Criminalisation in the Criminal Law: Experience of Legal Doctrine

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Abstract

The article deals with the issue of the essence of criminalization in criminal law. The vectors of development of criminalization of social relations are defined. The aim of the research: to determine the criteria of criminalization of social relations in modern conditions and to characterize the system of criminal law measures in the structure of criminal law. Traditional methods of socio-legal and formal-dogmatic analysis were used in the research: documentary, historical-legal, analytical, systematic, logical. According to the results of the study, the author states that criminal law of the classical type is replaced by criminal law of the utilitarian type, where the concept of crime is associated with the infliction of harm, and public danger plays an auxiliary function. In the system of security measures, the public danger of a deed does not form a criminal-legal prohibition. Criminalization is based on the element of expediency, where the main importance is given to security law. Criminal security law aims to affect a person who has not yet committed a socially dangerous act, and this is not a crime in the classical sense. In such a model, it is not the nature and extent of the harm caused that fills the crime, but the social danger of the person, since it is the subject that is the source of a particular socially dangerous behavior. It is proposed to fix the idea of new social protection and security in the criminal law.

Keywords: *public danger, criminalization, criminal-legal impact, crime, criminal law, criminal responsibility, security*

I. The Essence of the Question Posed

The life of criminal law begins with criminalization, but in order to criminalize a certain type of behavior there must be good reasons. At the moment, in the post-Soviet system of law, the very raising of the question of criminalizing certain behavior and declaring it criminal is necessarily tied to an understanding of what public danger is and what significance it plays in establishing criminal liability for this or that behavior. However, in fact, the simple axiom that a certain behavior must be socially dangerous in order to become a crime does not remove or solve the problem of what kind of behavior (act) it should be.

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So, the main question that criminal law solves is in the plane of the grounds and limits of criminal responsibility. To this end, criminal law must study the human act (behavior) itself in order to establish the grounds and criteria for declaring such behavior criminal, to characterize its harmful consequences and the presumed measure of responsibility that could be just.

In the most general view, criminalization is "the process by which behavior and people are turned into crimes and criminals", i.e. it is the establishment of criminal responsibility for specific human behavior[1]. Here the general premise of the rationality of state action can be reduced to the fact that there is a socially dangerous form of behavior in society that can lead to undesirable changes in the life of society and cause harm to an unlimited number of people, so such behavior should be prohibited on pain of punishment.

Criminalization or the establishment of criminal law protection implies the transformation of relations into negative ones, i.e. certain social relations that are harmed as a result of criminal encroachment, and this requires appropriate protection. However, deciding on the need to establish a criminal law prohibition is always associated with the difficulties of determining the boundaries of criminal law and the grounds for criminalization. The general premise is that "if a phenomenon of social life does not have a legal form, it cannot be used within the legal field. Filling the phenomena of social life with legal content takes place within the framework of regulatory branches of law, where citizens use their opportunities to meet the necessary needs within the law. And only in the case of situations when it is necessary to influence the behavior of citizens by more repressive methods, it is worth talking about criminal law protection"[2]. Thus, it is argued that the element of the basis of criminal law protection is the regulation of social relations by positive branches of law. However, this is not always the case. A vivid example of this is the situation that took place with cryptocurrency, when the status of cryptocurrency was not defined in positive terms and there was no legislation that would provide for its civil turnover. Meanwhile, criminal attacks on cryptocurrency have occurred and often cryptocurrency has been used as a means or method of committing another offence. This, however, did not mean that due to the unregulated social relations with this object of civil law, criminal law could not activate its own response mechanism, and through law enforcement interpretation cryptocurrency was considered as an object, method and means of committing an offence long before the relevant norms of positive law regulating the process of turnover of this object of civil rights appeared.

Thus, when a State is debating whether to respond to the source of harm by criminalizing certain behavior that causes it, there are no pre-determined criteria that can be applied in formulating criminal law policy in this area. Crime has no ontological reality. The criminal justice system responds to a significant number of events that do not create weighty difficulties for individual citizens. The process of criminalization defines and classifies human behavior. It broadcasts laws so that no one has an excuse for ignorance and avoids those situations where an individual does not want to obey the rules of law. However, today's trends and patterns of criminal law show that criminal law itself is penetrating deeper into the social structures of modern societies

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[1] R. Amster, *Lost in Space: The Criminalization, Globalization, and Urban Ecology of Homelessness*, New York: LFB Scholarly, 2008, p. 8.

[2] V. Bondarenko, *Основание уголовно-правовой охраны и ее прекращение: автореф [The basis of criminal legal protection and its termination: author's abstract]*, Legal Sciences, Saratov, 2014, pp. 16-17.

and establishing new prohibitions. In fact, the fight against crime has become an industry, but it remains ineffective in ensuring the protection of all its citizens from possible harm.

Certainly, criteria are important here, and the theory of criminal law, together with criminology, in answering the question of what these criteria are when criminalizing dangerous acts, tries to outline them. These may be reasons (assessment of events of accidental nature; emergence of new social relations; the need to strengthen the protection of specific human rights and freedoms; unfavorable dynamics of certain types of human behavior), and grounds (prevalence of the act; level of impact on social relations; nature and type of damage (harm), its significance; level of public legal consciousness, traditions established in society) and principles (completeness of the corpus delicti; unity of terminology; non-redundancy of prohibition; economy of repression, and the necessity to protect human rights and freedoms). However, for the same considerations, we can cite the same criteria when discussing the question that it is an administrative offence and, in fact, it will still be necessary to answer the question of why a certain tort was declared an offence and not something else. In our opinion, all maxims regarding the fact that the process of criminalization should comply with some standard rules, principles, ideas etc., are vain, because it cannot be verified in any way. Criminalization of a certain area of social relations can always be easily confirmed or disproved, and purely arithmetical principles never work here, and the whole process is based on the expediency of decision-making and the conjuncture of the situation. In this case, there can be no universal rules and standards, because in specific historical periods the idea of what is proper and what is real always changes, as well as the general understanding of what is criminal and what is not.

With all the evaluative aspects of the existing aspects of understanding of what constitutes public danger of an act and how this category affects the criminalization of unlawful behavior, we can only state a simple thing in this situation: public danger is directly derived from expediency. It is expediency that guides the legislator and the authorities in the question of what act to call a crime and what not. And under this process, certain criteria developed by the doctrine of criminal law to address the issue of criminalization of a socially dangerous act will be built in an advantageous and necessary format. Conventionally speaking, this situation clearly indicates that, when necessary, we will take, for example, the indicator of the prevalence of the act, its scale etc. And when it is necessary, we will take completely different criteria as a basis, and these (abovementioned) will be relegated to the background. That is, it indicates that any reasons, grounds and principles of criminalization can be used if necessary.

In general, if we look at this problem realistically, we will see in this issue that public danger does not have a solid legal basis, it is more of a political nature, since the assessment of the act is given primarily on the basis of the criminal-legal policy pursued by the state. And from this perspective, the concept of public danger is always vulnerable, because the entire concept of public danger in criminalization is based on the assumption of possible harm to the state, society or the individual. However, in reality everything is much simpler. The presence of an atypical form of socially dangerous behavior forces the State to exercise its will and, in order to minimize the infliction of harm, to declare a certain form of human behavior a crime.

If we take public danger out of the framework of the crime and put it in isolation, it turns out that we judge the crime within the framework of the value aspect of social reality. However, the objectivity of the existence of public danger cannot be confirmed by anything. And if we single out the public danger of acts from a number of others,

then a natural question arises: how and on the basis of what signs it happens? And this process is essential for criminalization. As a result, the circle is closed. Public danger is based on harm, actually duplicating it. But the harm is not objective either, it depends on many circumstances, but to a greater extent on the legal consciousness of the legislator. Therefore, any values that the criminal law is designed to protect are symbolic, living with the belief in their validity. But if we assert that crime exists, it means that the values that are subject to it are also present. But this model is conditional. It does not prove the objective reality of social danger, because it is the person who gives the categories "crime", "harm", "values" etc. a social meaning.

II. New Contours of Criminalization

The foregoing allows us to assert that today the emphasis that we fix in the concept of "public danger" is necessarily shifted towards the security of the existing legal order, the state as a whole rather than the interests of society and a particular individual. In other words, public danger is now more connected with the institution of security of the authorities and the state.

Thus, criminalization as a phenomenon and process reflects the essence of the policy that functions in the state at a specific time, and in this regard, all talks about the rules, criteria, and grounds for criminalization today are futile, because the practice of recent years and the socio-political situation indicate that criminalization is directly based on the idea of expediency and socio-political conjuncture. At the same time, expediency, as we have noted, is based on a judgement about the security of the state and the rule of law, which is enshrined in law, rather than on simple truths about human rights and freedoms. These human rights and freedoms are now becoming an incidental, rather than a primary, component of the issue of criminalization.

Moreover, no international legal norms and rules no longer constitute the system on the basis of which a unified model of criminal law and a uniform policy of criminalization of socially dangerous phenomena would be built. International criminal law norms and standards do not have today the authority and the pervasive potential of criminal law impact as an instrument of total policy and a unified beginning. And this is primarily due to the deglobalization of law and its diversity. Hence it becomes obvious that the criminalization of this or that human behavior (act) is measured not by the social danger of the act, but by the nature of security of the normatively established legal order and the criterion of opportunistic expediency of the moment.

So, at present criminalization is seen as a kind of resource of power, which allows the state to realize its tasks and strengthen their social significance. This process is an ordinal means that strengthens the repressive component. Thus, acting as an exclusive right of the state, criminalization today is aimed at protecting the institutions and bodies of state power, and is a means of implementing the policy pursued by the state (not so much criminal law, but in general). This can be clearly evidenced by recent changes to the criminal law. In this context, it is the state that is perceived as the sole and unshakable subject of criminalization of certain types of acts, whatever trends we have previously observed (which could be the process of transferring certain functions to civil society or supranational international organizations), as well as the process of lobbying by certain actors or international organizations to make the decisions they need.

The thesis that criminalization is closely linked to expediency can be confirmed not only by the socio-political trends taking place in society, but also by the motives behind the decisions taken, which, by and large, no one can explain. Another indicator of this process is the expansion of law enforcement practice, which sometimes replaces lawmaking and substitutes the process of clarifying the procedure for the application of criminal law norms with their expansive interpretation, which also indicates the hidden criminalization of social relations.

III. Security and Human Rights

In this paradigm, criminalization is always aimed at ensuring the security of the authorities, the existing system, and the state policy. And in this matter, as we have already noted, human rights, their protection and observance do not serve as an indicator of what we call the criteria of public danger and, accordingly, a measure of criminalization of deviant behavior. According to N.V. Henrikh, recent trends in the criminal law policy indicate that "prohibitions are being introduced on any acts related to an attack on the very existence or negative impact on the functioning of power institutions, and additionally, increased guarantees are being established for the security of representatives of the authorities"[3]. Thus, criminalization today tends to protect social relations and prevent new forms of anti-social behavior but is not aimed at regulating social relations.

At the moment, the thesis that criminalization is based on human and civil rights is very ambiguous, and it is human rights and freedoms that predetermine the content of the criminalization process. The state should not interfere with the rights and freedoms of an individual (human being), and when taking such a step it should clearly justify this measure, because arbitrary criminalization of social relations for the sake of political or other expediency cannot take place, even if criminalization is carried out under the slogans of security of the state, society and the individual. This argument is connected with the premise that criminal law "has always been regarded as an objectification of the right, not the obligation of the state to apply public criminal punishment"[4].

Let us not forget that criminalization is aimed at ensuring collective security, but the State cannot view criminal law solely through the prism of a means of imposing punishment on those who infringe on the foundations of power. In any case, values that are significant not only for the State itself but also for society as a whole must be taken into account. If this is rejected, it would appear that in criminalization the state uses a *free method*, i.e. one that is linked to the subjective discretion of the law enforcer.

It seems that in this matter human rights are not the deterrent that puts a serious barrier to arbitrary criminalization of social relations. The freedom of the individual, observance of human rights etc. can always be pushed aside under the slogan of security, and it is the latter component that is now a kind of instrument in the hands of the state when discussing the establishment of prohibitions in the criminal-legal sphere. Of course, there should be no arbitrary criminalization of social relations, even on the basis of the principle of collective security. However, the problem is that today we do not know and

[3] N.V. Heinrich, *Криминализация в системе институтов современного российского общества* [Criminalization in the system of institutions of modern Russian society], Moscow, Yurlitinform, 2022, p. 49.

[4] N.V. Heinrich, *Криминализация в системе институтов современного российского общества [Criminalization in the system of institutions of modern Russian society]*, Moscow, Yurlitinform, 2022, p. 41.

cannot name the universal boundaries of freedom of human behavior, the boundary that could indicate where criminalization is possible and where it is not. By definition, there will never be such a conditional boundary, as it depends on many factors and circumstances, the significance of which changes in the context of the development of historical events and is directly related to changes in the socio-political situation. And in this aspect, the state always tries to justify the interest it protects, no matter what the rights and freedoms of the individual would be restricted.

On the other hand, the state can always adopt a simple thesis: human rights and freedoms must be protected not only from possible arbitrariness on the part of the state, but also from arbitrariness on the part of a particular individual. Therefore, the idea of human rights and freedoms can be used as a legitimate means to justify the restrictive measures necessary to protect society itself from dangerous individuals. Moreover, today there is no answer to the question of what lies at the heart of human rights and freedoms and why these values have been selected from a number of others and elevated to the rank of "sacred cow". Consequently, human rights and freedoms are not a panacea; they can be used both as a means of criminalization and as a means of limiting this very criminalization.

In general, the world has great illusions about the protection of human rights and freedoms, the values of society and their reflection in criminal law. All this is, by and large, only one side of the coin - the external side, indicating how it should be ideally, what we should strive for. But often, in the end, it turns out that human rights serve only as a cover, and the true goals are quite different, and all this does not reflect the real picture of what is happening. The state always through the implementation of criminal law policy and declared goals, which are related to the protection of human rights, can carry out a completely different one, related to the security of the existing system and the protection of the interests of a certain group of people. In such a situation, criminalization as a means of criminal-legal policy can give rise to any corpus delicti, and it (new *corpus delicti*) will always be justified by public danger. And if to neglect such measures, the state is challenged and here always under the slogans of protection of human rights and freedoms the most diverse ideas can be carried out, up to the change of the constitutional order and replacement of some orders by others. However, even in this case criminal law will be at the forefront of socio-political events and some criminal law prohibitions will be replaced by other ones, i.e. criminal law will be reformatted to meet the needs of a different political system. Of course, in this case we are not talking about theft, murder, violent crimes etc., the nature of which is not questionable, at least from the principle of *malum in se*, we are talking about other crimes - *malum prohibitum*, the boundary of illegality of which is always conditional and only the criminal law policy in this regard determines the contours of criminal responsibility and the scope of criminal law itself, including the notorious mechanism of criminal law regulation. But such criminal law will always be permanent, because the idea of expediency here cannot be static.

IV. New Criminalisation

So, if we say that crime is organically connected with harm, because only it (crime) causes harm, then such an act is socially dangerous, and not vice versa, as it often happens - an act becomes socially dangerous only because it has become prohibited. In this respect, the eternal problem of *malum in se* and *malum prohibitum* acquires some contours, because *malum prohibitum* is always connected with the element of

discretion. However, separating these notions, we should clearly understand that criminalization can pursue different goals and perform non-identical functions, including those related to social control as a kind of instrument to keep and refuse subjects from claiming power relations. In this context, it is not morality that lies at the heart of the criminalization process, but rather other values and attitudes, which, as it later turns out, form the very morality, already bringing such moralism directly into society. Therefore, acts like *malum prohibitum* always carry an element of *"implicit"* public danger. Many acts may deserve public censure and punishment (condemnation), but this is not a reason to always elevate them to the rank of a crime[5].

In general, the role of moral and ethical prohibitions in the process of criminalization and the establishment of the boundaries of criminal law is a key issue. No one would deny that there is an important link between moral wrongdoing and the corresponding content of the criminal law. Many criminal offences, including the most well-known in the public perception (such as rape, robbery, murder, terrorism etc.) are also moral violations. And it is hard to believe that their wrongful features also sometimes do not warrant their criminalization. This idea commits us to only a very weak view of the relationship between moral wrongdoing and the content of criminal law. For example, it is consistent with the view that harm is central to deciding whether a certain type of behavior is criminalized. However, some behaviors may be wrong by virtue of the fact that they are harmful. And this characteristic of the behavior provides a basis for its criminalization because the wrongful act is always in the realm of morality, but more so in objective reality[6]. Nevertheless, this view leaves open the question as to whether it is permissible to criminalize behavior that is not wrongful if that behavior is harmful, and also presumes the possibility of situations where there is some wrongful behavior, namely non-harmful wrongful behavior, which there is no reason to criminalize.

When talking about morality and morality in the establishment of criminal law prohibitions, it must necessarily be pointed out that the justification for criminalization must begin by stating some value that can be identified as public, as part of the self-determination of the state. The criminalized conduct must therefore violate that value or threaten to harm the goods it protects and claim that the violation or threat is such as to warrant public condemnation. The main issue here, however, is that the values shared by society and the state may not be identical. The issue is that the values that the state should uphold depend to some extent on its particular characteristics, and this ultimately determines the contours of criminal law regulation. This leaves open the possibility that there are values that some people rightly uphold, and a person's behavior may be wrong in light of those values. However, since the state has no basis for endorsing these values, how much basis does it have for criminalizing this wrongful behavior? Does everything here depend on the subjective criteria of certain individuals who make criminal law policy? And here it should be emphasized that the decisions formalized in the criminal law are decisions made by people. Humans are rational beings who can reason about moral values, or take empirical evidence into account, or be influenced by public opinion, or rely on "common sense" to make legal decisions. But human rationality is always limited or constrained by various factors such as imperfect information and cognitive distortions. Thus, human law, unlike the laws of physics, reflects different

[5] V. Khiluta, *Free will in criminal law through the lens of neuroscience.* Journal of Eastern-European Criminal Law, 2/2021, pp. 63-72; Z. Pavlovic, *About legality of on line trials in criminal procedure*, Journal of Eastern-European criminal law, 2/2020, pp. 33-41.

[6] V. Todros, *Wrongs and Crimes (Criminalization),* Oxford, Oxford University Press, 2016, p. 16.

characteristics of human decision-making that are also observed in other contexts, such as the influence of emotions and cognitive distortions. Therefore, any criminalization is conditional. Moral and moral precepts will never form the basis of criminalization because they are often used as a windfall when there is a need for a particular policy decision to justify a new criminal prohibition. In reality, the basis of such a decision is based on quite different criteria and theoretical postulates, which are more inclined towards the element of expediency of a managerial decision. Hence the inevitable conclusion: the state cannot, with the help of criminal law as a certain means (tool), maintain morality in society, although in practice it often happens.

This is where the main question arises: is criminalization inherently aimed at retribution or prevention? Much depends on the answer to this question, including the criminal law policy implemented by the state, its appearance and content. We agree that the answer to this question will always be different, but this is not a reason to equate any immoral behavior with a crime. This is understandable, because if an act is immoral, it also becomes illegitimate. However, today no one can explain to what extent immoral behavior should become a crime rather than an offence.

When discussing the criminalization of social relations and the connection of this process with the measurement of the public danger of committed acts, it should be said that the regulatory function of criminal law in this matter is secondary, since criminal law never directly regulates existing social relations. In any case, the state, establishing certain rules of conduct and formulating in a legislative way the grounds for their criminalization (of a certain area of legal relations), always considers this very criminalization as a means to consolidate the existing *status quo*. The regulatory component can take place only in the case of establishing the fact that an offence has been committed. The informational impact of criminal law cannot automatically impose positive rights and obligations on the participants of social relations[7].

Because of this, criminalization today is perceived as an *element of the state's* managerial activity, where the phenomenon of public danger is not of fundamental importance. In this capacity, criminalization is sometimes identified with the preventive activity of the state, a game of anticipation, when it is necessary to prevent a certain line of undesirable behavior of participants in social relations through the establishment of criminal law prohibitions. Thus, criminalization as a means of protecting certain values can develop into criminalization-defending new values or social standards promoted (or imposed) by someone else. It is not always possible to measure this process by the nature and degree of public danger, because the share of the conditional moment in such a situation will potentially always dominate the researcher. Public danger has an uncertain nature, it cannot be a constant value and can never be measured by formal criteria. This shows that at present criminalization cannot be based on old dogmas (mainly developed during the Soviet period in the second half of the twentieth century), as the new reality creates new processes of criminalization, where there are no "golden rules" and typical standards.

In the context of the problem under discussion, another question arises: namely, about the standards and criteria of criminalization, since this process is always conditional and related to the search for optimal criteria (rational grounds) between the freedom of the individual and the security of the state. Therefore, it is always important to

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[7] V.N. Kudryavtsev, A.M. Yakovlev (eds.), *Основания уголовно-правового запрета. Криминализация и декриминализация [Grounds for criminal law prohibition. Criminalization and decriminalization],* Moscow, Legal literature, 1982, p. 220.

maintain a balance and not to overstep the line of excessive restriction of the rights and freedoms of citizens. In this context, the idea of security, which in fact currently underlies the development of criminal law of utilitarian type (character), incorporates not so much criminal law of "punitive" type, but criminal law of "preventive" type, where the place of public danger is minimized, because in such a paradigm public danger is replaced by expediency.

So, today we can observe a tendency of gradual shifting the contours of crime from the public danger of the act itself towards security, i.e. the establishment of preventive measures of protection. The state seeks to solve the problems of security, including by criminal law means, by establishing a mechanism of social management of society and criminalization of any deviations from the set standards and normative prescriptions. In this case, the criminal law is used as a means of minimizing possible risks at an earlier stage, which indicates that criminal law is more focused not on the protection of existing social relations, but on the establishment of the required public order. Therefore, we can say that the modern doctrine of criminalization "justifies the free, unlimited construction of criminal law prohibitions in order to ensure the security of the process of social transformation from any minimally possible and potential threats by forming and maintaining, through the threat of criminal punishment, the necessary moral status of individuals and the moral unity of society on the basis of those values that appear meaningful to the actors of social transformation"[8].

In the security paradigm, the emphasis is shifted from the act to the subject - the perpetrator and the person responsible for his actions. His responsibility is formed not as an individual model of crime-responsibility, but as a social model of control-security. Thus, while within the classical model a person becomes a criminal only at the moment of committing a crime, within the security paradigm he becomes socially dangerous when he does not obey the institutions that norm his behavior. Security shifts the emphasis towards the protection of collective values rather than individual values. The need for security requires the construction of a separate and independent system, both within and outside criminal law.

Crime is only one of the challenges to security (a form of deviation), but there are plenty of other marginalized deviations. Therefore, the basic idea of security is social defence, and more precisely the prevention of crime. And it is obvious that since here we are not talking about a committed illegal act, the main emphasis shifts to the plane of the individual, prevention of his further actions. Consequently, while today's criminal law deals with the establishment of a crime and its entire arsenal is aimed at retribution for the crime committed, the criminal law of security is aimed at countering crime at an earlier stage. Of particular importance in this case is the social meanings that fill the future unlawful act.

V. Instead of a Conclusion

In this paradigm, it is not harm that is at the center of the system, but the potential threat of harm[9]. It is under the aegis of the threat of harm that social protection and

[8] M. Babaev, Yu. Pudovochkin, *Уголовная политика и преступность: трансформация в эпоху социальных перемен* [Criminal policy and crime: transformation in the era of social change], Moscow, Yurlitinform, 2023, pp. 153-155.

[9] R.A. Duff, St. Green (eds.), *Philosophical Foundations of Criminal Law,* Oxford, 2011, pp. 21-25.

safety measures are implemented. Therefore, the state is forced to establish a system of restrictions and prohibitions at an early stage. And all this is done within the ideology of protecting society and the state from potential criminal threats. But still, the main danger here lies in the uncertainty and a wide degree of estimation of nominal risks and persons who may be involved. This is a fictitious aspect of the problem, containing a moment that is based on total control over society[10].

At the same time, the situation under consideration, characteristic of *pre-crime*, points directly to the fact that social control over a person's behavior is actually exercised, and this is not peculiar to criminal law and cannot give rise to relations of criminalization, since we are already talking about a different object of study here. Pre-crime is a special basis for assessing a person and selecting a special measure of influence (security) for such a person. The dangerousness of a person is determined by the nature of his or her social behavior. In such a construction we expand the discretion of the law enforcer, the subjectivism of the assessment of a particular person, who will decide on the election of social protection measures. Consequently, the concept of public danger can be linked not to the act of a person, but to the person himself.

The *criminal law of security* aims at affecting a person who has not yet committed a socially dangerous act, and this is not an offence in the classical sense. Consequently, in this model, it is not the nature and extent of the harm caused that fills the crime, but the social danger of the individual, since it is the subject who is the source of the specific socially dangerous behavior. But in this paradigm of criminal law of social protection there is no place for crime, since we are dealing with pre-crimes. For this reason, the criminal law should have the following norm: "Social protection (security) measures may be applied to a person with social danger in order to prevent the commission of crimes. The order of application of such measures shall be established by special normative legal acts".

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