



Security and Criminal Policy

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Abstract: The current period of the public evolution can be identified as one of the global (economic, financial, political, social, legal and moral) periods of crisis. In worsened crisis conditions the level of crimes remains at such a level when it is hard to control them by means of law enforcement authority – capacity of institution resources and workload exceeds its limits. Great role in combating of crimes is attributed to prevention. To a certain extent, the goals of state criminal law policy are not only to punish, but to restore the possible truth as well, to prevent the society, to resocialize and prevent the people from committing of crimes. The investments into people's educational policy is incomparably more important than capturing of the offenders, their punishment and execution of the sentence. When working out crime prevention measures in criminal law police, one should use also foreign experience and the latest technologies. We perceive criminal law policy as the state activity in provision of legal order in individual's protection from crimes, violation of the rights, and implementation of the law enforcement.

Keywords: crime crime policy; law; prevention; security

1. Introduction

Security is a support of successful development and welfare of any country, the reason of which is the people's fear of physical, property, sexual, moral, intellectual and other kind of threats. Responsibility of the government and its corresponding institutions is to provide stability of any individual, as well as the public system. Crime and other violations of the law cause irreparable harm both for separate public representatives, as well as for the public and civilization at large. Thus, since the time when the mankind began to be aware of these deviations from the generally accepted ones and violations, the mechanisms and forms were developed how to protect oneself against violation and how to prevent it. Already

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in the ancient cultures, such as Greece, Rome, Japan and China, its philosophers, thinkers and reformers paid much attention in recognizing the crime as a socially adverse phenomenon, understand and prevent it.

Can fully agree with B. Vasile, that, ‘political processes are interwoven with economic, social and otherwise. However, the term of political process can also include the meaning of interaction between institutions, social groups. Some analytical approaches use the term of political process to define general politics that is politics in the progress and development of social life’ (Babu, Vasile. Criminal Policy and Constitution).

The current period of the public evolution can be identified as one of the global (economic, financial, political, social, legal and moral) periods of crisis. In the society one can trace a deep economic crisis: industrial and agricultural manufacturing is downsized, the service market is shrinking, economic activity control system is minimized, while „grey” and „black” economy is proportionally rising. We can define the constantly increasing social crisis: high unemployment level, lowering of social benefits and guarantees, rise in prices for health services, failure in providing education, etc. It is doubtless that the devaluation of moral values is also increasing in the society and violence is expanding. In worsened crisis conditions the level of crimes remains at such a level when it is hard to control them by means of law enforcement authority – capacity of institution resources and workload exceeds its limits.

One of the essential public values – security (the life without fear from any kind of the threats and poverty) has become an Utopian category. Legal constructions (instructions, rules, laws, regulations) and their practical adaptation for crisis conditions do not ensure the development of security, but in general contribute to the increase of public and individual security threat.

The country has not timely produced legal, economic and financial instruments which

are extremely necessary for the implementation of a constructive regulation of a state, which had caused essential budget losses and unlawful manifestations in the financial sphere. It, to a greater extent, has helped for the development of „shadow economy”.

During the crisis there are factors which become more acute which promote social insecurity, increase the risk of danger:

- losses in economy increase or there is an increase in the not acquired income, as a result, one can observe the lowering of the quality of life in the essential part of the population, fast differentiation in the society, people's voluntary emigration;
- socially – political tension which is retained for a longer period and which causes the increasing people's disloyalty to the government and its adopted (as well as planned) decisions, which stimulate a great part of the society to obtain funds in the illegal way;
- no protection of individual interests by the state;
- Incompetent approach to the solution of the issues of ensuring the strengthening of the order and long-term lack of the attention in relation to the development of the whole law enforcement system, as well as material, technical, personnel security, establishment of the rules directed towards the effective fight with organized crime (Vilks, 2013, p. 7).

Be it ever so weird, but the crisis has its positive nuances as well. This necessitates the revision of the national labour organization, unwanted plans, processes, people are abandoned (Vitolds, 2011, p. 5). Whether you like it or not, many *unnecessary* organizations and positions have to be winded up, which had been established for the control, management and inspection of some other organizations and officials' work. It makes it important to reestimate many national and municipal orders without which the society can do. The situation makes to reevaluate the formerly made errors.

2. Methodology of Analysis of Criminal Law Policy Documents

Criminal Law policy is one of the legal policy elements included into the total political system and in its planning mechanism. It is impossible to make comprehensive and thorough analysis of Criminal Law policy not considering the approach to the common national policy planning, national policy formation process, procedure of developing policy documents and political technology aspects from the point of view of activities of national government elements. To our mind, two issues are of importance: firstly, what the current national policy planning system looks like, including specific signs of criminal policy formation, secondly, - whether the mentioned system is sufficiently constructive and gives a possibility to work out, adopt and be realized in criminal law, as well as other fields, and to achieve the necessary and planned outcome. In criminal law policy it

is not only the development, realization and constant assessment of political documents of importance, but also their constant upgrading, determination of conformity of the document content to the specific situation and its developmental tendencies. Developing new criminal law documents, identifying the content of criminal law political documents of foreign countries and the possibility to include positive elements into the national documents, a great importance is attributed to the methodology of analysis of political documents and their assessment. Not less important is also to fix separate weaknesses of political documents, the incompatibility of the content and activities to policy goals, insufficiency of resources in order to accomplish the tasks set. Methodology, by its very nature, determines the problem statement of the development of criminal law policy planning documents, their aims, objectives, their conformity to the structure of documents, as well as also other aspects to be taken into account when performing a specific document analysis. Methodology of the analysis of criminal law policy documents may serve as an essential instrument and the means for improvement of these documents and the methodological basis while working out new documents.

When undertaking the analysis of legal policy planning documents, by using a corresponding methodology, one has to consider the requirements stated in the legal acts for the developing of documents and for presenting them to an appropriate institution.

The goal of the methodology of development of criminal law policy document analysis and its application is to identify ways how to ground or reject the usefulness of the development of legal policy planning document. At the same time, when viewing the common analysis of present situation and problems contained in the documents, it is important to understand how grounded they are, and what policy planning document is being worked out for its rejection, as well as to state, whether the document gives a clear view on the tasks and activities planned, as well as about the possible gains, resulting from the activity realization into practice.

Criminal law policy document analysis starts with **the policy document supporting analysis and the assessment of specific problem of the document**. Thus, in the policy planning document and the basic problem for the improvement of policy planning and financial management is recognized as being „incompletely implemented policy planning and medium term budget planning system, which is affected both by a gradual introduction of of separate strategic government

elements, insufficient cooperation of direct higher national government institutions and the legislator, and the rigidity of financial management.

In the further process there are evaluated the **basic principles, aims and objectives** of developing criminal law policy planning documents. Better government: government quality and effectivity” there are mentioned the following basic principles of policy document development and realization: of a good governance principle, a principle of selection of competent and motivated government employees, a principle of proper institutional framework for managing, a principle of respect of correct management decision-making procedures, a principle of cooperation and simplicity. We are of the mind that consideration of the principles of the development of proper institutional framework would rather be attributed to basic principles of good governance. They ensure the adoption of optimal, political documents and decision making, as well as control over their implementation.

One of the most pronounced and most significant basic principles, when developing criminal law policy documents is **the principle of good governance or public interest in strong political leadership (governance)**. The duty of the government structure and its staff is to listen to the public about its problems, to consult on probable solutions and to inform the public about its activities, especially in reference to persons, whose rights or legal interests may affect or are affected by the undertaken or planned activity. Professional activity of national government in policy implementation should address the possibly better analysis and complete depiction of public interests in solutions, which are offered at the political level in decision-making..

In political documents there is emphasized the importance of the **basic principle of selection and ensurance of competent and motivated government employees**. One should take into account that the government employees are just the policy developers and implementators, therefore motivation, professionalism and growth are the safest guarantees for ensurance of the development of public administration..

Analyzing criminal law policy documents, it is necessary to pay attention to the fact, to what extent there is included **the principle of cooperation**. Developing and implementing the legal acts and planning documents, rendering the information, public administration institutions and the state law enforcement agencies cooperate - they render the information, carry out the given tasks and inform about the achievement of aims and results.

One of the essential basic principle is **the principle of simplicity**.. Public administration institutions and state law enforcement agencies carry out their functions and, simultaneously, with the possibly least number of procedures, ensure effective functioning of the system. Rendering of legal services and implementation of functions set for state administration institutions is, first of all, directed at a definite result in order the public could possibly easier, more conveniently and faster receive services needed and state law enforcement agencies would work effectively – qualitative services for low consumption of resources.

3. Criminal Policy Documents the Analysis Process

Doing the analysis of criminal law policy documents, it is important to assess the conformity of criminal law policy planning documents to the corresponding document development and activity principles, paying attention to the following elements:

- 1) policy planning document is designed in line with rules and regulations and other policy planning documents, and it provides a wholesome proceeding and development of the national legal processes;
- 2) policy planning documents provided for ensure a rational work organization in public administration, preventing the function doubling in it, and do not double the information carried out by realizing other policy planning document, the attention has to be paid to the assessment of possibilities to use systems or their components, functioning in public or private sector, the use of which can fully, or partially achieve the necessary result.;
- 3) policy planning documents provided for ensure the implementation of activities of the institutions involved, as much as possibly limiting the necessity to address the institution mentioned outside the envisaged in the policy planning document, in case provisions of implementation of measures call for the participation of stakeholders.;
- 4) policy planning documents include proposals for solution of legal problems and achievement of goals and development priorities in policy guidelines, or other development planning documents;
- 5) the conduct determined in the policy planning document of Justice and Home Affairs sectors is attributable to the development of the respective branch and

contains the policy goals and objectives of the respective sectoral institutions involved in policy implementation, as well as the institution, which has developed the respective document, there are the necessary resources to ensure the coordination of carrying out the envisaged measures.

The main goal of policy document development is to contribute to the national sustainable and stable development and the improvement of the quality of life of the population.

Development of criminal law policy planning documents cannot be considered an end in itself, because the implementation of the planned measures should address the improvement of rules and regulations and effectivity of law enforcement institution activity, promotion of their activity, accessibility and quality. The attention of criminal law policy planning documents is turned not only to the object of the document, but to the processess as well, the proceedings of them being provided for, carrying out the planned measures. The planned measures can be considered useful, if they ensure a more effective proceeding of the process before the implementation of the planned measures.

In criminal law documents it is important not only to set achievable goals, but also to describe the mechanism for their achievement. If no certain mechanism for the achievement of objectives is envisaged, then to achieve these objectives will not be possible.

Positive is necessary to assess the European Commission's initiative of a common European judicial policy-making. In 2012, the Commission set up an expert group on EU criminal policy, composed of twenty high-level legal experts, academics and practitioners. The group was created following the Commission's Communication published in September 2011 "Towards an EU criminal policy - Ensuring the effective implementation of EU policies through criminal law" (Criminal law policy).

The objective of the group is to advice the European Commission and contribute to improve the quality of EU legislation in the field of criminal law, in the light of the rules of the Lisbon Treaty and the Charter of Fundamental Rights. Stake is the European Criminal Policy Initiative for the creation of a common EU criminal policy (Manifest referitor la politica penală europeană)

4. Conclusions

Analyzing the criminal law policy in the state, one can draw a conclusion: in many cases the goals set in policy planning documents are unattainable; the tasks set in the documents are the ones which do not allow to attain the goal set; planned measures and actions are fragmented, deintegrative; planned measures are not directed at identifying of determining factors of violation of the rights; activities to be realized are insufficient for the neutralization of determining factors of the violation of the rights. It results from the current crisis observed in socio-legal research in the country, which is the reason for the inability of specialists in this field to diagnose facts, processes and phenomena of pathologic character, as well as to influence them. Its consequences, in its turn, are seen as a certain social, political, economic, political and legal crisis. We can admit, that in single cases, the public administration mechanism functions autonomously in relation to the manageable spheres and objects.

5. References

Babu, Vasile. *Criminal Policy and Constitution. Terminology and Concept*, <https://www.questia.com/library/journal/IP3-3020151581/criminal-policy-and-constitution-terminology-and>.

Vilks, Andrejs (2013). *Krimināltiesiskā politika: diskursu analīze un attīstības perspektīvas. Monogrāfija/Criminal law policy: discourse analysis and development prospects. Monograph*. Rīga, Drukātuva.

Zahars, Vitolds (2011). *Latvijas kriminālpolitika: retrospekcija un nākotnes vīzija. Daugavpils Universitāte. Akadēmiskais apgāds "Saule"*.

****Manifest referitor la politica penală europeană/Manifesto on European Criminal Policy*, www.crimpol.eu.