

THE JURISPRUDENCE OF THE EUROPEAN COURT FOR THE DEFENSE ON HUMAN RIGHTS IN PROBLEMS OF TRAFFIC AND ILLICIT CONSUMPTION OF NARCOTICS

BUZATU NICOLETA-ELENA

”Dimitrie Cantemir” Christian University
Faculty of Juridical and Administrative Sciences

Abstract

The present paper is meant to analyze and speak about article 3 of the European Convention on Human Rights that states that “*Nobody can be submitted to torture, punishments or inhuman or humiliating treatments*”, irrespective of their theoretical or practical aspects. The paper is also meant to observe the way this article is applied by the European Court on the Human Rights in various situations that appear as a consequence of the traffic and illicit consumption of narcotics. The solutions offered by the Court - perfectly well sustained and rooted into the everyday reality - are, according to my opinion, a model to be taken into account and a source of inspiration for the Romanian Courts of Appeal.

Keywords: *narcotics, traffic, consumption, rights, torture*

From the point of view of the international aspect, human rights are the individual subjective rights, essential for the well being, dignity, liberty, equality, happiness and the free evolution of the human being, stated and guaranteed by the norms of the international public law.¹ The fundamental rights of man can be defined as being the prerogatives - governed by a lot of rules - the human being have to face in its relationship with the private society or with the public order.² On the other hand, human rights may be also regarded as an aggregate of international juridical norms recognizing the individual attributes and opportunities meant to ensure his dignity, liberty and the evolution of his personality, and which benefits by corresponding institutional guarantees.³ The field of protection concerning the human rights is included in the general frame regarding the accomplishment of a democratic society. For the juridical system it represents the justification for the existence of numerous law institutions protected by the constitutional law, the civil law, the civil procedural law, the penal procedural law, the family law, the administrative law, etc.⁴

¹ Popescu, C.L. - *International Protection of the Human Rights - sources, institutions, procedures* All Beck Publishing House, Bucharest 2000, pp. 3.

² Renucci, J.F. - *Droit européen des droits de l'homme, Librairie Générale de Droit et de Jurisprudence, Librairie Générale de Droit et de Jurisprudence*, Paris, 2007.

³ Renucci, J.F. - *Droit européen des droits de l'homme, Librairie Générale de Droit et de Jurisprudence*, Paris, 2007.

⁴ Bîrsan, C. - *European Convention of the Human Rights. Commentaries on articles, vol I Rights and Liberties* All Beck Printing House, Bucharest 2005, pp. 11. Coord. Ramascanu, B.; NiTelea, M. -

The European Court on Human Rights⁵ is an international jurisdiction having its headquarters in Strasbourg. It is made up of a group of judges equal to the number of member States of the Council of Europe that ratified the Convention for the Defense of the Human Rights and of the Fundamental liberties.⁶ The European Convention of Human Rights is an international treaty open to the signatures of the very member States of the Council of Europe. The Convention, that founds the Court and organizes its functioning, contains a list of rights and guarantees the States committed themselves to observe. They are also provided in Protocols no. 1,4,6,7 and 13 the States engaged to observe. The Court does apply the European Convention of Human Rights. Its mission is to check the way the States observe these rights and guarantees provided by the Convention. To this aim, it examines the complaints (certain “demands”) lodged by private individuals or, rarely, by States. In case the Court reaches the conclusion that a State broke one of these rights and guarantees, it is the Court that will take a decision. This decision is compulsory and shall be carried out by the respective country. By regulating, practically, the right of any person to dignity and physical integrity, the right included in the provision of art 3, is one of the few rights and liberties the European States cannot derogate, not even under the conditions of art 15 paragraph 2 of the Convention⁷, as it an *absolute right*. This kind of characterization is justified by the fact that the right of any person of not being submitted to torture, to inhuman and degrading treatments, is also in the attention of an impressive number of international treaties mentioning the interdiction of this very flagellum of the XX century.⁸ The

Romania's Cases in the European Court of Human Rights (Selection 2004-2005) Foreword: Dr Dan Lupascu, judge, Bucharest 2005, pp. 3.

⁵ 'What is the European Court of Human Rights?' 'A Land of promises you can arrive but very rarely after a marathon of procedures', the pleading barristers will complain. 'The sole real judicial body created by the Convention for the Defense of Human Rights and of his fundamental liberties (called the European Convention of Human Rights)', will the jurists say. 'The first international jurisdiction protecting the fundamental rights,' they historians will say. 'The last bastion of democracy on the old Continent', the politicians will say. Neither incorrect nor exhaustive these few formula may lead to a definition of the Court of Strasbourg." Berger, *V Jurisprudence of the European Court of Human Rights*, II nd ed, revised and improved Romanian Institute for Human Rights, Bucharest, 1998, pp. 1.

⁶ The text was revised in conformity with the provisions of Protocol no. 3 that came into force on Sept 21, 1970, of Protocol no. 5 that came into force on Dec 20, 1971, and of Protocol no. 8 that came into force on Jan 1, 1990 and that included - except the mentioned Protocols - the text of Protocol no. 2, which, in conformity with article 5, paragraph 3, is an integral part of the Convention at the moment of its coming into force on Sept 21, 1970.

⁷ Art. 15 of the Convention for the Defense of Human Rights and Fundamental Liberties contains the following: (1) *In case of war or in case of any other public danger that menace the life of the nation, any high contractual party can take measures that derogate from the obligations provided by the present Convention, under the strict circumstance imposed by the respective case, but these measures should not contradict other obligations deriving from the international law.* (2) *The previous disposition does not allow any derogation from neither art 2, only with the exception of cases of deacease resulting from illicit war acts nor from art 3 and 4 paragraph 1 and from art 7* (3) *Any other contractual party exercising this derogatory right shall give detailed information to the secretary general of the Council of Europe as regarding the measures that were taken and the reasons that led to those decisions It also shall inform the secretary general of the Council of Europe on the date these measures stopped being into force and the moment the dispositions of the Convention are restored.*

⁸ The Universal Declaration of Human Rights, the Statute of the International Criminal Court, the four Geneva Conventions of 1949, the International Pact on the Civil and Political Rights, the UN Convention and the European Convention Against Torture and Other Punishments or Inhuman and

concision of the text within article 3 of the Convention was corrected through the decisions of the Court that richly enlarged the jurisprudence and that offered beside a definition of the notions and terms that were used, numerous examples from the domain of their applicability. Still, in the absence of a substantial text, the Court jurisprudence created less theoretical and abstract aspects to be connected to the appliance of art 3; it rather offered a set of solutions to concrete situations, difficult to be given a theoretical cover.⁹

The Romanian criminal legislation incriminates both torture and the inhuman or degrading treatments. A series of other trespasses (the abuse in hearing/search, the ill-treatments applied to the under age children) have an objective or a non-action side that can also be considered - as reported to the Convention - as an adverse treatment, if referring to article 3. It is known that in conformity with the dispositions of the Romanian Constitution¹⁰ when a disagreement appears between the pacts and treaties concerning man's fundamental rights Romania is a part of and her inner laws, the international regulations have priority, with the exception when the Constitution or the inner laws contain more favorable dispositions.¹¹ One cannot deny the fact that the decisions of the European Court on Human Rights are a model of how to interpret and apply the law: transparency and coherence of the juridical reasoning, consistency and predictiveness in interpreting the norms that sanction the fundamental rights and liberties of each and every citizen.¹²

The existence of numerous cases of committing acts forbidden by art 3 of the European Convention on Human Rights, as well as of the various modalities of

Degrading Treatments, etc. - ChiriTă R. - *The European Convention of Human Rights. Commentaries and Explanations* vol. I C.H. Beck Printing House, Bucharest, 2007, pp. 139.

⁹ Ibidem.

¹⁰ Art. 20 of the Romanian Constitution, revised, states the following: "(1) The constitutional dispositions regarding the rights and the liberties of the citizens will be interpreted and applied in agreement with the Universal Declaration on Human Rights, alongside with all the pacts and treaties Romania is a party of. (2) If there appear discrepancies between the pacts and treaties referring to man's fundamental rights - Romania is a part of - and the domestic laws, the international regulations have priority, with the exception when the Constitution or the domestic laws contain more favorable dispositions." Paragraph (2) of art .20 is rendered according to the modification of the Law nr. 429/2003, revised. Before to the modification, paragraph (2) had the following content: "(2) If there appears any discrepancy between the pacts and treaties regarding man's fundamental rights - Romania is a part of - and the domestic laws, the international regulations have priority."

Until the Constitution was revised in 2003 the priority of the international regulations was systematic and unconditional, irrespective of the content of the norms regarding the two types of regulations and irrespective of a possible complication there might appear between them in as far as the degree of protection they offered was concerned. Just because of the possible dynamics in the domain of man's rights - where evolutions are not only very rapid but spectacular as well, by applying this priority automatically - there existed the risk of hindering the finalization of the regulation. This is the reason why the derivate constituent imposed the *lex mitior* principle, underlining that the appliance priority of the international regulations is valid only if the domestic laws or the Constitution of Romania do not contain more favorable provisions in the domain of the protection of man's rights.- Muraru, I.; Tănăsescu, E.S. - Constitution of Romania. Commentary on articles, CH Beck Printing House, 2008, pp. 173.

¹¹ Coord. Rizioiu, R; NiTelea, M - *Romania's Cases in the European Court of Human Rights (Selection 1998 - 2004)*, Foreword by Corneliu Bîrsan, Judge at the European Court of Human Rights , Bucharest, 2004, pp 5.

¹² Coord. Ramascanu, B.; NiTelea, M. - *Romania's Cases in the European Court of Human Rights (Selection 2005-2006)* Foreword Iulian Gîlcă, judge, Bucharest, 2006, pp. 4.

applying torture or inhuman and degrading treatments, have determined the European Court and Commission on Human Rights to settle the criteria that make the difference between torture, inhuman treatments and inhuman punishments from the degrading treatments - in conformity with the seriousness of the acts and with the effects laid on the victims, in considering the concrete circumstances of each particular situation, practically judged in the light of the present conditions, but having also in view the evolution of the moral and social conceptions.¹³

Article 3 forbids three types of behaviors: torture, inhuman treatments or punishments or degrading treatments, without giving them a precise definition; this was made by the Bodies of European jurisdiction.¹⁴

The laconic issue of art 3 enabled the appearance of a large jurisdiction among the Bodies of the Convention, regarding the terms they used, on one side, and, on the other side, the UN Convention concerning the prevention of torture, the inhuman treatments and punishments or the degrading treatments¹⁵ that contain a definition of torture the European Court refers to in its jurisdiction. "Gradualism", the differentiation in the acts that can cause sufferance to a person are evident in the intention of the editors of the international treaties that forbid torture as well as inhuman or degrading treatments and punishments.¹⁶

The idea of 'torture' is defined in the jurisdiction of the Bodies of the Convention by comparison with the inhuman treatment, being somehow different from it through the intensity of the victim's sufferance. This term has known an evolutionary interpretation. First, what differentiates torture from the inhuman or degrading treatments is the intensity of the pain, of the sufferance caused to the victim; second, torture includes the intention of the one who produces sufferance, to intensify the pain because he is in the possession of the public authority that acts directly or by the mediation of another person, who, in his/ her turn, cause sufferance with the approval or at the instigation of this authority.

The use of force against a person deprived of liberty¹⁷ *Ribitsch vs Austria*.¹⁸ On May 21, 1988 the Austrian police was informed that R... might have delivered narcotics to a person, who later, because of an overdose, died. Immediately, without having a warrant, the police made a search at the address of the above mentioned person whom was submitted to several examinations, with no result in as far as the information was concerned. On May 31, 1988 the police was again informed by phone that R... was reported to have had delivered the quantity of heroine to the deceased person. On the same day, at the residence of R... a new search without warrant was made and there were discovered 0.5 g of hashish. Consequently, R... and his wife were detained by the police from May 31 to June 2 1988. From the declarations of the detained person it resulted that on the period of detention he was insulted and

¹³ Micu, D. - *Guarantee for the Human Rights*, All Beck Printing House, Bucharest, 1998, pp. 37-38.

¹⁴ ChiriTă, R., *op. cit.*, pp. 140.

¹⁵ Cliquennois, M. - *La Convention européenne des droits de l'homme et le juge français*, Editura L'Harmattan, Paris, 1997, p. 23, citat de Bîrsan, C. - *op. cit.*, p. 204.

¹⁶ Bîrsan, C. - *op. cit.*, pp. 204.

¹⁷ Hotca, M.A.; Dobrinoiu, M. - *Offences Provided by Special Laws, Commentaries and Explanations*, C.H. Beck Printing House, Bucharest 2008, pp. 129-130.

¹⁸ C.E.D.O., *Ribitsch c. Austria*, 1995, R.D.P. no. 1/1996, pp 153, with notes by C. Păun.

brutalized in several turns as to be made to recognize the accusation brought to him. He might have received fists in the head, in the right arm and in the renal zone; he was also hit with the feet in the legs and kidneys, his hair was pulled and then he was pushed with his head on the floor. When being released from prison R... had multiple haematoma on the right arm, on a thigh and he was suffering of a cervical syndrome and of a violent cephalic pain. The police inspector M... declared that while the accused was driven by car to a specialized institute to have the examination of his voice done, when getting off the car, because of being cuffed, he slipped and his right arm hit the back door of the vehicle. Although the inspector caught him by his left arm he could not avoid the fall of the accused and his impact with the ground. It was only the other day, when he was interrogated that he mentioned about his wound but refused any kind of medical aid. After being released from the police detention R... informed several persons in the family, a psychologist and a journalist about the abuses he had endured in the period of detention. He also went to the hospital to be examined; the report of the doctors confirmed the existence of some haematoma of 2-3 cm of the right arm. No other wounds were found and the radiological examination has not discovered any broken bones. The medical report has also indicated the existence of some symptoms characteristic for a cervical syndrome and established that R... was suffering of an intense cephalic pain, had nausea and that his body temperature was 37,5° C.

As a consequence of a radio broadcasting denouncing the brutal methods used by the Austrian police, the Direction of the Federal Police opened an investigation against the policemen involved in R...’s sufferings.

During the investigation, Ribitsch, heard as a witness, described in detail the brutalities suffered by him from the policemen. The policemen denied the facts, explaining that everything was a fabrication and a revenge from the part of the R... couple. The Court of First Instance, after having heard the accused and the witnesses drew the conclusion that the police inspector M... was guilty for the hits and the corporeal injuries (art 83 paragraph 1 Criminal Law) and sentenced him to 2 months prison with suspension for executing the penalty and with submission to control for three years. The police officer was also obliged to 1,000 shillings civil damages. The other two accused policemen were acquitted. The Court of Appeal, in the basis of a medical examination and of the re-hearing of the accused and of the witnesses, decided that there were not enough proofs for the police inspector to be declared guilty, because R...’ declarations, on which the accusations grounded, were contradictory and, consequently, doubtful. This solution was maintained by the Constitutional Court, as well. According to the opinion of the European Court, the lesions suffered by R... were correctly expressed in the medical report of the Meidling Hospital; in the basis of the declarations of several witnesses - doctor S... included - which demonstrated that it was little probable for the wounds to have been produced by R...’ sliding from the vehicle, as the policeman M... pretended, the forensic expert heard in the Court of Appeal declared that such a sliding could have explained part of the haematoma found on the body of R... On the other side, the declarations of the policemen were both contradictory and little credible. Consequently, the Court declared that any kind of physical force used against a person deprived of liberty brings contiguity to human dignity and is considered to be a violation of the right guaranteed by art 3 of the

Convention. The needs of investigation and the incontestable difficulties met with in the fight against criminality could not justify for a protective diminishment of the individual's physical integrity.¹⁹

Any physical or verbal aggression, spontaneous or prolonged, committed against an individual by state officers who, generally, exercise a certain authority over the victim, might not be considered to have the necessary intensity as to be considered torture. Nonetheless, it would fall under the incidence of art 3 of the Convention if considered to be "inhuman treatment" or "degrading treatment." Like in the case of torture, the appliance of such "treatments" to an individual is considered to be a serious attack against his dignity, fact which totally forbidden by the Convention. The physical or/ and psychical sufferings provoked to the victim never attain the intensity resulting from the acts of torture, but they, anyhow, are hurting it. Moreover, if to commit acts of torture almost always implies intentional inhuman and degrading treatments, -there are not excluded those cases in which the degrading treatments - not the inhuman ones - should be applied with no intention to humiliate the victim.²⁰

The dispositions of the Convention do not give a definition to the inhuman or degrading treatments - as in the case of torture - and no other international documents in the domain supply more information. The jurisdiction of the European Court defined and applied whatever may be understood by inhuman and degrading treatment, in order to solve these situations.

An inhuman treatment is defined as "that treatment that intentionally causes strong physical or mental sufferings." Article 16 of the Convention against torture and other punishments or cruel, inhuman or degrading treatments defines the inhuman treatments by comparing them to torture, calling them as "other acts (...) apart from torture, when such kind of acts are generally committed by an officer of the public authority or by any other person who acts on behalf of his official title or who instigates or tacitly accepts his proposal." There were considered inhuman treatments the violent abuses exercised by policemen or guardians - in their quality of criminal investigating bodies - during the period of detention. Besides, the Court stated that the use of the physical force by a state officer - in case that such force is not determined by the very behavior of the victim - hurts the human dignity and, in itself, means a breach of the right guaranteed by art 3 (CEDO, decision *Tekin vs Turkey* of June 9, 1998). It was also considered to be an inhuman treatment the maintaining in prison of a person, although the serious health problems of the person were incompatible with the detention in a penitentiary and when no adequate medical aid was granted. Making medical experiments on persons, without their agreement is, also, considered to belong to the inhuman treatment acts. The State was considered responsible for treatments considered to be inhuman, in case of a third person, in the virtue of its substantial obligation to prevent the materialization of the risks of harming the physical or psychical integrity of the persons under its jurisdiction. (CEDO *Pantea vs România* of June 3, 2003).²¹ Certain treatments can be in the same time both degrading and inhuman.

¹⁹ For the complete content of the decision, see www.echr.coe.int.

²⁰ Bîrsan, C. - *op. cit.*, pp. 210.

²¹ Rosianu, C; Bogdan, D.S. - "*Article 3 - The Right of not Being Submitted to Torture, Inhuman or Degrading treatments*", in Phare Monograph Project, Bucharest, 2004, pp. 106.

The international norms interdicting the inhuman treatments adopted in the course of time do not define which are the degrading treatments applied to a person.

Generally speaking, they are included in the category of ill-treatments mentioned in article 3 of the Convention, being somehow improper, on the lowest level of the list. The criterion according to which a reprobating behavior - generally that of the State officers - against a person, who was supposed to be submitted to a degrading treatment, is variable if taking into account the circumstances and the effects of its appliance as reported to the sex, age, health, etc of the victim.²²

The Court defines the degrading treatment as “a treatment that humiliates the individual in front of his own self or in front of other persons, or which determines him to act contrary to his own will and conscience.”(CEDO, decision *Tyrer vs Great Britain* of April 25, 1978). Mention should be made that in the absence of any publicity connected with the measurements or of the treatments, they cannot be excluded from the category of degrading treatments, as it is enough for the victim to have been humiliated in his own self that this measure should be included among the degrading treatments. The jurisprudence of the Bodies of the Convention have mentioned other aspects that can have degrading connotations: cuffing a person in non relevant situations and its being publicly exposed, can be considered a degrading treatment in the light of article 3. At the same time, the practical modality in which a criminal case in being carried against an underage child can raise questions concerning its compatibility as reported to article 3.²³

I will insist on a few aspects from case *Wainwright vs Great Britain*²⁴:

I. In fact

The plaintiffs are Mary Wainwright and her son Alan. The woman suffers of cerebral paralytics and has a severe retardation in her intellectual and social evolution. In 1966 M. O’Neil, the woman’s son, was arrested under the accusation of having had committed a murder. As far as the prison authorities firmly believed that he was a drugs addict and a trafficker of narcotics within the penitentiary, the director of the detention center ordered that all his visitors should be corporeally searched. In January 1997, the plaintiffs, who knew nothing about that order, went to visit M O’Neil. After having been regularly checked, they were announced they should be submitted to a corporeal search as being considered suspects of having drugs with them, and in case of refusal, they would not be allowed to visit the son, and respectively, the step-brother.

The plaintiff woman was carried by two women agents into a small room, whose widows opened to an office. She was compelled to undress and her sexual organs have been examined by sight. At the end of the examination the woman was very affected. As because the blinds of the windows of the room were not pulled down she believed that whoever might have happened to pass by could look into the room were she was staying naked. The woman was later given a form in which she to declare her

²² Bîrsan, C. - *op. cit.*, pp. 219.

²³ Ibidem.

²⁴ Decision of September 26, 2006, in Chiriță, R. - *European Court on Human Rights. Collection of Norms 2006*, C.H. Beck Printing House, Bucharest, 2007 pp. 92-94.

agreement to be corporeally searched; the form contained an explanation regarding the procedure to be followed; she signed the form.

In his turn, the man plaintiff was carried by two police officers into another room, irrespective of the fact he burst into tears; the policemen examined his genitals by palpation. After the examination he was asked to sign a similar form, but he refused pretending that he did not know to read, so he claimed for his mother to come and read it for him. The policeman menaced him that if he refuses to sign he cannot see his brother, so that the plaintiff signed.

The plaintiffs did not go to visit the convict for four months because of what had happened before. In 1998, the plaintiff woman was examined by a psychiatrist who considered that the scene in the penitentiary has aggravated the depression she was already suffering of. The same doctor examined the plaintiff man as well, and reached the conclusion that he suffered of a post-traumatic depression, as a consequence of his visit to the penitentiary. So, the plaintiffs lodged an action against the Ministry of the Interior, but the complaint was rejected because, with the exception of the plaintiff being palpated, no other illicit acts had been committed. In favor of the plaintiff man the State decided to pay compensations.

II. Legally

Article 3 (*“Forbidding Torture”*) and article 8 (*“The Right of respecting the Private and family Life”*).

Taking into account the existence of an endemic problem concerning the traffic of drugs in penitentiaries and of the fact that the authorities suspected M. O’Neil as being involved in this kind of traffic, the Court considers that the corporeal search of the visitors can be taken as a legitimate preventive measure. Nevertheless, the Court insists on the necessity that such a procedure should be applied with a strict observance of the regulations in force and with the respect granted to the human being, admitting that the procedure itself is extremely humiliating for the persons who are not criminally sentenced and who are not suspected to have ever committed any kind of offence. The internal instances considered that the employees of the penitentiary have broken their own regulations and appeared to be mild in applying them. The Court claims the fact that they have not shown the plaintiffs in advance the form in which their agreement was necessary and which should have described the stages of the corporeal search; the forms were submitted to them after the search so that they could not agree in full conscience, as they did not know what to expect for. Besides, in spite of the procedural regulations, the plaintiff woman was examined when the blinds of the room were not pulled down.

Yet, the Court remarks that the penitentiary authorities did not touch the plaintiffs, with the exception of the plaintiff man who was indemnified by the internal instances, so that this aspect cannot be taken into account, as he lost the quality of a victim, under this aspect. Under these conditions, even if the plaintiffs were afflicted, one cannot say that the treatment they were submitted to meets the condition of minimal seriousness article 3 speaks about; so the Court prefers to examine the case in the light of article 8. As for the necessity for measures that should exist in a democratic society, the Court is not convinced that the searches were proportionally equal with the aim in view, if

taking into account the way they were made. As far as certain procedures have been adopted in order to assure a proper behavior during a corporeal search, the penitentiary authorities shall strictly observe them and shall - in as much as possible - protect through rigorous measures the dignity of the persons submitted to a corporeal search. The Court considers that the authorities did not observe this obligation, so that article 8 was breached.

Inhuman or degrading punishments are the result of the existence of a State “institutionalized act”, passed by the Law, in general, of by the customary law, and are to be found in the arsenal of the respective State; inhuman or degrading treatments, in principle, mean the deed of an individual who, even if he acts within a State organized action, overruns the authority conferred by the entrusted mission. At the same time, the moment the Convention forbids the inhuman or degrading punishments settled by the national legislation of a State, it means, that assuming consequences, by examining the concrete cases deducted to it, the Court exercises a real “direct control of conventionality” over the national legislation in the field.²⁵ As a rule, in the case of the other rights protected by the Convention, the control of conventionality of the Court is implicit, by establishing a possible breach of the right invoked by the plaintiff in his individual request.²⁶

At the present moment the production and the illicit traffic of narcotics, as well as their abusive consumption, is a flagellum many countries on the Continent face with.²⁷

Even if a country does not directly confront, at the domestic level, with the consumption of narcotics, she can be affected by the transit operations or by the production of narcotics. That is why, at present, almost all the countries are interested in cooperating in the mission of preventing and fighting against the production, the traffic and the illicit consumption of narcotics. The reports of the latest years have proved that the flagellum of the narcotics hit our country, too:

first as a transit area, later as a débouché and a consumption market, even if the consumption proper has not reached worrisome levels. Delinquency connected to narcotics, by its social, economic, medical and political consequences causes not only considerable prejudices to the State interests, but endangers the life and health of the people. Millions of people are annually joining those touched by the “white death”, an alarming process continuing the long file of those irremediably lost for society. Through its amplitude and dimensions the traffic of narcotics is to be faced with at a planetary level, raising serious problems in as much as the increase of the organized transnational criminality is concerned. Beside the implications regarding this flagellum in the health of the population and of the great costs meant to keep it under control, there must be underlined the fabulous gains - billions of dollars - made by the traffickers; part of these incomes makes the object of “money laundering” used for committing other transgressions, international terrorism included.

²⁵ Charrier, J.L. - *Code de la Convention européenne des droits de l'homme*, Litec, 2000, in Bîrsan, C. - *op. cit.*, pp. 231.

²⁶ Bîrsan, C. - *op. cit.*, pp. 231.

²⁷ uturefan, C.E. - *The Flagellum of Narcotics*, CERMAPRINT Printing House, Bucharest, 2006, pp. 5.

BIBLIOGRAPHY

1. Berger, V., *Jurisdiction of the European Court on Human Rights*, IInd edition, revised and improved, Romanian Institute for Human Rights, Bucharest, 1998.
2. Bîrsan, C. - *European Convention on Human Rights, vol. I. Rights and Liberties*, All Beck Printing House, Bucharest, 2005.
3. Charrier, J.L. - *Code de la Convention européenne des droits de l'homme*, Litec, 2000.
4. Chiriță, R. - *European Convention on Human Rights. Commentaries and Explanations*, vol. I, C.H. Beck Printing House, Bucharest, 2007.
5. Chiriță, R. - *European Court on Human Rights. Collection of Norms, 2006*, C.H. Beck Printing House, Bucharest, 2007.
6. Cliquennois, M. - *La Convention européenne des droits de l'homme et le juge français*, Editura L'Harmattan, Paris, 1997.
7. Hotca, M.A.; Dobrinoiu, M. - *Offences Stipulated in Special Laws. Commentaries and Explanations*, C.H. Beck Printing House, Bucharest, 2008.
8. Micu, D. - *Guaranteeing the Human Rights*, All Beck Printing House, Bucharest, 1998.
9. Muraru, I.; Tănăsescu, E.S. - *Constitution of Romania Commentaries on Articles*, CH Beck Printing House, 2008.
10. Popescu, C.L. - *International Protection of Human Rights - sources, institutions, procedures*, All Beck Printing House, Bucharest, 2000.
11. Ramascanu, B.; Nitelea, M. - *Romania's Cases at the European Court on Human Rights (Selections 2004-2005)*, Foreword: Dr Dan Lupascu, Bucharest, 2005.
12. Ramascanu, B.; Nitelea, M. - *Romania's Cases at the European Court on Human Rights (Selections 2005-2006)*, Foreword: Iulian Gîlcă, judge, Bucharest, 2006.
13. Renucci, J.F. - *Droit européen des droits de l'homme, Librairie Générale de Droit et de Jurisprudence*, Librairie Générale de Droit et de Jurisprudence, Paris, 2007.
14. Rizoïu, R; Nitelea, M - *Romania's Cases at the European Court on Human Rights (Selections 1998-2004)*, Foreword: Corneliu Bîrsan, judge at the European Court on Human Rights, Bucharest, 2004.
15. Rosianu, C; Bogdan, D.S. - "Article 3 - *The Right of Not Being Submitted to*

Torture, Inhuman or Degrading Treatments, in Phare Project
Monograph, Bucharest,
2004.

16. Stefan, C.E. - *The Flagellum of the Narcotics*, CERMAPRINT Printing
House, Bucharest, 2006.

17. Criminal Law Magazine no. 1/1996.

18. *European Court on Human Rights* www.echr.coe.int.