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# THE IMPORTANCE OF REPORTED CRIMES IN CRIMINOLOGICAL RESEARCH

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## ABSTRACT

*In this article, we have proposed an analysis of that category of offense that includes all the facts that have a criminal appearance and that are brought to the attention of the criminal justice bodies through different reporting methods provided by law. This category of offense is important in criminological research, because such acts appear in the statistics of criminal justice enforcement bodies at various stages of criminal trials, before a final judgment or other solution of criminal investigation bodies is issued, by which the criminal nature is confirmed or disproved. However, as is known, for a good part of these facts, the bodies of criminal justice pronounce solutions of acquittal, termination of the criminal process or closure. However, the acts pending before the criminal justice enforcement bodies for which the criminal character is not confirmed should not be included in the criminal statistics regarding the totality of the crimes that are committed. In the specialized literature, all the acts that have a criminal appearance, brought to the attention of the criminal justice bodies, form the category of reported crime, unlike the acts for which the criminal character is confirmed, which fall into the category of convictions, also called judged crime. Considering the particular importance of criminological research in understanding the distinction between the facts that have a criminal appearance and the facts for which the courts establish by final judgments that they meet the conditions of an offense, in this article a more detailed analysis of the facts that fall under the category of reported crime is made.*

**KEYWORDS:** *reported crime; offense; criminal acts; disclosed crime; notification;*

## 1. Brief considerations on the notion of crime

The notion of crime began to be used towards the end of the 18th century and the beginning of the 19th century, with the first criminal statistics. In the doctrine<sup>1</sup> it was stated that, from a legal point of view,

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<sup>1</sup> Valerian Cioclei, *Manual de criminologie*, ed. 6, C.H. Beck Publishing House, Bucharest, 2016, p. 19.

crime refers to the set of human behaviors that are considered crimes by a certain criminal law system. The notion of crime is considered to include all criminal acts committed in a given space and period of time<sup>2</sup>, by criminal act meaning the externalization of a human behavior that is considered a crime by the criminal law.

Starting from this definition of the notion of crime, we note that the scope of crime includes, first of all, all crimes that are committed in a certain period of time, in a certain territory. Crime is a concept specific to criminal law. Thus, according to Article 15 (1) Criminal Code, the crime is the deed provided by the criminal law, committed under guilt, unjustified and for the commission of which a person can be charged. Therefore, for an act to be considered a crime, it must meet the four essential features provided by the criminal law: typicality, guilt, the act being unjustified and for the commission of which a person can be charged. The criminal legislation also explains to us what is meant from the point of view of criminal law by the expression committing a crime. In this sense, Article 174 Criminal Code provides that "*the commission or perpetration of an offense means the performance of any of the acts punished by law as completed offense or attempted offense, as well as the participation in the commission of the same, as co-author, instigator or accomplice.*". It follows from the text of the law that the commission of a crime involves the commission of an act that the criminal law punishes as a consummated crime or as an attempt.

From a legal point of view, we can say that a crime or attempted crime has been committed only when this is established by a final court decision. In the content of the concept of crime we will include not only the offense, as it is defined in the criminal law and criminal procedure, but also all other human behaviors that are prohibited and sanctioned by the criminal law. It is about those facts committed in the objective reality which, although they are provided for by the criminal law, considering the circumstances and the concrete way in which they are committed, do not meet all the requirements of the criminal law to be considered crimes, which is why they are not ascertained by a final court decision. All these facts that fall within the content of the concept of crime will be referred to as criminal acts. At the same time, we will also include offenses in the

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<sup>2</sup> Valerian Cioclei, *Manual de criminologie*, ed. 6, C.H. Beck Publishing House, Bucharest, 2016, p. 19.

notion of criminal acts, which is why we can say that all criminal acts or acts that have a criminal appearance fall within the scope of the concept of crime.

## 2. Objective classification of crime

In the specialized literature, it has been stated that in a very broad sense, which takes into account the whole social and human phenomenon, by crime in the criminological sense we understand a mass social phenomenon that includes all crimes or criminal acts committed, either over the course of all human evolution or only in relation to a particular era, civilization, time interval or geographical space<sup>3</sup>. Such a scope of the notion of crime is of interest when we consider criminological research as a whole, as a fundamental science. However, apart from this very broad understanding of the notion, much narrower understandings of the notion are often used in criminological research, which are determined by certain requirements specific to the interest pursued in the research activity. In this sense, criminological research can be interested, for example, in an analysis of crime limited to a certain geographical space, to a time interval or to a certain type of crime<sup>4</sup>. We conclude that a distinction can be made between crime, as a phenomenon seen in a general sense, on the one hand, and different types of crime, as a concrete phenomenon of manifestation, on the other.

The grouping of criminal acts according to certain evaluation criteria results in the establishment of different crime categories. The way in which the criteria for evaluating crime are established allows the identification of two types of its classification. Thus, if we establish a fixed, invariable criterion for evaluating crime, we will obtain an objective classification of crime. Instead, if we propose diverse, variable criteria for evaluating crime, depending on the interest of criminological research, we will obtain a subjective classification of crime.

Regarding the objective classification of crime, over time, criminological research has identified as a reference criterion the objective existence of different degrees of knowledge of criminal acts by criminal justice

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<sup>3</sup> Narcis Giurgiu, *Elemente de criminologie*, The Publishing House of the Chemarea Foundation, Iași, 1993, p. 97.

<sup>4</sup> Narcis Giurgiu, *op. cit.*, p. 97.

bodies. In the specialized literature, it has been shown that this criterion for classifying crime takes into account the degree of knowledge, discovery, registration, verification and judicial resolution of criminal acts, and depending on this criterion, the extent or depth of crime can be established<sup>5</sup>. According to this criterion, it has been shown in the specialized literature that crime is divided into the following categories<sup>6</sup>:

1) total crime, which is the most widespread but not entirely visible form of crime;

2) the black figure of crime, which includes that form of crime that never ends up being known by the competent authorities in the criminal investigation activity, being entirely invisible;

3) reported crime, which is a visible and mixed form of crime, but broader than convictions, and

4) convictions, which is the narrowest form of crime, but known and better defined.

Next, we will analyze reported crimes, in order to highlight the reasons why this category of crime is of particular importance in criminological research.

### **3. Reported Crime**

Reported crime includes all the criminal acts that are committed in the objective reality on a certain territory and in a certain period of time, acts that have a criminal appearance and come to the knowledge of the bodies involved in the execution of the act of criminal justice. We say that these are acts that have a criminal appearance because only the court will determine if an act actually committed meets all the legal conditions to be considered a crime. Therefore, only a part of the facts that are brought to the attention of the judicial bodies will finally be confirmed as crimes, which is the reason why this category of crime is called reported.

The legal method by which the commission of certain acts provided for by the criminal law is brought to the attention of the criminal investigation bodies is the reporting act. For this reason, in specialized literature, this

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<sup>5</sup> Ion Oancea, *Probleme de criminologie*, All Educational Publishing House, Bucharest, 1998, p. 42.

<sup>6</sup> Valerian Cioclei, *op. cit.*, p. 20.

category of crime is also known as crimes by referral<sup>7</sup>. The main effect of the report is to invest the criminal prosecution body for carrying out specific activities, the notification being a necessary condition for the initiation of criminal prosecution<sup>8</sup>.

The ways of notifying the criminal investigation bodies are provided in the Code of Criminal Procedure. Thus, according to Article 288 (1) and (2) of the Code of Criminal Procedure, criminal investigation bodies are notified by: i) complaint, when the referral is made by the person injured by the criminal act, ii) by report, when the referral is made by a person other than the one who is injured by the criminal act, iii) by prior complaint, when the law requires the prior complaint, iv) following acts performed by other law enforcement bodies or v) *ex officio*, when it finds out in any way that a crime has been committed.

The complaint is an acknowledgment made by a natural or legal person, regarding an injury caused to him by a crime<sup>9</sup>, while the report represents the knowledge made by a person other than the injured person, about the commission of a crime<sup>10</sup>.

Regarding the prior complaint, this is a special way of reporting that we encounter in the Romanian judicial system. Thus, the right to file a preliminary complaint belongs only to the injured person, in the sense of a natural or legal person who suffered a physical, material or moral injury by committing the crime<sup>11</sup>. According to Article 288 (1) of the Code of Criminal Procedure, if the law stipulates that the initiation of the criminal action is made only upon the prior complaint of the injured person, the criminal action cannot be initiated without it. A similar provision is also valid in the case of the crimes provided for in Article 413-417 of the Criminal Code committed by the military, for which the criminal action is initiated only when the commander is notified, but also in other cases provided by law, such as for example the crimes provided for in Law no. 191/2003 regarding offenses in the naval transport regime, when it is necessary to notify the captain, the owner, the operator of the ship or the competent bodies of the naval authority, as the case may be.

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<sup>7</sup> Ion Oancea, *op. cit.*, p. 43.

<sup>8</sup> Andrei Zarafiu, *Procedură penală. Partea generală*, ed. 2, C.H. Beck Publishing House, Bucharest, 2015. p. 335.

<sup>9</sup> See Article 289 of the Code of Criminal Procedure.

<sup>10</sup> See Article 290 of the Code of Criminal Procedure.

<sup>11</sup> Andrei Zarafiu, *op. cit.*, p. 341.

With regard to the notification through documents concluded by other ascertaining bodies, this is a general way of notifying the criminal prosecution bodies, the notification being carried out by drawing up minutes or by means of a minutes of the proceedings, in the case of the audience offense provided for by Article 360 of the Code of Criminal Procedure.

Ex officio reporting is a method by which criminal investigation bodies self-report when they find out about the commission of an act provided for by the criminal law, through any other means than the other reporting methods provided by Article 288-291 of the Code of Criminal Procedure.

The facts that fall into the category of reported crimes are registered at the police bodies or prosecutor's offices. If the complaint or report is wrongly directed, it is sent, administratively, to the competent body. Therefore, for a correct evaluation of reported crime, the statistical data provided by both categories of bodies mentioned above must be taken into account.

Reported crime includes all criminal acts that, at least in an initial phase, present a criminal appearance. The confirmation or not of the criminal character of the act is made following the solutions given by the prosecutor or the court and which result in the extinguishment of the criminal action<sup>12</sup>. As it was shown in the doctrine, the extinguishment of the criminal action basically marks the moment when the criminal action is exhausted through one of the methods provided by law<sup>13</sup>.

The situations in which the extinguishment of the criminal action may take place are the following:

a) When the criminal action has as its purpose the criminal liability of one or more persons. According to Article 396 (2)-(4) Code of Criminal Procedure, the termination of the criminal action by achieving its object can take place by a definitive ruling to convict, to waive enforcement of penalty, to postpone the service of sentence. Any of these solutions can only be pronounced by the court.

b) When one of the cases intervenes that prevents the realization of the object of the criminal action. In this sense, in many situations the judicial bodies can reach conclusions contrary to the initial appearance. In Article 16 of the Code of Criminal Procedure provides the cases in which the criminal action cannot be initiated, and when it has been initiated, it can

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<sup>12</sup> Valerian Cioclei, *op. cit.*, p. 26.

<sup>13</sup> Andrei Zarafiu, *op. cit.*, p. 85.

no longer be exercised. Depending on the time at which they intervene, these cases have the effect of either preventing the initiation of the criminal action, if it has not yet been initiated, or the extinguishment of the criminal action, if it had already been initiated, regardless of the procedural phase, the stage or the stage in which the criminal action has reached<sup>14</sup>.

c) Separate from the cases that prevent the exercise of the criminal action, the criminal action can also be extinguished by giving up the criminal investigation, which can be ordered by the prosecutor during the criminal investigation phase, when he considers, in compliance with the provisions of Article 318 of the Criminal Procedure Code, that there is no longer a public interest in pursuing the act. The prosecutor's order for the abandonment of the criminal investigation is subject to confirmation by the judge of the preliminary chamber.

In conclusion, taking into account the provisions of Article 17 of the Code of Criminal Procedure, we identify the following ways of extinguishment of criminal action:

**During the course of the criminal investigation** criminal action is extinguished through:

- closure, when one of the cases of preventing the criminal action provided for by Article 16 Criminal Procedure Code is found to have occurred, or
- dropping charges, under the terms set by the law.

**During the trial**, the criminal action is extinguished by:

- the *res judicata* of the court decision of conviction, waiver of the application of the penalty, postponement of the application of the penalty;
  - acquittal, when the court finds the existence of one of the following cases provided for by Article 16 a)-d) of the Code of Criminal Procedure;
- or
- termination of the criminal process, when the court finds the existence of one of the following cases provided by Article 16 e)-j) of the Code of Criminal Procedure.

It follows that a first reason why some facts remain in the area of reported crime is the finding of one of the cases in which the initiation or exercise of the criminal action is prevented or when it is ordered to abandon the criminal investigation.

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<sup>14</sup> *Ibidem*.



The second reason why some acts remain in the area of reported crimes is the failure to identify the authors of some criminal acts, when the well-known files with an unknown author are established. The files with unknown perpetrators exist due to the skill of the criminal, the ineffectiveness of the criminal investigation bodies or often a combination of the two elements.

#### **4. Conclusion**

We thus observe that in terms of volume, the category of reported crimes is much wider than that of convictions or judged crimes, which includes all the facts for which a final judgment of conviction, waiver of the application of the penalty or postponement of the application of the penalty is pronounced. This is because for many acts, which have a criminal appearance and fall into the category of reported crimes, their criminal nature is not confirmed and in these conditions the respective acts will not fall into the category of convictions.

Thus, the criminal investigation bodies and the courts are the ones who practically carry out a necessary triage on all the acts that have a criminal appearance in the category of reported crimes, in order to avoid the criminal liability of some people who are not guilty of committing a crime<sup>15</sup>. However, from the exposition made above regarding the reasons why some facts remain only in the category of reported crimes, we have seen that many times these facts exist and produce dangerous consequences in social life. This occurs because we can find ourselves in a situation where the statute of limitations for criminal liability has intervened for an act provided for by the criminal law, or perhaps the injured person's prior complaint has been withdrawn in the case of crimes where the criminal action is set in motion upon the injured person's prior complaint. As we can have situations in which the conclusion is reached that there is no evidence from which it can be concluded that a certain person committed the crime or there is a justifying cause or non-impunity.

In all these situations, even if, from a legal point of view, criminal sanctions cannot be applied against the people who committed these acts, however, the negative social consequences of these acts, both for the victim and for society, cannot be denied. For this reason, criminological

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<sup>15</sup> Ion Oancea, *op. cit.*, p. 43.

research is also interested in such facts, which remain only in the category of reported crimes. We can thus affirm that reported crimes are of particular importance in criminological investigations.

## **BIBLIOGRAPHY**

1. Aurel Dincu, *Bazele criminologiei*, Proarcadia Publishing House, Bucharest, 1993.
2. Valerian Cioclei, *Manual de criminologie*, ed. 6, C.H. Beck Publishing House, Bucharest, 2016.
3. Narcis Giurgiu, *Elemente de criminologie*, The Publishing House of the Chemarea Foundation, Iași, 1993.
4. Ion Oancea, *Probleme de criminologie*, All Educațional SA Publishing House, Bucharest, 1998.
5. Andrei Zarafiu, *Procedură penală. Partea generală*, ed. 2, C.H. Beck Publishing House, Bucharest, 2015.