

Traffic accidents and the rationality of a repressive response

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There is probably no area of classical crime in which the number of victims is larger than in road traffic. It is perhaps comparable – though not in Europe – only with victims of drugs. Traffic offences are characterised by a low degree of culpability, which is sometimes very close to coincidence and therefore out of the reach of criminal law. In spite of that, the state can be very tough on perpetrators of traffic offences. Sanctions provided in Slovenian legislation for some of these offences have increased in one decade by 500 percent, representing a trend that cannot be found anywhere else in Europe.

It is argued in the present paper that harsher traffic policies have not met expectations. It seems even the opposite. Immediately after adopting more severe legislation, the number of fatal victims even slightly increases. It can nevertheless be established that the general trend has been falling in the recent years, although this tendency should rather be attributed to safer roads, safer cars, the introduction of the vignette system, than to a crime policy which is inadequate and insufficiently considered. This presumption can be confirmed by the fact that although the sanctions provided for drunk driving and speeding have increased most, the number of perpetrators of these offences has not fallen.

The many problems encountered in dealing with those who cause more severe accidents, includes the one considered in this paper: the delimitation between an accident - strictly speaking - and an act susceptible to culpability. It seems that the courts sometimes do not pay enough attention to the causal link and to the possibility of anticipating the consequences, so it looks as if criminal responsibility is determined by victims and not by other elements. Courts also refer to victims – in our opinion completely inappropriately – in cases in which they should not, e.g., in a procedure for mitigation of sentence.

It seems that neither harsher punishment nor tougher criminal policy are effective or appropriate for preventing road traffic accidents because they tend to disregard the basic principles of criminal law.

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