

Criminal Aspects of Drug Trafficking

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ABSTRACT: A very specific aspect of drug trafficking, but which circumscribes most of the serious forms of crime, is not to provide a doctrinal and legislative definition of an operational definition. A quantitative analysis followed by another qualitative one may at best reflect criminological aspects related to the visible side of this type of crime. This study aims to analyze aspects such as routes, links and connections of drug trafficking with terrorism in the context of globalization and taking into account the diverse typology of this type of crime. Routes provide clues about the drug route from the producer to the consumer as well as the changes generated by the intensification of UN controls. The networks reflect the diverse typology of this type of crime, which has direct implications in identifying the criminological factors that potentiate trafficking. Connections between drug trafficking and terrorism have been established in the Middle East and Colombia, these being significant criminogenic areas where it is possible to identify the direct involvement of terrorist groups in drug trafficking. Addressing one of the most profitable forms of crime, such as drug trafficking, is always a challenge.

KEYWORDS: Criminology, drugs, drug trafficking, high crime, organized crime

Introduction

Psychoactive substances were used in the medical field or serve scientific research. Everything related to the production thereof, i.e. plant cultivation, chemical extraction and medical route, were subject to strict supervision (Buzatu 2015, 5). On the other hand, the illicit production of psychoactive substances is a distinct phenomenon, difficult to control, with an important negative impact at the medical, social or economic level.

Drug trafficking expresses in a juridical - criminal context the situation in which an individual or a group of individuals commit(s) acts of non - observance of the legal regime of movement of substances with psychoactive effects under legal control. The criminal phenomenon is maintained both by the defalcation of psychoactive substances from the legal circuit, and, above all, by the development of a real illegal drug production industry, an industry whose costs are significantly lower as compared to the colossal profit ensured by the valorization of illicit products on the black market.

All the actions by which the two ways of illicit drug trafficking are committed are crimes that fall under the dome of the “umbrella concept” - drug trafficking. The analysis of this kind of criminality can be done through the legal instruments in the matter at the world (*Single Convention on Narcotic Drugs* of 1961, as the same has been amended by the Protocol of 1972, art. 1), European (*Framework Decision 2004/757/JAI* of 25 October 2004) of the Council laying down the minimum provisions on the constituent elements of criminal offenses and penalties applicable to illicit drug trafficking, art. 2) or national (Law no 143/2000 on Combating Trafficking and Illicit Drug Use, art. 2-10) level, which have proposed multiple definitions.

In international law, drug trafficking was defined in the *Single Convention on Narcotic Drugs* of 1961, as the same has been amended by the 1972 Protocol. This document mentions, under art. 1: “*The term illicit trafficking means culture or any trafficking in narcotic drugs, which have purposes contrary to those provided for in this Convention,*” and under art. 19 litter (a) “*quantities of narcotic drugs that will be consumed for medical and scientific purposes*”.

The definition of drug trafficking is also found in the Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 1988, which, under art. 1, letter m) stipulates that “*The expression “illicit trafficking” means the offenses referred to in paragraphs 1 and 2 of art. 3 of this Convention.*” According to art. 3 (1) of the Convention, the signatory countries must, as a matter of national law, give the character of criminal offenses to the some acts intentionally perpetrated with respect to the narcotic drugs and psychotropic substances, i.e. to those acts committed in violation of

the provisions of the 1961 Convention. The Convention stipulates under art. 3 point 2) the possession and the cultivation of the drug for own consumption to be classified as drug trafficking.

The foregoing legal instruments do not provide an in fact definition of drug trafficking, but enlist drug-related operations that are forbidden.

In the European Union, the *Framework Decision 2004/757/JAI of 25 October 2004 of the Council laying down the minimum provisions on the constituent elements of criminal offenses and penalties applicable to illicit drug trafficking* refers, under art. 2, to the intentional acts punishable when they are done without right.

There are included among these facts: drugs producing, manufacturing, extracting, preparing, offering, marketing, distributing, selling, delivering under any circumstances, brokering, dispatching, dispatching in transit regime, transporting, importing or exporting; cultivation of opium poppy, coca or cannabis bush; possession or acquisition of drugs for the purpose of carrying out one of the above-mentioned activities; producing, transporting or distributing precursors, knowing that they are to be used for the illicit manufacture or fabrication of drugs.

Those facts are not included in the scope of the Framework Decision if they are committed exclusively for the personal consumption of their authors as defined by national law.

The fight against the illicit drugs traffic and consumption used to be and still is a really complex social national and international preoccupation. Its evolution, its effects and the ways meant to solve all these aspects are the main concerns of all the institutions of the states as well as of the public opinion, because this is an utterly serious and dangerous phenomenon with negative effects for the sanity of the population and for the economic and social stability, as well for the favorable evolution of the states' democratic institutions (Buzatu 2012, 20).

At the national level, at present, art. 2 para. (1) of the Law no 143/2000 includes in the trafficking in drugs the “*cultivation, production, manufacture, experimentation, extraction, preparation, transformation, offering, offering for sale, selling, distributing, delivering with any title, sending, transporting, purchasing, buying, holding or other operations on the circulation of risk drugs, without right*”, the listing of the facts not being limitative. Art. 2-10 of the Law also sanctions other operations regarding drug circulation (risk and high-risk drugs) that lead to the facts involving simple possession of the drug without right to be associated with drug trafficking.

As can be seen from the foregoing aspects, neither Romanian law expressly defines drug trafficking, but lists drug-related operations that are prohibited, as well as the sanctions provided for the said operations.

However, we underline the similarity with the definitions of illicit drug trafficking offered by the 1988 Convention, namely the fact that by *drug-related operations done without right*, those drug-related actions must be understood, which are contrary to the purposes set out in art. 19 of the 1961 Convention.

Routes and connections

Routes. The evaluation of transport routes of the main drugs captures their rapid changes (generated by the official controls) or the methodology of the marketing and concealing of the drugs in the context of globalization and of the new technologies. Drug trafficking routes provide benchmarks regarding the crime areas, crime migration, type of drug trafficked, or regarding the control policies and allow the identification of source countries, transit countries and countries of destination of drugs. Regarding heroin trafficking routes used by trafficking networks, the situation remained stable. The routes used are Afghanistan - Pakistan - Iran - Turkey - Greece - the former Yugoslav states and Western European states. This is the traditional Balkan route, with destination in *Romania*, England and the Netherlands. Romania is part of the northern arm of the Balkan route, alongside Bulgaria and Hungary.

Cocaine comes from Colombia, Bolivia, Peru and Venezuela, and it generally follows the route Spain - France - Austria - Hungary to *Romania* or South America - West and Central Africa - *Romania* - to Central and Western Europe (European Report on Drugs, 2016).

UN checks undertaken on classical drug trafficking routes have led to a change in the drug routes. As a result, new routes have emerged, such as West Africa, providing cocaine trafficking from South America to Europe, or the Caucasus that ensured the opium traffic from Asia to Western Europe.

Connections. Drug trafficking implies a succession of means, stages or actors organized according to the model of division of labor, aimed at obtaining financial profits from the use of drugs on the illicit market. Such a succession of means, steps, or stages that intervene until the desired result is attained forms a connection.

The activity of drug traffickers is structured around connections or networks that act according to the variety and rapidity of the means of communication, the legal regulations of a State or group of States, which may be harsher or more tolerant, depending on the systems and socio-economic practices in the various countries or regions, and last but not least depending on the effectiveness of border controls or of the criminal investigation bodies (Popescu 2018).

In principle the composition of the connection is unchanged, and it is made up of actors and the relationships that unite them. It is practically the essential infrastructure for drug trafficking (Pigeon 2010). The establishment of networks has evolved over time. If initially they formed part of a pyramid scheme, at present the decentralization of drug cartels has generated a new era. Decentralization is a consequence of the intensifying of the control of drugs and a form of counteracting the vulnerability before the competent authorities.

The safety and success of any connection is ensured to a large extent by the way in which it is organized. The traffic is currently organized on short connections, which are less vulnerable to official controls. Analysis of the available data regarding the clandestine traffic offers interesting benchmarks regarding the actors and their operating mode.

The actors involved in drug trafficking have been the subject of study in various specialty works. One such study conducted by a renowned sociologist and criminologist (Kokoreff 2004, 9-32), to the opinion of whom we adhere, noted that some publicized cases concerning the professional forms of manifestation of the large international drug traffic, analyze most of the time actors and political activities or emblematic figures of the traffic and less scientific or statistical data about the phenomenon. At the level of the large international traffic, the research studies reflected a diverse typology, and according to Kokoreff's study, the actors of the large traffic were divided into consumers, growers, producers, porters, suppliers, distributors, large customers, specialists and leaders of the drug traffickers.

Traffickers are professional criminals with a hard core of their personality, who can easily overcome the risk, and diverse typology has direct implications in the process of identifying the criminogenic factors. Analysis of the objective (macro-and micro-social) factors and of the subjective factors that favor drug trafficking, reveals that they are as different as the diversity of typologies. The factors that may influence the "*drug barons*", may not be similar to the factors favoring the entry into drug trafficking. Analysis of demographic and socio-economic indicators at the national level of the persons sued at law in the year 2012, for drug trafficking, reflects the fact that the profile outlined in previous years is maintained. The trafficker is generally a male person (89.83%), aged 21-54 years (90.54%), coming from urban environment (86.83%), with an average training level (58.8%) and without occupation (70.47%). The same profile has remained true until this day.

Crowded places and vulnerable people continues to be the preferred clientele of traffickers. The main targets of traffickers remained the educational units, recreational spaces, people engaged in commercial sex and prisons.

Drug trafficking and terrorism

The notion of *terrorism* comes from the Latin "terror" which means terror, fright, horror, caused intentionally. Terrorism is a complex concept, and the definitions formulated by, political, governmental and security anti-terrorism institutions have failed to be widely accepted.

Many institutions have provided over 100 definitions of terrorism. They may constitute themselves as true statistics, based on which the criteria can be rather synthesized, through which the

phenomenon is possible to be identified, such as force and violence, politics, threat, terror, psychological effects, anticipating the reactions, etc. (Canadian Centre for Intelligence and Security Studies 2006).

Although there is no universal definition of terrorism, the Security Council of the United Nations, the regional organizations and the Governments of the Member States have designated numerous armed groups as “terrorist” groups, and the Security Council imposed sanctions over 80 groups and over 380 people linked to the Taliban, Al-Qaida and Islamic State from Iraq and from the Levant (ISIL), on the grounds that they are involved in terrorist activities or are supporting such activities. Talibans, Al-Qaida, ISIL and the affiliated company, Boko Haram were responsible for 74% of all deaths caused by terrorist, insurgent and non-state armed groups in 2015 (World Drug Report 2017).

From Latin America to the Middle East, the financing of armed violence was, in some cases, for long linked to the illicit drug trade. According to some estimates, about half of the proceeds of Afghanistan Taliban come from involvement in narcotics (opiate in their majority) (World Drug Report 2017, 34).

The same source also mentions that the FARC would have been largely based on trade in cocaine over the past two decades. It is estimated that between one-quarter and one-half of the total revenues come from such illicit drug activities.

Terrorist armed groups

The most comprehensive evidence linking terrorist groups on which the Security Council imposed sanctions in connection with the drug trade refers to the Taliban, who have imposed the entities involved in the production, manufacture and trafficking drugs (World Drug Report 2017, 35).

Some evidence suggests that Al-Qaeda in the Islamic Maghreb, which operates mainly in North Africa and the West, has been involved in trafficking in cannabis and cocaine, or at least in protecting the traffickers (World Drug Report 2017, 35), although the overall revenues of the group in the sector of drugs seem to have been quite modest.

Individual commanders of the Movement for Uniqueness and Jihad in West Africa, which have been separated from Al-Qaida, currently appear to be directly involved in drug trafficking in the Islamic Maghreb. World report on Drugs 2017 mentions the Boko Hara Group. Active mainly in Nigeria and neighboring countries, the Boko Haram Group has helped drug traffickers in heroin and cocaine smuggling in the sub-region.

The 2017 world report on drugs, mentions that insurgent groups and rebel armies operating in Eastern Burma, particularly in Shan State, were involved in the trade of heroin during the last six decades and in the manufacture of and trafficking in methamphetamine over the past two decades.

The most important evidence linking such groups to the drugs trafficking comes from Colombia, where the said groups began to play a direct role in the drug trade in the years 1980 and gained importance in the years 1990. They have ensured the safety of crops of coca and imposed the introduction of precursor chemicals. In particular, FARC has played an important role in various aspects of the taxation of production and the selling of the coca paste and later became involved in the cocaine trade with neighboring countries (World Drug Report 2017, 37).

In Peru, a Colombia neighboring country, Bright Path (Sendero Luminoso) group had used the profits from cocaine processing factories in order to finance its activities over the course of four decades. The Group was particularly active in 1990 (World Drug Report 2017, 37).

In other parts of the world, evidence supporting links between terrorist, insurgent and non-state armed groups and illicit drugs are less rigorous.

It is also noticed that the acts, means and goals that characterize terrorism differ from the acts, means and goals pursued by drug traffickers.

On the one hand, acts of terrorism can be committed by a single author. In the context of globalization, there are important changes in the “new terrorist’s” profile (Stănoiu 2012, 20), who often takes the tactic of the *lonely wolf*. On the other hand, drug traffickers are organized into groups of more than one member, and they involve a particular organization and hierarchy.

The means by which terrorists act is at sight, extremely violent, often directed at public figures, at reference targets or at social symbols, so that to maximize panic among citizens. In contrast, the means used by drug traffickers are characterized by “discretion”, and the absence of advertising is the essence of ensuring the success of their activity.

The primary purpose of terrorist acts is to generate the state of terror and chaos in society, and then, by claiming the attacks, the authors to create an identity that could give them at some point the possibility to rise certain claims in political or ideological plan.

The way terrorists organize themselves differs from the organization of drug traffickers. Terrorist groups often have an ephemeral character when drug trafficking involves an organization that is characterized by stability.

The publicity that terrorists want, the purposes they pursue are often opposed to the way in which drug traffickers work.

From these points, real and potential connections can be noticed between terrorism and drug traffickers (Stănoiu 2012, 20).

The global fight against terrorism has greatly diminished the financial support needed by the terrorist groups, which fact has led them to resort to criminal activities in proportion to the needs and available means.

Small scale operations are less costly and do not require financial profits from criminal activities. On the contrary, the more important terrorist groups, who currently plan terrorist activities, need a high and constant profit, which can sometimes be secured from the activities of drug traffickers.

Drug traffickers are focused on gaining profits, and, contrary to terrorist groups, they avoid getting the attention of the media, the public, or governments, looking for the best “business environment” where they to operate in a discreet way. On the other hand, terrorists want to occupy a legitimate place on the political scene or even to dominate it, publicly claiming every attempt.

Loyalty is another sensitive aspect, with different intensity: this decreases within groups of drug traffickers, whereas the members are united in order to obtain profits, while within terrorist groups the loyalty is sharper, their members having deeper ties, mostly of a religious or political nature.

Despite these general characteristics, a connection between the two phenomena can exist within certain limits and under certain circumstances. Weak States with poor governance, lacking firmness or with a provisional government, which has low expectations on the part of society, economy and politics, may represent a collaborative environment between terrorism and the large drug trafficking (Stănoiu 2012, 20).

Drugs and terror attacks

Approximately 170,000 persons have lost their lives in terrorist attacks between 2000 and 2015, of which 30,000 in 2015, according to the global database on terrorism, the world's largest collection of open source information about acts of terrorism worldwide. The database has information about 163 countries. It uses the umbrella term “terrorism” to cover the attacks of terrorist, non-State armed groups, rebels and insurgents.

Afghanistan, an area where almost 13% of all deaths caused by terrorism worldwide were reported between 2000 and 2015, provides a great insight into the potential link between drug production and terrorism. The Taliban was responsible for 73% of the total deaths related to terrorism in Afghanistan between 2000 and 2015 and 84% of such deaths in 2015. It was followed by ISIL, which accounted for 4% of the total in 2015 (World Drug Report 2017, 37).

The rise in violence after 2010 is also linked to a number of other factors, including the withdrawal of the North Atlantic Treaty Organization (NATO) forces and the subsequent abolition of provincial reconstruction teams, the emergence of destabilizing groups opposing the peace process and the expansion of the illicit economy in new areas such as the illegal exploitation of natural resources, which has led to the emergence of new terrorist groups.

Conclusions

Drug trafficking lacks an operational definition in doctrinal and legislative terms, and the lack of clear regulation is most likely to favor groups of traffickers.

The phenomenon is non-transparent, and the black figure of very high crime is primarily due to the relationship between the trafficker and the consumer. The offenders' ability is reflected in the changes in the routes and the connections, which are organized in the context of globalization and the technical-scientific revolution. The criminal process in passing to the act makes traffic a dynamic, complex, diffuse and occult phenomenon.

The links with terrorism identified in the Middle East and Colombia reflect the fact that drug trafficking has become one of the most lucrative forms of transnational organized crime. The headquarters of matter in criminology is the great crime, and in international criminal law, the seat of the matter is the international crime.

Policies to prevent and control drug trafficking need to be adapted to new realities, which have some particularities. In the case of this type of crime: the change of traffic routes and the methodology of placing drugs on the market, namely the use of express mail and internet sales, to eliminate vulnerability to the authorities reflects a permanent change and transformation of traffic that adapts itself to the new conditions.

Drug trafficking remains a subject of open debate, and future research directions for assessing the implications of this phenomenon on society requires the said directions to include certain medical, socio-economic aspects, traffic trends at the world level and, last but not least, new technical and scientific advancements that provide both the discovery of many psychoactive substances and new methods of selling drugs on the market, increasingly faster and harder to detect.

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