

## **Transport of Irregular Migrants in Inadequate Conditions: The Concrete Endangerment Standard**

**Matjaž Ambrož, Ph.D.**, Professor of Criminal Law, Faculty of Law, University of Ljubljana and Researcher, Institute of Criminology at the Faculty of Law in Ljubljana, Slovenia. E-mail: [matjaz.ambroz@pf.uni-lj.si](mailto:matjaz.ambroz@pf.uni-lj.si)

Slovenian courts have recently been dealing with a large number of cases dealing with prohibited crossings of the border or territory of a country (Article 308 of the Slovenian Criminal Code). An aggravated form of this offence is committed when irregular migrants are exposed to life and health dangers during transport. This is a case of a concrete endangerment offence, whereas the case law has grappled with the question of what level of danger these offences require. The analysis reveals several shortcomings in the previous theoretical definitions of concrete endangerment. In this article, the author attempts to rethink concrete endangerment, reflecting on the role of probability in judicial decision-making. Different ways of assessing the probability of an event are presented. The findings indicate that quantitative standards of probability are largely irrelevant for judicial decision-making, so courts will have to work with qualitative (descriptive) standards, which must be sufficiently clear and must not set the threshold of concrete danger too high.

**Keywords:** migration, crime policy, endangerment offences, concrete danger, probability, biases

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