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DOMESTIC LEGAL MEASURES FOR INCREASING SECURITY IN THE BLACK SEA REGION

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***Summary:** This article examines selected domestic legal measures employed by the Republic of Bulgaria to enhance security in the Black Sea region. Focusing on criminal and procedural law, it highlights how the criminalization and prosecution of offenses such as smuggling, human trafficking, and environmental crimes strengthen national and regional security. The analysis emphasizes the interplay between legal frameworks and effective enforcement, concluding that robust internal legal measures are essential for safeguarding the Black Sea as a critical geopolitical and economic hub.*

***Key words:** national security, Black Sea, domestic legal measures*

INTRODUCTION

This publication focuses on specific measures to enhance security in the Black Sea, rather than addressing all possible approaches.) In this regard, the following clarifications need to be made at the beginning.

First, it is about internal state rather than supra-national security measures.

Second, of the internal state security measures, only the internal legal measures were analyzed.

Third, not all possible domestic security measures have been considered, but only the criminal ones.

Fourth, the criminal law measures discussed in the report are mainly measures of criminal and criminal procedural law.

Fifth, the regulation interpreted here is a part of the Bulgarian legal family, therefore, through its interpretation, the role and contribution of the Republic of Bulgaria in the protection and strengthening of security in the Black Sea is a subject of security.

Among these measures, this paper specifically examines the role of criminal and procedural laws in addressing security challenges in the Black Sea.

Criminal law measures are introduced and used to prevent and limit possible criminal activity in the border areas of the Black Sea and in the interior of the country. Their exploitation has a supranational importance, however, because the successful criminal law fight against acts that are

actually related to the Black Sea as an occasion and/or place of realisation contributes to the strengthening of security in the entire Black Sea basin. **From here, committing criminal encroachments both in the Black Sea itself and in the land (border) areas adjacent to it is an unfavorable phenomenon that always threatens security in the Black Sea basin.** To outline and control this negative and harmful phenomenon, two mutually consistent and mutually conditioning forms of fight can be undertaken. Namely, criminal – material law and criminal – procedural law fight.

1. CRIMINAL LAW FIGHT

Criminal law as an instrument for the prevention and control of crime, including in the Black Sea area of the Republic of Bulgaria – the territorial waters of the country, as well as the land areas and urban areas adjacent to them, acts through its task, and from there also through the functions arising from it. According to Art. 1 of the Criminal Code of Republic of Bulgaria, the main task of criminal law is to protect the person and rights of citizens and the whole legal order established in this country against criminal encroachments. With the fulfillment of the intended task, criminal law becomes a fundamental and reliable means of creating security. And the very fulfillment of this task is achieved through the declaration of socially dangerous acts as crimes, and through the determination of proportionate and fair punishments for them in the Criminal Code of the Republic of Bulgaria. From here, Bulgarian criminal law enhances Black Sea security through two primary methods. First, through the criminalization of certain socially dangerous acts that can actually be committed in the territorial waters of the Black Sea of the Republic of Bulgaria, or in the border settlements. And secondly, by establishing fair and proportionate punishments for all criminalized acts.

Here is the moment, for informative and enlightening purposes, to briefly mention that according to Bulgarian criminal law, a crime is an act dangerous to society (action or inaction), which has been culpably committed and which has been declared punishable by law – arg. Art. 9 of Criminal Code of Republic of Bulgaria. Such acts can be both actions and inactions. Their socially dangerous and illegal property is always important. In this context, these acts refer to behaviors that threaten societal security and disrupt the legal order. In other words, acts damaging the normal functioning of public relations, having as a subject or object the territorial Black Sea waters of the Republic of Bulgaria and/or the land areas lying opposite them. A variety of crimes could hypothetically be committed in the Bulgarian part of the Black Sea.

For example:

- bodily Injury (Article 128 of the Criminal Code);
- kidnapping (Article 142 of the Criminal Code);

- Trafficking of People (Article 159a of the Criminal Code);
- robbery (Article 198 of the Criminal Code);
- . Receiving Objects (Article 215 of the Criminal Code);
- illegal transportation of explosives substances and ammunition (Article 338 of the Criminal Code);
- general hazardous pollution (Article 352 of the Criminal Code), etc.

The possible commitment of some of the mentioned crimes, both individually and collectively, threatens the security of the Black Sea and makes it a dangerous place. The Criminal Code of the Republic of Bulgaria does not have an independent chapter with Black Sea crimes, but on the other hand, almost all other chapters of it contain crimes that can be generally connected to the Black Sea as a place or reason for committing them. Moreover, the crimes described in the code are provided by the legislator with acceptable type and amount of punishments. In the general part of the code, there are also developed special norms regulating cases of recidivism, multiple crimes, multiple perpetrators, etc. *This circumstance testifies to the efforts of the Bulgarian state to adequately fight one of the most dangerous phenomena in the Black Sea, namely crime. The limitation of crime through domestic law and the development and implementation of legal norms suitable for the purpose by the Bulgarian state also leads to the strengthening of general security in the entire Black Sea basin.*

It can be assumed that the functions of criminal law derive from the functions of criminal law (Stoynov, 2019, p. 37). Their identification and characterization is of essential importance, since the *functioning of the criminal law practically brings security to society*. In other words, the development and functioning of criminal law as a normative system ensures the protection of citizens, the territorial integrity of the country and the state itself as legal entity. From here, to achieve security, including in the Black Sea, the Bulgarian criminal law acts in several directions. Precisely from these directions of action the functions of criminal law norms are derived. They are four: preventive, regulatory, protective and general educational (Stoynov, 2019).

The preventive function of the criminal law act indicates the unacceptability and permanent negative attitude of the society towards the human actions declared as crimes in the criminal code. Thus, criminal law educates the individual to refrain from such actions at the risk of rejection by society. Thus, criminal law affects the value system of the individual and becomes part of his worldview. Through the punishments provided for the commission of individual crimes, the criminal law evaluates and ranks in importance the public relations taking place in the objective-legal peace. Thus, the criminal law contributes to the learning, understanding and evaluation of the content of the social relations in question. And this is of great importance for the transformation of the individual into a useful subject

and a defender of the existing objective-legal reality. Along with the educational effect, criminal law also has a deterrent effect on individual members of society. Because citizens who violate the prohibitions outlined in the criminal code are threatened with punishments that significantly affect their rights, interests and goods.

The regulatory function of criminal law is specific. It would not be an exaggeration to assume that it distinguishes criminal law from all other branches of law. In the criminal law, only and only negative public manifestations are indicated, with which a given punishment is associated. As Ivan Nenov points out, “criminal law does not regulate the normal development of relations... On the contrary, it refers only to acts that threaten or damage public relations... criminal law has as its subject social relations related to the performance of negative manifestations that threaten or damage society...” (Nenov, 1992, p. 10). *Therefore, criminal law regulates behavior that threatens or damages the state, personal freedom, life, health, property, society as a whole, etc.* In practice, the actual regulation is the activity of outlining all forms and signs of prohibited behavior in the criminal code on the one hand, and on the other hand, it is an activity to settle all the consequences of undertaking such a prohibited behavior in reality, including in the Bulgarian water area of the Black Sea.

The protective function of criminal law reproduces the evaluative understanding of law as an organized and coherent system of norms. It is not by chance that Nikola Dolapchiev points out that: “from the point of view of the evaluative-imperative theory, law has two sides, two functions: evaluative and imperative; the second presupposes the first. Law as an imperative norm is unthinkable without law as an evaluative norm; law as an evaluative norm is an unconditional logical premise of law as a motivating norm ... because the one who wants to motivate someone, he must first know what he wants to motivate him to; he must have judged this thing in a certain positive sense, viz. to have found it valuable” (Dolapchiev, 1994, p. 202). *In this sense, criminal law protects certain values in society by prohibiting actions that damage or threaten them.* For example, the life and health of people as a value are protected by criminalizing the pollution of the waters of the Bulgarian part of the Black Sea with dangerous substances (Art. 352 of the Criminal Code).

The general educational function of criminal law consists in the fact that, by pointing out the reprehensibility of a given behavior, it contributes to the education of all citizens to respect the laws of the country (Stoynov, 2019).

From everything that has been said up to now, it can be summarized that substantive criminal law is an important internal-enhancing instrument for achieving security in the Black Sea, since with its help the fight against criminal encroachments is carried out both in the Bulgarian part of the sea

itself and in the land areas of the Republic of Bulgaria adjacent to it. This struggle manifests itself in several directions.

First, criminal law regulates behavior that endangers or damages the Black Sea basin.

Second, criminal law regulates behavior that endangers or damages life, health, freedom, property, etc. in the Bulgarian Black Sea water area.

Thirdly, the criminal law regulates all the consequences of undertaking a behavior prohibited by it in the Bulgarian section of the Black Sea or in the Bulgarian land territories bordering it. These consequences are related both to the imposition of the following punishment for the committed crime, and to the criminal treatment of a criminal.

2. CRIMINAL PROCEDURAL FIGHT

The fight against crime, including in the Black Sea, is complex. For effective results, criminal procedural law must be an integral part of the fight against crime. Without criminal procedural law, the perpetrators of the crimes cannot actually be sanctioned. The imposition and serving of punishment for a committed crime, in turn, is one of the most effective forms of re-education of criminals, i.e. real action to create security in society.

When talking about a criminal procedural law, resp. for criminal process, it must always be in mind that, as a part of state activity, it is always related to the character, tasks and organization of the state itself. That is why the content and arrangement of criminal procedural institutes always follow and further develop the logic of those principles, methods and forms of work that characterize the state organization at a given historical moment. Therefore, the criminal process is always related to given state policies. Moreover, it is an instrument for the implementation of state criminal policy. The criminal process can also be presented a little more figuratively, namely as a way to realize something specific. As a path, it represents a set of rules that always lead to the achievement of specific results on the one hand, and on the other hand it is a means of realizing something specific. Thus the questions arise, what is achieved by conducting the criminal trial and what is the criminal trial a means of realization of? *When the criminal process is understood as a means of realizing something specific, it is meant that it is a means of realizing the substantive criminal legal relationship (of the jus puniendi claim), and when it comes to the process as a way to achieve certain results, it is the process as a way to achieve the goals of criminal justice, by fulfilling the tasks of the process.* From here, through the criminal process, criminal law “comes to life”. It is with the help of the process that the regulatory, protective and educational functions of the criminal law are practically deployed. The criminal process of the Republic of Bulgaria represents an authoritative and intense reaction in the legal sphere of the perpetrators of crimes, including in the Bulgarian part of the Black Sea. By

conducting a criminal trial, the detection of crimes, the exposure of the guilty and the correct application of the laws in the country are ensured. However, the criminal process should not be an end in itself, it should equally ensure the exposure of the guilty and the release from criminal liability of the innocent citizen. Only in this way can be taken a fair and convincing approach against crime.

The main task of Bulgarian criminal justice is described in Art. 1, paragraph 2 of the Criminal Procedure Code. There, the legislator ordered that the main task of the criminal process consists in ensuring adequate protection from criminal offences against the Republic of Bulgaria, the life, freedom, honour, rights and legal interests of citizens, as well as against the rights and legal interests of legal persons, and it shall further contribute to the prevention of crime and the reinforcement of legality. The main task of the trial, therefore, is achieved through the detection of the crimes, the exposure of the guilty and the correct application of the law in every life case that arises. Thus, for example, by uncovering the crimes committed on the occasion of or in the Black Sea, by exposing the guilty and by correct and fair application of the laws, protection of the Republic of Bulgaria, individual citizens and legal entities from criminal encroachments is achieved, as well as strengthening of trust in law enforcement. Protection from criminal encroachments in the Black Sea and adjacent land areas is mainly achieved with the help of the criminal process. *This is done precisely by uncovering every single crime committed there, by exposing the criminal and by correctly applying the relevant law.*

Conditionally and briefly summarized, through the criminal law the crimes and their corresponding punishments are indicated, and through the criminal procedural law the committed crimes are disclosed and the perpetrators of the crimes are exposed and sanctioned, which collectively ensures security in the Republic of Bulgaria, including in the Bulgarian sector from the Black Sea. This contributes to the overall security of the Black Sea basin.

The Bulgarian criminal process, although not without problems, provides satisfactory protection against criminal encroachments including in Bulgarian Black Sea water area. It is built on the principle of objective truth. This means that the process is always looking for “what happened in reality, in the way it happened in time, and in the place where it happened” (Pavlov, 1996, p. 108). It is precisely in this way that it is guaranteed in the process that the accusatory activity will not be deliberately and unreasonably conducted. In addition, it can be said that the right of defense is raised in another basic principle of the Bulgarian criminal process. According to Art. 15 of the Criminal Procedure Code, the accused party and the other persons who take part in criminal proceedings shall be afforded all procedural means necessary for the defence of their rights and legal interests. Art. 16 of the

Criminal Procedure Code regulates the presumption of innocence, according to which the accused party shall be presumed innocent until the reverse is established by virtue of an effective verdict. Last but not least, the authorities of the criminal process make their decisions based on internal conviction, being guided by the evidence collected in the case and by the law – Art. 14 of the Criminal Procedure Code.

Almost all crimes that actually threaten security in the Black Sea are of a general nature, i.e. with a high degree of public danger. For their consideration in the Republic of Bulgaria, a two phases criminal proceedings is provided. Pre-trial and judicial phase.

The pre-trial phase is preparatory and not judicial. In it, the case is prepared with the necessary volume of evidentiary material in order for the prosecutor to make a correct decision regarding the existence of the prerequisites for bringing charges before a court (Manev, 2016). In the judicial phase of the first instance, the case is decided on its merits by the court. This means that the judicial panel decides with “res judicata” the questions of the existence of a crime, the guilt of the perpetrator and the criminal liability. In the Bulgarian criminal trial, both in the pre-trial and in the judicial phase, evidentiary material cannot have a predetermined value. Each piece of evidence is assessed by the deciding entity on a general basis, both separately and collectively in relation to all other evidentiary materials – Art. 14, paragraph 2 of the Criminal Procedure Code.

The Bulgarian Criminal Procedure Code also provides two control regular court proceedings. They are appellate and cassation court proceedings.

The appellate court proceedings provide an opportunity to remedy an admitted defect in the procedural act of the court of first instance before its entry into force. Appellate review is therefore a regular, not an extraordinary way of reviewing invalid judgments. The subject of appellate review are the sentences that have not entered into force from the point of view of legality, reasonableness and justice. In the appellate proceedings, the appellate principle is mainly applied. This means that the appellate court has the opportunity to review the merits of the case once more, as well as refer the criminal case independently. It is based on the authority of the court to revoke the sentence of the first instance court and to issue a new sentence – Art. 336 of the Criminal Procedure Code. Appellate review combines within itself control over the conduct and judgment of the first court instance and an opportunity to decide the case on its merits.

The cassation proceedings is the third regular instance in the judicial hearing of the case and the second regular method of control of not in force judicial acts. The subject of cassation proceedings are appellate judicial acts. First-instance judicial acts are not subject to review by the Supreme Court.

In the cassation proceedings, the case is not examined on its merits. The principle of cassation prevails here. This means that when the court of cassation finds defects in the act attacked before it, revoke it and remit the case for new examination. Exceptionally, the Supreme Court can act as an appellate authority (see Art. 354, para. 5 of the Criminal Procedure Code). The Supreme Court does not perform full proof, i.e. in the cassation proceedings, no factual determination is made and no judicial investigation is conducted.

Currently, persons convicted in the country for crimes related in any way to the Bulgarian Black Sea water area have full access to the appellate and cassation courts. Their cases are considered in practice by three separate and independent courts. Thus, the rights of the defendants are guaranteed, and the risk of making mistakes in the administration of justice is avoided. Therefore, the real provision of security in the country, resp. in the Black Sea can only be achieved by passing correct and fair judicial acts.

The Criminal Code of the Republic of Bulgaria also contains special rules for consideration of criminal cases of a criminal offences. They are aimed at speeding up the process and achieving procedural economy. Such are the speedy proceedings, the settlement of the criminal case with an agreement, the summary trial and others. As of today, the mentioned procedures are also undertaken to examine crimes committed in the Black Sea.

All this shows that the criminal process of the Republic of Bulgaria is not constructed as arbitrary, but as a fair, humane and democratic means of fighting crime.

The achievements of criminology can and should be used to achieve and increase security in the Black Sea by countering crimes committed in or in connection with the sea itself. Successful prevention of the causes that lead to deviant behavior in the Black Sea border region can be achieved only after carrying out sufficiently in-depth criminological studies of the personality of criminals who tend to operate in and around the Black Sea basin.

CONCLUSION

The Republic of Bulgaria works hard and strives for high results. The socially dangerous acts in question, threatening security in the Black Sea, are included as main or additional in numerous chapters and sections of the criminal acts. However, the executive acts of crimes related to the Black Sea as an object or object of aggression are clearly and in detail described by the legislator. From the objective and subjective side, the composition of these crimes has been qualitatively studied in legal theory as well. This facilitates both their qualification in legal practice and their investigation.

The fight against criminal acts affecting the security of the Black Sea is finally guaranteed with the help of the criminal process existing in the country. The procedural regulations are such that, in a criminal case related to the Black Sea, it is possible to adequately reach the disclosure of the objective truth about the act and its author, as well as to conclude with a fair and justified sentence.

Enhancing internal security and ensuring fair justice in each Black Sea state will collectively improve security across the region. Protecting and increasing security in the Black Sea is not a one-time act, but a continuous and daily process in which all interested countries can and should participate as a minimum through the provision and implementation of domestic legal measures, and more specifically criminal law measures.

Last but not least, it should be pointed out that expanding the legal culture of citizens could significantly contribute to understanding and increasing security in the Black Sea region. In this sense, Stoyko Stoykov summarize: “Every country needs sufficient and well-trained human resources to enhance its national security” (Stoykov, 2022). The increase of legal education and the application of reliable high technologies in the protection of the rights and personal data of citizens has the potential to restore deep trust in the work of the institutions that are directly responsible for the protection of the national security of the country (Licheva, 2023).

To address shared security concerns, collaboration among Black Sea states is crucial. Harmonizing domestic legal frameworks with regional agreements will further strengthen collective security efforts.

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