrowding in prisons (but for other reasons), although it cannot be hidden that it will contribute alongside other decriminalizing measures in solving this chronic problem of criminal justice.

On the other hand based on the numbers of convicts for sale and transportation of narcotics, it is clear that in Albania has a low level of their detection. Given the number of users that are thought to be from 40 000 to 60 000, the number of dealers and sellers is logically far more than 138 people (34% of 406 prisoners in 2011). Therefore, also in terms of preventing dealers, the state should consider as achievement or success the reasonable and proportionate punishment of all perpetrators (or at least most of them) and not the severe punishment of only a few of them “who fall in the net state”. Although the USA is among the countries with most severe criminal penalties (including sentences for criminal convictions related to drugs) from the above data is shown that the perpetrators of these acts in Albania are 2-3 times more severely punished (Robinson, 2005, p 4).

Conclusion

From data found in this research inferred that article 283 of the Albanian Criminal Code presents major problems during its implementation in practice. From the sample of observed cases noted that this article represents a great unreasonableness and social injustice in practice.

The first conclusion that can be drawn from this survey is that article 283 of the penal code is not focused on punishing the criminals who promote or enable the consumption of narcotics, but to mere users of these substances. From the study it comes out that in 66% of all cases the defendants have been found guilty only for possession of narcotics (kept for personal use) and that only 34% of cases were convicted for sale and transport of narcotics.

Secondly, the study found that most of the convicts under article 283 of the Penal Code are individuals who consume or sell cannabis (not hard drugs). So, 58% of those sentenced by courts of first instance have been convicted for marijuana possession and 8% for possessing hard drugs, while the opposite is observed for sale where 24% are sentenced for hard drugs and only 8% for marijuana. Cases of conviction for transport of narcotics take only 2% and are all with marijuana. In total for the two paragraphs in 68% of cases has been seized cannabis and 32% strong drugs (of which 24% heroin, 7% cocaine and 1% synthetic drugs).

Third from the survey came out that most of defendants were convicted for possession or sale of small amounts of narcotics. Thus in 20% of cases with strong drugs and 26% of cases of cannabis have been seized less than 5 grams of narcotic substance (i.e. 46% of the total of convicted), and cases when was seized less than 20 grams constitute 64% of the total (42 cases with cannabis and 22 cases with hard drugs). It should also be mentioned that only 16 cases have been seized with over than 200 grams of cannabis and only 2 cases with over 200 grams of heroin, while the rate of cases where defendants have been seized 2 grams or less of narcotic substance is 18% and less than 1 gram is 5%.

Fourth, being that the penalties for actions envisaged by article 283 of the Penal Code are very heavy compared to other European countries, from the study came out that the Albanian courts have taken full advantage of legal opportunities by giving defendants the minimum provided by law. So in 64% of cases the defendants were sentenced to 5 years imprisonment (the minimum allowed under article 283/1), 18 defendants with 5-6 years and 12 cases with 6-7 years imprisonment, while two cases were sentenced to 8 years imprisonment. In 92% of all these cases the procedure of trial was abbreviated (an accelerated type of judgment under Albanian legislation), taking advantage of a further discount of one third of the sentence. Also from the survey results that in 42% of case the court decided the suspension of execution of imprisonment sentence, while the rest 58% have served the full penalty in prison.

Fifth, from the survey it was clearly shown that in the judicial practice is not noted any difference in imprisonment terms stipulated for the possession of cannabis or hard drugs. Thus 80 % of the holders of cannabis (43 of 54 cases) were sentenced to 5 years imprisonment, while also 75% of convicted for keeping hard drugs have been sentenced to 5 years imprisonment (6 of 8 cases). As referred to the suspension of conditional sentence is noticed a differentiation as for holders of cannabis was applied in 66.6 % of cases (36 of 54 cases), while the holders of hard drugs only 37.5 % was applied suspension of imprisonment sentence (3 of 8 cases).

Sixth, from the study is noted a lack of differentiation of sentence terms among cases of seizures of small quantities of narcotics from cases of seizures of large quantities. So in a case where to a defendant that was seized 556 grams of cocaine he was sentenced to five years in prison same as the one who was caught with 0.4 grams of blended heroin. Cases when large amounts of cannabis have been seized (1 kg to 50 kg) and again have been sentenced by the courts to a minimum of 5 years imprisonment constitute 8 % of all sample cases.

Closing we may conclude that article 283 of the Criminal Code, does not meet the criteria of a reasonable, just and humane criminal law.

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