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I+D Program

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Title of the project: Post-crime factors and offender dangerousness. A thorough research on hate crimes and terrorism.

Summary. The aim of this project is twofold: on one hand, it continues with the line of work that has to do with the study of potdelictual factors and post-criminal dangerousness and the individualization of the penal response. On the other hand, however, it seeks to address hate crimes and terrorism in a comprehensive and monographic manner. By comprehensive and monographic manner the author means that such criminal behaviour is specifically studied from the perspective of its post-sentence dynamics. The author also means, moreover, that there will be a full, comprehensive study on such conducts, which aims to unravel all of the following:

- the underlying political-criminal model, the state of the interpretation of its precedents, the recently-introduced new legislation (LO 1 and 2/2015 Penal Code Reform and Terrorism; and Law 4/2015 on victims),
- the problems of delimitation of typical spheres,
- the extrapenal policies in this area (mainly punitive regulation of administrative rights: for example, in sports),
- the underlying constitutionality problems or their compatibility with international standards (particularly the standards set by the ECHR).

All this monographic and comprehensive analysis is also to be the basis from which to carry out a revision of the model of sentencing and prison execution (potdelictual factors and danger) in the afore-mentioned criminal behaviours that have to do with the so-called crime by conviction.

There has been a resurgence of social, media and legislative interest, especially in terms of hate crimes (paradigmatically, the new Article 510

of the Penal Code –the crime of incitement- after Organic Law 1/2015). However, this also affects terrorist offenses (Organic Law 2 / 2015 reform of terrorism) with which they share certain obvious structural features. This latter aspect –the fact that there are common structural elements between these two sectors of crime- is both a hypothesis and the primary objective of the analysis this project is necessarily about.

Hate and terrorism-related crime is a strategic benchmark with which it is possible to properly integrate the symbolic dimension they represent in the post-sentencing phase. This is because they push the balance between the purpose of punishment in a social and democratic state of law to the limit, due to the overrepresentation of potential social damage that they contain in communicative terms. And this is affecting the very model of prison term execution and the requisites to be taken into account in the post-sentencing phase.

Addressing hate crimes, and from such crimes the crimes of terrorism, is therefore a goal in itself but also contributes to a further step in the clarification and management of criteria on postdelictual factors and postcriminal dangerousness when individualizing the penalties for such crimes or for any others following a general pretentions model.

In short: this is to be a monographic and comprehensive study on hate crimes and their boundary with crimes of terrorism, which will allow for a final decanting of sorting criteria for postdelictual factors and dangerousness in the individualization of penalties.

Key words: post-crime dangerousness, sentencing, reintegration into society, hate crimes, terrorism.
