

**Codul Penal din 17-iul-2009 CRIMINAL CODE of 17 July 2009 (Law no. 286/2009) (traducere)**

Codul Penal din 17-iul-2009 din 2025.12.19

Status: Acte în vigoare

Versiune de la: 19 Decembrie 2025

**Text consolidat****Intră în vigoare:**

24 Iulie 2009 An

**Codul Penal din 17-iul-2009 (traducere) CRIMINAL CODE of 17 July 2009 (Law no. 286/2009)  
(traducere)**

Dată act: 17-iul-2009

**Emitent: Parlamentul**

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This Code enters into force on the date to be established in the law for its implementation (n.n. - see Article 446)

\*) According to Article 246 of Law no. 187/2012, the Criminal Code entered into force on February 1, 2014.

To see the explanatory memorandum of this act , click here.

The Parliament of Romania adopts this law.

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## **PART I: GENERAL PART**

### **TITLE I: Criminal law and its limits of application**

#### **CHAPTER I: General principles**

##### **Article 1: Legality of criminalization**

(1) The criminal law provides for the facts that constitute crimes.

(2) No person may be criminally sanctioned 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 penalties and educational measures that can be taken against persons who have committed crimes, as well as the security measures that can be taken against persons who have committed acts provided for by the criminal law.

(2)A punishment may not be applied or an educational measure or a security measure may not be taken if it was not provided for by the criminal law at the time when the act was committed.

(3)No punishment may be established and applied outside its general limits.

## **CHAPTER II:Criminal law enforcement**

### **SECTION 1:Criminal law enforcement over time**

#### **Article 3: Criminal law activity**

The criminal law applies to crimes committed while it is in force.

\*) By Decision no. 67/2022 The High Court of Cassation and Justice admits the notifications and establishes the following:

"1. The rules relating to the interruption of the statute of limitations are rules of substantive (substantial) criminal law subject from the perspective of their application in time to the principle of the activity of the criminal law provided by Article 3 of the Criminal Code, except for more favorable provisions, according to the principle of mitior lex provided by Article 15(2) of the Constitution of Romania, republished, and Article 5 of the Criminal Code."

#### **Article 4: Application of the criminal law of decriminalization**

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 the sentences, educational measures and security measures, pronounced on the basis of the old law, as well as all the criminal consequences of the court decisions regarding these acts, cease with the entry into force of the new law.

\*) Admits the exception of unconstitutionality and finds that the legislative solution contained in Article 4 of the Criminal Code, which does not assimilate the effects of a decision of the Constitutional Court by which the unconstitutionality of a criminalization norm is found to be unconstitutional, is unconstitutional.

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

(1) If one or more criminal laws have intervened from the commission of the crime until the final judgment of the case, the more favorable law shall apply.

(2) The provisions of paragraph (1) shall also apply to normative acts or provisions thereof declared unconstitutional, as well as to emergency ordinances approved by the Parliament with amendments or completions or rejected, if during the time when they were in force they contained more favorable criminal provisions.

\*) The Constitutional Court admits the exception of unconstitutionality and finds that the provisions of Article 5 of the Constitution are constitutional to the extent that they do not allow the combination of the provisions of successive laws in the establishment and application of the more favorable criminal law.

\*) By Decision no. 373/2025 The High Court of Cassation and Justice admits the complaint filed requesting the pronouncement of a preliminary decision for the resolution of the following question of law: "If, in the interpretation and application of Article 5 of the Criminal Code on the more favorable criminal law during the trial, from the perspective of the comparison between the crime of sexual intercourse with a minor, provided for in Article 220 of the Criminal Code (in the form in force prior to 1.01.2024), and rape committed on a minor, provided for in Article 218<sup>1</sup> of the Criminal Code (the form that entered into force as of 1.01.2024), when determining the new law, the aggravated forms not provided for by the old law, such as the one regulated in Article 218<sup>1</sup>, paragraph (4) letter g) of the Criminal Code, must also be taken into account", and, consequently, establishes that:

Establishing and applying the more favorable criminal law in the case of the crimes of sexual intercourse with a minor, provided for in Article 220 of the Criminal Code (in the form in force prior to 1.01.2024), and rape committed on a minor, provided for in Article 218<sup>1</sup> of the Criminal Code (the form that entered into force as of 1.01.2024), the qualification of the committed act is carried out in relation to each of the criminal laws intervened until the final judgment in their entirety, taking into account also the aggravating circumstantial elements introduced by the criminal law in force starting with January 1, 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 fine, a law providing for a lighter punishment has been adopted, the sanction applied, if it exceeds the special maximum provided by the new law for the offence**

**committed, shall be reduced to this maximum.**

\*) Establishes that, in the interpretation of the provisions of Article 6(1) of the Criminal Code, in the case of an offence committed in a state of post-execution recidivism definitively judged before the entry into force of the new Criminal Code, the penalty imposed by the conviction decision shall be compared with the special maximum provided for in the new law for the offence committed by taking into account the provisions of Article 43(5) of the Criminal Code.

(2) If, after the decision to sentence him to life imprisonment has become final and until its execution, a law has intervened that provides for the same act only the prison sentence, the sentence of life imprisonment shall be replaced by the maximum imprisonment provided for that crime.

(3) If the new law provides only for the fine instead of the prison sentence, the sentence imposed shall be replaced by the fine, without exceeding the special maximum provided for in the new law. Taking into account the part of the prison sentence served, the execution of the fine may be removed in whole or in part.

(4) The educational measures not executed and not provided for in the new law are no longer executed, and those that correspond to the new law are executed in the content and limits provided by it, if it is more favorable.

(5) When the new law is more favorable under the conditions (1) to (4), the complementary penalties and security measures not executed and not provided for in the new law shall no longer be executed, and those corresponding to the new law shall be executed in the content and limits provided by it.

(6) If the new law is more favorable only in terms of complementary punishments or security measures, they shall be enforced within the content and limits provided by the new law.

(7) Where a provision of the new law relates to definitively imposed penalties, the penalty reduced or replaced in accordance with paragraphs 1 to 6 shall be taken into account in the case of sentences served up to the date of its entry into force.

#### **Article 7: Application of the temporary criminal law**

(1) The temporary criminal law applies to the offence committed while it was in force, even if the offence was not prosecuted or tried during that time period.

(2) The temporary criminal law is the criminal law that provides for the date of its exit from force or whose application is limited by the temporary nature of the situation that required its

adoption.

## **SECTION 2: Criminal law enforcement in space**

### **Article 8: Territoriality of the criminal law**

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

(2) By the territory of Romania is meant the expanse of land, the territorial sea and the waters with the soil, subsoil and airspace, between the state borders.

(3) An offence committed on the territory of Romania means any offence committed on the territory referred to in paragraph (2) or on a ship flying the Romanian flag or on an aircraft registered in Romania.

(4) The crime is considered to have been committed on the territory of Romania also when an act of execution, instigation or complicity has been carried out on this territory or on a ship under the Romanian flag or on an aircraft registered in Romania or the result of the crime has occurred, even in part.

### **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 by a Romanian legal entity, if the punishment provided by the Romanian law is life imprisonment or imprisonment for more than 10 years.

(2) In other cases, 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 for as a crime by the criminal law of the country where it was committed or if it was committed in a place that is not subject to the jurisdiction of any state.

(3) The initiation of the criminal action shall be made with the prior authorization of the General Prosecutor of the Prosecutor's Office attached to the Court of Appeal in whose territorial area 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 within which the prosecutor can issue the authorization is up to 30 days from the date of requesting the authorization and can be extended, under the law, without the total duration exceeding 180 days.

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

(1) The 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 person.

(2)The initiation of the criminal action shall be made 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 act is not the subject of a judicial procedure in the state on whose territory it was committed.

#### **Article 11: Universality of the criminal law**

**(1)The Romanian criminal law also applies to crimes other than those provided for in Article 10, committed outside the territory of the country by a foreign citizen or a person without citizenship, who is voluntarily on the territory of Romania, in the following cases:**

a)a crime has been committed that the Romanian State has assumed the obligation to punish 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;

b)The extradition or surrender of the offender was requested and this was refused.

(2)The provisions of paragraph 1(b) shall not apply where, according to the law of the State in which the offence was committed, there is a cause which prevents the initiation of the criminal proceedings or the continuation of the criminal proceedings or the execution of the sentence, or where the sentence has been served or is deemed to have been executed.

(3)When the sentence has not been served or has been served only in part, it is proceeded according to the legal provisions regarding the recognition of foreign judgments.

#### **Article 12: Criminal law and international treaties**

The provisions of Articles 8-11 shall apply unless otherwise provided by an international treaty to which Romania is a party.

#### **Article 13: Immunity from jurisdiction**

The 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 may be granted or requested under an international treaty to which Romania is a party or on the basis of reciprocity, under the law.

(2)The surrender or extradition of a person in relation to the Member States of the European

Union shall be granted or requested under the conditions of the law.

(3)The surrender of a person to an international criminal tribunal is granted under the law.

## **TITLE II:Crime**

### **CHAPTER I:General provisions**

#### **Article 15: Essential features of the crime**

(1)The crime is the act provided for by the criminal law, committed with guilt, unjustified and imputable to the person who committed it.

(2)Crime is the only basis for criminal liability.

#### **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 act is committed intentionally, by fault or with outdated intention.

**(3)The act is committed intentionally when the perpetrator:**

a)foresees the result of his deed, aiming at its production by committing that deed;

b)foresees the result of his deed and, although he does not pursue it, he accepts the possibility of its occurrence.

**(4)The act is committed due to negligence, when the perpetrator:**

a)foresees the result of his deed, but does not accept it, considering without reason that it will not occur;

b)does not foresee the result of his deed, although he should and could have foreseen it.

(5)There is an outdated intention when the act consisting of an intentional action or inaction produces a more serious result, which is due to the fault of the perpetrator.

(6)The act consisting of an action or inaction constitutes a crime when it is committed intentionally. The act committed by negligence constitutes a crime only when the law expressly provides for it.

#### **Article 17: Committing the crime by omission**

The commission crime that involves 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 for the protected social value a state of danger that facilitated the production of the result.

## **CHAPTER II: Justifying causes**

### **Article 18: General provisions**

(1)The act provided for 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 extends to the participants as well.

### **Article 19: Self-defense**

(1)The act provided for by the criminal law committed in self-defense is justified.

(2)Self-defense is the person who commits the act in order to remove a material, direct, immediate and unjust attack, which endangers his person, another, 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 (2), the one who commits the act in order to reject the entry of a person into a dwelling, room, outbuilding or fenced place belonging to him, without right, by violence, cunning, burglary or other such illegal ways or during the night.

### **Article 20: State of necessity**

(1)The act provided for by the criminal law committed in a state of necessity is justified.

(2)A person who commits the act in order to save from immediate danger and who could not otherwise be removed his life, bodily integrity or health or that of another person or an important property of him or another person or a general interest is not in a state of necessity, if the consequences of the act are not manifestly more serious than those that could have occurred if the danger had not been removed.

### **Article 21: Exercise of a right or performance of an obligation**

(1)The act provided for 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.

(2)The act provided for 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 manifestly illegal, is also justified.

**Article 22: Consent of the injured person**

(1)The act provided for by the criminal law committed with the consent of the injured person is justified, if he could legally dispose of the injured 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 non-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 unforeseeable case.

**Article 24: Physical coercion**

The act provided for by the criminal law committed due to a physical constraint that the perpetrator could not resist is not imputable.

**Article 25: Moral coercion**

The act provided for by the criminal law committed due to a moral coercion, exercised by threatening with a serious danger to the person of the perpetrator or of another and which could not be removed in any other way is not imputable.

**Article 26: Non-attributable excess**

(1)The act provided for by the criminal law committed by the person in a state of self-defense, who has exceeded, due to disturbance or fear, the limits of a defense proportional to the seriousness of the attack, is not imputable.

(2)The act 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 act, that it causes manifestly more serious consequences than those that could have occurred if the danger had not been removed is not imputable.

**Article 27: Minority of the perpetrator**

The act provided for by the criminal law committed by a minor, who at the time of its commission did not meet the legal conditions for criminal liability, is not imputable.

**Article 28: Irresponsibility**

The act provided for by the criminal law committed by the person who, at the time of committing it, could not be aware of his actions or inactions or could not control them, either because of a mental illness or for other reasons, is not imputable.

**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 psychoactive substances, is not imputable.

**Article 30: Error**

(1)The act provided for by the criminal law committed by the person who, at the time of its commission, did not know the existence of a state, situation or circumstances on which the criminal character of the act depends, does not constitute a crime.

(2)The provisions of paragraph (1) shall also apply to acts committed by negligence which the criminal law punishes, only if the lack of knowledge of the respective condition, situation or circumstance is not itself the result of the fault.

(3)The condition, situation or circumstance that the offender did not know at the time of committing the crime does not constitute an aggravating circumstance or aggravating circumstantial element.

(4)The provisions of paragraphs (1) to (3) shall be applied accordingly in the event of ignorance of an extra-criminal legal provision.

(5)The act provided for by the criminal law committed as a result of ignorance or misknowledge of its illicit nature due to a circumstance that could not be avoided in any way is not imputable.

**Article 31: Fortuitous case**

The act provided for by the criminal law whose result is the consequence of a circumstance that could not have been foreseen is not imputable.

**CHAPTER IV: Attempt****Article 32: Attempt**

(1)The attempt consists in the execution of the intention to commit the crime, which was interrupted or did not produce its effect.

(2) There is no attempt when the impossibility of consummation of the crime is the consequence of the way in which the execution was conceived.

### **Article 33: Punishment of the attempt**

(1) The attempt is punished only when the law expressly provides for it.

(2) The attempt shall be punished with the penalty provided by law for the crime committed, the limits of which shall be reduced by half. When the law provides for the punishment of life imprisonment for the committed crime, and the court would move towards it, the attempt is punished with imprisonment from 10 to 20 years.

### **Article 34: Giving up and preventing the result from occurring**

(1) The perpetrator who, before the discovery of the deed, has desisted or has informed the authorities of its commission so that the consummation can be prevented, or has prevented the consummation of the crime, shall not be punished.

(2) If the acts performed up to the moment of desisting or preventing the result from occurring constitute another crime, the punishment for this crime is 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 realization of the same resolution, action or inaction that presents, each in part, the content of the same crime.

(2) The crime is complex when its content includes, as a constituent 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 offense is sanctioned with the penalty provided by law for the offense committed, the maximum of which may be increased by a maximum of 3 years in the case of imprisonment, respectively by a maximum of one third in the case of a fine.

(2) The complex crime is sanctioned with the punishment provided by the law for that crime.

(3) The complex crime committed with exceeded intent, if only the more serious result of the secondary action occurred, is sanctioned with the punishment provided by law for the complex

crime consummated.

### **Article 37: Recalculation of the penalty for the continued or complex offence**

If the person definitively convicted of a continuous 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, an appropriate punishment shall be established, which may not be lighter than the one previously pronounced.

\*) By Decision no. 11/2021 The High Court of Cassation and Justice admits the appeal in the interest of the law and establishes that:

In the unitary interpretation and application of the provisions of Article 37 of the Criminal Code, in the event that it finds the existence of a final conviction for a continuous crime, the court hearing actions or inactions that fall within the constituent content of the same crime will proceed to recalculate the sentence taking into account the crime committed in its entirety, will establish a single sentence that cannot be less than the one previously pronounced and will order its annulment forms of execution issued as a result of the previous conviction and the issuance of new ones in accordance with the pronounced decision or, as the case may be, will find the sentence executed.

### **Article 38: Concurrence of offences**

(1) There is a real concurrence of crimes when two or more crimes have been committed by the same person, through distinct actions or inactions, before being definitively convicted for any of them. There is also a real concurrence of crimes when one of the crimes was committed for the purpose of committing or concealing another crime.

(2) There is a 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.

### **Article 39: Main punishment in case of concurrence of offences**

**(1) In case of concurrence of crimes, the punishment for each crime is established and the punishment is applied, as follows:**

a) when a sentence of life imprisonment and one or more sentences of imprisonment or a fine have been established, the penalty of life imprisonment shall be applied;

**b) when only prison sentences have been established, the heaviest penalty is applied, to which is added an increase of one third of the total of the other sentences established;**

\*) By Decision no. 22/2020 The High Court of Cassation and Justice establishes that, if an offence (A) is concurrent with both the offence representing the first term (B) and the offence representing the second term (C) of a post-conviction recidivism, the operation of establishing the resulting penalty involves the application of the rules of concurrent offences between the sentences established for offences (A) and (B), the rules of post-conviction recidivism were subsequently applied in relation to the punishment established for the offence (C).

**c)when only fine penalties have been established, the heaviest penalty is applied, to which is added an increase of one third of the total of the other penalties established;**

\*) The HCCJ admits the complaint filed by the Bucharest Court of Appeal - Criminal Section I, and establishes that, in the interpretation of the provisions of Article 39(1)(c) of the Criminal Code, in the event of a concurrence of offences, in the event that the amount corresponding to a day-fine established for the concurrent offences is different, the resulting penalty shall be determined as follows:

- the penalty of the heaviest fine is cumulated with the increase of one third of the total of the other fines established;
- the number of fine-days is determined, by cumulating 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 a fine-day is established, by dividing the amount of the penalty resulting from the fine by the number of resulting fine-days."

d)when a prison sentence and a fine have been established, the prison sentence shall be applied, to which the penalty of the fine shall be added in full;

e)When several prison sentences and several fine sentences have been established, the prison sentence according to letter b) shall be applied, to which the penalty of the fine according to letter c.

(2)When several prison sentences have been established, if by adding to the highest sentence the increase of one third of the total of the other prison sentences established, the general maximum of the prison sentence would be exceeded by 10 years or more, and for at least one of the concurrent offences the penalty provided by law is imprisonment of 20 years or more, The penalty of life imprisonment may be applied.

#### **Article 40: Merging penalties for concurrent offences**

**(1)If the convicted offender is subsequently tried for a concurrent offence, the provisions of Article 39 shall apply.**

\*) By Decision no. 22/2020 The High Court of Cassation and Justice establishes that, if an offence (A) is concurrent with both the offence representing the first term (B) and the offence representing the second term (C) of a post-conviction recidivism, the operation of establishing the resulting penalty involves the application of the rules of concurrent offences between the sentences established for offences (A) and (B), the rules of post-conviction recidivism were subsequently applied in relation to the punishment established for the offence (C).

(2)The provisions of Article 39 shall also apply if, after a conviction has become final, it is found that the convicted person had previously been convicted of a concurrent offence.

(3)If the offender has served all or part of the sentence imposed by the previous decision, what has been served is deducted from the duration of the sentence imposed for concurrent crimes.

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

(5)In the case of merging the penalties according to paragraphs (1) to (4), the punishment imposed by a conviction decision pronounced abroad, for a concurrent crime, shall also be taken into account, if the conviction decision has been recognized according to the law.

#### **Article 41: Relapse**

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

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

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

\*) D. 13/2023 - The application of the provisions of Article 41(3) of the Criminal Code on international recidivism, in the event of the existence of a final conviction ordered by a foreign court, can be carried out only after going through the procedure for the recognition of the foreign conviction decision, exclusively incidentally, provided for by Article 147 of Law no. 302/2004, republished, with subsequent amendments and completions, and not on the basis of the existing entries in the European system of criminal records (communication through ECRIS).

## **Article 42: Convictions that do not attract recidivism**

When establishing the state of recidivism, the conviction decisions regarding:

- a) the facts that are no longer provided for by the criminal law;
- b) amnesty crimes;
- c) crimes committed by negligence.

## **Article 43: Punishment in case of recidivism**

**(1) If, before the previous sentence has been executed or considered to have been executed, a new offence is committed in a state of recidivism, the penalty established for it shall be added to the previous sentence not executed or to the remainder of the sentence not executed.**

\*) In the interpretation of the provisions of Article 43 (1) and (5), the sentence "executed or considered to have been executed", which constitutes the first term of recidivism, refers to the penalty recalculated as a result of the application of Article 55<sup>1</sup> of Law no. 254/2013.

\*) By Decision no. 22/2020 The High Court of Cassation and Justice establishes that, if an offence (A) is concurrent with both the offence representing the first term (B) and the offence representing the second term (C) of a post-conviction recidivism, the operation of establishing the resulting penalty involves the application of the rules of concurrent offences between the sentences established for offences (A) and (B), the rules of post-conviction recidivism were subsequently applied in relation to the punishment established for the offence (C).

**(2) When, before the previous sentence has been executed or considered to have been executed, several concurrent offences are committed, at least one of which is in a state of recidivism, the penalties established shall be merged according to the provisions relating to the concurrence of offences, and the resulting penalty shall be added to the previous sentence not executed or to the remainder of the sentence not executed.**

\*) The High Court of Cassation and Justice establishes that the provisions of Article 43(2) presuppose that all concurrent offences are committed after the final conviction not executed or partially executed, these not being applicable in the event that one of the offences is in concurrence with the one that constitutes the first term of recidivism.

(3) If the sum of the sentences under paragraphs (1) and (2) would exceed the general maximum prison sentence by more than 10 years, and for at least one of the crimes committed the penalty provided by law is imprisonment of 20 years or more, the penalty of life imprisonment may be applied instead of prison sentences.

(4) When the previous sentence or the punishment established for the offence committed in a state

of recidivism is life imprisonment, the sentence of life imprisonment shall be enforced.

**(5) If, after the previous sentence has been served or is considered to have been executed, a new crime is committed in a state of recidivism, the special limits of the penalty provided by law for the new offense are increased by half.**

\*) In the interpretation of the provisions of Article 43 (1) and (5), the sentence "executed or considered to have been executed", which constitutes the first term of recidivism, refers to the penalty recalculated as a result of the application of Article 55<sup>1</sup> of Law no. 254/2013.

(6) If, after the conviction for the new offence has become final and before the sentence has been served or considered to have been served, it is discovered that the convicted person is in a state of recidivism, the court shall apply the provisions of paragraphs (1) to (5).

(7) The provisions of paragraph 6 shall also apply if the sentence to life imprisonment has been commuted or replaced by the sentence of imprisonment.

#### **Article 44: Intermediate plurality**

(1) There is an intermediate plurality of offences when, after a conviction decision has become final and until the date on which the sentence is served or considered to have been served, the convicted person commits a crime again and the conditions provided by law for recidivism are not met.

**(2) In case of intermediate plurality, the punishment for the new offence and the previous penalty shall be merged according to the provisions of the concurrence of offences.**

\*) The High Court of Cassation and Justice admits the appeal in the interest of the law and establishes that in the unitary interpretation and application of the provisions of Article 44 (2) of the Criminal Code, in the case of the intermediate plurality of crimes, in the event that the first and/or second term of the intermediate plurality consists of a concurrence of crimes, the merger of all the established penalties is carried out, within a single operation, according to the provisions regarding the concurrence of crimes.

#### **Article 45: Complementary penalties, ancillary penalties and security measures in case of multiple offences**

(1) If an additional penalty has been established for one of the crimes committed, it is applied together with the main penalty.

(2) When several complementary penalties of a different or even the same nature have been established, but with a different content, they are applied together with the main penalty.

**(3) If several complementary penalties of the same nature and with the same content have**

**been established:**

a) in case of concurrence of offences or intermediate plurality, the heaviest of these shall apply;

b) In case of recidivism, the unexecuted part of the previous complementary penalty shall be added to the penalty established for the new offence.

(4) In the case of successive convictions for concurrent offences, the part of the complementary sentence served up to the date of merging the main sentences shall be deducted from the duration of the complementary sentence imposed in addition to the resulting sentence.

**(5) If, in addition to the main penalties, one or more ancillary penalties have been established, the provisions of paragraphs (1) to (3) shall apply, the resulting ancillary penalty being executed until the execution or consideration of the execution of the main penalty.**

\*) HCCJ Decision no. 18/2021 - In the unitary interpretation and application of the provisions of Article 45(5) of the Criminal Code, in the matter of the criminal treatment of concurrent crimes, 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 committed crimes, are cumulated.

(7) If several safety measures of the same nature and content have been taken, but for different durations, the safety measure with the longest duration shall apply. The safety measures taken according to Article 112 shall be cumulated.

## **CHAPTER VI: Author and participants**

### **Article 46: Author and co-authors**

(1) The perpetrator is the person who directly commits an act provided for by the criminal law.

(2) Co-perpetrators are the persons who directly commit the same act provided for by the criminal law.

### **Article 47: The instigator**

Instigator is the person who, with intention, causes another person to commit an act provided for by the criminal law.

### **Article 48: The accomplice**

(1) An accomplice is the person who, intentionally, facilitates or helps in any way to commit an act provided for by the criminal law.

(2) An accomplice is also a person who promises, before or during the commission of the act, that he will conceal the goods derived from it or that he will favor the perpetrator, even if after the commission of the act the promise is not fulfilled.

#### **Article 49: Punishment in the case of participants**

The co-perpetrator, the instigator and the accomplice to a crime committed with intent shall be punished with the penalty provided by law for the perpetrator. When determining the penalty, the contribution of each person to the commission of the crime shall be taken into account, as well as the provisions of Article 74.

#### **Article 50: Personal and real circumstances**

- (1) The circumstances regarding the person of the author or of a participant do not affect the others.
- (2) The circumstances regarding the deed are reflected on 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 discovery of the deed, 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 participant shall be punished for this crime.

#### **Article 52: Improper participation**

- (1) The direct intentional commission by a person of an act provided for by the criminal law to which, through fault or without guilt, another person contributes with acts of execution is sanctioned with the punishment provided by law for the act committed intentionally.
- (2) Determining, facilitating or assisting in any way, intentionally, the culpable commission by another person of an act provided for by the criminal law shall be sanctioned with the punishment provided by the law for the act committed intentionally.
- (3) Determining, facilitating or assisting in any way, with intent, to commit an act provided for by the criminal law, by a person who commits that act without guilt, is sanctioned with the punishment provided by the law for that crime.
- (4) The provisions of Articles 50 and 51 shall apply accordingly.

## **TITLE III: Punishments**

### **CHAPTER I: Categories of punishments**

#### **Article 53: Main penalties**

The main punishments are:

- a) life imprisonment;
- b) prison;
- c) fine.

#### **Article 54: Accessory punishment**

The accessory punishment consists in the prohibition of the exercise of certain rights, from the moment the conviction decision becomes final until the execution or consideration as executed of the custodial sentence.

#### **Article 55: Complementary penalties**

The complementary penalties are:

- a) prohibition of the exercise of certain rights;
- b) military degradation;
- c) publication of the conviction decision.

### **CHAPTER II: Main penalties**

#### **SECTION 1: Life imprisonment**

#### **Article 56: Life imprisonment regime**

Life imprisonment consists of indefinite deprivation of liberty and is carried out according to the law on the execution of sentences.

#### **Article 57: Non-application of life imprisonment**

If on the date of the conviction the defendant has reached the age of 65, instead of life imprisonment, he is sentenced to imprisonment for 30 years and the penalty of prohibition from exercising certain rights for its maximum duration.

#### **Article 58: Replacing life imprisonment**

If the person sentenced to life imprisonment has reached the age of 65 at the time of the

execution of the sentence, the sentence of life imprisonment may be replaced by imprisonment for 30 years and the penalty of prohibition from exercising certain rights for the maximum duration, if he has behaved well throughout the execution of the sentence, has fully fulfilled the civil obligations established by the conviction, unless it proves that it had no possibility to fulfill them, and has made constant and obvious progress towards social reintegration.

### **Article 59: Calculation of the sentence in case of commutation or replacement of the sentence of life imprisonment**

In the case of commutation or replacement of the life sentence with the prison sentence, the period of imprisonment served shall be considered as an executed part of the prison sentence.

## **SECTION 2:Prison**

### **Article 60: Prison regime**

Imprisonment consists of deprivation of liberty for a fixed period, between 15 days and 30 years, and is served according to the law on the execution of sentences.

## **SECTION 3:Fine**

### **Article 61: Determination of the fine**

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

(2)The amount of the fine is established by the system of fine days. The amount corresponding to a fine-day, between 60 lei and 600 lei, is multiplied by the number of fine days, which is between 30 days and 400 days.

(3)The court determines the number of fine-days according to the general criteria for individualizing the penalty. The amount of the amount corresponding to a fine-day shall be established taking into account the material situation of the convicted person and the legal obligations of the convicted person towards his dependents.

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

- a)60 and 180 fine-days, when the law provides for the offense committed only the penalty of a fine;
- b)120 and 240 fine-days, when the law provides for the penalty of the fine alternatively with a prison sentence of no more than two years;
- c)180 and 300 fine days, when the law provides for the penalty of the fine alternately with the

prison sentence of more than 2 years.

(5) If the crime committed was intended to obtain a patrimonial benefit, and the punishment provided by the law is only a fine or the court opts for the application of this penalty, the special limits of the fine days may be increased by one third.

(6) The fractions established by law for the causes of mitigation or aggravation of the penalty shall apply to the special limits of the fine days provided for in paragraphs 4 and 5.

### **Article 62: The fine that accompanies the prison sentence**

(1) If the crime committed was intended to obtain a patrimonial benefit, in addition to the prison sentence, the penalty of a fine may also be applied.

(2) The special limits of the fine days provided for in Article 61(4)(b) and (c) shall be determined in relation to the length of the sentence of imprisonment determined by the court and may not be reduced or increased as a result of the causes of mitigation or aggravation of the penalty.

(3) When determining the amount of the amount corresponding to a fine-day, the value of the patrimonial benefit obtained or pursued shall be taken into account.

### **Article 63: Replacing the fine with 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 fine days not served shall be replaced by an appropriate number of days of imprisonment.

(2) If the unexecuted fine accompanied the prison sentence, the number of unexecuted fine days shall be replaced by an appropriate number of prison days, which shall be added to the prison sentence, the resulting penalty being considered a single sentence.

(3) In case of substitution of the fine by imprisonment, under the conditions of paragraphs (1) and (2), a fine day corresponds to one day of imprisonment.

### **Article 64: Execution of the penalty of a 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, unless, due to his state of health, the person cannot perform this work. A fine day corresponds to a day of community service.

(2) If the fine replaced in accordance with the provisions of paragraph (1) has accompanied the prison sentence, the obligation to work for the benefit of the community shall be executed after the execution of the prison sentence.

(3) The coordination of the execution of the obligation to work for the benefit of the community is done by the probation service.

(4) The execution of the work for the benefit of the community ordered under the conditions of paragraph (1) shall cease by paying the fine corresponding to the fine days left unperformed.

**(5) The court shall replace the fine days not served by community service with an appropriate number of days of imprisonment, if:**

a) the convicted person does not perform the obligation to work for the benefit of the community under the conditions established by the court;

b) The convicted person commits a new crime discovered before the full execution of the obligation to work for the benefit of the community. The fine days not served by community service on the date of the final conviction for the new crime, replaced by imprisonment, are added to the sentence for the new crime.

(6) If the convicted person, in the situation referred to in paragraph 1, does not give his consent to the performance of unpaid work for the benefit of the community, the unexecuted fine shall be replaced by the penalty of imprisonment according to Article 63.

### **CHAPTER III: Ancillary punishment and complementary punishments**

#### **SECTION 1: Accessory punishment**

**Article 65: The content and manner of execution of the accessory penalty of the prohibition of the exercise of certain rights**

(1) The ancillary penalty consists in the prohibition of the exercise of the rights provided for in Article 66(1)(a), (b) and (d)-(o), the exercise of which has been prohibited by the court as an additional penalty.

(2) In the case of life imprisonment, the ancillary penalty consists in the prohibition by the court of the exercise of the rights provided for in Article 66(1)(a) to (o) or some of them.

**(3) The ancillary penalty of prohibition of exercising certain rights shall be enforced from the moment the conviction decision becomes final and until the main custodial sentence has been executed or considered to have been executed.**

\*) The HCCJ admits the appeal in the interest of the law filed by the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice and, consequently:

In the unitary interpretation and application of the provisions of Article 65(3) of the Criminal Code, it establishes that: the application of accessory penalties consisting in the prohibition of the rights provided for in Article 66(1)(a), (b) and (d)-o) of the Criminal Code, the exercise of which has been prohibited by the court as an additional punishment, is not possible in the case of ordering a conviction to the penalty of a fine.

(4) In the case of life imprisonment, the ancillary sentence having the content referred to in Article 66(1)(c) shall be enforced on the date of conditional release or after the sentence has been deemed to have been served.

## **SECTION 2: Complementary penalties**

### **Article 66: Content of the complementary penalty of prohibition of the exercise of certain rights**

**(1) The complementary penalty of the prohibition of the exercise of certain rights consists in the prohibition of the exercise of one or more of the following rights:**

- a) the right to be elected in public authorities or in any other public office;
- b) the right to hold a position involving the exercise of state authority;
- c) the right of the foreigner 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 hold the position, to exercise the profession or trade or to carry out the activity 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 determined by the court;
- j) the right to leave the territory of Romania;
- k) the right to hold a management position within a legal person governed by public law;
- l) the right to be in certain localities established by the court;
- m) the right to be in certain places or at certain sporting, cultural or other public gatherings, established by the court;
- n) the right to communicate with the victim or his family members, with the persons with whom he committed the crime or with other persons, established 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.

**(1<sup>1</sup>) The prohibition of exercising the rights provided for in paragraph (1) shall be ordered by the court as follows:**

a) for a period of 1 to 5 years, in case of prohibition of exercising the rights provided for in letters a)-h) and j)-o);

b) for a period of 1 to 10 years, in case of prohibition of exercising the right provided for in letter i).

(2) Where the law prohibits the exercise of the right to hold a public office, the court shall order the prohibition of the exercise of the rights referred to in paragraph 1(a) and (b).

(3) The prohibition of exercising the rights provided for in paragraph (1)(a) and (b) shall be ordered cumulatively.

(4) The punishment provided for in paragraph 1(c) shall not be imposed where there are reasonable grounds to believe that the life of the expelled person is endangered or that the person will be subjected to torture or other inhuman or degrading treatment in the State to which he is to be expelled.

(5) When ordering the prohibition of one of the rights referred to in paragraph 1(n) and (o), the court shall specifically specify the content of that penalty, taking into account the circumstances of the case.

#### **Article 67: Application of the complementary penalty of the prohibition of the exercise of certain rights**

(1) The complementary penalty of prohibition on the exercise of rights may be applied if the main penalty imposed is imprisonment or a fine and the court finds that, in view of the nature and gravity of the crime, the circumstances of the case and the person of the offender, this punishment is necessary.

(2) The application of the penalty of prohibition of the exercise of certain rights is mandatory when the law provides for this punishment 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 has been ordered.

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

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

- a) from the final decision of the conviction to the penalty of the fine;
- b) from the final decision of 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 of the rest of the sentence, after the expiry of the limitation period for the execution of the sentence or after the expiry of the term of supervision of the 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 the suspension of the execution of the sentence under supervision or the replacement of the fine with imprisonment is ordered, for reasons other than the commission of a new offence, the part of the duration of the complementary penalty of the prohibition of the exercise of rights not executed on the date of revocation or replacement shall be enforced after the execution of the prison sentence.

**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 of the final decision of conviction.

(2) Military degradation is mandatory for military convicts in active service, in reserve or retirement, if the main punishment applied is imprisonment for more than 10 years or life imprisonment.

(3) Military degradation can be applied to military convicts in activity, in reserve or in retirement for crimes committed intentionally, if the main punishment applied is imprisonment of at least 5 years and no more than 10 years.

**Article 70: Publication of the final conviction**

(1) The publication of the final conviction decision may be ordered when, taking into account the nature and gravity 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 conviction decision shall be published in excerpt, in the form established by the court, in a local or national newspaper, only once.

(3) The publication of the final conviction decision is made at the expense of the convicted

person, without revealing the identity of other persons.

#### **CHAPTER IV: Calculation of the duration of sentences**

##### **Article 71: Duration of execution**

(1) The duration of the execution of the custodial sentence shall be counted from the day on which the convicted person began the execution of the final sentence of conviction.

(2) The day on which the execution of the sentence begins and the day on which it ceases shall be counted in the duration of the execution.

(3) The period during which the convicted person, during the execution of the sentence, is ill in the hospital enters the duration of the execution, unless he deliberately caused his illness, and this circumstance is established during the execution of the sentence.

(4) The permits to leave the penitentiary, granted to the convicted person according to the law on the execution of sentences, enter the duration of the execution of the sentence.

##### **Article 72: Calculation of the duration of preventive measures involving deprivation of liberty**

(1) The period during which a person has been subjected to a preventive measure of deprivation of liberty shall be deducted from the duration of the prison sentence pronounced. The decrease is also made when the convicted person was prosecuted or tried, at the same time or separately, for several concurrent crimes, even if he was convicted of an act other than the one that determined the order of the preventive measure.

(2) The period during which a person has been subjected to a preventive measure of deprivation of liberty is also reduced in case of conviction to the penalty 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 has been subjected to a preventive measure involving deprivation of liberty shall be deducted from the duration of the prison sentence.

##### **Article 73: Computation of sentences and preventive measures carried out outside the country**

(1) In the case of offences committed under the conditions of Article 8, Article 9, Article 10 or Article 11, the part of the penalty, as well as the duration of preventive measures involving deprivation of liberty carried out outside the territory of the country, shall be deducted from the

duration of the sentence imposed for the same offence in Romania.

(2) The provisions of paragraph 1 shall also apply accordingly if the sentence served outside the country is a fine.

## **CHAPTER V: Individualization of punishments**

### **SECTION 1: General provisions**

#### **Article 74: General criteria for individualizing the 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 offender, which is evaluated according to the following criteria:**

- a) the circumstances and manner 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 produced or of other consequences of the crime;
- d) the reason for committing the crime and the purpose pursued;
- e) the nature and frequency of the offences constituting the criminal record of the offender;
- f) conduct after the commission of the crime and during the criminal trial;
- g) level of education, age, health status, family and social situation.

(2) When the law provides for alternative punishments for the offence committed, the criteria set out in paragraph 1 shall also be taken into account for the choice of one of them.

### **SECTION 2: Extenuating circumstances and aggravating circumstances**

#### **Article 75: Extenuating circumstances**

**(1) The following circumstances constitute legal mitigating circumstances:**

- a) committing the crime under the control of a strong disorder or emotion, determined by a provocation on the part of the injured person, produced by violence, by a serious violation of the dignity of the person or by another serious unlawful action;
- b) exceeding the limits of self-defense;
- c) exceeding the limits of the state of necessity.
- d) full coverage of the material damage caused by the crime, during the criminal investigation or trial, until the first trial term, if the perpetrator has not benefited from this circumstance in a period of 5 years prior to the commission of the act. The mitigating circumstance does not apply in case of committing the following crimes: against the person, robbery, robbery, piracy, fraud

committed through computer systems and electronic means of payment, outrage, judicial outrage, abusive conduct, crimes against public security, crimes against public health, crimes against religious freedom and respect due to the deceased, against national security, against the fighting capacity of the armed forces, crimes of genocide, against humanity and war, crimes regarding the state border of Romania, crimes under the legislation on preventing and combating terrorism, crimes of corruption, crimes assimilated to crimes of corruption, crimes against the financial interests of the European Union, crimes regarding non-compliance with the regime of explosive materials and precursors of restricted explosives, nuclear or other radioactive materials, on the legal regime of drugs, on the legal regime of drug precursors, on the legal regime of doping substances, on money laundering, on civil aeronautical activities and those that may endanger flight safety and aeronautical security, on the protection of witnesses, on the prohibition of fascist organizations and symbols, racist or xenophobic and promoting the cult of persons guilty of committing crimes against peace and humanity, those relating to the trafficking of organs, tissues or cells of human origin, regarding the prevention and combating of pornography and those under the adoption regime.

**(2)The following may constitute judicial mitigating circumstances:**

- a)the efforts made by the offender to remove or reduce the consequences of the crime;
- b)circumstances related to the committed act, which diminish the seriousness of the crime or the dangerousness of the offender.

**Article 76: Effects of extenuating circumstances**

(1)If there are mitigating circumstances, the special limits of the penalty provided by law for the offence committed shall be reduced by one third.

(2)If the punishment provided by law is life imprisonment, in case of retention of mitigating circumstances, the prison sentence of 10 to 20 years is applied.

(3)The reduction of the special limits of the punishment shall be made 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 treatment;
- c)committing the crime by methods or means likely to endanger other persons or property;
- d)the commission of the crime by an adult offender, if it was committed together with a minor;

- e) committing the crime taking advantage of the state of manifest vulnerability of the injured person, due to age, state of 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, political opinion or affiliation, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection or for other circumstances of the same kind, considered by the perpetrator as causes of a person's inferiority in relation to others.

#### **Article 78: Effects of aggravating circumstances**

- (1) If there are aggravating circumstances, a penalty may be applied up to the special maximum. If the special maximum is insufficient, in the case of imprisonment, an increase of up to 2 years may be added, which may not 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 may be applied.
- (2) The increase of the special limits of the penalty shall be made only once, regardless of the number of aggravating circumstances retained.

#### **Article 79: Concurrence between mitigating or aggravating causes**

- (1) When two or more provisions are applied to the same offence which have the effect of reducing the penalty, the special limits of the penalty provided by law for the offence committed shall be reduced by successively applying the provisions relating to attempt, mitigating circumstances and special cases of reduction of the penalty, in that order.
- (2) If there are two or more provisions that have the effect of aggravating criminal liability, the punishment is established by successively applying the provisions regarding aggravating circumstances, continued crime, concurrence or recidivism.
- (3) When one or more causes for reduction of the sentence and one or more causes for increased punishment are applied to the same offence, the special limits of the penalty provided by law for the offence committed shall be reduced in accordance with paragraph 1, after which the resulting penalty limits shall be increased in accordance with paragraph 2.

### **SECTION 3: Waiver of 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 motive and 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 it would have on his person.

**(2) The waiver of the penalty may not be ordered if:**

- a) the offender has previously suffered a conviction, except in the cases provided for in Article 42 (a) and (b) or for which rehabilitation has taken place or the rehabilitation period has expired;
- b) the same offender 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 tried;
- c) the offender evaded criminal prosecution or trial or tried to thwart the finding out of the truth or the identification and criminal liability of the perpetrator or the participants;
- d) The penalty provided by law for the offense committed is imprisonment for more than 5 years.

(3) In the event of a concurrence of offences, the waiver of the application of the penalty may be ordered if the conditions laid down in paragraphs 1 and 2 are met for each concurrent offence.

## **Article 81: Warning**

- (1) When ordering the waiver of the penalty, the court applies a warning to the offender.
- (2) The warning consists of presenting the factual reasons that determined the waiver of the application of the penalty and warning the offender about his future conduct and the consequences to which he exposes himself if he commits more crimes.
- (3) In case of concurrence of crimes, only one warning is applied.

## **Article 82: Annulment and effects of the waiver of the application of the penalty**

- (1) The person against whom the waiver of the application of the penalty has been ordered is not subject to any forfeiture, prohibition or incapacity that could arise from the crime committed.
- (2) The waiver of the application of the penalty does not produce effects on the execution of the security measures and the civil obligations provided for in the judgment.

(3) If, within 2 years of the decision by which the waiver of the penalty was ordered, it is discovered that the person against whom this measure was taken had committed another crime before the decision became final, for which a penalty was imposed even after the expiry of that period, the waiver of the application of the penalty shall be annulled and the penalty shall be established for the offence which initially entailed the waiver of the application of the penalty, then applying, as the case may be, the provisions regarding the concurrence of crimes, recidivism or intermediate plurality.

#### **SECTION 4: Postponement of the application of the penalty**

##### **Article 83: Conditions for postponement of the application of the sentence**

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

- a) the established penalty, including in the case of concurrent crimes, is a fine or imprisonment of no more than 2 years;
- b) the offender has not been previously sentenced to imprisonment, except in the cases provided for in Article 42 (a) and (b) or for which rehabilitation has taken place or the rehabilitation period has expired;
- c) the offender has shown 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 the offender 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 it is necessary to supervise his conduct for a determined period.

(2) The postponement of the application of the penalty cannot be ordered if the penalty provided by law for the crime committed is 7 years or more or if the offender has evaded criminal prosecution or trial or has tried to thwart the finding of the truth or the identification and criminal liability of the perpetrator or the participants.

(2<sup>1</sup>) The postponement of the sentence may not be ordered in the case of the offences provided for in Articles 335 and 336.

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

(4) It is mandatory to present the reasons that determined the postponement of the application of the penalty and to warn the offender about his future conduct and the consequences to which he exposes himself if he commits more crimes or does not comply with the supervision measures or does not perform the obligations incumbent on him during the term of supervision.

#### **Article 84: Term of supervision**

(1) The term of supervision is 2 years and is calculated from the date of the decision by which the postponement of the application of the sentence became final.

(2) During the term of supervision, the person against whom the postponement of the application of the sentence has been ordered must comply with the supervision measures and perform the obligations incumbent on him, under the conditions established by the court.

#### **Article 85: Supervisory measures and obligations**

**(1) During the term of supervision, the person against whom the postponement of the application of the sentence has been ordered must comply with the following supervision measures:**

- a) to report to the probation service, on the dates set by it;
- b) to receive visits from the probation counselor designated with his supervision;
- c) to announce, in advance, the change of residence and any displacement exceeding 5 days, as well as the return;
- d) communicate the change of job;
- e) to communicate information and documents capable of allowing the control of its means of existence.

**(2) The court may require the person against whom the postponement of the application of the sentence has been 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 of 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 established by the law on the execution of sentences;
- c) to attend one or more social reintegration programs carried out by the probation service or organized in collaboration with community institutions;
- d) to submit to control, treatment or medical care measures;
- e) not to communicate with the victim or his family members, with the persons with whom he

- committed the crime or with other persons, established by the court, or not to approach them;
- f) not to be in certain places or at certain sports, cultural or other public gatherings, established by the court;
- g) not to drive certain vehicles determined by the court;
- h) not to own, use or carry any category of weapons;
- i) not to leave the territory of Romania without the consent of the court;
- j) not to occupy or exercise the position, profession, trade or activity used for the commission of the crime,

(3) In order to establish the obligation provided for in paragraph (2) letter b), the court shall consult the information made periodically available by the probation service regarding the concrete possibilities of execution existing at the level of the probation service and at the level of the institutions in the community.

(4) When determining the obligation provided for in paragraph (2)(e) to (g), the court shall specifically identify the content of that obligation, taking into account the circumstances of the case.

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

## **Article 86: Supervision**

(1) During the supervision period, the data referred to in Article 85(1)(c) to (e) shall be communicated to the probation service.

(2) The supervision of the execution of the obligations provided for in Article 85(2)(a) to (c) and (5) shall be carried out by the probation service. The verification of the manner of fulfillment of the obligations provided in Article 85(2)(d) to (j) shall be made by the competent bodies, which shall notify the probation service of any violation thereof.

(3) The probation service shall take the necessary measures to ensure the fulfilment of the obligations laid down in Article 85(2)(a) to (d) as soon as possible from the date on which the conviction becomes final.

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

- a) reasons have arisen that justify either the modification of the obligations imposed by the court or the cessation 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, the obligations incumbent on him;

c)The supervised person has not fulfilled the civil obligations established by the decision, at the latest 3 months before the expiry of the supervision term.

### **Article 87: Modification or termination of obligations**

(1)If during the term of supervision there have been 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 that the supervised person has increased chances of rectification.

(2)The court orders the cessation 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 sentence**

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

(2)If, by the expiry of the term of supervision, the supervised person does not fully comply with the civil obligations established by the decision, the court shall revoke the postponement and order the application and execution of the penalty, unless the person proves that he has had no possibility to fulfill them.

(3)If, after the postponement of the application of the sentence, the supervised person has committed a new crime, with intent or outdated intention, discovered during the term of supervision, for which a conviction was pronounced even after the expiry of this term, the court shall revoke the postponement and order the application and execution of the sentence. The penalty imposed as a result of the revocation of the postponement and the penalty for the new offence shall be calculated according to the provisions regarding the concurrence of offences.

(4)If the subsequent offence is committed by negligence, the court may maintain or revoke the postponement of the application of the penalty. In the event of revocation, the provisions of paragraph 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 supervised person had committed another crime until the decision ordering the postponement became final, for which the prison sentence was imposed even after the expiry of this period, the postponement shall be annulled,

applying, as the case may be, the provisions regarding the concurrence of offences, recidivism or intermediate plurality.

(2) In the event of a concurrence of offences, the court may order the postponement of the application of the resulting penalty if the conditions laid down in Article 83 are met. If the postponement of the application of the penalty is ordered, the term of supervision shall be 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 the postponement of the application of the penalty**

(1) The person against whom the postponement of the application of the penalty has been ordered is no longer subject to the punishment and is not subject to any forfeiture, prohibition or incapacity that could arise from the crime committed, if he has not committed a crime again by the expiry of the term of supervision, the revocation of the postponement has not been ordered and a cause for annulment has not been discovered.

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

### **SECTION 5: Suspension of the execution of the sentence under supervision**

#### **Article 91: Conditions for the suspension of 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 punishment imposed, including in case of concurrent crimes, is imprisonment of no more than 3 years;**

\*) In the unitary interpretation and application of the provisions of Article 91 (1) letter a) of the Criminal Code, when the penalty of the fine is added to the prison sentence, the criminal fine is enforced, even if the execution of the prison sentence has been suspended under supervision.

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

c) the offender has shown 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 the offender to remove or reduce the consequences of the crime, as well as his

possibilities of correction, the court considers that the application of the penalty is sufficient and, even without its execution, the convicted person will not commit any other crimes, but it is necessary to supervise his conduct for a determined period.

(2) When the prison sentence is accompanied by the penalty of a fine imposed under the conditions of Article 62, the fine shall be enforced even if the execution of the prison sentence has been suspended under supervision.

**(3) The suspension of the execution of the sentence under supervision may not be ordered if:**

- a) the penalty imposed is only the fine;
- b) the application of the sentence was initially postponed, but later the postponement was revoked;
- c) the offender evaded criminal prosecution or trial or tried to thwart the finding of the truth or the identification and criminal liability of the author or the participants.
- d) if the special law expressly provides for it.

\*) In the uniform interpretation and application of the provisions of Article 91 (3) of the Criminal Code, when the penalty of the fine is added to the prison sentence, the criminal fine is enforced, even if the execution of the prison sentence has been suspended under supervision.

(3<sup>1</sup>) The suspension of the execution of the sentence under supervision may not be ordered in the case of the offences referred to in Article 192 (2) and (3) if they were committed under the conditions of Article 335 or 336.

(3<sup>2</sup>) The suspension of the execution of the sentence under supervision may not be ordered in the case of the offences referred to in Articles 209-211.

(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 to warn the convicted person about his future conduct and the consequences to which he exposes himself if he commits more crimes or does not comply with the supervision measures or does not execute the obligations incumbent on him during the term of supervision.

## **Article 92: Term of supervision**

(1) The duration of the suspension of the execution of the sentence under supervision constitutes a term of supervision for the convicted person and is between 2 and 4 years, but may not be less than the duration of the sentence imposed.

(2) The term of supervision is calculated from the date when the decision by which the

suspension of the execution of the sentence under supervision was pronounced became final.

(3) During the term of supervision, the convicted person must comply with the supervision measures and perform the obligations incumbent on him, under the conditions established by the court.

\*) The High Court of Cassation and Justice establishes that in the event of annulment of the postponement of the application of a sentence, followed by the suspension under supervision of the execution of the resulting main sentence, the term of supervision, established according to the provisions of Article 92 of the Criminal Code, shall be calculated from the date of the final decision ordering the suspension under supervision of the execution of the resulting main sentence.

### **Article 93: Supervisory measures and obligations**

**(1) During the term of supervision, the convicted person must comply with the following supervision measures:**

- a) to report to the probation service, on the dates set by it;
- b) to receive visits from the probation counselor designated with his supervision;
- c) to announce, in advance, the change of residence and any trip that exceeds 5 days;
- d) to communicate the change of job;
- e) to communicate information and documents capable of allowing the control of its means of existence,

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

- a) to attend a school training or professional qualification course;
- b) to attend one or more social reintegration programs carried out by the probation service or organized in collaboration with community institutions;
- c) to submit to control, treatment or medical care measures;
- d) not to leave the territory of Romania, without the consent of the court.

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

(4) In order to establish the content of the obligation provided for in paragraph (3), the court shall consult the information made available periodically by the probation service regarding the

concrete possibilities of execution existing at the level of the probation service and at the level of the institutions in the community.

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

#### **Article 94: Supervision of the convicted person**

(1)During the supervision period, the data referred to in Article 93(1)(c) to (e) shall be communicated to the probation service.

(2)The supervision of the execution of the obligations provided for in Article 93(2)(a) and (b), (3) and (5) shall be carried out by the probation service. The verification of the manner of fulfillment of the obligations provided in Article 93(2)(c) and (d) shall be made by the competent bodies, which shall notify the probation service of any violation thereof.

(3)The probation service shall take the necessary measures to ensure the fulfilment of the obligations laid down in Article 93(2)(a) and (b) and paragraph 3 as soon as possible from the date on which the conviction decision becomes final.

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

- a)reasons have arisen that justify either the modification of the obligations imposed by the court or the cessation 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, the obligations incumbent on him;
- c)The supervised person has not fulfilled the civil obligations established by the decision, at the latest 3 months before the expiry of the supervision term.

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

(1)If during the term of supervision there have been 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 that the convicted person has greater chances of correction.

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

#### **Article 96: Revocation of the suspension of the execution of the sentence under supervision**

(1) If, during the term of supervision, the supervised person, in bad faith, does not comply with the supervision measures or does not perform the obligations imposed or established by law, the court shall revoke the suspension and order the execution of the sentence.

(2) If, by the expiry of the term of supervision, the supervised person does not fully fulfill the civil obligations established by the decision, the court shall revoke the suspension and order the execution of the sentence, unless the person proves that he had no possibility to fulfill them.

(3) If the penalty of the fine which accompanied the sentence of imprisonment under the conditions of Article 62 has not been carried out and has been replaced by the sentence of imprisonment in accordance with Article 63 (2) or Article 64 (5) and (6), the court shall revoke the suspension and order the execution of the sentence, to which shall be added the prison sentence which replaced the fine.

(4) If, during the term of supervision, the convicted person has committed a new crime, discovered by the end of the term and for which a prison sentence has been pronounced, even after the expiry of this term, the court shall revoke the suspension and order the execution of the sentence.

(5) The main punishment for the new offence shall be established and executed, as the case may be, in accordance with the provisions on recidivism or intermediate plurality.

(6) If the subsequent offence is committed by negligence, the court may maintain or revoke the suspension of the execution of the sentence under supervision. In the event of revocation, the provisions of paragraphs 1, 4 and 5 shall apply accordingly.

#### **Article 97: Annulment of the suspension of the execution of the sentence under supervision**

(1) If, during the term of supervision, it is discovered that the convicted person had committed another crime until the decision ordering the suspension became final, for which the prison sentence was imposed even after the expiry of this period, the suspension shall be annulled, applying, as the case may be, the provisions regarding the concurrence of crimes, recidivism or intermediate plurality.

(2) In the event of a concurrence of offences or intermediate plurality, the court may order the suspension of the execution of the resulting sentence, if the conditions laid down in Article 91 are met. If the suspension of the execution of the sentence under supervision is ordered, the term of supervision shall be calculated from the date of the final decision of conviction by which the suspension of the execution of the sentence under supervision was previously pronounced.

### **Article 98: Effects of the suspension of the execution of the sentence under supervision**

(1) If the convicted person has not committed a new crime discovered by the expiry of the term of supervision, the suspension of the execution of the sentence under supervision has not been revoked and a cause for annulment has not been discovered, the sentence is considered to have been executed.

(2) The suspension of the execution of the sentence under supervision does not have any effect on the security measures and civil obligations provided for in the conviction decision.

## **SECTION 6: Conditional release**

### **Article 99: Conditions of conditional release in case of life imprisonment**

**(1) Conditional release in the case of life imprisonment may be ordered, if:**

- a) the convicted person actually served 20 years of imprisonment;
- b) the convicted person had good conduct throughout the execution of the sentence;
- c) the convicted person has fully fulfilled the civil obligations established by the conviction decision, unless he proves that he had no possibility to fulfill them;
- d) The court is convinced that the convicted person has recovered and can reintegrate into society.

(2) It is mandatory to present the factual reasons that determined the granting of conditional release and to warn the convicted person about his future conduct and the consequences to which he is exposed, if he will commit more crimes or will not comply with the supervision measures or if he will not perform the obligations incumbent on him during the term of supervision.

(3) From the date of conditional release, the convicted person is subject to a term of supervision of 10 years.

### **Article 100: Conditions of conditional release in case of prison sentence**

**(1) Conditional release in the case of imprisonment may be ordered, if:**

- a) the convicted person has served at least two-thirds of the sentence, in the case of imprisonment not exceeding 10 years, or at least three-quarters of the sentence, but not more than 20 years, in the case of imprisonment of more than 10 years;
- b) the convicted person is serving his sentence in semi-open or open regime;
- c) the convicted person has fully fulfilled the civil obligations established by the conviction decision, unless he proves that he had no possibility to fulfill them;
- d) The court is convinced that the convicted person has recovered and can reintegrate into

society.

(2) In the case of a convicted person who has reached the age of 60, conditional release may be ordered, after the effective execution of half of the sentence, in the case of imprisonment not exceeding 10 years, or at least two-thirds of the duration of the sentence, in the case of imprisonment of more than 10 years, if the conditions laid down in paragraph 1(b) to (d) are met.

(3) In calculating the fractions of punishment provided for in paragraph (1), the part of the duration of the sentence that can be considered, according to the law, as executed on the basis of the work performed, shall be taken into account. In this case, conditional release may not 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 calculating the fractions of punishment provided for in paragraph (2), the part of the duration of the sentence that can be considered, according to the law, as executed on the basis of the work performed, shall be taken into account. In this case, conditional release may not 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 convicted person about his future conduct and the consequences to which he exposes himself, if he will commit more crimes or will not comply with the supervision measures or will not perform the obligations incumbent on him during the term of supervision.

(6) The interval between the date of conditional release and the date of completion of the sentence constitutes a term of supervision for the convicted person.

#### **Article 101: Supervisory measures and obligations**

**(1) If the remaining sentence not served on the date of release is 2 years or more, the convicted person must comply with the following supervision measures:**

- a) to report to the probation service, on the dates set by it;
- b) receive visits from the person designated with his supervision;
- c) to announce, in advance, any change of residence and any displacement exceeding 5 days;
- d) communicate the change of job;
- e) to communicate information and documents capable of allowing the control of its means of existence.

**(2) In the case referred to in paragraph 1, the court may require the convicted person to perform one or more of the following obligations:**

- a)to attend a school training or professional qualification course;
- b)to attend one or more social reintegration programs carried out by the probation service or organized in collaboration with community institutions;
- c)not to leave the territory of Romania;
- d)not to be in certain places or at certain sports, cultural or other public gatherings, established by the court;
- e)not to communicate with the victim or his family members, with the participants in the commission of the crime or with other persons, established by the court, or not to approach them;
- f)not to drive certain vehicles determined by the court;
- g)not to own, use or carry any category of weapons.

(3)The obligations provided for in paragraph (2)(c) to (g) may be imposed to the extent that they have not been applied in the content of the complementary penalty of the prohibition of the exercise of certain rights.

(4)When determining the obligation referred to in paragraph (2)(d) to (f), the court shall specifically identify the content of that obligation, taking into account the circumstances of the case.

(5)The supervisory measures and obligations referred to in paragraph 2(a) and (b) shall be carried out from the moment the release is granted, for a period equal to one third of the duration of the supervision period, but not more than 2 years, and the obligations referred to in paragraph 2(c) to (g) shall be carried out throughout the duration of the supervision period.

(6)(the text of Article 101(6) of Part I, Title III, Chapter V, Section 6 was repealed on 01-Feb-2014 by Article 245(13) of Title III, Chapter II of Law 187/2012)

## **Article 102: Supervision of the convicted person**

(1)During the supervision, the data referred to in Article 101(1)(c) to (e) shall be communicated to the probation service.

(2)The supervision of the execution of the obligations provided for in Article 101(2)(a) and (b) shall be carried out by the probation service. The verification of the fulfillment of the obligations provided in Article 101(2)(c)-g) shall be carried out by the competent bodies, which shall notify the probation service of any violation thereof.

(3)The supervision of the execution of the obligations provided for in Article 101(2)(d) and (e) may also be carried out through an electronic surveillance system, under the conditions provided

for by the special law.

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

- a) reasons have arisen that justify either the modification of the obligations imposed by the court or the cessation 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, the obligations incumbent on him.

#### **Article 103: Modification or termination of obligations**

(1) If, during the supervision, there have been 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 that the convicted person has greater chances of social reintegration.

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

#### **Article 104: Revocation of conditional release**

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

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

\*) By Decision no. 22/2020 The High Court of Cassation and Justice establishes that, if an offence (A) is concurrent with both the offence representing the first term (B) and the offence representing the second term (C) of a post-conviction recidivism, the operation of establishing the resulting penalty involves the application of the rules of concurrent offences between the sentences established for offences (A) and (B), the rules of post-conviction recidivism were subsequently applied in relation to the punishment established for the offence (C).

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

### **Article 105: Cancellation of conditional release**

**(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 the prison sentence was imposed even after the expiry of this period, the release shall be annulled, applying, as the case may be, the provisions regarding the concurrence of crimes, recidivism or intermediate plurality.**

\*) The High Court of Cassation and Justice establishes that, in the interpretation and application of the provisions of Article 105 (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" refers both to the situation of crimes committed before the conditional release and discovered after the granting of conditional release, until the expiry of the term of supervision, as well as the situation of the crimes committed prior to the conditional release and discovered before the conditional release.

\*) By Decision no. 22/2020 The High Court of Cassation and Justice establishes that, if an offence (A) is concurrent with both the offence representing the first term (B) and the offence representing the second term (C) of a post-conviction recidivism, the operation of establishing the resulting penalty involves the application of the rules of concurrent offences between the sentences established for offences (A) and (B), the rules of post-conviction recidivism were subsequently applied in relation to the punishment established for the offence (C).

(2) If, in relation to the resulting sentence, the conditions laid down in Article 99 or Article 100 are met, the court may grant conditional release. If the release has been ordered, the term of supervision shall be calculated from the date of the first release.

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

### **Article 106: Effects of conditional release**

If the convicted person has not committed a new crime discovered by the expiry of the term of supervision, the revocation of the conditional release has not been ordered and a cause for annulment has not been discovered, the sentence is considered executed.

## **TITLE IV: Safety measures**

## CHAPTER I: General provisions

### Article 107: Purpose of safety measures

- (1) The security measures aim to remove a state of danger and prevent the commission of the acts provided for by the criminal law.
- (2) Security 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 if the perpetrator is not punished.

### Article 108: Categories of safety measures

The safety measures are:

- a) obligation to medical treatment;
- b) medical hospitalization;
- c) prohibition of holding a position or exercising a profession;
- d) special confiscation.
- e) extended confiscation.

## CHAPTER II: Regime of safety measures

### Article 109: Forcing 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 an improvement is obtained that removes the state of danger.
- (2) When the person against whom this measure was taken does not follow the treatment, medical hospitalization can be ordered.
- (3) If the person obliged to 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, chronic consumer of psychoactive substances or suffers from an infectious disease and poses a danger to society, the measure of hospitalization in a specialized health unit can be taken, until recovery or until an improvement is obtained that removes the state of danger.

### Article 111: Prohibition of holding office or pursuing a profession

(1) When the perpetrator has committed the act due to incapacity, untraining 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 or to exercise that profession, trade or activity may be taken.

(2) The security measure may be revoked upon request, after a period of at least one year has elapsed, if it is found that the grounds that required its taking have ceased. A new application may not be made until a period of at least one year has elapsed from the date of rejection of the previous application.

### **Article 112: Special confiscation**

**(1) The following are subject to special confiscation:**

- a) the goods produced by the commission of the act provided for by the criminal law;
- b) goods that have been used, in any way, or intended to be used for the commission of an act provided for by the criminal law, if they belong to the perpetrator or if, belonging to another person, he or she 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 product obtained, if they belong to the perpetrator or if, belonging to another person, he knew the purpose of their use;
- d) goods that have been 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) the possession of which is prohibited by the criminal law.

(2) In the case referred to in paragraph (1)(b) and (c), if the value of the assets subject to confiscation is manifestly disproportionate to the nature and gravity of the act, the confiscation shall be ordered in part, by means of monetary equivalent, taking into account the consequence produced or which could have occurred and the contribution of the asset to it. If the goods have been produced, modified or adapted for the purpose of committing the act provided for by the criminal law, their confiscation in their entirety is ordered.

(3) In the cases referred to in paragraph 1 (b) and (c), if the property cannot be confiscated because it does not belong to the offender and the person to whom it belongs did not know the purpose of its use, the cash equivalent of the property shall be confiscated in accordance with the provisions of paragraph 2.

(4) The provisions of paragraph (1) letter b) shall not apply in the case of acts committed by the press.

(5) If the assets subject to confiscation in accordance with paragraph (1)(b) to (e) are not found, money and goods shall be confiscated in their place up to their value.

(6) Property and money derived from the exploitation of the property subject to confiscation and the property produced thereby shall also be confiscated, with the exception of the property referred to in paragraph 1(b) and (c).

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

(1) Property other than those provided for in Article 112 shall also be subject to confiscation, when a person is convicted for an act likely to procure a material benefit and for which the penalty provided by law is imprisonment of 4 years or more, the court shall form the conviction that the property in question comes from criminal activities. The court's conviction can also be based on the disproportion between the legal income and the person's wealth.

(2) Extended confiscation is ordered on the property acquired by the convicted person within a period of 5 years before and, if applicable, after the moment of committing the crime, until the date of issuance of the act of notification to the court. Extended confiscation may 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.

(3) For the application of paragraph 2, the value of the property transferred by the convicted person or by a third party to a family member or to a legal person over which the convicted person has control shall also be taken into account.

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

(5) When establishing the difference between the lawful income and the value of the acquired assets, the value of the assets on the date of their acquisition and the expenses incurred by the convicted person, his or her family members shall be taken into account.

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

(7) The goods and money obtained from the exploitation or use of the goods subject to confiscation, as well as the goods produced by them, shall also be confiscated.

(8) The confiscation may not exceed the value of the property acquired during the period referred to in paragraph 2, which exceeds the level of the convicted person's lawful income.

## **TITLE V:Minority**

### **CHAPTER I:Regime of criminal liability of minors**

#### **Article 113: Limits of criminal liability**

- (1)A 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 discernment.
- (3)A 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 committing the crime, was between 14 and 18 years old.

**(2)An educational measure involving deprivation of liberty may be taken against the minor referred to in paragraph (1) in the following cases:**

- a)if he/she has committed another crime, for which an educational measure has been applied to him/her that has been executed or whose execution began before the commission of the offense for which he/she is being tried;
- b)when the penalty provided by law for the crime committed is imprisonment of 7 years or more or life imprisonment.

#### **Article 115: Educational measures**

**(1)Educational measures are non-custodial or custodial.**

**1. The non-custodial educational measures are:**

- a)civic training internship;
- b)surveillance;
- c)recording on weekends;
- d)daily assistance.

**2. The educational measures involving deprivation of liberty are:**

- a)admission to an educational center;
- b)admission to a detention center.

(2)The choice of the educational measure to be taken towards the minor shall be made, under the conditions of Article 114, according to the criteria provided in Article 74.

**Article 116: Evaluation report**

(1) In order to carry out the evaluation of the minor, according to the criteria provided for in Article 74, the court will request the probation service to draw up 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 on the observance of the conditions for the execution of the educational measure or the imposed obligations shall be drawn up by the probation service in all cases in which the court orders the educational measure or the modification or termination of the execution of the imposed obligations, except for the situation provided for in Article 126, when it will be drawn up by the educational or detention center.

**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 obligation of the minor to participate in a program with a duration of no more than 4 months, in order to help him understand the legal and social consequences to which he exposes himself in case of committing crimes and to make him responsible for his future behavior.

(2) The organization, ensuring participation and supervision of the minor, during the civic training course, are done under the coordination of the probation service, without affecting the minor's school or professional program.

**Article 118: Supervision**

The educational measure of supervision consists of controlling and guiding the minor within his daily schedule, for a period of between two and 6 months, under the coordination of the probation service, in order to ensure participation in school or professional training courses and to prevent him from carrying out activities or coming into contact with certain persons who could affect the process of correcting him.

**Article 119: Weekend recording**

(1) The educational measure of the weekend registration consists in the obligation of the minor not to leave the house on Saturdays and Sundays, for a period of 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)The supervision is done under the coordination of the probation service.

### **Article 120: Daily assistance**

(1)The educational measure of daily assistance consists in the obligation of the minor to comply with a schedule established by the probation service, which contains the schedule and conditions for carrying out the activities, as well as the prohibitions imposed on the minor.

(2)The educational measure of daily assistance is taken for a period of between 3 and 6 months, and the supervision is done under the coordination of the probation service.

### **Article 121: Obligations that may be imposed on the minor**

**(1)During the execution of non-custodial educational measures, the court may impose on the minor one or more of the following obligations:**

- a)to attend a school training 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 or other public gatherings, established by the court;
- d)not to approach or communicate with the victim or his/her family members, with the participants in the commission of the crime or with other persons established by the court;
- e)to report to the probation service on the dates set by him;
- f)to undergo control, treatment or medical care.
- g)to participate, alone or, as the case may be, together with parents or another legal representative, in the special psychological counseling programs organized by the General Directorate of Social Assistance and Child Protection or by other public or private specialized institutions.

(2)When determining the obligation laid down in paragraph 1(d), the court shall specifically identify the content of that 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)reasons have arisen that justify either the modification of the obligations imposed by the court or the cessation 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, the obligations incumbent on him.

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

(1) If, during the supervision, reasons have arisen 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 that the supervised person has greater chances of correction.

(2) The court orders the cessation of the execution of some of the obligations it 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 observe, in bad faith, the conditions for the execution of the educational measure or the obligations imposed, 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 more severe non-custodial educational measure;
- c) the replacement of the measure taken with internment in an educational center, if, initially, the most severe non-custodial educational measure was taken, for its maximum duration.

(2) In the cases referred to in paragraph (1)(a) and (b), if the conditions for the execution of the educational measure or the obligations imposed are not complied with on this occasion as well, the court shall replace the non-custodial educational measure with the measure of internment in an educational centre.

**(3) If the minor in the execution of a non-custodial educational measure commits a new crime or is tried for a concurrent crime previously committed, the court orders:**

- a) the extension of the educational measure initially taken, without being able to exceed the maximum provided by law for it;
- b) the replacement of the measure initially taken with another more severe non-custodial educational measure;
- c) the replacement of the measure initially taken with an educational measure involving deprivation of liberty.

(4) In the cases referred to in paragraph 1(a) and (b), as well as in paragraph 3(a) and (b), the court may impose new obligations on the minor or increase the conditions for the performance of existing ones.

### CHAPTER III: Regime of educational measures involving deprivation of liberty

#### Article 124: Admission to 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 preparation and professional training program according to his skills, as well as social reintegration programs.

(2) Hospitalization is ordered for a period of between one and 3 years.

**(3) If, during the period of internment, the minor commits a new crime or is tried for a concurrent crime previously committed, the court may maintain the measure of internment in an educational center, extending its duration, without exceeding the maximum provided by law, or may replace it with the measure of internment in a detention center.**

\*) According to Decision no. 17/2020, the High Court of Cassation and Justice establishes that, in application of the provisions of Article 124(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 concurrence of crimes being incidental, the period of execution of the educational measure of internment in an educational center is subtracted from the duration of the educational measure of internment in an educational center.

**(4) If, during the period of hospitalization, the minor has shown a constant interest in acquiring school and professional knowledge and has made obvious progress towards social reintegration, after the execution of at least half of the duration of the hospitalization, the court may order:**

a) replacement of hospitalization 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 hospitalized person has reached the age of 18.

(5) With the replacement or release, the court shall require compliance with one or more of the obligations provided for in Article 121 until the duration of the internment measure has been completed.

(6) If the minor does not observe, in bad faith, the conditions for the execution of the daily assistance measure or the obligations imposed, the court reverses the replacement or release and orders the execution of the remainder of the detention measure in an educational center.

**(7) In the event of a new offence committed by a person who has not reached the age of 18**

**and for whom the replacement of the measure of internment in an educational centre with the measure of daily assistance has been ordered, the court shall return to the replacement and order:**

- a) the 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) admission to a detention center.

#### **Article 125: Internment in a detention center**

(1) The educational measure of internment in a detention center consists of the minor's internment 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 professional training programs according to his skills.

(2) Internment is ordered for a period of between 2 and 5 years, unless the punishment provided by law for the crime committed is imprisonment of 20 years or more or life imprisonment, when internment is taken for a period between 5 and 15 years.

(3) If, during the period of hospitalization, the minor commits a new crime or is tried for a concurrent crime previously committed, the court shall extend the measure of detention, without exceeding the maximum provided for in paragraph (2), determined in relation to the heaviest punishment of those provided by law for the crimes committed. The period executed until the date of the decision is subtracted from the duration of the educational measure.

**(4) If, during the period of hospitalization, the minor has shown a constant interest in acquiring school and professional knowledge and has made obvious progress towards social reintegration, after the execution of at least half of the duration of the hospitalization, the court may order:**

- a) replacement of hospitalization 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 shall require compliance with one or more of the obligations provided for in Article 121, until the duration of the measure of internment has expired.

(6) If the minor fails to comply, in bad faith, with the conditions for the execution of the daily assistance measure or the obligations imposed, the court reverses the replacement or release and orders the execution of the remainder of the detention measure in a detention center.

**(7) In the event of a new offence committed by a person who has not reached the age of 18 until the end of the term of detention and for whom the replacement of the measure of internment in a detention centre with the measure of daily assistance has been ordered, the court shall return to the replacement and order:**

- a) execution of the remainder of the duration of the measure of internment in a detention center;
- b) the extension of the duration of this hospitalization under the conditions provided for in paragraph (3).

#### **Article 126: Change of enforcement regime**

If, during the execution of an educational measure involving deprivation of liberty, the internee, who has reached the age of 18, behaves in a manner that negatively influences or hinders the process of recovery and reintegration of the other internees, the court may order the continuation of the execution of the educational measure in a penitentiary.

#### **Article 127: Calculation of the duration of educational measures**

In the case of educational measures involving deprivation of liberty, the provisions of Articles 71 to 73 shall apply accordingly.

### **CHAPTER IV: Common provisions**

#### **Article 128: Effects of mitigating and aggravating causes**

In the case of crimes committed during the minority, the causes of mitigation and aggravation are taken into account when choosing the educational measure and produce effects within the limits provided by the law for each educational measure.

#### **Article 129: Plurality of crimes**

(1) In case of concurrence of crimes committed during the minority, a single educational measure shall be established and taken for all acts, under the conditions of Article 114, taking into account the criteria provided in Article 74.

**(2) In case of committing two crimes, one of which during the minority and one after the age of majority, an educational measure is taken for the crime committed during the minority, and for the crime committed after the age of majority, a penalty is established, after which:**

- a) if the educational measure is not deprivation of liberty, only the sentence shall be executed;
- b) if the educational measure is deprivation of liberty, and the punishment is imprisonment, the prison sentence shall be applied, which shall be increased by a duration equal to at least one

quarter of the duration of the educational measure or of the remainder of it remaining unexecuted on the date of committing the crime committed after the age of majority. The penalty thus obtained may not exceed the duration of the resulting penalty applicable under Article 39(1)(b) if both offences were committed after the age of majority.

c) if the punishment imposed for the crime committed after reaching the age of majority is life imprisonment, only this sentence shall be served;

d) If the educational measure is deprivation of liberty, and the punishment is a fine, the educational measure shall be executed, the duration of which shall be increased by no more than 6 months, without exceeding the maximum provided by law for it.

(3) In the case provided for in paragraph (2) letter b), the duration of the sentence imposed shall be deducted from what has been served from the moment of committing the crime committed after the age of majority until the date of the trial.

(4) In the case of the commission of two or more concurrent offences after the age of majority, the rules regarding the concurrence of offences shall first apply, after which the provisions of paragraph (2) shall apply.

(5) The penalty established in accordance with paragraph 2(b) may not be subject to postponement of the application of the penalty or to suspension of execution under supervision.

### **Article 130: Discovering a crime committed while in minority**

If, during the period of supervision of the postponement of the application of the sentence, the suspension under supervision or the conditional release, it is discovered that the supervised person had committed another crime during the minority for which an educational measure involving deprivation of liberty was taken, even after the expiry of that period, the postponement, suspension or release shall be annulled, the provisions of Article 129(2) to (4) being applied accordingly.

### **Article 131: Prescription of criminal liability of minors**

The limitation periods of criminal liability, provided for in Article 154, shall be reduced by half for those who were minors at the time of the commission of the crime and shall be interrupted or suspended under the conditions provided by law for adults.

### **Article 132: Prescription of the execution of educational measures**

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

(2) Educational measures involving deprivation of liberty are prescribed within a period 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 law for adults.

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

### **Article 133: Effects of educational measures**

The educational measures do not attract prohibitions, lapses or incapacities.

### **Article 134: The minor who has come of age**

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

(2)When, on the date of delivery of the decision by which an educational measure involving deprivation of liberty 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 for in Article 74, may order the execution of the educational measure in a penitentiary.

## **TITLE VI:Criminal liability of the legal person**

### **CHAPTER I:General provisions**

### **Article 135: Conditions of criminal liability of the legal person**

(1)The legal person, with the exception of the state and the public authorities, is criminally liable for crimes committed in the achievement 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 object 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.

\*) The HCCJ admits the complaint filed by the Court of Appeal of Brasov - Criminal Section and establishes that:

"The military hospital is a public institution within the meaning of Article 135 of the Criminal Code, and it may not be the perpetrator of the offences of bribery, provided for in Article 289(1) of

the Criminal Code, and abuse of office, provided for in Article 297(1) of the Criminal Code."

### **Article 136: Penalties applicable to the legal person**

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

(2)The main punishment is a fine.

**(3)The complementary penalties are:**

a)dissolution of the legal entity;

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

c)the closure of some of the legal entity's work points 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)posting or publishing the conviction decision.

### **Article 137: Setting the fine for the legal entity**

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

(2)The amount of the fine is established by the system of fine days. The amount corresponding to a fine-day, between 100 and 5,000 lei, is multiplied by the number of fine-days, 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 penalty. The amount of the amount corresponding to a fine-day shall be 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 has the obligation to prepare and submit, according to the law, for the financial year prior to the indictment.

**(3<sup>1</sup>)The amount of the amount corresponding to a fine-day shall be determined taking into account the value of the patrimonial asset on the date of the indictment, in the case of the legal person which:**

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

b)was established in the year of the indictment.

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

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

- fine;
- b) 120 and 240 fine-days, when the law provides for a prison sentence of no more than 5 years, solely or alternatively with the penalty of a fine;
  - c) 180 and 300 fine days, when the law provides for a prison sentence of no more than 10 years;
  - d) 240 and 420 fine days, when the law provides for a prison sentence of no more than 20 years;
  - e) 360 and 510 fine days, when the law provides for a prison sentence of more than 20 years or life imprisonment.

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

## **CHAPTER II: Regime of complementary penalties applied to the legal person**

### **Article 138: Application and execution of complementary penalties in the case of the legal person**

(1) The application of one or more additional penalties is ordered when the court finds that, in view of the nature and gravity of the offence and the circumstances of the case, these penalties are necessary.

(2) The application of one or more complementary penalties is mandatory when the law provides for this penalty.

(3) The additional penalties provided for in Article 136(3)(b) to (f) may be applied cumulatively.

(4) The execution of the complementary sentences begins after the conviction decision becomes final.

### **Article 139: Dissolution of the legal entity**

(1) **The complementary penalty of dissolution of the legal person is applied when:**

- a) the legal person was established for the purpose of committing crimes;
- b) his object of activity was diverted for the purpose of committing crimes, and the punishment provided by law for the crime committed is imprisonment of more than 3 years.

(2) In the event of non-execution, in bad faith, of one of the additional penalties provided for in Article 136(3)(b) to (e), the court shall order the dissolution of the legal person.

(3) (text of Article 139(3) of Part I, Title VI, Chapter II was repealed on 01-Feb-2014 by Article

245(16) of Title III, Chapter II of Law 187/2012)

**Article 140: Suspension of the activity of the legal entity**

(1)The complementary penalty of suspension of the activity of the legal person consists in the prohibition of carrying out the activity or one of the activities of the legal person in the performance of which the crime was committed,

(2)In the event of non-execution, in bad faith, of the additional penalty provided for in Article 136(3)(f), the court shall order the suspension of the activity or of one of the activities of the legal person until the enforcement of the additional penalty, but not more than 3 months.

(3)If the additional penalty has not been enforced by the expiry of the period provided for in paragraph (2), the court shall order the dissolution of the legal person.

**Rule 141: Non-application of the dissolution or suspension of the activity of the legal entity**

(1)The additional penalties provided for in Article 136(3)(a) and (b) may not be applied to public institutions, political parties, trade unions, employers' associations and religious or national minority organizations established in accordance with the law.

(2)The provisions of paragraph (1) shall also apply to legal persons operating in the field of the press.

**Article 142: Closure of some work points of the legal entity**

(1)The complementary penalty of the closure of some work points of the legal person consists in the closure of one or more of the work points belonging to the for-profit legal person, in which the activity in which the crime was committed was carried out.

(2)The provisions of paragraph (1) shall not apply to legal persons operating in the field of the press.

**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 the award of public contracts, provided for by law.

**Article 144: Placement under judicial supervision**

(1)The complementary punishment of placement under judicial supervision involves carrying out under the supervision of a judicial agent the activity that led to the commission of the crime, for a

period of one year to 3 years.

(2)The judicial agent 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 complaint is well founded, it shall order that the penalty be replaced by the penalty provided for in Article 140.

(3)Placement under judicial supervision shall not apply in the case of legal persons referred to in Article 141.

#### **Article 145: Posting or publishing the conviction**

(1)The posting of the final conviction decision or its publication shall be made at the expense of the convicted legal person.

(2)By displaying or publishing the conviction decision, the identity of other persons cannot be revealed.

(3)The conviction decision shall be posted in an extract, in the form and place established by the court, for a period between one month and 3 months.

(4)The publication of the conviction decision shall be made in an extract and in the form established by the court, through the written or audiovisual press or through other audiovisual means of communication, designated by the court.

(5)If the publication is made through the written or audiovisual press, the court determines the number of appearances, which cannot be more than 10, and in the case of publication by other audiovisual means, its duration cannot exceed 3 months.

### **CHAPTER III:Common provisions**

#### **Article 146: Recidivism in the case of legal persons**

(1)There is recidivism for the legal person when, after a conviction decision has become final and until rehabilitation, the legal person commits a crime again, with intent or with outdated intent.

(2)In case of recidivism, the special limits of the penalty provided by law for the new offense are increased by half, without exceeding the general maximum penalty of the fine.

(3)If the previous fine has not been enforced, in whole or in part, the fine established for the new offence, according to paragraph (2), shall be added to the previous penalty or to the remainder of it that has not been executed.

(4)The provisions of Article 42 shall apply accordingly.

**Article 147: Mitigation and aggravation of the criminal liability of the legal person**

(1) In case of concurrence of crimes, 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 offences, the complementary penalties of a different nature, except for dissolution, or those of the same nature, but with different content, shall be cumulated, and of the complementary penalties of the same nature and with the same content, the heaviest shall be applied,

(3) In case of multiple crimes, the security measures taken according to Article 112 are cumulated.

**Article 148: Prescription of criminal liability**

The criminal liability of the legal person shall be prescribed under the conditions provided by law for the natural person, the provisions of Articles 153-156 being applied accordingly.

**Article 149: Prescription for the execution of the sentence**

(1) The limitation period for the execution of the penalty of the fine imposed on the legal entity is 5 years.

(2) The execution of the complementary penalties imposed on legal persons is prescribed within a period of 3 years, which runs from the date on which the penalty of the fine was executed or considered to have been executed.

(3) The provisions of Articles 161, 162(2), 163 and 164 shall apply accordingly.

**Article 150: Rehabilitation of the legal entity**

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

**Article 151: Effects of the merger and division of the legal entity**

**(1) In the event of loss of legal personality by merger, absorption or division occurred after the commission of the crime/criminal liability and its consequences, the following shall be committed:**

- a) charged to the legal person created by merger;
- b) in charge of the absorbing legal entity;

c) charged to legal entities that were created by division or that acquired fractions of the patrimony of the divided person.

**(2) In the case provided for in paragraph (1), the following shall be taken into account when individualizing the penalty, as the case may be:**

a) the total revenues and total assets included in the last financial statement or, as the case may be, accounting reports that the legal entity that committed the crime has the obligation to prepare and submit, according to the law, prior to the merger or division, taking into account the part of its patrimony that was transferred to each legal entity participating in the operation;

b) the value of the patrimonial asset on the date of the merger or division, in the case of the legal person which, according to the law, does not have the obligation to prepare and submit the documents provided for in letter a), respectively, in the case of the legal person established in the year of the indictment, taking into account the part of its patrimony that was transmitted to each legal person participating in the operation.

## **TITLE VII: Causes that remove criminal liability**

### **Article 152: Effects of the amnesty**

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

(2) The amnesty has no effect on the security measures and on the rights of the injured person.

### **Article 153: Prescription of criminal liability**

(1) The statute of limitations removes criminal liability.

**(2) The statute of limitations 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) offences referred to in Articles 188 and 189 and intentional offences followed by the death of the victim.

c) the offences provided for in Articles 209-211, 213, 218, 218<sup>1</sup>, 219, 219<sup>1</sup> and 282;

(3) The statute of limitations shall not remove criminal liability in the case of the offences referred to in paragraph (2)(b) for which the statute of limitations, general or special, has not expired on the date of entry into force of this provision.

## **Article 154: Limitation periods of criminal liability**

### **(1) The limitation periods of criminal liability are:**

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

### **(2) The time limits provided for in this article begin to run from the date of the commission of the crime. In the case of continuous crimes, the time limit runs from the date of cessation of the action or inaction, in the case of continuous crimes, from the date of the commission of the last action or inaction, and in the case of crimes usually, from the date of the commission of the last act.**

\*) The High Court of Cassation and Justice admits the appeal in the interest of the law and, in the interpretation and application of Article 174, with reference to Article 154(2) sentence I of the Criminal Code, establishes that:

The date of the commission of the crime and, implicitly, the date from which the statute of limitations for criminal liability begins to run in the case of simple crimes whose objective side implies the production of damage or the achievement of an undue benefit over a period of time is understood as the moment of occurrence of the first damage or of obtaining the first undue benefit.

\*) By Decision no. 1/2025 The High Court of Cassation and Justice admits the appeal in the interest of the law and establishes that, in the unitary interpretation and application of Article 154 paragraph (2) of the Criminal Code, by the date of commission of the offence and, implicitly, the date from which the limitation period of criminal liability begins to run in the case of the single offences provided for in Articles 289-292 of the Criminal Code, In the event that several normative modalities of the material element are carried out on different dates, the date of the commission of the first alternative modality is understood regardless of the subsequent and subsequent realization of several alternative modalities from the content of the crime and regardless of the time interval that interposes between the date of committing the first alternative modality and the commission of another

alternative modality or between the acts that make up the action characteristic of one of the normative ways of committing the act, namely the date of committing the first act in a succession of acts corresponding to a single normative modality.

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

(4) In the case of offences of trafficking and exploitation of vulnerable persons and offences against sexual freedom and integrity, other than those referred to in Article 153(2)(c), as well as the offence of child pornography, committed against a minor, the limitation period begins to run from the date on which he or she became the age of majority. If the minor died before reaching the age of majority, the limitation period begins to run from the date of death.

\*) By Decision no. 7/2022, the High Court of Cassation and Justice admits the appeal in the interest of the law and establishes that, in the unitary interpretation and application of the provisions of Article 488<sup>6</sup> paragraph (1) of the Code of Criminal Procedure in relation to Article 285 of the same Code and Article 154 of the Criminal Code, in cases concerning appeals regarding the duration of the trial in the case of acts whose perpetrators have not been identified (or identifiable), Although the criminal investigation bodies have taken the necessary steps for this purpose, deadlines are set for the completion of the criminal investigation (which also involves the identification of the perpetrators) and, respectively, in which a new appeal cannot be filed.

#### **Article 155: Interruption of the statute of limitations of criminal liability**

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

\*) Admits the exception of unconstitutionality and finds that the provisions of Article 155(1) of the Criminal Code are unconstitutional. The object of the exception of unconstitutionality is the provisions of Article 155 paragraph (1) of the Criminal Code with the following content: "The course of the limitation period of criminal liability is interrupted by the performance of any procedural act in question."

(2) After each interruption, a new statute of limitations begins to run.

(3) The interruption of the statute of limitations produces effects for all participants in the crime, even if the act of interruption concerns only some of them.

**(4) The deadlines provided for in Article 154, if they have been exceeded once again, shall be**

**considered fulfilled no matter how many interruptions may occur.**

\*) By Decision no. 391/2025 The High Court of Cassation and Justice admits the notification requesting a preliminary decision and establishes that:

1. In the case of the reopening of the criminal trial, in application of Article 155(4) of the Criminal Code, the period between the date of the initial conviction and the date of the reopening of the criminal trial shall not be taken into account when calculating the limitation period of criminal liability.

2. After the reopening of the criminal trial, a new general limitation period shall no longer run according to Article 155 (5) of the Criminal Code, if this period was fulfilled before the initial conviction became final, in application of Article 5 of the Criminal Code on the more favorable criminal law, in the light of the declaration as unconstitutional of the provisions of Article 155 paragraph (1) of the Criminal Code by decisions no. 297/2018 and no. 358/2022 of the Constitutional Court.

(5) The admission in principle of the request for the reopening of the criminal trial causes a new limitation period of criminal liability to run.

#### **Article 156: Suspension of the statute of limitations of criminal liability**

(1) The course of the statute of limitations of criminal liability is suspended for the time when a legal provision or an unforeseeable or unavoidable circumstance prevents the initiation of the criminal action or the continuation of the criminal trial.

(2) The statute of limitations resumes its course from the day on which the cause of suspension ceased.

#### **Article 157: Lack of prior complaint**

(1) In the case of offences for which the initiation of criminal proceedings is conditional on the filing of a prior complaint by the injured person, the absence of such a complaint removes criminal liability.

(2) The act that caused injury to several persons entails criminal liability, even if the prior complaint was made only by one of them.

(3) The act entails the criminal liability of all natural or legal persons who participated in its commission, even if the prior complaint was made only with regard to one of them.

(4) If the injured party is a person with no capacity to exercise or with restricted capacity to exercise or a legal person who is represented by the perpetrator, the criminal action may also be initiated ex

officio.

(5) If the injured person has died or in the case of the legal person it has been liquidated, before the expiry of the deadline provided by law for filing the complaint, the criminal action may be initiated ex officio.

### **Article 158: Withdrawal of the preliminary complaint**

**(1) The withdrawal of the preliminary complaint may occur until a final decision is pronounced, in the case of offences for which the initiation of criminal proceedings is conditional on the filing of a prior complaint.**

\*) By Decision no. 30/2024 The High Court of Cassation and Justice establishes that, in the case of crimes for which the criminal action is initiated at the prior complaint of the injured person or ex officio, and the injured person has already filed such a complaint, the criminal action must be considered as having been initiated at the prior complaint of the injured person, so that the withdrawal of the preliminary complaint may occur according to Article 158(1) of the Criminal Code.

(2) The withdrawal of the prior complaint removes the criminal liability of the person in respect of whom the complaint has been withdrawn.

(3) For persons lacking the capacity to exercise, the withdrawal of the prior complaint shall be made only by their legal representatives. In the case of persons with restricted exercise capacity, the withdrawal shall be made with the consent of the persons provided by law.

(4) In the case of offences for which the initiation of criminal proceedings is subject to the filing of a prior complaint, regardless of whether the criminal proceedings were initiated following a prior complaint or ex officio, in accordance with the law, the withdrawal of the complaint takes effect only if it is appropriated by the prosecutor.

(5) In the case of the offences referred to in Articles 193 and 196 committed against a family member, the withdrawal of the criminal complaint shall not produce effects.

### **Article 159: Reconciliation**

(1) Reconciliation may occur if the initiation of the criminal action was made ex officio, if the law expressly provides for it.

(2) Reconciliation removes criminal liability and extinguishes civil action.

**(3) The reconciliation produces effects only with regard to the persons between whom it intervened and if it takes place until the reading of the act of notification to the court.**

\*) The Constitutional Court admits the exception of unconstitutionality of the provisions of Article 159(3) and finds that they are constitutional to the extent that they apply to all defendants sent to trial before the date of entry into force of Law no. 286/2009 on the Criminal Code and for which on that date the moment of reading the notification document had been exceeded.

\*) By Decision no. 222/2023 The Constitutional Court admits the exception of unconstitutionality and finds that the legislative solution contained in Article 159(3) the final sentence of the Criminal Code, which concerns the phrase "and if it takes place until the reading of the act of notification of 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 notification to the court, in a crime for which the law has expressly provided that reconciliation is possible.

(4) For persons lacking the capacity to exercise, reconciliation is made only by their legal representatives, and persons with restricted capacity to exercise may be reconciled with the consent of the persons provided by law.

(5) In the case of a 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 towards the natural persons who participated in the commission of the same act.

(6) If the offence is committed by the representative of the injured legal person, the provisions of Article 158(4) shall apply accordingly.

## **TITLE VIII: Causes that remove or modify the execution of the sentence**

### **Article 160: Effects of the pardon**

(1) The pardon has the effect of removing, in whole or in part, the execution of the sentence or its commutation to a lighter one.

(2) The pardon has no effect on complementary punishments and educational measures that do not deprive them of liberty, unless otherwise ordered by the act of pardon.

(3) The pardon has no effect on the security measures and on the rights of the injured person.

(4) The pardon has no effect on the sentences whose execution is suspended under supervision, unless otherwise ordered by the act of pardon.

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

(1) The statute of limitations removes the execution of the main penalty.

**(2)The statute of limitations does not preclude the execution of the main sentences in the case of:**

- a)crimes of genocide, crimes against humanity and war, regardless of the date on which they were committed;
- b)offences referred to in Articles 188 and 189 and intentional offences followed by the death of the victim.

(3)The limitation period shall not preclude the execution of the main penalties in the case of the offences referred to in paragraph (2)(b) for which, on the date of entry into force of this provision, the limitation period for enforcement has not expired.

### **Article 162: Limitation periods for the execution of the sentence**

**(1)The limitation periods for the execution of the sentence for the natural person are:**

- a)20 years, when the sentence to be served is life imprisonment or imprisonment for more than 15 years;
- b)5 years, plus the duration of the sentence to be served, but not more than 15 years, in the case of other prison sentences;
- c)3 years, if the punishment is a fine.

(2)The time limits provided for in paragraph 1 shall be counted from the date on which the conviction decision became final.

(3)In the case of revocation or cancellation, postponement of the application of the sentence, suspension of the execution of the sentence under supervision or conditional release, the limitation period begins to run from the date when the revocation or annulment decision became final.

(4)In the case of revocation of conditional release, under the conditions of Article 104(1), the limitation period shall begin to run from the date on which the revocation decision became final and shall be calculated in relation to the remainder of the sentence not served.

(5)In the case of substitution of the fine by the prison sentence, the limitation period runs from the date when the replacement decision became final and is calculated in relation to the duration of the prison sentence.

(6)The complementary penalties applied to the natural person and the security measures are not prescribed.

(7)The sentence to be executed means the sentence established by the court, taking into account the subsequent causes of 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 beginning of the execution of the sentence. Evasion of execution, after the beginning of the execution of the sentence, causes a new limitation period to run from the date of evasion.

(2) The course of the statute of limitations for enforcement is also interrupted by the commission of 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) The statute of limitations resumes its course from the day on which the cause of suspension ceased.

**TITLE IX: Causes that remove the consequences of the conviction****Rule 165: Rehabilitation by law**

Rehabilitation takes place by right in the case of a conviction to a fine, to a prison sentence not exceeding 2 years or to a prison sentence whose execution has been suspended under supervision, if within 3 years the convicted person has not committed another crime.

**Rule 166: Judicial rehabilitation**

**(1) The convicted person may be rehabilitated, upon request, by the court, after the following deadlines have expired:**

- a) 4 years, in case of a prison sentence of more than 2 years, but not exceeding 5 years;
- b) 5 years, in case of a prison sentence of more than 5 years, but not exceeding 10 years;
- c) 7 years, in the case of a prison sentence of more than 10 years or in the case of life imprisonment, commuted or replaced by a prison sentence;
- d) 10 years, in the case of a sentence of life imprisonment, considered to have been executed as a result of the pardon, the expiry of the statute of limitations for the execution of the sentence or conditional release.

(2) The convicted person who died until the end of the rehabilitation term can be rehabilitated if the

court, evaluating the behavior of the convicted person until death, considers that he deserves this benefit.

#### **Article 167: Calculation of the rehabilitation term**

(1) The time limits provided for in Articles 165 and 166 shall be counted from the date on which the execution of the main sentence ended or from the date on which it became time-barred.

(2) For those sentenced to the penalty of the fine, the term runs from the moment when the fine has been paid in full or its execution has been extinguished in any other way.

(3) In case of total pardon or pardon of the remainder of the sentence, the term runs from the date of the act of pardon, if on that date the conviction decision was final, or from the date of the conviction decision, if the act of pardon refers to crimes under 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 term of rehabilitation is calculated in relation to the heaviest sentence and runs from the date of execution of the last sentence.

#### **Article 168: Conditions of judicial rehabilitation**

The request for judicial rehabilitation is admitted if the convicted person meets the following conditions:

- a) has not committed another offence within the time frame provided for in Article 166;
- b) paid the costs in full and fulfilled the civil obligations established by the conviction decision, unless he proves that he did not have the possibility to fulfill them or when the civil party waived the compensation.

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

**(1) Rehabilitation brings to an end the lapses and prohibitions, as well as the incapacities resulting from the conviction.**

N.R.: "Establishes that in the interpretation of Article 189 (1) letter e) of the Criminal Code and Article 169 paragraph (1) of the Criminal Code, in the case of committing a new crime of murder or attempted murder, the rehabilitation or completion of the term of rehabilitation with regard to the person definitively convicted who has previously committed a crime of murder or an attempt at the crime of murder does not prevent the retention of the aggravating circumstantial element provided for in Article 189 paragraph (1)(e) of the Criminal Code."

(2) Rehabilitation does not result in the obligation to reinstate the position from which the convicted person was removed following the conviction or to restore the lost military rank.

(3) Rehabilitation has no effect on safety measures.

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

(1) In case of rejection of the application for rehabilitation, a new application may not be submitted until after a period of one year, which shall be counted from the date of rejection of the application by final decision.

(2) The conditions laid down in Article 168 must also be fulfilled for the period of time preceding the new application.

(3) The application rejected as a result of non-fulfillment of formal conditions can be renewed according to the Code of Criminal Procedure.

#### **Article 171: Cancellation of rehabilitation**

The judicial rehabilitation will be annulled when, after it was granted, it was discovered that the rehabilitated person had committed another crime which, if it had been known, would have led to the rejection of the request for rehabilitation.

### **TITLE X: Meaning of terms or expressions in criminal law**

#### **Article 172: General provisions**

Whenever the criminal law uses a term or an expression of those indicated in this title, its meaning is that provided in the following articles, unless 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 crime or as an attempt, as well as participating in their commission as a co-perpetrator, instigator or accomplice.

\*) By Decision no. 1/2025 The High Court of Cassation and Justice admits the appeal in the interest of the law and establishes that, in the unitary interpretation and application of Article 174 of the

Criminal Code, by the date of commission of the crime and, implicitly, the date from which the limitation period of criminal liability begins to run in the case of the single offenses provided for by Articles 289-292 of the Criminal Code, In the event that several normative modalities of the material element are carried out on different dates, the date of the commission of the first alternative modality is understood regardless of the subsequent and subsequent realization of several alternative modalities from the content of the crime and regardless of the time interval that interposes between the date of committing the first alternative modality and the commission of another alternative modality or between the acts that make up the action characteristic of one of the normative ways of committing the act, namely the date of committing the first act in a succession of acts corresponding to a single normative modality.

### **Article 175: Civil servant**

**(1) A civil servant, within the meaning of the criminal law, is a person who, on a permanent or temporary basis, with or without remuneration:**

a) exercises duties and responsibilities, established under the law, in order to achieve the prerogatives of the legislative, executive or judicial power;

**b) exercises a function of public dignity or a public function of any nature;**

\*) By Decision no. 37/2022, the High Court of Cassation and Justice establishes that the person who holds a leading position within a political party does not have the status of a public official, according to the provisions of Article 175(1)(b) sentence II and Article 175(2) of the Criminal Code.

c) exercises, alone or together with other persons, within an autonomous authority, another economic operator or a legal person with wholly or majority state capital, duties related to the achievement of its object of activity.

**(2) Also, a civil servant is considered to be a public official, within the meaning of the criminal law, the person who performs a service of public interest for which he has been invested by the public authorities or who is subject to their control or supervision regarding the performance of that public service.**

\*) The HCCJ admits the complaint filed by the Court of Appeal of Pitesti - Criminal Section and for Cases with Minors and Family by which it requests the pronouncement of a preliminary decision for the resolution of the following question of law: "if the entrepreneur owner of a sole proprietorship represents, within the meaning provided by Article 308 paragraph (1) of the Criminal Code in relation to Article 175 paragraph (2) sentence II of the Criminal Code, a person who permanently or temporarily, with or without remuneration, carries out a task of any kind in the service of a natural

person referred to in Article 175(2) of the Criminal Code, or within a sole proprietorship carrying out a service in the public interest, which is subject to the control or supervision of the public authorities with regard to the performance of that public service' and establishes that:

An entrepreneur who owns a sole proprietorship does not, within the meaning of the provisions of Article 308(1) of the Criminal Code, have the status of a person who performs permanently or temporarily, with or without remuneration, a task of any kind in the service of a natural person referred to in Article 175(2) of the Criminal Code, in relation to the sole proprietorship.

If the entrepreneur who owns a sole proprietorship carries out a service in the public interest which is subject to the control or supervision of the public authorities with regard to the performance of that public service, he has the status of a public official within the meaning of the provisions of Article 175(2) of the Criminal Code.

\*) By Decision no. 37/2022, the High Court of Cassation and Justice establishes that the person who holds a leading position within a political party does not have the status of a public official, according to the provisions of Article 175(1)(b) sentence II and Article 175(2) of the Criminal Code.

### **Article 176: Public**

The term public means everything that concerns public authorities, public institutions or other legal persons that administer or exploit public property.

### **Article 177: Family member**

#### **(1) Family member means:**

a)ascendants and descendants, brothers and sisters, their children, as well as persons who have become such relatives by adoption, according to the law;

b)the husband;

c)persons 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 the family member, within the limits provided for in paragraph (1) letter a), shall apply, in case of adoption, also to the adopted person or to his descendants in relation to the natural relatives.

### **Article 178: State secret information and official documents**

(1)State secret information is information classified as such, according to the law.

(2)An official document is any document emanating from a legal person of those referred to in

Article 176 or from the person referred to in Article 175(2) or belonging to such persons.

### **Article 179: Weapon**

(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 attack are assimilated to weapons.

### **Article 180: Cashless means of payment**

(1) A cashless payment instrument means a device, object or record, protected, respectively protected, tangible or intangible, respectively material or immaterial, or a combination thereof, other than a currency with circulating value and which, alone or in conjunction with a procedure or set of procedures, allows the holder or user to transfer money or monetary value, including through electronic money or virtual currency.

(2) An electronic payment instrument means an instrument that allows cash withdrawals, the loading and unloading of an electronic money instrument, as well as transfers of funds, other than those ordered and executed by financial institutions.

(3) Electronic money means 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.

### **Article 181: Information system and computer data**

(1) A computer system means any device or set of devices that are interconnected or in a functional relationship, one or more of which ensures the automatic processing of data, 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 through a computer system.

### **Article 182: Exploitation of a person**

Exploitation of a person means:

a) subjecting to the execution of a work or the performance of services, in a forced manner;

- b)holding in a state of slavery or other similar procedures of deprivation of liberty or servitude;
- c)forcing prostitution, pornographic manifestations for the purpose of producing and disseminating pornographic materials or other forms of sexual exploitation;
- d)forcing them to practice begging;
- e)illegally harvesting organs, tissues or cells of human origin.
- f)the obligation to commit acts provided for by the criminal law.

### **Article 183: Particularly serious consequences**

By particularly serious consequences is meant a material damage of more than 2,000,000 lei.

### **Article 184: Deed committed in public**

The deed is considered to have been committed in public when it has been committed:

- a)in a place which, 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 persons are present;
- c)in a place not accessible to the public, but with the intention that the deed will be heard or seen and if this result occurred in relation to two or more persons;
- d)in a gathering or gathering of several people, except for gatherings that may be considered to be of a family nature, due to the nature of the relationships between the participants.

### **Article 185: Wartime**

By time of war we mean the duration of the state of mobilization of the armed forces or the duration of the state of war.

### **Article 186: Calculating 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 counted to be fulfilled one day before the day corresponding to the date from which they began to flow.

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

(3)In the case of sentence limits expressed in years, the provisions of paragraph (2) shall be applied accordingly, the conversion being made between years and months.

### **Article 187: Punishment provided by law**

Punishment provided by law means the punishment provided for in the text of the law that criminalizes the act committed in the consummated form, without taking into account the causes of reduction or increase of the penalty.

## **PART II: SPECIAL PART**

### **TITLE I: Crimes against the person**

#### **CHAPTER I: Crimes against life**

### **Article 188: Murder**

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

(2) The attempt is punishable.

### **Article 189: Qualified murder**

(1) **Murder committed under any of the following circumstances:**

- a) with premeditation;
- b) out of material interest;
- c) to evade or to evade another from criminal liability or from the execution of a sentence;
- 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 the crime of murder;**

N.R.: "Establishes that in the interpretation of Article 189 (1) letter e) of the Criminal Code and Article 169 paragraph (1) of the Criminal Code, in the case of committing a new crime of murder or attempted murder, the rehabilitation or completion of the term of rehabilitation with regard to the person definitively convicted who has previously committed a crime of murder or an attempt at the crime of murder does not prevent the retention of the aggravating circumstantial element provided for in Article 189 paragraph (1)(e) of the Criminal Code."

f) on two or more persons;

g) on a pregnant woman;

h) **through cruelty,**

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

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

(2) The attempt is punishable.

#### **Article 190: Killing at the request of the victim**

Murder committed at the explicit, serious, conscious and repeated request of the victim who suffered from an incurable disease or a serious medically certified infirmity, causing permanent and unbearable suffering, shall be punished with imprisonment from one to 5 years.

#### **Article 191: Determining or facilitating suicide**

(1) The act of determining or facilitating the suicide of a person, if the suicide has taken place, is punishable by imprisonment from 3 to 7 years.

(2) When the act referred to in paragraph (1) was committed against a minor aged between 13 and 18 years or against a person with impaired discernment, the penalty shall be imprisonment from 5 to 10 years.

(3) The determination or facilitation of 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 has taken 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 referred to in paragraphs 1 to 3 were followed by a suicide attempt, the special limits of the penalty shall be 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 provided 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 provisional measures constitutes in itself a crime, the rules on the concurrence of crimes apply.

(3) If the act committed has caused the death of two or more persons, the special limits of the penalty provided for in paragraphs (1) and (2) shall be 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 6 months to 3 years or a fine.

(2) The act of causing traumatic injuries or affecting the health of a person, the seriousness of which is assessed by days of medical care of no more than 90 days, is punishable by imprisonment from 1 year to 5 years or a fine.

**(2<sup>1</sup>) The special limits of the penalty provided for in paragraphs 1 and 2 shall be increased by one third where:**

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

(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 paragraph (2<sup>1</sup>), criminal proceedings may also be initiated ex officio.

\*) In the unitary interpretation and application of the provisions of Article 193 in relation to Article 199(1), the High Court of Cassation and Justice establishes that:

For the offence of hitting or other violence committed against a family member, provided for in Article 193 in relation to Article 199 (1) of the Criminal Code, when the criminal action has been initiated on the prior complaint of the injured person, the termination of the criminal proceedings may be ordered only as an effect of withdrawal of the preliminary complaint, and not as an effect of reconciliation.

#### **Article 194: Bodily injury**

**(1) The act provided for in Article 193, which caused any of the following consequences:**

- a) infirmity;
- b) traumatic injuries or damage to a person's health, which required more than 90 days of medical care for healing;
- 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 act was committed for the purpose of producing one of the consequences provided for in paragraph (1) letter a), letter b) and letter c), the penalty is imprisonment from 3 to 10 years.

**(2<sup>1</sup>) The special limits of the penalty provided for in paragraphs 1 and 2 shall be increased by one third where:**

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

**(3) The attempt to commit the offence referred to in paragraph (2) shall be punishable.**

### **Article 195: Fatal blows or injuries**

If any of the acts provided for in Articles 193 and 194 resulted in the death of the victim, the punishment shall be imprisonment from 6 to 12 years.

### **Article 196: Negligent bodily injury**

(1) The act provided for in Article 193 paragraph (2) committed by a person under the influence of alcoholic beverages or a psychoactive substance or in the performance of an activity that constitutes in itself a crime shall be punished with imprisonment from 3 months to one year or with a fine.

(2) The act provided for in Article 194 paragraph (1) committed by negligence shall be punished with imprisonment from 6 months to 2 years or with a fine.

(3) When the act referred to in paragraph (2) was committed as a result of non-compliance with the legal provisions or the measures providing for the exercise of a profession or trade or for the performance of a certain activity, the penalty shall be imprisonment from 6 months to 3 years or a fine.

**(4) If the consequences provided for in paragraphs 1 to 3 have occurred against two or more persons, the special limits of the penalty shall be increased by one third.**

\*) By Decision no. 372/2025 The High Court of Cassation and Justice admits the complaint filed by the Court of Appeal of Cluj - Criminal and Juvenile Section, requesting the pronouncement of a preliminary decision for the resolution of the following question of law: "If, in the case of the complex crime provided for in Article 196 paragraph (4) of the Criminal Code, when the consequence provided for by law occurred on two persons, and if one of the injured persons withdraws his prior complaint, is it necessary to maintain the legal unit of offences, in relation to Article 157(2) of the Criminal Code, or does the legal unit of offences no longer find its legal

basis, in relation to Article 158(2) of the Criminal Code?' and establishes that:

In the case of the complex offence provided for in Article 196 (4) of the Criminal Code, when the consequence provided for by law has occurred on two persons, and one of the injured persons withdraws his prior complaint, the legal unit of offence shall be maintained, in relation to Article 157 (2) of the Criminal Code.

(5) If the failure to comply with the legal provisions or the measures of provision or the performance of the activity that led to the commission of the acts referred to in paragraphs 1 and 3 constitutes in itself an offence, the rules on the concurrence of offences shall apply.

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

#### **Article 197: Ill-treatment of minors**

The serious endangerment, by measures or treatment of any kind, of the physical, intellectual or moral development of the minor, by the parents or by any person in whose care the minor is, is punishable by imprisonment from 3 to 7 years and the prohibition of exercising certain rights.

#### **Article 198: Brawl**

**(1) Participation in a brawl is punishable by imprisonment from 6 months to 3 years or a fine.**

\*) In the interpretation and application of the provisions of Article 198(1) of the Criminal Code, a civil action brought by a defendant-participant in the commission of the offence of brawl provided for in Article 198(1) of the Criminal Code against another defendant-participant in the same offence of brawl provided for in Article 198(1) of the Criminal Code shall be admissible.

(2) If bodily injury was caused to one or more persons during the brawl and it is not known which of the participants caused the consequences, the penalty of imprisonment from one to 5 years shall be applied to all, except for the victim, who is liable according to paragraph (1).

(3) When the act committed under the conditions of paragraph (2) caused the death of a person, the penalty shall be imprisonment from 6 to 12 years, and if the death of two or more persons was caused, the special limits of the punishment shall be increased by one third.

(4) He who has been caught in a scuffle against his will or who has tried to separate others is not punished.

### **CHAPTER III: Crimes committed against a family member**

#### **Article 199: Domestic violence**

(1) If the acts provided for in Articles 188, 189 and 193-195 are committed against a family member, the special maximum of the penalty provided for by law shall be increased by a quarter.

(2) In the case of the offences referred to in Articles 193 and 196 committed against a family member, criminal proceedings may also be initiated ex officio.

#### **Article 200: Killing or injuring the newborn 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 acts provided for in Articles 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 the punishment are one month and 3 years, respectively.

### **CHAPTER IV: Aggression against the fetus**

#### **Article 201: Interruption of the course of pregnancy**

(1) **Termination of pregnancy 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 quality of obstetrics-gynecology specialist and the right to free medical practice in this specialty;

c) if the age of pregnancy has exceeded fourteen weeks, it is punished with imprisonment from 6 months to 3 years or with a fine and prohibition of exercising certain rights.

(2) The interruption of the pregnancy, committed under any conditions, without the consent of the pregnant woman, is punishable by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(3) If the acts referred to in paragraphs (1) and (2) caused bodily injury to the pregnant woman, the punishment shall be 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 punishment shall be imprisonment from 6 to 12 years and the prohibition of the exercise of certain rights.

(4) When the deeds were committed by a doctor, in addition to the prison sentence, the prohibition of exercising the profession of doctor will also apply.

(5) The attempt to commit the offences referred to in paragraphs (1) and (2) shall be punishable.

(6) It is not a crime to interrupt the course of pregnancy for therapeutic purposes performed by an obstetrics-gynecology specialist, up to the age of twenty-four weeks, or to subsequently interrupt

the course of pregnancy, for therapeutic purposes, in the interest of the mother or the fetus.

(7)The pregnant woman who interrupts her pregnancy is not punished.

### **Article 202: Injury to the fetus**

(1)Injury to the fetus during childbirth that prevented the installation of extrauterine life is punishable by imprisonment from 3 to 7 years.

(2)Injury to the fetus during childbirth, 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 injury 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 foetus committed during childbirth by the mother in a state of mental disorder shall be punished with the punishment provided for in paragraphs (1) and (2), the limits of which shall be reduced by half.

(5)If the acts referred to in paragraphs (1) to (4) were committed by negligence, the special limits of the penalty shall be reduced by half.

(6)The acts referred to in paragraphs (1) to (3) committed by a doctor or by the person authorized to assist the birth or to follow the pregnancy do not constitute a crime, if they were committed during the medical act, in compliance with the provisions specific to 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:Offences regarding the obligation to assist those in distress**

### **Article 203: Leaving a person in difficulty without help**

(1)The failure to give the necessary help or to immediately notify the authorities by the person who has found a person whose life, bodily integrity or health is in danger and is unable to save himself is punishable by imprisonment from 3 months to one year or by a fine.

(2)The act does not constitute a crime if, by granting the aid, the perpetrator would expose himself to a serious danger to his life, bodily integrity or health.

**Article 204: Preventing help**

Preventing the intervention of aids 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: Crimes 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 deed is committed:**

a) by an armed person;

b) on a minor;

c) endangering the health or life of the victim, the punishment is imprisonment between 3 and 10 years.

(4) If the act resulted in the death of the victim, the punishment is imprisonment from 7 to 15 years and the prohibition of exercising some rights.

(5) The attempt to commit the offences referred to in paragraph (1) to (3) shall be punishable.

**Article 206: The 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 produce a state of fear, is punishable by imprisonment from 3 months to one year or with a fine, without the punishment applied being able to exceed the sanction 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) Coercion of 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) The same penalty shall be punished for threatening to disclose a real or imaginary fact, compromising the threatened person or a member of his family, for the purpose provided for in paragraph (1).

(3) If the acts referred to in paragraphs (1) and (2) were committed in order to unjustly acquire a

patrimonial benefit, for oneself or for another, the punishment is imprisonment from 2 to 7 years.

### **Article 208: Harassment**

(1) The act of the person who, repeatedly, pursues, without right or without a legitimate interest, 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 a fear to a person, is punishable by imprisonment from one month to 3 months or with a fine, if the act does not constitute a more serious crime.

(2<sup>1</sup>) If the acts referred to in paragraphs 1 and 2 are committed against a minor, the special limits of the penalty shall be increased by one third.

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

## **CHAPTER VII: Trafficking and exploitation of vulnerable people**

### **Article 209: Slavery**

Putting or keeping a person in a state of slavery, as well as the slave trade are punishable by imprisonment from 5 to 12 years and the prohibition of exercising certain rights.

### **Article 210: Trafficking in human beings**

**(1) Recruiting, transporting, transferring, sheltering or receiving a person for the purpose of exploiting him/her, committed:**

a) by coercion, kidnapping, misleading or abuse of authority;

b) taking advantage of the impossibility of defending himself or expressing his will or the state of manifest 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, he is punished with imprisonment from 5 to 12 years and the prohibition of exercising certain rights.

(1<sup>1</sup>) The same penalty shall be imposed on the determination to start or continue the practice of prostitution, if it has been carried out by any of the methods provided for in paragraph (1).

(2) Trafficking in persons committed by a public official in the exercise of his or her duties or by a person who has previously committed a crime against sexual freedom and integrity, a crime of child pornography, a crime of trafficking in persons, trafficking in minors or pimping is punishable by imprisonment from 7 to 15 years.

(3)The consent of the trafficking victim does not constitute a justifying cause.

(4)If the acts referred to in paragraphs 1 and 2 are followed by the actual exploitation of a person, the rules of concurrent offences shall apply within the meaning of Article 182.

### **Article 211: Trafficking in minors**

(1)The recruitment, transport, transfer, shelter or reception of a minor, for the purpose of exploiting him, is punishable by imprisonment from 7 to 15 years and the prohibition of exercising certain rights.

(1<sup>1</sup>)The punishment provided for in paragraph (1) shall also be punished for determining or facilitating the practice of prostitution or obtaining patrimonial benefits from the practice of prostitution by one or more minors.

**(2)The acts referred to in paragraph (1) and (1<sup>1</sup>) shall be punished with imprisonment from 10 to 20 years and the prohibition of exercising certain rights when:**

- a)the deed was committed under the conditions of Article 210(1);
- b)the deed was committed by a public official in the exercise of his duties;
- c)the act endangered the life of the minor;
- d)the act was committed by a family member or by a person living with the victim;
- 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 his manifestly vulnerable situation, due to a mental or physical disability, a situation of dependency, a state of physical or mental incapacity or another cause.
- f)The deed was committed by a person who had previously committed a crime against sexual freedom and integrity, a crime of child pornography, a crime of human trafficking, trafficking of minors or pimping.

(3)The consent of the trafficking victim does not constitute a justifying cause.

(4)If the acts referred to in paragraphs (1) and (2) are followed by the actual exploitation of the minor, the rules of concurrent offences shall apply within the meaning of Article 182.

### **Article 212: Subjection to forced or compulsory labour**

The act of subjecting a person, in cases other than those provided for by the legal provisions, to the performance of work against his will or to compulsory labor shall be punished with 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 exercising certain rights.

(2) (text of Article 213(2) of Part II, Title I, Chapter VII was repealed on 03-Nov-2024 by Article I, point 7 of Law 269/2024)

(3) (text of Article 213(3) of Part II, Title I, Chapter VII was repealed on 03-Nov-2024 by Article I, point 7 of Law 269/2024)

(3<sup>1</sup>)

(text of Article 213, paragraph (3<sup>1</sup>) of Part II, Title I, Chapter VII was repealed on 03-Nov-2024 by Article I, point 7. of Law 269/2024)

(4) Prostitution means the maintenance of sexual acts with different persons in order to obtain patrimonial benefits for oneself or for another.

#### **Article 214: Exploitation of begging**

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

(2) **If the act is committed in the following circumstances:**

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

The punishment is imprisonment from one to 5 years.

#### **Article 215: Using a minor for begging purposes**

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

#### **Article 216: Use of an exploited person's services**

The act of using the services provided in Article 182, provided by a person whom the beneficiary knows to be a victim of trafficking in persons or trafficking in minors, shall be punished with imprisonment from 6 months to 3 years or with a fine, if the act does not constitute a more serious crime.

### **Article 216<sup>1</sup>: Use of child prostitution**

The maintenance of any sexual act 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.

### **Article 217: Sanctioning the attempt**

The attempt to commit the offences referred to in Articles 209 to 211, Article 213 (2), Article 216 and 216 shall be punishable.

## **CHAPTER VIII: Crimes against sexual freedom and integrity**

### **Article 218: Rape**

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

(2) Any other acts of vaginal or anal penetration committed under the conditions of paragraph (1) shall be punished with the same penalty.

**(3) The punishment is imprisonment from 7 to 12 years and the prohibition of exercising certain rights when:**

- a) the victim is in the care, protection, education, guarding or treatment of the perpetrator;
- b) the act was committed by a family member or by a person living with the victim;
- c) (the text of Article 218(3)(C) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 1 of Law 424/2023)
- d) the act was committed for the purpose of producing pornographic materials;
- e) (text of Article 218(3)(E) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 4. of Law 217/2023)
- f) The deed was committed by two or more people together.
- g) The perpetrator uses the authority of his office.

(3<sup>1</sup>) [the text of Article 218, paragraph (3<sup>1</sup>) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 6. of Law 217/2023]

**(3<sup>2</sup>) The penalty shall be imprisonment from 7 to 15 years and the prohibition of exercising certain rights if the acts referred to in paragraphs (1) to (3) are committed in one of the following circumstances:**

- a) the act resulted in bodily injury or endangered the victim's life in any other way;
- b) the deed was committed on a pregnant woman;

- c) as a result of the deed, the victim becomes pregnant;
- d) the victim is in a state of manifest vulnerability, caused by age, illness, physical or mental disability or a situation of dependency;
- e) the act was committed by using a weapon or by threatening with it;
- f) The victim was administered, without his knowledge or against his will, alcohol or any substance that affects his discernment or control of his actions.

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

(5) The criminal action for the act provided for in paragraph (1) and paragraph (2) shall be initiated upon the prior complaint of the injured person.

(6) The attempt to commit the offences referred to in paragraphs (1) to (3<sup>2</sup>) shall be punishable.

\*) According to Article II of Law no. 217/2020, by exception to the provisions of Article 9 of Law no. 286/2009 on the Criminal Code, published in the Official Gazette of Romania, Part I, no. 510 of 24 July 2009, as subsequently amended and supplemented, and in application of Article 12 of Law no. 286/2009, as subsequently amended and supplemented, for the facts provided for in Articles 218-220, Article 221(1)-(2<sup>1</sup>), Article 222<sup>1</sup>, Article 216<sup>1</sup> and Article 374(1) and (1<sup>1</sup>) of Law no. 286/2009, as subsequently amended and supplemented, the Romanian criminal law applies to crimes committed outside the territory of the country by a Romanian citizen or by a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided for as a crime by the criminal law of the country where it was committed.

### **Article 218<sup>1</sup>: Rape committed on a minor**

(1) Sexual intercourse, oral or anal 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 exercising 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 shall be punished according to the provisions of Article 114.

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

(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 oneself or to express one's will or taking advantage of this state are punishable by imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

**(4) If the acts referred to in paragraphs 1 to 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 living with the minor;
- b) the minor is in the care, protection, education, protection or treatment of the perpetrator or the perpetrator has abused his recognized position of trust or authority over the minor or his manifestly vulnerable situation caused by illness, mental or physical disability, situation of dependency or a state of physical or mental incapacity;
- c) the act resulted in bodily injury or endangered the life of the minor in any other way;
- d) the act was committed for the purpose of producing pornographic materials;
- e) the act was committed by two or more persons 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 trafficking in persons or trafficking in minors;
- g) **As a result of the deed, the victim became pregnant,**

The special maximum of the penalty is increased by 3 years.

(5) If the acts referred to in paragraphs (1) and (1<sup>1</sup>) were committed in return for remuneration, material benefit or advantage in kind or for the promise of such benefits, the special limits of the penalty shall be increased by one third.

**(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 aged between 16 and 18 years are punishable by imprisonment from 2 to 9 years and the prohibition of exercising certain rights, if:**

- a) the minor is a family member of the adult;
- b) the minor is in the care, protection, education, protection or treatment of the perpetrator or the perpetrator has abused his recognized position of trust or authority over the minor or his manifestly vulnerable situation, due to a mental or physical disability, a situation of dependency, an illness, a state of physical or mental incapacity or another cause;
- c) the act resulted in bodily injury or endangered the life of the minor in any way;
- d) The deed was committed for the purpose of producing pornographic materials.

**(5<sup>2</sup>) The act referred to in paragraph (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 has previously committed a crime against sexual freedom and integrity on a minor, a crime of child pornography or pimping on a minor, or a crime of human trafficking or trafficking in minors.

(6) If the act resulted in the death of the victim, the punishment is imprisonment from 9 to 18 years and the prohibition of exercising certain rights.

(7) The acts provided for in paragraph (1) and (1<sup>1</sup>) shall not be punished if the age difference between the perpetrator and the victim does not exceed 5 years.

(8) The attempt to commit the offences referred to in paragraphs (1) to (5<sup>2</sup>) shall be punishable.

\*) By Decision no. 373/2025 The High Court of Cassation and Justice admits the complaint filed requesting the pronouncement of a preliminary decision for the resolution of the following question of law: "If, in the interpretation and application of Article 5 of the Criminal Code on the more favorable criminal law during the trial, from the perspective of the comparison between the crime of sexual intercourse with a minor, provided for in Article 220 of the Criminal Code (in the form in force prior to 1.01.2024), and rape committed on a minor, provided for in Article 218<sup>1</sup> of the Criminal Code (the form that entered into force as of 1.01.2024), when determining the new law, the aggravated forms not provided for by the old law, such as the one regulated in Article 218<sup>1</sup>, paragraph (4) letter g) of the Criminal Code, must also be taken into account", and, consequently, establishes that:

Establishing and applying the more favorable criminal law in the case of the crimes of sexual intercourse with a minor, provided for in Article 220 of the Criminal Code (in the form in force prior to 1.01.2024), and rape committed on a minor, provided for in Article 218<sup>1</sup> of the Criminal Code (the form that entered into force as of 1.01.2024), the qualification of the committed act is carried out in relation to each of the criminal laws intervened until the final judgment in their entirety, taking into account also the aggravating circumstantial elements introduced by the criminal law in force starting with January 1, 2024.

**Article 219: Sexual assault**

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

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

- a)the victim is in the care, protection, education, guarding or treatment of the perpetrator;
- b)the act was committed by a family member or by a person living with the victim;
- c)(the text of Article 219(2)(C) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 7 of Law 424/2023)
- d)the act was committed for the purpose of producing pornographic materials;
- e)(the text of Article 219(2)(E) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I(11) of Law 217/2023)
- f)The deed was committed by two or more people together.
- g)The perpetrator uses the authority of his office.

(2<sup>1</sup>)[the text of Article 219, paragraph (2<sup>1</sup>) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 13. of Law 217/2023]

**(2<sup>2</sup>)The penalty shall be imprisonment from 6 to 12 years and the prohibition of exercising certain rights if the acts referred to in paragraphs (1) and (2) are committed in one of the following circumstances:**

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

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

(4)If the acts of sexual assault were preceded or followed by the commission of the sexual acts provided for in Article 218 (1) and (2), the act constitutes rape.

(5)The criminal action for the act provided for in paragraph (1) shall be initiated upon the prior complaint of the injured person.

(6)The attempt to commit the offences referred to in paragraphs (1) to (2<sup>2</sup>) shall be punishable.

\*) According to Article II of Law no. 217/2020, by exception to the provisions of Article 9 of Law no. 286/2009 on the Criminal Code, published in the Official Gazette of Romania, Part I, no. 510

of 24 July 2009, as subsequently amended and supplemented, and in application of Article 12 of Law no. 286/2009, as subsequently amended and supplemented, for the facts provided for in Articles 218-220, Article 221(1)-(2<sup>1</sup>), Article 222<sup>1</sup>, Article 216<sup>1</sup> and Article 374(1) and (1<sup>1</sup>) of Law no. 286/2009, as subsequently amended and supplemented, the Romanian criminal law applies to crimes committed outside the territory of the country by a Romanian citizen or by a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided for as a crime by the criminal law of the country where it was committed.

### **Article 219<sup>1</sup>: Sexual assault on a minor**

**(1) The act of a sexual nature, other than those provided for in Article 218<sup>1</sup>, committed by an adult on a minor who has not reached the age of 16 shall be punished with imprisonment from 2 to 9 years and the prohibition of the exercise of certain rights.**

\*) By Decision no. 189/2025 The High Court of Cassation and Justice admits the complaint and establishes that, in the case of the crime of sexual assault committed on a minor, provided for by Article 219<sup>1</sup> paragraph (1), paragraph (1<sup>2</sup>) and paragraph (3) letters a) and b) of the Criminal Code, in order to meet the elements of typicality of the crime, it is not necessary to meet the condition regarding the pursuit of the purpose of obtaining sexual satisfaction.

(1<sup>1</sup>) An act of a sexual nature, other than those provided for in Article 218<sup>1</sup>, committed by a minor against another minor under the age of 14 shall be punished with imprisonment from one to 5 years and the prohibition of exercising certain rights.

**(1<sup>2</sup>) The act of a sexual nature, other than those provided for in Article 218<sup>1</sup>, committed by an adult against a minor by coercion, making it impossible to defend himself or to express his will or taking advantage of this state shall be punished with imprisonment from 3 to 10 years and the prohibition of exercising certain rights.**

\*) By Decision no. 189/2025 The High Court of Cassation and Justice admits the complaint and establishes that, in the case of the crime of sexual assault committed on a minor, provided for by Article 219<sup>1</sup> paragraph (1), paragraph (1<sup>2</sup>) and paragraph (3) letters a) and b) of the Criminal Code, in order to meet the elements of typicality of the crime, it is not necessary to meet the condition regarding the pursuit of the purpose of obtaining sexual satisfaction.

(2) The act of a sexual nature, other than those provided for in Article 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 shall be punished with imprisonment from 2 to 7 years.

**(3) If the acts referred to in paragraphs 1 to 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 living with the minor;**

\*) By Decision no. 189/2025 The High Court of Cassation and Justice admits the complaint and establishes that, in the case of the crime of sexual assault committed on a minor, provided for by Article 219<sup>1</sup> paragraph (1), paragraph (1<sup>2</sup>) and paragraph (3) letters a) and b) of the Criminal Code, in order to meet the elements of typicality of the crime, it is not necessary to meet the condition regarding the pursuit of the purpose of obtaining sexual satisfaction.

**b)the minor is in the care, protection, education, protection or treatment of the perpetrator or the perpetrator has abused his recognized position of trust or authority over the minor or his manifestly vulnerable situation caused by illness, mental or physical disability, a situation of dependency or a state of physical or mental incapacity;**

\*) By Decision no. 189/2025 The High Court of Cassation and Justice admits the complaint and establishes that, in the case of the crime of sexual assault committed on a minor, provided for by Article 219<sup>1</sup> paragraph (1), paragraph (1<sup>2</sup>) and paragraph (3) letters a) and b) of the Criminal Code, in order to meet the elements of typicality of the crime, it is not necessary to meet the condition regarding the pursuit of the purpose of obtaining sexual satisfaction.

c)the act resulted in bodily injury or endangered the life of the minor in any other way;

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

e)the act was committed by two or more persons 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 on a minor or a crime of trafficking in persons or trafficking in minors,**

The special maximum of the penalty is increased by 3 years.

**(3<sup>1</sup>)The commission by an adult of an act of a sexual nature, other than those provided for in Article 218<sup>1</sup>, against a minor aged between 16 and 18 years shall be 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 by a person living with him;

b)the minor is in the care, protection, education, protection or treatment of the perpetrator or the perpetrator has abused his recognized position of trust or authority over the minor or his manifestly vulnerable situation, caused by illness, mental or physical disability, situation of dependency or a state of physical or mental incapacity;

- c) the act was committed for the purpose of producing pornographic materials;
- d) The act resulted in bodily injury or endangered the life of the minor in any other way.

**(3<sup>2</sup>) If the acts referred to in paragraph (3<sup>1</sup>) are committed in the following circumstances:**

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

The special limits of the punishment are increased by one third.

(4) If the act resulted in the death of the victim, the punishment is imprisonment from 8 to 15 years and the prohibition of exercising certain rights.

(5) The acts provided for in paragraph (1) and (1<sup>1</sup>) shall not be punished if the age difference between the perpetrator and the victim does not exceed 5 years.

(6) If the acts of sexual assault were preceded or followed by the commission of acts provided for in Article 218<sup>1</sup> paragraph (1) to (3), they constitute the crime of rape committed against a minor.

(7) The attempt to commit the offences referred to in paragraphs (1) to (3<sup>2</sup>) shall be punishable.

### **Article 219<sup>2</sup>: Determining or facilitating the maintenance of sexual or sexual acts between minors**

(1) The act of the adult that causes 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 perform such an act shall be punished with the punishment provided for in Article 218<sup>1</sup> paragraph (1) to (3), as the case may be, reduced by a third.

(2) The act of the adult that causes the commission of any act of a sexual nature, other than those provided for in paragraph (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, shall be punished with the punishment provided for in Article 219<sup>1</sup> paragraph (1)-(3), as the case may be, reduced by one third.

(3) If the act referred to in paragraph (1) is preceded or followed by the act referred to in paragraph (2), only the act referred to in paragraph (1) shall be punished.

### **Article 220:**

[the text of Article 220 of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I,

point 17. of Law 217/2023]

### **Article 221: Sexual corruption of minors**

(1)

(text of Article 221, paragraph (1) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 13. of Law 424/2023)

(2)

(text of Article 221(2) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 13. of Law 424/2023)

(2<sup>1</sup>)

[the text of Article 221, paragraph (2<sup>1</sup>) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 19. of Law 217/2023]

(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 with a fine.

(4)The determination by an adult of a minor who has not reached the age of 16 to attend the commission of exhibitionist acts or shows or performances in which sexual acts of any nature are committed, as well as the provision of pornographic materials to him/her shall be punished with imprisonment from 3 months to 3 years or with a fine.

(4<sup>1</sup>)The act of an adult to incite a minor who has not reached the age of 16, by means of remote transmission, by means of electronic communication or social networks, to commit any act of a sexual nature on himself, on a person or together with a person, including when the act of a sexual nature is not committed, It is punishable by imprisonment from 6 months to 3 years or with a fine.

(5)(text of Article 221(5) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 15. of Law 424/2023)

(6)(text of Article 221(6) of Part II, Title I, Chapter VIII was repealed on 01-Jan-2024 by Article I, point 15. of Law 424/2023)

### **Article 222: Recruitment of minors for sexual purposes**

The act of the adult person 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 Article 374, including when the proposal was made by means of remote transmission, shall be punished with imprisonment from 6 months to 3 years.

### **Article 222<sup>1</sup>: Acts committed in aggravating circumstances**

If the acts referred to in Articles 221 and 222 are committed by two or more persons together or by a person who has previously committed an offence against sexual freedom and integrity against a minor, an offence of child pornography or pimping a minor, the special limits of the penalty shall be increased by one third.

### **Article 223: Sexual harassment**

(1) Repeatedly demanding sexual favors in an employment or similar relationship, if the victim has been intimidated or put in a humiliating situation, 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.

## **CHAPTER IX: Crimes affecting home and privacy**

### **Article 224: Home invasion**

**(1) Entering without right, in any way, a dwelling, room, outbuilding or enclosed place belonging to them, without the consent of the person who uses them, or refusing to leave them at his request is punishable by imprisonment from 3 months to 2 years or with a fine.**

\*) By Decision no. 18/2024 The High Court of Cassation and Justice admits the referral for a preliminary decision to resolve the following question of law:

If the concepts of dwelling, room or outbuilding referred to in Article 226(1) of the Criminal Code are broader than that of domicile provided for in Article 224 of the Criminal Code, including those spaces which, even if they cannot be classified as a residence, offer protection to the private life of the person, for example, the sanitary group of a clinic or to which several persons have access, a fitting room in a store, the locker room of a gym, and establishes that:

The notions of dwelling, room or dependency from the content of the crime of violation of privacy, provided by Article 226 (1) of the Criminal Code, have the same meaning as the notions of dwelling, room or dependency from the content of the crime of violation of domicile, provided by Article 224 paragraph (1) of the Criminal Code, being subsumed to the notion of domicile within the meaning of the criminal law.

(2) If the deed is committed by an armed person, during the night or by using false qualities, the punishment 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 225: Breach of business premises**

(1) The unlawful entry, in any way, into any of the premises where a legal or natural person carries out his professional activity or the refusal to leave them at the request of the entitled person shall be punished with imprisonment from 3 months to 2 years or with a fine.

(2) If the deed is committed by an armed person, during the night or by using false qualities, the punishment 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 privacy**

**(1) The invasion of privacy, without right, by photographing, capturing or recording images, listening by technical means or audio recording of a person in a house or room or dependency related to him or of a private conversation is punishable by imprisonment from one month to 6 months or with a fine.**

\*) By Decision no. 18/2024 The High Court of Cassation and Justice admits the referral for a preliminary decision to resolve the following question of law:

If the concepts of dwelling, room or outbuilding referred to in Article 226(1) of the Criminal Code are broader than that of domicile provided for in Article 224 of the Criminal Code, including those spaces which, even if they cannot be classified as a residence, offer protection to the private life of the person, for example, the sanitary group of a clinic or to which several persons have access, a fitting room in a store, the locker room of a gym, and establishes that:

The notions of dwelling, room or dependency from the content of the crime of violation of privacy, provided by Article 226 (1) of the Criminal Code, have the same meaning as the notions of dwelling, room or dependency from the content of the crime of violation of domicile, provided by Article 224 paragraph (1) of the Criminal Code, being subsumed to the notion of domicile within the meaning of the criminal law.

**(2) The disclosure, dissemination, presentation or transmission, without right, of the sounds, conversations or images referred to in paragraph (1), to another person or to the public, shall be punished with imprisonment from 3 months to 2 years or with a fine.**

\*) By Decision no. 51/2021 The High Court of Cassation and Justice establishes that the typicality of the crime of violation of privacy in the manner incriminated by Article 226 paragraph (2) of the Criminal Code is not conditioned by the possession of sounds, conversations or images made without right, by photographing, capturing or recording images, listening by technical means or

audio recording of a person in a house or room or dependency belonging to them or of a conversation private.

(2<sup>1</sup>)The disclosure, dissemination, 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 person depicted, likely to cause him or her mental suffering or to damage his or her image, is punishable by imprisonment from 6 months to 3 years or a fine.

(2<sup>2</sup>)Intimate image means any reproduction, regardless of the medium, of the image of a nude person, who totally or partially exposes his genitals, anus or pubic area or, in the case of women, also the breasts, or who is involved in sexual intercourse or sexual intercourse.

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

**(4)The act referred to in paragraphs (1) and (2) committed:**

a)by the person who participated in the meeting with the injured person during which the sounds, conversations or images were captured, if he 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 have significance for the life of the community and whose disclosure presents public advantages greater than the damage caused to the injured person.

(4<sup>1</sup>)The act referred to in paragraph (2<sup>1</sup>) does not constitute a crime if the perpetrator catches the commission of a crime or contributes to proving the commission of a crime.

(5)The placement, without right, of technical means of audio or video recording, for the purpose of committing the acts provided for in paragraph (1) and paragraph (2), shall be punished with imprisonment from one to 5 years.

#### **Article 227: Disclosure of professional secrecy**

(1)The disclosure, without right, of data or information regarding the private life of a person, likely to cause harm to a person, by the one who has become aware of them by virtue of his profession or position and who has the obligation to maintain confidentiality regarding these data, is punishable by imprisonment from 3 months to 3 years or with a fine.

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

### **TITLE II:Crimes against property**

## CHAPTER I: Theft

### Article 228: Theft

**(1) Taking a movable property from the possession or possession of another, without his consent, in order to unjustly appropriate it, is punishable by imprisonment from 6 months to 3 years or with a fine.**

\*) In interpreting and applying the provisions of Article 228 (1) in relation to Article 229 (1) letter e) of the Criminal Code, the High Court of Cassation and Justice 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 Article 228 (1) in relation to Article 229 (1) letter e) of the Criminal Code.

\*) By Decision no. 7/2023, the High Court of Cassation and Justice admits the appeal in the interest of the law and, in the interpretation and application of the provisions of Article 228(1) in relation to Article 229(1)(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 locking system of the doors of a motor vehicle, by jamming the signal related to this system, meets the conditions of typicality of the crime of robbery committed by using a false key, provided by Article 228 paragraph (1) of the Criminal Code in relation to Article 229 paragraph (1) letter d) final sentence of the same Code.

(2) The deed also constitutes theft if the property belongs in whole or in part to the perpetrator, but at the time of committing that property was in the legitimate possession or possession of another person.

(3) Movable property is also considered to be documents, electricity, as well as any other type of energy that has economic value.

### Article 229: Aggravated 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;

d) by burglary, escalation or by the unlawful use of a real key or a false key;

e) by decommissioning the alarm or surveillance system, it is punishable by imprisonment from one to 5 years.

**(2) If the theft was committed under the following circumstances:**

- a) on an asset that is part of the cultural heritage;
- b) by trespassing or business premises;
- c) by a person carrying a weapon, the punishment is imprisonment from 2 to 7 years.

**(3) Theft of the following categories of goods:**

- a) crude oil, gasoline, condensate, liquid ethane, gasoline, diesel, other petroleum products or natural gas from pipelines, warehouses, tankers or tank wagons;
- b) components of irrigation systems;
- c) components of electrical networks;
- d) a device or system for signalling, alarming or alerting in case of fire or other public emergency situations;
- e) a means of transport or any other means of intervention in fire, railway, road, naval or air accidents or in the event of a disaster;
- f) safety installations and direction of rail, road, naval, air traffic and their components, as well as components of the related means of transport;
- g) goods through which the safety of traffic and persons on public roads is endangered;
- 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 of a vehicle committed for the purpose of unfair use shall be punishable by the penalty provided for in Article 228 or Article 229, as the case may be, the special limits of which shall be reduced by one third.

(2) The penalty provided for in paragraph (1) shall be punished for the unlawful use of a communication terminal of another or the use of a communication terminal connected without right 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, shall be punished only upon the prior complaint of the injured person.

(2) In the case of the acts provided for in Articles 228 and 230, reconciliation removes criminal liability.

## **Article 232: Sanctioning the attempt**

The attempt to commit the offences provided for in this chapter shall be 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 inability to defend himself, as well as theft followed by the use of such means to keep the stolen property or to remove the traces of the crime or for the perpetrator to ensure his escape shall be punished with imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

### **Article 234: Skilled robbery**

**(1) The robbery committed in the following circumstances:**

- a) by using an explosive, narcotic or paralyzing weapon or substance;
- b) by simulating official qualities;
- c) by a masked, disguised or transvestite person;
- d) during the night;
- e) in a means of transport or on a means of transport;
- f) by trespassing or trespassing,**

It is punishable by imprisonment from 3 to 10 years and the prohibition of exercising some rights.

g) taking advantage of the state of manifest vulnerability of the injured person, due to age, state of health, infirmity or other causes.

**(2)** Robbery committed under the conditions of Article 229 paragraph (3) shall be punished with imprisonment from 5 to 12 years and the prohibition of certain rights.

**(3)** The same punishment is imposed on the robbery that resulted in bodily injury.

### **Article 235: Piracy**

**(1)** The 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 the 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)** The punishment provided for in paragraph 1 shall also be punished for the capture of a ship on the high seas or for causing its shipwreck or grounding by any means, in order to appropriate its cargo or rob the persons on board.

(3) If piracy resulted in bodily harm, the punishment is imprisonment from 5 to 15 years and the prohibition of exercising certain rights.

(4) There is piracy even if the deed was committed on an aircraft or between aircraft and ships.

#### **Article 236: Robbery or piracy followed by the death of the victim**

If the acts provided for in Articles 233-235 resulted in the death of the victim, the punishment is imprisonment from 7 to 18 years and the prohibition of the exercise of certain rights.

#### **Article 237: Sanctioning the attempt**

The attempt to commit the offences referred to in Articles 233-235 shall be punishable.

### **CHAPTER III: Crimes against property by disregarding trust**

#### **Article 238: Breach of trust**

(1) The unfair appropriation, disposal or use of a movable property of another, 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 shall be punished with imprisonment from 3 months to 2 years or with a fine.

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

#### **Article 239: Breach of trust by defrauding creditors**

(1) The debtor's act of alienating, hiding, damaging or destroying, in whole or in part, values or goods from his patrimony or invoking fictitious acts or debts for the purpose of defrauding creditors shall be punished with imprisonment from 6 months to 3 years or with a fine.

(2) The same punishment is imposed on the person who, knowing that he will not be able to pay, acquires goods or services causing damage to the creditor.

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

#### **Article 240: Simple bankruptcy**

(1) Failure to submit or late filing, by the individual debtor or by the legal representative of the debtor legal person, the request for opening the insolvency procedure, within a period exceeding by more than 6 months the term provided by law from the onset of the state of insolvency, shall be punished with 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.

#### **Article 241: Fraudulent bankruptcy**

**(1) The act of the person who, in the creditors' fraud:**

- a) falsifying, stealing or destroying the debtor's records or hiding part of the assets of the debtor's assets;
- b) presents non-existent debts or presents undue amounts in the debtor's records, in another document or in the financial statement;
- c) alienates, in case of insolvency of the debtor, a part of the assets is punished with 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, on the occasion of the administration or preservation of his property, by the person 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 with a fine.

(2) When the act referred to in paragraph (1) was committed by the judicial administrator, by the liquidator of the debtor's estate or by a representative or representative of them, the penalty shall be imprisonment from one to 5 years.

(3) The acts referred to in paragraphs (1) and (2) committed in order to acquire a patrimonial benefit shall be punished with imprisonment from 2 to 7 years.

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

**Article 243: Appropriation of the good found or mistakenly reached by the perpetrator**

(1) The act of not handing over within 10 days a found property to the authorities or to the person who lost it or to dispose of that property as his own is punishable by imprisonment from one month to 3 months or with a fine.

(2) The same punishment is also sanctioned for the unjust appropriation of a movable property belonging to another, which came into the possession of the perpetrator by mistake or fortuitously, or for not handing over it within 10 days from the moment he became aware that the property did not belong to him.

(3) Reconciliation removes criminal liability.

**Article 244: Deception**

(1) Misleading a person by presenting a false deed as true or a true deed as false, in order to obtain for himself or for another an unjust patrimonial benefit and if damage has been caused, is

punishable by imprisonment from 6 months to 3 years.

(2) Deception committed by using false names or qualities or other fraudulent means is punishable by imprisonment from one to 5 years. If the fraudulent means constitutes in itself a crime, the rules on the concurrence of crimes apply.

(3) Reconciliation removes criminal liability.

\*) By Decision no. 37/2021, the High Court of Cassation and Justice admits the complaint filed by the Court of Appeal of Alba Iulia - Criminal Section requesting the issuance of a preliminary decision for the resolution of the following question of law: "The publication of fictitious online ads that resulted in damage, without this activity intervening on the computer system or on the computer data processed by it, fulfils the conditions of typicality of the offence of computer fraud, provided for in Article 249 of the Criminal Code (in the alternative modality of "entry of computer data"), or of the offence of deception, provided for in Article 244(2) of the Criminal Code (in the alternative modality "by other fraudulent means")?"

It establishes that the publication of fictitious online advertisements that resulted in the production of damage, without this activity intervening on the computer system or on the computer data processed by it, meets the conditions of typicality of the crime of deception, provided by Article 244 of the Criminal Code.

#### **Article 245: Insurance deception**

(1) The destruction, degradation, rendering unusable, concealment or alienation of an insured asset against destruction, degradation, wear, loss or theft, in order to obtain, for oneself or for another, the insured amount, is punishable by imprisonment from one to 5 years.

(2) The act of a person who, for the purpose provided for in paragraph (1), simulates, causes or aggravates injuries or bodily injuries caused by an insured risk shall be punished with imprisonment from 6 months to 3 years or with a fine.

(3) Reconciliation removes criminal liability.

#### **Article 246: Hijacking of public tenders**

The act of removing, by coercion or corruption, a participant from a public tender or the agreement between the participants to distort the award price is punishable by imprisonment from one to 5 years.

#### **Article 247: 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 debtor's state of manifest vulnerability, due to his age, state of health, infirmity or relationship of dependence in which the debtor finds himself towards him, makes him constitute or transmit, for himself or for another, a real right or a claim of a value manifestly disproportionate to this service is punishable by imprisonment from one to 5 years.

(2) Putting a person in a state of manifest vulnerability by causing intoxication with alcohol or psychoactive substances in order to determine him to consent to the constitution or transmission of a right in rem or debt or to renounce a right, if damage has occurred, is punishable by imprisonment from 2 to 7 years.

#### **Article 248: Sanctioning the attempt**

The attempt to commit the offences referred to in Articles 239 (1), 241 and 244 to 247 shall be punishable.

### **CHAPTER IV: Fraud committed through computer systems and electronic means of payment**

#### **Article 249: Computer fraud**

The introduction, transmission, modification or deletion of computer data, restricting access to such data or preventing in any way the functioning of a computer system, in order to obtain a material benefit for oneself or for another, if damage has been caused to a person, is punishable by imprisonment from 2 to 7 years.

#### **Article 250: Carrying out financial transactions fraudulently**

(1) Carrying out a cash withdrawal operation, loading or downloading an electronic money instrument or transferring funds, monetary value or virtual currency, by using, without the consent of the holder, a cashless payment instrument or the identification data that allow its use, is punishable by imprisonment from 2 to 7 years.

(2) The same penalty shall be imposed on the performance of one of the operations referred to in paragraph (1) by the unauthorized use of any identification data or by the use of fictitious identification data.

(3) The unauthorized transmission to another person of any identification data, in order to carry out one of the operations provided for in paragraph (1), shall be punished with imprisonment from one to 5 years.

#### **Article 250<sup>1</sup>: Illegal operations with cashless payment instruments**

(1) Possession for fraudulent use of a non-cash payment instrument appropriated by committing one of the acts provided for in Articles 228, 229, 233-236, 238, 239, 243, 244 and 295 shall be punished with imprisonment from 2 to 7 years.

(2) Acquisition for oneself or for another, including by receiving, appropriating, buying or as a result of a transaction such as transferring, importing, exporting, selling, transporting, distributing or making available for the fraudulent use of a non-cash payment instrument obtained by committing one of the acts referred to in Articles 228, 229, 233-236, 238, 239, Articles 243, 244 and 295 shall be punished with imprisonment from 2 to 7 years.

(3) The manufacture, production, receipt, possession, transmission or making available of a device, instrument, computer data, equipment, including hardware or software, or any other means, for the purpose of acquiring a cashless payment instrument by committing one of the acts provided for in Article 228, Article 229, Article 233-236, Article 238, Article 239, Article 243, Articles 244 and 295, shall be punished with imprisonment from 2 to 7 years.

(4) The penalty provided for in paragraph (3) shall also be punished for the acquisition for oneself or for another, including by importing, exporting, selling, transporting or distributing a device, instrument, computer data, equipment, including hardware or software, or any other means for the purpose of acquiring a non-cash payment instrument by committing one of the acts referred to in Article 228, Articles 229, 233-236, 238, 239, 243, 244 and 295.

#### **Article 251: Acceptance of fraudulent financial transactions**

(1) Accepting a cash withdrawal operation, loading or unloading of an electronic money instrument or transfer of funds, monetary value or virtual currency, knowing that it is carried out by using a counterfeit cashless payment instrument or used without the consent of its holder, is punishable by imprisonment from one to 5 years.

(2) The same penalty shall be imposed on the acceptance of one of the operations referred to in paragraph 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 the attempt**

The attempt to commit the offences provided for in this chapter shall be punishable.

### **CHAPTER V: Destruction and Possession Disorder**

#### **Article 253: Destruction**

(1) Destroying, degrading or rendering useless an asset belonging to another or preventing the taking of measures for the conservation or rescue of such property, as well as the removal of the measures taken, shall be punished with imprisonment from 3 months to 2 years or with a fine.

(2) The destruction of a document under private signature, which belongs in whole or in part to another person and serves to prove a right of a patrimonial nature, if damage has been caused by it, is punished with imprisonment from 6 months to 3 years or with a fine.

(2<sup>1</sup>) The destruction of an electronic surveillance device used for electronic monitoring in judicial or criminal enforcement proceedings is punishable by imprisonment from 6 months to 3 years or a fine.

(3) If the act referred to in paragraph (1) concerns goods that are part of the cultural heritage, the penalty shall be imprisonment from one to 5 years.

(4) The destruction, degradation or rendering useless of an asset, committed by arson, explosion or any other such means and if it is likely to endanger other persons or property, is punishable by imprisonment from 2 to 7 years.

(5) The provisions of paragraphs (3) and (4) shall apply even if the property belongs to the perpetrator.

(6) For the acts referred to in paragraphs (1) and (2), the criminal action shall be initiated upon the prior complaint of the injured person.

(7) The attempt of the acts provided for in paragraph (3) and paragraph (4) shall be punished.

#### **Article 254: Qualified destruction**

(1) If the acts provided for in Article 253 resulted in a disaster, the punishment is imprisonment from 7 to 15 years and the prohibition of exercising certain rights.

(2) The disaster consists in the destruction or degradation of immovable property or of works, equipment, installations or components thereof and which resulted in the death or bodily injury of two or more persons.

#### **Article 255: Culpable destruction**

(1) The destruction, degradation or rendering useless, due to negligence, of an asset, even if it belongs to the perpetrator, if the act is committed by arson, explosion or by any other such means and if it is likely to endanger other persons or property, shall be punished with imprisonment from 3 months to one year or with a fine.

(2) If the deeds resulted in a disaster, the punishment 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 moving the boundary signs, of a property in the possession of another shall be punished with imprisonment from one to 5 years or with a fine.

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

### **CHAPTER VI: Crimes that have produced particularly serious consequences**

#### **Article 256<sup>1</sup>: The facts that produced particularly serious consequences**

If the acts provided for in Articles 228, 229, 233, 234, 235, 239, 242, 244, 245, 247, Articles 249-251 have produced particularly serious consequences, the special limits of the punishment provided by law shall be increased by half.

### **TITLE III: Offences concerning authority and state border**

#### **CHAPTER I: Offences against authority**

#### **Article 257: Outrage**

(1) The threat committed directly or by means of direct communication, hitting or other violence, bodily injury, blows or injuries causing death or murder committed against a public official who performs a function involving the exercise of state authority, in the exercise of the duties of service or in connection with the exercise of these duties, shall be punished with the punishment provided by law for that crime, whose special limits are 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 over his property, for the purpose of intimidation or revenge, in connection with the exercise of his duties of service, shall be punished with the penalty provided by law for that crime, the special limits of which shall be increased by one third.

(3) The same penalty shall be imposed on the acts committed under the conditions of paragraph (2), if they concern a family member of the public official.

(4) The acts referred to in paragraphs (1) to (3), committed against a policeman or soldier, as well as on the forestry personnel vested with the exercise of public authority, in the exercise of their duties of service or in connection with the exercise of these duties, shall be punished with the custodial sentence provided by law for that offence, the limits of which shall be increased by half.

**Article 258: Usurpation of official qualities**

(1) The unlawful use of an official capacity that involves 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 by a fine.

(2) The same penalty is imposed on the public servant who continues to exercise a function involving the exercise of state authority, after having lost this right according to the law.

(3) If the acts referred to in paragraph 1 or paragraph 2 have been committed by a person who wears, without right, uniforms or distinctive signs of a public authority, the penalty shall be imprisonment from one to 5 years.

**Article 259: Theft or destruction of documents**

(1) The theft or destruction of a document that is in the custody or possession of one of the persons referred to in Article 176 or Article 175 (2) shall be punished with imprisonment from one to 5 years.

(2) If the act is committed by a public official in the exercise of his duties, the special limits of the punishment shall be increased by one third.

(3) The attempt is punishable.

**Article 260: Breaking seals**

(1) The removal or destruction of a legally applied seal is punishable by imprisonment from 3 months to one year or with a fine.

(2) If the act was committed by the custodian, the punishment 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 with a fine.

(2) If the act was committed by the custodian, the punishment is imprisonment from 6 months to 2 years or a fine.

**CHAPTER II: State border crimes****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 by a fine.

**(2) If the act referred to in paragraph (1) has been committed:**

a) for the purpose of evading criminal liability or from the execution of an educational, custodial sentence or measure;

b) by a foreigner declared undesirable or who has been prohibited in any way from entering or staying in the country, the penalty is imprisonment from one to 5 years.

(3) The attempt is punishable.

(4) The act provided for in paragraph (1), committed by a victim of trafficking in persons or minors, shall not be punished.

**Article 263: Migrant smuggling**

(1) Recruiting, guiding, guiding, transporting, transferring or sheltering 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:**

a) in order to obtain, directly or indirectly, a patrimonial benefit;

b) by means that endanger the life, integrity or health of the migrant;

c) By subjecting the migrant to inhuman or degrading treatment, the punishment is imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

(3) The attempt is punishable.

**Article 264: Facilitating illegal stay in Romania**

(1) The act of a 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 or domicile in Romania, is punishable by imprisonment from one to 5 years and the prohibition of exercising certain rights. If the means used constitutes in itself a crime, the rules on the concurrence of crimes apply.

**(2) When the deed was committed:**

a) in order to obtain, directly or indirectly, a patrimonial benefit;

b) by a public official in the exercise of his duties, the punishment is imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(3) When the acts referred to in paragraphs (1) and (2) are committed with regard to another

foreigner illegally on the territory of Romania, the special limits of the punishment shall be reduced by one third.

#### **Article 265: Evasion of removal measures 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 has been ordered or the prohibition of the right of residence has been ordered, is punishable by imprisonment from 3 months to 2 years or with a fine.

### **TITLE IV: Crimes against the administration of justice**

#### **Article 266: Non-reporting**

(1) The act of the person who, becoming aware of the commission of an act provided for 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 year to 3 years.

(1<sup>1</sup>) The act of the person who, becoming aware of the commission of an act provided for by the criminal law, 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 from 6 months to 2 years.

(2) Failure to report a family member is not punishable.

(3) A person who, before initiating a criminal action against a person for committing the unreported act, informs the competent authorities about it or who, even after the initiation of the criminal action, has facilitated the criminal liability of the perpetrator or the participants, shall not be punished.

#### **Article 267: Failure to notify**

(1) The public official who, becoming aware of the commission of an act provided for by the criminal law in connection with the service in which he performs his duties, fails to immediately notify the criminal investigation bodies shall be punished with imprisonment from 3 months to 3 years or with a fine.

(2) When the act is committed due to negligence, the punishment is imprisonment from 3 months to one year or a fine.

#### **Article 268: Misleading judicial bodies**

(1) The criminal notification, made by denunciation or complaint, regarding the existence of an act

provided for by the criminal law or in connection with the commission of such an act by a certain person, knowing that it is unreal, is punishable by imprisonment from 6 months to 3 years or with a fine.

(2)The production or fabrication 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 has committed the misleading of the judicial bodies shall not be punished if he declares, before the arrest, arrest or initiation of criminal proceedings against the person against whom the complaint or complaint was made or the evidence was produced, that the denunciation, complaint or evidence is unreal.

#### **Article 269: Favoring the perpetrator**

(1)Assistance to the perpetrator in order to prevent or hinder investigations in a criminal case, to hold them criminally responsible, to execute a custodial sentence or measures of deprivation of liberty shall be punished with imprisonment from one to 5 years or with a fine.

(2)The punishment imposed on the favorer may not be higher than the punishment provided by law for the act committed by the perpetrator.

(3)Favoring committed by a family member is not punishable.

#### **Article 270: Concealment**

(1)The receipt, acquisition, transformation or facilitation of the valorization of an asset, by a person who either knew or foresaw from the concrete circumstances that it originates from the commission of an act provided for by the criminal law, even without knowing its nature, is punishable by imprisonment from one to 5 years or with a fine.

(2)The punishment applied to the concealer may not be higher than the punishment provided by law for the act committed by the perpetrator.

(3)The concealment committed by a family member is not punishable.

#### **Article 271: Obstruction of justice**

(1)**A person who, having been warned of the consequences of his act:**

a)prevents the prosecution body or the court from carrying out, in accordance with the law, a procedural act;

b)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 held, which have been explicitly requested, under the law, in order to settle a case, is punishable by imprisonment from 3 months to one year or with a fine.

(2)The provisions of paragraph (1) shall not apply to the case of the person prosecuted or tried for the offence which is the subject of the criminal proceedings.

### **Article 272: Influencing statements**

(1)Attempting to determine or determine a person, regardless of his capacity, by corruption, coercion or by any other act with a manifestly intimidating effect, committed against him or on a member of his family, not to notify the criminal prosecution bodies, not to give statements, to withdraw his statements, to give false statements or not to present evidence, in a criminal, civil or any other judicial proceeding, it is punishable by imprisonment from one to 5 years. If the act of intimidation or corruption constitutes in itself a crime, the rules on the concurrence of crimes apply.

(2)The patrimonial agreement between the offender and the injured person, entered into in the case of crimes for which the criminal action is initiated upon prior complaint or for which reconciliation occurs, does not constitute a crime.

### **Article 273: False testimony**

**(1)The act of a witness who, in a criminal or civil case or in any other procedure in which witnesses are heard, makes false statements or does not say everything he knows about the essential facts or circumstances about which he is questioned is punishable by imprisonment from 6 months to 3 years or with a fine.**

\*) The act of a person heard as a witness to make false statements or not to say everything he knows about the essential facts or circumstances about which he has been questioned meets only the elements of typicality of the crime of false testimony, provided for in Article 273 paragraph (1) of the Criminal Code. (Decision no. 1/2019)

\*) The HCCJ admits the complaint filed by the Court of Appeal of Bacău - Criminal Section and for Cases with Minors and Family (...) and establishes that: The denouncing witness who benefits from the cause of non-punishment provided for in Article 290 paragraph (3) of the Criminal Code may be an active subject of the crime of false testimony, provided for in Article 273 paragraph (1) of the Criminal Code.

**(2)The false testimony committed:**

a)by a witness with a protected identity or in the Witness Protection Program;

b)by an undercover investigator;

c)by a person who prepares an expert report or by an interpreter;

d)In connection with an act for which the law provides for the punishment of life imprisonment or imprisonment of 10 years or more, it shall be punished with imprisonment from one to 5 years.

(3)The perpetrator is not punished if he withdraws his testimony, in criminal cases before the arrest, arrest or initiation of criminal proceedings or in other cases before a decision has been pronounced or another solution has been given, as a result of false testimony.

\*) The HCCJ admitted the complaint filed by the Bucharest Court of Appeal - Criminal Section II, which requested the pronouncement of a preliminary decision for the resolution of principle of the following question of law: "Can the participant in the commission of a crime who was tried separately from the other participants and subsequently heard as a witness in the separate case concerning the latter participants be an active subject of the crime of false testimony?, and establishes that the participant in the commission of a crime who has been tried separately from the other participants and subsequently heard as a witness, in the separate case, cannot have the status of active subject of the crime of false testimony provided for by Article 273 of the Criminal Code.

#### **Article 274: Revenge for the help given to justice**

The commission of an offence against a person or a member of his family, on the grounds that he has notified the criminal prosecution bodies, has given statements or presented evidence in a criminal or civil case or in any other procedure provided for in Article 273, shall be punished with the penalty provided by law for that offence, the special limits of which shall be increased by one third.

#### **Article 275: 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 truth from being found out in a judicial proceeding, is punishable by imprisonment from 6 months to 5 years.**

\*) By Decision no. 3/2021, the HCCJ admits the notification filed by the Bucharest Court of Appeal - Criminal Section II regarding the pronouncement of a preliminary decision for the resolution of some questions of law and establishes that:

"1. The crime of theft or destruction of evidence or documents, provided for in Article 275 paragraph (1) of the Criminal Code, has as a prerequisite the existence of a judicial procedure initiated.

2. The author of the act provided for by the criminal law that is the subject of the criminal trial in which the documents or material means of evidence are used may be an active subject of the crime of

theft or destruction of evidence or documents in the manner provided by Article 275 paragraph (1) of the Criminal Code."

(2)The same penalty shall be punished for preventing, in any other way, a document necessary for the settlement of a case, issued by a judicial body or addressed to it, from reaching the addressee.

**Article 276:**

[the text of Article 276 of Part II, Title IV was repealed on 08-Dec-2014 by the Act of Law 159/2014]

**Article 277: Compromise of the interests of justice**

(1)The 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 has become aware of it by virtue of his position, if this may hinder or prevent the criminal prosecution, shall be punished with imprisonment from 3 months to 2 years or with a fine.

(2)The disclosure, without right, of evidence or official documents in a criminal case, before a decision of non-prosecution or final settlement of the case is ordered, by a public official who became aware of them by virtue of his position, shall be punished with imprisonment from one month to one year or with a fine.

(3)The disclosure, without right, of information in a criminal case, by a witness, expert or interpreter, when this prohibition is imposed by the law of criminal procedure, is punishable by imprisonment from one month to one year or with a fine.

(4)It is not a crime to disclose or disclose manifestly illegal acts or activities committed by the authorities in a criminal case.

**Article 278: Violation of the solemnity of the sitting**

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)The threat, hitting or other violence, bodily injury, 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, the special limits of which shall be increased by half.

(2)The commission of an offence against a judge or prosecutor or against his property, for the purpose of intimidation or revenge, in connection with the exercise of his duties, shall be punished with the custodial sentence provided by law for that offence, the special limits of which shall be increased by half.

(3)The same penalty shall be imposed on acts committed under paragraph (2) if they concern a family member of the judge or prosecutor.

(4)Paragraphs 1 to 3 shall also apply accordingly to acts committed against a lawyer in connection with the exercise of his 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, in order to determine him to give or not to give statements, to give false statements or to withdraw his statements, is punishable by imprisonment from 2 to 7 years and the prohibition of exercising the right to hold a public office.

(2)The same penalty is imposed on the production, falsification or tampering with of unreal evidence by a criminal investigation body, a prosecutor or a judge.

#### **Article 281: Subjection to ill-treatment**

(1)Subjecting a person to the execution of a punishment, security or educational measures in a manner other than that provided for by the legal provisions shall be punished with imprisonment from 6 months to 3 years and the prohibition of exercising the right to hold a public office.

(2)Subjecting to degrading or inhuman treatment of a person in a state of detention, detention or in execution of a security or educational measure, deprivation of liberty, is punishable by imprisonment from one to 5 years and the prohibition of exercising the right to hold a public office.

#### **Article 282: Torture**

**(1)The act of a public official performing a function involving the exercise of state authority or of another person acting at the instigation or with his express or tacit consent to cause severe physical or mental suffering to a person:**

- a)for the purpose of obtaining information or statements from this person or from a third party;
- b)for the purpose of punishing him for an act that he or a third person has committed or is suspected of having committed;
- c)for the purpose of intimidating or pressuring him or her or intimidating or pressuring a third party;
- d)on a ground based on any form of discrimination, it is punishable by imprisonment from 2 to 7

years and the prohibition of exercising certain rights.

(2) If the act referred to in paragraph (1) resulted in bodily injury, the penalty shall be imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

(3) Torture resulting in the death of the victim is punishable by imprisonment from 15 to 25 years and the prohibition of exercising some rights.

(4) The attempt to commit the offence referred to in paragraph (1) shall be punishable.

(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 emergency, can be invoked to justify torture. Also, the order of the superior or of a public authority cannot be invoked.

(6) Pain or suffering resulting exclusively from legal sanctions that are inherent in or occasioned by such sanctions does not constitute torture.

#### **Article 283: Unjust repression**

(1) The act of initiating the criminal action, of taking a non-custodial preventive measure or of sending a person to court, knowing that he is 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: Unfair assistance and representation**

(1) The act of the lawyer or representative of a person who, in fraudulent agreement with a person with contrary interests in the same case, in a judicial or notarial procedure, harms the interests of the client or of the represented person shall be punished with imprisonment from 3 months to one year or with a fine.

(2) The same penalty is sanctioned the fraudulent agreement between the lawyer or the representative of a person and a third party interested in the solution that will be pronounced in the case, in order to harm the interests of the client or the person represented.

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

#### **Article 285: Escape**

(1) Escape from the legal state of detention or detention is punishable by imprisonment from 6 months to 3 years.

(2) When the escape is committed through the use of violence or weapons, the punishment is

imprisonment from one to 5 years and the prohibition of exercising certain rights.

**(3)The following are considered escapes:**

a)the 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;

b)the abandonment, without authorization, by the convicted person, of the place of work, located outside the place of detention.

c)the violation by the person under house arrest of the obligation not to leave the building or the failure to comply with the itinerary or the conditions of movement, established according to the law.

(3<sup>1</sup>)The act of the person sentenced to life imprisonment or imprisonment is also considered to be the act of not appearing at the police body in order to execute the warrant for the execution of the sentence within 7 days from the date on which the decision ordering the execution of the sentence became final.

(4)In the situations provided for in paragraph (1), (2), paragraph (3) letters a) and b) and paragraph (3<sup>1</sup>), the penalty imposed for the crime of escape shall be added to the sentence not served on the date of escape.

(4<sup>1</sup>)In the situation provided for in paragraph (3) letter c), the rules on the concurrence of offences shall apply.

(5)The attempt to commit the offences referred to in paragraphs (1) and (2) shall be punishable.

**Article 286: Making it easier to escape**

(1)Facilitating escape by any means is punishable by imprisonment from one to 5 years.

**(2)Facilitating escape:**

a)committed through the use of violence, weapons, narcotic or paralyzing substances;

b)of two or more persons in the same circumstance;

c)A person detained or arrested for a crime punishable by law with a life sentence or 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 exercising certain rights.

(3)If the acts referred to in paragraphs 1 and 2 are committed by a person who had the duty to guard the detained or detained person, the special limits of the penalty shall be increased by one third.

(4)The facilitation of escape, committed by negligence, by a person who had the duty to guard the one who escaped, is punishable by imprisonment from 3 months to 2 years.

(5)The attempt to commit the offences referred to in paragraph (1) to (3) shall be punishable.

## **Article 287: Failure to comply with court decisions**

### **(1) Failure to comply with a court decision committed by:**

- a) opposition to execution, by opposing resistance to the enforcement body;
- b) the refusal of the enforcement body to implement a court decision obliging it to perform a certain act;
- c) the refusal to support the enforcement body in the implementation of the decision, by the persons who have this obligation according to the law;
- d) non-execution of the court decision ordering the reinstatement of an employee;
- e) failure to execute the court decision on the payment of salaries within 15 days from the date of the request for enforcement addressed to the employer by the interested party;
- f) non-compliance with court decisions on the establishment, payment, updating and recalculation of pensions;
- g) preventing a person from using, in whole or in part, a property owned on the basis of a court decision, by the person against whom the decision is enforceable;
- h) failure to comply with a protection measure ordered in the execution of a European protection order.**

It is punishable by imprisonment from 3 months to 2 years or with a fine.

(2) In the case of the facts provided for in letters d) - g), the criminal action shall be initiated upon the prior complaint of the injured person.

(3) In the case of the act referred to in paragraph (1) letter h), the reconciliation of the parties removes the criminal liability.

## **Article 288: Non-execution of criminal sanctions**

**(1) Evasion of execution or non-execution according to the law of a complementary or accessory punishment or of the security measure provided for in Article 108 letters 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.**

The High Court of Cassation and Justice establishes that "The act of evading the execution of the security measure provided for in Article 112 letter d) of the previous Criminal Code (of 1969) does not meet the conditions of typicality of the crime provided by Article 288 paragraph (1) of the Criminal Code".

(2) Evasion from the execution of an educational measure involving deprivation of liberty by leaving

the educational center or detention center without right or by failing to appear after the expiry of the period in which he was legally in a state of liberty shall be punished with imprisonment from 3 months to one year or with a fine.

(3) Failure by the trustee or administrator to comply with the complementary penalties imposed on a legal person from those provided for in Article 141 shall be punished with a fine.

## **TITLE V: Corruption and service crimes**

### **CHAPTER I: Corruption crimes**

#### **Article 289: Bribery**

**(1) The act of a 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, hastening or delay in the performance of an act that falls within his official duties or in connection with the performance of an act contrary to these duties, It is punishable with 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 the deed was committed.**

\*) The HCCJ admits the complaint filed by the Court of Appeal of Brasov - Criminal Section and establishes that:

"The military hospital is a public institution within the meaning of Article 135 of the Criminal Code, and it may not be the perpetrator of the offences of bribery, provided for in Article 289(1) of the Criminal Code, and abuse of office, provided for in Article 297(1) of the Criminal Code."

(2) The act referred to in paragraph 1, committed by one of the persons referred to in Article 175(2), constitutes an offence only when it is committed in connection with the non-fulfilment, delay in the performance of an act relating to his legal duties or in connection with the performance of an act contrary to those duties.

(3) The money, values or any other goods received are subject to confiscation, and when they are no longer found, confiscation by equivalent is ordered.

#### **Article 290: Bribery**

(1) The promise, offering or giving of money or other benefits, under the conditions indicated in Article 289, shall be punished with imprisonment from 2 to 7 years.

(2) The act provided for in paragraph (1) does not constitute a crime when the briber has been

coerced by any means by the one who took the bribe.

**(3)The briber is not punished if he denounces the act before the criminal investigation body has been notified about it.**

\*) The HCCJ admits the complaint filed by the Court of Appeal of Bacău - Criminal Section and for Cases with Minors and Family (...) and establishes that: The denouncing witness who benefits from the cause of non-punishment provided for in Article 290 paragraph (3) of the Criminal Code may be an active subject of the crime of false testimony, provided for in Article 273 paragraph (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 referred to in paragraph 2 or given after the denunciation provided for in paragraph 3.

(5)Money, values or any other goods offered or given are subject to confiscation, and when they are no longer found, confiscation by equivalent is ordered.

#### **Article 291: Influence peddling**

(1)The demand, receipt or acceptance of the promise of money or other benefits, directly or indirectly, for himself or for another, committed by a person who has influence or suggests that he has influence over a public official and who promises to induce him to perform, not to perform, to hasten or to delay the performance of an act falling within the scope of his duties of service or to perform an act contrary to those duties, It is punishable by imprisonment from 2 to 7 years.

(2)The money, values or any other goods received are subject to confiscation, and when they are no longer found, confiscation by equivalent is ordered.

#### **Article 292: Buying influence**

(1)The promise, offering or giving of money or other benefits, for oneself or for another, directly or indirectly, to a person who has influence or gives rise to the belief that he has influence over a public official, in order to induce him to perform, not to perform, to hasten or to delay the performance of an act falling within the scope of his official duties or to perform an act contrary to those duties, It is punishable by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2)The perpetrator is not punished if he denounces the act before the criminal investigation body has been notified about it.

(3)The money, values 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 by equivalent is ordered.

### **Article 293: Acts committed by or in connection with members of arbitral tribunals**

The provisions of Articles 289 and 290 shall apply accordingly to persons who, on the basis of an arbitration agreement, are called upon to render an award on a dispute which is given to them for settlement by the parties to this agreement, regardless of whether the arbitral proceedings are conducted on the basis of Romanian law or on the basis of another law.

### **Article 294: Acts committed by or in connection with foreign officials**

The provisions of this chapter shall apply to the following persons, unless otherwise provided by the international treaties to which Romania is a party:

- a) civil servants or persons who carry out their activity on the basis of an employment contract or other persons who exercise similar duties within an international public organization to which Romania is a party;
- b) 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 exercising similar duties, within the European Union;
- d) persons exercising legal functions within the international courts whose jurisdiction is accepted by Romania, as well as officials from the registries of these courts;
- e) officials of a foreign state;
- f) members of the parliamentary or administrative assemblies of a foreign state.
- g) jurors in foreign courts.

## **CHAPTER II: Service offences**

### **Article 295: Embezzlement**

**(1) The appropriation, use or trafficking by a public official, in his own interest or for another, of money, values or other goods 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.**

\*) Decision no. 15/2024 - HCCJ admits the appeal in the interest of the law filed by the Prosecutor

General of the Prosecutor's Office attached to the High Court of Cassation and Justice.

In the unitary interpretation and application of the provisions, Article 152(1)(a) of the Code of Criminal Procedure, in relation to Article 139(2) of the Code of Criminal Procedure, establishes that the offence of embezzlement provided for in Article 295(1) with the application of Article 308(1) of the Criminal Code cannot be classified as a crime against property.

(2)The attempt is punishable.

#### **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 with a fine.

(2)The threat or hitting or other violence committed under the conditions of paragraph (1) shall be punished with the punishment provided by law for that crime, the special limits of which shall be increased by one third.

#### **Article 297: Abuse of office**

(1)The act of a civil servant who, in the exercise of his or her duties, fails to perform an act provided for by a law, a Government ordinance, a Government emergency ordinance or by another normative act which, at the date of adoption, had the force of law or performs it in violation of a provision contained in such a normative act, thus causing damage or injury to the rights or legitimate interests of a natural person or a legal person, It is punishable by imprisonment from 2 to 7 years and the prohibition of exercising the right to hold a public office.

(2)The same punishment shall also be imposed on the act of a public servant who, in the exercise of his or her duties, restricts the exercise of a right of a person or creates for him or her a situation of inferiority on the grounds of race, nationality, ethnic origin, language, religion, sex, sexual orientation, political affiliation, wealth, age, disability, chronic non-contagious disease or HIV/ AIDS infection.

#### **Article 298: Negligence in service**

The act of a public servant who, due to fault, in the exercise of his or her duties, fails to perform an act provided for by a law, a Government ordinance, a Government emergency ordinance or by another normative act which, at the date of adoption, had the force of law or performs it in violation of a provision contained in such a normative act and thereby causes damage or injury to the rights or legitimate interests of a natural person, or of a legal person shall be punished with imprisonment from 3 months to 3 years or with a fine.

### **Article 299: Sexual misuse of the position**

(1)The act of a public servant who, in order to perform, not to perform, to hasten or delay the performance of an act relating to his duties of service or in order to perform an act contrary to these duties, demands or obtains favors of a sexual nature from a person directly or indirectly interested in the effects of that act of service shall be punished with imprisonment from 6 months to 3 years and the prohibition of exercising the right to occupying a public office or exercising the profession or activity in the execution of which he committed the act.

(2)The demand or obtaining of sexual favors by a public official who avails himself or takes advantage of a situation of authority or superiority over the victim, resulting 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 he committed the act.

(3)If the acts referred to in paragraphs (1) and (2) were committed by the teaching staff of university or pre-university education against a pupil or student, the special limits of the penalty shall be increased by one third.

### **Article 300: Usurpation of Function**

The act of a public servant who, during his service, performs an act that does not fall within his duties, if one of the consequences provided for in Article 297 has occurred, shall be punished with imprisonment from one to 5 years or with a fine.

### **Article 301: Using the function to favor some people**

(1)The act of a public servant who, in the exercise of his duties of office, has performed an act through which a patrimonial benefit was obtained for himself, for his spouse, for a relative or a relative up to the second degree inclusive, shall be punished with 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 paragraph 1 shall not apply in cases where the act or decision relates to the following situations:**

- a)issuance, approval or adoption of normative acts;
- b)exercising a right recognized by law or in fulfilling an obligation imposed by law, in compliance with the conditions and limits provided by it.

### **Article 302: Violation of the secrecy of correspondence**

(1) The opening, theft, destruction or retention, without right, of a correspondence addressed to another, as well as the unlawful disclosure of the contents of such correspondence, even when it was sent open or was opened by mistake, shall be punished with imprisonment from 3 months to one year or with a fine.

(2) The interception, without right, 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 with a fine.

(3) If the acts referred to in paragraphs 1 and 2 were committed by a public official who has a legal obligation to respect professional secrecy and the confidentiality of the information to which he has access, the penalty shall be imprisonment from one to 5 years and the prohibition of certain rights.

(4) Disclosure, dissemination, presentation or transmission, to another person or to the public, without right, of the content of an intercepted conversation or communication, even if the perpetrator became aware of it by mistake or by chance, is punishable by imprisonment from 3 months to 2 years or a fine.

**(5) The act committed does not constitute a crime:**

a) if the perpetrator catches the commission of a crime or contributes to proving the commission of a crime;

b) if it captures facts of public interest, which have significance for the life of the community and whose disclosure presents public advantages greater than the damage caused to the injured person.

(6) The possession or manufacture, without right, of specific means of interception or recording of communications is punishable by imprisonment from 3 months to 2 years or with a fine.

(7) For the acts referred to in paragraph (1), the criminal action shall be initiated upon the prior complaint of the injured person.

### **Article 303: Disclosure of State Secret Information**

(1) The disclosure, without right, of state secret information, by the person who knows it due to the duties of service, if it affects the interests of a legal person among those provided for in Article 176, shall be punished with imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2) The possession, without right, outside the duties of service, of a document containing state secret information, if it may affect the activity of one of the legal entities provided for in Article 176, shall be punished with imprisonment from 3 months to 2 years or with a fine.

(3) A person who holds a document containing state secret information, which may affect the activity of one of the legal persons referred to in Article 176, shall not be punished if he immediately hands over the document to the issuing body or institution.

#### **Article 304: Disclosure of secret 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 his job duties, if it 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 with a fine.

(3) If, as a result of the act referred to in paragraphs 1 and 2, an offence has been committed against the undercover investigator, the protected witness or the person included in the Witness Protection Programme, the penalty shall be imprisonment from 2 to 7 years, and if a life offence has been intentionally committed, the penalty shall be imprisonment from 5 to 12 years.

#### **Article 305: Negligence in retaining information**

(1) Negligence resulting in the destruction, alteration, loss or theft of a document containing state secret information, as well as negligence that caused another person to find out such information, shall be punished with imprisonment from 3 months to one year or with a fine.

(2) The same penalty shall be imposed on the acts provided for in Article 303(1) and Article 304, if they were committed through negligence.

#### **Article 306: Illegal obtaining of funds**

(1) The use or presentation of false, inaccurate or incomplete documents or data, in order to receive the approvals or guarantees necessary for granting the financing obtained or guaranteed from public funds, if it results in the unfair obtaining of these funds, is punishable by imprisonment from 2 to 7 years.

(2) The attempt is punishable.

#### **Article 307: Embezzlement of funds**

(1) Changing the destination of 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 sanctioned for changing, without observing the legal provisions, the destination of the funds from the financing obtained or guaranteed from public funds.

(3)The attempt is punishable.

### **Article 308: Corruption and service crimes committed by other persons**

**(1)The provisions of Articles 289 to 292, 295, 297 to 300 and 304 relating to civil servants shall also apply accordingly to acts committed by or in connection with persons who perform, permanently or temporarily, with or without remuneration, an assignment of any kind in the service of a natural person referred to in Article 175 (2) or within any legal person.**

\*) The HCCJ admits the complaint filed by the Court of Appeal of Pitesti - Criminal Section and for Cases with Minors and Family by which it requests the pronouncement of a preliminary decision for the resolution of the following question of law: "if the entrepreneur owner of a sole proprietorship represents, within the meaning provided by Article 308 paragraph (1) of the Criminal Code in relation to Article 175 paragraph (2) sentence II of the Criminal Code, a person who permanently or temporarily, with or without remuneration, carries out a task of any kind in the service of a natural person referred to in Article 175(2) of the Criminal Code, or within a sole proprietorship carrying out a service in the public interest, which is subject to the control or supervision of the public authorities with regard to the performance of that public service' and establishes that:

An entrepreneur who owns a sole proprietorship does not, within the meaning of the provisions of Article 308(1) of the Criminal Code, have the status of a person who performs permanently or temporarily, with or without remuneration, a task of any kind in the service of a natural person referred to in Article 175(2) of the Criminal Code, in relation to the sole proprietorship.

If the entrepreneur who owns a sole proprietorship carries out a service in the public interest which is subject to the control or supervision of the public authorities with regard to the performance of that public service, he has the status of a public official within the meaning of the provisions of Article 175(2) of the Criminal Code.

\*) Decision no. 15/2024 - HCCJ admits the appeal in the interest of the law filed by the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice.

In the unitary interpretation and application of the provisions, Article 152(1)(a) of the Code of Criminal Procedure, in relation to Article 139(2) of the Code of Criminal Procedure, establishes that the offence of embezzlement provided for in Article 295(1) with the application of Article

308(1) of the Criminal Code cannot be classified as a crime against property.

(2) In this case, the special limits of punishment are reduced by a third.

### **Article 309: The facts that produced particularly serious consequences**

If the acts provided for in Article 295, Article 297, Article 298, Article 300, Article 303, Article 304, Article 306 or Article 307 have produced particularly serious consequences, the special limits of the penalty provided for by law shall be increased by half.

## **TITLE VI: Crimes of forgery**

### **CHAPTER I: Counterfeiting of coins, stamps or other valuables**

#### **Article 310: Counterfeiting of coins**

(1) The counterfeiting of currency with circulatory value is punishable by imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

(2) The same penalty is sanctioned for counterfeiting a coin, issued by the competent authorities, before its official putting into circulation.

(3) The attempt is punishable.

#### **Article 311: Counterfeiting of credit instruments or payment instruments**

(1) The falsification of credit securities, securities or instruments for making payments or any other similar securities or securities is punishable by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2) If the act referred to in paragraph (1) concerns a non-cash payment instrument, the penalty shall be imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

(3) The attempt is punishable.

#### **Article 312: Forgery of stamps or postal effects**

(1) Forgery of stamps of any kind, postage stamps, postage envelopes, postcards or international response coupons is punishable by imprisonment from 6 months to 3 years or a fine.

(2) The attempt is punishable.

#### **Article 313: Putting into circulation counterfeit securities or acquiring counterfeit non-cash payment instruments**

(1) The putting into circulation of the counterfeit securities provided for in Articles 310-312, as

well as their receipt, possession or transmission, in order to put them into circulation, shall be punished with the penalty provided by law for the crime of counterfeiting by which they were produced.

(2)The putting into circulation of the counterfeit values provided for in Articles 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)The re-entry into circulation of one of the values provided for in Articles 310-312 by a person who has ascertained, after taking 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, the special limits of which shall be reduced by half.

(4)Acquisition for oneself or for another, including by receiving, appropriating, purchasing or as a result of an operation such as transferring, importing, exporting, selling, transporting, distributing or making available for fraudulent use of a counterfeit cashless payment instrument is punishable by imprisonment from 2 to 7 years.

(5)The attempt is punishable.

#### **Article 314: Possession of instruments for counterfeiting of values**

(1)The manufacture, receipt, possession or transmission of instruments or materials for the purpose of serving the counterfeiting of securities or securities referred to in Article 310, Article 311(1) and Article 312 shall be punishable by imprisonment from one to 5 years.

(2)The manufacture, production, receipt, possession, transmission or making available of a device, instrument, computer data, equipment, including hardware or software, or any other means for the purpose of serving to counterfeit cashless payment instruments shall be punishable by imprisonment from 2 to 7 years.

(3)The penalty provided for in paragraph (2) shall also be sanctioned for the acquisition for oneself or for another, including by importing, exporting, selling, transporting or distributing a device, instrument, computer data, equipment, including hardware or software, or any other means for the purpose of serving to counterfeit cashless payment instruments.

(4)A person who, after committing any of the acts referred to in paragraph (1) to (3), before their discovery and before the act of forgery has been committed, hands over the instruments, materials held or any other means to the judicial authorities or informs these authorities of their existence shall not be punished.

**Article 315: Fraudulent coin issuance**

(1)The manufacture of authentic currency by using installations 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 exercising certain rights.

(2)The same penalty shall be imposed on the putting into circulation of the coin made under the conditions of paragraph (1), as well as its receipt, possession or transmission, in order to put it into circulation.

(3)The attempt is punishable.

**Article 316: Falsification of foreign values**

The provisions of this Chapter shall also apply if the offence concerns coins, stamps, securities or payment instruments, including cashless payment instruments issued abroad.

**CHAPTER II: Falsification of authentication or marking tools****Article 317: Counterfeiting of official instruments**

(1)Forgery of a seal, stamp or marking instrument used by the persons referred to in Article 176 or the natural persons referred to in Article 175(2) shall be punishable by imprisonment from 6 months to 3 years or by a fine.

(2)Forgery of a seal, stamp or marking instrument used by persons other than those referred to in paragraph 1 shall be punishable by imprisonment from 3 months to one year or by a fine.

(3)The attempt is punishable.

**Article 318: Using fake tools**

The use of the false instruments provided for in Article 317 shall be punished with imprisonment from 3 months to 3 years or with a fine.

**Article 319: Forgery of foreign authentication tools**

The provisions contained in this chapter shall 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: Forgery in official documents**

(1)The falsification of an official document, by forging the writing or subscription or by altering it in any way, likely to produce legal consequences, is punishable by imprisonment from 6 months to 3 years.

(2)The forgery provided for in paragraph (1), committed by a public official in the exercise of his official duties, shall be punished with imprisonment from one to 5 years and the prohibition of exercising certain rights.

(3)Tickets, vouchers or any other printed matter that produce 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 facts or circumstances inappropriate to the truth or by knowingly omitting to insert some data or circumstances, is punishable by imprisonment from one to 5 years.

(2)The attempt is punishable.

#### **Article 322: Forgery of documents under private signature**

(1)The falsification of a document under private signature by any of the ways provided in Article 320 or Article 321, if the perpetrator uses the forged document or entrusts it to another person for use, in order to produce a legal consequence, is punishable by imprisonment from 6 months to 3 years or with a fine.

(2)The attempt is punishable.

#### **Article 323: Use of forgery**

The use of an official document or under private signature, knowing that it is false, in order to produce a legal consequence, is punished with imprisonment from 3 months to 3 years or with a fine, when the document is official, and with imprisonment from 3 months to 2 years or with a fine, when the document is under private signature.

#### **Article 324: Falsification of a technical record**

(1)The falsification of a technical record by counterfeiting, alteration or by determining the attestation of circumstances inadequate to the truth or the omission of recording data or circumstances, if it was followed by the use by the perpetrator of the recording or by entrusting it

to another person for use, in order to produce a legal consequence, shall be punished with imprisonment from 6 months to 3 years or with a fine.

(2) With the same penalty, the use of a falsified technical record in order to produce a legal consequence is sanctioned.

(3) Technical registration, for the purposes of this article, means the attestation of a value, weight, measures or the development 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 act of introducing, modifying or deleting, without right, computer data or restricting, without right, access to these data, resulting in data inappropriate to the truth, in order to be used in order to produce a legal consequence, constitutes a crime and is punishable by imprisonment from one to 5 years.

\*) Decision 4/2021: Admits the complaint filed by the Court of Appeal of Brasov - Criminal Section in Case no. 9.010/197/2019, which requests the pronouncement of a preliminary decision for the resolution of the question of law: "If the act of opening and using an account on a social network open to the public (network that does not require evidence of the use of the real name by the holder of an account), providing as a username the name of another person and entering real data concerning this person (information, photos, videos, etc.) fulfills the conditions of typicality of the crime of computer forgery, provided by Article 325 of the Criminal Code, with reference to the requirements that the action of entering computer data be carried out without right and, respectively, to result in data inadequate to the truth" and establishes that: The act of opening and using an account on a social network open to the public, using the name of another person as a username and entering real personal data that allow his or her identification, meets two of the essential requirements of the crime of computer forgery provided for in Article 325 of the Criminal Code, namely that the action of entering computer data is carried out without right and that the action of entering computer data results in data that is inadequate to the truth.

### **Article 326: False statements**

(1) The improper declaration of the truth, made to a person of those provided for in Article 175 or to a unit in which he carries out his activity in order to produce a legal consequence, for himself or for another, when, according to the law or circumstances, the declaration made serves to produce that consequence, shall be punished with imprisonment from 6 months to 2 years or with a fine.

(2) The act referred to in paragraph (1), committed in order to hide the existence of a risk regarding infection with an infectious disease, shall be punished with imprisonment from one to 5 years or with a fine.

### **Article 327: Fake identity**

(1) Presenting under a false identity or attributing such an identity to another person, made to a person provided for in Article 175 or transmitted to a unit in which he carries out his activity by fraudulently using a document serving for identification, identification or proof of civil status or of such a forged document, in order to mislead or maintain a public official, In order to produce a legal consequence, for oneself or for another, it is punished with imprisonment from 6 months to 3 years.

(2) When the presentation was made using the real identity of a person, the punishment is imprisonment from one to 5 years.

(3) The entrustment of a document that serves to identify, legitimize or prove the civil status to be used without right is punishable by imprisonment from 3 months to 2 years or with a fine.

### **Article 328: Crimes of forgery committed in connection with the authority of a foreign state**

The provisions contained in this chapter shall also apply when the act concerns acts 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 declarations or an identity assumed before it.

## **TITLE VII: Crimes against public security**

### **CHAPTER I: Offences against railway traffic safety**

#### **Article 329: Failure to perform service duties or their defective performance**

(1) The failure to perform the duties of the service or their defective performance by the employees who manage the railway infrastructure or of the transport, intervention or maneuvering operators, if this endangers the safety of the circulation of the means of transport, intervention or maneuver on the railway, shall be punished with imprisonment from one to 5 years.

(2) If the deed resulted in a railway accident, the punishment is imprisonment from 3 to 10 years.

#### **Article 330: Failure to perform service duties or their defective performance due to negligence**

(1) The failure to perform the duties of the service or their defective performance, due to

negligence, by the employees who manage the railway infrastructure or of the transport, intervention or maneuvering operators, if this endangers the safety of the means of transport, intervention or maneuver on the railway, is punished with imprisonment from 3 months to 3 years or with a fine.

(2) When the deed resulted in a railway accident, the punishment is imprisonment from one to 5 years.

### **Article 331: Leaving the job and being present at work under the influence of alcohol or other substances or refusing or evading the taking of biological samples**

(1) Leaving the post, in any way and in any form, of employees with attributions regarding the safety of the circulation of means of transport, intervention or maneuver on the railway, if this endangers the safety of the circulation of these means, shall be punished with imprisonment from 2 to 7 years.

(2) The same punishment is sanctioned the fulfillment of the job duties by an employee with attributions regarding the safety of the circulation of means of transport, intervention or maneuver on the railway, who has an alcohol content of over 0.80 g/l of 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 circulation of means of transport, intervention or maneuver on the railway to submit to the taking of biological samples necessary in order to establish the blood alcohol level or the presence of psychoactive substances is punishable by imprisonment from 2 to 7 years.

(4) When the acts referred to in paragraphs (1) and (2) resulted in a railway accident, the punishment shall be imprisonment from 3 to 10 years and the prohibition of certain rights.

### **Article 332: Destruction or false flagging**

(1) Destroying, degrading or rendering useless the railway line, rolling stock, railway or railway communications installations, as well as any other goods or equipment related to the railway infrastructure or placing obstacles on the railway line, 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 exercising certain rights.

(2) The same penalty shall be punished for committing acts of false signalling or committing any acts that may mislead the personnel who ensure the circulation of means of transport, maneuvering or intervention on the railway during the performance of the service, if these acts create a danger of

a railway accident.

(3) If the acts referred to in paragraphs (1) and (2) resulted in a railway accident, the punishment shall be imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.

(4) When the acts referred to in paragraphs 1 to 3 are committed by negligence, the special limits of the penalty shall be reduced by half.

(5) The attempt to commit the offences referred to in paragraphs (1) and (2) shall be punishable.

### **Article 333: Railway accident**

A railway accident consists of the destruction or degradation of means of transport, rolling stock or railway installations during the circulation or handling of means of transport, manoeuvring, maintenance or intervention on the railway.

## **CHAPTER II: Offences against traffic safety on public roads**

### **Article 334: Putting into service or driving an unregistered vehicle**

(1) Putting into circulation or driving on public roads a motor vehicle, a tram or an agricultural or forestry tractor that is not registered or registered, according to the law, is punishable by imprisonment from one to 3 years or a fine.

(2) Putting into circulation or driving on public roads a motor vehicle, tram, agricultural or forestry tractor with a false registration or registration number is punishable by imprisonment from one to 5 years or a fine.

(3) Towing an unregistered or unregistered trailer or with a false registration number is punishable by imprisonment from 3 months to 2 years or a fine.

(4) Driving a motor vehicle, a tram or an agricultural or forestry tractor on public roads or towing a trailer whose license plates or registration number plates have been withdrawn or a vehicle registered in another state, which does not have the right to circulate in Romania, is punishable by imprisonment from 6 months to 2 years or a fine.

### **Article 335: Driving a vehicle without a driver's license**

(1) Driving a motor vehicle, a tram or an agricultural or forestry tractor on public roads by a person who does not have a driving license is punishable by imprisonment from one to 5 years.

(2) Driving on public roads of a vehicle for which the law provides for the obligation to hold a driving license by a person whose driving license is inappropriate to the category to which the

vehicle belongs or whose license has been withdrawn or cancelled or whose exercise of the right to drive has been suspended or who does not have the right to drive motor vehicles, agricultural or forestry trams or tractors in Romania are punished with imprisonment from 6 months to 3 years or with a fine.

**(3)The same penalty shall also be imposed on the person who entrusts a vehicle for which the law provides for the obligation to hold a driving license for driving on public roads to a person whom he knows to be in one of the situations provided for in paragraph (1) or paragraph (2) or under the influence of alcohol or psychoactive substances.**

\*) By Decision no. 14/2020 The High Court of Cassation and Justice establishes that, in interpreting the provisions of Article 335(3) of the Criminal Code, which criminalizes the act of a person entrusting a vehicle for driving on public roads to a person who knew to be under the influence of alcohol, they must concern a person who has an alcohol content of more than 0.80 g/l of pure alcohol in the blood.

#### **Article 336: Driving a vehicle under the influence of alcohol or other substances**

(1)Driving on public roads of a vehicle for which the law provides for the obligation to hold a driving license by a person who has an alcohol content of more than 0.80 g/l of pure alcohol in the blood is punishable by imprisonment from 1 to 5 years and the prohibition of exercising certain rights.

**(2)The same penalty is also sanctioned for the person, under the influence of psychoactive substances, who drives a vehicle for which the law provides for the obligation to hold a driving license.**

\*) HCCJ Decision no. 25/2025 - Admits the notifications filed by the Court of Appeal of Brasov - Criminal Section, requesting the pronouncement of a preliminary decision for the resolution of the following questions of law: "In the case of the crime of driving a vehicle under the influence of psychoactive substances, provided for by Article 336 paragraph (2) of the Criminal Code, in order to achieve the pre-existing essential requirement that the defendant has been under the influence of psychoactive substances, it is sufficient to ascertain the presence in biological evidence of the psychoactive substance, regardless of its concentration, the influence on the ability to drive being absolutely presumed or if this presumption is a relative one, it can be refuted by scientific evidence according to which, despite the presence of psychoactive substances in a minimum concentration, the person is not under the influence of psychoactive substances, affecting the ability to drive motor vehicles on public roads?";

'Does the provision "under the influence of psychoactive substances" in the offence laid down in Article 336(2) of the Criminal Code relate to a person who has consumed psychoactive substances or to a person whose ability to drive a vehicle (for whom the law requires the possession of a driving licence) is altered as a result of the consumption of psychoactive substances?'

and establishes the following:

"In the case of the crime of driving a vehicle under the influence of psychoactive substances, provided for in Article 336 paragraph (2) of the Criminal Code, in order to achieve the essential condition attached to the material element of the objective side, that the defendant has been under the influence of psychoactive substances, it is necessary to ascertain both the presence of the psychoactive substance in the biological samples, as well as its ability to determine the impairment of the author's ability to lead."

(3) If the person in one of the situations referred to in paragraphs (1) and (2) carries out public transport of persons, transport of dangerous substances or products or is in the process of practical training of persons to obtain a driving licence or during the practical tests of the examination for obtaining a driving licence, the penalty shall be imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

### **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 biological samples are collected, is punishable by imprisonment from one to 5 years or with a fine.

(2) If the person in one of the situations referred to in paragraph (1) carries out public transport of persons, transport of dangerous goods or is in the process of practical training of persons in order to obtain a driving licence or during the practical tests of the examination for obtaining a driving licence, the penalty shall be imprisonment from 2 to 7 years.

(3) It is not a crime to consume psychoactive substances after the traffic accident and until the biological samples have been collected, if they are administered by authorized medical personnel, if their administration is required by the driver's state of health or bodily injury.

### **Article 337: Refusal or evasion of biological sampling**

The refusal or evasion of the driver of a vehicle for which the law provides for the obligation to

hold a driving license or of the driving instructor, who is in the process of training, or of the examiner of the competent authority, who is during the practical tests of the exam for obtaining the driving license, to submit to the taking of biological samples necessary to establish the blood alcohol level or the presence of psychoactive substances is punishable by imprisonment of to one to 5 years.

### **Article 338: Leaving the scene of the accident or altering or erasing its traces**

**(1) Leaving the scene of the accident, without the consent of the police or the prosecutor conducting the investigation of the scene of the crime, by the driver of the vehicle or by the driving instructor, who is in the process of training, or by the examiner of the competent authority, during the practical tests of the exam for obtaining the driving license, involved in a traffic accident, is punishable by imprisonment from 2 to 7 years.**

\*) By Decision no. 188/2025 The High Court of Cassation and Justice establishes that, in the interpretation and application of the provisions of Article 338 paragraph (1) of the Criminal Code, the notion of "traffic accident" referred to in the provisions of Article 75 of the Government Emergency Ordinance no. 195/2002 on traffic on public roads, republished, with subsequent amendments and completions, refers exclusively to road events produced by fault or without fault.

(2) The same punishment is imposed on 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 on-site investigation team.

**(3) It is not a crime to leave the scene of the accident when:**

- a) as a result of the accident, only material damage was caused;
- b) the driver of the vehicle, in the absence of other means of transport, transports the injured persons himself to the nearest health unit capable of providing the necessary medical assistance and to which he has declared his personal identity data and the registration number or registration number of the vehicle driven, recorded in a special register, if he immediately returns to the scene of the accident;
- c) the driver of the vehicle with priority traffic regime immediately notifies the police, and after the end of the mission he goes to the headquarters of the police unit in whose area of competence the accident occurred, in order to draw up the finding documents;
- d) The victim leaves the scene and the driver immediately announces the event to the nearest police unit.

### **Article 339: Preventing or hindering traffic on public roads**

(1) The installation of road signaling means or the modification of their positions, without authorization issued by the competent authorities, likely to mislead the traffic participants or to hinder the circulation on the public road is punishable by imprisonment from 3 months to 2 years or with a fine.

(2) Participation as a driver of a vehicle in unauthorized competitions on public roads is punishable by imprisonment from 3 months to one year or a fine.

(3) The same penalty shall be imposed on the placement of obstacles that hinder or hinder traffic on the public road, if traffic safety is endangered or the right to free movement of other traffic participants is infringed.

(4) Leaving unattended on the roadside of the public road a vehicle carrying dangerous products or substances is punishable by imprisonment from one to 3 years or a fine.

#### **Article 340: Failure to comply with the duties regarding the technical check or carrying out repairs**

(1) The defective performance or failure to perform the duties of technical verification or periodic technical inspection of motor vehicles, trailers or trams or those related to the performance of repairs or technical interventions by persons who have such attributions, if due to the technical condition of the vehicle the safety of traffic on public roads has been endangered, shall be punished with imprisonment from 3 months to 2 years or with a fine.

(2) If, as a result of the act referred to in paragraph (1), there has been a traffic accident resulting in injury to the bodily integrity or health of one or more persons, the penalty shall be imprisonment from one to 5 years, and if the death of one or more persons has occurred, the penalty shall be imprisonment from 3 to 10 years.

(3) If the acts referred to in paragraphs 1 and 2 were committed by negligence, the special limits of the penalty shall be reduced by one third.

(4) Repairing motor vehicles, trailers, trams or mopeds with traces of an accident, without meeting the conditions provided 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 construction, modification, modernization or rehabilitation works on the public road or arranging the road access to the public road, without a construction permit issued under the law or in violation of the conditions established in the authorization, shall be punished with imprisonment from 6 months to 3 years or with a fine.

(2) The placement of constructions, billboards or advertising in the road area, without a construction permit issued under the law or in violation of the conditions established in the authorization, if this creates a danger for traffic safety, is punishable by imprisonment from 3 months to one year or 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) The penalty provided for in paragraph (3) shall also be sanctioned by the person authorized by the administrator of a public road or the executor of a work on the road side, who does not take the appropriate measures for signaling obstacles or works on public roads, if a traffic accident has occurred through it.

### **CHAPTER III: Non-compliance with the regime of arms, ammunition, nuclear materials and explosives**

#### **Article 342: Non-compliance with the arms and ammunition regime**

(1) The possession, carrying, making, as well as any operation regarding the circulation of lethal weapons, ammunition, their mechanisms or devices or the operation of lethal weapons repair workshops, without right, are punishable by imprisonment from one to 5 years.

(2) The possession or carrying without right of non-lethal weapons from the category of those subject to authorization is punishable by imprisonment from 3 months to one year or with a fine.

(3) The theft of the weapons or ammunition provided for in paragraphs (1) and (2) shall be punished with imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(4) The carrying of the weapons provided for in paragraphs (1) and (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 offences referred to in paragraphs 1 and 3 relate to prohibited weapons or their ammunition, mechanisms or devices, the special limits of the penalty shall be increased by one third.

**(6) Failure to deposit the weapon and ammunition with an authorized gunsmith within 10 days from the expiry of the validity period of the weapon license constitutes a crime and is punishable by imprisonment from 6 months to 3 years.**

\*) In the case of the act provided for in Article 342(6), in respect of which a dismissal decision has been ordered based on the provisions of Article 16(1)(b) sentence II of the Code of Criminal Procedure, the weapon and ammunition shall be subject to special confiscation, pursuant to Article 112(1)(f) of the Criminal Code, in the procedure governed by Article 549<sup>1</sup> of the Code of Criminal Procedure, in the event that the perpetrator has not deposited the weapon and ammunition with an authorized gunsmith within 10 days from the expiration of the validity period of the weapon license.

**(7) Manufacture or assembly of lethal weapons, parts or ammunition therefor:**

- a) of any illicitly trafficked essential components;
- b) without an authorisation issued by a competent authority of the Member State in which the manufacture or assembly takes place;
- c) Without marking the assembled lethal weapons on the date of their production, in accordance with the legal provisions, it is punishable by imprisonment from 2 to 7 years.

**Article 343: Use of a weapon without the right**

(1) The use of a lethal or prohibited weapon, without the right, 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 alteration. Deleting or modifying markings on lethal weapons**

The falsification or deletion, removal or modification, without right, of the markings on lethal weapons is punishable by imprisonment from one year to 3 years or with a fine.

**Article 345: Non-compliance with the regime of nuclear or other radioactive material**

(1) The receipt, possession, use, transfer, modification, alienation, dispersion, exposure, production, 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 right, are punishable by imprisonment from 3 to 10 years and the prohibition of exercising 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 exercising certain rights.

(3) If the acts referred to in paragraphs (1) and (2) have endangered other persons or property, have caused bodily injury to one or more persons, the penalty shall be imprisonment from 7 to 15 years

and the prohibition of the exercise of certain rights.

(4) If the acts referred to in paragraphs (1) and (2) resulted in the death of one or more persons, the penalty shall be imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

(5) If the acts referred to in paragraphs (1), (3) and (4) were committed by negligence, the special limits of the penalty shall be reduced by half.

(6) By exception to the provisions of Article 137 paragraph (2), in the case of the offence provided for in this article, the amount corresponding to one day-fine for the legal person is between 500 lei and 25,000 lei.

#### **Article 346: Non-compliance with the explosives regime**

(1) The production, experimentation, processing, possession, transport or use of explosive materials or any other operations regarding their circulation, without right, are punishable by imprisonment from 2 to 7 years.

(2) The theft of explosive materials is punishable by imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

(3) When the acts referred to in paragraphs (1) and (2) concern a quantity of more than 1 kg of trotle equivalent or when the explosive quantity is accompanied by initiation materials, the penalty shall be imprisonment from 5 to 12 years and the prohibition of the exercise of certain rights.

(4) If the acts referred to in paragraphs 1 to 3 resulted in the death of one or more persons, the penalty shall be imprisonment from 10 to 20 years and the prohibition of exercising certain rights.

#### **Article 346<sup>1</sup>: Non-compliance with the restricted explosives precursors regime**

(1) The production, experimentation, processing, possession, transport, provision or use of restricted explosives precursors, without right, constitutes a crime and is punishable by imprisonment from one to 5 years.

(2) The provision of explosives precursors restricted to the general public by economic operators for any reason constitutes a crime and is punishable by imprisonment from 2 to 7 years.

(3) The theft of restricted explosives precursors is punishable by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

#### **Article 347: Sanctioning the attempt**

The attempt to commit the offences referred to in Article 342(1) and (3), Article 345(1) and (2),

Article 346(1) and (2) and Article 346<sup>1</sup> shall be punishable.

#### **CHAPTER IV: Offences relating to the regime established for other activities regulated by law**

##### **Article 348: Unlawful exercise of a profession or activity**

The exercise, without right, of a profession or activity for which the law requires authorization or their exercise under conditions other than the legal ones, if the special law provides that the commission of such acts is sanctioned according to the criminal law, is punished with imprisonment from 3 months to one year or with a fine.

##### **Article 349: Failure to take legal occupational health and safety measures**

(1) Failure to take any of the legal measures of safety and health at work by the person who had the duty to take these measures, if an imminent danger of an accident at work or of occupational disease is created, is punished with imprisonment from 6 months to 3 years or with a fine.

(2) The act provided for in paragraph (1) committed by negligence shall be punished with imprisonment from 3 months to one year or with a fine.

##### **Article 350: Failure to comply with legal occupational health and safety measures**

(1) Failure by any person to comply with the obligations and measures established regarding safety and health at work, if this creates an imminent danger of an accident at work or occupational disease, shall be punished with imprisonment from 6 months to 3 years or with a fine.

(2) The same penalty shall be imposed on the recommissioning of installations, machines and machinery, prior to the elimination of all deficiencies for which the measure of their shutdown has been taken.

(3) The acts provided for in paragraphs (1) and paragraph (2) committed by negligence shall be punished with imprisonment from 3 months to one year or with a fine.

##### **Article 351: Usury**

The giving of money with interest, as an occupation, by an unauthorized person, is punishable by imprisonment from 6 months to 5 years. The special confiscation relates both to the amount of money given and to the interest obtained by committing the crime, including when it is included in the amounts subsequently borrowed, and is ordered according to Article 112 (1) letters b) and e) of the Criminal Code.

#### **CHAPTER V: Crimes against public health**

**Article 352: Thwarting the fight against diseases**

(1) Failure to comply with the 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) Failure to comply 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 exercising certain rights.

(4) If the act referred to in paragraph (2) is committed by negligence, the penalty shall be imprisonment from 6 months to 3 years or a fine.

(5) If the acts provided for in paragraphs (1) and (2) have caused bodily injury to one or more persons, the penalty shall be imprisonment from 2 to 7 years and the prohibition of exercising certain rights, and if the death of one or more persons has occurred, the penalty shall be imprisonment from 5 to 12 years and the prohibition of exercising certain rights.

(6) If the act referred to in paragraph (3) has caused bodily injury to one or more persons, the penalty shall be imprisonment from 3 to 10 years and the prohibition of exercising certain rights, and if the death of one or more persons has occurred, the penalty shall be imprisonment from 7 to 15 years and the prohibition of exercising certain rights.

(7) If the act provided for in paragraph (4) has caused bodily injury to one or more persons, the penalty shall be imprisonment from one to 5 years and the prohibition of exercising certain rights, and if the death of one or more persons has occurred, the penalty shall be imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(8) The attempt to commit the offence referred to in paragraph (3) shall be punishable.

(9) Quarantine means the restriction of activities and the separation from other persons, in specially arranged spaces, of persons who are sick or who are suspected of being ill, in a manner that prevents the possible spread of infection or contamination.

**Article 352<sup>1</sup>: Failure to declare information**

The failure of the person to disclose to medical professionals or other persons referred to in Article 175 or to a unit in which they carry out their activity essential information regarding the possibility of having come into contact with a person infected with an infectious disease shall be punished

with imprisonment from 6 months to 3 years or a fine.

### **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 with a fine.

(2)The court will order the security measure of the obligation to undergo medical treatment.

### **Article 354: Transmission of acquired immunodeficiency syndrome**

(1)The transmission, by any means, of 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 acquired immunodeficiency syndrome - AIDS - by a person other than that referred to in paragraph (1) shall be punished with imprisonment from 5 to 12 years.

(3)If the death of the victim occurred through the acts provided for in paragraphs (1) and (2), the punishment shall be imprisonment from 7 to 15 years.

(4)When the act referred to in paragraph (2) was committed by negligence, the penalty 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)The attempt to commit the offences referred to in paragraphs (1) and (2) shall be punishable.

### **Article 355: Spread of diseases to animals or plants**

(1)Failure to comply with the measures regarding the prevention or control of infectious diseases in animals or plants or pests, if it has 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 due to negligence, the special limits of the punishment are reduced by half.

### **Article 356: Water infection**

(1)Infection by any means of water sources or networks, if the water becomes harmful to the health of humans, animals or plants, is punishable by imprisonment from one to 5 years.

(2)If the act is committed by negligence, the punishment is imprisonment from 6 months to 3 years or a fine.

(3)By exception to the provisions of Article 137 paragraph {2}, in the case of the offense provided

for in this article, the amount corresponding to a day-fine for the legal person is between 500 lei and 25,000 lei.

(4)The attempt is punishable.

#### **Article 357: Falsification or substitution of food or other products**

(1)The preparation, offering or display for sale of falsified or substituted food, beverages or other products, if they are harmful to health, is punishable by imprisonment from 3 months to 3 years or with a fine and prohibition of exercising certain rights.

(2)The preparation, offer or display for sale of counterfeit or substituted medicines that are harmful to health is punishable by imprisonment from 6 months to 5 years and the prohibition of exercising certain rights.

#### **Article 358: Marketing of adulterated products**

(1)The sale of food, beverages or other products knowing that they are altered or with an expired validity period, if they are harmful to health, is punishable by imprisonment from 6 months to 3 years or with a fine and the prohibition of exercising certain rights.

(2)The same punishment is sanctioned for the consumption of meat or meat products, coming from the slaughter of animals evading veterinary control, if they are harmful to health.

(3)The sale of medicines knowing that they are counterfeit, altered or with an expired validity period, if they are harmful to health or have lost all or part of their therapeutic effectiveness, is punishable by imprisonment from one to 5 years and the prohibition of exercising certain rights.

#### **Article 359: Trafficking in toxic products or substances**

(1)The production, possession, as well as any operation regarding the circulation of toxic products or substances, the cultivation for processing purposes of plants containing such substances or the experimentation of toxic products or substances, without right, shall be punished with imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2)The attempt is punishable.

### **CHAPTER VI:Offences against the safety and integrity of computer systems and data**

#### **Article 360: Illegal access to a computer system**

(1)Unlawful access to a computer system is punishable by imprisonment from 3 months to 3 years or a fine.

(2)The act provided for in paragraph (1), committed for the purpose of obtaining computer data, shall be punished with imprisonment from 6 months to 5 years.

(3)If the act referred to in paragraph (1) was committed with regard 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 shall be imprisonment from 2 to 7 years.

#### **Article 361: Unlawful interception of a computer data transmission**

(1)The 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 sanctioned the interception, without right, of an electromagnetic emission coming from a computer system, which contains computer data that are not public.

#### **Article 362: Alteration of the integrity of computer data**

The act of modifying, deleting or damaging computer data or restricting access to such data, without right, is punishable by imprisonment from one to 5 years.

#### **Article 363: Disruption of the functioning of information systems**

The act of seriously disrupting, without right, the functioning of a computer system, by introducing, 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**

The unauthorized transfer of data from a computer system or from a means of storing computer data is punishable by imprisonment from one to 5 years.

#### **Article 365: Illegal operations with devices or software**

**(1)The act of the person who, without right, produces, imports, distributes or makes available in any form:**

a)devices or computer programs designed or adapted for the purpose of committing one of the offences referred to in Articles 360 to 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 Articles 360-364, shall be punished with imprisonment from 6 months to 3 years or with a fine.

(2)The possession, without right, of a device, a computer program, a password, an access code or other computer data provided for in paragraph (1), for the purpose of committing one of the offences provided for in Articles 360-364, shall be punished with imprisonment from 3 months to 2 years or with a fine.

#### **Article 366: Sanctioning the attempt**

The attempt to commit the offences provided for in this chapter shall be punishable.

### **TITLE VIII:Crimes affecting relations regarding social coexistence**

#### **CHAPTER I:Crimes against public order and peace**

#### **Article 367: Establishment of an organized criminal group**

(1)Initiating or setting up an organized criminal group, joining or supporting, in any form, such a group is punishable by imprisonment from one to 5 years and prohibition of exercising certain rights.

(2)When the crime that falls within the scope of the organized criminal group is sanctioned by law with a sentence of life imprisonment or imprisonment for more than 10 years, the punishment is imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

(3)If the acts referred to in paragraphs 1 and 2 were followed by the commission of an offence, the rules on the concurrence of offences shall apply.

(4)Persons who have committed the acts referred to in paragraphs (1) and (2) shall not be punished if they report the organized criminal group to the authorities, before it has been discovered and the commission of any of the crimes that fall within the scope of the group has begun.

(5)If the person who has committed one of the acts referred to in paragraphs (1) to (3) facilitates, during the criminal investigation, the finding out of the truth and the criminal liability of one or more members of an organized criminal group, the special limits of the penalty shall be reduced by half.

(6)Organized criminal group means the structured group, consisting of three or more persons, constituted for a certain period of time and to act in a coordinated manner for the purpose of committing one or more crimes.

#### **Article 368: Public instigation**

(1)The act of urging 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 exceeding the penalty provided by law for the crime to which it was instigated.

(2) If the act referred to in paragraph (1) is committed by a public official, the penalty shall be imprisonment from one to 5 years and the prohibition of exercising certain rights, without exceeding the penalty provided by law for the offence to which it 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**

Inciting the public, by any means, to violence, hatred or discrimination against a category of persons or against a person on the grounds that he/she belongs to a certain category of persons defined on the basis of race, nationality, ethnicity, language, religion, gender, sexual orientation, political opinion or 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 with a fine.

#### **Article 370: Attempting to cause a crime to be committed**

Attempting to induce a person, by coercion or corruption, to commit an offence for which the law provides for a sentence of life imprisonment or imprisonment for more than 10 years shall be punishable by imprisonment from one to 5 years or a fine.

#### **Article 371: Disturbance of public order and peace**

(1) The act of a person who, in public, through threats or serious attacks on the dignity of persons, disturbs the public order and peace shall be punished with imprisonment from 3 months to 2 years or with a fine.

(2) The act of a person who, in public, through violence committed against persons or property, disturbs the public order and peace shall be punished with imprisonment from one to 5 years.

(3) If the act referred to in paragraph (2) is committed by a person who carries with him a firearm, an object, a device, a substance or an animal that may endanger the life, health or bodily integrity of persons, the special limits of the penalty shall be increased by one third.

#### **Article 372: Carrying or using dangerous objects without right**

(1) **The act of carrying without right, at public gatherings, cultural-sports events, in places specially arranged and authorized for fun or leisure or in public transport:**

a) knife, dagger, boxer or other such objects manufactured or made specifically for cutting,

stabbing or striking;

b) non-lethal weapons that are not subject to authorization or devices for electric shocks;

c) **irritants-tear gas or substances with a paralysing effect**

is punished with imprisonment from 3 months to one year or with a fine.

(2) The use, without right, at public gatherings, cultural-sports events, in places of amusement or leisure or in public transport of the objects or substances provided for in paragraph (1) shall be punished with imprisonment from 6 months to 2 years or with a fine.

(3) The carriage, without right, of the objects or substances referred to in paragraph (1) in the headquarters of public authorities, public institutions or other legal persons 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: Preventing a public meeting from taking place**

Obstructing, by any means, the holding 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, holding, procuring, storing, displaying, promoting, distributing, as well as making available, in any way, pornographic materials with minors are punishable by imprisonment from 3 to 10 years.

**(1<sup>1</sup>) The punishment provided for in paragraph (1) shall also be punished for urging or recruiting a minor for the purpose of participating in a pornographic performance, obtaining benefits from such a performance in which minors participate or exploiting a minor in any other way for the performance of pornographic performances.**

\*) According to Article II of Law no. 217/2020, by exception to the provisions of Article 9 of Law no. 286/2009 on the Criminal Code, published in the Official Gazette of Romania, Part I, no. 510 of 24 July 2009, as subsequently amended and supplemented, and in application of Article 12 of Law no. 286/2009, as subsequently amended and supplemented, for the facts provided for in Articles 218-220, Article 221(1)-(2<sup>1</sup>), Article 222<sup>1</sup>, Article 216<sup>1</sup> and Article 374(1) and (1<sup>1</sup>) of Law no. 286/2009, as subsequently amended and supplemented, the Romanian criminal law applies to crimes committed outside the territory of the country by a Romanian citizen or by a Romanian legal person, regardless of the punishment provided by Romanian law, even if the act is not provided for as a crime by the criminal law of the country where it was committed.

(1<sup>2</sup>) Watching pornographic shows in which minors participate is punishable by imprisonment from one year to 5 years.

(2) If the acts referred to in paragraph (1) were committed by means of a computer system or other means of storing computer data, the penalty shall be imprisonment from 5 to 12 years.

(3) Unlawful access to pornographic materials with minors, through computer systems or other means of electronic communication, is punishable by imprisonment from one to 3 years.

**(3<sup>1</sup>) If the acts referred to in paragraph (1), (1<sup>1</sup>), (1<sup>2</sup>) and (2) were committed in the following circumstances:**

a) by a family member or by a person living with the victim;

b) by a person in whose care, protection, education, care or treatment the minor is or by a person who has abused his recognized position of trust or authority over the minor;

c) the act endangered the life of the minor;

d) by a person who has previously committed a crime against sexual freedom and integrity on a minor, a crime of child pornography or pimping on a minor, the special limits of the penalties are increased by one third.

(3<sup>2</sup>) The act of an adult requesting a minor to record, produce, distribute, exhibit or transmit by any means, including electronic means of communication or on social networks, pornographic images, videos or other materials that depict the minor in question having a sexually explicit behavior or that, although not presenting a real person, credibly simulates a minor having such behavior, as well as any representation of the genitals of a child for sexual purposes is punishable by imprisonment from 5 to 12 years.

(4) Child pornography means any material that depicts a minor or an adult person as a minor, engaging in sexually explicit behaviour or which, although not depicting a real person, credibly simulates a minor engaging in such behaviour, as well as any representation of the genitals of a child for sexual purposes.

(4<sup>1</sup>) Pornographic performance means the live exposure to an audience, including through information and communication technology, of a child engaged in sexually explicit behavior or of a child's genitals for sexual purposes.

(5) The attempt is punishable.

#### **Article 375: Outrage against good morals**

The act of a person who, in public, exhibits or distributes without right images that explicitly present a sexual activity, other than that referred to in Article 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 he knows to be married is punished with imprisonment from one month to one year or a fine.

### **Article 377: Incest**

(1) Consensual sexual intercourse, committed between relatives in the direct line or between brothers and sisters, is punishable by imprisonment from one year to 5 years.

(2) The same punishment shall be punished for oral or anal sexual intercourse, as well as any other acts of vaginal or anal penetration committed under the conditions of paragraph (1).

### **Article 378: Family abandonment**

**(1) The commission by the person who has the legal obligation of maintenance, towards the person entitled to maintenance, of one of the following acts:**

- a) abandonment, expulsion or abandonment, exposing him to physical or moral suffering;
- b) failure to fulfill, in bad faith, the maintenance obligation provided by law;
- c) non-payment, in bad faith, for 3 months, of the maintenance established by court or notary,**

It is punishable by imprisonment from 6 months to 3 years or with a fine.

\*) The High Court of Cassation and Justice establishes that: "In the case of the crime of abandonment of the family provided for in Article 378 paragraph (1) letter c) of the Criminal Code, the deadline for filing the prior complaint provided for in the content of Article 296 paragraphs (1) and (2) of the Code of Criminal Procedure - 3 months from the day on which the injured person or his legal representative found out about the commission of the act - runs from the date on which the injured person or his representative legally knew the commission of the deed.

The 3-month period provided for in Article 296(1) and (2) of the Code of Criminal Procedure may run from three different moments, as follows: a) from the moment of consummation of the crime, if this moment is identical to that of knowledge of the deed; b) from the moment of knowledge of

the commission of the act, which may be between the moment of consummation of the act until the moment of exhaustion and c) from the moment of exhaustion of the crime or after it, with the knowledge of the commission of the act, in which case the limitation period of criminal liability must not have been fulfilled".

\*) By Decision no. 221/2023 The Constitutional Court admits the exception of unconstitutionality and finds that the legislative solution contained in Article 378 paragraph (1) letter c) of the Criminal Code, which does not criminalize the non-payment, in bad faith, for 3 months, of the maintenance established by notarial deed, is unconstitutional.

(2)The same punishment shall be punished for the non-execution, in bad faith, by the convicted person of the periodic benefits established by a 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 is final, the defendant fulfills his obligations, the court orders, as the case may be, the postponement of the application of the sentence or the suspension of the execution of the sentence under supervision, even if the conditions provided by law for this are not met.

#### **Article 379: Failure to comply with the measures regarding the custody of the minor**

(1)The detention by a parent of his minor child, without the consent of the other parent or of the person to whom the minor has been entrusted according to the law, is punishable by imprisonment from one month to 3 months or with a fine.

(2)The same penalty shall be punished for the act of the person to whom the minor has been entrusted by a court decision for upbringing and education to repeatedly prevent any of the parents from having personal ties with the minor, under the conditions established by the parties or by the competent body.

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

#### **Article 380: Preventing access to compulsory general education**

(1)A parent or person to whom a minor has been entrusted, according to the law, and who, unjustifiably, withdraws or prevents him/her by any means from attending the courses of compulsory general education shall be punished with imprisonment from 3 months to one year or with a fine.

(2)The deed is not punishable if, before the end of the criminal investigation, the defendant ensures the resumption of the minor's attendance at classes.

(3)If, until the conviction is final, the defendant ensures the resumption of the minor's attendance at classes, the court orders, as the case may be, the postponement of the application of the sentence or the suspension of the execution of the sentence under supervision, even if the conditions provided by law for this are not met.

### **CHAPTER III:Crimes against religious freedom and respect due to deceased persons**

#### **Article 381: Impeding the exercise of religious freedom**

(1)Preventing or disturbing the free exercise of the ritual of a religious cult, which is organized and operates according to the law, shall be punished with imprisonment from 3 months to 2 years or with a fine.

(2)Forcing a person, by 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)The same punishment is punishable by forcing a person, by violence or threat, to perform an act prohibited by the cult, organized according to the law, to which he belongs.

(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**

The desecration of a place of worship or an object of worship, belonging to a religious cult that is organized and functions according to the law, is punishable by imprisonment from 6 months to 2 years or with a fine.

#### **Article 383: Desecration of corpses or graves**

(1)The theft, destruction or desecration of a corpse or of the ashes resulting from its cremation is punishable by imprisonment from 6 months to 3 years.

(2)The desecration by any means of a grave, a funeral urn or a funerary monument is punishable by imprisonment from 3 months to 2 years or with a fine.

#### **Article 384: Illegal removal of tissues or organs**

Taking tissues or organs from a corpse, without right, is punishable by imprisonment from 6 months to 3 years or with a fine.

## TITLE IX: Electoral crimes

### Article 385: Preventing the exercise of electoral rights

(1) Obstructing, by any means, the free exercise of the right to elect or to be elected shall be punished with 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 exercising certain rights.

### Article 386: Voter corruption

(1) The offering or giving of 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 exercising certain rights.

(2) Goods with symbolic value, inscribed with the insignia of a political party, do not fall into the category of goods provided for in paragraph (1).

### Article 387: Vote fraud

(1) **The act of the person who votes:**

a) without having this right;

b) two or more times;

c) **by placing more ballots in the ballot box than a voter is entitled to**

shall be punished with imprisonment from 6 months to 3 years or with a fine and prohibition of the exercise of certain rights,

(2) The use of a voter's card or a null or false identity document or a false ballot paper shall be punished with the same penalty.

### Article 388: Fraud in electronic voting

Printing and using false access data, fraudulent access to the electronic voting system or falsifying electronic ballots by any means are punishable by imprisonment from one to 5 years.

### Article 389: Violation of the confidentiality of the vote

(1) Violation of the secrecy of the vote by any means shall be punished with a fine.

(2) If the deed was committed by a member of the electoral bureau of the polling station, the punishment is imprisonment from 6 months to 3 years or a fine and the prohibition of exercising some rights.

**Article 390: Failure to comply with the ballot box regime**

(1)The opening of the ballot boxes, before the time set for the closing of voting, is punishable by imprisonment from one to 3 years or with a fine and the prohibition of exercising certain rights.

(2)The entrustment of the special ballot box to persons other than the members of the electoral bureau of the polling station or its transport by other persons or under conditions other than those provided by the law shall be punished with imprisonment from 3 months to 2 years or with a fine and the prohibition of exercising certain rights.

**Article 391: Falsification of electoral documents and records**

(1)The falsification by any means of the documents from the electoral bureaus is punishable by imprisonment from one to 5 years and the prohibition of exercising certain rights.

(2)With the same penalty shall be sanctioned the inclusion in the copy of the permanent electoral list or on the complementary electoral list of persons who do not appear on this list.

(3)The introduction into use or use of a computer program with defects that alter the registration or summation of the results obtained in the polling stations or determine the distribution of mandates outside the provisions of the law is punishable by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(4)The same penalty is imposed on the introduction of data, information or procedures that lead to the alteration of the national information system necessary to determine the results of elections.

**Article 392: Facts committed in connection with a referendum**

The provisions of Articles 385-391 shall apply accordingly in the case of acts committed during a referendum.

**Article 393: Sanctioning the attempt**

The attempt to commit the offences referred to in Articles 385 and 387-391 shall be punishable.

**TITLE X:Crimes against national security****Article 394: Betrayal**

The act of the Romanian citizen to enter into contact with a foreign power or organization or with their agents, in order to suppress or undermine the unity and indivisibility, sovereignty or independence of the state, by:

a)provocation of war against the country or facilitation of foreign military occupation;

- b) economic, political or defense undermining of the state's defense capacity;
- c) subservience to a foreign power or organization;
- d) assisting a foreign power or organization to carry out hostile activity against national security,**

It is punishable by imprisonment from 10 to 20 years and the prohibition of exercising certain rights.

#### **Article 395: Betrayal by transmitting state secret information**

Transmitting state secret information to a foreign power or organization or to their agents, as well as procuring or possessing documents or data that constitute state secret information by those who do not have the capacity to know them, for the purpose of transmitting them to a foreign power or organization or their agents, committed by a Romanian citizen, are punished with imprisonment from 10 to 20 years and the prohibition of exercising certain rights.

#### **Article 396: Betrayal by Helping the Enemy**

The deed of the Romanian citizen who, in time of war:

- a) surrenders territories, cities, defense positions, warehouses or installations of the Romanian armed forces or those serving defense;
- b) hands over ships, aircraft, machines, apparatus, weapons or any other materials that can be used to wage war;
- c) procures from the enemy people, values or materials of any kind;
- d) passes to the side of the enemy or performs other actions that are likely to favor the enemy's activity or to weaken the fighting power of the Romanian armed forces or of the allied armies;
- e) fights or is part of combat formations against the Romanian state or its allies**

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

#### **Article 397: Actions against the constitutional order**

(1) Armed action taken with the aim of changing the constitutional order or hindering or hindering the exercise of state power shall be punished with imprisonment from 15 to 25 years and prohibition of the exercise of certain rights.

(2) The undertaking of violent actions against persons or property committed by several persons together, with the aim of changing the constitutional order or hindering or preventing the exercise of state power, if national security is endangered, shall be punished with imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

**Article 398: High treason**

The acts provided for in Articles 394-397, committed by the President of Romania or by another member of the Supreme Council of National Defense, constitute the crime of high treason and are punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of exercising certain rights.

**Article 399: Hostile actions against the state**

The acts provided for in Articles 394 and 396, committed by a foreign citizen or stateless person, shall be punished with imprisonment from 10 to 20 years and the prohibition of exercising certain rights.

**Article 400: Espionage**

The acts provided for in Article 395, committed by a foreign citizen or stateless person, shall be punished with imprisonment from 10 to 20 years and the prohibition of exercising certain rights.

**Article 401: The attack that endangers national security**

The attempt 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 certain rights.

**Article 402: The attack against a community**

The attack committed against a community by mass poisoning, causing epidemics or by any other means, in order to hinder or prevent 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**

The destruction, degradation or rendering unusable, in whole or in part, by explosions, fires or in any other way, industrial installations, means of communication, means of transport, means of telecommunication, constructions, industrial or agricultural products or other goods, if the act endangers national security, shall be punished with imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

**Article 404: Communication of false information**

The communication or dissemination, by any means, of false news, data or information or falsified documents, knowing their false nature, if this endangers national security, shall be punished with

imprisonment from one to 5 years.

#### **Article 405: Propaganda for war**

(1) Propaganda for war of aggression, as well as the spread of tendentious or invented news, in order to provoke a war of aggression, are punishable by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

(2) The same punishment shall be imposed on the acts provided for in paragraph (1), committed for the purpose of provoking a war of aggression against Romania or an internal armed conflict.

#### **Article 406: Compromise of state interests**

The destruction, alteration or concealment of a document or document in which the rights of the Romanian state are established in relation to a foreign power, if this endangers or harms the interests of the state, is punishable by imprisonment from 7 to 15 years and the prohibition of exercising certain rights.

#### **Article 407: Disclosure of secret that endangers national security**

(1) The disclosure of documents or data that constitute state secret information, by the person who knows them due to the duties of service, if the act endangers national security, is punishable by imprisonment from 7 to 15 years and the prohibition of exercising certain rights,

(2) The possession outside the duties of service of a document containing state secret information, if the act endangers national security, is punishable by imprisonment from 5 to 10 years.

(3) The disclosure, without right, of documents or data that constitute state secret information, by the person who becomes aware of them outside the duties of service, is punishable by imprisonment from one year to 5 years.

#### **Article 408: Crimes 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, on an official mission in Romania, is punishable by life imprisonment or imprisonment from 15 to 25 years and the prohibition of exercising certain rights.

(2) Intentional crimes against bodily integrity, health or freedom, committed against one of the persons mentioned in paragraph (1), shall be punished with the penalty provided by law for the act committed, the special limits of which shall be increased by half.

**Article 409: Setting up illegal information structures**

The initiation, organization or establishment on the territory of Romania of information structures for the purpose of collecting state secret information or carrying out by them an activity of collecting or processing such information, outside the legal framework, is punishable by imprisonment from 3 to 10 years and the prohibition of certain rights.

**Article 410: Failure to report crimes against national security**

(1)The act of a person who, having become aware of the preparation or commission of any of the offences provided for in Articles 394-397, Articles 399-403 and 406-409, does not immediately notify the authorities shall be punished with imprisonment from 2 to 7 years.

(2)Failure to report a family member is not punishable.

(3)The person who, before initiating the criminal action against a person for committing the unreported act, informs the competent authorities about it or who, even after the initiation of the criminal action, has facilitated the criminal liability of the author and the participants, shall not be punished.

**Article 411: Causes for reducing the sentence**

If the person who has committed one of the offences referred to in this Title facilitates, during the criminal investigation, the finding of the truth and the criminal liability of the perpetrator or participants, the special limits of the penalty shall be reduced by half.

**Article 412: Sanctioning the attempt**

(1)The attempt to commit the offences provided for in this title shall be punishable.

(2)The production or procurement of means or instruments, as well as the taking of measures in order to commit the crimes provided for in Articles 395-397, Articles 401-403, Articles 408 and 399 in relation to the crime of treason by aiding the enemy, shall also be considered an attempt.

**TITLE XI:Crimes against the combat capacity of the armed forces****CHAPTER I:Crimes committed by the military****Article 413: Unjustified absence**

The unjustified absence of any soldier from the unit or from the service, who has exceeded 4 hours, but not more than 24 hours, in wartime, 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)The unjustified absence from the unit or from work, which exceeds 3 days, of any soldier shall be punished with imprisonment from one to 5 years or with a fine.

**(2)Desertion committed in the following circumstances:**

a)two or more military personnel together;

b)carrying 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 where a state of siege or emergency has been proclaimed, the desertion of any soldier from a unit or service that has exceeded 24 hours is punishable by imprisonment from 3 to 10 years.

**Article 415: Violation of the Covenant**

(1)Violation of the rules of the security, intervention, accompaniment or security service is punishable by imprisonment from 3 months to 3 years or a fine.

(2)The violation of the order by the sentinel on duty at the depots of weapons, ammunition or other explosive materials or in other posts of special military or state interest shall be punished with imprisonment from one to 5 years.

(3)The acts referred to in paragraphs (1) and (2) committed in time of war, during the state of siege or the state of emergency shall be punished with imprisonment from 3 to 10 years.

**Article 416: Leaving the post or order**

(1)Leaving the military from the post, service or any other place where he was supposed to be is punishable by imprisonment from 3 months to one year.

(2)Leaving the command or the duty service by any military officer shall be punished with imprisonment from one to 5 years.

(3)The acts referred to in paragraphs (1) and (2) committed during the state of siege or the state of emergency shall be punished with imprisonment from 2 to 7 years, and if they were committed in time of war, they shall be punished with imprisonment from 3 to 10 years.

**Article 417: Insubordination**

(1)Refusal to execute an order regarding the duties of service is punishable by imprisonment from 3 months to 3 years or with a fine.

(2) In time of war, during the state of siege or state of emergency, the punishment for the act provided for in paragraph (1) shall be imprisonment from 2 to 7 years.

#### **Article 418: Coercion of the superior**

(1) Coercing, by any means, the superior by the inferior or the boss by the subordinate, to violate the duties of the service shall be punished with imprisonment from one to 3 years.

(2) The act referred to in paragraph (1) committed by 2 or more soldiers together or in front of the assembled troop or by using a weapon shall be punished with imprisonment from 2 to 7 years.

(3) In time of war, the act provided for in paragraph (1) shall be punished with imprisonment from 2 to 7 years, and the act provided for in paragraph (2) shall be punished with imprisonment from 3 to 12 years.

#### **Article 419: Abuse of authority**

The act of the superior or the boss who, by violating the duties of the service, causes a serious injury to the legal interests of the inferior or subordinate or obliges him to violate the duties of the service shall be punished with imprisonment from one to 3 years.

#### **Article 420: Hitting the upper or lower**

(1) Hitting the superior by the inferior or the boss by the subordinate, when the superior or the boss is in the exercise of the duties of service or for acts performed in connection with these duties, shall be punished with imprisonment from one to 5 years or with a fine.

(2) The same punishment shall also be punished for the blow committed by the superior or boss against the inferior or subordinate, when the inferior or subordinate is in the exercise of the duties of service or for acts performed in connection with these duties.

(3) When the acts referred to in paragraphs 1 and 2 were committed in time of war, during the state of siege or the state of emergency, the special limits of the punishment shall be increased by one third.

#### **Article 421: Surrender**

The surrender into the hands of the enemy by the commander of the armed forces he commands, the abandonment in the hands of the enemy, the destruction or rendering of uselessness by the commander of the means of combat or other means necessary for the conduct of war, without any of these having been determined by the conditions of combat, shall be punished with 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 enemy's cause shall be punished with life imprisonment or imprisonment from 15 to 25 years and the prohibition of 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 the 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 act resulted in the destruction or degradation of the aircraft, the punishment is imprisonment from 5 to 10 years and the prohibition of exercising some rights, and if it resulted in a disaster, the punishment is imprisonment from 10 to 20 years and the prohibition of exercising some rights.

#### **Article 424: Leaving the ship**

(1) The departure of a military ship in the event of shipwreck by the commander, before having fully exercised his duties of service, as well as by any other persons who are part of the ship's crew, without the order of the commander, shall be punished with imprisonment from one to 5 years.

(2) If the act is committed in time of war, during the state of siege or the state of emergency, it is punishable by imprisonment from 10 to 20 years and the prohibition of exercising certain rights.

#### **Article 425: Leaving the order**

(1) Leaving the 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 abandonment of the command was committed during the battle, by the commander of a military ship or a group of military ships, the punishment is imprisonment from 10 to 20 years and the prohibition of exercising certain rights.

**Article 426: Failure to take the necessary measures in naval operations**

The act of the commander of a military vessel or group of military vessels who, without having been stopped by any order or without having been hindered 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 of 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 pursue the enemy's warships or merchant ships**

It is punishable by imprisonment from 10 to 20 years and the prohibition of exercising certain rights.

**Article 427: Lowering the flag**

The lowering of 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 of any person on board the ship, which caused a collision or landing of the ship, if the act resulted in its serious damage, is punishable by imprisonment from 5 to 12 years and the prohibition of exercising certain rights.

(2) If the act referred to in paragraph (1) was committed by negligence, the penalty shall be imprisonment from 6 months to 3 years.

(3) The act referred to in paragraph (1) committed in time of war, during the state of siege or the state of emergency, shall be punished with imprisonment from 10 to 20 years and the prohibition of the exercise of certain rights.

**Article 429: Sanctioning the attempt**

The attempt to commit the offences referred to in Articles 421 to 425, Article 427 and Article 428

(1) shall be punishable.

**Article 430**

The provisions of Articles 424 to 426, 428 and 429 shall apply accordingly to military aircraft.

**Article 431: Initiation of criminal action**

Criminal proceedings for the offences referred to in Articles 413-417 shall be initiated only upon notification of the commander.

## **CHAPTER II: Crimes committed by military or civilians**

### **Article 432: Evading military service in wartime**

The act of a person who, in time of war or during the 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 with imprisonment from 2 to 7 years.

### **Article 433: Aggression against the sentinel**

(1) The act of the person who threatens or hits the sentinel or the soldier 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 punishment is imprisonment from 2 to 7 years.

### **Article 434: Evasion from military registration**

(1) Evasion of military registration, selection, establishment of skills and options regarding the manner of fulfilling military duties, in peacetime, shall be punished with a fine.

(2) If the deed is committed in time of war or during the state of siege, the punishment is imprisonment from one to 5 years.

### **Article 435: Failure to show up for incorporation or concentration**

(1) Failure to appear for conscription, concentration or mobilization in wartime or during the state of siege, within the term provided in the summons order, shall be punished with imprisonment from 2 to 7 years.

(2) The same punishment shall be imposed on the non-appearance of the person incorporated or concentrated at the unit to which he was assigned, as well as of the person who, performing the alternative service according to the law, does not report to the employer within the deadline.

(3) The deadlines for submission provided for in paragraph (1) and paragraph (2) shall be extended by 10 days, if the summoned person is abroad.

### **Article 436: Plundering the Fallen on the Battlefield**

(1) The looting of the dead or wounded on the battlefield is punishable by imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

(2)The same punishment shall be imposed on the act provided for in paragraph (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 peacetime, of the emblem or name of the Red Cross or of 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 emblem or name shall be punished with imprisonment from two to 18 months or a fine.

(2)The use, without right, in time of war or during the state of siege, in connection with military operations, of the emblem or name of the Red Cross or of an emblem or name assimilated to it, as well as the use of any sign or name that constitutes an imitation of such emblem or name shall be punished with imprisonment from 2 to 7 years.

### **TITLE XII:Crimes of genocide, against humanity and war**

#### **CHAPTER I:Crimes of genocide and crimes against humanity**

##### **Article 438: Genocide**

**(1)Committing, for the purpose of destroying, in whole or in part, a national, ethnic, racial or religious group, one of the following acts:**

- a)killing members of the group;
- b)injury to 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 to prevent births within the group;
- e)forcible transfer of children belonging to one group to another,**

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

(2)If the acts referred to in paragraph 1 are committed in time of war, the punishment shall be life imprisonment.

(3)The agreement 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)Incitement to commit the crime of genocide, committed directly, in public, is punishable by imprisonment from 2 to 7 years and the prohibition of exercising certain rights.

## **Article 439: Crimes against humanity**

**(1) Committing, within a generalized or systematic attack, launched against a civilian population, one of the following acts:**

- a) killing people;
- b) subjecting a population or part of it, in order to destroy it in whole or in part, to living conditions designed to determine its physical destruction, total or partial;
- c) slavery or trafficking in human beings, especially women or children;
- d) deportation or forcible transfer, in violation of the general rules of international law, of persons lawfully in a certain territory, by expelling them to another State or territory or by using other coercive measures;
- e) torture of a person under the custody of the perpetrator or over whom he exercises control in any other way, causing him physical or mental injury, or serious physical or mental suffering, which exceeds 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 who has become forcibly pregnant, with the aim of changing the ethnic composition of a population;
- g) injury to the physical or mental integrity of some persons;
- h) causing the enforced disappearance of a person, in order to remove him from the protection of the law for a long period of time, by abduction, arrest or detention, on the order of a State or a political organization or with their authorization, support or consent, followed by the refusal to admit that that person is deprived of liberty or to provide real information on his fate or whereabouts, 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) the persecution of a particular group or collectivity, by deprivation of fundamental human rights or by serious restriction of the exercise of those rights, on political, racial, national, ethnic, cultural, religious, sexual grounds or on the basis of other criteria recognized as inadmissible under international law;
- k) other such inhuman acts that cause great suffering or injury to physical or mental integrity,**

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

**(2) The same punishment shall be imposed on the acts provided for in paragraph (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 persons

**(1) Committing, in the context of an armed conflict, of an international or non-international character, on one or more persons protected by international humanitarian law, one of the following acts:**

- a) killing;
- b) hostage-taking;
- c) the application of cruel or inhuman treatment, causing injury to physical or mental integrity or serious physical or mental suffering, in particular through torture or mutilation;
- d) rape or sexual assault, coercion into prostitution, forced sterilization or illegal detention of a woman who has become forcibly pregnant, with the aim of changing the ethnic composition of a population;
- e) the deportation or forcible transfer, in violation of the general rules of international law, of persons lawfully in a certain territory, by expelling them to another State or territory or by using other coercive measures;
- f) the imposition or execution of a severe penalty, in particular the death penalty or a custodial sentence, against a person who has not been tried in a lawful and impartial proceeding, providing the guarantees required by international law;
- g) exposing a person to a danger of death or serious harm to health by:**
  1. carrying out experiments on him to which he has not voluntarily, expressly and prior consented or which are not necessary for his health or are not carried out in his interest;
  2. the removal of tissues or organs from it for the purpose of transplantation, except for the collection of blood or skin carried out for therapeutic purposes, in accordance with generally recognized medical principles and with the voluntary, express and prior consent of the person;
  3. subjecting them to treatment methods that are not medically recognized, without them being necessary for the health of the person and without the person's voluntary, express and prior consent;

**h) subjecting a person to degrading treatment,**

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

(2) The same punishment shall be punished for the recruitment or incorporation of minors who have not reached the age of 15 into the armed forces or armed groups, as well as their determination by any means to actively participate in hostilities.

(3) The injury, in the context of an armed conflict of an international or non-international character, of a member of the enemy armed forces or of a combatant of the enemy side, after he has surrendered without conditions or who has been removed from combat in any way, shall be punished 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) unlawful detention or undue delay in the repatriation of one or more of the persons referred to in paragraph 5(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, to the occupied territory;

c) coercing, by violence or threat, one or more of the persons referred to in paragraph 5(a) to serve in the armed forces of the enemy;

d) The coercion of the nationals of the enemy power to take part in the 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 international armed conflict: persons protected within the meaning of the Geneva Conventions of 12 August 1949 and Additional Protocol I of 8 June 1977, in particular the wounded, sick, shipwrecked, prisoners of war and civilians;

b) in an armed conflict of no international character: the wounded, the sick, the shipwrecked and persons who do not participate directly in hostilities and who are under the power of the enemy side;

c) in an armed conflict of an international or non-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 a person who, in the context of an armed conflict, whether international or not, robs or, in violation of international law and without being justified by military necessity, destroys, appropriates or requisitions property of the enemy party, under the power of the party to which the

perpetrator belongs, shall be punished with imprisonment from 3 to 10 years and the prohibition of exercising certain rights.

(2) Declaring, in the context of an armed conflict of an international character, as extinguished, suspended or inadmissible in court, the rights and actions of all nationals of the enemy party or of an important part of them shall be punished with imprisonment from 3 to 10 years and the prohibition of the exercise of certain rights.

#### **Article 442: War crimes against humanitarian operations and emblems**

**(1) The act of a person who, in the context of an armed conflict of an international or non-international nature:**

a) initiates an attack against personnel, installations, equipment, units or vehicles participating in a humanitarian aid mission or peacekeeping mission in accordance with the Charter of the United Nations and enjoying the protection guaranteed by international humanitarian law to civilians or civilian objects;

b) initiates an attack against personnel, buildings, health facilities or means of medical transport, which use the distinctive signs provided for by the Geneva Conventions, in accordance with the provisions of international humanitarian law, is punishable by imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights.

(2) The act of a person who, in the context of an armed conflict of an international or non-international character, unlawfully uses the distinctive signs provided for by the Geneva Conventions, the flag, the flag, the military insignia or the uniform of the enemy or of the United Nations, thus causing the death or bodily injury of one or more persons, shall be punished with 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 a person who, in the context of an armed conflict of an international or non-international nature:**

a) unleashes an attack by military means against the civilian population or civilians who are not directly participating in the hostilities;

b) launch an attack by military means against civilian objects protected as such by international humanitarian law, in particular buildings devoted to religious worship, education, art, science, charitable actions, historical monuments, hospitals, places where the sick or wounded are gathered, as well as against cities, villages, undefended dwellings or buildings or demilitarised zones, or on installations or equipment containing dangerous substances, in so far as they are not used as

military objectives;

c) carries out an attack by military means, knowing that it will cause loss of life among the civilian population, injuries to civilians, destruction of civilian objects, which would be manifestly disproportionate in relation to the overall concrete and direct military advantage expected;

d) uses a person protected by the provisions of international humanitarian law to prevent certain points, areas or military forces from becoming the target of the enemy's military operations;

e) uses, as a method of waging war, the deliberate starvation of civilians, depriving them of the goods indispensable to their 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 vanquished;

**g) cunningly kills or injures a member of the enemy armed forces or a combatant of the enemy forces**

It is punishable by imprisonment from 7 to 15 years and the prohibition of exercising certain rights.

h) use cultural property 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 side.

(2) Carrying out an attack by military means, within an armed conflict of international character, knowing that it will cause extensive, lasting and serious damage to the environment, which would be manifestly disproportionate in relation to the total 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 a person who, in the context of an armed conflict, whether international or not:

a) uses poison or weapons with poisonous substances;

b) uses asphyxiating, toxic or similar gases and any liquids, materials or similar processes;

**c) use weapons that cause unnecessary physical suffering**

It is punishable by imprisonment from 7 to 15 years and the prohibition of exercising certain rights.

#### **Article 445: Sanctioning the attempt**

The attempt to commit the offences provided for in this title shall be punishable.

## TITLE XIII: Final provisions

### Article 446: Entry into force

(1) This Code shall enter into force on the date to be established in the law for its implementation, except for the provisions of paragraphs (2) and (3), which shall enter into force 4 days from 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 29 June 2004, as subsequently amended, and Law no. 294/2004 on the execution of sentences and measures ordered by the judicial bodies during the criminal trial, published in the Official Gazette of Romania, Part I, no. 591 of 1 July 2004, as subsequently amended, is repealed.

(3) Within 12 months from the date of publication of this Code in the Official Gazette of Romania, Part I, the Government shall submit to Parliament for adoption the draft law for the implementation of the Criminal Code.

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This law transposes into national law the provisions of the European Union directives on criminal matters, as follows: 1. the provisions of Article 5(4), Article 7(1), Article 12(3) and Article 14(3) of Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, published in the Official Journal of the European Union, L series, no. 132 of 21 May 2016; 2. Articles 4(1), 5(5)(a), (c) to (e), Article 6, Article 7(1)(e) and (h), Article 8, Article 10, Article 11(1) to (3), Article 12(1)(a) and (b) of Directive (EU) 2024/1.226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for infringements of Union restrictive measures and amending Directive (EU) 2018/1.673, published in the Official Journal of the European Union, series L, 2024/1.226 of 29 April 2024.

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This law was adopted on June 25, 2009, pursuant to the provisions of Article 114 paragraph (3) of the Romanian Constitution, republished, following the commitment of the Government's liability before the Chamber of Deputies and the Senate, in the joint sitting of June 22, 2009.

PRESIDENT OF THE CHAMBER OF DEPUTIES

ROBERTA ALMA ANASTASE

PRESIDENT OF THE SENATE

MIRCEA-DAN GEOANĂ

Published in the Official Gazette number 510 of 24 July 2009