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THE IMPACT OF DIGITAL TRANSFORMATION AND ARTIFICIAL INTELLIGENCE ON THE CRIMINAL LAW ASSESSMENT OF DRUG TRAFFICKING IN HUNGARY

ABSTRACT

This study examines the effects of digital transformation and artificial intelligence (AI) on drug trafficking. As a result of technological advancements, illegal markets have partially shifted from the physical to the virtual realm, where anonymity and automated processes dominate. The aim of the research is to analyze how technical innovations such as the darknet, cryptocurrencies, and AI-based solutions are reshaping traditional criminal behaviors. In addition to presenting technological trends, the study draws on an analysis of the drug-related provisions of the current Hungarian Criminal Code. Domestic case law is discussed, with particular regard to the Supreme Court's decision examining the connection between ordering drugs online and acquiring the right to dispose of them. The paper presents the Hungarian legislature's response to the emerging legal dilemma, namely the new criminal conduct introduced by the 2025 amendment. The paper offers a critical assessment of this solution, highlighting the limitations of the new approach's applicability in light of the specific characteristics of drug purchases on the dark web. In conclusion, a proposal is outlined that, rather than introducing new elements of the offense, advocates for a more modern interpretation of the existing conceptual framework, one adapted to the digital reality. The study contributes to a better understanding of the relationship between technological development and criminal law, aiding in the evaluation of the effectiveness of legislative responses.

Keywords: artificial intelligence, digitization, drug trafficking, Hungary, cybercrime

1. INTRODUCTION

In today's digital world, the online space is an integral part of our everyday lives, but this dependence does not stop at legal use; it also permeates the world of serious and organized crime. Today, almost all forms of organized crime are present in the digital space: whether it's online fraud, drugs, or money laundering, the internet has become a mainstay of the criminal world. Criminals are becoming increasingly professional in their use of digital infrastructure, with technology serving as both a tool for their activities and a shield against the authorities, as well as a specific target.¹ Artificial intelligence and new technologies are accelerating crime and opening up entirely new opportunities for criminal networks. These developments are taking crime to a new level: it is becoming faster and more efficient, and authorities must keep up in an increasingly complex and rapidly changing world.²

The effects of technological advances are also clearly evident in the drug market, with innovations in various areas becoming the main aids to criminal networks throughout the entire drug supply chain. This is also evident in new methods of drug production, which enable higher yields, preparations with higher active ingredient content or purity, and novel consumer products. At the same time, developments in the digital world are also playing into their hands, as can be seen in the constant renewal of online drug distribution.³

Numerous national and global online platforms are now used to conduct drug sales, which are popular with both sellers and buyers due to their quick access and anonymity. At the retail level, open websites, including legal web shops and social media, are used to sell new psychoactive substances, counterfeit medicines and, to a lesser extent, traditional illicit drugs. Open websites are also used to purchase drug precursors and other chemicals needed for manufacturing. Current data indicate that retail distribution is increasingly moving to social media and various applications, ranging from public profiles to private messages and closed forums. Sales are also facilitated by darknet sites, which use encryption and cryptocurrency payments to ensure anonymity, serving customers worldwide or even targeting specific countries or language groups.⁴

¹ Europol, *The changing DNA of serious and organised crime*, European Union serious and organised crime threat assessment, 2025, p. 16.

² Europol, *The changing DNA of serious and organised crime*, European Union serious and organised crime threat assessment, 2025, p. 6.

³ EUDA, *EU Drug Market: Drivers and facilitators — Technology and innovation*, 2024, p. 3.

⁴ European Drug report 2025 Trends and developments, 2025, pp. 14-15.

Technological-based restructuring has partially shifted the scene of crime from the physical world to virtual space, where anonymity and automated processes dominate. According to Judith Aldridge, the traditional, violence-based structure of online drug trafficking has been replaced by a decentralized structure based on trust scores and encrypted logistics.⁵

In this situation, legislators and law enforcement agencies must find new answers when assessing drug-related crimes under criminal law.

2. THE ROLE OF THE DARKNET AND CRYPTOCURRENCIES IN ONLINE DRUG TRAFFICKING

Darknet drug transactions represent a new form of drug trafficking in the sense that they are reshaping local "offline" markets and functioning as a new channel for drugs.⁶ The darknet trade in illegal goods has undergone tremendous growth in recent years: a global industry has grown up that mimics the structure of legal platforms such as eBay or Amazon, with products advertised with photos and descriptions, the darknet community rating the reliability of traders, and 24-hour customer service available.⁷

To understand this phenomenon, it is essential to clarify the structure of virtual space, as a significant portion of online activities take place in layers that are invisible to everyday users.

2.1. Layers of the Internet

The internet basically consists of two parts: the surface web (clearnet) and the deep web. The surface web is the layer of the internet that is accessible to anyone: the websites found here and their content can be found using traditional browsers, such as Google Chrome, and have typical domain endings, such as .com. In contrast, the deep web makes up a much larger part of the internet. It is accessible with any browser, but its content cannot be displayed by traditional search engines and can therefore only be viewed by a small group of users. This may be because

⁵ Aldridge, J.; Décary-Héту, D., *Not an 'eBay for Drugs': The Cryptomarket "Silk Road" As a Paradigm Shifting Criminal Innovation*, 2014, p. 2.

⁶ Aldridge, J.; Décary-Héту D., *Hidden wholesale: The drug diffusing capacity of online drug cryptomarkets*, International Journal of Drug Policy, 35/2016, p. 8.

⁷ Vogt S., *Das Darknet – Rauschgift, Waffen, Falschgeld, Ausweise – das digitale „Kaufhaus“ der Kriminellen?*, Die Kriminalpolizei, 2/2017, p. 5.

it consists of intranets accessible to specific closed user groups or content with a
paywall function.⁸

The darknet can be defined as a small segment of the deep web that hides the user's
location and identity, thus ensuring anonymity. Special software, such as Tor, and
the appropriate settings are required to access dark web sites.⁹ The concept of the
dark web is usually associated with crime, but researchers prefer to use a neutral
definition and refer to the darknet only as a means of access (anonymizing
software), which says nothing about the legal status of its content.¹⁰

Tor (The Onion Router) is therefore anonymity software that encrypts IP addresses
or domain names, thereby preventing communication from being traced back to
the parties involved.¹¹ Its developer compared the structure of Tor technology to
an onion, whose center is hidden under layers of skin. The same can be observed
with Tor: the identity and activities of a given user are protected by multiple layers
of anonymization. The technology is based on the multiple transmission of data
traffic.¹² The Tor browser is similar to a standard web browser, with the difference
that Tor connects the user to the internet via the Tor network. When using Tor,
internet traffic is randomly routed through a network of servers before reaching its
final destination. In addition to Tor, there are several other encryption software
programs available, such as I2P and Freenet, but Tor is currently the most
popular.¹³

After installing the Tor software and configuring the appropriate settings, the Tor
browser connects to the Tor network, which ensures anonymity. Traditional
browsers are not suitable for searching; special search engines are required that
are specifically designed for use with darknet sites, enabling them to find hidden
content. The most commonly used darknet search engines include Torch,
DuckDuckGo, and HiddenWiki.¹⁴

⁸ May, S., „Tor” in eine andere Welt? Begriffe, Technologien und Widersprüche des
Darknets, Aus Politik und Zeitgeschichte. Darknet, 46–47/2017, p. 4.

⁹ Was ist eigentlich das Darknet? <https://blog.gdata.de/2026/01/38350-was-ist-eigentlich-das-darknet>, 12 December, 2025.

¹⁰ Tzanetakis, M., *Digitalisierung von illegalen Märkten. Folgen, Grenzen und Perspektiven*. In: Feustel, R.; Bröckling, U.; Schmidt-Semisch H. (Eds.), *Handbuch Drogen in sozial- und kulturwissenschaftlicher Perspekt*, Springer VS, Wiesbaden 2019, p. 479.

¹¹ Tzanetakis, M., *Zur globalen Ökonomie von digitalen Drogenmärkten*. In: Rausch. *Wiener Zeitschrift für Suchttherapie*, 2017, p. 192.

¹² May, *op. cit.* note 8, p. 5.

¹³ Serbakov, M., *Kriminalitás a dark weben: illegális piacok, pedofil oldalak, terroristák és az ellenük való küzdelem*, Büntetőjogi Szemle, 1/2020, pp. 92-93.

¹⁴ Bergmann, J., *Darknet Suchmaschinen*, 2021, <https://digital-hacks.de/darknet-suchmaschinen/>, 6 October, 2025.

2.2. How do illegal drug markets operate on the dark web?

Access to illegal darknet markets is usually subject to various conditions: on some sites, new traders can only be accepted if they are deemed trustworthy by existing traders. Often, new buyers must also be approved by the operator and pay a membership fee.¹⁵

The rating system helps buyers choose the right offer and dealer. Following the example of legal markets, a feedback system has also been developed on darknet sites, where buyers can rate the reliability of dealers: they can provide feedback on, among other things, the quantity and quality of the drugs ordered, customer service, and communication with sellers.¹⁶

Blockchain technology and cryptocurrencies ensure that money movements are concealed, eliminating the central banking system from the process. On illegal cryptocurrency markets, goods are paid for with virtual currencies, the best known of which is Bitcoin. However, due to the developing analytical methods of the authorities, criminals are increasingly turning to currencies that offer true anonymity, such as Monero.¹⁷ Parties can generally choose from three different payment systems. One variation is when the buyer first pays the cryptocurrency into an escrow account and the payment to the merchant is approved when the buyer confirms receipt of the goods. The advantage of this payment mechanism is that it protects buyers from potential fraud by merchants, but it also carries the risk that the escrow account manager will abuse their position (exit scam). It is also possible for the money to be transferred to the merchant before the goods are shipped, which carries the obvious risk that the goods will not be shipped. The third payment option – which is the most secure, but also the most technically complex and therefore rarely used – is when at least two of the three parties involved (the market operator, the trader, and the buyer) must confirm the transaction for the payment to be approved (Multisig).¹⁸

Drugs are most often delivered by mail or courier services, although in certain regions, such as Hydra Market, delivery via physical hiding places (so-called "dead drops") is also common. Safe and clean packaging of drugs is important in order to avoid detection. For this reason, many dealers maintain a separate room for preparing drugs, thereby avoiding leaving DNA traces or drug residues on the

¹⁵ Was ist eigentlich das Darknet? <https://blog.gdata.de/2026/01/38350-was-ist-eigentlich-das-darknet>, 12 December, 2025.

¹⁶ Europol, *Drugs and the darknet Perspectives for enforcement, research and policy*, 2017, p. 27.

¹⁷ Europol, *Internet Organised Crime Threat Assessment (IOCTA)*, 2021, p. 9.

¹⁸ Tzanetakis, M. *op. cit.* note 10, p. 485.

packaging. Packages are delivered in various ways: some buyers rent a separate mailbox for delivery, others use false information to obtain the delivery address of others, and still others provide their own name and address. Various guides are also available on darknet forums to inform buyers about safe delivery.¹⁹

Despite the fact that the better-known crypto markets – Silk Road, Dream Market, Hydra Market – have been operating for several years, it can be said that illegal darknet sites are short-lived, usually active for around eight months.²⁰ The market may be closed to the detriment of users: the operator suddenly shuts down the site without completing transactions and payments. However, it sometimes happens that the site operator announces the closure of the market in advance, but successful intervention by law enforcement agencies or hacker attacks can also lead to the site being shut down.²¹

2.3. Why do consumers choose the darknet?

In their study, Barrat, Ferris, and Winstock examine, among other things, the reasons why consumers decided to order drugs from Silk Road.²² In the countries surveyed, respondents cited four main reasons in the same order: the wide selection of drugs, their higher quality, the convenience of online purchasing, and positive reviews of the dealers. Other relevant factors included anonymity, lower drug prices, the absence of physical contact with dealers, and the lack of a social network.²³

In this context, the anonymity of transactions deserves a brief mention. Due to various encryption software and payment with cryptocurrency, the identity and location of the dealer and the buyer remain hidden. This anonymity provides two-way protection: it protects users from law enforcement agencies, and the identities of the participants remain hidden from each other. Since traders and buyers only know each other's usernames, it is completely impossible for them to identify each

¹⁹ Afilipoaie, A.; Shortis, P., *From Dealer to Doorstep – How Drugs Are Sold On the Dark Net*, 2015, p. 4.

²⁰ UNODC, *World Drug Report*, 2021, p. 75.

²¹ Europol, *Drugs and the darknet Perspectives for enforcement, research and policy*, 2017, p. 16.

²² During the research, darknet users from Australia, the US, and the UK answered the questions.

²³ Barrat, M.; Ferris, J.; Winstock, A., *Use of Silk Road, the online drug marketplace, in the United Kingdom, Australia and the United States*, 2014.

other. For this reason, darknet users feel much safer than those involved in street drug trafficking.²⁴

It should also be noted that the drugs and psychoactive substances available on the darknet are of higher quality than those available through traditional drug trafficking. The higher quality of the drugs was confirmed by an anonymous survey: 72-77% of respondents said that the drugs ordered on Silk Road were of better quality than those available through offline trade.²⁵ When consumers have to choose drugs from the range offered by street dealers, they are buying substances that have passed through numerous intermediaries in the traditional market before reaching the dealer. At these stations, the quantity of drugs arriving at the resellers is further increased by dilution or enrichment for additional profit, thereby reducing their quality.²⁶ There is no guarantee of the quality of drugs offered on the crypto markets, but online drug markets have features that encourage dealers to offer the best possible quality, including the aforementioned payment and feedback system and positive customer reviews.²⁷

Another disadvantage of offline drug trafficking is its geographical limitation: drugs reach consumers via several countries, stations, and individuals. From the traffickers' point of view, this makes it difficult to control the activities of more distant intermediaries and increases the risk of detection due to the cross-border transport of drugs. In addition, dealers and consumers are geographically limited, so the availability of drugs and psychoactive substances varies. It is quite possible that the drug the buyer wants to purchase is out of stock, in which case the buyer must either wait for the next shipment or find another dealer. In contrast, online drug markets are not affected by geographical constraints, so they offer consumers a wider selection of drugs and easier access compared to the physical drug trade.²⁸

The lack of physical contact brings with it an additional factor: non-violence. Offline drug trafficking involves numerous conflicts, which can easily lead to violence. Of course, disagreements also arise in anonymous drug markets, e.g. if the buyer does not receive the expected quality or quantity of drugs, or if the shipment does not arrive.²⁹ However, the absence of physical encounters reduces

²⁴ Kiss, T., *Miért népszerű a darknetes kábítószer-kereskedelem?*, In: Ünnepi tanulmányok a 75 éves Németh Zsolt tiszteletére. Navigare necesse est, Ludovika Egyetemi Kiadó, Budapest 2021, p. 270.

²⁵ Tzanetakis, M. *op. cit.* note 11, p. 193.

²⁶ Kiss, *op. cit.* note 31, pp. 271-272.

²⁷ Aldridge, J.; Décary-Héту, D., *Cryptomarkets: The Darknet As An Online Drug Market Innovation. Final report to NESTA*, 2015, p. 22.

²⁸ Tzanetakis, M. *op. cit.* note 10, p. 483.

²⁹ Tzanetakis, M. *op. cit.* note 11, p. 193.

the number of violent acts usually associated with drug trafficking. According to the practice established on crypto markets, the parties can resolve problematic situations directly with each other, but they can also involve the administrator. They also have the option of discussing the conflict with other users in various forums, and an automatic feedback system is also available to them.³⁰

The higher consumer price of drugs and psychoactive substances available on the street is another disadvantage related to distance. While in traditional drug trafficking, the price of drugs increases at each stage and with each additional activity (e.g., drug storage, smuggling) increases the price of drugs, anonymous platforms offer a wide range of drugs at more favorable prices to consumers by eliminating most of the stations and intermediaries.³¹

Finally, it should be noted that the online drug market directly connects consumers and distributors. Traditional drug procurement is based on personal connections and social capital. If the buyer's extensive network of contacts does not include individuals involved in drug distribution, the transaction cannot take place. Even if there are such individuals, the dealer's access to specific substances is severely limited. In contrast, online drug markets provide an opportunity to obtain special, harder-to-find substances without personal connections.³²

2.4. Algorithms and artificial intelligence in the drug market

Artificial intelligence (AI) is not just a new technical tool, but a technology that fundamentally changes the methods of crime. According to Glaser, AI creates opportunities that did not exist before. This does not necessarily mean completely new types of crime, but rather that traditional methods of crime are being transformed by it.³³ According to forecasts for the future, by 2035, unmanned systems—such as drones and self-driving vehicles—will become everyday tools of organized crime.³⁴

This technological development is having an impact not only on drug trafficking, but also on the very first stages of production. Innovations in the use of raw

³⁰ Morselli, C.; Décary-Héту, D.; Paquet-Clouston, M.; Aldridge, J., *Conflict Management in Illicit Drug Cryptomarkets*, 2017, p. 7.

³¹ Kiss, *op. cit.* note 31, p. 272.

³² Dési, Á., *A digitális bennszülött generáció és a kábítószer tudatosság*, Kriminológiai Közlemények, 78, 2018, p. 96.

³³ Glaser, S., *Künstliche Intelligenz im Strafrecht*, SIAK-Journal, 1/2024, p. 11.

³⁴ Europol, *The Unmanned Future(s) The impact of robotics and unmanned systems on law enforcement*, 2025, p. 41.

materials are fundamentally transforming the manufacture of synthetic drugs. In Europe, manufacturers have switched from strictly controlled precursors to freely available chemicals from which the necessary raw materials can be easily extracted or from which various drugs can be produced directly. This also demonstrates that drug manufacturers are becoming increasingly adept at adopting methods used in the pharmaceutical industry to avoid detection. In this area, the use of artificial intelligence—such as chatbots—to discover new compounds and molecules that can be used in the production of illegal drugs could pose a major threat in the future.³⁵

However, the rise of this technology goes beyond chemical innovation; it also fundamentally changes the relationship between the dealer and the buyer by eliminating direct human contact. The use of generative AI and automated chatbots in interactions between the "dealer" and the "buyer" eliminates direct human contact.

The continuous development of darknet markets and their convergence with social media and open web applications has made the work of investigators and authorities even more difficult. For example, in 2021, a "shop bot" called Televend appeared, operating through the Telegram messaging app and backed by an encrypted Tor-based interface. After buyers added Televend as a contact on Telegram and performed a few simple steps, they could access a list of drug dealers. The store was operated by a bot 24 hours a day, handling orders and all administrative functions. This solution provided protection for sellers and prevented the risk of distributed denial-of-service (DDoS) attacks. Although Televend was shut down in the fall of 2021, the system demonstrated that the method of linking darknet markets and messaging apps in drug trafficking works very well. Due to the convenience and greater security it offers users, as well as the protection it provides to sellers, it is possible that this method will reappear in the future, or may even be in use already.³⁶

It is also important to note that AI offers law enforcement new opportunities in the fight against drug trafficking. Algorithms are capable of analyzing billions of data points in real time, allowing investigators to connect clues found on the dark web with data available on the public internet. This enables authorities to not only

³⁵ EUDA, EU Drug Market: Drivers and facilitators — Technology and innovation, 2024, p. 4.

³⁶ EUDA, EU Drug Market: Drivers and facilitators — Technology and innovation, 2024, p. 12.

apprehend couriers, but also identify the actual leaders of criminal organizations based on their digital footprints.³⁷

AI is therefore simultaneously transforming the methods of crime and making detection in the digital world more effective.

3. THE LEGAL ELEMENTS OF DRUG TRAFFICKING AND DRUG POSSESSION IN THE HUNGARIAN CRIMINAL CODE

The Hungarian Criminal Code classifies drug-related criminal offenses according to whether they are related to drug distribution or consumption. Drug trafficking offenses include offering, transferring, distributing, and trading drugs, as well as providing the material resources necessary to commit the crime.

The legislator regulates the so-called consumer or purchaser type of criminal conduct in the legal definition of drug possession. The cultivation, production, acquisition, possession, importation into the country, exportation from the country, transportation within the country, and provision of material resources for these acts are punishable. "With regard to possession, it should be emphasized that it is only mentioned in the name of the criminal offense; the criminal acts must be interpreted independently and in relation to each other, and actual possession can only be relevant in relation to individual acts."³⁸

The Hungarian Criminal Code does not define what acts fall under the concept of criminal conduct, but Opinion 57 BK and Decision 1/2007 BJE contain guiding principles in this regard. Since this study focuses on the digital dimension of drug trafficking, the scope of the crimes examined has been narrowed in the legal analysis. This section of the study focuses on behaviors that can be digitally transmitted or linked to online transactions (trafficking, offering, acquisition), logically excluding forms that are typically tied to a physical location, such as cultivation or production.

³⁷ Voyager Labs: *Artificial Intelligence and the Fight Against Illegal Narcotics*, 2021, <https://www.voyager-labs.com/artificial-intelligence-and-the-fight-against-illegal-narcotics/>, 3 December, 2025.

³⁸ Szomora Zs., *Mi köze a kábítószer birtoklása büntetnének a Polgári Törvénykönyvhöz? Avagy hogyan ne értelmezzünk büntetőtényállást*, In: Tanulmányok Dr. Balogh Ágnes egyetemi docens tiszteletére, Pécsi Tudományegyetem Állam- és Jogtudományi Kar, Pécs 2023, p. 119.

3.1. Drug trafficking

In the legal definition of drug trafficking, regulated supply refers to soliciting another person to receive drugs, which constitutes a criminal offense if the solicitation is unsuccessful; otherwise, another criminal offense is established (transfer, distribution, or trafficking).³⁹

If, as a result of the offer, the recipient accepts or acquires the drugs, the person supplying the drugs has carried out the transfer of the drugs. The transfer therefore means the transfer of possession of the drugs, while the acquisition of the drugs means taking possession of them. The act of the perpetrator is considered to be the transfer of drugs if it is done to a specific person; if the perpetrator transfers the drugs to more than one person, their act corresponds to the distribution of drugs or drug trafficking.⁴⁰

Distribution occurs when the perpetrator supplies the drug, either free of charge or in exchange for payment, to several or an indeterminate number of persons. This criminal conduct may also occur when the perpetrator is in direct contact with only one person (to whom he or she hands over the drugs), but not with the sole intention of the recipient consuming the drugs himself or herself, but with the intention of passing them on to another person or other persons.⁴¹

Trafficking is carried out by anyone who participates in the distribution of narcotics with the aim of making a profit. Trafficking is a broader offense than distribution: it encompasses all activities that facilitate the delivery of drugs to dealers or consumers, such as the packaging, storage, transport, and distribution of drugs.⁴²

Both placing on the market and trading necessarily involve transfer, but cannot be narrowed down to actual transfer. The latter occurs when the transfer of drugs is made solely for the purpose of consumption by the recipient. The transfer that necessarily accompanies placing on the market, as well as trafficking, may consist of several sub-activities prior to this.⁴³ It may include finding sellers or buyers, using intermediaries, preliminary discussions, purchasing, viewing and examining

³⁹ Opinion No. 57 of the Criminal Law Department of the Supreme Court on the criminal liability for drug trafficking and drug possession

⁴⁰ Opinion No. 57 of the Criminal Law Department of the Supreme Court on the criminal liability for drug trafficking and drug possession

⁴¹ Opinion No. 57 of the Criminal Law Department of the Supreme Court on the criminal liability for drug trafficking and drug possession

⁴² *Ibid.*

⁴³ Supreme Court Decision BH 2002.299, Supreme Court Decision BH 2002.175

the goods, concluding the agreement, storing, transporting and dispensing the goods, preliminary reconnaissance of the place of transfer, securing means of transport and escorts, etc. it therefore covers all activities aimed at placing the drugs on the market, even through additional intermediaries.⁴⁴

3.2. Drug possession

Acquiring drugs means taking possession of them, which may be done by agreement with the previous owner (free of charge or in return for payment), but also without such an agreement. Thus, acquisition includes finding, purchasing, accepting without consideration, but also taking possession through theft or robbery. From the point of view of the commission of the crime, it is irrelevant whether the perpetrator takes possession of the drugs for himself or for another person. The crime is completed when the state of possession changes, and there is no need for the drug to be held in possession for a longer period of time. The acquisition of a drug is often not followed by longer-term possession, i.e., holding, because the acquirer consumes or uses it immediately.⁴⁵

However, the acquisition of drugs for the purpose of trafficking in itself falls within the scope of trafficking, and therefore the perpetrator who commits this act commits the completed crime of drug trafficking.⁴⁶

Transit-type criminal conduct (importing drugs into the country, exporting them from the country, or transporting them within the country) can only be established in the case of perpetrators who physically move the object of the offense for their own use or to satisfy their own needs. If the transport activity serves to deliver the drugs to another person or persons, this constitutes a sub-activity related to distribution, and thus constitutes transfer, placing on the market or trade.⁴⁷

4. CRIMINAL BEHAVIOR IN CYBERSPACE: POSSIBLE QUESTIONS OF INTERPRETATION

The dogmatic system of Hungarian criminal law is fundamentally based on acts committed in the physical world. However, when drug trafficking takes place on

⁴⁴ *Ibid.*

⁴⁵ Supreme Court Decision Bfv.1010/2021/6

⁴⁶ Supreme Court Decision BH 2017.5.144

⁴⁷ Beregszászi G., *Az egészséget veszélyeztető bűncselekmények*, In: Belovics, E.; Polt, P., A Büntető Törvénykönyv kommentárja, ORAC Kiadó, Budapest 2023.

the internet, the interpretation of the criminal acts defined in Sections 176–178 of the Criminal Code may raise dogmatic questions, so we need to consider what these concepts mean in the digital environment.

The concept of offering is relatively easy to define in the online space. If the seller uses an AI-based chatbot to negotiate with the buyer, the criminal act of "offering" is already committed by making an offer on the digital platform, regardless of whether the parties communicated directly with each other.

However, the concept of transfer requires a specific interpretation, as according to Hungarian judicial practice, transfer means the handing over of drugs from one person to another. In a digital environment, however, there is no physical contact between the perpetrator and the buyer. It is therefore questionable whether the "transfer" is completed when the drugs are posted or only when the buyer actually takes possession of them (e.g., at a "dead drop" point), where instructions are sent to the user by an algorithm.

The interpretation of distribution is also broadening in the range of criminal conduct, as its essence is that the drug becomes accessible to several people. Darknet markets and AI-controlled distribution systems perform precisely this function.

This statement also applies to the conduct of trading. Since the essence of trading is profit-making and regularity, automatic tasks performed by software—such as inventory control, continuous price adjustment, or customer review management—become part of the trader's work and can be evaluated as sub-actions. In this situation, the code and operation of the program reveal the perpetrator's intent: he uses technology to control sales. Thus, for the sake of profit, he is constantly present on the illegal market, even if he is not physically there himself.

When it comes to drug possession, interpreting the point of acquisition can be tricky if the drugs were ordered online. It often happens that a buyer orders drugs on the internet but never receives them because, for example, the authorities seize the package in the meantime. In such cases, it must be examined whether placing the order alone establishes the right to dispose of the drugs, i.e., whether the buyer who never physically received the substance can be punished.

To answer this question, it is worth examining domestic legal practice, as Hungarian courts have already heard a case that dealt with precisely this dilemma.

In the case on which the decision⁴⁸ was based, the perpetrator ordered a basic quantity of cannabis from abroad. The drugs arrived in Hungary as a letter sent by Magyar Posta Zrt. Nemzetközi Posta Kicszerelő Központ (Hungarian Post International Mail Exchange Center), addressed to the perpetrator. The authorities seized the drugs at the airport before they were delivered.

While the court of second instance found that the act constituted the criminal offense of possession of drugs imported into the country, the Supreme Court classified the act as acquisition of drugs.

In its reasoning, the Supreme Court pointed out, first and foremost, that the persons involved in the delivery were mistaken in importing the drugs into Hungary.

Since the perpetrator did not come into physical contact with the drugs seized at the airport, he was unable to transport them to Hungary. The perpetrator's goal was to obtain the drugs, which, in the opinion of the Supreme Court, was achieved by establishing the right to dispose of the drugs.

In its decision, the Supreme Court also referred to a case where the perpetrator transported drugs purchased abroad and thus acquired to Hungary. In this case, the correct classification of the act is possession of drugs committed by acquisition, because "acquisition provides earlier criminal law protection than importation into the country, since the territorial scope of the Criminal Code also covers conduct committed by Hungarian citizens abroad that constitutes possession of narcotics under Hungarian law, i.e., the acquisition of narcotics. Therefore, while in this case the acquisition of the drugs takes place abroad, the criminal act of "importation into the country" does not even enter the attempt stage before crossing the Hungarian border. The classification of the completed crime as acquisition is not affected if the perpetrator also engages in further criminal conduct involving the importation of the same drugs into the country.

However, the criminal law assessment of the act is different when "the perpetrator obtains the right of disposal over drugs that are physically located abroad without actually taking possession of them, and enlists the help of a third party to establish possession of the drugs. This is a typical form of cross-border drug trafficking, which is only relevant to the case under consideration insofar as it clearly illustrates that the right of disposal over drugs can be separated from possession. In such cases, acquisition is not linked to the person in possession, but to the right

⁴⁸ Supreme Court Decision BH 2023.4.89

of disposal: in the situation described, it is clear that the drugs are not acquired by the courier, but by the dealer who gives the courier instructions and has control over the drugs.

The same legal assessment applies to cases where drugs purchased abroad by an agent are not intended for distribution. In such cases, the principal is responsible for the acquisition of the drugs and the agent is responsible for importing them into the country.

In contrast, in the case under review, the perpetrator purchased the drugs from an unknown person abroad, in accordance with the rules governing contracts between absent parties in civil law. On the basis of these provisions, the Supreme Court concluded that by placing the order, the perpetrator acquired ownership of the drugs – the right to dispose of them – when they were posted abroad, regardless of the fact that the shipment did not come into his physical possession due to its seizure. "The right of disposal is typically, but not exclusively, associated with the possession of the drugs, i.e., the perpetrator acquires the drugs even without actual possession if he or she has the power to determine their destination."

Although the Supreme Court put an end to the case by applying civil law rules, the decision did not provide a satisfactory solution, so legislative intervention was ultimately necessary. In response, Hungarian lawmakers finally settled the debate with the 2025 amendment to the law by including a new criminal offense in the statute: ordering drugs for importation into the country.

In my opinion, the applicability of the new criminal offense may encounter serious obstacles in practice due to its specific nature. Since the legislator expressly stipulates that orders placed "for the purpose of importing into the country" are punishable, it is essential for the facts of the case that the perpetrator was aware of the foreign origin of the drugs at the time of placing the order. This subjective condition is particularly problematic in the case of purchases on the dark web: on anonymous platforms, the buyer orders from an unknown seller and has no information about the actual physical location of the drug or the place of dispatch. If the perpetrator cannot prove that the drugs will come from abroad, this new twist will not be applicable due to lack of intent.

5. CONCLUSION

The processes presented in the study highlight that the cyber dimension of drug trafficking and the use of artificial intelligence are no longer a distant future, but a

present reality. This puts the dogmatic framework of Hungarian substantive criminal law to the test and necessitates a refinement of legal interpretation.

In conclusion, it can be said that technological development does not stop at the gates of the legal system. While keeping in mind the principles of legal certainty and proportionality, Hungarian criminal law must be able to provide meaningful responses to the online forms of drug trafficking. The use of automated processes and algorithms allows transactions to take place without human interaction. This distance makes it difficult to interpret classic criminal behavior.

In my opinion, the previous criminal acts defined in the Criminal Code already covered all relevant acts related to drugs. Instead of specifically mentioning "ordering," a more effective solution would be to interpret the existing conceptual framework in a more modern way. Instead of adding new criminal acts, the emphasis should be placed on filling existing concepts with content. The 1/2007. BJE decision, which is still referred to today in the interpretation of drug-related crimes, was issued under the previous Criminal Code. Nearly two decades have passed since then, and due to the technological explosion (darknet, cryptocurrencies, AI) and the change in approach in the 2012 Criminal Code, this guideline has now become obsolete. I therefore consider it necessary to adopt a uniformity decision that contains a flexible interpretation of the existing framework, adapted to the digital world, which is capable of providing a meaningful response to 21st-century forms of crime.

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