

PENAL CODE of July 17, 2009 (LAW no. 286/2009)

ISSUER • parliament

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Note

By art. I of EMERGENCY ORDINANCE no. 14 of February 5, 2017, published in the OFFICIAL GAZETTE no. 101 of February 5, 2017, the Government Emergency Ordinance no. 13/2017 for the amendment and completion of Law no. 286/2009 regarding the Criminal Code and Law no. 135/2010 regarding the Criminal Procedure Code, published in the Official Gazette no. 92 of February 1, 2017.

Consequently, all the amendments and additions provided by art. I of the Government Emergency Ordinance no. 13/2017, published in the Official Gazette of Romania no. 92 of February 1, 2017.

By LAW no. 8 of February 24, 2017, published in the OFFICIAL GAZETTE no. 144 of February 24, 2017, the Government's Emergency Ordinance no. 13/2017, published in the OFFICIAL GAZETTE no. 92 of February 1, 2017.

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GENERAL Part Title I Criminal law and its limits of application Chapter I General principles Article 1 Legality of incrimination

- (1) The criminal law provides for the facts that constitute crimes.  
 (2) No person can be penalized for an act that was not provided for by the criminal law at the time it was committed.

#### Article 2 Legality of criminal law sanctions

- (1) The criminal law provides for the applicable punishments and the educational measures that can be taken against people who have committed crimes, as well as the safety measures that can be taken against people who have committed acts provided for by the criminal law.  
 (2) A punishment cannot be applied or an educational measure or a safety measure cannot be taken if this was not provided for by the criminal law at the time the act was committed.  
 (3) No penalty may be established and applied outside its general limits.

#### Note

Rejection decision: HP no. 16/2017, published in the Official Gazette no. 439 of June 13, 2017.

#### Chapter II Application of the criminal law

##### Section 1 Application of the criminal law in time

Article 3 Activity of the criminal law The criminal law applies to crimes committed while it is in force.

Article 4 Application of the decriminalization criminal law The criminal law does not apply to acts committed under the old law, if they are no longer provided for by the new law. In this case, the execution of punishments, educational measures and safety measures, pronounced on the basis of the old law, as well as all the criminal consequences of the court rulings regarding these facts cease with the entry into force of the new law.

#### Note

By DECISION OF THE CONSTITUTIONAL COURT no. 651 of October 25, 2018, published in the OFFICIAL GAZETTE no. 1083 of December 20, 2018, the exception of unconstitutionality was admitted, finding that the legislative solution contained in art. 4 of the Criminal Code, which does not assimilate the effects of a decision of the Constitutional Court establishing the unconstitutionality of an incrimination rule with those of a decriminalization criminal law, is unconstitutional.

According to art. 147 para. (1) from the ROMANIA CONSTITUTION republished in the OFFICIAL GAZETTE no. 767 of October 31, 2003 the provisions of the laws and ordinances in force, as well as those of the regulations, found to be unconstitutional, cease their legal effects 45 days after the publication of the decision of the Constitutional Court if, during this interval, the Parliament or the Government, as the case may be, do not reconcile the non-constitutional provisions with the provisions of the Constitution. During this term, provisions found to be unconstitutional are suspended by law.

In conclusion, between December 20, 2018 and February 2, 2019, the legislative solution contained in art. 4 of the Criminal Code, which does not assimilate the effects of a decision of the Constitutional Court establishing the unconstitutionality of an incrimination rule with those of a decriminalization criminal law, was suspended by law, ceasing its legal effects on February 3, 2019, since the legislator did not intervene to modify the contested provision.

#### Note

Admission decision: HP no. 30/2015, published in the Official Gazette no. 14 of January 8, 2016:

Establishes that in the case of a fraud offense committed under the rule of the Penal Code from 1969, which produced a damage below the threshold of 2,000,000 lei, the modification of the notion of "particularly serious consequences" in the Penal Code does not produce the effects provided by art. 4 of the Criminal Code, nor those provided by art. 3 paragraph (1) from Law no. 187/2012 for the implementation of Law no. 286/2009 on the Criminal Code and does not lead to the decriminalization of the offense of fraud.

Admission decision: HP no. 9/2016, published in Official Gazette no. 356 of May 10, 2016:

Determines that:

- In applying the provisions of art. 371 of the Criminal Code, in the case of the crime of disturbing public order and peace, for the existence of the crime, violence, threats or serious attacks on dignity must not be committed against several people, it being enough that the violence, threats or serious attacks on dignity, that disturb public order and peace, to be committed, in public, against a person.
- In the event that violence, threats or serious attacks on the person's dignity, which disturb public order and peace, were committed, in public, against a single person, the decriminalization does not operate, the provisions of art. 4 of the Criminal Code.

Rejection decision: HP no. 31/2015, published in Official Gazette no. 19 of January 11, 2016.

Article 5 Application of the more favorable criminal law until the final judgment of the case

(1) If one or more criminal laws intervened between the commission of the crime and the final judgment of the case, the more favorable law shall be applied.

Note

Admission decision: HP no. 21/2014, published in the Official Gazette no. 829 of November 13, 2014:

Establishes that the provisions of art. 5 para. 1 of the Criminal Code must be interpreted, including in the matter of the prescription of criminal liability, in the sense that the more favorable criminal law is applicable in the case of crimes committed before February 1, 2014 that have not yet been definitively judged, in accordance with Decision no. 265/2014 of the Constitutional Court.

(2) The provisions of par. (1) also applies to normative acts or their provisions declared unconstitutional, as well as emergency ordinances approved by Parliament with amendments or additions or rejected, if during the time they were in force they contained more favorable criminal provisions.

Note

By DECISION OF THE CONSTITUTIONAL COURT no. 265 of May 6, 2014, published in the OFFICIAL GAZETTE no. 372 of May 20, 2014, the exception of unconstitutionality regarding the provisions of art. 5 of the Criminal Code, finding that these provisions are constitutional to the extent that they do not allow the combination of provisions from successive laws in establishing and applying the more favorable criminal law.

According to art. 147 para. (1) from the ROMANIA CONSTITUTION republished in the OFFICIAL GAZETTE no. 767 of October 31, 2003 the provisions of the laws and ordinances in force, as well as those of the regulations, found to be unconstitutional, cease their legal effects 45 days after the publication of the decision of the Constitutional Court if, during this interval, the Parliament or the Government, as the case may be, do not reconcile the non-constitutional provisions with the provisions of the Constitution. During this term, provisions found to be unconstitutional are suspended by law.

Therefore, between May 20, 2014 and July 3, 2014, the provisions of art. 5 of the Criminal Code, to the extent that they allow the combination of the provisions of successive laws in the establishment and application of the more favorable criminal law, were suspended by law, ceasing their legal effects as of July 4, 2014, since the legislator did not intervene to amend provisions declared unconstitutional.

Note

Admission decision: HP no. 2/2014, published in the Official Gazette no. 319 of April 30, 2014:

In application of art. 5 of the Criminal Code, establishes that the prescription of criminal liability is an autonomous institution compared to the institution of punishment.

Admission decision: HP no. 5/2014, published in the Official Gazette no. 470 of June 26, 2014:

In application of art. 5 of the Criminal Code, the criterion of the overall assessment of the more favorable criminal law is taken into account.

It finds that it is not allowed to combine the provisions of successive laws in the establishment and application of the more favorable criminal law regarding the conditions of existence and sanctioning of the crime in continued form.

Admission decision: HP no. 10/2014, published in the Official Gazette no. 502 of July 7, 2014:

Establishes that, in application of art. 5 of the Criminal Code, the mitigating circumstances are assessed globally depending on the incrimination and sanction. In the situation of the entry into force of a new law, which makes changes both with regard to punishments and with regard to mitigating circumstances, the circumstances as part of the institution of the sanction of a crime cannot be looked at and analyzed separately from the institution of the punishment.

The removal of mitigating circumstances does not affect the principle of not aggravating the situation in one's own right of appeal provided for in art. 418 of the Criminal Procedure Code, when concretely, for the same deed, a less severe sanction is established.

Admission decision: HP no. 13/2015, published in the Official Gazette no. 410 of June 10, 2015:

Establishes that in applying the provisions of art. 5 of the Criminal Code, according to Decision no. 265/2014 of the Constitutional Court, in the case of the plurality of crimes consisting of a crime for which, according to the previous Criminal Code, a penalty with conditional suspension of execution was applied, according to art. 41 para. (1) of the Criminal Code, does not meet the conditions to constitute the first term of post-conviction recidivism and, respectively, a crime committed during the trial period, for which the more favorable criminal law is the new law, the establishment and execution of the punishment, following the revocation of the conditional suspension, is carried out according to the provisions of art. 15 para. (2) from Law no. 187/2012 for the implementation of Law no. 286/2009 regarding the Criminal Code related to art. 83 para. 1 of the previous Criminal Code.

Admission decision: HP no. 7/2016, published in the Official Gazette no. 251 of April 5, 2016:

Establishes that, in application of the provisions of art. 5 of the Criminal Code, in the case of multiple crimes consisting in the commission of crimes before February 1, 2014, respectively of crimes committed after the entry into force of the new Criminal Code, for crimes committed before February 1, 2014, the criminal law will be applied more favorable - identified as being the old law or the new law -, and for crimes committed under the new criminal law, as well as for the sanctioning treatment of the criminal contest, the new law will be applied, according to art. 3 of the Criminal Code and art. 10 of Law no. 187/2012 for the implementation of Law no. 286/2009 regarding the Criminal Code.

Admission decision: HP no. 11/2016, published in the Official Gazette no. 468 of June 23, 2016:

Establishes that, in application of the provisions of art. 5 of the Criminal Code, according to the Decision of the Constitutional Court no. 265/2014, in the case of the plurality of crimes consisting of a crime for which, according to the previous Criminal Code, a penalty was imposed by a final decision with the suspension under supervision of the execution of the penalty according to art. 86<sup>1</sup> of the previous Criminal Code and a crime committed during the trial period, for which the more favorable criminal law is considered the new law, the establishment and execution of the resulting punishment following the revocation of the suspension under supervision is carried out according to art. 96 para. (4) and (5) of the Criminal Code.

Admission decision: HP no. 12/2019, published in Official Gazette no. 481 of June 13, 2019:

It establishes that, regardless of the type of punishment applied for the crime committed during the trial period, the regime of conditional suspension of the execution of the punishment applied on the basis of art. 81 of the Criminal Code from 1969, as an effect of the application of the more favorable criminal law, through a decision pronounced after February 1, 2014, is maintained even after the entry into force of the current Criminal Code, including in terms of its revocation or cancellation, being the one provided by Criminal Code of 1969.

Rejection decision: HP no. 9/2014, published in Official Gazette no. 497 of July 3, 2014.

Rejection decision: HP no. 15/2016, published in the Official Gazette no. 550 of July 21, 2016.

Rejection decision: HP no. 4/2017, published in the Official Gazette no. 255 of April 12, 2017.

Rejection decision: HP no. 12/2024, published in the Official Gazette no. 372 of April 19, 2024.

Article 6 Application of the more favorable criminal law after the final judgment of the case

(1) When, after the conviction has become final and until the full execution of the prison sentence or the fine, a law has intervened that provides for a lighter punishment, the sanction applied, if it exceeds the special maximum provided by the new law for the offense committed, is reduced to this maximum.

Note

Admission decision: HP no. 6/2014, published in Official Gazette no. 471 of June 26, 2014:

In the application of the more favorable criminal law after the final trial of the case according to art. 6 para. 1 of the Criminal Code, in the case of the attempt, the maximum limit of the punishment that must be taken into account is the maximum prescribed by law for the attempted form (the special maximum of the punishment prescribed by law for the completed crime, reduced or replaced according to the provisions on the sanctioning treatment of the attempt).

Admission decision: HP no. 8/2014, published in Official Gazette no. 473 of June 27, 2014:

In the application of the more favorable criminal law after the final trial of the case according to art. 6 para. (1) of the Criminal Code, establishes that the special maximum provided by the new law for the crime committed will not take into account the mitigating or aggravating circumstances held by the convicted person and which appear capitalized in the concrete punishment, when comparing the punishment applied with the special maximum provided by the new law.

Admission decision: HP no. 13/2014, published in the Official Gazette no. 505 of July 8, 2014:

The provisions of art. 6 para. (1) of the Criminal Code , regarding the more favorable law after the final judgment of the case, are also applicable with regard to the judgment of conviction pronounced by another state against Romanian citizens, if it was recognized in the procedure regulated by Law no. 302/2004 on international judicial cooperation in criminal matters, republished, with subsequent amendments and additions.

Admission decision: HP no. 14/2014, published in the Official Gazette no. 525 of July 15, 2014:

Establishes that in the application of the more favorable criminal law, after the final trial of the case, according to art. 6 para. (1) of the Criminal Code , when comparing the penalty applied with the special maximum provided by the new law, the special reason for reducing the penalty provided by art. 320<sup>1</sup> para. 7 of the previous Criminal Procedure Code, withheld from the convicted person and used in the actual punishment.

Admission decision: HP no. 15/2014, published in the Official Gazette no. 546 of July 23, 2014:

Establishes that, in the interpretation of the provisions of art. 6 para. (1) of the Penal Code , for the hypothesis of a crime committed in a state of post-execution recidivism judged definitively before the entry into force of the new Penal Code, the penalty applied by the sentencing decision will be compared with the special maximum provided in the new law for the crime committed by taking in consideration of the provisions of art. 43 para. (5) of the Criminal Code .

Admission decision: HP no. 12/2015, published in the Official Gazette no. 409 of June 10, 2015:

In the interpretation of the provisions of art. 6 para. (1) of the Criminal Code , in the case of definitive punishments for crimes that produced particularly serious consequences according to the previous Criminal Code, the determination of the special maximum provided by the new law is carried out, even if the value of the damage is lower than the value threshold provided by art. 183 of the Criminal Code , by reference to the aggravated version of the limiting offenses listed in art. 309 of the Criminal Code .

Rejection decision: HP no. 22/2014, published in Official Gazette no. 817 of November 10, 2014.

(2) If, after the life imprisonment sentence has become final and until its execution, a law has intervened that provides for the same deed only a prison sentence, the life imprisonment sentence is replaced by the maximum prison sentence provided for that crime.

(3) If the new law provides only a fine instead of imprisonment, the imposed penalty is replaced by a fine, without exceeding the special maximum provided for in the new law. Taking into account the executed part of the prison sentence, the execution of the fine can be removed in whole or in part.

(4) Educational measures not implemented and not provided for in the new law are no longer implemented, and those that have a counterpart in the new law are implemented within the content and limits provided by it, if it is more favorable.

(5) When the new law is more favorable under the conditions of para. (1)-(4) , the complementary punishments and safety measures not implemented and not provided for in the new law are no longer executed, and those that have a counterpart in the new law are executed within the content and limits provided by it.

(6) If the new law is more favorable only in terms of complementary punishments or safety measures, they are executed within the content and limits provided by the new law.

(7) When a provision of the new law refers to definitively applied punishments, in the case of punishments executed until the date of its entry into force, the reduced or replaced punishment is taken into account according to the provisions of para. (1)-(6) .

Note

Admission decision: HP no. 1/2014, published in the Official Gazette no. 349 of May 13, 2014:

In the application of the more favorable criminal law, after the final judgment of the case before the entry into force of the new Criminal Code, for the hypothesis of a contest of crimes, in a first stage the incidence of the provisions of art. 6 of the Criminal Code , regarding individual punishments.

In the second stage, it is checked whether the resulting penalty applied according to the old law exceeds the maximum that can be reached based on the new law, according to art. 39 of the Criminal Code .

If the resulting penalty, applied according to the old law, exceeds the maximum that can be reached based on art. 39 of the Criminal Code , the resulting penalty will be reduced to this maximum.

Otherwise, the resulting penalty will remain as established under the old law.

Admission decision: HP no. 7/2014, published in the Official Gazette no. 471 of June 26, 2014:

In applying the more favorable criminal law, according to art. 6 of the Criminal Code , in the case of continued crimes, the phrase "special maximum prescribed by the new law for the crime committed" means the special maximum prescribed by law for the crime, without taking into account the reason for increasing the punishment provided for the continued crime.

Admission decision: HP no. 18/2014, published in the Official Gazette no. 775 of October 24, 2014:

Establishes that in the application of the more favorable criminal law, after the final trial of the case, according to art. 6 of the Criminal Code with reference to art. 21 para. (1), (2) and (3) of Law no. 187/2012:

- the enforceable prison sentence or the sentence in the case of multiple crimes enforceable applied for crimes committed during the minority whose quantum is up to 15 years will be replaced by the educational measure of internment in a detention center for a period equal to the duration of the prison sentence;

- the enforceable penalty or the penalty in the case of a plurality of enforceable offenses applied for offenses committed during the minority of more than 15 years, but which does not exceed 20 years, will be replaced by the educational measure of internment in a detention center for a period of 15 years.

Admission decision: HP no. 3/2015, published in the Official Gazette no. 380 of June 2, 2015:

It states in the sense that, in applying the provisions of art. 6 of the Criminal Code , establishing the punishment based on the new law, in the case of the plurality of crimes which, according to the Criminal Code of 1969, entailed the retention of the state of post-conviction recidivism with the revocation of conditional suspension, and, according to the Criminal Code, the conditions of post-conviction recidivism regarding the first term are no longer met, they are determined according to art. 44 related to art. 39 of the Criminal Code , regarding the intermediate plurality.

Admission decision: HP no. 13/2016, published in the Official Gazette no. 457 of June 21, 2016:

Establishes that, in application of the provisions of art. 6 of the Criminal Code , in the case of a continuing crime which, according to the new criminal law, no longer meets the conditions of existence of the continued crime, but the conditions of the competition of crimes, the court refers to the special maximum provided by the new law for the crime committed, and not to the maximum penalty that would result from the application of the provisions relating to the competition of crimes according to the new criminal law.

Admission decision: HP no. 13/2017, published in the Official Gazette no. 464 of June 21, 2017:

Establishes that the provisions of art. 6 of the Criminal Code are incidents in the hypothesis that the more favorable criminal law intervened after the conditional release of the convicted person, and later the execution of the rest of the sentence was ordered, through a new definitive judgment of conviction, by which the court did not rule on the application of the more favorable criminal law after the final trial of the case.

Article 7 Application of the temporary criminal law

(1) The temporary criminal law applies to the crime committed during the time when it was in force, even if the act was not prosecuted or judged during that time period.

(2) The temporary criminal law is the criminal law that stipulates the date of its coming into force or whose application is limited by the temporary nature of the situation that required its adoption.

Section 2 Application of criminal law in space

Article 8 Territoriality of criminal law

(1) Romanian criminal law applies to crimes committed on the territory of Romania.

(2) The territory of Romania means the land area, the territorial sea and the waters with the soil, the subsoil and the air space, included between the state borders.

- (3) Crime committed on the territory of Romania means any crime committed on the territory shown in paragraph. (2) or on a ship under the Romanian flag or on an aircraft registered in Romania.
- (4) The offense is considered to have been committed on the territory of Romania and when an act of execution, instigation or complicity was carried out on this territory or on a ship under the Romanian flag or on an aircraft registered in Romania or occurred, even in part, the result of the crime.

#### Article 9 Personality of the criminal law

- (1) The Romanian criminal law applies to crimes committed outside the territory of the country by a Romanian citizen or a Romanian legal entity, if the penalty provided by the Romanian law is life imprisonment or imprisonment for more than 10 years.
- (2) In the other cases, the Romanian criminal law applies to crimes committed outside the territory of the country by a Romanian citizen or a Romanian legal person, if the act is also provided as a crime by the criminal law of the country where it was committed or if it was committed in a place not subject to the jurisdiction of any state.
- (3) The initiation of the criminal action is done with the prior authorization of the general prosecutor of the prosecutor's office attached to the court of appeal in whose territorial radius the prosecutor's office first notified is located or, as the case may be, of the general prosecutor of the prosecutor's office attached to the High Court of Cassation and Justice. The term in which the prosecutor can issue the authorization is up to 30 days from the date of the authorization request and can be extended, according to the law, without the total duration exceeding 180 days. (on 01-02-2014, Paragraph (3) of art. 9 was amended by point 1 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

Note

Article II of LAW no. 217 of October 29, 2020, published in the Official Gazette no. 1012 of October 30, 2020, provides:

#### Article II

By exception to the provisions of art. 9 of Law no. 286/2009 regarding the Criminal Code, published in the Official Gazette of Romania, Part I, no. 510 of July 24, 2009, with subsequent amendments and additions, and in application of art. 12 of Law no. 286/2009, with subsequent amendments and additions, for the facts provided for in art. 218-220, art. 221 para. (1)-(2<sup>1</sup>), art. 222<sup>1</sup>, art. 216<sup>1</sup> and art. 374 para. (1) and (1<sup>1</sup>) of Law no. 286/2009, with subsequent amendments and additions, the Romanian criminal law applies to crimes committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the penalty provided by Romanian law, even if the act is not provided as a crime by law criminal law of the country where it was committed.

#### Article 10 The reality of the criminal law

- (1) Romanian criminal law applies to crimes committed outside the territory of the country by a foreign citizen or a person without citizenship, against the Romanian state, against a Romanian citizen or a Romanian legal entity.
- (2) The initiation of the criminal action is done with the prior authorization of the general prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice and only if the deed is not subject to judicial proceedings in the state on whose territory it was committed.

#### Article 11 Universality of the criminal law

- (1) The Romanian criminal law applies to crimes other than those provided in art. 10, committed outside the territory of the country by a foreign citizen or a person without citizenship, who is willingly in the territory of Romania, in the following cases:
- a crime was committed that the Romanian state assumed the obligation to repress under an international treaty, regardless of whether or not it is provided for by the criminal law of the state on whose territory it was committed;
  - extradition or surrender of the criminal was requested and this was refused.
- (2) The provisions of par. (1) lit. b) does not apply when, according to the law of the state where the crime was committed, there is a cause that prevents the initiation of the criminal action or the continuation of the criminal process or the execution of the punishment or when the punishment has been executed or is considered to have been executed.
- (3) When the sentence has not been executed or has been executed only in part, the procedure shall be carried out according to the legal provisions regarding the recognition of foreign judgments.

Article 12 Criminal law and international treaties The provisions of art. 8-11 apply unless otherwise ordered by an international treaty to which Romania is a party.

Article 13 Immunity from jurisdiction Criminal law does not apply to crimes committed by diplomatic representatives of foreign states or by other persons who, in accordance with international treaties, are not subject to the criminal jurisdiction of the Romanian state.

#### Article 14 Extradition

- (1) Extradition can be granted or requested based on an international treaty to which Romania is a party or on the basis of reciprocity, in accordance with the law.
- (2) Surrender or extradition of a person in relation to the member states of the European Union is granted or requested in accordance with the law.
- (3) Surrender of a person to an international criminal court is granted in accordance with the law.

### Title II Crime

#### Chapter I General provisions

#### Article 15 Essential features of the crime

- (1) The crime is the deed provided by the criminal law, committed with guilt, unjustified and imputable to the person who committed it.
- (2) The crime is the only basis for criminal liability.

Note

Rejection decision: HP no. 5/2016, published in Official Gazette no. 183 of March 11, 2016.

#### Article 16 Guilt

- (1) The act constitutes a crime only if it was committed with the form of guilt required by the criminal law.
- (2) Guilt exists when the deed is committed with intent, through fault or with an exceeded intent.
- (3) The act is committed with intent when the perpetrator:
- foresees the result of his act, aiming for its occurrence by committing that act;
  - foresees the result of his act and, although he does not follow it, accepts the possibility of its production.
- (4) The act is committed by mistake, when the perpetrator:
- foresees the result of his act, but does not accept it, considering without grounds that it will not occur;
  - does not foresee the result of his deed, although he should and could have foreseen it.
- (5) There is excessive intent when the deed consisting of an intentional action or inaction produces a more serious result, which is due to the fault of the perpetrator.
- (6) The deed consisting of an action or inaction constitutes a crime when it is committed with intent. The deed committed out of fault constitutes a crime only when the law expressly provides for it.

Article 17 Committing the commission offense by omission The commission offense that requires the production of a result is also considered committed by omission, when: a) there is a legal or contractual obligation to act; b) the author of the omission, through a previous action or inaction, created a state of danger for the protected social value that facilitated the production of the result.

## Chapter II Justifying causes

## Article 18 General provisions

- (1) The act provided by the criminal law does not constitute a crime, if there are any of the justifying causes provided by the law.
- (2) The effect of the justifying causes also extends to the participants.

## Article 19 Legitimate defense

- (1) The deed provided by the criminal law committed in self-defense is justified.
- (2) The person who commits the act in order to remove a material, direct, immediate and unjust attack is in self-defense, which endangers his person, another's, their rights or a general interest, if the defense is proportional to the seriousness of the attack.
- (3) It is presumed to be in self-defense, under the conditions of para. (2), the one who commits the act to reject the entry of a person into a home, room, outbuilding or fenced place belonging to it, without right, by violence, cunning, burglary or other such illegal ways or during the night.

## Article 20 State of necessity

- (1) The deed provided by the criminal law committed in a state of necessity is justified.
- (2) The person who commits the act is in a state of necessity in order to save from an immediate danger and which could not be removed otherwise his life, bodily integrity or health or that of another person or an important asset of his or that of another person or a general interest, if the consequences of the act are not obviously worse than those that could have occurred if the danger was not removed.

## Article 21 Exercising a right or fulfilling an obligation

- (1) The deed provided by the criminal law consisting in the exercise of a right recognized by the law or in the fulfillment of an obligation imposed by the law, in compliance with the conditions and limits provided by it, is justified.

## Note

Admission decision: HP no. 19/2015, published in the Official Gazette no. 590 of August 5, 2015:

Establishes that the act of the doctor employed with a work contract in a hospital unit in the public health system, who has the capacity of a civil servant, in accordance with the provisions of art. 175 para. 1 lit. b sentence II of the Criminal Code, to receive additional payments or donations from patients, under the conditions of art. 34 para. 2 of the Patient's Rights Law no. 46/2003, does not constitute an exercise of a right recognized by law, as a result of which the provisions of art. 21 para. 1 sentence Ia from the Criminal Code.

- (2) It is also justified the deed provided by the criminal law consisting in the fulfillment of an obligation imposed by the competent authority, in the form provided by the law, if it is not clearly illegal.

## Article 22 Consent of the injured person

- (1) The deed provided by the criminal law committed with the consent of the injured person is justified, if he could legally dispose of the damaged or endangered social value.
- (2) The consent of the injured person does not produce effects in the case of crimes against life, as well as when the law excludes its justifying effect.

## Chapter III Causes of imputability

## Article 23 General provisions

- (1) The act provided for by the criminal law does not constitute a crime, if it was committed under the conditions of any of the causes of non-imputability.
- (2) The effect of the causes of non-imputability does not extend to the participants, except in the fortuitous case.

Article 24 Physical coercion The deed provided for by the criminal law committed due to a physical coercion that the perpetrator could not resist is not imputable.

Article 25 Moral coercion The deed provided by the criminal law committed due to a moral coercion, exercised by threatening a serious danger to the person of the perpetrator or another and which could not be removed in another way, is not imputable.

## Article 26 Unattributable excess

- (1) The deed provided by the criminal law committed by the person in a state of legitimate defense, who exceeded, due to disturbance or fear, the limits of a defense proportional to the seriousness of the attack, is not imputable.
- (2) The deed provided for by the criminal law committed by the person in a state of necessity, who did not realize, at the time of committing the deed, that it causes clearly more serious consequences than those that could have occurred if the danger was not removed.

Article 27 Minority of the perpetrator The deed provided by the criminal law committed by a minor, who at the time of its commission did not meet the legal conditions to be criminally liable, is not imputable.

Article 28 Irresponsibility The deed provided for by the criminal law is not imputable committed by the person who, at the time of committing it, could not realize his actions or inactions or could not control them, either because of a mental illness or due to other causes.

Article 29 Intoxication The act provided for by the criminal law committed by the person who, at the time of committing it, could not realize his actions or inactions or could not control them, due to involuntary intoxication with alcohol or other substances, is not imputable. psychoactive.

## Article 30 Error

- (1) The act provided for by the criminal law committed by the person who, at the time of committing it, was not aware of the existence of a state, situations or circumstances on which the criminal character of the act depends, does not constitute a crime.
- (2) The provisions of par. (1) also applies to acts committed out of fault that the criminal law punishes, only if ignorance of the state, situation or circumstance in question is not itself the result of fault.
- (3) It does not constitute an aggravating circumstance or a circumstantial element aggravating the condition, the situation or the circumstance that the offender was not aware of at the time of committing the crime.
- (4) The provisions of para. (1)-(3) shall also be applied in the case of ignorance of an extra-criminal legal provision.
- (5) The deed provided for by the criminal law committed as a result of ignorance or wrong knowledge of its illegal character due to a circumstance that could not be avoided in any way is not imputable.

## Note

Rejection decision: HP no. 31/2015, published in Official Gazette no. 19 of January 11, 2016.

Article 31 The fortuitous case The deed provided for by the criminal law, the result of which is the consequence of a circumstance that could not

be foreseen, is not imputable.

#### Chapter IV Attempt

##### Article 32 Attempt

- (1) The attempt consists in the execution of the intention to commit the crime, but the execution was interrupted or did not produce its effect.
- (2) There is no attempt when the impossibility of consummating the crime is the consequence of how the execution was designed.

##### Article 33 Punishment of the attempt

- (1) The attempt is punishable only when the law expressly provides for it.
- (2) The attempt is sanctioned with the penalty provided by law for the consummated crime, the limits of which are reduced by half. When the law provides for the penalty of life imprisonment for the committed crime, and the court would orientate towards it, the attempt is sanctioned with a prison sentence of 10 to 20 years.

##### Article 34 Resisting and preventing the production of the result

- (1) The perpetrator who, before the discovery of the deed, desisted or notified the authorities of its commission, so that its consummation could be prevented, or who himself prevented the consummation of the crime, shall not be punished.
- (2) If the acts performed until the moment of desisting or preventing the production of the result constitute another crime, the penalty for this crime shall be applied.

#### Chapter V Unity and plurality of crimes

##### Article 35 Unity of continued and complex crime

- (1) The crime is continued when a person commits at different intervals of time, but in the implementation of the same resolution, actions or inactions that present, each separately, the content of the same crime.  
(on 09-07-2023, Paragraph (1), Article 35, Chapter V, Title II, GENERAL Part was amended by Point 1., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)
- (2) The crime is complex when its content includes, as a constitutive element or as an aggravating circumstantial element, an action or an inaction that constitutes by itself an act provided for by the criminal law.

##### Article 36 Punishment for continued crime and complex crime

- (1) The continued crime is sanctioned with the penalty provided by law for the crime committed, the maximum of which can be increased by no more than 3 years in the case of a prison sentence, respectively by no more than a third in the case of a fine.
- (2) The complex crime is sanctioned with the penalty provided by law for that crime.
- (3) The complex crime committed with an ulterior motive, if only the more serious result of the secondary action occurred, is sanctioned with the penalty provided by law for the completed complex crime.

Article 37 Recalculation of the punishment for the continued or complex crime If the person definitively convicted for a continued or complex crime is subsequently tried for other actions or inactions that fall within the content of the same crime, taking into account the crime committed in its entirety, a punishment is established appropriate, which cannot be easier than the one pronounced previously.

##### Note

Rejection decision: HP no. 49/2021, published in the Official Gazette no. 737 of July 28, 2021

Admission decision: RIL no. 11/2021, published in Official Gazette no. 909 of September 22, 2021:

In the interpretation and uniform application of the provisions of art. 37 of the Criminal Code , in the event that it finds the existence of a final conviction for a continuing crime, the court charged with judging some actions or inactions that are part of the constitutive content of the same crime will proceed to recalculate the punishment taking into account the crime committed in its entirety, will establish a single punishment that cannot be lower than the one pronounced previously and will order the cancellation of the forms of execution issued as a result of the previous conviction and the issuance of new ones in accordance with the judgment pronounced or, as the case may be, will find the punishment executed.

##### Article 38 Competition of crimes

- (1) There is a real concurrence of crimes when two or more crimes were committed by the same person, through distinct actions or inactions, before being definitively convicted for any of them. There is actual criminal conspiracy also when one of the crimes was committed for the commission or concealment of another crime.
- (2) There is formal concurrence of crimes when an action or inaction committed by a person, due to the circumstances in which it took place or the consequences it produced, realizes the content of several crimes.

##### Note

Admission decision: HP no. 22/2020, published in Official Gazette no. 907 of October 6, 2020:

Establishes that, where an offense (A) is concurrent with both the offense representing the first term (B) and the offense representing the second term (C) of a post-conviction recidivism, the operation of determining the resulting sentence involves the application the rules of the contest of crimes between the punishments established for the crimes (A) and (B), the result being subsequently applied the rules of post-conviction recidivism by reference to the punishment established for the crime (C).

Rejection decision: HP no. 68/2022, published in the Official Gazette no. 1167 of December 6, 2022.

##### Article 39 The main punishment in case of competition of crimes

- (1) In the event of a series of crimes, the punishment is established for each individual crime and the punishment is applied, as follows:
  - a) when a life imprisonment sentence and one or more prison sentences or fine, life imprisonment applies;
  - b) when only prison sentences have been established, the heaviest penalty is applied, to which an increase of one third of the total of the other established penalties is added;
  - c) when only penalties with a fine have been established, the heaviest penalty is applied, to which an increase of one third of the total of the other established penalties is added;

##### Note

Admission decision: RIL no. 20/2020, published in Official Gazette no. 733 of August 13, 2020:

Establishes that, in the interpretation of the provisions of art. 39 para. (1) lit. c) from the Criminal Code , in case of concurrent crimes, in the hypothesis that the amount corresponding to a day-fine established for concurrent crimes is different, the resulting penalty is determined as follows:

- the penalty of the heaviest fine is cumulated with the increase of one third of the total of the other established fines;
- the number of fine-days is determined, by accumulating the highest number of fine-days established for a crime with the increase of one third of the total fine-days corresponding to the other fines;
- the amount corresponding to one day-fine is determined, by dividing the amount of the resulting penalty of the fine by the number of resulting fine-days.
- d) when a prison sentence and a fine sentence have been established, the prison sentence is applied, to which the fine sentence is added in its entirety;

e) when several prison sentences and several fine sentences have been established, the prison sentence is applied according to letter b) , to which the penalty of the fine is added in its entirety according to letter c) .

(2) When several prison terms have been established, if by adding to the highest penalty the increase of one third of the total of the other established prison terms, the general maximum of the prison term would be exceeded by 10 years or more , and for at least one of the concurrent offenses the statutory penalty is imprisonment for 20 years or more, life imprisonment may be imposed.

Note

Admission decision: HP no. 3/2015, published in the Official Gazette no. 380 of June 2, 2015:

It states in the sense that, in applying the provisions of art. 6 of the Criminal Code , establishing the punishment based on the new law, in the case of the plurality of crimes which, according to the Criminal Code of 1969, entailed the retention of the state of post-conviction recidivism with the revocation of conditional suspension, and, according to the Criminal Code, the conditions of post-conviction recidivism regarding the first term are no longer met, they are determined according to art. 44 related to art. 39 of the Criminal Code , regarding the intermediate plurality.

Rejection decision: HP no. 8/2020, published in Official Gazette no. 521 of June 18, 2020

Admission decision: HP no. 22/2020, published in Official Gazette no. 907 of October 6, 2020:

Establishes that, where an offense (A) is concurrent with both the offense representing the first term (B) and the offense representing the second term (C) of a post-conviction recidivism, the operation of determining the resulting sentence involves the application the rules of the contest of crimes between the punishments established for the crimes (A) and (B), the result being subsequently applied the rules of post-conviction recidivism by reference to the punishment established for the crime (C).

Rejection decision: HP no. 68/2022, published in the Official Gazette no. 1167 of December 6, 2022.

#### Article 40 Merger of punishments for concurrent crimes

(1) If the definitively convicted criminal is subsequently tried for a concurrent crime, the provisions of art. 39 .

Note

Rejection decision: HP no. 17/2021, published in Official Gazette no. 514 of May 18, 2021.

(2) The provisions of art. 39 also applies if, after a conviction has become final, it is established that the convicted person had also suffered a final conviction for a concurrent crime.

(3) If the offender has fully or partially served the penalty imposed by the previous decision, what has been served shall be deducted from the duration of the penalty imposed for the concurrent crimes.

(4) The provisions regarding the application of the penalty in case of concurrent offenses shall also apply if the sentence of life imprisonment has been commuted or replaced by the prison sentence.

(5) In case of merging the penalties according to para. (1)-(4) account is also taken of the penalty imposed by a conviction pronounced abroad, for a concurrent crime, if the conviction was recognized according to the law.

Note

Rejection decision: HP no. 51/2022, published in the Official Gazette no. 1074 of November 7, 2022.

Rejection decision: HP no. 68/2022, published in the Official Gazette no. 1167 of December 6, 2022.

#### Article 41 Recidivism

(1) There is a recidivism when, after a sentence of imprisonment of more than one year has become final and until rehabilitation or completion of the rehabilitation term, the convicted person commits a crime again with intent or with an exceeded intent, for which the law provides imprisonment of one year or more.

(2) There is recidivism also if one of the penalties provided for in para. (1) is life imprisonment.

(3) In order to establish the state of recidivism, the conviction pronounced abroad, for an act also provided for by the Romanian criminal law, is taken into account, if the conviction was recognized according to the law.

Note

Admission decision: RIL no. 13/2023, published in the Official Gazette no. 818 of September 11, 2023:

Application of the provisions of art. 41 para. (3) of the Criminal Code regarding international recidivism, in the case of the existence of a final conviction ordered by a foreign court, it can only be carried out following the procedure for the recognition of the foreign conviction, exclusively incidentally, provided for by art. 147 of Law no. 302/2004, republished, with subsequent amendments and additions, and not based on the existing entries in the European criminal record system (communication via ECRIS).

Article 42 Convictions that do not attract the state of recidivism When establishing the state of recidivism, the convictions regarding: a) the facts that are no longer provided for by the criminal law are not taken into account; b) amnesty crimes; c) crimes committed through negligence.

#### Article 43 Punishment in case of recidivism

(1) If before the previous punishment has been executed or considered as executed, a new crime is committed in the state of recidivism, the penalty established for it is added to the previous unexecuted penalty or to the remaining unexecuted of it.

Note

Admission decision: HP no. 22/2020, published in Official Gazette no. 907 of October 6, 2020:

Establishes that, where an offense (A) is concurrent with both the offense representing the first term (B) and the offense representing the second term (C) of a post-conviction recidivism, the operation of determining the resulting sentence involves the application the rules of the contest of crimes between the punishments established for the crimes (A) and (B), the result being subsequently applied the rules of post-conviction recidivism by reference to the punishment established for the crime (C).

Rejection decision: HP no. 16/2020, published in Official Gazette no. 672 of July 29, 2020

(2) When, before the previous punishment has been executed or deemed to have been executed, several concurrent crimes are committed, of which at least one is in a state of recidivism, the established punishments are merged according to the provisions related to the concurrent crimes, and the resulting punishment it is added to the previous unexecuted sentence or to the unexecuted remainder of it.

Note

Admission decision: HP no. 14/2019, published in Official Gazette no. 585 of July 17, 2019:

Establishes that the provisions of art. 43 para. (2) of the Penal Code assume that all concurrent crimes are committed after the final sentence not executed or partially executed, they are not applicable in the hypothesis in which one of the crimes is concurrent with the one that constitutes the first term of the recidivism.

(3) If by summing up the penalties under the conditions of para. (1) and para. (2) the general maximum of the prison sentence would be exceeded by more than 10 years, and for at least one of the crimes committed, the punishment prescribed by law is 20 years imprisonment or more, instead of prison sentences, the punishment can be applied life imprisonment.

(4) When the previous sentence or the sentence established for the offense committed in the state of recidivism is life imprisonment, the sentence of life imprisonment shall be served.

(5) If, after the previous punishment has been executed or considered as executed, a new crime is committed in the state of recidivism, the special limits of the punishment provided by law for the new crime are increased by half.

Note

Admission decision: HP no. 15/2014, published in the Official Gazette no. 546 of July 23, 2014:

Establishes that, in the interpretation of the provisions of art. 6 para. (1) of the Penal Code , for the hypothesis of a crime committed in a state of post-execution recidivism judged definitively before the entry into force of the new Penal Code, the penalty applied by the sentencing decision will be compared with the special maximum provided in the new law for the crime committed by taking in consideration of the provisions of art. 43 para. (5) of the Criminal Code .

(6) If after the conviction for the new crime has become final and before the sentence has been executed or considered as executed, it is discovered that the convicted person is in a state of recidivism, the court shall apply the provisions of para. (1)-(5) .

(7) The provisions of par. (6) also applies if the sentence of life imprisonment has been commuted or replaced by a prison sentence.

## Article 44 Intermediate plurality

- (1) There is an intermediate plurality of crimes when, after a conviction has become final and until the date on which the punishment is executed or deemed to have been executed, the convict commits a crime again and the conditions provided by law for the state of recidivism are not met .
- (2) In case of intermediate plurality, the punishment for the new crime and the previous punishment are merged according to the provisions of the competition of crimes.

## Note

Admission decision: HP no. 3/2015, published in the Official Gazette no. 380 of June 2, 2015:

It states in the sense that, in applying the provisions of art. 6 of the Criminal Code , establishing the punishment based on the new law, in the case of the plurality of crimes which, according to the Criminal Code of 1969, entailed the retention of the state of post-conviction recidivism with the revocation of conditional suspension, and, according to the Criminal Code, the conditions of post-conviction recidivism regarding the first term are no longer met, they are determined according to art. 44 related to art. 39 of the Criminal Code , regarding the intermediate plurality.

Admission decision: RIL no. 7/2020, published in Official Gazette no. 486 of June 9, 2020:

In the interpretation and uniform application of the provisions of art. 44 para. (2) of the Criminal Code , in the case of intermediate plurality of crimes, in the hypothesis where the first and/or second term of the intermediate plurality consists of a series of crimes, the merging of all established penalties is carried out, within a single operation, according to the provisions relating to the contest of crimes.

Rejection decision: HP no. 8/2020, published in Official Gazette no. 521 of June 18, 2020.

## Article 45 Complementary punishments, accessory punishments and safety measures in case of multiple crimes

- (1) If a complementary punishment has been established for one of the crimes committed, it shall be applied alongside the main punishment.
- (2) When several complementary penalties of a different nature or even of the same nature but with a different content have been established, they shall be applied alongside the main penalty.
- (3) If several complementary punishments of the same nature and with the same content have been established:
- a) in case of concurrence of crimes or intermediate plurality, the heaviest of them shall be applied;
- b) in case of recidivism, the unexecuted part of the previous complementary punishment is added to the punishment established for the new crime.
- (4) In the case of successive convictions for concurrent crimes, the part of the complementary punishment served until the date of merging the main punishments is deducted from the duration of the complementary punishment applied in addition to the resulting punishment.
- (5) If, in addition to the main penalties, one or more accessory penalties have been established, the provisions of para. (1)-(3) , the resulting accessory penalty being executed until the execution or consideration as executed of the main penalty.

## Note

Admission decision: RIL no. 18/2021, published in Official Gazette no. 1108 of November 22, 2021:

In the interpretation and uniform application of the provisions of art. 45 para. (5) of the Penal Code , in the matter of the criminal treatment of the crime contest, the application of the accessory penalty implies its establishment first in addition to the initial main penalty and, then, in addition to the resulting main penalty.

- (6) Security measures of a different nature or even of the same nature, but with a different content, taken in the case of crimes committed, are accumulated.
- (7) If several safety measures of the same nature and with the same content have been taken, but for different durations, the safety measure with the longest duration shall be applied. The safety measures taken according to art. 112 are cumulative.

## Chapter VI Author and participants

## Article 46 Author and co-authors

- (1) Perpetrator is the person who directly commits an act provided by the criminal law.
- (2) Co-perpetrators are the persons who directly commit the same deed provided for by the criminal law.

Article 47 The instigator The instigator is the person who, with intention, causes another person to commit an act provided for by the criminal law.

## Article 48 Accomplices

- (1) Accomplice is the person who, with intention, facilitates or helps in any way to commit an act provided by the criminal law.
- (2) The person who promises, before or during the commission of the deed, that he will hide the goods derived from it or that he will favor the perpetrator, is also an accomplice, even if after the commission of the deed the promise is not fulfilled.

Article 49 Punishment for participants The co-author, instigator and accomplice of a crime committed with intent shall be punished with the punishment provided by law for the author. When determining the punishment, each person's contribution to the crime is taken into account, as well as the provisions of art. 74 .

## Article 50 Personal and real circumstances

- (1) Circumstances regarding the person of the author or a participant do not affect the others.
- (2) The circumstances surrounding the deed fall upon the author and the participants only to the extent that they knew or foresaw them.

## Article 51 Preventing the commission of the crime

- (1) The participant is not punished if, before the fact is discovered, he denounces the commission of the crime, so that its consummation can be prevented, or if he himself prevents the consummation of the crime.
- (2) If the acts performed up to the time of denunciation or prevention constitute another crime, the punishment for this crime shall be applied to the participant.

## Article 52 Improper participation

- (1) The direct commission, with intention, by a person of a deed provided for by the criminal law to which, through fault or no fault, another person contributes with execution acts is sanctioned with the penalty provided by law for the deed committed with intent.
- (2) Determining, facilitating or helping in any way, with intention, the culpable commission by another person of an act provided by the criminal law is sanctioned with the punishment provided by law for the act committed with intent.
- (3) Determining, facilitating or helping in any way, with intention, the commission of an act provided by the criminal law, by a person who commits that act without guilt, is sanctioned with the punishment provided by law for that crime.
- (4) The provisions of art. 50 and art. 51 applies accordingly.

## Title III Penalties

## Chapter I Categories of penalties

Article 53 Main penalties The main penalties are: a) life imprisonment; b) prison; c) fine.

Article 54 Accessory penalty The accessory penalty consists in prohibiting the exercise of certain rights, from the moment the conviction remains final and until the execution or consideration as executed of the custodial sentence.

Article 55 Complementary punishments Complementary punishments are: a) prohibition of the exercise of certain rights; b) military degradation; c) publication of the conviction.

## Chapter II The main punishments

### Section 1 Life imprisonment

Article 56 Life imprisonment regime Life imprisonment consists of deprivation of liberty for an indefinite period and is executed according to the law on the execution of punishments.

Article 57 Non-imposition of life imprisonment If the defendant has reached the age of 65 on the date of the sentencing decision, instead of life imprisonment he shall be sentenced to imprisonment for 30 years and the punishment of the prohibition of the exercise of certain rights for its maximum duration.

Article 58 Substitution of life imprisonment If the person sentenced to life imprisonment has reached the age of 65 during the execution of the sentence, the life imprisonment sentence may be replaced by a prison sentence for 30 years and the sentence of prohibition of the exercise of certain rights for its maximum period, if he has been of good behavior throughout the execution of the sentence, has fully fulfilled the civil obligations established by the judgment of conviction, except when he proves that he had no possibility to fulfill them, and has made steady progress and evident for social reintegration.

Article 59 Calculation of the penalty in the case of commutation or replacement of the life imprisonment sentence In the case of commutation or replacement of the life imprisonment sentence with the prison sentence, the period of imprisonment served is considered as the part of the prison sentence served.

### Section 2 Imprisonment

Article 60 Imprisonment regime Imprisonment consists of deprivation of liberty for a fixed period, between 15 days and 30 years, and is executed according to the law on the execution of punishments.

### Section 3 Fine

#### Article 61 Determination of the fine

- (1) The fine consists of the sum of money that the convict is obliged to pay to the state.
- (2) The amount of the fine is determined by the days-fine system. The amount corresponding to a day-fine, between 10 lei and 500 lei, is multiplied by the number of days-fine, which is between 30 days and 400 days.
- (3) The court establishes the number of fine days according to the general criteria for individualizing the punishment. The amount of the amount corresponding to a day-fine is determined taking into account the material situation of the convicted person and the legal obligations of the convicted person towards his dependents.  
(on 01-02-2014, Paragraph (3) of art. 61 was amended by point 2 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )
- (4) The special limits of fine-days are between:
  - a) 60 and 180 fine-days, when the law only provides for the penalty of a fine for the offense committed;
  - b) 120 and 240 days-fine, when the law provides for a fine as an alternative to a prison sentence of no more than two years;
  - c) 180 and 300 days-fine, when the law provides for a fine as an alternative to a prison sentence of more than 2 years.
- (5) If the crime committed aimed at obtaining a patrimonial benefit, and the penalty provided by law is only a fine or the court opts for the application of this penalty, the special limits of the fine days can be increased by one third.
- (6) The fractions established by law for the causes of mitigating or aggravating the punishment are applied to the special limits of the fine-days provided in paragraph. (4) and para. (5) .

#### Article 62 The fine accompanying the prison sentence

- (1) If the crime committed aimed at obtaining a patrimonial benefit, in addition to the prison sentence, a fine may also be imposed.
- (2) The special limits of fine-days provided in art. 61 para. (4) lit. b) and letter c) are determined in relation to the duration of the prison sentence established by the court and cannot be reduced or increased as an effect of the causes of mitigation or aggravation of the punishment.
- (3) When determining the amount of the amount corresponding to a day-fine, the value of the patrimonial benefit obtained or pursued will be taken into account.

#### Article 63 Replacement of the penalty of the fine with the penalty of imprisonment

- (1) If the convicted person, in bad faith, does not serve the penalty of the fine, in whole or in part, the number of unexecuted fine-days shall be replaced by a corresponding number of days in prison.
- (2) If the unexecuted fine accompanied the prison sentence, the number of unexecuted fine-days is replaced by a corresponding number of days in prison, which are added to the prison sentence, the resulting punishment being considered a single punishment.
- (3) In the case of replacing the penalty of a fine with a prison sentence, under the conditions of para. (1) and para. (2) , one day-fine corresponds to one day of imprisonment.

#### Article 64 Execution of the fine by performing unpaid work for the benefit of the community

- (1) If the penalty of the fine cannot be executed in whole or in part for reasons not attributable to the convicted person, with his consent, the court replaces the obligation to pay the unexecuted fine with the obligation to perform unpaid work for the benefit of the community, except if, due to the state of health, the person cannot perform this work. One fine day corresponds to one day of community service.
- (2) If the fine replaced according to the provisions of para. (1) accompanied the prison sentence, the community service obligation is executed after the prison sentence has been served.
- (3) Coordination of the execution of the community service obligation is done by the probation service.
- (4) The execution of work for the benefit of the community ordered under the conditions of para. (1) terminates by paying the fine corresponding to the remaining unexecuted fine-days.
- (5) The court replaces the fine-days not executed through community service with a corresponding number of days in prison, if:
  - a) the convicted person does not perform the community service obligation under the conditions established by the court;
  - b) the convicted person commits a new crime discovered before the full execution of the community service obligation. Fine days not served by community service on the date of final conviction for the new offense, substituted for imprisonment, are added to the sentence for the new offence.

(on 01-02-2014, Letter b) of par. (5) of art. 64 was modified by point 3 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(6) If the convicted person, in the situation provided for in par. (1) , does not consent to the performance of unpaid work for the benefit of the community, the unenforced fine is replaced by the prison sentence according to art. 63 .

### Chapter III Accessory punishment and complementary punishments

#### Section 1 Accessory punishment

##### Article 65 The content and execution method of the accessory punishment of banning the exercise of certain rights

(1) The accessory penalty consists in prohibiting the exercise of the rights provided for in art. 66 para. (1) lit. a) , b) and d)-o) , the exercise of which was prohibited by the court as a complementary punishment.

(on 01-02-2014, Paragraph (1) of art. 65 was amended by point 4 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(2) In the case of life imprisonment, the accessory penalty consists in the prohibition by the court of the exercise of the rights provided for in art. 66 para. (1) lit. a)-o) or some of them.

(on 01-02-2014, Paragraph (2) of art. 65 was amended by point 4 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(3) The accessory penalty of prohibiting the exercise of certain rights shall be executed from the moment the conviction remains final and until the main custodial penalty has been executed or deemed to have been executed.

Note

Admission decision: RIL no. 29/2019, published in Official Gazette no. 63 of January 30, 2020:

In the interpretation and uniform application of the provisions of art. 65 para. (3) of the Criminal Code , establishes that: the application of accessory penalties consisting in the prohibition of the rights provided by art. 66 para. (1) lit. a) , b) and d)-o) of the Penal Code , the exercise of which was prohibited by the court as a complementary punishment, is not possible in the case of ordering a solution of conviction to the penalty of a fine.

(4) In the case of life imprisonment, the accessory punishment having the content provided for in art. 66 para. (1) lit. c) is executed on the date of conditional release or after the sentence has been considered as executed.

(on 01-02-2014, Paragraph (4) of art. 65 was amended by point 4 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

#### Section 2 Complementary punishments

##### Article 66 Content of the complementary punishment of banning the exercise of certain rights

(1) The complementary punishment of the prohibition of the exercise of certain rights consists in the prohibition of the exercise, for a period of one to 5 years, of one or more of the following rights:

a) the right to be elected in public authorities or in any other public positions ;

b) the right to occupy a position that involves the exercise of state authority;

c) the foreigner's right to be on the territory of Romania;

d) the right to choose;

e) parental rights;

f) the right to be a guardian or curator;

g) the right to occupy the position, to exercise the profession or trade or to carry out the activity that was used to commit the crime;

h) the right to own, carry and use any category of weapons;

i) the right to drive certain categories of vehicles established by the court;

j) the right to leave the territory of Romania;

k) the right to occupy a management position within a legal entity under public law;

l) the right to be in certain localities determined by the court;

m) the right to be in certain places or at certain sports, cultural events or other public gatherings, established by the court;

n) the right to communicate with the victim or her family members, with the persons with whom she committed the crime or with other persons, determined by the court, or to approach them;

o) the right to approach the home, workplace, school or other places where the victim carries out social activities, under the conditions established by the court.

(2) When the law provides for the prohibition of the exercise of the right to hold a public office, the court orders the prohibition of the exercise of the rights provided for in paragraph (1) lit. a) and lit. b) .

(3) Prohibition of the exercise of the rights provided for in para. (1) lit. a) and lit. b) it is disposed of cumulatively.

(4) The penalty provided for in para. (1) lit. c) it will not be ordered when there are good reasons to believe that the expelled person's life is in danger or that the person will be subjected to torture or other inhuman or degrading treatment in the state where he is to be expelled.

(5) When ordering the prohibition of one of the rights provided for in para. (1) lit. n) and letter o) , the court specifically individualizes the content of this punishment, taking into account the circumstances of the case.

##### Article 67 Application of the complementary penalty of banning the exercise of certain rights

(1) The complementary penalty of prohibiting the exercise of certain rights can be applied if the main penalty established is imprisonment or a fine and the court finds that, given the nature and gravity of the crime, the circumstances of the case and the person of the offender, this penalty is necessary.

(2) The application of the penalty of prohibiting the exercise of certain rights is mandatory when the law provides for this penalty for the crime committed.

(3) The prohibition of the foreigner's right to be on the territory of Romania does not apply if the suspension of the execution of the sentence under supervision was ordered.

##### Article 68 Execution of the complementary penalty of the prohibition of the exercise of certain rights

(1) The execution of the penalty of prohibiting the exercise of certain rights begins:

a) from the definitive stay of the judgment of conviction to the penalty of the fine;

b) from the definitive stay of the conviction by which the suspension of the execution of the sentence under supervision was ordered;

c) after the execution of the prison sentence, after the total pardon or the rest of the sentence, after the expiration of the term of prescription for the execution of the sentence or after the expiration of the supervision period of conditional release.

(2) If conditional release has been ordered, the prohibition of the foreigner's right to be on the territory of Romania shall be enforced on the date of release.

(3) If it is ordered to revoke the suspension of the execution of the sentence under supervision or to replace the penalty of the fine with imprisonment, for reasons other than the commission of a new crime, the part of the duration of the complementary penalty of the prohibition of the exercise of certain rights that has not been executed on the date of the revocation or replacement will be executed after the execution of the penalty the prison.

##### Article 69 Military degradation

(1) The complementary punishment of military degradation consists in the loss of the rank and the right to wear a uniform from the date the conviction decision becomes final.

(2) Military demotion is mandatorily applied to active, reserve or retired military convicts, if the main punishment applied is imprisonment of more than 10 years or life imprisonment.

(3) Military degradation may be applied to active, reserve or retired military convicts for crimes committed with intent, if the main punishment applied is imprisonment for at least 5 years and at most 10 years.

##### Article 70 Publication of the final judgment of conviction

(1) The publication of the final conviction may be ordered when, taking into account the nature and seriousness of the crime, the circumstances of the case and the person of the convicted person, the court considers that the publication will contribute to the prevention of the commission of other such crimes.

(2) The judgment of conviction is published in extract, in the form established by the court, in a local or national newspaper, only once.

(3) The publication of the final conviction is done at the expense of the convicted person, without revealing the identity of other persons.

## Chapter IV Calculation of the duration of punishments

## Article 71 Duration of execution

- (1) The duration of the execution of the custodial sentence is counted from the day on which the convict began the execution of the final conviction.
- (2) The day on which the execution of the sentence begins and the day on which it ends are counted in the duration of the execution.
- (3) The period in which the convict, during the execution of the sentence, is sick in the hospital is included in the execution period, except in the case where he deliberately caused his illness, and this circumstance is established during the execution of the sentence.
- (4) Permits to leave the penitentiary, granted to the convict according to the law on the execution of sentences, enter into the duration of the execution of the sentence.

## Article 72 Calculation of the duration of preventive measures depriving of liberty

- (1) The period during which a person was subjected to a preventive custodial measure shall be deducted from the duration of the prison sentence. The reduction is also made when the convict was prosecuted or tried, at the same time or separately, for several concurrent crimes, even if he was convicted for a different act than the one that determined the ordering of the preventive measure.
- (2) The period during which a person was subjected to a preventive custodial measure is also reduced in the case of a fine, by removing all or part of the fine days.
- (3) In the case of the fine accompanying the prison sentence, the period during which a person was subjected to a preventive measure depriving of liberty is deducted from the duration of the prison sentence.

## Article 73 Calculation of punishments and preventive measures executed outside the country

- (1) In the case of crimes committed under the terms of art. 8 , art. 9 , art. 10 or art. 11 , the part of the punishment, as well as the duration of preventive measures depriving of liberty executed outside the territory of the country, are deducted from the duration of the punishment applied for the same crime in Romania.
- (2) The provisions of par. (1) shall also apply accordingly if the penalty served outside the country is a fine.

## Chapter V Individualization of punishments

## Section 1 General provisions

## Article 74 General criteria for individualization of punishment

- (1) The determination of the duration or amount of the punishment is made in relation to the seriousness of the crime committed and the dangerousness of the criminal, which is evaluated according to the following criteria:
  - a) the circumstances and the way of committing the crime, as well as the means used;
  - b) the state of danger created for the protected value;
  - c) the nature and seriousness of the result or other consequences of the crime;
  - d) the reason for committing the crime and the purpose pursued;
  - e) the nature and frequency of the offenses that constitute the offender's criminal antecedents;
  - f) conduct after committing the crime and during the criminal process;
  - g) level of education, age, state of health, family and social situation.
- (2) When the law provides for alternative punishments for the crime committed, the criteria provided in paragraph (1) and for choosing one of them.

## Section 2 Mitigating circumstances and aggravating circumstances

## Article 75 Mitigating circumstances

- (1) The following circumstances constitute legal mitigating circumstances:
  - a) the commission of the crime under the control of a strong disturbance or emotion, determined by a provocation on the part of the injured person, produced by violence, by a serious violation of the person's dignity or by another illegal action engrave;
  - b) exceeding the limits of legitimate defense;
  - c) exceeding the limits of the state of necessity.
  - d) full coverage of the material damage caused by the crime, during the criminal prosecution or trial, until the first court term, if the perpetrator has not benefited from this circumstance in an interval of 5 years prior to the commission of the act. The mitigating circumstance does not apply in the case of committing the following crimes: against the person, qualified theft, robbery, piracy, fraud committed through computer systems and electronic means of payment, outrage, judicial outrage, abusive behavior, crimes against public safety, crimes against public health, crimes against religious freedom and the respect due to deceased persons, against national security, against the fighting capacity of the armed forces, crimes of genocide, crimes against humanity and war, crimes regarding the state border of Romania, crimes against the legislation on the prevention and combating of terrorism , of corruption offences, offenses assimilated to corruption offences, of those against the financial interests of the European Union, of offenses relating to non-compliance with the regime of explosive substances and restricted explosive precursors, nuclear materials or other radioactive substances, regarding the legal regime of drugs, on the legal regime of drug precursors, on the legal regime of doping substances, on those on money laundering, on civil aeronautical activities and those that may endanger the safety of flights and aeronautical security, on the protection of witnesses, on the prohibition of fascist organizations and symbols , racist or xenophobic and the promotion of the cult of persons guilty of crimes against peace and humanity, those regarding the trafficking of organs, tissues or cells of human origin, regarding the prevention and combating of pornography and those regarding the adoption regime.

(on 08-27-2021, Letter d) of Paragraph (1), Article 75, Section 2, Chapter V, Title III, the GENERAL Part was amended by Article VII of LAW no. 219 of July 26, 2021, published in the OFFICIAL GAZETTE no. 739 of July 28, 2021)
- (2) The following may constitute mitigating judicial circumstances:
  - a) the efforts made by the criminal to remove or reduce the consequences of the crime;
  - b) the circumstances related to the committed deed, which diminish the seriousness of the crime or the dangerousness of the criminal.

## Article 76 Effects of mitigating circumstances

- (1) If there are mitigating circumstances, the special limits of the punishment provided by law for the crime committed are reduced by one third.
- (2) If the penalty prescribed by law is life imprisonment, in the case of apprehension of mitigating circumstances, the prison sentence of 10 to 20 years shall be applied.
- (3) The reduction of the special limits of the punishment is done only once, regardless of the number of mitigating circumstances retained.

Article 77 Aggravating circumstances The following circumstances constitute aggravating circumstances: a) the commission of the act by three or more persons together; b) committing the crime through cruelty or subjecting the victim to degrading treatments; c) committing the crime through methods or means likely to endanger other people or property; d) the commission of the crime by a major criminal, if it was committed together with a minor; e) committing the crime taking advantage of the obvious vulnerability of the injured person, due to age, health, infirmity or other causes; f) committing the crime in a state of voluntary intoxication with alcohol or other psychoactive substances, when it was provoked in order to commit the crime; g) the commission of the crime by a person who took advantage of the situation occasioned by a calamity, the state of siege or the state of emergency; h) committing the crime for reasons related to race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion or political affiliation, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection or for other circumstances the same kind, considered by the perpetrator as causes of a person's inferiority in relation to the others.

## Article 78 Effects of aggravating circumstances

- (1) If there are aggravating circumstances, a penalty up to the special maximum may be imposed. If the special maximum is insufficient, in the case of imprisonment an increase of up to 2 years can be added, which cannot exceed one third of this maximum, and in the case of a fine an increase of

no more than one third of the special maximum can be applied.

(2) The increase of the special limits of the punishment is done only once, regardless of the number of aggravating circumstances retained.

#### Article 79 Competition between mitigating or aggravating causes

(1) When, in the case of the same crime, two or more provisions that have the effect of reducing the punishment are incident, the special limits of the punishment provided by law for the crime committed are reduced by the successive application of the provisions regarding the attempt, mitigating circumstances and special cases of reduction of punishment, in that order.

(2) If there are two or more provisions that have the effect of aggravating the criminal liability, the penalty is determined by the successive application of the provisions regarding aggravating circumstances, continued crime, competition or recidivism.

Note

Rejection decision: HP no. 69/2020, published in Official Gazette no. 42 of January 14, 2021

(3) When in the case of the same crime there are one or more reasons for reducing the punishment and one or more reasons for increasing the punishment, the special limits of the punishment provided by law for the crime committed are reduced according to paragraph (1), after which the resulting penalty limits are increased according to para. (2).

#### Section 3 Waiving the application of the penalty

##### Article 80 Conditions for waiving the application of the penalty

(1) The court may order the waiver of the application of the penalty if the following conditions are met:

a) the crime committed is of low gravity, considering the nature and extent of the consequences produced, the means used, the manner and circumstances in which it was committed, the reason and the purpose pursued;

b) in relation to the person of the offender, the conduct prior to the commission of the crime, the efforts made by him to remove or reduce the consequences of the crime, as well as his possibilities of correction, the court considers that the application of a punishment would be inappropriate because of the consequences - would have on his person.

(2) Waiver of the application of the penalty cannot be ordered if:

a) the offender has previously suffered a conviction, except for the cases provided for in art. 42 lit. a) and lit. b) or for which rehabilitation has taken place or the rehabilitation term has expired;

b) the same criminal was also ordered to waive the application of the penalty in the last 2 years prior to the date of committing the crime for which he is being tried;

c) the offender evaded prosecution or trial or tried to thwart the discovery of the truth or the identification and criminal prosecution of the author or the participants;

d) the punishment prescribed by law for the crime committed is imprisonment for more than 5 years.

(on 01-02-2014, Letter d) of par. (2) of art. 80 was amended by point 6 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012.)

(3) In case of concurrent crimes, the waiver of the application of the penalty can be ordered if for each concurrent crime the conditions provided for in para. (1) and para. (2).

##### Article 81 The warning

(1) When ordering the waiver of the penalty, the court applies a warning to the offender.

(2) The warning consists in the presentation of the factual reasons that led to the waiver of the punishment and warning the offender about his future conduct and the consequences to which he is exposed if he commits more crimes.

(3) In case of competition of crimes, only one warning is applied.

##### Article 82 Cancellation and effects of waiving the application of the penalty

(1) The person against whom it was decided to waive the application of the penalty is not subject to any disqualification, prohibition or incapacity that could arise from the crime committed.

(2) Waiver of the application of the penalty does not produce effects on the execution of the safety measures and the civil obligations provided for in the decision.

(3) If, within 2 years from the final stay of the decision by which it was ordered to waive the application of the penalty, it is discovered that the person against whom this measure was taken had committed another crime prior to the final stay of the decision, for which he was set a penalty even after the expiration of this term, the waiver of the application of the penalty is canceled and the penalty is established for the crime that initially attracted the waiver of the application of the penalty, applying then, as the case may be, the provisions regarding the concurrence of crimes, recidivism or intermediate plurality.

(on 01-02-2014, Art. 82 was amended by point 7 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012.)

#### Section 4 Postponement of the application of the sentence

Note

Admission decision: HP no. 13/2019, published in Official Gazette no. 479 of June 12, 2019:

Establishes that in the event of the cancellation of the postponement of the application of a penalty, followed by the suspension under supervision of the execution of the resulting main penalty, the term of supervision, established according to the provisions of art. 92 of the Criminal Code, it is calculated from the date of finality of the judgment ordering the suspension under supervision of the execution of the resulting main penalty.

##### Article 83 Conditions for the postponement of the application of the penalty

(1) The court can order the postponement of the application of the punishment, establishing a term of supervision, if the following conditions are met:

a) the established punishment, including in the case of the contest of crimes, is a fine or imprisonment of no more than 2 years;

b) the offender has not previously been sentenced to prison, except for the cases provided for in art. 42 lit. a) and lit. b) or for which rehabilitation has taken place or the rehabilitation term has expired;

Note

Admission decision - HP no. 24/2017, published in the Official Gazette no. 860 of November 1, 2017:

In the interpretation and application of the provisions of art. 83 para. (1) lit. b) from the Criminal Code and art. 88 para. (3) of the Criminal Code establishes that:

In the event of the commission of a new intentional crime during the supervision period of the suspension of the application of a punishment, both the sentencing solution for the new crime and the revocation of the suspension of the application of the previous punishment are mandatory.

c) the offender has expressed his agreement to perform unpaid work for the benefit of the community;

d) in relation to the person of the offender, the conduct prior to the commission of the crime, the efforts made by him to remove or reduce the consequences of the crime, as well as his possibilities of correction, the court considers that the immediate application of a punishment is not necessary, but is required supervision of his conduct for a specified period.

(2) The suspension of the application of the punishment cannot be ordered if the punishment provided by law for the crime committed is 7 years or more or if the criminal evaded prosecution or trial or tried to thwart the discovery of the truth or the identification and prosecution of the author or the participants.

(3) The postponement of the application of the prison sentence also attracts the postponement of the application of the fine that accompanies the prison sentence under the conditions of art. 62.

(4) It is mandatory to present the reasons that led to the postponement of the punishment and to warn the offender about his future conduct and the consequences to which he will be exposed if he commits further crimes or does not comply with the supervision measures or does not fulfill his obligations during the term of supervision.

(on 01-02-2014, Paragraph (4) of art. 83 was amended by point 8 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012.)

##### Article 84 The term of supervision

(1) The term of supervision is 2 years and is calculated from the date of the definitive stay of the decision by which the suspension of the application of the penalty was ordered.

(2) During the term of supervision, the person against whom a postponement of the application of the penalty was ordered must comply with the supervision measures and perform his obligations, under the conditions established by the court.

#### Article 85 Supervisory measures and obligations

(1) During the term of supervision, the person against whom the suspension of the application of the penalty was ordered must comply with the following supervision measures:

- a) to report to the probation service, on the dates fixed by it;
- b) to receive the visits of the probation counselor appointed with his supervision;
- c) to announce, in advance, the change of residence and any travel that exceeds 5 days, as well as the return;
- d) to communicate the change of job;
- e) to communicate information and documents of a nature to allow the control of his means of existence.

(2) The court may require the person against whom the suspension of the application of the penalty was ordered to perform one or more of the following obligations:

- a) to attend a school training or professional qualification course;
- b) to perform unpaid work for the benefit of the community, for a period between 30 and 60 days, under the conditions established by the court, unless, due to the state of health, the person cannot perform this work. The daily number of hours is determined by the law on execution of punishments;
- c) attend one or more social reintegration programs run by the probation service or organized in collaboration with community institutions;
- d) to submit to control measures, treatment or medical care;
- e) not to communicate with the victim or her family members, with the persons with whom he committed the crime or with other persons, determined by the court, or not to approach them;
- f) not to be in certain places or at certain sports, cultural events or other public gatherings, established by the court;
- g) not to drive certain vehicles determined by the court;

Note

Admission decision: HP no. 71/2023, published in the Official Gazette no. 1052 of November 21, 2023:

In the interpretation and application of the provisions of art. 85 para. (2) lit. g) of the Criminal Code, the court cannot impose on the person against whom the suspension of the application of the penalty was ordered to carry out the obligation not to drive certain vehicles established by the court for a period shorter than the duration of the supervision term provided for by art. 84 of the Criminal Code.

- h) not to possess, not to use and not to carry any category of weapons;
- i) not to leave the territory of Romania without the consent of the court;
- j) not to hold or exercise the position, profession, job or activity that was used to commit the crime.

(3) To establish the obligation provided for in para. (2) lit. b), the court will consult the information made available periodically by the probation service regarding the concrete enforcement possibilities existing at the level of the probation service and at the level of institutions in the community.

(on 01-02-2014, Paragraph (3) of art. 85 was amended by point 9 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012.)

(4) When establishing the obligation provided for in para. (2) lit. e)-g), the court individualizes, concretely, the content of this obligation, taking into account the circumstances of the case.

(on 01-02-2014, Paragraph (4) of art. 85 was amended by point 9 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012.)

(5) The supervised person must fully fulfill the civil obligations established by the decision, no later than 3 months before the expiry of the supervision term.

#### Article 86 Supervision

(1) During the supervision period, the data provided in art. 85 para. (1) lit. c)-e) is communicated to the probation service.

(2) Supervision of the execution of the obligations provided for in art. 85 para. (2) lit. a)-c) and para. (5) is done by the probation service. Verification of the fulfillment of the obligations provided for in art. 85 para. (2) lit. d)-j) is done by the competent bodies, which will notify the probation service of any violation thereof.

(3) The probation service will take the necessary measures to ensure the execution of the obligations provided for in art. 85 para. (2) lit. a)-d), in the shortest possible time from the date of the final conviction.

(4) During the supervision period, the probation service has the obligation to notify the court, if:

- a) there are reasons justifying either the modification of the obligations imposed by the court, or the termination of the execution of some of them;
- b) the supervised person does not comply with the supervision measures or does not perform, under the established conditions, his obligations;
- c) the supervised person has not fulfilled the civil obligations established by the decision, no later than 3 months before the expiry of the supervision term.

#### Article 87 Modification or termination of obligations

(1) If during the term of supervision there are reasons that justify either the imposition of new obligations or the increase or decrease of the conditions for the execution of the existing ones, the court orders the modification of the obligations accordingly, in order to ensure the supervised person increased chances of correction.

(2) The court orders the termination of the execution of some of the obligations it has imposed, when it considers that their maintenance is no longer necessary.

#### Article 88 Revocation of the postponement of the application of the penalty

(1) If, during the supervision period, the supervised person, in bad faith, does not comply with the supervision measures or does not perform the imposed obligations, the court revokes the postponement and orders the application and execution of the punishment.

(2) In the event that, until the expiry of the supervision term, the supervised person does not fully fulfill the civil obligations established by the decision, the court revokes the postponement and orders the application and execution of the punishment, except when the person proves that he had no possibility to fulfill them.

(3) If, after the postponement of the application of the punishment, the supervised person has committed a new crime, with intention or intention exceeded, discovered during the term of supervision, for which a conviction was pronounced even after the expiration of this term, the court revokes the postponement and orders the application and execution of the punishment. The penalty applied as a result of the revocation of the postponement and the penalty for the new crime are calculated according to the provisions regarding the competition of crimes.

Note

Admission decision - HP no. 24/2017, published in the Official Gazette no. 860 of November 1, 2017:

In the interpretation and application of the provisions of art. 83 para. (1) lit. b) from the Criminal Code and art. 88 para. (3) of the Criminal Code establishes that:

In the event of the commission of a new intentional crime during the supervision period of the suspension of the application of a punishment, both the sentencing solution for the new crime and the revocation of the suspension of the application of the previous punishment are mandatory.

(4) If the subsequent offense is committed out of fault, the court may maintain or revoke the suspension of the application of the penalty. In case of revocation, the provisions of para. (3) shall apply accordingly.

#### Article 89 Cancellation of the postponement of the application of the penalty

(1) If during the term of supervision it is discovered that the person under supervision had committed another crime before the decision by which the postponement was ordered became final, for which the prison sentence was imposed even after the expiry of this term, the postponement is cancelled, applying, as the case may be, the provisions regarding the contest of crimes, recidivism or intermediate plurality.

(2) In the event of a series of crimes, the court can order the postponement of the application of the resulting penalty if the conditions provided for in art. 83. If a postponement of the application of the penalty is ordered, the term of supervision is calculated from the date of finality of the decision by which the postponement of the application of the penalty was previously pronounced.

#### Article 90 Effects of postponing the application of the penalty

(1) The person against whom the suspension of the application of the penalty was ordered is no longer subject to the penalty and is not subject to any disqualification, prohibition or incapacity that could arise from the crime committed, if he has not committed another crime until the expiration of the supervision term, no revocation of the postponement was ordered and no cause for cancellation was discovered.

(2) The postponement of the application of the penalty does not produce effects on the execution of the safety measures and the civil obligations provided for in the decision.

#### Section 5 Suspending the execution of the sentence under supervision

##### Article 91 Conditions for suspending the execution of the sentence under supervision

(1) The court may order the suspension of the execution of the sentence under supervision if the following conditions are met:  
a) the sentence applied, including in case of concurrent crimes, is imprisonment for no more than 3 years;

Note

Admission decision - RIL no. 4/2020, published in Official Gazette no. 211 of March 16, 2020:

In the interpretation and uniform application of the provisions of art. 91 para. (1) lit. a) and para. (3) of the Criminal Code , when the penalty of the fine is added to the prison sentence, the criminal fine is executed, even if the execution of the prison sentence was suspended under supervision.

b) the offender has not previously been sentenced to prison for more than one year, except for the cases provided for in art. 42 or for which rehabilitation has taken place or the rehabilitation term has expired;

c) the offender has expressed his agreement to perform unpaid work for the benefit of the community;

d) in relation to the person of the offender, the conduct prior to the commission of the crime, the efforts made by him to remove or reduce the consequences of the crime, as well as his possibilities of correction, the court considers that the application of the punishment is sufficient and, even without its execution, the convicted he will not commit any more crimes, but it is necessary to supervise his conduct for a certain period.

(2) When the prison sentence is accompanied by the fine imposed under the terms of art. 62 , the fine is executed even if the execution of the prison sentence was suspended under supervision.

(3) It is not possible to order the suspension of the execution of the punishment under supervision, if:

a) the punishment applied is only the fine;

b) the application of the punishment was initially postponed, but later the postponement was revoked;

c) the offender evaded prosecution or trial or tried to thwart the discovery of the truth or the identification and prosecution of the perpetrator or the participants.

d) if the special law expressly provides for it.

(on 03-24-2024, Paragraph (3), Article 91, Section 5, Chapter V, Title III, GENERAL Part was supplemented by Article III of LAW no. 58 of March 20, 2024, published in the OFFICIAL GAZETTE no. 243 of March 21, 2024)

Note

Admission decision - RIL no. 4/2020, published in Official Gazette no. 211 of March 16, 2020:

In the interpretation and uniform application of the provisions of art. 91 para. (1) lit. a) and para. (3) of the Criminal Code , when the penalty of the fine is added to the prison sentence, the criminal fine is executed, even if the execution of the prison sentence was suspended under supervision.

(3\*1) The suspension of the execution of the sentence under supervision cannot be ordered in the case of the crimes provided for in art. 192 para.

(2) and (3) , if they were committed under the terms of art. 335 or 336 .

(on 07-13-2023, Article 91, Section 5, Chapter V, Title III, GENERAL Part was supplemented by the SINGLE ARTICLE of LAW no. 213 of July 7, 2023, published in the OFFICIAL GAZETTE no. 629 of 10 July 2023 )

(4) It is mandatory to present the reasons on which the conviction was based, as well as those that determined the suspension of the execution of the sentence and the warning of the convicted about his future conduct and the consequences to which he is exposed if he commits further crimes or does not comply with the supervision measures or he will not perform his obligations during the term of supervision.

##### Article 92 The term of supervision

(1) The duration of the suspension of the execution of the sentence under supervision constitutes a term of supervision for the convict and is between 2 and 4 years, but cannot be less than the duration of the sentence applied.

(2) The term of supervision is calculated from the date when the decision suspending the execution of the sentence under supervision became final.

(3) During the period of supervision, the convict must comply with the supervision measures and fulfill his obligations, under the conditions established by the court.

Note

Admission decision: HP no. 13/2019, published in Official Gazette no. 479 of June 12, 2019:

Establishes that in the event of the cancellation of the postponement of the application of a penalty, followed by the suspension under supervision of the execution of the resulting main penalty, the term of supervision, established according to the provisions of art. 92 of the Criminal Code , it is calculated from the date of finality of the judgment ordering the suspension under supervision of the execution of the resulting main penalty.

##### Article 93 Supervisory measures and obligations

(1) During the term of supervision, the convict must comply with the following supervision measures:

a) report to the probation service, on the dates fixed by it;

b) to receive the visits of the probation counselor appointed with his supervision;

c) to announce, in advance, the change of residence and any travel that exceeds 5 days;

d) to communicate the change of job;

e) to communicate information and documents of a nature to allow the control of his means of existence.

(2) The court requires the convict to perform one or more of the following obligations:

a) to attend a school training or professional qualification course;

b) attend one or more social reintegration programs run by the probation service or organized in collaboration with community institutions;

c) to submit to control measures, treatment or medical care;

d) not to leave the territory of Romania, without the consent of the court.

(3) During the term of supervision, the convict will perform unpaid work for the benefit of the community for a period between 60 and 120 days, under the conditions established by the court, unless, due to his health, he cannot perform this work. The daily number of hours is determined by the law on the execution of sentences.

(4) To establish the content of the obligation provided for in para. (3) , the court will consult the information made available periodically by the probation service regarding the concrete possibilities of enforcement existing at the level of the probation service and at the level of institutions in the community.

(on 01-02-2014, Paragraph (4) of art. 93 was amended by point 10 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(5) The convicted person must fully fulfill the civil obligations established by the sentencing decision, no later than 3 months before the expiration of the supervision term.

##### Article 94 Supervision of the convicted

(1) During the supervision period, the data provided in art. 93 para. (1) lit. c)-e) is communicated to the probation service.

(2) Supervision of the execution of the obligations provided for in art. 93 para. (2) lit. a) and lit. b) , paragraph (3) and para. (5) is done by the probation service. Verification of the fulfillment of the obligations provided for in art. 93 para. (2) lit. c) and letter d) it is done by the competent bodies, which will notify the probation service of any violation thereof.

(3) The probation service will take the necessary measures to ensure the execution of the obligations provided for in art. 93 para. (2) lit. a) and lit. b) , as well as para. (3) within the shortest possible time from the date of the conviction becoming final.

(4) During the supervision period, the probation service has the obligation to notify the court, if:

a) there are reasons justifying either the modification of the obligations imposed by the court, or the termination of the execution of some of them;

b) the supervised person does not comply with the supervision measures or does not perform, under the established conditions, his obligations;

c) the supervised person has not fulfilled the civil obligations established by the decision, no later than 3 months before the expiry of the supervision term.

##### Article 95 Modification or termination of obligations

(1) If during the period of supervision there are reasons that justify either the imposition of new obligations, or the increase or decrease of the conditions for the execution of the existing ones, the court orders the modification of the obligations accordingly, in order to ensure the convict greater chances of correction.

(2) The court orders the termination of the execution of some of the obligations it has imposed, when it considers that their maintenance is no longer necessary.

#### Article 96 Revoking the suspension of the execution of the sentence under supervision

- (1) If, during the supervision period, the supervised person, in bad faith, does not comply with the supervision measures or does not fulfill the obligations imposed or established by law, the court revokes the suspension and orders the execution of the punishment.
- (2) If by the end of the supervision term the supervised person does not fully fulfill the civil obligations established by the decision, the court revokes the suspension and orders the execution of the sentence, unless the person proves that he had no possibility to fulfill them.
- (3) Dacă pedeapsa amenzii care a însoțit pedeapsa închisorii în condițiile art. 62 nu a fost executată și a fost înlocuită cu pedeapsa închisorii potrivit art. 63 alin. (2) sau art. 64 alin. (5) și alin. (6), instanța revocă suspendarea și dispune executarea pedepsei, la care se adaugă pedeapsa închisorii care a înlocuit amenda.
- (4) Dacă pe parcursul termenului de supraveghere cel condamnat a săvârșit o nouă infracțiune, descoperită până la împlinirea termenului și pentru care s-a pronunțat o condamnare la pedeapsa închisorii, chiar după expirarea acestui termen, instanța revocă suspendarea și dispune executarea pedepsei.
- (5) Pedeapsa principală pentru noua infracțiune se stabilește și se execută, după caz, potrivit dispozițiilor referitoare la recidivă sau la pluralitatea intermediară.
- (6) Dacă infracțiunea ulterioară este săvârșită din culpă, instanța poate menține sau revoca suspendarea executării pedepsei sub supraveghere. În cazul revocării, dispozițiile alin. (1), alin. (4) și alin. (5) se aplică în mod corespunzător.

#### Articolul 97

##### Anularea suspendării executării pedepsei sub supraveghere

- (1) Dacă pe parcursul termenului de supraveghere se descoperă că persoana condamnată mai săvârșise o infracțiune până la rămânerea definitivă a hotărârii prin care s-a dispus suspendarea, pentru care i s-a aplicat pedeapsa închisorii chiar după expirarea acestui termen, suspendarea se anulează, aplicându-se, după caz, dispozițiile privitoare la concursul de infracțiuni, recidivă sau pluralitate intermediară.
- (2) În caz de concurs de infracțiuni sau pluralitate intermediară, instanța poate dispune suspendarea executării pedepsei rezultante, dacă sunt îndeplinite condițiile prevăzute în art. 91. Dacă se dispune suspendarea executării pedepsei sub supraveghere, termenul de supraveghere se calculează de la data rămânerei definitive a hotărârii de condamnare prin care s-a pronunțat anterior suspendarea executării pedepsei sub supraveghere.

#### Articolul 98

##### Efectele suspendării executării pedepsei sub supraveghere

- (1) În cazul în care condamnatul nu a săvârșit o nouă infracțiune descoperită până la expirarea termenului de supraveghere, nu s-a dispus revocarea suspendării executării pedepsei sub supraveghere și nu s-a descoperit o cauză de anulare, pedeapsa se consideră executată.  
(la 01-02-2014, Alin. (1) al art. 98 a fost modificat de pct. 11 al art. 245 din LEGEA nr. 187 din 24 octombrie 2012, publicată în MONITORUL OFICIAL nr. 757 din 12 noiembrie 2012. )
- (2) Suspendarea executării pedepsei sub supraveghere nu produce efecte asupra măsurilor de siguranță și a obligațiilor civile prevăzute în hotărârea de condamnare.

#### Secțiunea a 6-a Liberarea condiționată

#### Articolul 99

##### Condițiile liberării condiționate în cazul detențiunii pe viață

- (1) Liberarea condiționată în cazul detențiunii pe viață poate fi dispusă, dacă:
- cel condamnat a executat efectiv 20 de ani de detențiune;
  - cel condamnat a avut o bună conduită pe toată durata executării pedepsei;
  - cel condamnat a îndeplinit integral obligațiile civile stabilite prin hotărârea de condamnare, afară de cazul când dovedește că nu a avut nicio posibilitate să le îndeplinească;
  - instanța are convingerea că persoana condamnată s-a îndreptat și se poate reintegra în societate.
- (2) Este obligatorie prezentarea motivelor de fapt ce au determinat acordarea liberării condiționate și atenționarea condamnatului asupra conduitei sale viitoare și a consecințelor la care se expune, dacă va mai comite infracțiuni sau nu va respecta măsurile de supraveghere ori dacă nu va executa obligațiile ce îi revin pe durata termenului de supraveghere.
- (3) De la data liberării condiționate, condamnatul este supus unui termen de supraveghere de 10 ani.

#### Articolul 100

##### Condițiile liberării condiționate în cazul pedepsei închisorii

- (1) Liberarea condiționată în cazul închisorii poate fi dispusă, dacă:
- cel condamnat a executat cel puțin două treimi din durata pedepsei, în cazul închisorii care nu depășește 10 ani, sau cel puțin trei pătrimi din durata pedepsei, dar nu mai mult de 20 de ani, în cazul închisorii mai mari de 10 ani;
  - cel condamnat se află în executarea pedepsei în regim semideschis sau deschis;
  - cel condamnat a îndeplinit integral obligațiile civile stabilite prin hotărârea de condamnare, afară de cazul când dovedește că nu a avut nicio posibilitate să le îndeplinească;
  - instanța are convingerea că persoana condamnată s-a îndreptat și se poate reintegra în societate.
- (2) În cazul condamnatului care a împlinit vârsta de 60 de ani, se poate dispune liberarea condiționată, după executarea efectivă a jumătate din durata pedepsei, în cazul închisorii ce nu depășește 10 ani, sau a cel puțin două treimi din durata pedepsei, în cazul închisorii mai mari de 10 ani, dacă sunt îndeplinite condițiile prevăzute în alin. (1) lit. b)-d).
- (3) In the calculation of the penalty fractions provided for in para. (1) the part of the duration of the punishment that can be considered, according to the law, as executed based on the work performed is taken into account. In this case, conditional release cannot be ordered before the effective execution of at least half of the prison sentence, when it does not exceed 10 years, and at least two thirds, when the sentence is more than 10 years.
- (4) In the calculation of the penalty fractions provided for in par. (2) the part of the duration of the punishment that can be considered, according to the law, as executed based on the work performed, is taken into account. In this case, parole cannot be ordered before the effective execution of at least one third of the prison sentence, when it does not exceed 10 years, and at least half, when the sentence is more than 10 years.
- (5) It is mandatory to present the factual reasons that determined the granting of conditional release and to warn the convict about his future conduct and the consequences to which he is exposed, if he commits further crimes or does not comply with the supervision measures or does not fulfill his obligations during the supervision period.
- (6) The interval between the date of conditional release and the date of completion of the sentence constitutes a term of supervision for the convict.

#### Article 101 Supervisory measures and obligations

- (1) If the remainder of the sentence remaining unexecuted at the date of release is 2 years or more, the convict must comply with the following supervision measures:
- report to the probation service, on the dates fixed by it;
  - to receive the visits of the person designated with his supervision;
  - to announce, in advance, any change of residence and any travel that exceeds 5 days;
  - to communicate the change of job;
  - to communicate information and documents of a nature to allow the control of his means of existence.
- (2) In the case provided for in para. (1), the court may require the convicted person to perform one or more of the following obligations:
- to attend a school training or professional qualification course;
  - attend one or more social reintegration programs run by the probation service or organized in collaboration with community institutions;
  - not to leave the territory of Romania;
  - not to be in certain places or at certain sports, cultural events or other public gatherings, established by the court;
  - not to communicate with the victim or her family members, with the participants in the commission of the crime or with other persons, established by the court, or not to approach them;
  - not to drive certain vehicles determined by the court;
  - not to own, use or carry any category of weapons.
- (3) The obligations provided for in para. (2) lit. c)-g) can be imposed to the extent that they were not applied in the content of the complementary punishment of the prohibition of the exercise of certain rights.
- (4) When establishing the obligation provided for in para. (2) lit. d)-f), the court individualizes, concretely, the content of this obligation, taking into account the circumstances of the case.

(on 01-02-2014, Paragraph (4) of art. 101 was amended by point 12 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(5) The supervisory measures and obligations provided for in para. (2) lit. a) and lit. b) is executed from the moment the release is granted, for a period equal to one third of the duration of the supervision term, but not more than 2 years, and the obligations provided in para. (2) lit. c)-g) is executed throughout the supervision term.

(6) Repealed.

(on 01-02-2014, Paragraph (6) of art. 101 was repealed by point 13 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

#### Article 102 Supervision of the convicted

(1) During the supervision, the data provided in art. 101 para. (1) lit. c)-e) is communicated to the probation service.

(2) Supervision of the execution of the obligations provided for in art. 101 para. (2) lit. a) and lit. b) it is done by the probation service.

Verification of the fulfillment of the obligations provided for in art. 101 para. (2) lit. c)-g) is done by the competent bodies, which will notify the probation service of any violation thereof.

(3) Supervision of the execution of the obligations provided for in art. 101 para. (2) lit. d) and letter e) it can also be carried out through an electronic surveillance system, under the conditions provided by the special law.

(4) During supervision, the probation service has the obligation to notify the court, if:

a) there are reasons justifying either the modification of the obligations imposed by the court, or the termination of the execution of some of them;

b) the supervised person does not comply with the supervision measures or does not perform, under the established conditions, his obligations.

#### Article 103 Modification or termination of obligations

(1) If, during the supervision, there are reasons that justify either the imposition of new obligations, or the increase or decrease of the conditions for the execution of the existing ones, the court orders the modification of the obligations accordingly, in order to ensure the convict greater chances of social reintegration.

(2) The court orders the termination of the execution of some of the obligations it has imposed, when it considers that their maintenance is no longer necessary.

#### Article 104 Revocation of parole

(1) If, during supervision, the convicted person, in bad faith, does not comply with the supervision measures or does not fulfill the imposed obligations, the court revokes the release and orders the execution of the rest of the sentence.

(2) If, after the granting of release, the convicted person committed a new crime, which was discovered during the period of supervision and for which a prison sentence was pronounced, even after the expiration of this term, the court revokes the release and orders the execution of the rest of the sentence. The penalty for the new crime is established and executed, as the case may be, according to the provisions of the intermediate recidivism or plurality.

(3) The provisions of para. (1) and para. (2) shall also apply accordingly in the case of conditional release from the execution of the sentence of life imprisonment.

#### Article 105 Cancellation of parole

(1) If during the term of supervision it is discovered that the convicted person had committed another crime before the release was granted, for which he was sentenced to prison even after the expiry of this term, the release is cancelled, applying, as the case may be, the provisions regarding the contest of offences, recidivism or intermediate plurality.

Note

Admission decision: HP no. 10/2020, published in Official Gazette no. 500 from June 12, 2020:

Establishes that, in the interpretation and application of the provisions of art. 105 para. (1) of the Criminal Code , the phrase "if during the term of supervision it is discovered that the convicted person had committed another crime before the granting of release" covers both the situation of crimes committed before the conditional release and discovered after the granting of the conditional release, until the completion of the term of supervision , as well as the situation of crimes committed before parole and discovered before parole.

(2) If, in relation to the resulting penalty, the conditions provided for in art. 99 or art. 100 , the court may grant parole. If the release was ordered, the term of supervision is calculated from the date of the first release.

Note

Rejection decision: HP no. 19/2023, published in the Official Gazette no. 377 of May 3, 2023.

(3) When, after the annulment, the court orders the execution of the resulting punishment, the part of the duration of the complementary punishment of the prohibition of the exercise of some rights not executed on the date of the annulment of the release will be executed after the execution of the prison sentence.

Article 106 Effects of parole If the convict did not commit a new crime discovered until the end of the supervision term, the revocation of parole was not ordered and no reason for annulment was discovered, the sentence is considered executed. (on 01-02-2014, Art. 106 was amended by point 14 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

### Title IV Safety measures

#### Chapter I General Provisions

##### Article 107 Purpose of safety measures

(1) Safety measures are aimed at removing a state of danger and preventing the commission of the acts provided for by the criminal law.

(2) Safety measures are taken against the person who has committed an unjustified act provided for by the criminal law.

(3) Safety measures can also be taken in the situation where the perpetrator is not punished.

Article 108 Categories of safety measures Safety measures are: a) requiring medical treatment; b) medical hospitalization; c) prohibition of occupying a position or exercising a profession; d) special confiscation. e) extended confiscation. (on 22-04-2012, Letter e) of art. 108 was introduced by point 1 of art. II of LAW no. 63 of April 17, 2012, published in the OFFICIAL GAZETTE no. 258 of April 19, 2012. )

#### Chapter II Safety measures regime

##### Article 109 Obligation for medical treatment

(1) If the perpetrator, due to an illness, including that caused by the chronic consumption of alcohol or other psychoactive substances, poses a danger to society, he may be obliged to undergo medical treatment until he recovers or until he obtains an improvement that removes state of danger.

(2) When the person against whom this measure was taken does not follow the treatment, medical hospitalization may be ordered.

(3) If the person obliged to undergo treatment is sentenced to a custodial sentence, the treatment is also carried out during the execution of the sentence.

Article 110 Medical hospitalization When the perpetrator is mentally ill, a chronic user of psychoactive substances or suffers from an infectious disease and presents a danger to society, the measure of hospitalization in a specialized health unit can be taken, until he recovers or until he

obtains an improvement that to remove the danger.

#### Article 111 Prohibition of occupying a position or exercising a profession

- (1) When the perpetrator committed the act due to incapacity, unpreparedness or other causes that make him unfit to occupy a certain position, to exercise a profession or trade or to carry out another activity, the measure of prohibiting the exercise of the right to occupy that position may be taken or to exercise that profession, job or activity.
- (2) The safety measure can be revoked upon request, after a period of at least one year has passed, if it is found that the grounds that imposed it have ceased. A new application can only be made after a period of at least one year has passed from the date of rejection of the previous application.

#### Article 112 Special confiscation

- (1) The following are subject to special confiscation:
  - a) goods produced by committing the act provided for by the criminal law;
  - b) assets that have been used, in any way, or intended to be used to commit an act provided for by the criminal law, if they belong to the perpetrator or if, belonging to another person, he knew the purpose of their use;
  - c) the goods used, immediately after the commission of the act, to ensure the escape of the perpetrator or the preservation of the benefit or the product obtained, if they belong to the perpetrator or if, belonging to another person, he knew the purpose of their use;
  - d) the assets that were given to determine the commission of an act provided for by the criminal law or to reward the perpetrator;
  - e) the goods acquired by committing the act provided for by the criminal law, if they are not returned to the injured person and to the extent that they do not serve to compensate him;
  - f) goods whose possession is prohibited by criminal law.

Note

Admission decision - RIL no. 10/2019, published in Official Gazette no. 472 of June 11, 2019:

In the interpretation and uniform application of the provisions of art. 112 para. (1) lit. f) from the Criminal Code , art. 342 para. (6) of the Criminal Code and art. 549<sup>1</sup> of the Code of Criminal Procedure, establishes the following:

In the case of the act provided for by art. 342 para. (6) of the Criminal Code , regarding which a classification solution based on the provisions of art. 16 para. (1) lit. b) sentence II of the Code of Criminal Procedure, weapons and ammunition are subject to special confiscation, pursuant to art. 112 para. (1) lit. f) from the Criminal Code , in the procedure regulated by art. 549<sup>1</sup> of the Code of Criminal Procedure, in the event that the perpetrator did not submit the weapon and ammunition to an authorized gunsmith within 10 days of the expiration of the validity period of the weapon permit.

(2) In the case provided for in para. (1) lit. b) and letter c) , if the value of the assets subject to confiscation is clearly disproportionate to the nature and gravity of the act, partial confiscation is ordered, by monetary equivalent, taking into account the consequences produced or that could have been produced and the asset's contribution to it. If the assets were produced, modified or adapted for the purpose of committing the act provided for by the criminal law, their entire confiscation is ordered.

(3) In the cases provided for in para. (1) lit. b) and letter c) , if the assets cannot be confiscated, as they do not belong to the offender, and the person to whom they belong did not know the purpose of their use, their monetary equivalent will be confiscated, applying the provisions of para. (2) .

(4) The provisions of par. (1) lit. b) does not apply to acts committed through the press.

(5) If the goods subject to confiscation according to para. (1) lit. b)-e) are not found, in their place money and goods are confiscated up to their value.

(6) Assets and money obtained from the exploitation of the assets subject to confiscation, as well as the assets produced by them, are also confiscated, with the exception of the assets provided for in para. (1) lit. b) and letter c) .

#### Article 112<sup>1</sup> Extended confiscation

(1) Assets other than those provided for in art. are subject to confiscation. 112 , when a person is ordered to be sentenced for an act likely to procure him a material benefit and for which the punishment provided by law is imprisonment of 4 years or more, the court forms its conviction that the assets in question come from criminal activities. The court's conviction can also be based on the disproportion between the legal income and the person's wealth.

(on 05-11-2020, Paragraph (1) of Article 112<sup>1</sup>, Chapter II, Title IV, GENERAL Part was amended by Article I of LAW no. 228 of November 2, 2020, published in the OFFICIAL GAZETTE no. 1019 of 02 November 2020 )

(2) The extended confiscation is ordered on the assets acquired by the convicted person in a period of 5 years before and, if necessary, after the time of the commission of the crime, until the date of issuance of the act of referral to the court. Extended confiscation can also be ordered on assets transferred to third parties, if they knew or should have known that the purpose of the transfer was to avoid confiscation.

(on 05-11-2020, Paragraph (2) of Article 112<sup>1</sup>, Chapter II, Title IV, GENERAL Part was amended by Article I of LAW no. 228 of November 2, 2020, published in the OFFICIAL GAZETTE no. 1019 of 02 November 2020 )

(3) For the application of the provisions of para. (2) the value of the assets transferred by the convicted person or by a third party to a family member or a legal entity over which the convicted person has control will also be taken into account.

(4) By goods, according to this article, we also understand the sums of money.

(5) When determining the difference between the lawful income and the value of the assets acquired, the value of the assets at the date of their acquisition and the expenses incurred by the convicted person and his family members will be taken into account.

(6) If the goods subject to confiscation are not found, money and goods are confiscated in their place up to the competition of their value.

(7) Assets and money obtained from the exploitation or use of the assets subject to confiscation, as well as the assets produced by them, are also confiscated.

(8) The confiscation cannot exceed the value of the goods acquired during the period provided for in paragraph (2) , which exceeds the level of lawful income of the convicted person.

(on 04-22-2012, Art. 112<sup>1</sup> was introduced by point 2 of art. II of LAW no. 63 of April 17, 2012, published in the OFFICIAL GAZETTE no. 258 of April 19, 2012. )

Note

\*) By DECISION OF THE CONSTITUTIONAL COURT no. 11 of January 15, 2015, published in the OFFICIAL GAZETTE no. 102 of February 9, 2015, the exception of unconstitutionality of the provisions of art. 112<sup>1</sup> para. (2) lit. a) from the Criminal Code , finding that they are constitutional to the extent that extended confiscation does not apply to assets acquired before the entry into force of Law no. 63/2012 for the amendment and completion of the Criminal Code of Romania and Law no. 286/2009 regarding the Criminal Code.

According to art. 147 para. (1) from the ROMANIA CONSTITUTION republished in the OFFICIAL GAZETTE no. 767 of October 31, 2003 the provisions of the laws and ordinances in force, as well as those of the regulations, found to be unconstitutional, cease their legal effects 45 days after the publication of the decision of the Constitutional Court if, during this interval, the Parliament or the Government, as the case may be , do not reconcile the non-constitutional provisions with the provisions of the Constitution. During this term, provisions found to be unconstitutional are suspended by law.

Therefore, between February 9, 2015 and March 25, 2015, the provisions of art. 112<sup>1</sup> para. (2) lit. a) from the Criminal Code , to the extent that extended confiscation applies to assets acquired before the entry into force of Law no. 63/2012 for the amendment and completion of the Criminal Code of Romania and Law no. 286/2009 regarding the Criminal Code, were suspended by law, ceasing their legal effects as of March 26, 2015, as the legislator did not intervene to amend the provisions declared unconstitutional.

#### Title V Minority

##### Chapter I Regime of criminal liability of minors

#### Article 113 Limits of criminal liability

- (1) The minor who has not reached the age of 14 is not criminally liable.
- (2) The minor who is between 14 and 16 years old is criminally liable only if it is proven that he committed the act with discretion.
- (3) The minor who has reached the age of 16 is criminally liable according to the law.

#### Article 114 Consequences of criminal liability

- (1) A non-custodial educational measure is taken against the minor who, at the time of the crime, was between 14 and 18 years old.
- (2) In relation to the minor provided for in para. (1) an custodial educational measure may be taken in the following cases:
  - a) if he has committed another crime, for which an educational measure was applied to him that was executed or the execution of which began before

the commission of the crime for which he is judged;  
b) when the punishment prescribed by law for the crime committed is imprisonment for 7 years or more times life imprisonment.

#### Article 115 Educational measures

(1) Educational measures are non-custodial or custodial.  
1. Non-custodial educational measures are:  
a) civic training internship;  
b) supervision;  
c) registration at the end of the week;  
d) daily assistance.  
2. The custodial educational measures are:  
a) hospitalization in an educational center;  
b) hospitalization in a detention center.  
(2) The choice of the educational measure to be taken against the minor is made, under the conditions of art. 114 , according to the criteria provided in art. 74 .

#### Article 116 Evaluation report

(1) In order to carry out the evaluation of the minor, according to the criteria provided in art. 74 , the court will request the probation service to prepare a report that will also include reasoned proposals regarding the nature and duration of the social reintegration programs that the minor should follow, as well as other obligations that may be imposed on him by the court.  
(2) The evaluation report regarding compliance with the conditions for the execution of the educational measure or the imposed obligations is drawn up by the probation service in all cases where the court rules on the educational measure or on the modification or termination of the execution of the imposed obligations, except for the situation provided for in art. . 126 , when it will be drawn up by the educational or detention center.  
(on 01-02-2014, Paragraph (2) of art. 116 was amended by point 15 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

#### Chapter II Regime of non-custodial educational measures

##### Article 117 Civic training internship

(1) The educational measure of the civic training internship consists in the minor's obligation to participate in a program lasting no more than 4 months, to help him understand the legal and social consequences to which he is exposed in the event of committing crimes and to responsible for his future behavior.  
(2) The organization, ensuring the participation and supervision of the minor, during the civic training course, are done under the coordination of the probation service, without affecting the school or professional schedule of the minor.

Article 118 Supervision The educational measure of supervision consists in controlling and guiding the minor in his daily schedule, for a period between two and 6 months, under the coordination of the probation service, to ensure participation in school or professional training courses and prevent the development of activities or coming into contact with certain people that could affect the process of his correction.

##### Article 119 Registration at the end of the week

(1) The educational measure of registration at the end of the week consists in the minor's obligation not to leave the home on Saturdays and Sundays, for a period between 4 and 12 weeks, unless, during this period, he has the obligation to participate in certain programs or to carry out certain activities imposed by the court.  
(2) Supervision is done under the coordination of the probation service.

##### Article 120 Daily assistance

(1) The educational measure of daily assistance consists in the minor's obligation to comply with a program established by the probation service, which contains the schedule and conditions for carrying out activities, as well as the prohibitions imposed on the minor.  
(2) The educational measure of daily assistance is taken for a duration between 3 and 6 months, and the supervision is done under the coordination of the probation service.

##### Article 121 Obligations that can be imposed on the minor

(1) During the execution of non-custodial educational measures, the court may impose one or more of the following obligations on the minor:  
a) to attend a school or vocational training course;  
b) not to exceed, without the consent of the probation service, the territorial limit established by the court;  
c) not to be in certain places or at certain sports, cultural events or other public gatherings, established by the court;  
d) not to approach or communicate with the victim or her family members, with the participants in the commission of the crime or with other persons determined by the court;  
e) to report to the probation service on the dates fixed by it;  
f) to submit to control measures, treatment or medical care;  
g) to participate, alone or, as the case may be, together with the parents or with another legal representative, in the special psychological counseling programs organized by the general direction of social assistance and child protection or by other specialized public or private institutions.  
(on 10-28-2023, Paragraph (1), Article 121, Chapter II, Title V, GENERAL Part was supplemented by Article II of LAW no. 291 of October 24, 2023, published in the OFFICIAL GAZETTE no. 968 of October 25 2023 )  
(2) When establishing the obligation provided for in para. (1) lit. d) , the court individualizes, concretely, the content of this obligation, taking into account the circumstances of the case.  
(3) The supervision of the execution of the obligations imposed by the court is done under the coordination of the probation service.  
(4) During the execution of the non-custodial educational measure, the probation service has the obligation to notify the court, if:  
a) there are reasons justifying either the modification of the obligations imposed by the court, or the termination of the execution of some of them;  
b) the supervised person does not comply with the conditions for the execution of the educational measure or does not perform, under the established conditions, his obligations.

##### Article 122 Modification or termination of obligations

(1) If, during supervision, there are reasons that justify either the imposition of new obligations, or the increase or decrease of the conditions for the execution of existing ones, the court orders the modification of the obligations accordingly, in order to ensure the supervised person greater chances of correction.  
(2) The court orders the termination of the execution of some of the obligations it has imposed, when it considers that their maintenance is no longer necessary.

##### Article 123 Extension or replacement of non-custodial educational measures

(1) If the minor does not comply, in bad faith, with the conditions for the execution of the educational measure or the imposed obligations, the court orders:  
a) the extension of the educational measure, without being able to exceed the maximum provided by law for it;  
b) replacing the measure taken with another educational measure not depriving of freedom more severe;  
c) replacing the measure taken with hospitalization in an educational center, if, initially, the most severe non-custodial educational measure was taken, for its maximum duration.  
(2) In the cases provided for in para. (1) lit. a) and lit. b) , if the conditions for the execution of the educational measure or the imposed obligations are not respected this time either, the court replaces the non-custodial educational measure with the measure of internment in an educational center.  
(3) If the minor under the execution of a non-custodial educational measure commits a new crime or is tried for a previously committed concurrent crime, the court orders:

- a) the extension of the initially taken educational measure, without being able to exceed the maximum prescribed by law for it;
  - b) replacing the initially taken measure with another more severe non-liberty educational measure;
  - c) replacing the initially taken measure with a custodial educational measure.
- (4) In the cases provided for in para. (1) lit. a) and lit. b) , as well as in para. (3) lit. a) and lit. b) , the court can impose new obligations on the minor or increase the conditions for the execution of the existing ones.

### Chapter III Regime of custodial educational measures

#### Article 124 Internment in an educational center

- (1) The educational measure of internment in an educational center consists in the internment of the minor in an institution specialized in the recovery of minors, where he will follow a school training and professional training program according to his skills, as well as social reintegration programs.
- (2) Internment is ordered for a period between one and 3 years.
- (3) If during the period of detention the minor commits a new crime or is judged for a previously committed concurrent crime, the court may maintain the measure of detention in an educational center, extending its duration, without exceeding the maximum provided by law, or may replace it with measure of internment in a detention center.

Note

Admission decision: HP no. 17/2020, published in Official Gazette no. 958 of October 19, 2020:

Establishes that, in application of the provisions of art. 124 para. (3) of the Criminal Code , in the case of replacing the educational measure of internment in an educational center with the measure of internment in a detention center, the hypothesis of the competition of crimes being incident, the period of execution is deducted from the duration of the educational measure of internment in a detention center the educational measure of hospitalization in an educational center.

- (4) If, during the period of confinement, the minor has shown a constant interest in acquiring school and professional knowledge and has made obvious progress towards social reintegration, after serving at least half of the period of confinement, the court may order:
- a) replacement of confinement with the educational measure of daily assistance for a period equal to the duration of the unexecuted hospitalization, but not more than 6 months, if the hospitalized person has not reached the age of 18;
  - b) release from the educational center, if the interned person has reached the age of 18.
- (5) With the replacement or release, the court imposes compliance with one or more of the obligations provided for in art. 121 until the completion of the internment measure.
- (6) If the minor does not comply, in bad faith, with the conditions for the execution of the daily assistance measure or the imposed obligations, the court reverts to the replacement or release and orders the execution of the remaining unexecuted duration of the measure of internment in an educational center.
- (7) In the case of the commission of a new crime by a person who has not reached the age of 18 and for whom it was ordered to replace the measure of internment in an educational center with the measure of daily assistance, until the completion of the term of internment, the court returns on the replacement and orders:
- a) execution of the remainder of the duration of the initial internment measure, with the possibility of extending its duration up to the maximum provided by law;
  - b) hospitalization in a detention center.

#### Article 125 Internment in a detention center

- (1) The educational measure of internment in a detention center consists in the internment of the minor in an institution specialized in the recovery of minors, with a guard and supervision regime, where he will follow intensive social reintegration programs, as well as school preparation and training programs professional according to his skills.
- (2) Internment is ordered for a period between 2 and 5 years, unless the punishment provided by law for the crime committed is imprisonment for 20 years or more times life imprisonment, when the internment is taken for a period between between 5 and 15 years.

Note

Rejection decision: HP no. 39/2022, published in the Official Gazette no. 678 of July 7, 2022.

- (3) If during the period of internment the minor commits a new crime or is tried for a concurrent infraction previously committed, the court extends the internment measure, without exceeding the maximum provided in par. (2) , determined in relation to the heaviest punishment among those provided by law for the crimes committed. From the duration of the educational measure, the period executed up to the date of the decision is deducted.
- (4) If, during the period of confinement, the minor has shown a constant interest in acquiring school and professional knowledge and has made obvious progress towards social reintegration, after serving at least half of the period of confinement, the court may order:
- a) replacement of confinement with the educational measure of daily assistance for a period equal to the duration of the unexecuted hospitalization, but not more than 6 months, if the hospitalized person has not reached the age of 18;
  - b) release from the detention center, if the interned person has reached the age of 18.
- (5) With the replacement or release, the court imposes compliance with one or more of the obligations provided for in art. 121 , until the completion of the internment measure.
- (6) If the minor does not comply, in bad faith, with the conditions for the execution of the daily assistance measure or the imposed obligations, the court reverts to the replacement or release and orders the execution of the remaining unexecuted duration of the measure of internment in a detention center.
- (7) In the event of the commission of a new crime by a person who has not reached the age of 18 and for whom the measure of internment in a detention center has been replaced by the measure of daily assistance, the court reverts to the substitution and orders:
- a) execution of the remainder of the duration of the internment measure in a detention center;
  - b) extending the duration of this internment under the conditions provided for in para. (3) .

Article 126 Change of execution regime If, during the execution of an educational measure depriving of liberty, the interned person, who has reached the age of 18, behaves in a way that negatively influences or hinders the recovery and reintegration process of the other interned persons, the court may order the continuation execution of the educational measure in a penitentiary.

Article 127 Calculation of the duration of educational measures In the case of custodial educational measures, the provisions of art. 71-73 apply accordingly.

### Chapter IV Common Provisions

Article 128 Effects of mitigating and aggravating factors In the case of crimes committed during the minority, mitigating and aggravating factors are taken into account when choosing the educational measure and produce effects within the limits provided by law for each educational measure.

#### Article 129 Plurality of crimes

- (1) In case of contest of crimes committed during the minority, a single educational measure is established and taken for all the facts, under the conditions of art. 114 , taking into account the criteria provided in art. 74 .
- (2) In the case of committing two crimes, one of which was committed during the minority and one after reaching the age of majority, an educational measure is taken for the crime committed during the minority, and a punishment is established for the crime committed after reaching the age of majority, after which:
- a) if the educational measure is not deprivation of liberty, only the punishment is executed;
  - b) if the educational measure is custodial, and the punishment is imprisonment, the prison sentence is applied, which is increased by a duration equal to at least a quarter of the duration of the educational measure or the remaining unexecuted portion thereof on the date of the commission of the crime committed after the maximum . The penalty thus obtained cannot exceed the duration of the resulting penalty applicable according to art. 39 para. (1) lit. b) , if both offenses were committed after reaching the age of majority.
- (on 09-07-2023, Letter b), Paragraph (2), Article 129, Chapter IV, Title V, GENERAL Part was amended by Point 2., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)
- c) if the penalty applied for the crime committed after reaching the age of majority is life imprisonment, only this penalty is executed;
  - d) if the educational measure is custodial, and the punishment is a fine, the educational measure is executed, the duration of which is increased by no more than 6 months, without exceeding the maximum prescribed by law for this.
- (3) In the case provided for in para. (2) lit. b) , from the duration of the applied penalty is deducted what was executed from the moment of the commission of the crime committed after reaching the age of majority until the date of judgment.

(4) In the case of the commission of two or more concurrent offenses after reaching the age of majority, the rules relating to the concurrent offenses are applied first, after which the provisions of para. (2) .

(5) The penalty established according to the provisions of para. (2) lit. b) cannot be subject to the postponement of the application of the penalty or the suspension of execution under supervision.

Note

Admission decision - HP no. 2/2016, published in the Official Gazette no. 192 of March 15, 2016:

Establishes that, in the case of concurrent crimes committed during the minority, tried separately, the duration of the non-custodial educational measure, ordered for a concurrent and executed crime, is not deducted from the duration of the non-custodial or custodial educational measure, but will be taken into account the choice and establishment of the sanction according to art. 129 para. (1) of the Criminal Code .

Article 130 Discovery of a crime committed while a minor If during the supervision term of the postponement of the application of the punishment, suspension under supervision or conditional release it is discovered that the supervised person had committed another crime during the minority for which he was taken, even after the expiration of this term , a custodial educational measure, the postponement, suspension or release is cancelled, applying accordingly the provisions of art. 129 para. (2)-(4) .

Article 131 Prescription of criminal liability of minors The statute of limitations for criminal liability, provided in art. 154 , are reduced by half for those who were minors when the crime was committed and are interrupted or suspended under the conditions provided by law for adults.

Article 132 Prescription for the execution of educational measures

(1) Non-custodial educational measures are prescribed within a period of 2 years from the date of finality of the decision by which they were taken.

(2) The custodial educational measures are prescribed in a term equal to the duration of the educational measure taken, but not less than 2 years.

(3) The limitation periods for the execution of educational measures are interrupted and suspended under the conditions provided by the law for adults.

(4) In the case of replacement of educational measures, execution is prescribed in relation to the heavier educational measure and runs from the date of finality of the decision by which the replacement was ordered.

Article 133 Effects of educational measures Educational measures do not attract prohibitions, declines or disabilities.

Article 134 The minor who has become an adult

(1) The provisions of this title also apply to adults who, at the time of the crime, were between 14 and 18 years old.

(2) When, on the date of the pronouncement of the decision by which a custodial educational measure was taken, the offender has reached the age of 18, the court, taking into account his possibilities of correction, his age, as well as the other criteria provided in art. . 74 , may order the execution of the educational measure in a penitentiary.

Title VI Criminal liability of legal persons

Chapter I General provisions

Article 135 Conditions of criminal liability of legal persons

(1) The legal person, with the exception of the state and public authorities, is criminally liable for crimes committed in the pursuit of the object of activity or in the interest or on behalf of the legal person.

(2) Public institutions are not criminally liable for crimes committed in the exercise of an activity that cannot be the subject of the private domain.

(3) The criminal liability of the legal person does not exclude the criminal liability of the natural person who contributed to the commission of the same act.

Note

Admission decision: HP no. 9/2023, published in Official Gazette no. 245 of March 24, 2023:

The military hospital is a public institution within the meaning of art. 135 of the Criminal Code , and this cannot be the author of the crime of bribery, provided by art. 289 para. (1) of the Criminal Code , and abuse of office, provided by art. 297 para. (1) of the Criminal Code .

Article 136 Penalties applicable to the legal person

(1) The penalties applicable to the legal person are principal and complementary.

(2) The main punishment is the fine.

(3) Complementary penalties are:

a) dissolution of the legal entity;

b) suspension of the activity or one of the activities of the legal entity for a period of 3 months to 3 years;

c) closing some work points of the legal entity for a period of 3 months to 3 years;

d) prohibition to participate in public procurement procedures for a period of one to 3 years;

e) placement under judicial supervision;

f) display or publication of the conviction.

Article 137 Determination of the fine for the legal entity

(1) The fine consists of the amount of money that the legal person is sentenced to pay to the state.

(2) The amount of the fine is determined by the days-fine system. The amount corresponding to a day-fine, between 100 and 5,000 lei, is multiplied by the number of days-fine, which is between 30 days and 600 days.

(3) The court determines the number of fine days taking into account the general criteria for individualizing the punishment. The amount of the amount corresponding to a day-fine is determined taking into account the total revenues and total assets included in the annual financial statements or, as the case may be, in the annual accounting reports, which the legal entity is obliged to prepare and submit, according to the law, for the year financially prior to being sent to court.

(on 07-14-2023, Paragraph (3), Article 137, Chapter I, Title VI, GENERAL Part was amended by Point 1, Article I of LAW no. 214 of July 7, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

(3\*1) The amount of the amount corresponding to one day-fine is determined taking into account the value of the patrimonial asset on the date of the referral to court, in the case of the legal person who:

a) does not have the obligation to prepare and submit, according to the law, the documents provided for in paragraph (3) ;

b) was established in the year of the referral to court.

(on 07-14-2023, Article 137, Chapter I, Title VI, GENERAL Part was supplemented by Point 2., Article I of LAW no. 214 of July 7, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023 )

(4) The special limits of fine-days are between:

a) 60 and 180 fine-days, when the law only provides for the penalty of a fine for the offense committed;

b) 120 and 240 days-fine, when the law provides a prison sentence of no more than 5 years, single or alternatively with a fine;

c) 180 and 300 days-fine, when the law provides a prison sentence of no more than 10 years;

d) 240 and 420 days-fine, when the law provides a prison sentence of no more than 20 years;

e) 360 and 510 days-fine, when the law provides for a prison sentence of more than 20 years or life imprisonment.

(5) When, through the crime committed, the legal person sought to obtain a patrimonial benefit, the special limits of fine-days provided by law for the crime committed may be increased by one third, without exceeding the general maximum of the fine. When determining the fine, the value of the patrimonial benefit obtained or pursued will be taken into account.

Chapter II The regime of complementary punishments applied to the legal person

## Article 138 Application and execution of complementary punishments in the case of the legal person

- (1) The application of one or more complementary punishments is ordered when the court finds that, considering the nature and gravity of the crime, as well as the circumstances of the case, these punishments are necessary.
- (2) The application of one or more complementary penalties is mandatory when the law provides for this penalty.
- (3) The complementary penalties provided for in art. 136 para. (3) lit. b)-f) can be applied cumulatively.
- (4) The execution of the complementary punishments begins after the conviction has become final.

## Article 139 Dissolution of the legal entity

- (1) The complementary penalty of dissolution of the legal entity is applied when:
  - a) the legal entity was established for the purpose of committing crimes;
  - b) his object of activity has been hijacked for the purpose of committing crimes, and the punishment provided by law for the committed crime is imprisonment for more than 3 years.
- (2) In case of non-execution, in bad faith, of one of the complementary penalties provided for in art. 136 para. (3) lit. b)-e) , the court orders the dissolution of the legal entity.
- (3) Repealed.  
(on 01-02-2014, Paragraph (3) of art. 139 was repealed by point 16 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

## Article 140 Suspension of the activity of the legal entity

- (1) The complementary penalty of suspending the activity of the legal entity consists in the prohibition of carrying out the activity or one of the activities of the legal entity in the performance of which the crime was committed.
- (2) In case of non-execution, in bad faith, of the complementary penalty provided for in art. 136 para. (3) lit. f) , the court orders the suspension of the activity or one of the activities of the legal entity until the complementary punishment is enforced, but not more than 3 months.
- (3) If by the end of the term stipulated in para. (2) the complementary penalty has not been enforced, the court orders the dissolution of the legal entity.

## Article 141 Non-application of the dissolution or suspension of the activity of the legal entity

- (1) The complementary penalties provided for in art. 136 para. (3) lit. a) and lit. b) they cannot be applied to public institutions, political parties, trade unions, patronages and religious organizations or belonging to national minorities, constituted according to the law.
- (2) The provisions of par. (1) also applies to legal entities operating in the field of media.

## Article 142 Closure of some work points of the legal entity

- (1) The complementary punishment of the closure of some workplaces of the legal entity consists in the closure of one or more of the workplaces belonging to the for-profit legal entity, in which the activity was carried out for the purpose of which the crime was committed.
- (2) The provisions of par. (1) does not apply to legal entities operating in the field of media.

Article 143 Prohibition to participate in public procurement procedures The complementary penalty of the prohibition to participate in public procurement procedures consists in the prohibition to participate, directly or indirectly, in the procedures for awarding public procurement contracts, provided by law.

## Article 144 Placement under judicial supervision

- (1) The complementary penalty of being placed under judicial supervision involves carrying out under the supervision of a judicial trustee the activity that caused the crime to be committed, for a period of one to 3 years.  
(on 01-02-2014, Paragraph (1) of art. 144 was amended by point 17 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )
- (2) The legal representative has the obligation to notify the court when he finds that the legal person has not taken the necessary measures to prevent the commission of new crimes. If the court finds that the notification is well-founded, it orders the replacement of this penalty with the penalty provided for in art. 140 .  
(on 01-02-2014, Paragraph (2) of art. 144 was amended by point 17 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )
- (3) Placement under judicial supervision does not apply to the legal entities mentioned in art. 141 .

## Article 145 Display or publication of the conviction

- (1) The display of the final conviction decision or its publication is carried out at the expense of the convicted legal person.
- (2) The identity of other persons cannot be revealed by displaying or publishing the conviction.
- (3) The conviction decision is displayed in the extract, in the form and place established by the court, for a period between one and 3 months.
- (4) The publication of the conviction decision is made in the extract and in the form established by the court, through the written or audiovisual media or through other means of audiovisual communication, designated by the court.
- (5) If the publication is made through the written or audiovisual media, the court determines the number of appearances, which cannot exceed 10, and in the case of publication through other audiovisual means, its duration cannot exceed 3 months.

## Chapter III Common Provisions

## Article 146 Recidivism in the case of the legal person

- (1) There is a recidivism for the legal person when, after a conviction has become final and until rehabilitation, the legal person commits a crime again, with intent or with an exceeded intent.
- (2) In case of recidivism, the special limits of the punishment provided by law for the new crime are increased by half, without exceeding the general maximum of the fine punishment.
- (3) If the previous fine was not executed, in whole or in part, the fine established for the new crime, according to para. (2) , is added to the previous sentence or to the unexecuted remainder of it.
- (4) The provisions of art. 42 applies accordingly.

## Article 147 Mitigation and aggravation of the criminal liability of the legal person

- (1) In the event of multiple offences, intermediate plurality or causes of mitigation or aggravation of criminal liability, the legal person shall be subject to the fine regime provided by law for the natural person.
- (2) In case of multiple crimes, the complementary punishments of a different nature, with the exception of dissolution, or those of the same nature, but with different content, are cumulated, and among the complementary punishments of the same nature and with the same content, the heaviest one is applied .
- (3) In case of multiple crimes, the safety measures taken according to art. 112 are cumulative.

Article 148 Prescription of criminal liability The criminal liability of the legal person is prescribed under the conditions provided by law for the natural person, the provisions of art. 153-156 applying accordingly.

## Article 149 Prescription for the execution of the sentence

- (1) The statute of limitations for the execution of the fine imposed on the legal entity is 5 years.
- (2) The execution of the complementary penalties applied to legal entities is prescribed within a period of 3 years, which runs from the date on which the penalty of the fine was executed or deemed to have been executed.

(3) The provisions of art. 161 , art. 162 para. (2) , art. 163 and art. 164 applies accordingly.

Article 150 Rehabilitation of the legal person The rehabilitation of the legal person takes place as of right if, within 3 years from the date on which the penalty of the fine or the complementary penalty was executed or considered as executed, it has not committed any other crime.

Article 151 The effects of mergers and divisions of the legal entity

(1) In the case of the loss of legal personality through merger, absorption or division that occurred after the commission of the crime, the criminal liability and its consequences will be committed:

- a) to the responsibility of the legal person created through the merger;
- b) in charge of the absorbing legal entity;
- c) in charge of legal entities that were created through division or that acquired fractions of the patrimony of the divided person.

(2) In the case provided for in para. (1) , when individualizing the punishment, account will be taken, as the case may be, of:  
a) the total income and total assets included in the last financial statement or, as the case may be, the accounting report that the legal entity that committed the crime has the obligation to prepare and submits, according to the law, prior to the merger or division, taking into account the part of its patrimony that was transmitted to each legal entity participating in the operation;  
b) the value of the patrimonial asset from the date of the merger or division, in the case of the legal entity which, according to the law, does not have the obligation to draw up and submit the documents provided for in letter a) , respectively, in the case of the legal entity established in the year of the referral to court, taking into account the part of its patrimony that was transmitted to each legal entity participating in the operation.

(on 07-14-2023, Paragraph (2), Article 151, Chapter III, Title VI, GENERAL Part was amended by Point 3., Article I of LAW no. 214 of July 7, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

Title VII Causes that remove criminal liability

Article 152 Effects of amnesty

(1) Amnesty removes criminal liability for the crime committed. If it intervenes after the conviction, it also removes the execution of the pronounced sentence, as well as the other consequences of the conviction. The fine collected before the amnesty is not refunded.

(2) The amnesty does not affect the safety measures and the rights of the injured person.

Article 153 Prescription of criminal liability

(1) Prescription removes criminal liability.

(2) Prescription does not remove criminal liability in the case of:

- a) crimes of genocide, crimes against humanity and war, regardless of the date on which they were committed;
- b) the crimes provided for in art. 188 and 189 and of intentional crimes followed by the death of the victim.
- c) crimes provided for in art. 209-211 , 213 , 218 , 218<sup>1</sup> , 219 , 219<sup>1</sup> and 282 ;

(on 01-01-2024, Letter c), Paragraph (2), Article 153, Title VII, GENERAL Part was amended by Point 1., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

(on 03-23-2012, Paragraph (2) of art. 153 was amended by point 1 of art. II of LAW no. 27 of March 16, 2012, published in the OFFICIAL GAZETTE no. 180 of March 20, 2012. )

(3) The statute of limitations does not remove criminal liability even in the case of the offenses provided for in paragraph (2) lit. b) for which the limitation period, general or special, has not expired on the date of entry into force of this provision.

(on 03-23-2012, Paragraph (3) of art. 153 was introduced by point 2 of art. II of LAW no. 27 of March 16, 2012, published in the OFFICIAL GAZETTE no. 180 of March 20, 2012. )

Article 154 Limitation periods for criminal liability

(1) The statute of limitations for criminal liability is:

- a) 15 years, when the law stipulates for the crime committed life imprisonment or a prison sentence of more than 20 years;
- b) 10 years, when the law provides for a prison sentence of more than 10 years, but not exceeding 20 years, for the crime committed;
- c) 8 years, when the law provides for a prison sentence of more than 5 years, but not exceeding 10 years, for the crime committed;
- d) 5 years, when the law provides for a prison sentence of more than one year, but not exceeding 5 years, for the crime committed;
- e) 3 years, when the law provides for a prison sentence not exceeding one year or a fine for the crime committed.

Note

Admission decision: HP no. 58/2023, published in the Official Gazette no. 965 of October 25, 2023:

The crime under art. 199 para. (1) of the Criminal Code represents an aggravated variant of the crime of hitting or other violence, provided for by art. 193 para. (2) of the Criminal Code .

The general limitation period for the crime of hitting or other violence in the form of family violence, provided by art. 193 para. (2) from the Criminal Code with the application of art. 199 para. (1) of the Criminal Code , is the one shown by art. 154 para. (1) lit. c) from the Criminal Code .

(2) The terms provided for in this article begin to run from the date of the commission of the crime. In the case of continuous crimes, the term runs from the date of cessation of the action or inaction, in the case of continued crimes, from the date of the last action or inaction, and in the case of ordinary crimes, from the date of the last act.

Note

Admission decision - RIL no. 5/2019, published in Official Gazette no. 334 of May 2, 2019:

In the interpretation and application of art. 174 , with reference to art. 154 para. (2) sentence I of the Criminal Code , establishes that:

By the date of commission of the crime and, implicitly, the date from which the limitation period for criminal liability begins to run in the case of simple crimes whose objective side involves the production of damage or the realization of an undue benefit over a period of time is understood the moment of the appearance of the first damage or of obtaining the first undue benefit.

(3) In the case of progressive crimes, the limitation period for criminal liability begins to run from the date of the action or inaction and is calculated in relation to the punishment corresponding to the definitive result produced.

(4) In the case of crimes of trafficking and exploitation of vulnerable persons and crimes against sexual freedom and integrity, other than those provided for in art. 153 para. (2) lit. c) , as well as the crime of child pornography, committed against a minor, the limitation period begins to run from the date on which he became of age. If the minor died before reaching the age of majority, the limitation period begins to run from the date of death.

(on 07-05-2021, Paragraph (4) of Article 154, Title VII, GENERAL Part was amended by Point 2, SINGLE ARTICLE of LAW no. 186 of July 1, 2021, published in the OFFICIAL GAZETTE no. 657 of July 2 2021 )

Article 155 Interruption of the limitation period of criminal liability

(1) The course of the limitation period of criminal liability is interrupted by the fulfillment of any procedural act in question which, according to the law, must be communicated to the suspect or defendant.

(on 05-30-2022, Paragraph (1) of Article 155, Title VII, GENERAL Part was amended by the SINGLE ARTICLE of EMERGENCY ORDINANCE no. 71 of May 30, 2022, published in the OFFICIAL GAZETTE no. 531 of May 30, 2022 )

Note

By DECISION OF THE CONSTITUTIONAL COURT no. 358 of May 26, 2022, published in the OFFICIAL GAZETTE no. 565 of June 9, 2022, the exception of unconstitutionality was admitted, finding that the provisions of art. 155 para. (1) of the Criminal Code (in the form prior to the amendment brought by EMERGENCY ORDINANCE no. 71 of May 30, 2022, published in the OFFICIAL GAZETTE no. 531 of May 30, 2022) are unconstitutional.

(2) After each interruption, a new limitation period begins to run.

(3) Interruption of the prescription has effects on all participants in the crime, even if the act of interruption affects only some of them.

(4) The terms provided for in art. 154 , if they have been exceeded by one more time, they will be considered fulfilled, however many interruptions occur.

(on 01-02-2014, Paragraph (4) of art. 155 was amended by point 18 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(5) Acceptance in principle of the request to reopen the criminal process causes a new limitation period for criminal liability to run.

Note

Rejection decisions:

- RIL no. 25/2019, published in Official Gazette no. 86 of February 6, 2020
- HP no. 5/2019, published in Official Gazette no. 381 of May 15, 2019

#### Article 156 Suspension of the limitation period of criminal liability

- (1) The course of the limitation period for criminal liability is suspended for as long as a legal provision or an unforeseeable or irremediable circumstance prevents the initiation of the criminal action or the continuation of the criminal process.
- (2) Prescription resumes its course from the day on which the cause of suspension ceased.

#### Article 157 Lack of prior complaint

- (1) In the case of crimes for which the initiation of the criminal action is conditioned by the introduction of a prior complaint by the injured person, the lack of this complaint removes the criminal liability.
- (2) The act that caused an injury to several people attracts criminal liability, even if the prior complaint was made only by one of them.
- (3) The act attracts the criminal liability of all natural or legal persons who participated in its commission, even if the prior complaint was made only with respect to one of them.
- (4) If the injured person is a person without legal capacity or with limited legal capacity or a legal entity represented by the perpetrator, the criminal action can be initiated ex officio.
- (5) If the injured person has died or, in the case of the legal entity, it has been liquidated, before the expiration of the term provided by law for filing the complaint, the criminal action can be initiated ex officio.

#### Article 158 Withdrawal of the prior complaint

- (1) The withdrawal of the preliminary complaint may take place until a final decision is issued, in the case of crimes for which the initiation of criminal proceedings is conditioned by the introduction of a preliminary complaint.
- (2) The withdrawal of the prior complaint removes the criminal liability of the person in respect of whom the complaint was withdrawn.
- (3) For persons lacking legal capacity, the withdrawal of the prior complaint is done only by their legal representatives. In the case of persons with limited exercise capacity, the withdrawal is made with the consent of the persons provided for by law.
- (4) In the case of crimes for which the initiation of the criminal action is conditioned by the introduction of a prior complaint, but the criminal action was initiated ex officio under the law, the withdrawal of the complaint produces effects only if it is appropriated by the prosecutor.

#### Article 159 Reconciliation

- (1) Conciliation can take place if the initiation of the criminal action was done ex officio, if the law expressly provides for it.
- (2) Conciliation removes the criminal liability and extinguishes the civil action.
- (3) Reconciliation produces effects only with regard to the persons between whom it intervened and if it takes place before the reading of the act of referral to the court\*).

##### Note

By DECISION OF THE CONSTITUTIONAL COURT no. 508 of October 7, 2014, published in the OFFICIAL GAZETTE no. 843 of November 19, 2014, the exception of unconstitutionality of the provisions of art. 159 para. (3) of the Criminal Code , finding that they are constitutional to the extent that they apply to all defendants sent to court before the date of entry into force of Law no. 286/2009 regarding the Criminal Code and for which at that time the time for reading the referral document had passed.

According to art. 147 para. (1) from the ROMANIA CONSTITUTION republished in the OFFICIAL GAZETTE no. 767 of October 31, 2003 the provisions of the laws and ordinances in force, as well as those of the regulations, found to be unconstitutional, cease their legal effects 45 days after the publication of the decision of the Constitutional Court if, during this interval, the Parliament or the Government, as the case may be , do not reconcile the non-constitutional provisions with the provisions of the Constitution. During this term, provisions found to be unconstitutional are suspended by law.

Therefore, between November 19, 2014 and January 2, 2015, the provisions of art. 159 para. (3) of the Criminal Code , insofar as it does not apply to all defendants sent to court before the date of entry into force of Law no. 286/2009 regarding the Criminal Code and for which at that time the time for reading the notification document had passed, were suspended by law, ceasing their legal effects as of January 3, 2015, since the legislator did not intervene to modify the provisions declared unconstitutional.

By DECISION OF THE CONSTITUTIONAL COURT no. 222 of April 20, 2023, published in the OFFICIAL GAZETTE no. 441 of May 22, 2023, the exception of unconstitutionality of the provisions of art. 159 para. (3) of the Criminal Code , noting that the legislative solution contained in art. 159 para. (3) the final sentence of the Criminal Code , which concerns the phrase "and if it occurs before the reading of the act of referral to the court", is constitutional only to the extent that it does not apply in the event of a change in the legal classification of the act, after the reading of the act of referral of the court, in an offense for which the law expressly provided that conciliation was possible.

According to art. 147 para. (1) from the ROMANIA CONSTITUTION republished in the OFFICIAL GAZETTE no. 767 of October 31, 2003 the provisions of the laws and ordinances in force, as well as those of the regulations, found to be unconstitutional, cease their legal effects 45 days after the publication of the decision of the Constitutional Court if, during this interval, the Parliament or the Government, as the case may be , do not reconcile the non-constitutional provisions with the provisions of the Constitution. During this term, provisions found to be unconstitutional are suspended by law.

Therefore, between May 22, 2023 - July 5, 2023, the legislative solution contained in art. 159 para. (3) the final sentence of the Criminal Code , which concerns the phrase "and if it occurs before the reading of the act of referral to the court", only to the extent that it applies in the case of a change in the legal classification of the act, after the reading of the act of referral to the court, in a crime for which the law expressly provided that reconciliation is possible, it was suspended by law, ceasing its legal effects as of July 6, 2023, since the legislator did not intervene to modify the contested provisions.

- (4) For persons without legal capacity, reconciliation is done only by their legal representatives, and persons with limited legal capacity can reconcile with the approval of the persons provided by law.
- (5) In the case of the legal person, reconciliation is carried out by its legal or conventional representative or by the person designated in his place. The reconciliation between the legal person who committed the crime and the injured person does not produce effects against the natural persons who participated in the commission of the same act.
- (6) If the crime is committed by the representative of the injured legal person, the provisions of art. 158 para. (4) shall apply accordingly.

#### Title VIII Causes that remove or modify the execution of the sentence

##### Article 160 Effects of pardon

- (1) Pardon has the effect of removing, in whole or in part, the execution of the punishment or commuting it to a lighter one.
- (2) The pardon has no effect on complementary punishments and non-custodial educational measures, except for the case when it is ordered otherwise by the act of pardon.
- (3) The pardon has no effect on the safety measures and on the rights of the injured person.
- (4) The pardon has no effect on the punishments whose execution is suspended under supervision, unless otherwise ordered by the act of pardon.

##### Article 161 Prescription for the execution of the sentence

- (1) Prescription removes the execution of the main sentence.
- (2) The prescription does not remove the execution of the main punishments in the case of:
  - a) crimes of genocide, crimes against humanity and war, regardless of the date on which they were committed;
  - b) the crimes provided for in art. 188 and 189 and of intentional crimes followed by the death of the victim.
 (on 03-23-2012, Paragraph (2) of art. 161 was amended by point 3 of art. II of LAW no. 27 of March 16, 2012, published in the OFFICIAL GAZETTE no. 180 of March 20, 2012. )
- (3) The statute of limitations does not remove the execution of the main penalties even in the case of the offenses provided for in paragraph (2) lit. b) for which, on the date of entry into force of this provision, the statute of limitations for execution has not expired.
 (on 03-23-2012, Paragraph (3) of art. 161 was introduced by point 4 of art. II of LAW no. 27 of March 16, 2012, published in the OFFICIAL GAZETTE no. 180 of March 20, 2012. )

##### Article 162 The statute of limitations for the execution of the sentence

- (1) The statute of limitations for the execution of the sentence for the natural person is:
- 20 years, when the sentence to be executed is life imprisonment or imprisonment for more than 15 years;
  - 5 years, plus the duration of the sentence to be executed, but not more than 15 years, in the case of the other prison sentences;
  - 3 years, if the penalty is a fine.
- (2) The terms provided in para. (1) are counted from the date when the conviction remained final.
- (3) In case of revocation or cancellation of the postponement of the application of the punishment, suspension of the execution of the punishment under supervision or conditional release, the limitation period begins to run from the date when the decision of revocation or cancellation remained final.
- (4) In case of revocation of parole, under the conditions of art. 104 para. (1) , the limitation period begins to run from the date when the revocation decision became final and is calculated in relation to the remainder of the unexecuted sentence.
- (5) In the case of replacing the penalty of the fine with the prison sentence, the limitation period runs from the date when the substitution decision remained final and is calculated in relation to the duration of the prison sentence.
- (6) Complementary penalties applied to the natural person and safety measures are not prescribed.
- (7) The sentence to be executed means the sentence established by the court, taking into account the subsequent causes for its modification.

#### Article 163 Interruption of the statute of limitations for the execution of the sentence

- (1) The course of the limitation period for the execution of the sentence is interrupted by the start of the execution of the sentence. The evasion of the execution, after the beginning of the execution of the sentence, causes a new limitation period to run from the date of the evasion.
- (2) The course of the limitation period for execution is also interrupted by committing a crime again.
- (3) The course of the limitation period for the execution of the fine is also interrupted by replacing the obligation to pay the fine with the obligation to perform unpaid work for the benefit of the community.

#### Article 164 Suspension of the statute of limitations for the execution of the sentence

- (1) The course of the statute of limitations for the execution of the sentence is suspended in the cases and conditions provided for in the Code of Criminal Procedure.
- (2) Prescription resumes its course from the day on which the cause of suspension ceased.

#### Title IX Causes that remove the consequences of the conviction

Article 165 Rehabilitation by law Rehabilitation takes place by law in the event of a conviction to a fine, to a prison sentence that does not exceed 2 years or to a prison sentence whose execution has been suspended under supervision, if within 3 years the convict has not committed another crime.

#### Article 166 Judicial rehabilitation

- (1) The convicted person can be rehabilitated, upon request, by the court, after the completion of the following terms:
- 4 years, in the case of a prison sentence of more than 2 years, but not exceeding 5 years;
  - 5 years, in the case of a prison sentence of more than 5 years, but not exceeding 10 years;
  - 7 years, in the case of a prison sentence of more than 10 years or in the case of a life imprisonment sentence, commuted or replaced by a prison sentence;
  - 10 years, in the case of a sentence of life imprisonment, considered executed as a result of the pardon, the completion of the statute of limitations for the execution of the sentence or parole.
- (2) The convict who died before the completion of the rehabilitation term can be rehabilitated if the court, evaluating the behavior of the convict until his death, deems that he deserves this benefit.

#### Article 167 Calculation of the rehabilitation term

- (1) The terms provided in art. 165 and art. 166 are counted from the date when the execution of the main punishment ended or from the date when it was prescribed.
- (2) For those sentenced to a fine, the term runs from the moment the fine was paid in full or its execution was terminated in any other way.
- (3) In case of total pardon or pardon of the rest of the sentence, the term runs from the date of the act of pardon, if on that date the conviction was final, or from the date of the finality of the conviction, if the act of pardon refers to crimes pending trial.
- (4) In case of suspension under supervision of the execution of the sentence, the term runs from the date of completion of the term of supervision.
- (5) In the case of successive convictions, the rehabilitation term is calculated in relation to the heaviest penalty and runs from the date of execution of the last penalty.

Article 168 Conditions of judicial rehabilitation The request for judicial rehabilitation is admitted if the convicted person meets the following conditions: a) he has not committed another crime in the time period provided for in art. 166 ; b) paid the court costs in full and fulfilled his civil obligations established by the judgment of conviction, except when he proves that he was unable to fulfill them or when the civil party waived compensation.

#### Article 169 Effects of legal or judicial rehabilitation

- (1) Rehabilitation puts an end to the disqualifications and prohibitions, as well as the incapacities resulting from the conviction.
- (2) The rehabilitation does not result in the obligation of reinstatement in the position from which the convict was removed following the conviction or the restoration of the lost military rank.
- (3) The rehabilitation has no effects on the safety measures.

#### Article 170 Renewal of the request for judicial rehabilitation

- (1) In case of rejection of the rehabilitation application, a new application cannot be submitted until after a period of one year, which is counted from the date of rejection of the application by final decision.
- (2) The conditions provided for in art. 168 must also be met for the time period preceding the new request.
- (3) The request rejected as a result of the failure to fulfill certain formal conditions can be renewed according to the Code of Criminal Procedure.

Article 171 Cancellation of rehabilitation Judicial rehabilitation will be canceled when, after its granting, it was discovered that the person rehabilitated had committed another crime which, if it had been known, would have led to the rejection of the rehabilitation request.

#### Title X Meaning of certain terms or expressions in the criminal law

Article 172 General provisions Whenever the criminal law uses a term or an expression from those shown in this title, its meaning is that provided in the following articles, except when the criminal law provides otherwise .

Article 173 Criminal law Criminal law means any provision of a criminal nature contained in organic laws, emergency ordinances or other normative acts that at the time of their adoption had the force of law.

Article 174 Committing a crime Committing a crime or committing a crime means committing any of the acts that the law punishes as a consummated or attempted crime, as well as participating in their commission as a co-author, instigator or accomplice.

#### Note

Admission decision - RIL no. 5/2019, published in Official Gazette no. 334 of May 2, 2019:

In the interpretation and application of art. 174 , with reference to art. 154 para. (2) sentence I of the Criminal Code , establishes that:

By the date of commission of the crime and, implicitly, the date from which the limitation period for criminal liability begins to run in the case of simple crimes whose objective side involves the production of damage or the realization of an undue benefit over a period of time is understood the moment of the appearance of the first damage or of obtaining the first undue benefit.

#### Article 175 Public servant

(1) Public official, within the meaning of the criminal law, is the person who, on a permanent or temporary basis, with or without remuneration: a) exercises duties and responsibilities, established under the law, in order to realize the prerogatives of the legislative, executive or judicial power; b) exercise a position of public dignity or a public position of any nature; c) exercise, alone or together with other persons, within an autonomous government, another economic operator or a legal person with full or majority state capital, duties related to the achievement of its object of activity. (on 01-02-2014, Letter c) of par. (1) of art. 175 was amended by point 19 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. ) (2) Likewise, a public official, within the meaning of the criminal law, is considered a person who performs a service of public interest for which he was vested by the public authorities or who is subject to their control or supervision regarding the performance of that public service.

#### Note

Admission decision: HP no. 13/2020, published in Official Gazette no. 721 of August 11, 2020:

The owner entrepreneur of an individual enterprise does not have, in the sense of the provisions of art. 308 para. (1) of the Criminal Code , the capacity of a person who permanently or temporarily, with or without remuneration, performs an assignment of any nature in the service of a natural person provided for in art. 175 para. (2) of the Criminal Code , in relations with the individual enterprise.

If the entrepreneur owner of an individual enterprise performs a service of public interest that is subject to the control or supervision of the public authorities regarding the performance of that public service, he has the capacity of a public official within the meaning of the provisions of art. 175 para. (2) of the Criminal Code .

Admission decision - HP no. 18/2017, published in the Official Gazette no. 545 of July 11, 2017:

Admits the referral made by the Bucharest Court of Appeal - First Criminal Division in File no. 61.261/3/2010, by which a preliminary decision is requested to resolve the following legal issue: if, within the meaning of the criminal law, the bank official, an employee of a banking company with full private capital, authorized and under the supervision of the National Bank of Romania , is a public official, in accordance with the provisions of art. 175 para. (2) of the Criminal Code and, consequently, establishes that:

In the sense of the criminal law, the bank official, an employee of a banking company with full private capital, authorized and under the supervision of the National Bank of Romania, is a public official, in accordance with the provisions of art. 175 para. (2) of the Criminal Code .

Admission decision: HP no. 37/2022, published in the Official Gazette no. 1031 of October 24, 2022:

The person who holds a leadership position within a political party has the capacity of a civil servant according to the provisions of art. 147 para. 1 of the Criminal Code from 1968.

The person who holds a leadership position within a political party does not have the status of public official according to the provisions of art. 175 para. (1) lit. b) the second sentence and of art. 175 para. (2) of the Criminal Code .

Article 176 Public The term public refers to everything that concerns public authorities, public institutions or other legal entities that administer or exploit public property.

#### Article 177 Family member

(1) By family member is meant:

- a) ascendants and descendants, brothers and sisters, their children, as well as persons who have become such relatives through adoption, according to the law;
- b) the husband;
- c) people who have established relationships similar to those between spouses or between parents and children, if they live together.

(2) The provisions of the criminal law regarding family members, within the limits provided in para. (1) lit. a) , applies, in case of adoption, to the adopted person or his descendants in relation to natural relatives.

#### Note

Admission decision - HP no. 52/2021, published in the Official Gazette no. 874 of September 13, 2021:

In the interpretation and application of the provisions of art. 377 of the Criminal Code, by reference to art. 177 para. (2) of the Criminal Code, to determine the subjects of the crime of incest, establishing the quality of biological relatives in a direct line or between brothers and sisters, if the subject of the crime is an adopted person, may take place under the conditions of art. 52 para. (1) and (2) of the Criminal Procedure Code independent of the provisions of art. 440 and art. 470 para. (2) of the Civil Code.

To determine the subjects of the crime of incest provided by art. 377 of the Criminal Code, if one of them is adopted, it is not required to establish a civil legal relationship in direct line relatives or brothers and sisters in advance according to art. 409 of the Civil Code related to art. 416 of the Civil Code or art. 424 of the Civil Code, as the case may be, this aspect can be established in the absence of civil status documents and a civil action with this object, in the framework of the pending criminal process according to the evidence provided by art. 97 para. (1) from the Code of Criminal Procedure by reference to art. 52 para. (1) and (2) of the Criminal Procedure Code.

The effects of the biological relationship established in a civil process or even in the criminal process pending after the commission of the act of incest are retroactive until the time of the birth of the child.

#### Article 178 Secret state information and official documents

- (1) State secret information is the information classified as such, according to the law.
- (2) Officially registered is any document emanating from a legal person among those referred to in art. 176 times from the person provided in art. 175 para. (2) or belonging to such persons.

#### Article 179 Weapons

- (1) Weapons are the instruments, devices or parts declared as such by legal provisions.
- (2) Any other objects that could be used as weapons and that were used for an attack are assimilated to weapons.

#### Article 180 Non-cash means of payment

- (1) By non-cash payment instrument is meant a device, an object or a record, protected, respectively protected, tangible or intangible, respectively tangible or intangible, or a combination thereof, other, respectively other than a currency with circulation value and which, alone or together with a procedure or set of procedures, enables the holder or user to transfer money or monetary value, including by electronic currency or virtual currency.
- (2) By electronic payment instrument is meant an instrument that allows making cash withdrawals, loading and unloading an electronic currency instrument, as well as fund transfers, other than those ordered and executed by financial institutions.

(3) By electronic money is understood the monetary value stored electronically, including magnetically, representing a claim on the issuer, issued upon receipt of funds for the purpose of carrying out payment operations and which is accepted by a person other than the issuer of electronic money.

(4) Virtual currency means a digital representation of value that is not issued or guaranteed by a central bank or public authority, is not necessarily linked to a legally established currency and does not have the legal status of currency or money, but is accepted by natural or legal persons as a medium of exchange and can be transferred, stored and traded electronically.

(on 07-25-2021, Article 180 of Title X, GENERAL Part was amended by Point 1, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 of July 22, 2021)

#### Article 181 System computer science and computer data

(1) Computer system means any device or group of devices interconnected or in a functional relationship, one or more of which ensures automatic data processing, with the help of a computer program.

(2) Computer data means any representation of facts, information or concepts in a form that can be processed by a computer system.

Article 182 Exploitation of a person Exploitation of a person means: a) submission to the execution of work or the performance of services, by force; b) being kept in a state of slavery or other similar procedures of deprivation of freedom or enslavement; c) forcing to practice prostitution, to pornographic manifestations in order to produce and broadcast pornographic materials or to other forms of sexual exploitation; d) the obligation to practice begging; e) taking organs, tissues or cells of human origin, illegally. (on 01-02-2014, Letter e) of art. 182 was amended by point 20 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

Article 183 Particularly serious consequences By particularly serious consequences is meant material damage greater than 2,000,000 lei. Establishes that, in the interpretation of the provisions of art. 6 para. (1) of the Penal Code , for the hypothesis of a crime committed in a state of post-execution recidivism judged definitively before the entry into force of the new Penal Code, the penalty applied by the sentencing decision will be compared with the special maximum provided in the new law for the crime committed by taking in consideration of the provisions of art. 43 para. (5) of the Criminal Code . In the interpretation of the provisions of art. 6 para. (1) of the Criminal Code , in the case of definitive punishments for crimes that produced particularly serious consequences according to the previous Criminal Code, the determination of the special maximum provided by the new law is carried out, even if the value of the damage is lower than the value threshold provided by art. 183 of the Criminal Code , by reference to the aggravated version of the limiting offenses listed in art. 309 of the Criminal Code .

Article 184 Act committed in public The act is considered committed in public when it was committed: a) in a place that by its nature or destination is always accessible to the public, even if no person is present; b) in any other place accessible to the public, if two or more people are present; c) in a place inaccessible to the public, but with the intention that the deed be heard or seen and if this result occurred in relation to two or more people; d) in a gathering or meeting of several people, with the exception of meetings that can be considered to have a family character, due to the nature of the relationships between the participating people.

#### Article 185

##### Time of war

Time of war means the duration of the state of mobilization of the armed forces or the duration of the state of war.

#### Article 186 Calculation of time

(1) When calculating time, the day is counted as 24 hours, the week as 7 days, and the year as 12 months. The month and the year are considered completed one day before the day corresponding to the date from which they began to flow.

(2) If the penalty limit is expressed in terms of months that are not divisible by the fraction of the increase or reduction that would be applied, the fraction will be applied to the term converted into days, after which the duration obtained is converted into months . In this case, the month is counted as 30 days and only whole days resulting from the application of the fraction are taken into account.

(3) In the case of punishment limits expressed in years, the provisions of para. (2) , the transformation being done between years and months.

Article 187 Punishment prescribed by law Punishment prescribed by law means the punishment prescribed in the text of the law that criminalizes the act committed in the consummated form, without taking into account the reasons for reducing or increasing the punishment.

#### SPECIAL Part Title I Offenses against the person Chapter I Offenses against life Article 188 Murder

(1) Killing a person is punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

(2) The attempt is punishable.

#### Article 189 Qualified murder

(1) Murder committed in any of the following circumstances:

a) with premeditation;

b) for material interest;

c) to evade or to evade another from being held criminally liable or from the execution of a punishment;

d) to facilitate or conceal the commission of another crime;

e) by a person who has previously committed a crime of murder or an attempt to commit a crime of murder;

f) on two or more people;

g) on a pregnant woman;

h) through cruelty,

i) taking advantage of the obvious vulnerability of the injured person, due to age, health, infirmity or other causes;

(on 07-24-2023, Paragraph (1), Article 189, Chapter I, Title I, SPECIAL Part was supplemented by Point 1., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023)

is punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.

(2) The attempt is punishable.

Article 190 Killing at the request of the victim Killing committed at the explicit, serious, conscious and repeated request of the victim who was

suffering from an incurable disease or a medically attested serious infirmity, causing permanent suffering and difficult to bear, is punishable by imprisonment from one to 5 years.

#### Article 191 Determination or facilitation of suicide

- (1) The act of causing or facilitating the suicide of a person, if the suicide has occurred, is punishable by imprisonment from 3 to 7 years.
- (2) When the act provided for in para. (1) was committed against a minor aged between 13 and 18 years or against a person with diminished discernment, the penalty is imprisonment from 5 to 10 years.
- (3) Determining or facilitating suicide, committed against a minor who has not reached the age of 13 or against a person who could not realize the consequences of his actions or inactions or could not control them, if the suicide took place, is punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.
- (4) If the acts of determination or facilitation provided for in para. (1)-(3) were followed by a suicide attempt, the special punishment limits are reduced by half.

#### Article 192 Manslaughter

- (1) Manslaughter of a person is punishable by imprisonment from one to 5 years.
- (2) Manslaughter as a result of non-compliance with the legal provisions or the measures prescribed for the exercise of a profession or trade or for the performance of a certain activity is punishable by imprisonment from 2 to 7 years. When the violation of legal provisions or regulatory measures constitutes a crime by itself, the rules on the competition of crimes are applied.
- (3) If the deed caused the death of two or more people, the special limits of the punishment provided in para. (1) and para. (2) is increased by half.

### Chapter II Crimes against bodily integrity or health

#### Article 193 Hitting or other violence

- (1) Hitting or any acts of violence causing physical suffering are punishable by imprisonment from 3 months to 2 years or a fine.
- (2) The act by which traumatic injuries are produced or the health of a person is affected, the severity of which is assessed by days of medical care of no more than 90 days, is punishable by imprisonment from 6 months to 5 years or a fine.

##### Note

Admission decision: HP no. 58/2023, published in the Official Gazette no. 965 of October 25, 2023:

The crime under art. 199 para. (1) of the Criminal Code represents an aggravated variant of the crime of hitting or other violence, provided for by art. 193 para. (2) of the Criminal Code .

The general limitation period for the crime of hitting or other violence in the form of family violence, provided by art. 193 para. (2) from the Criminal Code with the application of art. 199 para. (1) of the Criminal Code , is the one shown by art. 154 para. (1) lit. c) from the Criminal Code .

(2<sup>1</sup>) The special limits of the punishment provided for in para. (1) and (2) are increased by one third when:

- a) the victim is in the care, protection, education, guard or treatment of the perpetrator;
- b) the victim is a minor;
- c) the act is committed in public;
- d) the perpetrator has on him a firearm, an object, a device, a substance or an animal that may endanger the life, health or bodily integrity of persons.

(on 07-24-2023, Article 193, Chapter II, Title I, SPECIAL Part was supplemented by Point 2., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023 )

(3) The criminal action is initiated upon the prior complaint of the injured person.

(4) In the case of acts committed under the conditions of para. (2<sup>1</sup>) , the criminal action can also be initiated ex officio.

(on 07-24-2023, Article 193, Chapter II, Title I, SPECIAL Part was supplemented by Point 3., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023 )

##### Note

Admission decision - RIL no. 11/2019, published in the Official Gazette no. 477 of June 12, 2019:

In the interpretation and uniform application of the provisions of art. 193 related to art. 199 para. (1) of the Criminal Code , establishes that:

For the crime of hitting or other violence committed against a family member, provided by art. 193 related to art. 199 para. (1) of the Criminal Code , when the criminal action was initiated upon the prior complaint of the injured person, the termination of the criminal process can only be ordered as an effect of the withdrawal of the prior complaint, and not as an effect of reconciliation.

#### Article 194 Bodily injury

- (1) The act provided for in art. 193 , which caused any of the following consequences:
  - a) an infirmity;
  - b) traumatic injuries or damage to a person's health, which required, for healing, more than 90 days of medical care;
  - c) a serious and permanent aesthetic damage;
  - d) abortion;
  - e) endangering the person's life, is punishable by imprisonment from 2 to 7 years.
- (2) When the deed was committed in order to produce one of the consequences provided for in para. (1) lit. a) , lit. b) and letter c) , the penalty is imprisonment from 3 to 10 years.

(2<sup>1</sup>) The special limits of the punishment provided for in para. (1) and (2) are increased by one third when:

- a) the victim is in the care, protection, education, guard or treatment of the perpetrator;
- b) the victim is a minor;
- c) the act is committed in public;
- d) the perpetrator has on him a firearm, an object, a device, a substance or an animal that may endanger the life, health or bodily integrity of persons.

(on 07-24-2023, Article 194, Chapter II, Title I, SPECIAL Part was supplemented by Point 4., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023 )

(3) The attempt at the crime provided for in para. (2) shall be punished.

Article 195 Hits or injuries causing death If any of the facts provided in art. 193 and art. 194 resulted in the death of the victim, the penalty is imprisonment from 6 to 12 years.

#### Article 196 Bodily injury due to negligence

- (1) The act provided for in art. 193 para. (2) committed out of fault by a person under the influence of alcoholic beverages or a psychoactive substance or in the course of an activity that constitutes a crime by itself shall be punished with imprisonment from 3 months to one year or with a fine.
- (2) The fact provided for in art. 194 para. (1) committed by fault is punishable by imprisonment from 6 months to 2 years or a fine.
- (3) When the act provided for in para. (2) was committed as a result of non-compliance with the legal provisions or the provisions for the exercise of a profession or trade or for the performance of a certain activity, the penalty is imprisonment from 6 months to 3 years or a fine.
- (4) If the consequences provided for in para. (1)-(3) occurred against two or more persons, the special limits of the punishment are increased by one third.
- (5) If the non-compliance with the legal provisions or the provisions or the performance of the activity that led to the commission of the facts provided in para. (1) and para. (3) constitutes by itself a crime, the rules on the competition of crimes apply.
- (6) The criminal action is initiated upon the prior complaint of the injured person.

Article 197 Ill-treatment of minors Putting the minor's physical, intellectual or moral development in serious jeopardy, through measures or treatments of any kind, by the parents or any person in whose care the minor is, is punishable by imprisonment from 3 to 7 years and the prohibition of the exercise of certain rights.

## Article 198 Encroachment

- (1) Participation in a brawl is punishable by imprisonment from 6 months to 3 years or a fine.  
(on 07-24-2023, Paragraph (1), Article 198, Chapter II, Title I, SPECIAL Part was amended by Point 5., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023)
- (2) If during the fight a bodily injury was caused to one or more people and it is not known which of the participants caused the consequences, the penalty of imprisonment from one to 5 years is applied to all, except the victim, who responds according to para. (1) .
- (3) When by the deed committed under the conditions of para. (2) the death of one person was caused, the penalty is imprisonment from 6 to 12 years, and if the death of two or more persons was caused, the special limits of the penalty are increased by one third.
- (4) The one who was caught in the fight against his will or who tried to separate others is not punished.

## Chapter III Crimes committed against a family member

## Article 199 Domestic violence

## Note

Admission decision - RIL no. 11/2019, published in the Official Gazette no. 477 of June 12, 2019:

In the interpretation and uniform application of the provisions of art. 193 related to art. 199 para. (1) of the Criminal Code , establishes that:

For the crime of hitting or other violence committed against a family member, provided by art. 193 related to art. 199 para. (1) of the Criminal Code , when the criminal action was initiated upon the prior complaint of the injured person, the termination of the criminal process can only be ordered as an effect of the withdrawal of the prior complaint, and not as an effect of reconciliation.

Admission decision: HP no. 58/2023, published in the Official Gazette no. 965 of October 25, 2023:

The crime under art. 199 para. (1) of the Criminal Code represents an aggravated variant of the crime of hitting or other violence, provided for by art. 193 para. (2) of the Criminal Code .

The general limitation period for the crime of hitting or other violence in the form of family violence, provided by art. 193 para. (2) from the Criminal Code with the application of art. 199 para. (1) of the Criminal Code , is the one shown by art. 154 para. (1) lit. c) from the Criminal Code .

- (1) If the facts provided in art. 188 , art. 189 and art. 193-195 are committed on a family member, the special maximum of the punishment provided by the law is increased by a fourth.
- (2) In the case of the offenses provided for in art. 193 and art. 196 committed against a family member, the criminal action can also be initiated ex officio.  
(on 08-11-2020, Paragraph (2) of Article 199, Chapter III, Title I, SPECIAL Part was amended by the SINGLE ARTICLE of LAW no. 233 of November 5, 2020, published in the OFFICIAL GAZETTE no. 1036 of November 5 2020)

## Article 200 The killing or injury of the newborn committed by the mother

- (1) The killing of the newborn child immediately after birth, but not later than 24 hours, committed by the mother in a state of mental disorder is punishable by imprisonment from one to 5 years.
- (2) If the facts provided in art. 193-195 are committed on the newborn child immediately after birth, but not later than 24 hours, by the mother in a state of mental disorder, the special limits of punishment are one month and 3 years, respectively.

## Chapter IV Attacks on the fetus

## Article 201 Termination of pregnancy

- (1) Termination of the course of pregnancy carried out in any of the following circumstances:  
a) outside medical institutions or medical offices authorized for this purpose;  
b) by a person who does not have the qualification of a doctor specializing in obstetrics-gynecology and the right to free medical practice in this specialty;  
c) if the age of pregnancy has exceeded fourteen weeks, it is punishable by imprisonment from 6 months to 3 years or by a fine and the prohibition of the exercise of certain rights.
- (2) Termination of the course of pregnancy, carried out under any conditions, without the consent of the pregnant woman, is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.
- (3) If through the facts provided in para. (1) and para. (2) bodily harm was caused to the pregnant woman, the penalty is imprisonment from 3 to 10 years and the prohibition of exercising certain rights, and if the act resulted in the death of the pregnant woman, the penalty is imprisonment from 6 to 12 years and the prohibition of exercising certain rights.
- (4) When the acts were committed by a doctor, in addition to the prison sentence, the ban on exercising the medical profession will also be applied.
- (5) Attempts at the offenses provided for in para. (1) and para. (2) shall be punished.
- (6) It is not a crime to interrupt the course of pregnancy for therapeutic purposes performed by an obstetrician-gynecology specialist, up to the age of twenty-four weeks of pregnancy, or the subsequent interruption of the course of pregnancy, for therapeutic purposes, in the interest of the mother or the fetus .
- (7) A pregnant woman who interrupts her pregnancy shall not be punished.

## Article 202 Injury to the fetus

- (1) Injury to the fetus, during birth, which prevented the establishment of extrauterine life is punishable by imprisonment from 3 to 7 years.
- (2) Injury to the fetus, during birth, which subsequently caused bodily injury to the child, is punishable by imprisonment from one to 5 years, and if it resulted in the death of the child, the punishment is imprisonment from 2 to 7 years.
- (3) Injury to the fetus during pregnancy, which subsequently caused bodily harm to the child, is punishable by imprisonment from 3 months to 2 years, and if it resulted in the death of the child, the punishment is imprisonment from 6 months to 3 years.
- (4) The injury to the fetus committed during birth by the mother in a state of mental disorder is sanctioned with the punishment provided in paragraph. (1) and para. (2) , whose limits are halved.
- (5) If the facts provided in para. (1)-(4) were committed through negligence, the special limits of the punishment are reduced by half.
- (6) The facts provided for in paragraph do not constitute a crime. (1)-(3) performed by a doctor or the person authorized to assist the birth or monitor the pregnancy, if they were performed in the course of the medical act, in compliance with the specific provisions of the profession and were done in the interest of the pregnant woman or the fetus, as a result of the risk inherent in the exercise of the medical act.
- (7) Injury to the fetus during pregnancy by the pregnant woman is not punishable.

## Chapter V Offenses regarding the obligation to assist those in danger

## Article 203 Leaving a person in distress without help

- (1) The failure to give the necessary help or to immediately notify the authorities by the person who found a person whose life, bodily integrity or health is in danger and has no possibility of saving himself is punishable by imprisonment from 3 months to a year or with a fine.
- (2) The act does not constitute a crime if, by granting the aid, the author would expose himself to a serious danger regarding his life, bodily integrity or health.

Article 204 Obstructing aid Obstructing the intervention of aid to save a person from an imminent and serious danger to his life, bodily integrity or health is punishable by imprisonment from one to 3 years or a fine.

## Chapter VI Offenses against the freedom of the person

## Article 205 Unlawful deprivation of liberty

- (1) Unlawful deprivation of liberty of a person is punishable by imprisonment from one to 7 years.
- (2) It is considered deprivation of liberty and the kidnapping of a person who is unable to express his will or to defend himself.
- (3) If the act is committed:
  - a) by an armed person;
  - b) on a minor;
  - c) endangering the health or life of the victim,

the penalty is imprisonment between 3 and 10 years.

- (4) If the deed resulted in the death of the victim, the penalty is imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.
- (5) Attempts at the offenses provided for in para. (1)-(3) shall be punished.

#### Article 206 Threat

- (1) The act of threatening a person with the commission of a crime or a harmful act directed against him or another person, if it is likely to cause him a state of fear, is punishable by imprisonment from 3 months to one year or with a fine, without the penalty applied exceeding the penalty provided by law for the crime that was the object of the threat.
- (2) The criminal action is initiated upon the prior complaint of the injured person.

#### Article 207 Blackmail

- (1) Forcing a person to give, do, not do or suffer something, in order to unjustly acquire a non-patrimonial benefit, for himself or for another, is punishable by imprisonment from one to 5 years.
- (2) With the same punishment is sanctioned the threat of publishing a real or imaginary deed, compromising for the threatened person or for a member of his family, for the purpose provided in para. (1) .
- (3) If the facts provided in para. (1) and para. (2) were committed in order to unjustly acquire a patrimonial benefit, for oneself or for another, the penalty is imprisonment from 2 to 7 years.

#### Article 208 Harassment

- (1) The act of the person who, repeatedly, without right or without a legitimate interest, follows a person or supervises his home, workplace or other places frequented by him, thus causing him a state of fear, is punished with imprisonment from 3 to 6 months or with a fine.
- (2) Making telephone calls or communications by means of remote transmission, which, by frequency or content, causes fear to a person, is punishable by imprisonment from one month to 3 months or by a fine, if the act does not constitute a more serious crime.
- (2<sup>1</sup>) If the facts provided for in para. (1) and (2) are committed against a minor, the special limits of the punishment are increased by one third.
- (on 07-24-2023, Article 208, Chapter VI, Title I, SPECIAL Part was supplemented by Point 6., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023 )
- (3) The criminal action is initiated upon the prior complaint of the injured person.

#### Chapter VII Trafficking and Exploitation of Vulnerable Persons

- Article 209 Slavery Putting or keeping a person in a state of slavery, as well as slave trafficking, are punishable by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.

#### Article 210 Human trafficking

- (1) Recruiting, transporting, transferring, harboring or receiving a person for the purpose of exploiting him, carried out:
  - a) by coercion, kidnapping, misleading or abuse of authority;
  - b) taking advantage of the impossibility of defending oneself or expressing one's will or of the state of obvious vulnerability of that person;
  - c) by offering, giving, accepting or receiving money or other benefits in exchange for the consent of the person who has authority over that person, is punished with imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.
- (2) Trafficking in persons committed by a public official in the exercise of his official duties is punishable by imprisonment from 5 to 12 years.
- (3) The consent of the person who is a victim of trafficking does not constitute a justifying cause.

(on 01-02-2014, Art. 210 was amended by point 21 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

#### Article 211 Trafficking in minors

- (1) Recruiting, transporting, transferring, sheltering or receiving a minor, for the purpose of exploiting him, is punishable by imprisonment from 5 to 10 years and the prohibition of the exercise of certain rights.
- (on 02-11-2020, Paragraph (1) of Article 211, Chapter VII, Title I, SPECIAL Part was amended by Point 3, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 from October 30, 2020)
- (2) The penalty is imprisonment from 7 to 12 years and the prohibition of the exercise of certain rights when:
  - (on 02-11-2020, the introductory part of Paragraph (2) of Article 211 was replaced by Point 3, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 of October 30, 2020)
  - a) the act was committed under the terms of art. 210 para. (1) ;
  - b) the deed was committed by a public official in the exercise of his duties;
  - c) the act endangered the minor's life;
  - d) the act was committed by a family member or by a person who lives with the victim;
  - (on 02-11-2020, Letter d) of Paragraph (2), Article 211, Chapter VII, Title I, the SPECIAL Part was amended by Point 3, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 of October 30, 2020 )
  - e) the act was committed by a person in whose care, protection, education, guard or treatment the minor was or the perpetrator abused his recognized position of trust or authority over the minor or the obvious situation his vulnerability, due to a mental or physical handicap, a dependency situation, a state of physical or mental incapacity or another cause.
  - (on 02-11-2020, Letter e) of Paragraph (2), Article 211, Chapter VII, Title I, the SPECIAL Part was amended by Point 3, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 of October 30, 2020)
  - (on 05-23-2016, Paragraph (2) of art. 211 was amended by point 2 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23, 2016.)
- (3) The consent of the person who is a victim of trafficking does not constitute a justifying cause.

- Article 212 Subjection to forced or compulsory labor The act of subjecting a person, in cases other than those provided by the law, to work against his will or to compulsory work is punishable by imprisonment from one to 3 years.

#### Article 213 Pimping

- (1) Determining or facilitating the practice of prostitution or obtaining patrimonial benefits from the practice of prostitution by one or more persons is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.
- (2) If the determination to start or continue the practice of prostitution was made through coercion, the penalty is imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.
- (3) If the acts are committed against a minor, the special punishment limits are increased by half.
- (3<sup>1</sup>) If the act provided for in par. (3) was committed in one of the following circumstances:
  - a) the act was committed by a family member or by a person who lives with the victim;
  - b) the minor was in the care, protection, education, guard or treatment of the perpetrator or he abused his recognized position of trust or authority over the minor;
  - c) by a person who has previously committed a crime against sexual freedom and integrity against a minor, a crime of child pornography or pimping against a minor, the special limits of the punishment provided for in paragraph (3) is increased by another fourth.
  - (on 02-11-2020, Article 213 of Chapter VII, Title I, SPECIAL Part was supplemented by Point 4, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 of October 30, 2020)

(4) By the practice of prostitution is understood the maintenance of sexual acts with different people for the purpose of obtaining patrimonial benefits for oneself or for another.

Note  
Rejection decision - HP no. 1/2019, published in the Official Gazette no. 270 of April 9, 2019

#### Article 214 Exploitation of begging

(1) The act of the person who causes a minor or a person with physical or mental disabilities to repeatedly appeal to the mercy of the public to ask for material aid or benefits from patrimonial benefits as a result of this activity is punishable by imprisonment from 6 months to 3 years or with a fine.

(2) If the deed is committed in the following circumstances:

- a) by a parent, guardian, curator or by the person who takes care of the begging person;
- b) by coercion,

the penalty is imprisonment from one to 5 years.

Article 215 Using a minor for begging The act of an adult who, having the capacity to work, repeatedly appeals to the public's mercy, asking for material help, using for this purpose the presence of a minor, is punishable by imprisonment from 3 months to 2 years or with a fine.

Article 216 Using the services of an exploited person The fact of using the services provided in art. 182 , provided by a person whom the beneficiary knows to be a victim of human trafficking or child trafficking, is punishable by imprisonment from 6 months to 3 years or a fine, if the act does not constitute a more serious crime.

Article 216<sup>1</sup> Use of child prostitution Maintaining any act of a sexual nature with a minor who practices prostitution is punishable by imprisonment from 6 months to 3 years, if the act does not constitute a more serious crime. (on 01-01-2024, Article 216<sup>1</sup>, Chapter VII, Title I, SPECIAL Part was amended by Point 2., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of 11 July 2023 )

Article 217 Sanctioning of the attempt Attempt of the offenses provided for in art. 209-211 , art. 213 para. (2) , art. 216 and 216<sup>1</sup> shall be punished. (on 05-23-2016, Art. 217 was amended by point 4 of art. I of the EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23, 2016. )

#### Chapter VIII Crimes against sexual freedom and integrity

##### Article 218 Rape

(1) Sexual intercourse, oral or anal sexual intercourse with a person, committed through coercion, making it impossible to defend oneself or express one's will or taking advantage of this state, is punishable by imprisonment from 5 to 10 years and prohibiting the exercise of certain rights.

(on 02-11-2020, Paragraph (1) of Article 218, Chapter VIII, Title I, SPECIAL Part was amended by Point 5, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 from October 30, 2020)

(2) Any other acts of vaginal or anal penetration committed under the conditions of para. (1) .

(3) The penalty is imprisonment from 7 to 12 years and the prohibition of the exercise of certain rights when:

(on 02-11-2020, the introductory Part of Paragraph (3) of Article 218, Chapter VIII, Title I, the SPECIAL Part was modified of Point 5, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 of October 30, 2020)

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

b) the act was committed by a family member or by a person who lives with the victim;

(on 02-11-2020, Letter b) of Paragraph (3), Article 218, Chapter VIII, Title I, the SPECIAL Part was amended by Point 5, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 of October 30, 2020)

c) repealed;

(on 01-01-2024, Letter c), Article 218, Chapter VIII, Title I, SPECIAL Part was repealed by Point 1, Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

d) the act was committed for the purpose of producing pornographic materials;

e) repealed;

(on 01-01-2024, Letter e), Article 218, Chapter VIII, Title I, SPECIAL Part was repealed by Point 4., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

f) the act was committed by two or more people together.

g) the perpetrator uses the authority of his position.

(on 01-01-2024, Article 218, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 5., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023 )

(3<sup>1</sup>) Repealed.

(on 01-01-2024, Paragraph (3<sup>1</sup>), Article 218, Chapter VIII, Title I, SPECIAL Part was repealed by Point 6., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

(3<sup>2</sup>) The penalty is imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights if the facts provided for in par. (1)- (3) are committed in one of the following circumstances:

a) the act resulted in bodily injury or endangered the life of the victim in any other way;

b) the act was committed against a pregnant woman;

c) as a result of the act, the victim becomes pregnant;

d) the victim is in a state of obvious vulnerability, caused by age, illness, physical or mental handicap or a dependency situation;

e) the act was committed by using a weapon or by threatening it;

f) the victim was administered, without his knowledge or against his will, alcohol or any substance that affects his judgment or control of his actions.

(on 01-01-2024, Article 218, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 7., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023 )

(4) If the deed resulted in the death of the victim, the penalty is imprisonment from 9 to 18 years and the prohibition of exercising certain rights.

(on 02-11-2020, Paragraph (4) of Article 218, Chapter VIII, Title I, SPECIAL Part was amended by Point 7, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 from October 30, 2020)

(5) The criminal action for the act provided for in para. (1) and para. (2) is set in motion upon the prior complaint of the injured person.

(6) Attempts at the crimes provided for in para. (1)-(3<sup>2</sup>) is punishable.

(on 01-01-2024, Paragraph (6), Article 218, Chapter VIII, Title I, SPECIAL Part was amended by Point 8., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

##### Article 218<sup>1</sup> The rape of a minor

(1) Sexual intercourse, oral or anal sexual intercourse, as well as any other acts of vaginal or anal penetration committed by an adult with a minor who has not reached the age of 16 are punishable by imprisonment from 7 to 12 years and the prohibition of the exercise of certain rights .

(1<sup>1</sup>) Sexual intercourse, oral or anal intercourse, as well as any other acts of vaginal or anal penetration committed by a minor with another minor under the age of 14 are sanctioned according to the provisions of art. 114 .

(on 01-01-2024, Article 218<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 2., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023 )

(2) Sexual intercourse, oral or anal sexual intercourse, as well as any other acts of vaginal or anal penetration committed by an adult with a minor through coercion, making it impossible to defend themselves or express their will or taking advantage of this state are punishable by imprisonment from 8 to 15 years and the prohibition of the exercise of certain rights.

(on 01-01-2024, Paragraph (2), Article 218<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 3., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(3) Sexual intercourse, oral or anal intercourse, as well as any other acts of vaginal or anal penetration committed by a minor with another minor by coercion, making it impossible to defend himself or to express his will or taking advantage of this state are punished with imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.

(4) If the facts provided for in para. (1)-(3) are committed in one of the following circumstances:

- a) the act was committed by a family member of the minor or by a person who lives with the minor;
- b) the minor is in the care, protection, education, guard or treatment of the perpetrator or he has abused his recognized position of trust or authority over the minor or his obviously vulnerable situation caused by illness, mental or physical disability, dependency situation or a state of physical or mental incapacity;
- c) the act resulted in bodily injury or endangered the minor's life in any other way;
- d) the act was committed for the purpose of producing pornographic material;
- e) the deed was committed by two or more people together;
- f) the act was committed by a person who has previously committed a crime against sexual freedom and integrity, a crime of child pornography or pimping or a crime of human trafficking or trafficking of minors;
- g) as a result of the act, the victim became pregnant,

the special maximum penalty is increased by 3 years.

(on 01-01-2024, Paragraph (4), Article 218<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 3., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(5) If the facts provided for in para. (1) and (1<sup>1</sup>) were committed in exchange for a remuneration, a material benefit or an advantage in kind or the promise of such benefits, the special limits of the punishment are increased by one third.

(on 01-01-2024, Paragraph (5), Article 218<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 3., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(5<sup>1</sup>) Sexual intercourse, oral or anal intercourse, as well as any other acts of vaginal or anal penetration committed by an adult with a minor between the ages of 16 and 18 are punishable by imprisonment from 2 to 9 years and prohibition exercising certain rights, if:

- a) the minor is a family member of the major;
- b) the minor is in the care, protection, education, guard or treatment of the perpetrator or he has abused his recognized position of trust or authority over the minor or his obviously vulnerable situation, due to a mental or physical handicap, a situation of dependency, a disease, a state of physical or mental incapacity or another cause;
- c) the act resulted in bodily injury or endangered the minor's life in any way;
- d) the act was committed for the purpose of producing pornographic materials.

(on 01-01-2024, Article 218<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 4., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of 29 December 2023)

(5<sup>2</sup>) The fact provided for in para. (5<sup>1</sup>) shall be punished with imprisonment from 3 to 10 years if:

- a) the act was committed by two or more persons together;
- b) the act was committed by a person who previously committed a crime against sexual freedom and integrity against a minor, a crime of child pornography or pimping of a minor or a crime of human trafficking or minor trafficking.

(on 01-01-2024, Article 218<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 4., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of 29 December 2023)

(6) If the deed resulted in the death of the victim, the penalty is imprisonment from 9 to 18 years and the prohibition of the exercise of certain rights.

(7) The facts provided for in para. (1) and (1<sup>1</sup>) are not sanctioned if the age difference between the perpetrator and the victim does not exceed 5 years.

(on 01-01-2024, Paragraph (7), Article 218<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 5., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(8) Attempts at the crimes provided for in para. (1)-(5<sup>2</sup>) is punishable.

(on 01-01-2024, Paragraph (8), Article 218<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 5., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(on 01-01-2024, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 9., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

#### Article 219 Sexual assault

(1) The act of a sexual nature, other than those provided for in art. 218, with a person, committed by coercion, making it impossible to defend himself or express his will or taking advantage of this state, is punished with imprisonment from 3 to 7 years and the prohibition of the exercise of certain rights.

(on 01-01-2024, Paragraph (1), Article 219, Chapter VIII, Title I, SPECIAL Part was amended by Point 6., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(2) The penalty is imprisonment from 4 to 10 years and the prohibition of the exercise of certain rights, when:

(on 01-01-2024, the Introductory Part of paragraph (2), Article 219, Chapter VIII, Title I, the SPECIAL Part was amended by Article 6 of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

a) the victim is in the care, protection, education, guard or treatment of the perpetrator;

(on 01-01-2024, Letter a) of Paragraph (2), Article 219, Chapter VIII, Title I, SPECIAL Part was amended by Point 6., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

b) the act was committed by a family member or by a person who lives with the victim;

(on 01-01-2024, Letter b) of Paragraph (2), Article 219, Chapter VIII, Title I, SPECIAL Part was amended by Point 6., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

c) repealed;

(on 01-01-2024, Letter c) of Paragraph (2), Article 219, Chapter VIII, Title I, SPECIAL Part was repealed by Point 7., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

d) the act was committed for the purpose of producing pornographic materials;

e) repealed;

(on 01-01-2024, Letter e) of Paragraph (2), Article 219, Chapter VIII, Title I, SPECIAL Part was repealed by Point 7., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

f) the act was committed by two or more people together.

g) the perpetrator uses the authority of his position.

(on 01-01-2024, Paragraph (2) of Article 219, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 12., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

(2<sup>1</sup>) Repealed.

(on 01-01-2024, Paragraph (2<sup>1</sup>), Article 219, Chapter VIII, Title I, SPECIAL Part was repealed by Point 13., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

(2<sup>2</sup>) The penalty is imprisonment from 6 to 12 years and the prohibition of the exercise of certain rights if the facts provided for in par. (1) and (2) are committed in one of the following circumstances:

- a) the act resulted in bodily injury or endangered the life of the victim in any other way;
- b) the act was committed against a pregnant woman;
- c) the victim is in a state of obvious vulnerability, due to age, illness, a physical or mental handicap, pregnancy or a dependency situation;
- d) the act was committed by using a weapon or by threatening it;
- e) the victim was administered, without his knowledge or against his will, alcohol or any substance that affects his judgment or control of his actions.

(on 01-01-2024, Article 219, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 14., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

(3) If the deed resulted in the death of the victim, the penalty is imprisonment from 8 to 15 years and the prohibition of exercising certain rights.

(on 01-01-2024, Paragraph (3), Article 219, Chapter VIII, Title I, SPECIAL Part was amended by Point 15., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

(4) If the acts of sexual aggression were preceded or followed by the commission of the sexual acts provided for in art. 218 para. (1) and para. (2), the act constitutes rape.

(5) The criminal action for the act provided for in para. (1) is set in motion upon the prior complaint of the injured person.

(6) Attempts at the offenses provided for in para. (1)-(2<sup>2</sup>) is punishable.

(on 01-01-2024, Paragraph (6), Article 219, Chapter VIII, Title I, SPECIAL Part was amended by Point 15., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

#### Article 219<sup>1</sup> Sexual assault on a minor

(1) The act of a sexual nature, other than those provided for in art. 218<sup>1</sup>, committed by an adult on a minor who has not reached the age of 16, is punishable by imprisonment from 2 to 9 years and the prohibition of the exercise of certain rights.

(on 01-01-2024, Paragraph (1), Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 8., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(1<sup>1</sup>) The act of a sexual nature, other than those provided for in art. 218<sup>1</sup>, committed by a minor on another minor under the age of 14, is punishable by imprisonment from one to 5 years and the prohibition of the exercise of certain rights.

(on 01-01-2024, Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 9., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of 29 December 2023 )

(1<sup>2</sup>) The act of a sexual nature, other than those provided for in art. 218<sup>1</sup> , committed by a minor on a minor by coercion, making it impossible to defend himself or to express his will or taking advantage of this state is punishable by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.

(on 01-01-2024, Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 9., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of 29 December 2023 )

(2) The act of a sexual nature, other than those provided for in art. 218<sup>1</sup> , committed between minors by coercion, making it impossible to defend themselves or to express their will or taking advantage of this state is punishable by imprisonment from 2 to 7 years.

(on 01-01-2024, Paragraph (2), Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 10., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(3) If the facts provided for in para. (1)-(2) are committed in one of the following circumstances:

a) the act was committed by a family member of the minor or by a person who lives with the minor;

b) the minor is in the care, protection, education, guard or treatment of the perpetrator or he has abused his recognized position of trust or authority over the minor or his obviously vulnerable situation caused by illness, mental or physical disability, a situation of addiction or a state of physical or mental incapacity;

c) the act resulted in bodily injury or endangered the minor's life in any other way;

d) the act was committed for the purpose of producing pornographic material;

e) the deed was committed by two or more people together;

f) the act was committed by a person who previously committed a crime against sexual freedom and integrity, a crime of child pornography or pimping of a minor or a crime of human trafficking or minors trafficking,

the special maximum of the punishment is increased by 3 years.

(on 01-01-2024, Paragraph (3), Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 10., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(3<sup>1</sup>) The commission by an adult of an act of a sexual nature, other than those provided for in art. 218<sup>1</sup> , against a minor between the ages of 16 and 18 is punished with imprisonment from 6 months to 3 years and the prohibition of the exercise of certain rights, if:

a) the act was committed by a family member of the minor or a person who lives with him;

b) the minor is in the care, protection, education, guard or treatment of the perpetrator or he has abused his recognized position of trust or authority over the minor or his obviously vulnerable situation, caused by illness, mental or physical handicap, situation of addiction or a state of physical or mental incapacity;

c) the act was committed for the purpose of producing pornographic material;

d) the act resulted in bodily injury or endangered the minor's life in any other way.

(on 01-01-2024, Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 11., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of 29 December 2023 )

(3<sup>2</sup>) If the facts provided for in para. (3<sup>1</sup>) are committed in the following circumstances:

a) the deed was committed by two or more people together;

b) the act was committed by a person who has previously committed a crime against sexual freedom and integrity against a minor, a crime of child pornography or pimping of a minor or a crime of human trafficking or trafficking of minors,

the special limits of the penalty is increased by one third.

(on 01-01-2024, Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 11., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of 29 December 2023 )

(4) If the deed resulted in the death of the victim, the penalty is imprisonment from 8 to 15 years and the prohibition of the exercise of certain rights.

(5) The facts provided for in para. (1) and (1<sup>1</sup>) are not sanctioned if the age difference between the perpetrator and the victim does not exceed 5 years.

(on 01-01-2024, Paragraph (5), Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 12., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(6) If acts of sexual aggression were preceded or followed by the commission of acts provided for in art. 218<sup>1</sup> para. (1)-(3) , they constitute the crime of rape committed against a minor.

(on 01-01-2024, Paragraph (6), Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 12., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(7) Attempts at the offenses provided for in para. (1)-(3<sup>2</sup>) is punishable.

(on 01-01-2024, Paragraph (7), Article 219<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 12., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(on 01-01-2024, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 16., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

Article 219 <sup>2</sup> Determining or facilitating the maintenance of sexual or sexual acts between minors

(1) The act of the adult who determines the maintenance of sexual intercourse, an oral or anal sexual act, as well as any other acts of vaginal or anal penetration between minors who have not reached the age of 16, as well as the determination of the minor to endure or to carry out such an act is sanctioned with the penalty provided for in art. 218<sup>1</sup> para. (1)-(3) , as the case may be, reduced by one third.

(2) The act of the minor that determines the commission of any act of a sexual nature, other than those provided for in para. (1) , between minors who have not reached the age of 16, as well as the determination of the minor to endure or perform such an act is sanctioned with the penalty provided for in art. 219<sup>1</sup> para. (1)-(3) , as the case may be, reduced by one third.

(3) If the act provided for in para. (1) is preceded or followed by the act provided for in para. (2) , only the act provided for in par. (1) .

(on 01-01-2024, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 16., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

Article 220 Repealed. (on 01-01-2024, Article 220, Chapter VIII, Title I, SPECIAL Part was repealed by Point 17., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023 )

Article 221 Sexual corruption of minors

(1) Repealed.

(on 01-01-2024, Paragraph (1), Article 221, Chapter VIII, Title I, SPECIAL Part was repealed by Point 13., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(2) Repealed.

(on 01-01-2024, Paragraph (2), Article 221, Chapter VIII, Title I, SPECIAL Part was repealed by Point 13., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(2<sup>1</sup>) Repealed.

(on 01-01-2024, Paragraph (2<sup>1</sup>), Article 221, Chapter VIII, Title I, SPECIAL Part was repealed by Point 19., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023)

(3) The sexual act of any nature committed by an adult in the presence of a minor who has not reached the age of 16 is punishable by imprisonment from 6 months to 3 years or a fine.

(on 01-01-2024, Paragraph (3), Article 221, Chapter VIII, Title I, SPECIAL Part was amended by Point 14., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(4) The determination by an adult of a minor who has not reached the age of 16 to assist in the commission of acts of an exhibitionist nature or at shows or performances in which sexual acts of any nature are committed, as well as making it available to him of materials of a pornographic nature are punishable by imprisonment from 3 months to 3 years or a fine.

(on 01-01-2024, Paragraph (4), Article 221, Chapter VIII, Title I, SPECIAL Part was amended by Point 14., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(4<sup>1</sup>) The act of an adult to incite a minor who has not reached the age of 16, through the means of remote transmission, through electronic communication or social networks, to commit any act of a sexual nature on him, on a persons or together with a person, including when the act of a sexual nature is not committed, is punishable by imprisonment from 6 months to 3 years or a fine.

(on 01-01-2024, Article 221, Chapter VIII, Title I, SPECIAL Part was supplemented by Point 21., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023 )

(5) Repealed.

(on 01-01-2024, Paragraph (5), Article 221, Chapter VIII, Title I, SPECIAL Part was repealed by Point 15., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

(6) Repealed.

(on 01-01-2024, Paragraph (6), Article 221, Chapter VIII, Title I, SPECIAL Part was repealed by Point 15., Article I of LAW no. 424 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1194 of December 29, 2023)

Article 222 Encouraging minors for sexual purposes The act of an adult proposing to a minor who has not reached the age of 16 to meet, for the purpose of committing a sexual act of any nature or for the purpose of committing one of the acts provided for in art. 374 , including when the

proposal was made by means of remote transmission, is punishable by imprisonment from 6 months to 3 years. (on 01-01-2024, Article 222, Chapter VIII, Title I, SPECIAL Part was amended by Point 22., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023 )

Article 222<sup>1</sup> Acts committed in aggravating circumstances If the acts provided for in art. 221 and 222 are committed by two or more people together or by a person who has previously committed a crime against sexual freedom and integrity against a minor, a crime of child pornography or pimping against a minor, the special limits of the punishment are increased by a third. (on 01-01-2024, Article 222<sup>1</sup>, Chapter VIII, Title I, SPECIAL Part was amended by Point 23., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of 11 July 2023)

#### Article 223 Sexual harassment

(1) Repeatedly claiming favors of a sexual nature within an employment relationship or a similar relationship, if by this the victim was intimidated or put in a humiliating situation, is punishable by imprisonment from 3 months to one year or with a fine.  
(2) The criminal action is initiated upon the prior complaint of the injured person.

#### Chapter IX Crimes affecting the home and private life

##### Article 224 Violation of the home

(1) Unauthorized entry, in any way, into a home, room, outbuilding or enclosed place belonging to them, without the consent of the person who uses them, or the refusal to leave them at their request, is punishable by imprisonment from 3 months to 2 years or with a fine.  
(2) If the act is committed by an armed person, during the night or by using false qualities, the penalty is imprisonment from 6 months to 3 years or a fine.  
(3) The criminal action is initiated upon the prior complaint of the injured person.

##### Note

Admission decision: HP no. 18/2024, published in the Official Gazette no. 446 of May 15, 2024:

The notions of home, room or dependency from the content of the crime of violation of private life, provided by art. 226 para. (1) of the Criminal Code , have the same meaning as the notions of home, room or dependency from the content of the crime of domestic violence, provided by art. 224 para. (1) of the Criminal Code , being subsumed under the notion of domicile in the sense of the criminal law.

##### Article 225 Violation of the professional headquarters

(1) Unauthorized entry, in any way, into any of the premises where a legal or natural person carries out their professional activity or the refusal to leave them at the request of the entitled person is punishable by imprisonment from 3 months to 2 years or a fine.  
(2) If the act is committed by an armed person, during the night or by using false qualities, the penalty is imprisonment from 6 months to 3 years or a fine.  
(3) The criminal action is initiated upon the prior complaint of the injured person.

##### Article 226 Violation of private life

(1) Infringing on private life, without right, by photographing, capturing or recording images, listening with technical means or audio recording of a person in a home or room or dependence on it or of a private conversation is punishable with imprisonment from one month to 6 months or with a fine.

##### Note

Admission decision: HP no. 18/2024, published in the Official Gazette no. 446 of May 15, 2024:

The notions of home, room or dependency from the content of the crime of violation of private life, provided by art. 226 para. (1) of the Criminal Code , have the same meaning as the notions of home, room or dependency from the content of the crime of domestic violence, provided by art. 224 para. (1) of the Criminal Code , being subsumed under the notion of domicile in the sense of the criminal law.

(2) The disclosure, broadcast, presentation or transmission, without right, of the sounds, conversations or images provided for in para. (1) , to another person or to the public, is punishable by imprisonment from 3 months to 2 years or a fine.

##### Note

Admission decision: HP no. 51/2021, published in Official Gazette no. 1050 of November 3, 2021:

Establishes that the typicality of the crime of violation of private life in the manner criminalized by art. 226 para. (2) of the Criminal Code is not conditional on possessing sounds, conversations or images made without the right, by photographing, capturing or recording images, listening with technical means or audio recording of a person in a home or room or dependency holding of them or of a private conversation.

(2<sup>1</sup>) The disclosure, diffusion, presentation or transmission, in any way, of an intimate image of a person identified or identifiable according to the information provided, without the consent of the depicted person, likely to cause him mental suffering or harm his image , is punishable by imprisonment from 6 months to 3 years or a fine.

(on 06-18-2023, Article 226 of Chapter IX, Title I, SPECIAL Part was supplemented by Point 1, SINGLE ARTICLE of LAW no. 171 of June 14, 2023, published in the OFFICIAL GAZETTE no. 532 of June 15, 2023)

(2<sup>2</sup>) By intimate image is meant any reproduction, regardless of support, of the image of a naked person, which fully or partially exposes their genitals, anus or pubic area or, in the case of women, their breasts, or which is involved in - a sexual relationship or sexual act.

(on 06-18-2023, Article 226 of Chapter IX, Title I, SPECIAL Part was supplemented by Point 1, SINGLE ARTICLE of LAW no. 171 of June 14, 2023, published in the OFFICIAL GAZETTE no. 532 of June 15, 2023)

(3) The criminal action is initiated upon the prior complaint of the injured person.

(4) The deed provided for in para. does not constitute a crime . (1) and (2) executed:

(on 18-06-2023, the introductory part of paragraph (4) of Article 226, Chapter IX, Title I, the SPECIAL Part was modified by Point 2, SINGLE ARTICLE of LAW no. 171 of June 14, 2023, published in the OFFICIAL GAZETTE no. 532 of June 15, 2023)

a) by the person who participated in the meeting with the injured person during which the sounds, conversations or images were captured, if it justifies a legitimate interest;

b) if the injured person acted explicitly with the intention of being seen or heard by the perpetrator;

c) if the perpetrator catches the commission of a crime or contributes to proving the commission of a crime;

d) if it captures facts of public interest, which are significant for the life of the community and whose disclosure presents greater public advantages than the damage caused to the injured person.

(4<sup>1</sup>) It does not constitute a crime the act provided for in paragraph. (2<sup>1</sup>) if the perpetrator catches the commission of a crime or contributes to the proof of the commission of a crime.

(on 06-18-2023, Article 226 of Chapter IX, Title I, SPECIAL Part was supplemented by Point 3, SINGLE ARTICLE of LAW no. 171 of June 14, 2023, published in the OFFICIAL GAZETTE no. 532 of June 15, 2023)

(5) Placing, without right, technical means of audio or video recording, in order to commit the acts provided for in paragraph. (1) and para. (2) , is punishable by imprisonment from one to 5 years.

##### Article 227 Disclosure of professional secrecy

(1) Disclosure, without right, of data or information regarding a person's private life, likely to cause harm to a person, by the person who became aware of them by virtue of his profession or position and who has the obligation to maintain confidentiality with regarding these data, is punishable by imprisonment from 3 months to 3 years or a fine.

(2) The criminal action is initiated upon the prior complaint of the injured person.

#### Title II Offenses against patrimony

##### Chapter I Theft

##### Article 228 Theft

(1) Taking a movable asset from the possession or custody of another, without his consent, in order to wrongfully appropriate it, is punishable by imprisonment from 6 months to 3 years or a fine.

Note

Admission decision: RIL no. 6/2020, published in Official Gazette no. 691 of August 3, 2020:

In the interpretation and application of the provisions of art. 228 para. (1) related to art. 229 para. (1) lit. e) of the Criminal Code establishes:

The act of theft committed by removing/breaking the security system placed on the property meets the typical elements of the crime provided by art. 228 para. (1) related to art. 229 para. (1) lit. e) from the Criminal Code .

Admission decision: HP no. 4/2022, published in the Official Gazette no. 335 of April 5, 2022:

The fulfillment of the obligation to wear a protective mask having the ability to hide the physiognomy, in public spaces where the normative acts in force provide for its obligation, attracts the incidence of the aggravating circumstantial element provided by art. 229 para. (1) lit. c) from the Criminal Code regarding the crime of theft committed by a masked person.

Admission decision: HP no. 7/2023, published in the Official Gazette no. 559 of June 21, 2023:

In the interpretation and application of the provisions of art. 228 para. (1) related to art. 229 para. (1) lit. d) the final sentence of the Criminal Code establishes that:

The act of theft committed by using an improvised device that blocks the activation of the centralized closing system of the doors of a motor vehicle, by jamming the signal related to this system, meets the typical conditions of the crime of qualified theft committed by using a false key, provided by art. 228 para. (1) of the Criminal Code referred to art. 229 para. (1) lit. d) the final thesis of the same code.

(2) The act also constitutes theft if the asset belongs in whole or in part to the perpetrator, but at the time of the commission, that asset was in the possession or legitimate detention of another person.

(3) Movable goods and documents, electricity, as well as any other type of energy that has economic value are considered.

#### Article 229 Qualified theft

(1) Theft committed in the following circumstances:

- a) in a means of public transport;
- b) during the night;
- c) by a masked, disguised or transvestite person;

Note

Admission decision: HP no. 4/2022, published in the Official Gazette no. 335 of April 5, 2022:

The fulfillment of the obligation to wear a protective mask having the ability to hide the physiognomy, in public spaces where the normative acts in force provide for its obligation, attracts the incidence of the aggravating circumstantial element provided by art. 229 para. (1) lit. c) from the Criminal Code regarding the crime of theft committed by a masked person.

d) through burglary, escalation or unauthorized use of a real key or a false key;

Note

Admission decision: HP no. 7/2023, published in the Official Gazette no. 559 of June 21, 2023:

In the interpretation and application of the provisions of art. 228 para. (1) related to art. 229 para. (1) lit. d) the final sentence of the Criminal Code establishes that:

The act of theft committed by using an improvised device that blocks the activation of the centralized closing system of the doors of a motor vehicle, by jamming the signal related to this system, meets the typical conditions of the crime of qualified theft committed by using a false key, provided by art. 228 para. (1) of the Criminal Code referred to art. 229 para. (1) lit. d) the final thesis of the same code.

e) by taking the alarm or surveillance system out of operation, is punished with imprisonment from one to 5 years.

Note

Admission decision: RIL no. 6/2020, published in Official Gazette no. 691 of August 3, 2020:

In the interpretation and application of the provisions of art. 228 para. (1) related to art. 229 para. (1) lit. e) of the Criminal Code establishes:

The act of theft committed by removing/breaking the security system placed on the property meets the typical elements of the crime provided by art. 228 para. (1) related to art. 229 para. (1) lit. e) from the Criminal Code .

(2) If the theft was committed in the following circumstances:

- a) on an asset that is part of the cultural heritage;
- b) by trespassing on residence or professional premises;
- c) by a person carrying a weapon, the penalty is imprisonment from 2 to 7 years.

(3) Theft regarding the following categories of goods:

- a) crude oil, gasoline, condensate, liquid ethane, gasoline, diesel, other petroleum products or natural gas from pipelines, warehouses, tanks or tank wagons;
- b) components of irrigation systems;
- c) components of electrical networks;
- d) a device or a signalling, alarming or alerting system in case of fire or other public emergency situations;
- e) a means of transport or any other means of intervention in case of fire, railway, road, naval or air accidents or in case of disaster;
- f) safety installations and routing of railway, road, naval, air traffic and their components, as well as components of related means of transport;
- g) goods, the appropriation of which endangers the safety of traffic and people on public roads;
- h) cables, lines, equipment and installations of telecommunications, radiocommunications, as well as communication components, is punishable by imprisonment from 3 to 10 years.

#### Article 230 Theft for use

(1) Theft that has as its object a vehicle, committed with the purpose of using it unjustly, is sanctioned with the penalty provided in art. 228 or art. 229 , as the case may be, whose special limits are reduced by one third.

(2) With the penalty provided in para. (1) the unauthorized use of another's communications terminal or the unauthorized use of a communications terminal connected to a network, if damage has occurred.

#### Article 231

(1) The acts provided for in this chapter, committed between family members by a minor to the detriment of the guardian or by the person who lives with the injured person or is hosted by him, are punished only upon the prior complaint of the injured person.

(2) In the case of the facts provided for in art. 228 and 230 , reconciliation removes criminal liability.

(on 11-29-2020, Article 231 of Chapter I, Title II, SPECIAL Part was amended by Point 2, SINGLE ARTICLE of LAW no. 274 of November 26, 2020, published in the OFFICIAL GAZETTE no. 1144 of November 26, 2020)

Article 232 Sanctioning of the attempt The attempt of the offenses provided for in this chapter is punishable.

#### Chapter II Robbery and piracy

Article 233 Robbery Theft committed by the use of violence or threats or by putting the victim in a state of unconsciousness or the inability to defend himself, as well as the theft followed by the use of such means to preserve the stolen property or to remove the traces of the crime or for the perpetrator to ensure his escape are punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

#### Article 234 Qualified robbery

- (1) Robbery committed in the following circumstances:
- by using a weapon or explosive, narcotic or paralyzing substances;
  - by simulating official qualifications;
  - by a masked, disguised or transvestite person;
  - during the night;
  - in a means of transport or on a means of transport;
  - through violation of domicile or professional headquarters, is punished with imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.
  - taking advantage of the obvious vulnerability of the injured person, due to age, health, infirmity or other causes.
- (on 07-24-2023, Paragraph (1), Article 234, Chapter II, Title II, SPECIAL Part was supplemented by Point 7., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023)
- (2) Robbery committed under the terms of art. 229 para. (3) is punishable by imprisonment from 5 to 12 years and the prohibition of certain rights. (on 01-02-2014, Paragraph (2) of art. 234 was amended by point 24 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )
- (3) Robbery resulting in bodily injury shall be punished with the same penalty.

#### Article 235 Piracy

- (1) Theft committed, by violence or threat, by a person who is part of the crew or passengers of a ship on the high seas, of goods found on that ship or on another ship, is punishable by imprisonment from 3 to 15 years and the prohibition of the exercise of certain rights.
- (2) With the penalty provided in para. (1) the capture of a ship on the high seas or the fact of causing, by any means, its shipwreck or failure, in order to appropriate its cargo or to rob the persons on board, is also sanctioned.
- (3) If piracy resulted in bodily harm, the penalty is imprisonment from 5 to 15 years and the prohibition of exercising certain rights.
- (4) There is piracy also if the act was committed on an aircraft or between aircraft and ships.

Article 236 Robbery or piracy followed by the death of the victim If the facts provided for in art. 233-235 resulted in the death of the victim, the penalty is imprisonment from 7 to 18 years and the prohibition of the exercise of certain rights.

Article 237 Sanctioning of the attempt Attempt to the offenses provided for in art. 233-235 shall be punished.

#### Chapter III Offenses against patrimony through breach of trust

##### Article 238 Abuse of trust

- (1) Unjustly appropriating, disposing or using another's movable property, by the person to whom it was entrusted on the basis of a title and for a certain purpose, or the refusal to return it, is punishable by imprisonment from 3 months to 2 years or fine.
- (2) The criminal action is initiated upon the prior complaint of the injured person.

##### Article 239 Abuse of trust by defrauding creditors

- (1) The act of the debtor to alienate, hide, damage or destroy, in whole or in part, values or assets from his patrimony or to invoke fictitious acts or debts in order to defraud creditors is punishable by imprisonment from 6 months to 3 years or with a fine.
- (2) The act of the person who, knowing that he will not be able to pay, purchases goods or services, causing damage to the creditor, is sanctioned with the same penalty.
- (3) The criminal action is initiated upon the prior complaint of the injured person.

##### Article 240 Simple bankruptcy

- (1) The non-introduction or late introduction, by the debtor natural person or by the legal representative of the debtor legal entity, of the request to open the insolvency procedure, in a term that exceeds by more than 6 months the term provided by law from the occurrence of the condition of insolvency, is punishable by imprisonment from 3 months to one year or a fine.
- (2) The criminal action is initiated upon the prior complaint of the injured person.

##### Article 241 Fraudulent bankruptcy

- (1) The act of the person who, in fraud of creditors:
- falsifies, steals or destroys the debtor's records or hides a part of his assets;
  - shows non-existent debts or presents unpaid amounts in the debtor's records, in another document or in the financial statement;
  - disposes, in case of insolvency of the debtor, part of the assets is punishable by imprisonment from 6 months to 5 years.
- (2) The criminal action is initiated upon the prior complaint of the injured person.

##### Article 242 Fraudulent management

- (1) Causing damage to a person, during the administration or preservation of his goods, by the one who has or must take care of the administration or preservation of those goods, is punishable by imprisonment from 6 months to 3 years or a fine.
- (2) When the act provided for in para. (1) was committed by the judicial administrator, the liquidator of the debtor's assets or by their representative or deputy, the penalty is imprisonment from one to 5 years.
- (3) The facts provided in para. (1) and para. (2) committed in order to acquire a patrimonial benefit are punishable by imprisonment from 2 to 7 years.
- (4) The criminal action is initiated upon the prior complaint of the injured person.

##### Article 243 Appropriation of property found or mistakenly obtained by the perpetrator

- (1) The act of not handing over a found property to the authorities or the person who lost it within 10 days, or disposing of that property as his own, is punishable by imprisonment from one month to 3 months or a fine.
- (2) The same penalty is also imposed for wrongfully misappropriating a movable property belonging to another, which has come into the possession of the perpetrator by mistake or by accident, or not handing it over within 10 days from the moment he became aware that the property does not belong to him .
- (3) Reconciliation removes criminal liability.

##### Article 244 Fraud

- (1) Misleading a person by presenting a false fact as true or a true fact as false, in order to obtain for himself or another an unjust patrimonial benefit and if damage has been caused, is punishable by imprisonment from 6 months to 3 years.
- (2) Fraud committed by using false names or qualities or other fraudulent means is punishable by imprisonment from one to 5 years. If the fraudulent means itself constitutes a crime, the rules on concurrence of crimes apply.
- (3) Reconciliation removes criminal liability.

##### Note

Admission decision: HP no. 37/2021, published in the Official Gazette no. 707 of July 16, 2021:

Establishes that the publication of fictitious online ads that resulted in damage, without this activity interfering with the computer system or the computer data processed by it, fulfills the typical conditions of the offense of deception, provided for by art. 244 of the Criminal Code .

##### Article 245 Insurance fraud

- (1) Destroying, degrading, rendering unusable, hiding or disposing of an asset insured against destruction, degradation, wear, loss or theft, in order to obtain, for oneself or for another, the insured amount, is punishable by imprisonment of to one in 5 years.

- (2) The act of the person who, for the purpose provided for in para. (1) , simulates, causes or aggravates injury or bodily harm produced by an insured risk is punishable by imprisonment from 6 months to 3 years or a fine.
- (3) Reconciliation removes criminal liability.

Article 246 Misappropriation of public auctions The act of removing, through coercion or corruption, a participant from a public auction or the agreement between participants to distort the award price is punishable by imprisonment from one to 5 years.

Article 247 The patrimonial exploitation of a vulnerable person

- (1) The act of the creditor who, on the occasion of lending money or goods, taking advantage of the obvious state of vulnerability of the debtor, due to age, health, infirmity or the dependent relationship in which the debtor is in relation to him, makes him constitutes or transmits, for himself or for another, a real right or claim of a value clearly disproportionate to this benefit is punishable by imprisonment from one to 5 years.
- (2) Placing a person in a state of obvious vulnerability by causing intoxication with alcohol or psychoactive substances in order to induce him to consent to the creation or transfer of a real right or claim or to waive a right, if damage has occurred , is punishable by imprisonment from 2 to 7 years.

Article 248 Sanctioning of the attempt Attempt of the offenses provided for in art. 239 para. (1) , art. 241 and art. 244-247 shall be punished.

Chapter IV Fraud committed through computer systems and electronic means of payment

Article 249 Computer fraud Entering, transmitting, modifying or deleting computer data, restricting access to this data or preventing in any way the operation of a computer system, in order to obtain a benefit materially for oneself or for another, if damage has been caused to a person, is punishable by imprisonment from 2 to 7 years. (on 07-25-2021, Article 249 of Chapter IV, Title II, SPECIAL Part was amended by Point 2, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 of July 22, 2021)

Article 250 Carrying out fraudulent financial operations

- (1) Carrying out a cash withdrawal operation, loading or unloading of an electronic currency or funds transfer instrument, monetary value or virtual currency, by using, without the owner's consent, a non-cash payment instrument or the data of identification that allow its use, is punishable by imprisonment from 2 to 7 years.  
(on 07-25-2021, Paragraph (1) of Article 250, Chapter IV, Title II, SPECIAL Part was amended by Point 3, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 from July 22, 2021 )

Note

Rejection decision: HP no. 2/2021, published in Official Gazette no. 293 of March 24, 2021.

Rejection decision: HP no. 53/2022, published in the Official Gazette no. 1120 of November 21, 2022.

- (2) The performance of one of the operations provided for in para. (1) , by the unauthorized use of any identification data or by the use of fictitious identification data.

Note

Rejection decision: HP no. 2/2021, published in Official Gazette no. 293 of March 24, 2021.

- (3) Unauthorized transmission of any identification data to another person, in order to carry out one of the operations provided for in para. (1) , is punishable by imprisonment from one to 5 years.

Article 250\*1 Illegal operations with non-cash payment instruments

- (1) Possession for fraudulent use of a non-cash payment instrument appropriated by committing one of the acts provided for in art. 228 , art. 229 , art. 233-236 , art. 238 , art. 239 , art. 243 , art. 244 and art. 295 is punishable by imprisonment from 2 to 7 years.
- (2) Acquisition for oneself or for another, including by receipt, appropriation, purchase or as a result of an operation such as transfer, import, export, sale, transport, distribution or making available for fraudulent use of a non-cash payment instrument obtained by committing one of the acts provided for in art. 228 , art. 229 , art. 233-236 , art. 238 , art. 239 , art. 243 , art. 244 and art. 295 is punishable by imprisonment from 2 to 7 years.
- (3) Manufacturing, producing, receiving, owning, transmitting or making available a device, instrument, computer data, equipment, including hardware or software, or any other means, with the aim of serving to appropriate a payment instrument without cash by committing one of the acts provided for in art. 228 , art. 229 , art. 233-236 , art. 238 , art. 239 , art. 243 , art. 244 and art. 295 , is punishable by imprisonment from 2 to 7 years.
- (4) With the punishment provided for in para. (3) the acquisition for oneself or for another, including through the import, export, sale, transport or distribution of a device, instrument, computer data, equipment, including hardware or software, or any other means with the aim of serving appropriation of a cashless payment instrument by committing one of the acts provided for in art. 228 , art. 229 , art. 233-236 , art. 238 , art. 239 , art. 243 , art. 244 and art. 295 .

(on 07-25-2021, Chapter IV of Title II, SPECIAL Part was supplemented by Point 4, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 of July 22, 2021)

Article 251 Acceptance financial operations carried out fraudulently

- (1) Accepting a cash withdrawal operation, loading or unloading of an electronic currency or funds transfer instrument, monetary value or virtual currency, knowing that it is carried out using a counterfeit cashless payment instrument or used without the holder's consent his, is punishable by imprisonment from one to 5 years.  
(on 07-25-2021, Paragraph (1) of Article 251, Chapter IV, Title II, SPECIAL Part was amended by Point 5, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 from July 22, 2021 )
- (2) Acceptance of one of the operations provided for in paragraph is sanctioned with the same penalty . (1) , knowing that it is carried out by the unauthorized use of any identification data or by the use of fictitious identification data.

Article 252 Sanctioning of the attempt The attempt of the crimes provided for in this chapter is punishable.

Chapter V Destruction and disturbance of possession

Article 253 Destruction

- (1) Destroying, degrading or rendering unusable an asset belonging to another or preventing the taking of measures to preserve or save such an asset, as well as the removal of the measures taken, are punishable by imprisonment from 3 months to 2 years or fine.
- (2) The destruction of a document under a private signature, which belongs in whole or in part to another person and serves to prove a right of a patrimonial nature, if this has caused damage, is punishable by imprisonment from 6 months to 3 years or fine.
- (2\*1) The destruction of an electronic surveillance device used for electronic monitoring in the framework of criminal judicial or executive proceedings is punishable by imprisonment from 6 months to 3 years or a fine.  
(on 05-21-2021, Article 253 of Chapter V, Title II, SPECIAL Part was supplemented by Point 1, Article 42, Title II of LAW no. 146 of May 17, 2021, published in the OFFICIAL GAZETTE no. 515 of 18 May 2021 )
- (3) If the act provided for in para. (1) concerns goods that are part of the cultural heritage, the penalty is imprisonment from one to 5 years.
- (4) Destroying, degrading or rendering an asset unusable, committed by arson, explosion or any other such means and if it is likely to endanger other persons or assets, is punishable by imprisonment from 2 to 7 years.
- (5) The provisions provided in para. (3) and para. (4) applies even if the asset belongs to the perpetrator.
- (6) For the facts provided in para. (1) and para. (2) the criminal action is initiated upon the prior complaint of the injured person.
- (7) The attempt of the facts provided in para. (3) and para. (4) shall be punished.

## Article 254 Qualified destruction

- (1) If the facts provided in art. 253 resulted in a disaster, the penalty is imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.
- (2) The disaster consists in the destruction or degradation of immovable property or works, equipment, installations or their components and which resulted in the death or bodily injury of two or more persons.

## Article 255 Negligent destruction

- (1) The destruction, degradation or making unusable, through fault, of an asset, even if it belongs to the perpetrator, if the deed is committed by arson, explosion or by any other such means and if it is likely to put endangering other persons or property, is punishable by imprisonment from 3 months to one year or a fine.
- (2) If the acts resulted in a disaster, the penalty is imprisonment from 5 to 12 years.

## Article 256 Possession disorder

- (1) The occupation, in whole or in part, without right, by violence or threat or by abolishing or displacing boundary markers, of a building in the possession of another is punishable by imprisonment from one to 5 years or by a fine.
- (2) The criminal action is initiated upon the prior complaint of the injured person.

Chapter VI Crimes that produced particularly serious consequences (on 23-05-2016, Chapter VI of title II was introduced by point 11 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23, 2016. ) Article 256<sup>1</sup> The facts that produced particularly serious consequences if the facts provided for in art. 228 , 229 , 233 , 234 , 235 , 239 , 242 , 244 , 245 , 247 , art. 249-251 have produced particularly serious consequences, the special limits of the punishment provided by law are increased by half. (on 05-23-2016, Art. 256<sup>1</sup> was introduced by point 11 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23, 2016. )

## Title III Offenses regarding the authority and the state border

## Chapter I Offenses against the authority

## Article 257 Outrage

- (1) The threat committed directly or through direct means of communication, hitting or other violence, bodily harm, blows or injuries causing death or murder committed against a public official performing a function involving the exercise of state authority, in the exercise of the powers of service or in connection with the exercise of these duties, shall be punished with the penalty provided by law for that crime, the special limits of which shall be increased by one third.
- (2) The commission of a crime against a public official who performs a function involving the exercise of state authority or on his assets, for the purpose of intimidation or revenge, in connection with the exercise of his duties, is sanctioned with the punishment provided by law for that crime, the special limits of which are increased by one third.
- (3) The same punishment shall be imposed for the acts committed under the terms of para. (2) , if they concern a family member of the civil servant.
- (4) The facts provided for in para. (1)-(3) , committed against a policeman or military, as well as forestry personnel vested with the exercise of public authority, in the exercise of their official duties or in connection with the exercise of these duties, shall be punished with the custodial sentence provided for by law for that crime, the limits of which are increased by half.
- (on 07-24-2023, Paragraph (4), Article 257, Chapter I, Title III, SPECIAL Part was amended by Point 8., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023)

## Note

Admission decision: HP no. 19/2020, published in Official Gazette no. 874 of September 24, 2020:

Establishes that, in the interpretation of the provisions of art. 257 para. (4) of the Criminal Code , the notion of "policeman" also includes the person who exercises the position of local policeman pursuant to the Local Police Law no. 155/2010.

## Article 258 Usurpation of official qualities

- (1) Unlawful use of an official capacity involving the exercise of state authority, accompanied or followed by the performance of any act related to that capacity, is punishable by imprisonment from 6 months to 3 years or a fine.
- (2) The act of the civil servant who continues to exercise a position involving the exercise of state authority, after having lost this right according to the law, is sanctioned with the same penalty.
- (3) If the facts provided in para. (1) or para. (2) were committed by a person who wears, without the right, uniforms or distinctive signs of a public authority, the penalty is imprisonment from one to 5 years.

## Article 259 The theft or destruction of documents

- (1) The theft or destruction of a document that is in the custody or possession of a person from those provided in art. 176 or art. 175 para. (2) is punishable by imprisonment from one to 5 years.
- (2) If the act is committed by a public official in the exercise of his official duties, the special limits of the punishment are increased by one third.
- (3) The attempt is punishable.

## Article 260 Breaking of seals

- (1) The removal or destruction of an applied legal seal is punishable by imprisonment from 3 months to one year or a fine.
- (2) If the act was committed by the custodian, the penalty is imprisonment from 6 months to 2 years or a fine.

## Article 261 Evasion from seizure

- (1) The theft of an asset that is legally seized is punishable by imprisonment from 3 months to one year or a fine.
- (2) If the act was committed by the custodian, the penalty is imprisonment from 6 months to 2 years or a fine.

## Chapter II Crimes regarding the state border

## Article 262 Fraudulent crossing of the state border

- (1) Entering or leaving the country by illegally crossing the state border of Romania is punishable by imprisonment from 6 months to 3 years or a fine.
- (2) If the act provided for in para. (1) it was committed:
- a) for the purpose of evading criminal liability or the execution of a punishment or an educational, custodial measure;
- b) by a foreigner declared undesirable or whose right to enter or stay in the country was denied in any way, the penalty is imprisonment from one to 5 years.
- (3) The attempt is punishable.
- (4) The act provided for in para. (1) , committed by a victim of human trafficking or minors, is not punishable.

## Article 263 Migrant trafficking

- (1) Encouraging, guiding, transporting, transferring or harboring a person, for the purpose of fraudulently crossing the state border of Romania, is punishable by imprisonment from 2 to 7 years.
- (2) When the deed was committed:
- in order to obtain, directly or indirectly, a patrimonial benefit;
  - by means that endanger the life, integrity or health of the migrant;
  - subjecting the migrant to inhuman or degrading treatment, the penalty is imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.
- (3) The attempt is punishable.

#### Article 264 Facilitation of illegal stay in Romania

- (1) The act of the person who facilitates, by any means, the illegal stay on the territory of Romania of a person, victim of a crime of trafficking in persons, minors or migrants, who does not have Romanian citizenship nor domicile in Romania, shall be punished with imprisonment from one to 5 years and the prohibition of the exercise of certain rights. If the means used constitutes a crime by itself, the rules on the competition of crimes apply.
- (2) When the deed was committed:
- in order to obtain, directly or indirectly, a patrimonial benefit;
  - by a public official in the exercise of his duties, the penalty is imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.
- (3) When the facts provided for in para. (1) and para. (2) are committed with respect to another foreigner who is illegally in the territory of Romania, the special limits of the punishment are reduced by one third.

Article 265 Evasion from measures of removal from the territory of Romania Evasion from the execution of the obligations established by the competent authorities, by the foreigner against whom the measure of removal from the territory of Romania was ordered or the prohibition of the right of residence was ordered, is punished with imprisonment of from 3 months to 2 years or with a fine.

#### Title IV Offenses against the administration of justice

##### Article 266 Failure to report

- (1) The act of the person who, becoming aware of the commission of an act stipulated by the criminal law against life or which resulted in the death of a person, does not immediately notify the authorities shall be punished with imprisonment from one to 3 years.  
(on 07-05-2021, Paragraph (1) of Article 266, Title IV, SPECIAL Part was amended by Point 3, SINGLE ARTICLE of LAW no. 186 of July 1, 2021, published in the OFFICIAL GAZETTE no. 657 of July 2 2021 )
- (1^1) The act of the person who, becoming aware of the commission of an act provided for by the criminal law, of trafficking and exploitation of vulnerable persons or against sexual freedom and integrity, committed against a minor, does not immediately notify the authorities shall be punished with imprisonment of at 6 months to 2 years.  
(on 07-05-2021, Article 266 of Title IV, SPECIAL Part was supplemented by Point 4, SINGLE ARTICLE of LAW no. 186 of July 1, 2021, published in the OFFICIAL GAZETTE no. 657 of July 2, 2021)
- (2) Failure to report by a family member is not punishable.
- (3) The person who, before initiating the criminal action against a person for the commission of the unreported act, informs the competent authorities about it or who, even after the initiation of the criminal action, facilitated the criminal prosecution of the perpetrator, shall not be punished or the participants.

##### Article 267 Omission of notification

- (1) The civil servant who, becoming aware of the commission of an act provided for by the criminal law in relation to the service in which he performs his duties, omits to notify the criminal investigation bodies immediately shall be punished with imprisonment from 3 months to 3 years or with fine.
- (2) When the act is committed out of fault, the penalty is imprisonment from 3 months to one year or a fine.

##### Article 268 Misleading the judicial bodies

- (1) Criminal notification, made by denunciation or complaint, regarding the existence of a deed provided by the criminal law or in relation to the commission of such a deed by a certain person, knowing that it is untrue, is punishable by imprisonment from 6 months to 3 years or with a fine.
- (2) The production or falsification of unreal evidence, in order to prove the existence of an act provided for by the criminal law or its commission by a certain person, is punishable by imprisonment from one to 5 years.
- (3) The person who misled the judicial bodies shall not be punished if he declares, before the apprehension, arrest or initiation of the criminal action against the person against whom the denunciation or complaint was made or the evidence was produced, that the complaint, complaint or evidence is untrue.

##### Article 269 Favoring the perpetrator

- (1) The aid given to the perpetrator in order to prevent or hinder the investigations in a criminal case, to bring him to criminal responsibility, to execute a punishment or measures depriving of liberty is punishable by imprisonment from one to 5 years or by a fine.
- (2) The penalty applied to the favorer cannot be greater than the penalty provided by law for the act committed by the perpetrator.
- (3) Favoritism by a family member is not punishable.

##### Article 270 Secrecy

- (1) Receiving, acquiring, transforming or facilitating the capitalization of an asset, by a person who either knew or foresaw from the concrete circumstances that it comes from the commission of an act provided for by the criminal law, even without knowing its nature, is punished with imprisonment from one to 5 years or with a fine.
- (2) The penalty applied to the concealer cannot be greater than the penalty provided by law for the act committed by the perpetrator.
- (3) Secrecy committed by a family member is not punishable.

##### Article 271 Obstruction of justice

- (1) The person who, having been warned of the consequences of his act:
- prevents, without right, the investigating body or the court from carrying out, in accordance with the law, a procedural act;
  - refuses to make available to the criminal investigation body, the court or the syndic judge, in whole or in part, the data, information, documents or assets owned, which have been requested explicitly, under the law, in order to resolve a cases, is punishable by imprisonment from 3 months to one year or a fine.
- (2) The provisions of par. (1) does not apply to the person prosecuted or tried for the crime that forms the subject of the criminal process.

##### Article 272 Influence of statements

- (1) The attempt to determine or the determination of a person, regardless of his quality, by corruption, by coercion or by another deed with an obviously intimidating effect, committed on him or on a member of his family, not to notify the criminal prosecution bodies, not to give statements, to withdraw their statements, to give false statements or not to present evidence, in a criminal, civil case or in any other judicial procedure, is punishable by imprisonment from one to 5 years. If the act of intimidation or corruption constitutes a crime by itself, the rules on the competition of crimes apply.
- (2) The patrimonial settlement between the criminal and the injured person, which occurred in the case of crimes for which the criminal action is initiated upon prior complaint or for which reconciliation intervenes, does not constitute a crime.

##### Article 273 Perjury

- (1) The act of the witness who, in a criminal, civil case or in any other procedure in which witnesses are heard, makes false statements or does not say everything he knows in relation to the essential facts or circumstances about which he is questioned shall be punished with imprisonment

from 6 months to 3 years or with a fine.

Note

Admission decision: HP no. 1/2020, published in Official Gazette no. 173 of March 3, 2020:

The reporting witness who benefits from the reason for non-punishment provided for in art. 290 para. (3) of the Criminal Code can be an active subject of the crime of perjury, provided by art. 273 para. (1) of the Criminal Code .

Admission decision - RIL no. 1/2019, published in the Official Gazette no. 187 of March 8, 2019

The fact of a person heard as a witness making false statements or not telling everything he knows about the essential facts or circumstances about which he was asked meets only the typical elements of the crime of perjury, provided by art. 273 para. (1) of the Criminal Code .

(2) Perjury committed:

a) by a witness with protected identity or in the Witness Protection Program;

b) by an undercover investigator;

c) by a person who draws up an expert report or by an interpreter;

d) in relation to a deed for which the law provides for the penalty of life imprisonment or imprisonment of 10 years or more shall be punished with imprisonment from one to 5 years.

(3) The author shall not be punished if he withdraws his testimony, in criminal cases before apprehension, arrest or initiation of criminal proceedings or in other cases before a decision has been rendered or another solution has been given, as a result of perjury.

Note

Admission decision: HP no. 10/2019, published in Official Gazette no. 416 of May 28, 2019:

Establishes that the participant in the commission of a crime who was judged separately from the other participants and later heard as a witness, in the separate case, cannot be the active subject of the crime of perjury provided by art. 273 of the Criminal Code .

Article 274 Retaliation for the help given to justice Committing a crime against a person or a member of his family, on the grounds that he notified the criminal investigation bodies, gave statements or presented evidence in a criminal, civil or any other case procedure from those provided in art. 273 , is sanctioned with the penalty provided by law for that crime, whose special limits are increased by one third.

Article 275 The theft or destruction of evidence or documents

(1) The theft, destruction, retention, concealment or alteration of material means of evidence or documents, in order to prevent the discovery of the truth in a judicial procedure, is punishable by imprisonment from 6 months to 5 years.

Note

Admission decision: HP no. 3/2021, published in Official Gazette no. 396 of April 15, 2021:

Determines that:

1. The offense of theft or destruction of evidence or documents, provided by art. 275 para. (1) of the Criminal Code , the premise is the existence of a judicial proceeding.

2. The author of the act provided by the criminal law that is the object of the criminal process in which the documents or material means of evidence are used can be the active subject of the crime of theft or destruction of evidence or documents in the manner provided by art. 275 para.

(1) of the Criminal Code .

(2) Preventing, in any other way, a document necessary for the resolution of a case, issued by a judicial body or addressed to it, from reaching the recipient, is sanctioned with the same penalty.

Article 276 Repealed. (on 08-12-2014, Art. 276 was repealed by the sole article of LAW no. 159 of December 4, 2014, published in the OFFICIAL GAZETTE no. 887 of December 5, 2014. )

Article 277 Compromise of the interests of justice

(1) Disclosure, without right, of confidential information regarding the date, time, place, manner or means by which evidence is to be administered, by a magistrate or other public official who became aware of it by virtue of the position, if by this the criminal prosecution may be hindered or prevented, it is punishable by imprisonment from 3 months to 2 years or a fine.

(2) Disclosure, without right, of evidence or official documents from a criminal case, before ordering a solution not to send to court or final settlement of the case, by a public official who became aware of these by virtue of the position, shall be punished with imprisonment from one month to one year or with a fine.

(3) Disclosure, without right, of information from a criminal case, by a witness, expert or interpreter, when this prohibition is imposed by the criminal procedure law, is punishable by imprisonment from one month to one year or fine.

(4) It is not a crime to divulge or reveal clearly illegal acts or activities committed by the authorities in a criminal case.

Article 278 Violation of the solemnity of the session The use of offensive or obscene words or gestures, likely to disrupt the activity of the court, by a person who participates or assists in a procedure that takes place before the court, is punishable by imprisonment from one month to 3 months or with a fine.

Article 279 Judicial outrage

(1) Threats, hitting or other violence, bodily harm, blows or injuries causing death or murder, committed against a judge or prosecutor in the exercise of his duties, shall be punished with the custodial sentence provided by law for that crime, of whose special limits are increased by half.

(on 07-24-2023, Paragraph (1), Article 279, Title IV, SPECIAL Part was amended by Point 9., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of 21 July 2023 )

(2) The commission of a crime against a judge or prosecutor or against his assets, for the purpose of intimidation or revenge, in connection with the exercise of official duties, is sanctioned with the custodial sentence provided by law for that crime, the special limits of which is increased by half.

(on 07-24-2023, Paragraph (2), Article 279, Title IV, SPECIAL Part was amended by Point 9., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of 21 July 2023 )

(3) The same punishment shall be imposed for the acts committed under the terms of para. (2) , if they concern a family member of the judge or prosecutor.

(4) The provisions of par. (1)-(3) shall also apply accordingly to acts committed against a lawyer in connection with the exercise of the profession.

Article 280 Abusive research

(1) The use of promises, threats or violence against a person prosecuted or tried in a criminal case, by a criminal investigation body, a prosecutor or a judge, to induce him to give or not to give statements, to give statements lying or retracting their statements, is punished with imprisonment from 2 to 7 years and the prohibition of exercising the right to hold a public office.

(2) The production, falsification or falsification of unreal evidence by a criminal investigation body, a prosecutor or a judge is sanctioned with the same penalty.

Article 281 Subjecting to ill treatment

(1) Subjecting a person to the execution of a punishment, safety or educational measures in a way other than that provided by the legal provisions is punishable by imprisonment from 6 months to 3 years and the prohibition of the exercise of the right to hold a public office.

(2) The subjection to degrading or inhumane treatments of a person in detention, detention or in the execution of a safety or educational measure, depriving of liberty, is punishable by imprisonment from one to 5 years and the prohibition of exercising the right to occupy a public office.

## Article 282 Torture

- (1) The act of a public official who performs a function involving the exercise of state authority or of another person who acts at the instigation or with his express or tacit consent to cause severe physical or mental suffering to a person:
- for the purpose of obtaining from this person or from a third person information or statements;
  - for the purpose of punishing her for an act that she or a third person committed or is suspected of having committed;
  - in order to intimidate or put pressure on her or to intimidate or put pressure on a third person;
  - for a reason based on any form of discrimination, is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.
- (2) If the act provided for in para. (1) resulted in bodily injury, the penalty is imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.
- (3) Torture resulting in the death of the victim is punishable by imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.
- (4) The attempt at the offense provided for in para. (1) shall be punished.
- (5) No exceptional circumstance, whatever it may be, be it a state of war or threats of war, internal political instability or any other state of exception, may be invoked to justify torture. Also, the order of the superior or of a public authority cannot be invoked.
- (6) Pain or suffering that results exclusively from legal sanctions and that is inherent in these sanctions or is caused by them does not constitute torture.

## Article 283 Unjust repression

- (1) The fact of initiating a criminal action, of taking a non-custodial preventive measure or of sending a person to court, knowing that they are innocent, is punishable by imprisonment from 3 months to 3 years and the prohibition of exercising the right to hold a public office.
- (2) The detention or arrest or conviction of a person, knowing that he is innocent, is punishable by imprisonment from 3 to 10 years and the prohibition of exercising the right to hold a public office.

## Article 284 Assistance and unfair representation

- (1) The act of the lawyer or the representative of a person who, in a fraudulent agreement with a person with contrary interests in the same case, in the framework of a judicial or notarial procedure, harms the interests of the client or the person represented is punishable by imprisonment from 3 months to a year or with a fine.
- (2) Fraudulent understanding between a lawyer or a person's representative and a third party interested in the solution that will be decided in the case, in order to harm the interests of the client or the person represented, is sanctioned with the same penalty.
- (3) The criminal action is initiated upon the prior complaint of the injured person.

## Article 285 Escape

- (1) Escape from legal custody or detention is punishable by imprisonment from 6 months to 3 years.
- (2) When the escape is committed by using violence or weapons, the punishment is imprisonment from one to 5 years and the prohibition of the exercise of certain rights.
- (3) Escape is considered:
- unjustified non-appearance of the convicted person at the place of detention, at the end of the period in which he was legally at liberty;
  - leaving, without authorization, by the convicted person, the workplace, located outside the place of detention.
  - the violation by the person under house arrest of the obligation not to leave the building or his non-compliance with the itinerary or travel conditions, established according to the law.
- (on 05-21-2021, Paragraph (3) of Article 285, Title IV, SPECIAL Part was supplemented by Point 2, Article 42, Title II of LAW no. 146 of May 17, 2021, published in the OFFICIAL GAZETTE no. 515 from May 18, 2021)
- (4) In the situations provided for in para. (3) lit. a) and b) , the sentence applied for the crime of escape is added to the remaining unexecuted remainder of the sentence on the date of escape.
- (on 05-21-2021, Paragraph (4) of Article 285, Title IV, SPECIAL Part was amended by Point 3, Article 42, Title II of LAW no. 146 of May 17, 2021, published in the OFFICIAL GAZETTE no. 515 from May 18, 2021)
- (4\*) In the situation provided for in para. (3) lit. c) , the rules on the contest of crimes are applied.
- (on 05-21-2021, Article 285 of Title IV, SPECIAL Part was supplemented by Point 4, Article 42, Title II of LAW no. 146 of May 17, 2021, published in the OFFICIAL GAZETTE no. 515 of May 18, 2021)
- (5) Attempts at the offenses provided for in para. (1) and para. (2) shall be punished.

## Article 286 Facilitating escape

- (1) Facilitating escape by any means is punishable by imprisonment from one to 5 years.
- (2) Facilitating escape:
- committed by using violence, weapons, narcotic or paralyzing substances;
  - of two or more persons in the same circumstance;
  - a person detained or arrested for a crime punishable by law with the penalty of life imprisonment or with a prison sentence of 10 years or more or sentenced to such a penalty shall be punished with imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights .
- (3) If the facts provided in para. (1) and para. (2) are committed by a person who had the duty to guard the detained or detained person, the special limits of the punishment are increased by one third.
- (4) Facilitating the escape, committed through fault, by a person who had the duty to guard the person who escaped, is punishable by imprisonment from 3 months to 2 years.
- (5) Attempts at the offenses provided for in para. (1)-(3) shall be punished.

## Article 287 Non-compliance with court decisions

- (1) Failure to comply with a court decision by:
- resisting execution, by resisting the enforcement body;
  - the refusal of the enforcement body to implement a court decision, by which it is obliged to perform a certain act;
  - the refusal to support the enforcement body in the implementation of the decision, by the persons who have this obligation according to the law;
  - non-execution of the court decision by which the reinstatement of an employee was ordered;
  - non-execution of the court decision regarding the payment of wages within 15 days from the date of the enforcement request addressed to the employer by the interested party;
  - non-compliance with court rulings regarding the establishment, payment, updating and recalculation of pensions;
  - preventing a person from using, in whole or in part, a building owned on the basis of a court decision, by the person to whom the decision is objectionable, is punishable by imprisonment from 3 months to 2 years or a fine.
  - non-compliance with a protective measure ordered in the execution of a European protection order.
- (on 23-07-2016, Letter h) of par. (1) of art. 287 was introduced by point 1 of art. 25 of LAW no. 151 of July 13, 2016 published in the OFFICIAL GAZETTE no. 545 of July 20, 2016. )
- (2) In the case of the facts provided for in letter d)-g) , the criminal action is initiated upon the prior complaint of the injured person.
- (3) In the case of the act provided for in para. (1) lit. h) , reconciliation of the parties removes criminal liability.
- (on 07-23-2016, Paragraph (3) of art. 287 was introduced by point 2 of art. 25 of LAW no. 151 of July 13, 2016 published in the OFFICIAL GAZETTE no. 545 of July 20, 2016. )

## Article 288 Non-execution of criminal sanctions

- (1) Evasion from execution or non-execution in accordance with the law of a complementary or accessory punishment or the security measure provided for in art. 108 lit. b) and letter c) , by the natural person against whom these sanctions have been ordered, shall be punished with imprisonment from 3 months to 2 years or with a fine, if the act does not constitute a more serious crime.

## Note

Admission decision: HP no. 2/2019, published in Official Gazette no. 242 of March 28, 2019:

Establishes that "The act of evading the execution of the security measure provided for in art. 112 lit. d) from the previous Criminal Code (from 1969) does not fulfill the conditions of typicality of the crime provided by art. 288 para. (1) of the Criminal Code".

- (2) Evading the execution of an educational measure depriving of liberty by leaving the educational center or the detention center without the right or by not appearing after the expiry of the period in which he was legally in a state of freedom is punishable by imprisonment from 3 months to a year or with a fine.

- (3) Non-execution, by the trustee or administrator, of the complementary penalties applied to a legal person from those provided in art. 141 is punishable by a fine.

## Title V Corruption and Service Offenses

## Chapter I Corruption Offenses

## Article 289 Bribery

(1) The act of the public official who, directly or indirectly, for himself or for another, claims or receives money or other benefits that are not due to him or accepts the promise of such benefits, in connection with the fulfillment, non-fulfillment, urgency or delay of the fulfillment of an act that falls within his official duties or in connection with the performance of an act contrary to these duties, is punishable by imprisonment from 3 to 10 years and the prohibition of exercising the right to hold a public office or to exercise the profession or activity in the execution of which committed the deed.

(on 01-02-2014, Paragraph (1) of art. 289 was amended by point 25 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

## Note

Admission decision: HP no. 9/2023, published in Official Gazette no. 245 of March 24, 2023:

The military hospital is a public institution within the meaning of art. 135 of the Criminal Code , and this cannot be the author of the crime of bribery, provided by art. 289 para. (1) of the Criminal Code , and abuse of office, provided by art. 297 para. (1) of the Criminal Code .

(2) The fact provided for in para. (1) , committed by one of the persons provided for in art. 175 para. (2) , constitutes a crime only when it is committed in connection with the non-fulfillment, delay in the fulfillment of an act regarding his legal duties or in connection with the performance of an act contrary to these duties.

(3) Money, valuables or any other goods received are subject to confiscation, and when they are no longer found, confiscation is ordered by equivalent.

## Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

## Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, [7](#) and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;

b) art. 4, [8](#) and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

## Article 290 Bribery

(1) The promise, offer or giving of money or other benefits, under the conditions shown in art. 289 , is punishable by imprisonment from 2 to 7 years.

(2) The fact provided for in para. (1) does not constitute a crime when the briber was forced by any means by the one who took the bribe.

(3) The briber is not punished if he denounces the deed before the criminal investigation body has been notified about it.

## Note

Admission decision: HP no. 1/2020, published in Official Gazette no. 173 of March 3, 2020:

The reporting witness who benefits from the reason for non-punishment provided for in art. 290 para. (3) of the Criminal Code can be an active subject of the crime of perjury, provided by art. 273 para. (1) of the Criminal Code .

(4) The money, values or any other goods given shall be returned to the person who gave them, if they were given in the case provided for in para.

(2) or dates after the denunciation provided for in para. (3) .

(5) Money, valuables or any other goods offered or given are subject to confiscation, and when they are no longer found, confiscation is ordered by equivalent.

## Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

## Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, [7](#) and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;

b) art. 4, [8](#) and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

## Article 291 Trafficking in influence

(1) Claiming, receiving or accepting the promise of money or other benefits, directly or indirectly, for himself or for another, made by a person who has influence or is believed to have influence over a public official and who promises to will cause him to perform, not to perform, to expedite or delay the performance of an act that is part of his official duties or to perform an act contrary to these duties, shall be punished with imprisonment from 2 to 7 years.

(2) Money, valuables or any other goods received are subject to confiscation, and when they are no longer found, confiscation is ordered by equivalent.

## Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

## Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, [7](#) and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;

b) art. 4, [8](#) and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

## Article 292 Buying influence

(1) The promise, offer or giving of money or other benefits, for oneself or for another, directly or indirectly, to a person who has influence or is believed to have influence over a public official, in order to induce him to fulfill, not to perform, to expedite or to delay the performance of

an act that is part of his official duties or to perform an act contrary to these duties, shall be punished with imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(on 01-02-2014, Paragraph (1) of art. 292 was amended by point 26 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(2) The perpetrator is not punished if he denounces the act before the criminal investigation body has been notified about it.

(3) The money, valuables or any other goods shall be returned to the person who gave them, if they were given after the denunciation provided for in paragraph (2) .

(4) Money, valuables or any other goods given or offered are subject to confiscation, and if they are no longer found, confiscation is ordered by equivalent.

Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, 7 and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;  
b) art. 4, 8 and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

Article 293 Acts committed by the members of arbitration courts or in connection with them Provisions of art. 289 and art. 290 also applies accordingly to persons who, based on an arbitration agreement, are called upon to make a decision regarding a dispute that is given to them for resolution by the parties to this agreement, regardless of whether the arbitration procedure is conducted based on the law Romanian or based on another law.

Article 294 Acts committed by foreign officials or in connection with them The provisions of this chapter apply to the following persons, unless, by the international treaties to which Romania is a party, it is ordered otherwise: a) officials or persons who carry out their activity on the basis an employment contract or other persons exercising similar duties within an international public organization to which Romania is a party; b) to the members of the parliamentary assemblies of the international organizations to which Romania is a party; c) officials or persons who carry out their activity on the basis of an employment contract or other persons who exercise similar duties, within the European Union; (on 01-02-2014, Letter c) of art. 294 was amended by point 27 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. ) d) to persons who exercise legal functions within international courts whose competence is accepted by Romania, as well as to officials from the registries of these courts; e) officials of a foreign state; f) to the members of the parliamentary or administrative assemblies of a foreign state. g) jurors from foreign courts. (on 01-02-2014, Letter g) of art. 294 was introduced by point 28 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, 7 and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;  
b) art. 4, 8 and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

Chapter II Service offenses

Article 295 Embezzlement

(1) The appropriation, use or trafficking by a public official, in his own interest or for another, of money, valuables or other assets that he manages or administers is punishable by imprisonment from 2 to 7 years and the prohibition of exercising the right to hold a public office.

Note

Rejection decision: HP no. 31/2022, published in the Official Gazette no. 774 of August 3, 2022.

(2) The attempt is punishable.

Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, 7 and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;  
b) art. 4, 8 and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

Article 296 Abusive behaviour

(1) The use of offensive expressions towards a person by the person in the exercise of his duties is punishable by imprisonment from one month to 6 months or by a fine.

(2) Threatening or hitting or other violence committed under the conditions of para. (1) shall be punished with the punishment provided by law for that crime, the special limits of which are increased by one third.

#### Article 297 Abuse in service

(1) The act of the civil servant who, in the exercise of his duties, does not fulfill an act provided for by a law, a Government ordinance, an emergency Government ordinance or another normative act that, at the time of its adoption, had the force of law or fulfills it in violation of a provision included in such a normative act, thus causing damage or an injury to the rights or legitimate interests of a natural person or a legal person, shall be punished with imprisonment from 2 to 7 years and the prohibition exercising the right to hold a public office.  
(on 09-07-2023, Paragraph (1), Article 297, Chapter II, Title V, SPECIAL Part was amended by Point 3., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)

#### Note

Admission decision: HP no. 9/2023, published in Official Gazette no. 245 of March 24, 2023:

The military hospital is a public institution within the meaning of art. 135 of the Criminal Code , and this cannot be the author of the crime of bribery, provided by art. 289 para. (1) of the Criminal Code , and abuse of office, provided by art. 297 para. (1) of the Criminal Code .

(2) The act of the civil servant who, in the exercise of his duties, restricts the exercise of a right of a person or creates a situation of inferiority for him on the basis of race, nationality, ethnic origin, language, religion, sex, is sanctioned with the same penalty. , sexual orientation, political affiliation, wealth, age, disability, chronic non-communicable disease or HIV/AIDS infection.

#### Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

#### Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, 7 and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;

b) art. 4, 8 and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

#### Note

Rejection decision: HP no. 12/2021, published in Official Gazette no. 355 of April 7, 2021.

Admission decision: RIL no. 26/2021, published in Official Gazette no. 142 of February 11, 2022:

In the interpretation and uniform application of the provisions of art. 13 para. (1) lit. a) from the Government Emergency Ordinance no. 43/2002 regarding the National Anticorruption Directorate, the offense of abuse of office provided for in art. 13<sup>2</sup> of Law no. 78/2000 for the prevention, discovery and sanctioning of acts of corruption in relation to art. 297 of the Criminal Code , which caused material damage less than or equal to the equivalent in lei of 200,000 euros, committed by a person whose capacity does not determine the incidence of the provisions of art. 13 para.

(1) lit. b) from the Government Emergency Ordinance no. 43/2002, is the competence of the non-specialized prosecutor's office, and not of the National Anticorruption Directorate.

The provisions of art. 13 para. (1) lit. a) sentence II of the Government Emergency Ordinance no. 43/2002, regarding the value of the amount or the asset that forms the object of the crime of corruption, are not incidents in the case of the crime of abuse of office provided for in art. 13<sup>2</sup> of Law no. 78/2000 related to art. 297 of the Criminal Code .

#### Note

Article V of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023, provides:

#### Article V

(1) In situations where Law no. 15/1968 regarding the Criminal Code of Romania, republished in the Official Gazette of Romania, Part I, no. 65 of April 16, 1997, with subsequent amendments and additions, is applicable as a more favorable criminal law, through the phrase "performs defectively" from the content of art. 246 and 248 means "performs an act by violating a law, a Government ordinance, an emergency Government ordinance or another normative act which, at the time of its adoption, had the force of law".

(2) In situations where Law no. 15/1968, republished, with subsequent amendments and additions, is applicable as a more favorable criminal law, through the phrase "its defective performance" contained in art. 249 is understood as "the performance of an act by violating a law, a Government ordinance, an emergency Government ordinance or another normative act which, at the time of its adoption, had the force of law".

Article 298 Negligence in service The act of the civil servant who, through fault, in the exercise of his duties, does not perform an act provided for by a law, a Government ordinance, an emergency Government ordinance or another normative act which, on the date of its adoption , had the force of law or fulfills it in violation of a provision contained in such a normative act and thereby causes damage or an injury to the rights or legitimate interests of a natural person or a legal person shall be punished with imprisonment from 3 months to 3 years or with a fine. (on 09-07-2023, Article 298, Chapter II, Title V, SPECIAL Part was amended by Point 4., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023 )

#### Note

Article V of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023, provides:

#### Article V

(1) In situations where Law no. 15/1968 regarding the Criminal Code of Romania, republished in the Official Gazette of Romania, Part I, no. 65 of April 16, 1997, with subsequent amendments and additions, is applicable as a more favorable criminal law, through the phrase "performs defectively" from the content of art. 246 and 248 means "performs an act by violating a law, a Government ordinance, an emergency Government ordinance or another normative act which, at the time of its adoption, had the force of law".

(2) In situations where Law no. 15/1968, republished, with subsequent amendments and additions, is applicable as a more favorable criminal law, through the phrase "its defective performance" contained in art. 249 is understood as "the performance of an act by violating a law, a Government ordinance, an emergency Government ordinance or another normative act which, at the time of its adoption, had the force of law".

#### Article 299 Abusive use of the position for sexual purposes

(1) The deed of the civil servant who, in order to perform, not perform, expedite or delay the performance of an act regarding his official duties or in order to do an act contrary to these duties, claims or obtains favors in nature sexual act from a person directly or indirectly interested in the effects of that act of service is punishable by imprisonment from 6 months to 3 years and the prohibition of exercising the right to hold a public office or to exercise the profession or activity in the execution of which the act was committed.

(2) Claiming or obtaining favors of a sexual nature by a public official who prevails or takes advantage of a situation of authority or superiority over the victim, arising from the position held, is punishable by imprisonment from 3 months to 2 years or with a fine and the prohibition of exercising the right to hold a public office or to exercise the profession or activity in the execution of which the act was committed.

(3) If the facts provided for in para. (1) and (2) were committed by university or pre-university teaching staff against a pupil or student, the special punishment limits are increased by one third.

(on 06-01-2024, Article 299, Chapter II, Title V, SPECIAL Part was supplemented by the SINGLE ARTICLE of LAW no. 430 of December 29, 2023, published in the OFFICIAL GAZETTE no. 1 of January 3, 2024)

Article 300 Usurpation of the position The act of the public official who, during the service, performs an act that does not fall within his duties, if by doing so one of the consequences provided for in art. 297 , is punishable by imprisonment from one to 5 years or a fine.

## Article 301 Using the position to favor certain persons

(1) The deed of the civil servant who, in the exercise of his duties, performed an act by which a patrimonial benefit was obtained for himself, for his spouse, for a relative or relative up to the second degree inclusive, is punishable by imprisonment from one to 5 years and the prohibition of exercising the right to hold a public office for a period of 3 years.

(2) The provisions of par. (1) does not apply in cases where the act or decision refers to the following situations:

- a) issuance, approval or adoption of normative acts;
- b) exercising a right recognized by law or fulfilling an obligation imposed by law, in compliance with the conditions and limits provided by it.

(on 07-28-2017, Article 301 of Chapter II, Title V, SPECIAL Part was amended by Point 1, SINGLE ARTICLE of LAW no. 193 of July 24, 2017, published in the OFFICIAL GAZETTE no. 598 of July 25, 2017)

## Article 302 Violation of correspondence secrecy

(1) Opening, evading, destroying or withholding, without right, a correspondence addressed to another, as well as divulging without right the content of such correspondence, even when it was sent open or was opened by mistake, are punishable by imprisonment from 3 months to a year or with a fine.

(2) Unlawful interception of a conversation or a communication made by telephone or by any electronic means of communication is punishable by imprisonment from 6 months to 3 years or a fine.

(3) If the facts provided in para. (1) and para. (2) were committed by a public official who has the legal obligation to respect professional secrecy and the confidentiality of information to which he has access, the penalty is imprisonment from one to 5 years and the prohibition of certain rights.

(4) Disclosing, broadcasting, presenting or transmitting, to another person or to the public, without the right, the content of an intercepted conversation or communication, even if the perpetrator became aware of it by mistake or by accident, is punished with imprisonment from 3 months to 2 years or with a fine.

(5) The act committed does not constitute a crime:

- a) if the perpetrator catches the commission of a crime or contributes to the proof of the commission of a crime;
- b) if it captures facts of public interest, which are significant for the life of the community and whose disclosure presents greater public advantages than the damage caused to the injured person.

(6) Unauthorized possession or manufacture of specific means of interception or recording of communications is punishable by imprisonment from 3 months to 2 years or a fine.

(on 01-02-2014, Paragraph (6) of art. 302 was amended by point 29 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(7) For the facts provided for in para. (1) , the criminal action is initiated upon the prior complaint of the injured person.

(on 01-02-2014, Paragraph (7) of art. 302 was introduced by point 30 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

## Article 303 Disclosure of state secret information

(1) The disclosure, without right, of some secret state information, by the person who knows it due to his duties, if this affects the interests of a legal person among those provided in art. 176 , is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(2) Unauthorized possession, outside of official duties, of a document containing state secret information, if it can affect the activity of one of the legal entities provided for in art. 176 , is punishable by imprisonment from 3 months to 2 years or a fine.

(3) The person who holds a document containing state secret information, which may affect the activity of one of the legal entities provided for in art. 176 , he is not punished if he immediately hands over the document to the issuing body or institution.

## Article 304 Disclosure of secret service or non-public information

(1) The disclosure, without right, of secret service information or information that is not intended for publicity, by the person who knows it due to the duties of the service, if this affects the interests or activity of a person, is punishable by imprisonment from 3 months to 3 years or with a fine.

(2) The disclosure, without right, of secret service information or information that is not intended for publicity, by the person who becomes aware of it, is punishable by imprisonment from one month to one year or a fine.

(3) If, as a result of the act provided for in para. (1) and para. (2) , a crime was committed against the undercover investigator, the protected witness or the person included in the Witness Protection Program, the penalty is imprisonment from 2 to 7 years, and if a crime against life was committed with intent, the penalty is imprisonment from 5 to 12 years.

## Article 305 Negligence in keeping information

(1) Negligence that results in the destruction, alteration, loss or theft of a document containing state secret information, as well as negligence that has allowed another person to find out such information, is punishable by imprisonment from 3 months to one year or a fine .

(2) The same penalty shall be imposed for the acts provided for in art. 303 para. (1) and art. 304 , if they were committed through fault.

## Article 306 Illegal acquisition of funds

(1) The use or presentation of false, inaccurate or incomplete documents or data, in order to receive the necessary approvals or guarantees for the granting of financing obtained or guaranteed from public funds, if it results in obtaining these funds unjustly, is punishable by imprisonment from 2 to 7 years.

(2) The attempt is punishable.

Note

According to art. II of LAW no. 283 of December 8, 2020, published in the OFFICIAL GAZETTE no. 1199 of December 9, 2020, the provisions of art. 306 , 307 and 309 of Law no. 286/2009 on the Criminal Code , with subsequent amendments and additions, shall also be applied in the event that the offenses are committed by the persons provided for in art. 294 of Law no. 286/2009 , with subsequent amendments and additions, if, by the international treaties to which Romania is a party, it is not ordered otherwise.

Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

## Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, 7 and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;

b) art. 4, 8 and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

## Article 307 Misappropriation of funds

(1) Changing the destination of monetary funds or material resources allocated to a public authority or public institution, without complying with the legal provisions, is punishable by imprisonment from one to 5 years.

(2) The same penalty is imposed for changing, without complying with the legal provisions, the destination of funds from financing obtained or guaranteed from public funds.

(3) The attempt is punishable.

Note

According to art. II of LAW no. 283 of December 8, 2020, published in the OFFICIAL GAZETTE no. 1199 of December 9, 2020, the provisions of art. 306 , 307 and 309 of Law no. 286/2009 on the Criminal Code , with subsequent amendments and additions, shall also be applied in the event that the offenses are committed by the persons provided for in art. 294 of Law no. 286/2009 , with subsequent amendments and additions, if, by the international treaties to which Romania is a party, it is not ordered otherwise.

## Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

## Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

- a) art. 6, [7](#) and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;
- b) art. 4, [8](#) and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

## Article 308 Corruption and service offenses committed by other persons

(1) The provisions of art. 289-292 , 295 , 297-300 and art. 304 regarding public officials is also applied accordingly to acts committed by or in relation to persons who exercise, permanently or temporarily, with or without remuneration, an assignment of any nature in the service of a natural person provided for in art. 175 para. (2) times within any legal entity.  
(on 07-28-2017, Paragraph (1) of Article 308, Chapter II, Title V, SPECIAL Part was amended by Point 2, SINGLE ARTICLE of LAW no. 193 of July 24, 2017, published in the OFFICIAL GAZETTE no. 598 from July 25, 2017)

## Note

Admission decision: HP no. 13/2020, published in Official Gazette no. 721 of August 11, 2020:

The owner entrepreneur of an individual enterprise does not have, in the sense of the provisions of art. 308 para. (1) of the Criminal Code , the capacity of a person who permanently or temporarily, with or without remuneration, performs an assignment of any nature in the service of a natural person provided for in art. 175 para. (2) of the Criminal Code , in relations with the individual enterprise.

If the entrepreneur owner of an individual enterprise performs a service of public interest that is subject to the control or supervision of the public authorities regarding the performance of that public service, he has the capacity of a public official within the meaning of the provisions of art. 175 para. (2) of the Criminal Code .

(2) In this case, the special limits of the punishment are reduced by one third.

## Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

## Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

- a) art. 6, [7](#) and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;
- b) art. 4, [8](#) and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

## Note

Rejection decision: HP no. 31/2022, published in the Official Gazette no. 774 of August 3, 2022.

Article 309 The facts that produced particularly serious consequences If the facts provided for in art. 295 , art. 297 , art. 298 , art. 300 , art. 303 , art. 304 , art. 306 or art. 307 have produced particularly serious consequences, the special limits of the punishment provided by law are increased by half.

## Note

According to art. II of LAW no. 283 of December 8, 2020, published in the OFFICIAL GAZETTE no. 1199 of December 9, 2020, the provisions of art. 306 , 307 and 309 of Law no. 286/2009 on the Criminal Code , with subsequent amendments and additions, shall also be applied in the event that the offenses are committed by the persons provided for in art. 294 of Law no. 286/2009 , with subsequent amendments and additions, if, by the international treaties to which Romania is a party, it is not ordered otherwise.

## Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

## Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

- a) art. 6, [7](#) and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;
- b) art. 4, [8](#) and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

## Note

Admission decision: HP no. 12/2015, published in the Official Gazette no. 409 of June 10, 2015:

In the interpretation of the provisions of art. 6 para. (1) of the Criminal Code , in the case of definitive punishments for crimes that produced particularly serious consequences according to the previous Criminal Code, the determination of the special maximum provided by the new law is carried out, even if the value of the damage is lower than the value threshold provided by art. 183 of the Criminal Code , by reference to the aggravated version of the limiting offenses listed in art. 309 of the Criminal Code .

## Title VI Forgery offenses

## Chapter I Forgery of coins, stamps or other valuables

## Article 310 Forgery of coins

- (1) Forgery of currency with circulation value is punishable by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.
- (2) The same penalty is imposed for the forgery of a coin, issued by the competent authorities, before its official circulation.
- (3) The attempt is punishable.

## Article 311 Forgery of credit titles or payment instruments

- (1) The falsification of credit titles, titles or instruments for making payments or any other titles or similar values is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.
- (2) If the act provided for in para. (1) concerns a non-cash payment instrument, the penalty is imprisonment from 3 to 10 years and the prohibition of exercising certain rights.  
(on 07-25-2021, Paragraph (2) of Article 311, Chapter I, Title VI, SPECIAL Part was amended by Point 6, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 from July 22, 2021 )
- (3) The attempt is punishable.

#### Article 312 Forgery of stamps or postal effects

- (1) Forgery of stamps of any kind, postage stamps, postal envelopes, postcards or international reply coupons is punishable by imprisonment from 6 months to 3 years or a fine.
- (2) The attempt is punishable.

#### Article 313 Circulation of falsified values or acquisition of falsified non-cash payment instruments (on 07-25-2021, the marginal title of Article 313 of Chapter I, Title VI, SPECIAL Part was amended by Point 7, Article I of the LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 of July 22, 2021

- (1) Putting into circulation the falsified values provided in art. 310-312 , as well as receiving, possessing or transmitting them, with a view to putting them into circulation, shall be punished with the penalty provided by law for the crime of forgery by which they were produced.
- (2) Putting into circulation the falsified values provided in art. 310-312 , committed by the author or a participant in the crime of forgery, shall be punished with the penalty provided by law for the crime of forgery by which they were produced.
- (3) Returning to circulation one of the values provided in art. 310-312 , by a person who found, after coming into possession of it, that it is falsified, shall be punished with the penalty provided by law for the crime of falsification by which they were produced, whose special limits are reduced by half.
- (4) Acquisition for oneself or for another, including by receipt, appropriation, purchase or as a result of an operation such as transfer, import, export, sale, transport, distribution or making available for fraudulent use of a non-cash payment instrument falsified is punishable by imprisonment from 2 to 7 years.  
(on 07-25-2021, Paragraph (4) of Article 313, Chapter I, Title VI, SPECIAL Part was amended by Point 7, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 from July 22, 2021 )
- (5) The attempt is punishable.  
(on 07-25-2021, Article 313 of Chapter I, Title VI, SPECIAL Part was supplemented by Point 8, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 of July 22, 2021)

#### Article 314 Possession of instruments for the purpose of falsifying values

- (1) The manufacture, receipt, possession or transmission of instruments or materials with the purpose of serving to falsify the values or titles provided for in art. 310 , art. 311 para. (1) and art. 312 is punishable by imprisonment from one to 5 years.
- (2) Manufacturing, producing, receiving, possessing, transmitting or making available a device, instrument, computer data, equipment, including hardware or software, or any other means for the purpose of forging non-cash payment instruments is punishable by imprisonment from 2 to 7 years.  
(on 07-25-2021, Paragraph (2) of Article 314, Chapter I, Title VI, SPECIAL Part was amended by Point 9, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 from July 22, 2021 )
- (3) With the penalty provided for in para. (2) the acquisition for oneself or for another, including through the import, export, sale, transport or distribution of a device, instrument, computer data, equipment, including hardware or software, or any other means with the aim of serving when forging non-cash payment instruments.  
(on 07-25-2021, Paragraph (3) of Article 314, Chapter I, Title VI, SPECIAL Part was amended by Point 9, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 from July 22, 2021 )
- (4) The person who, after committing any of the acts provided for in para. (1)-(3) , before discovering them and before committing the act of falsification, hand over the tools, materials or any other means to the judicial authorities or notify these authorities of their existence.  
(on 07-25-2021, Article 314 of Chapter I, Title VI, SPECIAL Part was supplemented by Point 10, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 of July 22, 2021)

#### Article 315 Fraudulent issuance of currency

- (1) The manufacture of authentic currency by using facilities or materials intended for this purpose, in violation of the conditions established by the competent authorities or without their consent, is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.
- (2) The same penalty is imposed for putting into circulation the coin made under the conditions of para. (1) , as well as receiving, holding or transmitting it, in order to put it into circulation.
- (3) The attempt is punishable.  
(on 05-23-2016, Paragraph (3) of art. 315 was introduced by point 12 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23 2016. )

#### Article 316 Forgery of foreign values The provisions contained in this chapter also apply when the offense concerns coins, stamps, securities or payment instruments, including non-cash payment instruments issued abroad. (on 07-25-2021, Article 316 of Chapter I, Title VI, SPECIAL Part was amended by Point 11, Article I of LAW no. 207 of July 21, 2021, published in the OFFICIAL GAZETTE no. 720 of July 22, 2021)

#### Chapter II Falsification of authentication or marking instruments

##### Article 317 Falsification of official instruments

- (1) Forgery of a seal, a stamp or a marking tool used by the persons provided in art. 176 or the natural persons mentioned in art. 175 para. (2) is punishable by imprisonment from 6 months to 3 years or a fine.
- (2) Falsification of a seal, a stamp or a marking instrument used by persons other than those provided for in para. (1) is punishable by imprisonment from 3 months to one year or a fine.
- (3) The attempt is punishable.

##### Article 318 Use of false instruments Use of false instruments provided for in art. 317 is punishable by imprisonment from 3 months to 3 years or a fine.

##### Article 319 Falsification of foreign authentication instruments The provisions contained in this chapter also apply when the act concerns authentication or marking instruments used by the authorities of a foreign state.

#### Chapter III Forgeries in documents

##### Article 320 Material falsification in official documents

- (1) The falsification of an official document, by forging the writing or signature or by altering it in any way, likely to produce legal consequences, is punishable by imprisonment from 6 months to 3 years.
- (2) The falsehood provided for in para. (1) , committed by a public official in the exercise of his duties, is punishable by imprisonment from one to 5 years and the prohibition of the exercise of certain rights.
- (3) Tickets, vouchers or any other printed matter producing legal consequences are assimilated to official documents.
- (4) The attempt is punishable.

## Article 321 Intellectual forgery

(1) The falsification of an official document on the occasion of its preparation, by a public official in the exercise of his duties, by attesting to facts or circumstances inconsistent with the truth or by knowingly omitting to insert some data or circumstances, is punishable by imprisonment of to one in 5 years.

(2) The attempt is punishable.

## Article 322 Forgery in documents under private signature

(1) Falsification of a document under a private signature through any of the ways provided in art. 320 or art. 321, if the perpetrator uses the forged document or entrusts it to another person for use, in order to produce a legal consequence, he is punished with imprisonment from 6 months to 3 years or with a fine.

(2) The attempt is punishable.

## Note

Admission decision: HP no. 3/2020, published in Official Gazette no. 138 of February 21, 2020:

Establishes that the use or presentation in bad faith of documents under forged private signature, which resulted in obtaining, unjustly, funds from the budget of the European Union or from the budgets administered by it or on its behalf, committed by the same person who, as an author or secondary participant, contributed to the commission of the forgery, carries out the content of the crimes of use or presentation in bad faith of false, inaccurate or incomplete documents or statements, provided by art. 18<sup>1</sup> para. (1) from Law no. 78/2000 for the prevention, discovery and sanctioning of acts of corruption, and forgery in documents under private signature, provided by art. 322 para. (1) of the Criminal Code, in real competition.

Admission decision - RIL no. 21/2017, published in the Official Gazette no. 1024 of December 27, 2017:

In the interpretation and uniform application of the provisions regarding the legal classification of the act of highlighting, in accounting documents or other legal documents, expenses that are not based on real operations or the highlighting of other fictitious operations, in the event of the registration of tax invoices and payment receipts drawn up falsely in the name of commercial companies that do not recognize the transactions or that had during the period of operation the fiscal behavior similar to "ghost" commercial companies, in order to evade the fulfillment of tax obligations; the ratio between the crime of tax evasion provided by art. 9 para. (1) from Law no. 241/2005 and the crimes of forgery in documents under private signature/forgery provided by art. 322 and art. 323 of the Criminal Code establishes that:

The fact of highlighting in accounting documents or other legal documents expenses that are not based on real operations or the highlighting of other fictitious operations, through the use of falsified invoices and tax receipts, for the purpose of evading the fulfillment of tax obligations, constitutes the crime of tax evasion provided for of art. 9 para. (1) lit. c) from Law no. 241/2005 for preventing and combating tax evasion.

Article 323 Forgery The use of an official document or under a private signature, knowing that it is fake, in order to produce a legal consequence, is punishable by imprisonment from 3 months to 3 years or by a fine, when the document is official, and by imprisonment of from 3 months to 2 years or with a fine, when the document is under a private signature.

## Note

Admission decision - RIL no. 21/2017, published in the Official Gazette no. 1024 of December 27, 2017:

In the interpretation and uniform application of the provisions regarding the legal classification of the act of highlighting, in accounting documents or other legal documents, expenses that are not based on real operations or the highlighting of other fictitious operations, in the event of the registration of tax invoices and payment receipts drawn up falsely in the name of commercial companies that do not recognize the transactions or that had during the period of operation the fiscal behavior similar to "ghost" commercial companies, in order to evade the fulfillment of tax obligations; the ratio between the crime of tax evasion provided by art. 9 para. (1) from Law no. 241/2005 and the crimes of forgery in documents under private signature/forgery provided by art. 322 and art. 323 of the Criminal Code establishes that:

The fact of highlighting in accounting documents or other legal documents expenses that are not based on real operations or the highlighting of other fictitious operations, through the use of falsified invoices and tax receipts, for the purpose of evading the fulfillment of tax obligations, constitutes the crime of tax evasion provided for of art. 9 para. (1) lit. c) from Law no. 241/2005 for preventing and combating tax evasion.

## Article 324 Falsification of a technical record

(1) The falsification of a technical record by forgery, alteration or by determining the attestation of circumstances that do not correspond to the truth or the omission of recording some data or circumstances, if it was followed by the use of the record by the perpetrator or by entrusting it to another person for use, in order producing a legal consequence, is punishable by imprisonment from 6 months to 3 years or a fine.

(2) Using a falsified technical record in order to produce a legal consequence is sanctioned with the same penalty.

(3) By technical registration, for the purposes of this article, is understood the attestation of a value, weight, measures or the performance of an event, carried out, in whole or in part, automatically, by means of an approved technical device and which is intended to prove a certain fact, in order to produce legal consequences.

Article 325 Computer forgery The fact of entering, modifying or deleting, without right, computer data or of restricting, without right, access to this data, resulting in data that does not correspond to the truth, in order to be used in order to produce a legal consequence, constitutes felony and is punishable by one to 5 years in prison.

## Note

Admission decision: RIL no. 4/2021, published in the Official Gazette no. 171 of February 19, 2021:

The fact of opening and using an account on a social network open to the public, using as a username the name of another person and entering real personal data that allows to identify him, meets two of the essential requirements of the crime of computer forgery provided in art. 325 of the Criminal Code, respectively that the action of entering computer data was carried out without right and that the action of entering computer data resulted in data inconsistent with the truth.

## Article 326 False statements

(1) The improper declaration of the truth, made to a person from those provided in art. 175 or a unit in which it carries out its activity in order to produce a legal consequence, for itself or for another, when, according to the law or the circumstances, the statement made serves to produce that consequence, is punished with imprisonment from 6 months to 2 years or with a fine.

(2) The act provided for in para. (1), committed to conceal the existence of a risk of infection with an infectious disease, is punishable by imprisonment from one to 5 years or a fine.

(on 03-20-2020, Article 326 of Chapter III, Title VI, SPECIAL Part was amended by Point 1, SINGLE ARTICLE of EMERGENCY ORDINANCE no. 28 of March 18, 2020, published in the OFFICIAL GAZETTE no. 228 of March 20 2020)

## Article 327 False identity

(1) Presenting under a false identity or assigning such an identity to another person, made to a person from those provided in art. 175 or transmitted to a unit in which it carries out its activity through the fraudulent use of a document that serves to identify, legitimize or prove civil status or such a falsified document, in order to mislead or mislead a public official, in order to producing a legal consequence, for oneself or for another, is punishable by imprisonment from 6 months to 3 years.

(2) When the presentation was made using the real identity of a person, the penalty is imprisonment from one to 5 years.

(3) Entrusting a document that serves for identification, identification or proof of civil status to be used without the right is punishable by imprisonment from 3 months to 2 years or a fine.

Article 328 Forgery offenses committed in connection with the authority of a foreign state The provisions contained in this chapter also apply when the act concerns documents issued by a competent authority of a foreign state or by an international organization established by a treaty to which Romania is a party or statements or an assumed identity before it.

Title VII Offenses against public safety

Chapter IOffenses against traffic safety on railways

Article 329 Failure to fulfill official duties or their defective fulfillment

(1) The non-fulfillment of the duties or their defective fulfillment by the employees who manage the railway infrastructure or the operators of transport, intervention or shunting, if this endangers the safety of the movement of means of transport, intervention or shunting on the railway, shall be punished with imprisonment from one to 5 years.  
 (2) If the deed resulted in a railway accident, the penalty is imprisonment from 3 to 10 years.

Article 330 Non-fulfillment of official duties or their defective fulfillment due to fault

(1) Non-fulfillment of duties or their defective fulfillment, due to fault, by the employees who manage the railway infrastructure or the operators of transport, intervention or shunting, if this endangers the safety of the means of transport, intervention or shunting on the railway, is punishable by imprisonment from 3 months to 3 years or a fine.  
 (2) When the deed resulted in a railway accident, the penalty is imprisonment from one to 5 years.

Article 331 Leaving the job and being at work under the influence of alcohol or other substances or refusing or evading taking biological samples

(1) Leaving the post, in any way and in any form, by employees with attributions regarding the safety of the means of transport, intervention or maneuver on the railway, if this endangers the safety of the movement of these means, is punishable by imprisonment from 2 to 7 years.  
 (2) The same penalty shall be imposed for the performance of the duties by an employee having duties regarding the safety of the means of transport, intervention or maneuver on the railway, who has an alcohol concentration of over 0.80 g/l pure alcohol in the blood or is under the influence of psychoactive substances.  
 (3) The refusal or evasion of employees with attributions regarding the safety of the means of transport, intervention or maneuver on the railway to submit to the taking of biological samples necessary in order to establish the alcohol level or the presence of psychoactive substances is punishable by imprisonment from 2 to 7 years.  
 (4) When the facts provided for in para. (1) and (2) resulted in a railway accident, the penalty is imprisonment from 3 to 10 years and the prohibition of certain rights.

(on 10-11-2023, Article 331, Chapter I, Title VII, SPECIAL Part was amended by the SINGLE ARTICLE of LAW no. 314 of November 6, 2023, published in the OFFICIAL GAZETTE no. 1013 of November 7, 2023)

Article 332 Destruction or false signaling

(1) Destroying, degrading or rendering unusable the railway line, rolling stock, railway installations or railway communications, as well as any other goods or equipment related to the railway infrastructure or placing obstacles on the railway, if this endangers the safety of the means of transport, maneuver or intervention on the railway, is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.  
 (2) The same penalty is imposed for the commission of acts of false signaling or the commission of any acts that may mislead the personnel who ensure the movement of means of transport, maneuver or intervention on the railway during the execution of the service, if these acts create a danger railway accident.  
 (3) If the facts provided in para. (1) and para. (2) resulted in a railway accident, the penalty is imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.  
 (4) When the facts provided for in para. (1)-(3) are committed through fault, the special limits of the punishment are reduced by half.  
 (5) Attempts at the offenses provided for in para. (1) and para. (2) shall be punished.

Article 333 Railway accident The railway accident consists in the destruction or degradation caused to the means of transport, rolling stock or railway installations during the movement or maneuvering of the means of transport, shunting, maintenance or intervention on the railway.

Chapter IICrimes against traffic safety on public roads

Article 334 Putting into circulation or driving an unregistered vehicle

(1) Putting into circulation or driving on public roads an unregistered or unregistered motor vehicle, tram or agricultural or forestry tractor, according to the law, is punishable by imprisonment from one to 3 years or a fine.  
 (on 09-07-2023, Paragraph (1), Article 334, Chapter II, Title VII, SPECIAL Part was amended by Point 5., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)

Note

Admission decision - HP no. 11/2017, published in the Official Gazette no. 479 of June 26, 2017:

In the interpretation of the notion of "motor vehicle", provided by art. 334 para. (1) of the Criminal Code and art. 335 para. (1) of the Criminal Code, related to art. 6 point 6 and point 30 of GEO no. 195/2002, amended and supplemented by OG no. 21/26.08.2014, the driving on public roads of an unregistered/unregistered agricultural or forestry tractor according to the law or by a person who does not possess a driving license does not meet the typical conditions of the offenses provided for by art. 334 para. (1) of the Criminal Code, respectively of art. 335 para. (1) of the Criminal Code.

(2) Putting into circulation or driving on public roads a motor vehicle, tram, agricultural or forestry tractor with a false registration number or registration is punishable by imprisonment from one to 5 years or a fine.

(on 09-07-2023, Paragraph (2), Article 334, Chapter II, Title VII, SPECIAL Part was amended by Point 5., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)

(3) Towing an unregistered or unregistered trailer or with a false registration or registration number is punishable by imprisonment from 3 months to 2 years or a fine.

(4) Driving on public roads a motor vehicle, a tram or an agricultural or forestry tractor or towing a trailer whose registration or registration number plates have been withdrawn or a vehicle registered in another state, which does not have driving license in Romania, is punishable by imprisonment from 6 months to 2 years or a fine.

(on 09-07-2023, Paragraph (4), Article 334, Chapter II, Title VII, SPECIAL Part was amended by Point 5., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)

Note

Rejection decision - HP no. 15/2019, published in the Official Gazette no. 918 of November 14, 2019

Article 335 Driving a vehicle without a driver's license

(1) Driving on public roads a motor vehicle, a tram or an agricultural or forestry tractor by a person who does not possess a driving license is punishable by imprisonment from one to 5 years.

(on 09-07-2023, Paragraph (1), Article 335, Chapter II, Title VII, SPECIAL Part was amended by Point 6., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)

Note

Admission decision - HP no. 11/2017, published in the Official Gazette no. 479 of June 26, 2017:

In the interpretation of the notion of "motor vehicle", provided by art. 334 para. (1) of the Criminal Code and art. 335 para. (1) of the Criminal Code, related to art. 6 point 6 and point 30 of GEO no. 195/2002, amended and supplemented by OG no. 21/26.08.2014, the driving on public roads of an unregistered/unregistered agricultural or forestry tractor according to the law or by a person who does not possess a driving license does not meet the typical conditions of the offenses provided for by art. 334 para. (1) of the Criminal Code, respectively of art. 335 para. (1) of the Criminal Code.

(2) Driving on public roads a vehicle for which the law stipulates the mandatory holding of a driving license by a person whose driving license is inappropriate for the category to which the respective vehicle belongs or whose license has been withdrawn or canceled or whose exercise of the right to drive has been suspended or who does not have the right to drive motor vehicles, trams or agricultural or forestry tractors in Romania is punished with imprisonment from 6 months to 3 years or with a fine.

(on 09-07-2023, Paragraph (2), Article 335, Chapter II, Title VII, SPECIAL Part was amended by Point 6., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)

Note

Admission decision: HP no. 18/2019, published in Official Gazette no. 66 of January 30, 2020:

The defendant's obligation not to drive specified vehicles, imposed by the judicial body during the preventive measure of judicial control according to art. 215 para. (2) lit. i) from the Code of Criminal Procedure, does not constitute a suspension of the exercise of the right to drive, and its violation does not meet the typical elements of the offense provided for by art. 335 para. (2) of the Criminal Code .

Admission decision: HP no. 27/2021, published in Official Gazette no. 664 of July 6, 2021:

Establishes that it can be an active subject of the offense provided for in art. 335 para. (2) of the Criminal Code, the person who, after the final judgment of conviction for committing the offense provided for in art. 336 para. (1) of the Criminal Code and until the cancellation of the driver's license ordered by the police chief, drives a motor vehicle on public roads.

Admission decision: HP no. 78/2022, published in the Official Gazette no. 51 of January 18, 2023:

According to Romanian legislation, driving a vehicle on public roads by a person who holds a valid provisional driving license issued by the competent authority in Great Britain ("Provisional Driving Licence") constitutes the offense of driving a vehicle without a driving license provided by art. 335 para. (2) of the Criminal Code , in the situation where the person does not have the right to drive motor vehicles in Romania. (3) The same penalty shall be imposed on the person who entrusts a vehicle for which the law requires the possession of a driver's license for driving on public roads to a person whom he knows is in one of the situations provided for in paragraph. (1) or para. (2) or under the influence of alcohol or psychoactive substances.

Note

Admission decision: HP no. 14/2020, published in Official Gazette no. 135 of February 10, 2021:

Establishes that, in the interpretation of the provisions of art. 335 para. (3) of the Criminal Code , which criminalizes the act of a person entrusting a vehicle for driving on public roads to a person whom he knew to be under the influence of alcohol, they must target a person who has an alcohol concentration above 0, 80 g/l pure blood alcohol.

Rejection decision: HP no. 11/2021, published in Official Gazette no. 361 of April 8, 2021.

Admission decision: HP no. 57/2023, published in the Official Gazette no. 1035 of November 14, 2023:

Establishes that: the act of entrusting a vehicle for which the law requires the possession of a driver's license to drive on public roads to a person who is known to be under the influence of alcohol, but who refused or evaded the taking of biological samples and who is sent to court for the crime provided by art. 337 of the Criminal Code , does not meet the typical conditions for the detention of the offense provided for by art. 335 para. (3) of the Criminal Code .

Article 336 Driving a vehicle under the influence of alcohol or other substances

(1) Driving on public roads a vehicle for which the law requires the possession of a driver's license by a person who has an alcohol concentration of over 0.80 g/l of pure blood alcohol is punishable by imprisonment from one to 5 years or with a fine.  
(on 09-07-2023, Paragraph (1), Article 336, Chapter II, Title VII, SPECIAL Part was amended by Point 7., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)

Note

Admission decision: HP no. 11/2022, published in the Official Gazette no. 430 of May 3, 2022:

The act of a person driving a motor vehicle on public roads, having an alcohol content of over 0.80 g/l of pure alcohol in the blood and being under the influence of psychoactive substances, meets the typical elements of the offense provided for in art. 336 para. (1) and (2) of the Criminal Code , single offence.

Admission decision: HP no. 27/2021, published in Official Gazette no. 664 of July 6, 2021:

Establishes that it can be an active subject of the offense provided for in art. 335 para. (2) of the Criminal Code, the person who, after the final judgment of conviction for committing the offense provided for in art. 336 para. (1) of the Criminal Code and until the cancellation of the driver's license ordered by the police chief, drives a motor vehicle on public roads.

Rejection decision - HP no. 17/2019, published in the Official Gazette no. 875 of October 30, 2019

(2) The same penalty is also imposed on the person, under the influence of psychoactive substances, who drives a vehicle for which the law requires the possession of a driving license.

Note

Admission decision: HP no. 11/2022, published in the Official Gazette no. 430 of May 3, 2022:

The act of a person driving a motor vehicle on public roads, having an alcohol content of over 0.80 g/l of pure alcohol in the blood and being under the influence of psychoactive substances, meets the typical elements of the offense provided for in art. 336 para. (1) and (2) of the Criminal Code , single offence.

Admission decision: HP no. 48/2021, published in Official Gazette no. 698 of July 14, 2021:

Establishes that "The use of the phrase "psychoactive substances" within the criminalization norm of art. 336 para. (2) of the Criminal Code includes, in addition to the category of substances referred to in Law no. 194/2011 on combating operations with products likely to have psychoactive effects, other than those provided for by the normative acts in force, republished, and the substances provided for in the content of Law no. 143/2000 on the prevention and combating of illicit drug trafficking and consumption, republished, with subsequent amendments and additions, and of Law no. 339/2005 on the legal regime of narcotic and psychotropic plants, substances and preparations, with subsequent amendments and additions".

(3) If the person in one of the situations provided for in para. (1) and para. (2) carries out public transport of people, transport of dangerous substances or products or is in the process of practical training of some people to obtain a driver's license or during the practical tests of the exam to obtain a driver's license, the penalty is imprisonment from 2 to 7 years.

Note

Rejection decision: HP no. 11/2021, published in Official Gazette no. 361 of April 8, 2021.

Article 336<sup>1</sup> Consumption of alcohol or other psychoactive substances after a traffic accident

(1) The act of the driver of a vehicle to consume alcohol or other psychoactive substances, after the occurrence of a traffic accident that resulted in the death or injury to the bodily integrity or health of one or more persons, until the collection of biological samples, is punished with imprisonment from one to 5 years or a fine.

(2) If the person in one of the situations provided for in para. (1) carries out public transport of people, transport of dangerous goods or is in the process of practical training of some people to obtain a driver's license or during the practical tests of the exam to obtain a driver's license, the penalty is imprisonment from 2 to 7 years.

(3) It is not a crime to consume psychoactive substances after the traffic accident and until the collection of biological samples, if they are administered by authorized medical personnel, if their administration is required by the driver's state of health or bodily injury .

(on 09-07-2023, Chapter II, Title VII, SPECIAL Part was supplemented by Point 8., Article I of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023)

Article 337 Refusal or evasion from taking biological samples Refusal or evasion of the driver of a vehicle for which the law stipulates the obligation to hold a driving license or of the driving instructor, who is in the training process, or of the examiner of the competent authority, who is during the practical tests of the exam for obtaining a driver's license, to submit to the collection of biological samples necessary to establish the alcohol level or the presence of psychoactive substances is punishable by imprisonment from one to 5 years.

Note

Admission decision: HP no. 57/2023, published in the Official Gazette no. 1035 of November 14, 2023:

Establishes that: the act of entrusting a vehicle for which the law requires the possession of a driver's license to drive on public roads to a person who is known to be under the influence of alcohol, but who refused or evaded the taking of biological samples and who is sent to court for the crime provided by art. 337 of the Criminal Code , does not meet the typical conditions for the detention of the offense provided for by art. 335 para. (3) of the Criminal Code .

Article 338 Leaving the scene of the accident or modifying or erasing its traces

(1) Leaving the scene of the accident, without the consent of the police or the prosecutor who is investigating the crime scene, by the driver of the vehicle or by the driving instructor, who is in the training process, or by the examiner of the competent authority, who is during the practical tests of the exam for obtaining the driver's license, involved in a traffic accident, is punished with imprisonment from 2 to 7 years.

Note

Admission decision: RIL no. 8/2019, published in Official Gazette no. 424 of May 30, 2019:

Establishes that the injury of one or more persons provided by art. 75 lit. b) from GEO no. 195/2002, included in the definition of the traffic accident, as a prerequisite for the crime of leaving the scene of the accident provided for by art. 338 para. (1) of the Criminal Code, does not take into account self-injury, when the only injured person is the driver of the only vehicle involved in the accident.

(2) The act of any person to change the state of the place or to erase the traces of the traffic accident resulting in the killing or injury to the bodily integrity or health of one or more persons, without the consent of the investigation team in front of the place.

Note

Admission decision: HP no. 22/2022, published in Official Gazette no. 580 of June 15, 2022:

In the interpretation and application of the provisions of art. 338 para. (2) of the Criminal Code regarding the crime of leaving the scene of the accident or modifying or erasing its traces, "the fact of any person changing the state of the scene also includes changing the position of the vehicle involved in a traffic accident".

(3) It is not a crime to leave the scene of the accident when:

- only material damage occurred as a result of the accident;
- the driver of the vehicle, in the absence of other means of transport, transports the injured persons himself to the nearest health facility in a position to provide the necessary medical assistance and to which he declared the personal identity data and the registration or registration number of the vehicle driven, recorded in a special register, if he returns immediately to the scene of the accident;
- the driver of the vehicle with a priority traffic regime immediately informs the police, and after finishing the mission, he presents himself at the headquarters of the police unit in whose jurisdiction the accident occurred, in order to draw up the verification documents;
- the victim leaves the scene of the crime, and the driver of the vehicle immediately reports the event to the nearest police unit.

#### Article 339 Obstructing or hindering traffic on public roads

(1) The installation of means of road signaling or the modification of their positions, without authorization issued by the competent authorities, likely to mislead traffic participants or make it difficult to move on the public road is punishable by imprisonment from 3 months to 2 years or fine.

(2) Participation as a vehicle driver in unauthorized races on public roads is punishable by imprisonment from 3 months to one year or a fine.

(3) The same penalty is imposed for setting up obstacles that make it difficult or prevent traffic on the public road, if traffic safety is endangered or the right to free movement of other traffic participants is affected.

(4) Leaving unattended on the carriageway of a public road a vehicle transporting dangerous products or substances is punishable by imprisonment from one to 3 years or a fine.

#### Article 340 Non-compliance with the duties regarding the technical check or carrying out repairs

(1) Defective performance or non-fulfilment of technical verification or periodic technical inspection duties of motor vehicles, trailers or trams or those related to the performance of repairs or technical interventions by the persons who have such duties, if due to the technical condition of the vehicle it was put in endangering the safety of traffic on public roads, is punishable by imprisonment from 3 months to 2 years or a fine.

(2) If, as a result of the act provided for in para. (1), there was a traffic accident that resulted in injury to the bodily integrity or health of one or more persons, the penalty is imprisonment from one to 5 years, and if the death of one or more persons occurred, the penalty is imprisonment from 3 to 10 years.

(3) If the facts provided in para. (1) and para. (2) were committed through negligence, the special limits of the punishment are reduced by one third.

(4) Repairing motor vehicles, trailers, trams or mopeds with traces of an accident, without meeting the conditions stipulated by law, is punishable by imprisonment from 3 months to 2 years or a fine.

#### Article 341 Carrying out unauthorized works in the area of the public road

(1) Carrying out works to build, modify, modernize or rehabilitate the public road or to arrange road access to the public road, without a construction permit issued in accordance with the law or in violation of the conditions established in the permit, is punishable by imprisonment from 6 months to 3 years or with a fine.

(2) Placement of constructions, billboards or advertisements in the road area, without a construction permit issued in accordance with the law or in violation of the conditions established in the permit, if this creates a danger for traffic safety, is punishable by imprisonment from 3 months to one year or with a fine.

(3) The person authorized by the railway administrator who does not take the appropriate measures for signaling level crossings with the railway shall be punished with imprisonment from 3 months to 2 years or with a fine.

(4) With the punishment provided in para. (3) the person authorized by the administrator of a public road or the executor of a work on the carriageway, who does not take the appropriate measures for signaling obstacles or works on public roads, is also penalized, if a traffic accident has occurred as a result.

#### Chapter III Non-compliance with the arms, ammunition, nuclear materials and explosives regime

##### Article 342 Non-compliance with the arms and ammunition regime

(1) Possession, carrying, manufacturing, as well as any operation regarding the circulation of lethal weapons, their ammunition, mechanisms or devices, or the operation of repair workshops for lethal weapons, without the right, shall be punishable by imprisonment from one to 5 years.

(2) Unauthorized possession or carrying of non-lethal weapons in the category of those subject to authorization is punishable by imprisonment from 3 months to one year or a fine.

(3) Stealing the weapons or ammunition provided for in para. (1) and para. (2) is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(4) Carrying the weapons provided for in para. (1) and para. (2) without right, in the headquarters of public authorities, public institutions or other legal entities of public interest or in the spaces reserved for the conduct of the electoral process, shall be punished with imprisonment from one to 5 years and the prohibition of certain rights.

(5) If the facts provided in para. (1) and para. (3) have as their object prohibited weapons or ammunition, mechanisms or devices thereof, the special limits of the punishment are increased by one third.

(6) Failure to submit the weapon and ammunition to an authorized gunsmith within 10 days of the expiration of the validity period of the weapon permit constitutes a crime and is punishable by imprisonment from 6 months to 3 years.

(on 01-02-2014, Paragraph (6) of art. 342 was introduced by point 32 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

Note

Admission decision - RIL no. 10/2019, published in Official Gazette no. 472 of June 11, 2019:

In the interpretation and uniform application of the provisions of art. 112 para. (1) lit. f) from the Criminal Code, art. 342 para. (6) of the Criminal Code and art. 549<sup>1</sup> of the Code of Criminal Procedure, establishes the following:

In the case of the act provided for by art. 342 para. (6) of the Criminal Code, regarding which a classification solution based on the provisions of art. 16 para. (1) lit. b) sentence II of the Code of Criminal Procedure, weapons and ammunition are subject to special confiscation, pursuant to art. 112 para. (1) lit. f) from the Criminal Code, in the procedure regulated by art. 549<sup>1</sup> of the Code of Criminal Procedure, in the event that the perpetrator did not submit the weapon and ammunition to an authorized gunsmith within 10 days of the expiration of the validity period of the weapon permit.

Note

Rejection decision: HP no. 16/2017, published in the Official Gazette no. 439 of June 13, 2017.

(7) The manufacture or assembly of lethal weapons, parts or ammunition for them:

- from any illicitly trafficked essential components;
- without an authorization issued by a competent authority of the Member State where the manufacture or assembly takes place;
- without marking the assembled lethal weapons at the date of their production, in accordance with the legal provisions,

is punishable by imprisonment from 2 to 7 years.

(on 01-02-2014, Paragraph (7) of art. 342 was introduced by point 32 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

##### Article 343 Unlawful use of weapons

(1) Unauthorized use of a lethal or prohibited weapon is punishable by imprisonment from one to 3 years.

(2) The use of a non-lethal weapon in the category of those subject to authorization, without the right, is punishable by imprisonment from 6 months to 2 years.

Article 344 Falsification or modification. Erasing or modifying the markings on lethal weapons Falsifying or erasing, removing or modifying, without right, the markings on lethal weapons is punishable by imprisonment from one to 3 years or a fine. (on 01-02-2014, Art. 344 was amended by point 33 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

Article 345 Non-compliance with the materials regime nuclear or other radioactive materials

(1) Receiving, holding, using, transferring, modifying, alienating, dispersing, exposing, producing, processing, handling, intermediate storage, import, export or final storage, transport or diversion of nuclear materials or other radioactive materials, as well as any operation regarding their circulation, without the right, are punished with imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.  
(2) The theft of nuclear materials or other radioactive materials is punishable by imprisonment from 5 to 12 years and the prohibition of the exercise of certain rights.  
(3) If the facts provided for in para. (1) and (2) endangered other people or property, caused bodily harm to one or more people, the penalty is imprisonment from 7 to 15 years and the prohibition of exercising certain rights.  
(4) If the facts provided for in para. (1) and (2) resulted in the death of one or more persons, the penalty is imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.  
(5) If the facts provided for in para. (1) , (3) and (4) were committed through negligence, the special limits of the punishment are reduced by half.  
(6) By way of exception to the provisions of art. 137 para. (2) , in the case of the offense provided for in this article, the amount corresponding to a one-day fine for the legal entity is between 500 lei and 25,000 lei.  
(on 05-23-2016, Paragraph (6) of art. 345 was introduced by point 13 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23 2016. )

(on 01-02-2014, Art. 345 was amended by point 34 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

Article 346 Non-compliance with the regime of matters EXPLOSIVE

(1) Producing, experimenting, processing, possessing, transporting or using explosive materials or any other operations regarding their circulation, without the right, are punishable by imprisonment from 2 to 7 years.  
(2) The embezzlement of explosive materials is punishable by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.  
(3) When the facts provided for in para. (1) and para. (2) concern a quantity greater than 1 kg of TNT equivalent or when the explosive quantity is accompanied by initiation materials, the penalty is imprisonment from 5 to 12 years and the prohibition of the exercise of certain rights.  
(4) If the facts provided for in para. (1)-(3) resulted in the death of one or more persons, the penalty is imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 346<sup>1</sup> Failure to comply with the regime of restricted explosives precursors

(1) Producing, experimenting, processing, possessing, transporting, making available or using precursors of restricted explosives, without the right, constitutes a crime and is punishable by imprisonment from one to 5 years.  
(2) Making available, under any title, precursors of restricted explosives to the general public by economic operators constitutes a crime and is punishable by imprisonment from 2 to 7 years.  
(3) Embezzlement of restricted explosives precursors is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(on 01-04-2018, Chapter III of Title VII, SPECIAL Part was supplemented by Point 3, Article 28, Chapter VI of LAW no. 49 of February 27, 2018, published in the OFFICIAL GAZETTE no. 194 of March 2, 2018)

Article 347 Sanctioning of the attempt Attempt to the offenses provided for in art. 342 para. (1) and (3) , art. 345 para. (1) and (2) , art. 346 para. (1) and (2) , as well as in art. 346<sup>1</sup> shall be punished. (on 01-04-2018, Article 347 of Chapter III, Title VII, SPECIAL Part was amended by Point 4, Article 28, Chapter VI of LAW no. 49 of February 27, 2018, published in the OFFICIAL GAZETTE no. 194 of 02 March 2018 )

Chapter IV Offenses regarding the regime established for other activities regulated by law

Article 348 Unauthorized exercise of a profession or activity Unauthorized exercise of a profession or activity for which the law requires authorization or their exercise under other than legal conditions , if the special law provides that the commission of such acts is sanctioned according to the criminal law, it is punishable by imprisonment from 3 months to one year or by a fine.

Article 349 Failure to take legal safety and health measures at work

(1) Failure to take any of the legal safety and health measures at work by the person who had the duty to take these measures, if an imminent danger of an occupational accident or occupational disease is created, is punishable by imprisonment from 6 months to 3 years or with a fine.  
(2) The fact provided for in para. (1) committed by fault is punishable by imprisonment from 3 months to one year or a fine.

Article 350 Non-observance of legal safety and health measures at work

(1) Non-compliance by any person with the obligations and measures established regarding safety and health at work, if this creates an imminent danger of an occupational accident or occupational disease, is punishable by imprisonment from 6 months to 3 years or with a fine.  
(2) The same penalty is imposed for the resumption of installations, machines and equipment, prior to the elimination of all deficiencies for which the measure to stop them was taken.  
(3) The facts provided in para. (1) and para. (2) committed by fault are punishable by imprisonment from 3 months to one year or a fine.

Article 351 Usury Giving money with interest, as a business, by an unauthorized person, is punishable by imprisonment from 6 months to 5 years.

Chapter V Offenses against public health

Article 352 Thwarting the fight against diseases

(1) Failure to comply with quarantine or hospitalization measures ordered to prevent or combat infectious diseases is punishable by imprisonment from 6 months to 3 years or a fine.  
(2) Non-compliance with the measures regarding the prevention or combating of infectious diseases, if the act resulted in the spread of such a disease, is punishable by imprisonment from one to 5 years.  
(3) The transmission, by any means, of an infectious disease by a person who knows that he suffers from this disease is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.  
(4) If the act provided for in para. (2) is committed out of fault, the penalty is imprisonment from 6 months to 3 years or a fine.  
(5) If by the facts provided in para. (1) and (2) bodily injury to one or more persons occurred, the penalty is imprisonment from 2 to 7 years and the prohibition of exercising certain rights, and if the death of one or more persons occurred, the penalty is imprisonment from 5 to 12 years and the prohibition of the exercise of certain rights.  
(6) If through the act provided for in para. (3) bodily injury to one or more persons occurred, the penalty is imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights, and if the death of one or more persons occurred, the penalty is imprisonment from 7 to 15 years and prohibiting the exercise of certain rights.

(7) If through the act provided for in para. (4) bodily injury to one or more persons occurred, the penalty is imprisonment from one to 5 years and the prohibition of the exercise of certain rights, and if the death of one or more persons occurred, the penalty is imprisonment from 2 to 7 years and prohibiting the exercise of certain rights.

(8) The attempt at the offense provided for in paragraph (3) shall be punished.

(9) Quarantine means the restriction of activities and the separation from other people, in specially designed spaces, of sick or suspected sick people, in a way that prevents the possible spread of infection or contamination.

(on 03-20-2020, Article 352 of Chapter V, Title VII, SPECIAL Part was amended by Point 2, SINGLE ARTICLE of EMERGENCY ORDINANCE no. 28 of March 18, 2020, published in the OFFICIAL GAZETTE no. 228 of March 20 2020 )

Article 352<sup>1</sup> Omission to declare certain information Omission of the person to disclose to medical personnel or other persons among those provided in art. 175 or to a unit where they carry out their activity some essential information regarding the possibility of having come into contact with a person infected with an infectious disease is punishable by imprisonment from 6 months to 3 years or a fine. (on 03-20-2020, Chapter V of Title VII, SPECIAL Part was supplemented by Point 3, SINGLE ARTICLE of EMERGENCY ORDINANCE no. 28 of March 18, 2020, published in the OFFICIAL GAZETTE no. 228 of March 20, 2020)

#### Article 353 Venereal contamination

(1) The transmission of a venereal disease, through sexual intercourse or other sexual acts, by a person who knows that he suffers from such a disease, is punishable by imprisonment from 6 months to 3 years or a fine.

(2) The court will order the safety measure of the obligation to medical treatment.

#### Article 354 Transmission of acquired immunodeficiency syndrome

(1) The transmission, by any means, of the acquired immunodeficiency syndrome - AIDS - by a person who knows that he suffers from this disease is punishable by imprisonment from 3 to 10 years.

(2) The transmission, by any means, of the acquired immunodeficiency syndrome - AIDS - by a person other than the one provided in para. (1) is punishable by imprisonment from 5 to 12 years.

(3) If through the facts provided in para. (1) and para. (2) the death of the victim occurred, the penalty is imprisonment from 7 to 15 years.

(4) When the act provided for in para. (2) was committed by mistake, the punishment is imprisonment from 6 months to 3 years, and if it caused the death of the victim, the punishment is imprisonment from 2 to 7 years.

(5) Attempts at the offenses provided for in para. (1) and para. (2) shall be punished.

#### Article 355 Spread of diseases in animals or plants

(1) Non-compliance with the measures regarding the prevention or combating of infectious diseases in animals or plants or pests, if it resulted in the spread of such a disease or pests, is punishable by imprisonment from 3 months to 3 years or a fine.

(2) If the act is committed by mistake, the special limits of the punishment are reduced by half.

#### Article 356 Water contamination

(1) Infecting water sources or networks by any means, if the water becomes harmful to the health of people, animals or plants, is punishable by imprisonment from one to 5 years.

(2) If the act is committed out of fault, the penalty is imprisonment from 6 months to 3 years or a fine.

(3) By way of exception to the provisions of art. 137 para. (2) , in the case of the offense provided for in this article, the amount corresponding to a one-day fine for the legal entity is between 500 lei and 25,000 lei.

(4) The attempt is punishable.

(on 05-23-2016, Art. 356 was amended by point 14 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23, 2016. )

#### Article 357 Falsification or substitution of food or other products

(1) Preparing, offering or exposing for sale falsified or substituted food, drinks or other products, if they are harmful to health, is punishable by imprisonment from 3 months to 3 years or a fine and the prohibition of the exercise of certain rights.

(2) Preparing, offering or exposing for sale counterfeit or substituted medicines that are harmful to health is punishable by imprisonment from 6 months to 5 years and the prohibition of the exercise of certain rights.

#### Article 358 Marketing of adulterated products

(1) The sale of food, drinks or other products knowing that they are altered or expired, if they are harmful to health, is punishable by imprisonment from 6 months to 3 years or a fine and the prohibition of the exercise of certain rights.

(2) The same penalty is imposed for the consumption of meat or meat products, derived from the slaughter of animals exempted from veterinary control, if they are harmful to health.

(3) The sale of medicines knowing that they are counterfeit, altered or expired, if they are harmful to health or have lost all or part of their therapeutic efficiency, is punishable by imprisonment from one to 5 years and the prohibition of the exercise of certain rights.

#### Article 359 Traffic in toxic products or substances

(1) Producing, possessing, as well as any operation related to the circulation of products or toxic substances, growing for the purpose of processing plants containing such substances or experimenting with toxic products or substances, without the right, are punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(2) The attempt is punishable.

### Chapter VI Offenses against the security and integrity of IT systems and data

#### Article 360 Illegal access to an IT system

(1) Unauthorized access to a computer system is punishable by imprisonment from 3 months to 3 years or a fine.

Note

Rejection decision: HP no. 68/2021, published in the Official Gazette no. 56 of January 19, 2022.

Rejection decision: HP no. 53/2022, published in the Official Gazette no. 1120 of November 21, 2022.

(2) The fact provided for in para. (1) , committed for the purpose of obtaining computer data, is punishable by imprisonment from 6 months to 5 years.

(3) If the act provided for in para. (1) was committed with respect to a computer system to which, by means of specialized procedures, devices or programs, access is restricted or prohibited for certain categories of users, the penalty is imprisonment from 2 to 7 years.

Note

Rejection decision: HP no. 2/2021, published in Official Gazette no. 293 of March 24, 2021.

#### Article 361 Illegal interception of a computer data transmission

(1) Interception, without right, of a transmission of computer data that is not public and that is intended for a computer system, originates from such a system or is carried out within a computer system is punishable by imprisonment from one to 5 years .

(2) The same penalty is imposed for the unauthorized interception of an electromagnetic emission originating from a computer system, which contains computer data that is not public.

Article 362 Altering the integrity of computer data The act of modifying, deleting or damaging computer data or restricting access to these data, without the right, is punishable by imprisonment from one to 5 years.

Article 363 Disrupting the functioning of computer systems The act of seriously disrupting the functioning of a computer system, without right, by entering, transmitting, modifying, deleting or damaging computer data or by restricting access to computer data, is punishable by imprisonment from 2 to 7 years .

Article 364 Unauthorized transfer of computer data Unauthorized transfer of data from a computer system or a means of storing computer data is punishable by imprisonment from one to 5 years.

Article 365 Illegal operations with computer devices or programs

(1) The act of the person who, without the right, produces, imports, distributes or makes available in any form:  
 a) computer devices or programs designed or adapted for the purpose of committing one of the crimes provided for in art. 360-364 ;  
 b) passwords, access codes or other such computer data that allow total or partial access to a computer system, for the purpose of committing one of the crimes provided for in art. 360-364 ,

is punishable by imprisonment from 6 months to 3 years or a fine.

(2) Possession, without right, of a device, a computer program, a password, an access code or other computer data from those provided in para. (1) , in order to commit one of the crimes provided for in art. 360-364 , is punishable by imprisonment from 3 months to 2 years or a fine.

Article 366 Sanctioning of the attempt The attempt of the crimes provided for in this chapter is punishable.

Title VIII Offenses affecting relationships regarding social coexistence

Chapter I Offenses against public order and peace

Article 367 Formation of an organized criminal group

(1) Initiating or forming an organized criminal group, joining or supporting, in any form, such a group is punishable by imprisonment from one to 5 years and the prohibition of the exercise of certain rights.

(2) When the crime falling within the scope of the organized criminal group is punishable by law with life imprisonment or imprisonment for more than 10 years, the punishment is imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.

(3) If the facts provided in para. (1) and para. (2) were followed by the commission of a crime, the rules on the concurrence of crimes shall apply.

(4) The persons who committed the acts provided for in para. (1) and para. (2) , if he denounces the organized criminal group to the authorities, before it has been discovered and the commission of any of the crimes included in the purpose of the group has begun.

(5) If the person who committed one of the acts provided for in para. (1)-(3) facilitates, in the course of the criminal investigation, the discovery of the truth and the criminal prosecution of one or more members of an organized criminal group, the special limits of punishment are halved.

(6) By organized criminal group is meant the structured group, consisting of three or more persons, established for a certain period of time and to act in a coordinated manner for the purpose of committing one or more crimes.

Note

Article II of LAW no. 234 of July 19, 2022, published in the OFFICIAL GAZETTE no. 730 of July 20, 2022 provides:

Article II

By derogation from the provisions of art. 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, as well as in the application of art. 12 of the same law, if the acts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided as a crime by the criminal law of the country where it was committed carried out and without the need for the prior authorization of the public prosecutor from the public prosecutor's office attached to the court of appeal in whose territorial radius the first referred public prosecutor's office is located or the general public prosecutor from the public prosecutor's office attached to the High Court of Cassation and Justice, the criminal law Romanian applies to the crimes provided for in:

a) art. 6, 7 and art. 18<sup>1</sup>-18<sup>5</sup> of Law no. 78/2000 for the prevention, detection and sanctioning of acts of corruption, with subsequent amendments and additions;

b) art. 4, 8 and 9 of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and additions, art. 270 and art. 272-275 of Law no. 86/2006 regarding the Customs Code of Romania, with subsequent amendments and additions, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and additions, and art. 49 of Law no. 129/2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts, with the subsequent amendments and additions, if they resulted in reaching the financial interests of the European Union.

Article 368 Public incitement

(1) The act of inciting the public, verbally, in writing or by any other means, to commit crimes is punishable by imprisonment from 3 months to 3 years or by a fine, without being able to exceed the punishment provided by law for the crime when committed which was instigated.

(2) If the act provided for in para. (1) is committed by a public official, the penalty is imprisonment from one to 5 years and the prohibition of the exercise of certain rights, without being able to exceed the penalty provided by law for the crime which was instigated.

(3) If the public instigation resulted in the commission of the crime to which it was instigated, the punishment is the one provided by law for that crime.

Article 369 Incitement to violence, hatred or discrimination Incitement of the public, by any means, to violence, hatred or discrimination against a category of persons or against a person on the grounds that he is part of a certain category of persons defined on the basis of race, nationality , ethnicity, language, religion, gender, sexual orientation, opinion or political affiliation, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection is punishable by imprisonment from 6 months to 3 years or a fine. (on 01-10-2023, Article 369, Chapter I, Title VIII, SPECIAL Part was amended by the SINGLE ARTICLE of LAW no. 258 of September 27, 2023, published in the OFFICIAL GAZETTE no. 871 of September 28, 2023)

Article 370 Attempt to cause the commission of a crime Attempting to cause a person, through coercion or corruption, to commit a crime for which the law provides for life imprisonment or a prison sentence of more than 10 years is punishable by imprisonment from one to 5 years or fine.

Article 371 Disturbance of public order and peace

(1) The deed of the person who, in public, through threats or serious insults brought to the dignity of persons, disturbs public order and peace is punishable by imprisonment from 3 months to 2 years or a fine.

(2) The act of the person who, in public, through violence committed against persons or goods, disturbs public order and peace is punishable by imprisonment from one to 5 years.

(3) If the act provided for in para. (2) is committed by a person who has on him a firearm, an object, a device, a substance or an animal that can endanger the life, health or bodily integrity of persons, the special limits of the punishment are increased by a Trinity.

(on 07-24-2023, Article 371, Chapter I, Title VIII, SPECIAL Part was amended by Point 10., SINGLE ARTICLE of LAW no. 248 of July 20, 2023, published in the OFFICIAL GAZETTE no. 673 of July 21, 2023 )

Article 372 Unauthorized carrying or use of dangerous objects

- (1) The act of carrying without right, at public gatherings, cultural-sporting events, in specially arranged and authorized places for fun or leisure or in public means of transport:
- a) the knife, dagger, box or other such manufactured objects or specially designed for cutting, stabbing or striking;
  - b) non-lethal weapons that are not subject to authorization or devices for electric shocks;
  - c) irritant-lacrimogenic or paralyzing substances shall be punished with imprisonment from 3 months to one year or with a fine.
- (2) The use, without right, at public gatherings, cultural-sporting events, in places of entertainment or leisure or in means of public transport of the objects or substances provided for in paragraph. (1) is punishable by imprisonment from 6 months to 2 years or a fine.
- (3) The carrying, without right, of the objects or substances provided for in para. (1) in the premises of public authorities, public institutions or other legal entities of public interest or in the spaces reserved for the conduct of the electoral process shall be punished with imprisonment from one to 3 years or with a fine.

Article 373 Obstructing the conduct of a public assembly Obstructing, by any means, the conduct of a public assembly that has been authorized according to the law is punishable by imprisonment from 3 months to one year or a fine.

#### Article 374 Child pornography

- (1) Producing, possessing, procuring, storing, exhibiting, promoting, distributing, as well as making available, in any way, pornographic material with minors is punishable by imprisonment from one to 5 years.
- (on 05-23-2016, Paragraph (1) of art. 374 was amended by point 15 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23 2016. )
- (1^1) With the penalty provided for in para. (1) urging or recruiting a minor for the purpose of his participation in a pornographic show, obtaining benefits from such a show in which minors participate or exploiting a minor in any other way for the performance of pornographic shows is also punishable.
- (on 23-05-2016, Paragraph (1^1) of art. 374 was introduced by point 16 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of 23 May 2016. )
- (1^2) Watching pornographic shows in which minors participate is punishable by imprisonment from 3 months to 3 years or a fine.
- (on 05-23-2016, Paragraph (1^2) of art. 374 was introduced by point 16 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of 23 May 2016. )
- (2) If the facts provided for in para. (1) were committed through a computer system or other means of storing computer data, the penalty is imprisonment from 2 to 7 years.
- (3) Accessing, without the right, pornographic materials with minors, through computer systems or other means of electronic communication, is punishable by imprisonment from 3 months to 3 years or a fine.
- (3^1) If the facts provided for in para. (1) , (1^1) , (1^2) and (2) were committed in the following circumstances:
- a) by a family member or by a person living with the victim;  
(on 02-11-2020, Letter a) of Paragraph (3^1), Article 374, Chapter I, Title VIII, the SPECIAL Part was amended by Point 16, Article I of LAW no. 217 of October 29, 2020, published in the OFFICIAL GAZETTE no. 1012 of October 30, 2020)
  - b) by a person in whose care, protection, education, guard or treatment the minor was or by a person who abused his recognized position of trust or authority over the minor;
  - c) the act endangered the minor's life;  
(on 07-05-2021, Letter c) of Paragraph (3^1), Article 374, Chapter I, Title VIII, the SPECIAL Part was amended by Point 5, SINGLE ARTICLE of LAW no. 186 of July 1, 2021, published in the OFFICIAL GAZETTE no. 657 of July 2, 2021)
  - d) by a person who has previously committed a crime against sexual freedom and integrity against a minor, a crime of child pornography or pimping against a minor, the special limits of punishment are increased by one third.  
(on 07-05-2021, Letter d) of Paragraph (3^1), Article 374, Chapter I, Title VIII, the SPECIAL Part was amended by Point 5, SINGLE ARTICLE of LAW no. 186 of July 1, 2021, published in the OFFICIAL GAZETTE no. 657 of July 02, 2021)
- (on 05-23-2016, Paragraph (3^1) of art. 374 was introduced by point 17 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in OFFICIAL GAZETTE no. 389 of May 23, 2016.)
- (3^2) The act of a minor to request a minor to record, produce, distribute, exhibit or transmit by any means, including by means of electronic communications or on social networks, images, videos or other pornographic materials that presents the respective minor with explicit sexual behavior is punishable by imprisonment from 6 months to 3 years.
- (on 01-01-2024, Article 374, Chapter I, Title VIII, SPECIAL Part was supplemented by Point 24., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023 )
- (4) Pornographic materials with minors means any material that presents a minor or an adult as a minor, having explicit sexual behavior or that, although it does not present a real person, simulates, in a credible way, a minor having such behavior as well as any depiction of a child's genitalia for sexual purposes.
- (on 05-23-2016, Paragraph (4) of art. 374 was amended by point 18 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of May 23 2016. )
- (4^1) By pornographic performance is meant the live exposure addressed to an audience, including through information and communication technology, of a child involved in explicit sexual behavior or of a child's genital organs, for sexual purposes.
- (on 05-23-2016, Paragraph (4^1) of art. 374 was introduced by point 19 of art. I of EMERGENCY ORDINANCE no. 18 of May 18, 2016, published in the OFFICIAL GAZETTE no. 389 of 23 May 2016. )
- (5) The attempt is punishable.

Article 375 Outrage against good morals The act of the person who, in public, exposes or distributes without right images that explicitly present a sexual activity, other than the one referred to in art. 374 , or commits acts of exhibitionism or other explicit sexual acts, shall be punished with imprisonment from 3 months to 2 years or with a fine.

#### Chapter II Crimes against the family

##### Article 376 Bigamy

- (1) The conclusion of a new marriage by a married person is punishable by imprisonment from 3 months to 2 years or a fine.
- (2) An unmarried person who enters into a marriage with a person whom he knows is married shall be punished with imprisonment from one month to one year or with a fine.

##### Article 377 Incest

- (1) Consensual sexual intercourse, committed between direct relatives or between brothers and sisters, is punishable by imprisonment from one year to 5 years.
- (2) Oral or anal sexual intercourse, as well as any other acts of vaginal or anal penetration committed under the conditions of para. (1) .

(on 01-01-2024, Article 377, Chapter II, Title VIII, SPECIAL Part was amended by Point 25., Article I of LAW no. 217 of July 10, 2023, published in the OFFICIAL GAZETTE no. 634 of July 11, 2023 )

##### Article 378 Family abandonment

- (1) The commission of one of the following acts by the person who has the legal obligation of maintenance, towards the one entitled to maintenance:
  - a) leaving, driving away or leaving him without help, exposing him to physical or moral suffering;
  - b) failure to fulfill, in bad faith, the maintenance obligation provided for by law;
  - c) non-payment, in bad faith, for 3 months, of the maintenance pension established by judicial or notarial means,  
(on 11-11-2023, Letter c), Paragraph (1), Article 378, Chapter II, Title VIII , the SPECIAL part was modified by the SINGLE ARTICLE of LAW no. 323 of November 7, 2023, published in the OFFICIAL GAZETTE no. 1020 of November 8, 2023)
 is punishable by imprisonment from 6 months to 3 years or a fine.

##### Note

Admission decision: HP no. 2/2020, published in Official Gazette no. 135 of February 20, 2020:

In the case of the crime of family abandonment provided for in art. 378 para. (1) lit. c) from the Criminal Code , the deadline for introducing the preliminary complaint provided in the content of art. 296 para. (1) and (2) of the Code of Criminal Procedure - 3 months from the day the injured person or his legal representative learned about the commission of the act - runs from the date on which the injured person or his legal representative became aware of the commission of the act.

The term of 3 months provided in the content of art. 296 para. (1) and (2) of the Code of Criminal Procedure can flow from three different moments, as follows: a) from the moment of the consummation of the crime, if this moment is identical to that of knowledge of the fact; b) from the moment of knowledge of the commission of the deed, which can be between the moment of consummation of the deed until the moment of exhaustion and c) from the moment of exhaustion of the offense or after it, with the knowledge of the commission of the act, in which case the limitation period must not have been fulfilled criminal liability.

(2) The same penalty shall be imposed for the non-execution, in bad faith, by the convicted person of the periodic benefits established by court decision, in favor of the persons entitled to maintenance from the victim of the crime.

(3) The criminal action is initiated upon the prior complaint of the injured person.

(4) The act is not punishable if, before the end of the criminal investigation, the defendant fulfills his obligations.

(5) If, until the conviction remains final, the defendant fulfills his obligations, the court orders, as the case may be, the postponement of the application of the punishment or the suspension of the execution of the punishment under supervision, even if the conditions provided for by law are not met.

#### Article 379 Failure to comply with the measures regarding the custody of the minor

(1) Detention by a parent of his minor child, without the consent of the other parent or of the person to whom the minor was entrusted according to the law, is punishable by imprisonment from one month to 3 months or a fine.

(2) The act of the person to whom the minor was entrusted by a court decision for upbringing and education is sanctioned with the same punishment for repeatedly preventing any of the parents from having personal ties with the minor, under the conditions established by the parties or by the body competent.

(3) The criminal action is initiated upon the prior complaint of the injured person.

#### Article 380 Preventing access to compulsory general education

(1) The parent or the person to whom, according to the law, a minor was entrusted and who, unjustifiably, withdraws or prevents him by any means from attending compulsory general education courses shall be punished with imprisonment from 3 months to one year or with fine.

(2) The act is not punishable if, before the end of the criminal investigation, the defendant ensures that the minor resumes attending classes.

(3) If, until the sentencing decision becomes final, the defendant ensures that the minor resumes attending classes, the court orders, as the case may be, the postponement of the application of the punishment or the suspension of the execution of the punishment under supervision, even if the conditions provided for by law are not met.

### Chapter III Offenses against religious freedom and respect due to deceased persons

#### Article 381 Preventing the exercise of religious freedom

(1) Obstructing or disrupting the free exercise of the ritual of a religious cult, which is organized and operates according to the law, is punishable by imprisonment from 3 months to 2 years or a fine.

(2) Forcing a person, through coercion, to participate in the religious services of a cult or to perform a religious act related to the exercise of a cult is punishable by imprisonment from one to 3 years or a fine.

(3) Forcing a person, through violence or threat, to perform an act prohibited by the cult, organized according to the law, to which he belongs is sanctioned with the same penalty.

(4) The criminal action is initiated upon the prior complaint of the injured person.

Article 382 Desecration of places of worship or objects of worship Desecration of a place of worship or an object of worship, belonging to a religious cult that is organized and operates according to the law, is punishable by imprisonment from 6 months to 2 years or a fine.

#### Article 383 Desecration of corpses or graves

(1) Stealing, destroying or desecrating a corpse or the ashes resulting from its cremation is punishable by imprisonment from 6 months to 3 years.

(2) Desecration by any means of a grave, a funeral urn or a funeral monument is punishable by imprisonment from 3 months to 2 years or a fine.

Article 384 Illegal removal of tissues or organs The removal of tissues or organs from a corpse, without the right, is punishable by imprisonment from 6 months to 3 years or a fine.

### Title IX Electoral offenses

#### Article 385 Obstructing the exercise of electoral rights

(1) Obstructing, by any means, the free exercise of the right to choose or to be chosen is punishable by imprisonment from 6 months to 3 years.

(2) The attack, by any means, on the premises of the polling station is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

#### Article 386 Corruption of voters

(1) Offering or giving money, goods or other benefits for the purpose of determining the voter to vote or not to vote for a certain list of candidates or a certain candidate is punishable by imprisonment from 6 months to 3 years and the prohibition of the exercise of certain rights.

(2) It does not fall into the category of goods provided for in para. (1) goods with symbolic value, inscribed with the insignia of a political formation.

#### Article 387 Voting fraud

(1) The act of the person who votes:

a) without having this right;

b) two or more times;

c) by inserting more ballots than he is entitled to, a voter is punished with imprisonment from 6 months to 3 years or with a fine and the prohibition of the exercise of certain rights.

(2) Using a voter's card or a false or false identity document or a fake ballot is sanctioned with the same penalty.

Article 388 Electronic voting fraud Printing and using false access data, fraudulently accessing the electronic voting system or falsifying electronic ballots by any means is punishable by one to 5 years in prison.

#### Article 389 Violation of vote confidentiality

(1) Violation of the secrecy of the vote by any means is punishable by a fine.

(2) If the act was committed by a member of the electoral office of the polling station, the penalty is imprisonment from 6 months to 3 years or a fine and the prohibition of the exercise of certain rights.

#### Article 390 Non-compliance with the ballot box regime

(1) Opening the ballot boxes, before the time set for the closing of voting, is punishable by imprisonment from one to 3 years or by a fine and the prohibition of the exercise of certain rights.

(2) Entrusting the special ballot box to persons other than members of the electoral office of the polling station or transporting it by other persons or under conditions other than those provided by law is punishable by imprisonment from 3 months to 2 years or a fine and the prohibition

of the exercise of rights.

#### Article 391 Falsification of electoral documents and records

(1) The falsification by any means of the documents from the electoral offices is punishable by imprisonment from one to 5 years and the prohibition of the exercise of certain rights.

(2) The same penalty applies to the registration in the copy of the permanent electoral list or of the complementary electoral list of persons who do not appear in this list.

(on 01-02-2014, Paragraph (2) of art. 391 was amended by point 35 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(3) Putting into use or using a computer program with defects that alters the registration or summation of the results obtained in the polling stations or determines the allocation of mandates outside the provisions of the law is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(4) The introduction of data, information or procedures that lead to the alteration of the national information system necessary to determine the results of the elections is sanctioned with the same penalty.

Article 392 Acts committed in connection with a referendum The provisions of art. 385-391 shall also be applied accordingly in the case of acts committed during a referendum.

Article 393 Sanctioning of the attempt Attempt at the crimes provided for in art. 385 and art. 387-391 is punished.

#### Title X Crimes against national security

Article 394 Treason The act of a Romanian citizen to come into contact with a foreign power or organization or their agents, in order to suppress or destroy the unity and indivisibility, sovereignty or independence of the state, by: a ) provoking war against the country or facilitating foreign military occupation; b) economic, political or state defense capacity undermining; c) servitude to a foreign power or organization; d) helping a foreign power or organization to carry out a hostile activity against national security, is punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 395 Treason by transmitting secret state information The transmission of secret state information to a foreign power or organization or their agents, as well as the procurement or possession of documents or data that constitute secret state information by those who do not have the capacity to receive them knows, for the purpose of transmitting them to a foreign power or organization or their agents, committed by a Romanian citizen, shall be punished with imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 396 Treason by helping the enemy The act of the Romanian citizen who, in time of war: a) surrenders territories, cities, defense positions, warehouses or installations of the Romanian armed forces or that serve the defense; b) hands over ships, aircraft, machines, devices, armaments or any other materials that can be used to wage war; c) procures the enemy people, values or materials of any kind; d) goes over to the side of the enemy or performs other actions that are likely to favor the activity of the enemy or to weaken the combat power of the Romanian armed forces or the allied armies; e) fights or is part of combat formations against the Romanian state or its allies is punished with life imprisonment or imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.

#### Article 397 Actions against the constitutional order

(1) The armed action undertaken with the aim of changing the constitutional order or hindering or preventing the exercise of state power is punishable by imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.

(2) The undertaking of violent actions against persons or goods committed by several persons together, with the aim of changing the constitutional order or of hindering or preventing the exercise of state power, if national security is endangered, shall be punished with imprisonment from 10 to 20 years and prohibiting the exercise of certain rights.

Article 398 High treason The acts provided for in art. 394-397 , committed by the President of Romania or by another member of the Supreme National Defense Council, constitute the crime of high treason and are punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights .

Article 399 Hostile actions against the state The facts provided in art. 394 and art. 396 , committed by a foreign or stateless citizen, are punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 400 Espionage The facts provided for in art. 395 , committed by a foreign or stateless citizen, are punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 401 Assault endangering national security Assault on life committed against a person who holds a position of public dignity, if the act endangers national security, is punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of exercising some rights.

Article 402 Assault against a community Assault committed against a community by mass poisoning, causing epidemics or by any other means, with the aim of hindering or preventing the exercise of state power, is punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.

Article 403 Acts of diversion Destruction, degradation or bringing into disuse, in whole or in part, through explosions, fires or in any other way, of industrial facilities, communication routes, means of transport, means of telecommunications, of constructions, industrial or agricultural products or other goods, if the act endangers national security, is punished with imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 404 Communication of false information Communication or dissemination, by any means, of news, data or false information or falsified documents, knowing their false nature, if this endangers national security, is punishable by imprisonment from one to 5 years.

Article 405 Propaganda for war

(1) Propaganda for a war of aggression, as well as spreading tendentious or invented news, with the aim of provoking a war of aggression, shall be punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.  
(2) The same penalty shall be imposed for the acts provided for in para. (1) , committed for the purpose of provoking a war of aggression against Romania or an internal armed conflict.

Article 406 Compromise of state interests Destroying, altering or concealing a document or document in which the rights of the Romanian state are established in relation to a foreign power, if thereby state interests are endangered or damaged, is punishable by imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.

Article 407 Disclosure of secrets that endanger national security

(1) The disclosure of documents or data that constitute state secret information, by the person who knows them due to his official duties, if the act endangers national security, is punishable by imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.  
(2) The possession outside of official duties of a document containing state secret information, if the act endangers national security, is punishable by imprisonment from 5 to 10 years.  
(3) Unauthorized disclosure of documents or data that constitute state secret information, by the person who becomes aware of them outside of official duties, is punishable by imprisonment from one to 5 years.  
(on 01-02-2014, Paragraph (3) of art. 407 was introduced by point 36 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

Article 408 Offenses against persons enjoying international protection

(1) The attempt on life committed against the representative of a foreign state or another person who enjoys protection in accordance with international conventions, who is on an official mission in Romania, is punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition the exercise of rights.  
(2) Intentional crimes against bodily integrity, health or freedom, committed against a person from those mentioned in para. (1) , is sanctioned with the penalty provided by law for the committed act, the special limits of which are increased by half.

Article 409 Establishment of illegal information structures The initiation, organization or establishment of information structures on the territory of Romania for the purpose of gathering secret state information or carrying out by them an activity of gathering or processing such information, outside the legal framework, is punishable with imprisonment from 3 to 10 years and the prohibition of certain rights.

Article 410 Failure to report crimes against national security

(1) The fact of the person who, having knowledge of the preparation or commission of any of the crimes provided for in art. 394-397 , art. 399-403 and art. 406-409 , does not immediately notify the authorities is punishable by imprisonment from 2 to 7 years.  
(2) Failure to report by a family member is not punishable.  
(3) The person who, before initiating the criminal action against a person for the commission of the unreported act, informs the competent authorities about it or who, even after the initiation of the criminal action, facilitated the criminal prosecution of the perpetrator, shall not be punished and the participants.

Article 411 Reasons for reducing the punishment If the person who committed one of the crimes provided for in this title facilitates, during the criminal prosecution, the finding out of the truth and the prosecution of the perpetrator or the participants, the special limits of the punishment are reduced by half.

Article 412 Sanctioning the attempt

(1) The attempt to commit the crimes provided for in this title is punishable.  
(2) Producing or procuring the means or instruments, as well as taking measures to commit the crimes provided for in art. 395-397 , art. 401-403 , art. 408 and art. 399 related to the offense of treason by aiding the enemy.

Title XI Offenses against the fighting capacity of the armed forces

Chapter I Offenses committed by military personnel

Article 413 Unjustified absence Unjustified absence of any military personnel from the unit or service, which has exceeded 4 hours, but not more than 24 hours, in time of war, during the state of siege or the state of emergency, shall be punished with imprisonment from one to 3 years or with a fine.

Article 414 Desertion

(1) Unjustified absence from the unit or from work, which exceeds 3 days, of any serviceman is punishable by imprisonment from one to 5 years or a fine.  
(2) Desertion committed in the following circumstances:  
a) by two or more soldiers together;  
b) having a military weapon;  
c) during the missions in which he participates outside the territory of the Romanian state, he is punished with imprisonment from 3 to 10 years.  
(3) In time of war or in a territory on which a state of siege or emergency has been proclaimed, the desertion of any soldier from the unit or service that has exceeded 24 hours is punishable by imprisonment from 3 to 10 years.

Article 415 Violation of the record

(1) Violation of the rules of the guard, intervention, escort or security service is punishable by imprisonment from 3 months to 3 years or a fine.  
(2) Violation of the order by the sentry stationed at the warehouses of weapons, ammunition or other explosive materials or in other positions of special military or state interest is punishable by imprisonment from one to 5 years.  
(3) The facts provided in para. (1) and para. (2) committed in wartime, during a state of siege or a state of emergency are punishable by imprisonment from 3 to 10 years.

Article 416 Leaving the post or command

(1) Leaving the post, service or any other place where the soldier was supposed to be is punishable by imprisonment from 3 months to one year.

(2) Leaving the command or permanent service by any military man is punishable by imprisonment from one to 5 years.  
(3) The facts provided for in para. (1) and (2) committed during the state of siege or state of emergency shall be punished by imprisonment from 2 to 7 years, and if committed during wartime, shall be punished by imprisonment from 3 to 10 years.  
(on 01-02-2014, Paragraph (3) of art. 416 was amended by point 37 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

#### Article 417 Insubordination

(1) Refusal to execute an order regarding service duties is punishable by imprisonment from 3 months to 3 years or a fine.  
(2) In wartime, during the state of siege or the state of emergency, the punishment for the deed provided for in para. (1) is imprisonment from 2 to 7 years.

#### Article 418 Coercion of the superior

(1) The coercion, by any means, of the superior by the inferior or the boss by the subordinate, to the violation of official duties is punishable by imprisonment from one to 3 years.  
(2) The fact provided for in para. (1) committed by 2 or more soldiers together or in front of the assembled troop or by using a weapon is punishable by imprisonment from 2 to 7 years.  
(3) In time of war, the act provided for in para. (1) is punishable by imprisonment from 2 to 7 years, and the act provided for in par. (2) is punishable by imprisonment from 3 to 12 years.

Article 419 Abuse of authority The act of the superior or the boss who, by violating his duties, causes a serious injury to the legal interests of the subordinate or subordinate or forces him to violate his duties is punishable by imprisonment from one to 3 years.

#### Article 420 Hitting the superior or the inferior

(1) Hitting a superior by a subordinate or a boss by a subordinate, when the superior or the boss is in the exercise of official duties or for acts performed in connection with these duties, is punishable by imprisonment from one to 5 years or a fine .  
(2) The same penalty is imposed for the hit committed by the superior or boss against the inferior or the subordinate, when the inferior or subordinate is in the exercise of service duties or for acts performed in connection with these duties.  
(3) When the facts provided for in para. (1) and para. (2) were committed in wartime, during a state of siege or a state of emergency, the special limits of the punishment are increased by one third.

Article 421 Capitulation Surrendering into the hands of the enemy by the commander of the armed forces he commands, leaving in the hands of the enemy, destroying or rendering unusable by the commander the means of combat or other means necessary for the conduct of the war, without any of to have been determined by the conditions of combat, is punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.

Article 422 Leaving the battlefield Leaving the battlefield or refusing to act, committed during the battle, or surrendering into captivity or committing other such acts likely to serve the cause of the enemy is punishable by life imprisonment or imprisonment from 15 to 25 years and prohibiting the exercise of certain rights.

#### Article 423 Unauthorized flight

(1) Flying with an aircraft belonging to the armed forces of the Romanian state, without prior authorization, as well as non-compliance with flight rules, if this endangers the safety of the flight in the airspace or of the aircraft, shall be punished with imprisonment from one to 3 years or with a fine.  
(2) If the deed resulted in the destruction or degradation of the aircraft, the penalty is imprisonment from 5 to 10 years and the prohibition of exercising certain rights, and if it resulted in a disaster, the penalty is imprisonment from 10 to 20 years and the prohibition the exercise of rights.

#### Article 424 Abandoning the ship

(1) Leaving a military ship in the event of a shipwreck by the commander, before having fully exercised his duties, as well as by any other persons who are part of the ship's crew, without the command of the commander, shall be punished with imprisonment from one to 5 years.  
(2) If the act is committed in wartime, during a state of siege or a state of emergency, it is punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

#### Article 425 Leaving the order

(1) Abandoning command by the commander of a military ship or a group of military ships, in situations that could have endangered the military ship or military ships or their crew, is punishable by imprisonment from 2 to 7 years.  
(2) If the commander of a military ship or a group of military ships abandoned his command during the battle, the punishment is imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 426 Failure to take the necessary measures in naval operations The act of the commander of a military ship or group of military ships who, without having been stopped by any order or without being prevented by the special mission he had: a) does not take the necessary measures to attack , to fight against the enemy, to help a ship of the Romanian state or an allied country, pursued by the enemy or engaged in battle; b) does not take the necessary measures to destroy an enemy convoy; c) does not follow the enemy's warships or commercial ships is punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 427 Lowering the flag Lowering the flag during battle, in order to serve the cause of the enemy, committed by the commander of a military ship or a group of military ships, as well as by any other person on board, is punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

#### Article 428 Collision

(1) The act of the commander of a military ship or any person on board the ship, who caused a collision or the ship's grounding, if the act resulted in its serious damage, is punishable by imprisonment from 5 to 12 years and the prohibition of the exercise of certain rights.  
(2) If the act provided for in para. (1) was committed out of fault, the penalty is imprisonment from 6 months to 3 years.  
(3) The fact provided for in para. (1) committed in wartime, during a state of siege or a state of emergency, is punishable by imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

Article 429 Sanctioning of the attempt Attempt to the offenses provided for in art. 421-425 , art. 427 and art. 428 para. (1) shall be punished.

Article 430 The provisions of art. 424-426 , 428 and 429 apply mutatis mutandis to military aircraft. (on 01-02-2014, Art. 430 was amended by point 38 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

Article 431 Putting into motion of the criminal action The criminal action for the crimes provided for in art. 413-417 is set in motion only upon notification of the commander.

#### Chapter II Offenses committed by military or civilians

Article 432 Evasion from military service in time of war The act of a person who, in time of war or during a state of siege, causes injury to his bodily integrity or health, simulates an illness or infirmity, uses false documents or any other means, in order to evade military service, shall be punished by imprisonment from 2 to 7 years.

#### Article 433 Aggression against the sentry

- (1) The act of the person who threatens or hits the sentry or the military on intervention, escort or security duty is punishable by imprisonment from one to 3 years.
- (2) If the act is committed by using a weapon or by two or more people together, the penalty is imprisonment from 2 to 7 years.

#### Article 434 Evasion from military registration

- (1) Evading military registration, selection, establishing skills and options regarding the way to perform military duties, in peacetime, is punishable by a fine.
- (2) If the act is committed in wartime or during a state of siege, the penalty is imprisonment from one to 5 years.

#### Article 435 Failure to appear at incorporation or concentration

- (1) Failure to show up for incorporation, concentration or mobilization in wartime or during a state of siege, within the term provided for in the call-up order, is punishable by imprisonment from 2 to 7 years.
- (2) The non-presentation of the person incorporated or concentrated at the unit to which he was assigned, as well as the person who, performing the alternative service according to the law, does not present himself to the employer within the deadline is sanctioned with the same penalty.
- (3) The submission deadlines provided for in para. (1) and para. (2) are extended by 10 days, if the person summoned is abroad.

#### Article 436 Looting of those who fell on the battlefield

- (1) Looting the dead or wounded on the battlefield is punishable by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.
- (2) The same penalty shall be imposed for the act provided for in para. (1) which, without being committed on the battlefield, is the result of war operations.

#### Article 437 Use of the Red Cross emblem

- (1) The use, without right, in time of peace of the emblem or name of the Red Cross or an emblem or name assimilated to it, as well as the use of any sign or any name "Red Cross" that constitutes an imitation of such an emblem or names shall be punished by imprisonment from two to 18 months or a fine.
- (2) The use, without right, in time of war or during a state of siege, in connection with military operations, of the emblem or name of the Red Cross or an emblem or name assimilated to it, as well as the use of any sign or any name which constitutes an imitation of such an emblem or name is punishable by imprisonment from 2 to 7 years.

(on 12-17-2023, Article 437, Chapter II, Title XI, SPECIAL Part was amended by the SINGLE ARTICLE of LAW no. 401 of December 13, 2023, published in the OFFICIAL GAZETTE no. 1132 of December 14, 2023)

#### Title XII Crimes of genocide, against humanity and war

##### Chapter I Crimes of genocide and against humanity

#### Article 438 Genocide

- (1) Committing, in order to destroy, in whole or in part, a national, ethnic, racial or religious group, of one of the following acts:
  - a) killing members of the group;
  - b) harming the physical or mental integrity of some members of the group;
  - c) subjecting the group to conditions of existence likely to lead to its physical destruction, total or partial;
  - d) imposing measures aimed at preventing births within the group;
  - e) the forced transfer of children belonging to one group to another group is punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.
- (2) If the facts provided for in para. (1) are committed in time of war, the penalty is life imprisonment.
- (3) Conspiracy to commit the crime of genocide is punishable by imprisonment from 5 to 10 years and the prohibition of the exercise of certain rights.
- (4) Inciting the commission of the crime of genocide, committed directly, in public, is punishable by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

#### Article 439 Crimes against humanity

- (1) Committing, as part of a generalized or systematic attack, launched against a civilian population, one of the following acts:
  - a) killing some people;
  - b) subjecting a population or part of it, in order to destroy it in whole or in part, to living conditions intended to determine its physical destruction, total or partial;
  - c) slavery or trafficking in human beings, especially women or children;
  - d) forced deportation or transfer, in violation of the general rules of international law, of persons legally located in a certain territory, by expelling them to another state or territory or by using other coercive measures;
  - e) torturing a person under the care of the perpetrator or over whom he exercises control in any other way, causing him physical or mental harm, or serious physical or mental suffering, which exceed the consequences of the sanctions allowed by international law;
  - f) rape or sexual assault, coercion into prostitution, forced sterilization or illegal detention of a woman forcibly pregnant, in order to change the ethnic composition of a population;
  - g) harming the physical or mental integrity of some persons;
  - h) causing the forced disappearance of a person, in order to remove him from the protection of the law for a long period, by kidnapping, arrest or detention, at the order of a state or a political organization or with their authorization, support or consent, followed by the refusal to admit that this person is deprived of liberty or to provide real information regarding the fate that is reserved for him or where he is, as soon as this information has been requested;
  - i) imprisonment or other form of serious deprivation of liberty, in violation of the general rules of international law;
  - j) persecution of a specific group or community, by depriving them of fundamental human rights or seriously restricting the exercise of these rights, on political, racial, national, ethnic, cultural, religious, sexual or other criteria recognized as inadmissible under international law;
  - k) other such inhuman acts that cause great suffering or damage to physical or mental integrity, shall be punished with life imprisonment or imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.
- (2) The same penalty shall be imposed for the acts provided for in para. (1) , committed within an institutionalized regime of systematic oppression and domination of one racial group over another, with the intention of maintaining this regime.

## Chapter II War crimes

## Article 440 War crimes against individuals

(1) Committing, within an armed conflict, with or without an international character, on one or more persons protected by international humanitarian law, one of the following acts:

- a) murder;
- b) taking hostages;
- c) the application of cruel or inhumane treatments, causing physical or mental damage or serious physical or mental suffering, especially through torture or mutilation;
- d) rape or sexual assault, coercion into prostitution, forced sterilization or illegal detention of a woman forcibly pregnant, in order to change the ethnic composition of a population;
- e) forced deportation or transfer, in violation of the general rules of international law, of persons legally located in a certain territory, by expelling them to another state or territory or by using other coercive measures;
- f) the application or execution of a severe punishment, in particular the death penalty or a custodial sentence, against a person who has not been tried in a legal and impartial procedure, which would provide the guarantees required by international law;
- g) exposing a person to a danger of death or serious damage to health through:
  1. carrying out experiences on her to which she did not voluntarily, expressly and beforehand consent or which are not necessary for her health or are not carried out in her interest;
  2. the taking of tissues or organs from it for the purpose of transplantation, with the exception of the taking of blood or skin performed for therapeutic purposes, in accordance with generally recognized medical principles and with the voluntary, express and prior consent of the person;
  3. subjecting it to medically unrecognized treatment methods, without these being necessary for the person's health and without the person's voluntary, express and prior consent;

h) subjecting a person to degrading treatment is punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of the exercise of certain rights.

(2) The recruitment or incorporation of minors who have not reached the age of 15 in the armed forces or in armed groups, as well as determining them, by any means, to actively participate in hostilities shall be sanctioned with the same penalty.

(3) Injuring, in the context of an armed conflict with or without an international character, a member of the enemy armed forces or a combatant of the enemy side, after he surrendered unconditionally or who was removed from the battle in any way, punishes with imprisonment from 5 to 12 years and the prohibition of the exercise of certain rights.

(4) Committing, in the context of an international armed conflict, one of the following acts:

- a) illegal detention or unjustified delay in the repatriation of one or more persons from those provided for in para. (5) lit. a )
  - b) the transfer, directly or indirectly, by an agent of the occupying power, of a part of the civilian population to which he belongs, in the occupied territory;
  - c) the coercion, by violence or threat, of one or more persons from those provided in paragraph. (5) lit. a) to serve in the armed forces of the enemy;
  - d) forcing nationals of the enemy power to take part in war operations directed against their country, is punishable by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.
- (5) The persons protected by international humanitarian law are:
- a) in an armed conflict of an international nature: persons protected within the meaning of the Geneva Conventions of August 12, 1949 and Additional Protocol I of June 8, 1977, especially the wounded, the sick, the shipwrecked and the persons who do not directly participate in the hostilities and who are under the power of the enemy side;
  - b) in a non-international armed conflict: the wounded, the sick, the shipwrecked and the persons who do not directly participate in the hostilities and who are under the power of the enemy side;
  - c) in an armed conflict with or without an international character: members of the armed forces and combatants of the enemy side, who have laid down their arms or who, for any other reason, can no longer defend themselves and who are not under the power of the enemy side.

## Article 441 War crimes against property and other rights

(1) The act of the person who, in the context of an armed conflict, with or without an international character, loots or, in violation of international law and without this being justified by military needs, destroys, appropriates or requisitions goods of the enemy party, under the power of the party to which the perpetrator belongs, is punishable by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.

(2) Declaring, in the context of an international armed conflict, that the rights and actions of all nationals of the enemy party or a significant part of them are extinguished, suspended or inadmissible in court shall be punished by imprisonment from 3 to 10 years and the prohibition of exercising some rights.

## Article 442 War crimes against humanitarian operations and emblems

(1) The act of the person who, in the framework of an armed conflict with or without an international character:

- a) triggers an attack against personnel, installations, material, units or vehicles participating in a humanitarian aid mission or a peacekeeping mission, according to the Charter of the United Nations, and which enjoys the protection that international humanitarian law guarantees to civilians or civilian property;
- b) initiates an attack against personnel, buildings, medical units or medical means of transport, which use the distinctive signs provided for by the Geneva Conventions, in accordance with the provisions of international humanitarian law, shall be punished with imprisonment from 7 to 15 years and the prohibition of exercising some rights.

(2) The act of the person who, during an armed conflict with or without an international character, unlawfully uses the distinctive signs provided for by the Geneva Conventions, the parliamentary flag, the flag, the military insignia or the uniform of the enemy or of the United Nations Organization, thus causing death or bodily harm to one or more persons, is punishable by imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.

## Article 443 Use of prohibited methods in combat operations

(1) The act of the person who, during an armed conflict with or without an international character:

- a) launches an attack by military means against the civilian population or some civilians who do not directly participate in the hostilities;
- b) launches an attack by military means against civilian assets protected as such by international humanitarian law, in particular buildings dedicated to religious worship, education, art, science, charitable actions, historical monuments, hospitals, places where the sick or wounded are gathered, as well as against towns, villages, undefended houses or buildings or demilitarized zones or on installations or equipment containing dangerous substances, insofar as they are not used as military objectives;
- c) carries out an attack by military means, knowing that it will cause loss of human life among the civilian population, injuries to civilians, destruction of civilian property, which would be clearly disproportionate in relation to the overall concrete and directly expected military advantage ;
- d) uses a person protected by the provisions of international humanitarian law to avoid that certain points, areas or military forces become the target of the military operations of the enemy party;
- e) uses, as a method of waging war, the deliberate starvation of civilians, depriving them of the goods indispensable for survival or preventing, in violation of the provisions of international humanitarian law, the receipt of aid intended for them;
- f) declares or orders that there will be no mercy for the defeated;
- g) kills or injures, by cunning, a member of the enemy armed forces or a combatant of the enemy forces is punishable by imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.

h) uses cultural assets protected as such by international humanitarian law, in particular historical monuments, buildings dedicated to religious worship, education, art or science, to launch an attack by military means against the enemy party.

(on 01-02-2014, Letter h) of par. (1) of art. 443 was introduced by point 39 of art. 245 of LAW no. 187 of October 24, 2012, published in the OFFICIAL GAZETTE no. 757 of November 12, 2012. )

(2) Carrying out an attack by military means, in the framework of an armed conflict of an international character, knowing that it will cause extensive, lasting and serious damage to the environment, which would be clearly disproportionate in relation to the overall concrete and directly expected military advantage, is punishable by imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.

Article 444 Use of prohibited means in combat operations The act of the person who, in an armed conflict, with or without an international character: a) uses poison or weapons with poisonous substances; b) uses asphyxiating, toxic or assimilated gases and any similar liquids, substances or processes; c) uses weapons that cause unnecessary physical suffering is punishable by imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.

Article 445 Sanctioning of the attempt The attempt at the crimes provided for in this title is punishable.

Title XIII Final provisions

Article 446 Entry into force

- (1) This code enters into force on the date that will be established in the law for its implementation, except for the provisions of para. (2) and para. (3), which enters into force 4 days after the date of publication in the Official Gazette of Romania, Part I, of this code.
- (2) Law no. 301/2004 - Criminal Code, published in the Official Gazette of Romania, Part I, no. 575 of June 29, 2004, with subsequent amendments, and Law no. 294/2004 regarding the execution of punishments and measures ordered by judicial bodies during the criminal process, published in the Official Gazette of Romania, Part I, no. 591 of July 1, 2004, with subsequent amendments, is repealed.
- (3) Within 12 months from the date of publication of this code in the Official Gazette of Romania, Part I, the Government will submit the draft law for the implementation of the Criminal Code to the Parliament for adoption.

This law transposes the provisions of art. 7 para. (1), art. 12 para. (3) and of art. 14 para. (3) of Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural guarantees for children who are suspected or accused persons in criminal proceedings, published in the Official Journal of the European Union, series L, no. 132 of May 21, 2016.

(on 05-10-2024, the Mention regarding the transposition of European Union norms was introduced by Article VIII of LAW no. 122 of April 30, 2024, published in the OFFICIAL GAZETTE no. 414 of May 7, 2024)

Note

Article V of LAW no. 200 of July 5, 2023, published in the OFFICIAL GAZETTE no. 616 of July 6, 2023, provides:

Article V

- (1) In situations where Law no. 15/1968 regarding the Criminal Code of Romania, republished in the Official Gazette of Romania, Part I, no. 65 of April 16, 1997, with subsequent amendments and additions, is applicable as a more favorable criminal law, through the phrase "performs defectively" from the content of art. 246 and 248 means "performs an act by violating a law, a Government ordinance, an emergency Government ordinance or another normative act which, at the time of its adoption, had the force of law".
- (2) In situations where Law no. 15/1968, republished, with subsequent amendments and additions, is applicable as a more favorable criminal law, through the phrase "its defective performance" contained in art. 249 is understood as "the performance of an act by violating a law, a Government ordinance, an emergency Government ordinance or another normative act which, at the time of its adoption, had the force of law".

This law was adopted on June 25, 2009, based on the provisions of art. 114 para. (3) of the Constitution of Romania, republished, following the commitment of the Government to the Chamber of Deputies and the Senate, in the joint session of June 22, 2009.

THE PRESIDENT OF THE CHAMBER OF DEPUTIES

ROBERTA ALMA ANASTASE

THE PRESIDENT OF THE SENATE

MIRCEA-DAN GEOANĂ

Bucharest, July 17, 2009.

No. 286.