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## **LAW #286 of 17 July 2009 of the Criminal Code**

*Text shall be in force as of 12 November 2012\*)*

*\*) This is the date of release of the latest amending act. Under Art. 246 in Law #187/2012, the date when Law #286/2009 enters into force is 1 February 2014.*

*This text was updated on the basis of the amending acts that were published in the Official Journal of Romania, Part I, until 12 November 2012.*

### **Main Text**

**#B:** *Law #286/2009*

### **Amending Acts**

**#M1:** *Law #27/2012*

**#M2:** *Law #63/2012*

**#M3:** *Law #187/2012*

*The amendments and supplements brought by the regulator acts mentioned above are written in italics. Each amendment or supplement carries an indication before it that defines the regulatory act that brought that amendment or supplement, in the format **#M1**, **#M2**, etc.*



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## **Law of the Criminal Code**

**The Parliament of Romania** adopts this Law.

### **GENERAL PART**

#### **TITLE I**

#### **Criminal law and its applicability**

##### **CHAPTER I**

##### **General Principles**

###### **ART. 1**

###### **Lawfulness of criminalization**

- (1) Criminal law stipulates the actions that constitute offenses.
- (2) No person can have criminal liability for an action that was not covered by criminal law at the date of its commission.

###### **ART. 2**

###### **Lawfulness of criminal penalty**

- (1) Criminal law establishes applicable penalties and educational measures that can be ruled against persons who committed offenses, as well as security measures that can be ruled against persons who committed actions covered by criminal law.
- (2) No penalty, educational or security measure can be ruled that was not stipulated in criminal law at the date when the violation was committed.
- (3) No penalty can be ruled and enforced outside the law's general limits.

##### **CHAPTER II**

##### **Applicability of criminal law**

###### **SECTION 1**

###### **Applicability of criminal law in time**

###### **ART. 3**

###### **Activeness of criminal law**

Criminal law shall be applicable to offenses committed when it is in force.



## ART. 4\*)

### **Applicability of the law in decriminalization**

Criminal law does not apply to actions committed under the applicability of the previous law, if such actions are no longer included in the new law. In such case, the serving of sentences, the educational and security measures ruled on under the previous law, as well as all criminal consequences of court judgments concerning those actions, shall cease once the new law comes into force.

#### **#CIN**

*\*) Also see [Art. 3](#) in Law #187/2012 ([#M3](#)), an Article that is reproduced in endnote 2 to the updated text.*

#### **#B**

## ART. 5

### **Use of the more favorable criminal law until final judgment in a case**

(1) In case one or several criminal acts have been enacted between the time the violation was committed and the final judgment in a case, the more favorable stipulation shall apply.

(2) Paragraph (1) above shall also apply to pieces of regulation or stipulations therein that are declared unconstitutional, as well as to Emergency Orders approved by Parliament, amended or supplemented, or rejected by Parliament, if while such texts were in force they included criminal stipulations that were more favorable.

## ART. 6

### **Use of the more favorable criminal law after final judgment in a case**

(1) Whenever, between the time of the final judgment in a criminal case and the time the sentence is fully served, a law is enacted that stipulates a lighter penalty, the original sentencing shall be reduced to the special maximum of the new sentencing if the previous one exceeded that special maximum.

(2) Whenever, between the time of the final judgment in a criminal case where the sentencing was life imprisonment and the time the sentence is fully served, a law is enacted that stipulates regular imprisonment for the same violation, life imprisonment shall be replaced by the maximum duration of imprisonment stipulated by the new law.

(3) If a new law replaces a sentencing of imprisonment by a fine, such sentencing shall indeed be replaced by a fine, without it being possible to go beyond the special maximum stipulated in the new law. Payment of the fine can be removed in part or in whole after calculation of the time already served in prison.

(4) Educational measures that have not yet been served and are not stipulated in the new law shall no longer be served; those that do have a correspondent in the new law shall be served according to the contents and within the limits established by the new law, if the latter is more favorable.



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(5) Whenever the new law is more favorable as under paragraphs (1) - (4) above, ancillary penalties and security measures that have not yet been served and are not stipulated by the new law shall no longer be served; those that do have a correspondent in the new law shall be served according to the contents and within the limits established by the new law.

(6) If the new law is only more favorable in terms of ancillary sentencing or security measures, such shall be served according to the contents and within the limits established by the new law.

(7) When a stipulation in the new law speaks of definitive sentencing that has been enforced, the reduced or replaced penalty according to paragraphs (1) - (6) above shall be observed as regards the sentencing already served until the date the new law came in force.

## **ART. 7**

### **Applicability of temporary criminal law**

(1) Temporary criminal law shall apply to the offense that was committed while it was in force, even if the violation was not prosecuted or tried in that time interval.

(2) Temporary criminal law is such criminal law that stipulates the date it stops being applicable or whose applicability is restricted by the temporary nature of the situation that required it being passed.

## **SECTION 2**

### **Applicability of criminal law in space**

## **ART. 8**

### **Territoriality of criminal law**

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

(2) The territory of Romania is defined as the expanse of land, the territorial sea waters and inland waters, complete with the soil, sub-soil and airspace located inside the national borders.

(3) An offense committed on the territory of Romania is defined as any offense committed on the territory defined at par. (2) or on a ship sailing under Romanian pavilion or on an aircraft registered in Romania.

(4) The offense is also considered as having been committed on the territory of Romania when on that territory or on a ship sailing under Romanian pavilion or on an aircraft registered in Romania an action was committed with a view to perform, instigate or aid in the offense, or the results of the offense have been manifest, even if only in part.



## **ART. 9**

### **Legal standing under criminal law**

(1) Romanian criminal law applies to offenses committed outside Romanian territory by a Romanian citizen or a Romanian legal entity if the sentencing stipulated by Romanian law is life imprisonment or a term of imprisonment longer than 10 years.

(2) In the other cases Romanian criminal law applies to offenses committed outside Romanian territory by a Romanian citizen or a Romanian legal entity if the act is also criminalized by the criminal law of the country where it was committed or if it was committed in a location that is not subject to any State's jurisdiction.

### **#M3**

*(3) A criminal investigation can start on receiving authorization from the Chief Prosecutor of the Prosecutor's Office attached to the Court of Appeals in whose jurisdiction the first Prosecutor's Office is located that received information about the violation, or, as the case may be, from the Prosecutor General of the Prosecutor's Office attached to the High Court of Review and Justice. A prosecutor is entitled to issue such authorization within 30 days of receiving the application for authorization; such deadline can be extended, under the law, but for no more than a total of 180 days.*

### **#B**

## **ART. 10**

### **Reality of criminal law**

(1) Romanian criminal law applies to offenses committed outside Romanian territory by a foreign citizen or a stateless person against the Romanian State, against a Romanian citizen or against a Romanian legal entity.

(2) A criminal investigation can start on receiving authorization from the Prosecutor General of the Prosecutor's Office attached to the High Court of Review and Justice, and only if the violation is not the object of judicial procedures that are already ongoing in the State on whose territory it was committed.

## **ART. 11\*)**

### **Universality of criminal law**

(1) Romanian criminal law also applies to other violations than those stipulated at [Art. 10](#), committed outside Romanian territory by a foreign citizen or a stateless person who is located voluntarily on Romanian territory, in the following cases:

a) an offense was committed that the Romanian State has undertaken to repress on the basis of an international treaty, irrespective of whether it is stipulated by the criminal law of the State on whose territory it was committed;

b) extradition or surrender of the offender has been requested and denied.





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(2) The stipulations of par. (1) lett. b) do not apply when, under the law of the state on whose territory the violation was committed, there is a cause to prevent the start of criminal action or the continuing of the criminal trial or the serving of the sentence or when the sentence has been served or when the sentence is considered as having been served.

(3) When the sentence has not been served or has only been served in part, the applicable procedure is that of the law on the recognition of foreign judgments.

#### **#CIN**

*\*) Under [Art. 237](#) in Law #187/2012 (**#M3**), in applying the stipulations of [Art. 11](#) in the Criminal Code the condition of voluntary presence on Romanian territory shall be interpreted in the sense of the person being on said territory voluntarily at the date when the judicial bodies rule to deprive that person of their freedom or restrict that person's freedom in view of the offense that entails applicability of the principle of universality.*

#### **#B**

##### **ART. 12**

###### **Criminal law and the international treaties**

The stipulations of [Art. 8](#) – 11 shall apply unless otherwise required under an international treaty Romania is a party to.

##### **ART. 13**

###### **Jurisdiction immunity**

Criminal law does not apply to offenses committed by diplomatic representatives of foreign States or other persons who, under international treaties, are not subject to the criminal jurisdiction of the Romanian State.

##### **ART. 14**

###### **Extradition**

(1) Extradition can be granted or requested on the basis of an international treaty Romania is a party to, or on a mutual basis, under the law.

(2) Surrender or extradition of an individual in relation to European Union Member States shall be granted or requested under the law.

(3) Surrender of an individual to an international criminal court shall be granted as under the law.



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## **TITLE II**

### **Offense**

#### **CHAPTER I**

##### **General stipulations**

###### **ART. 15**

###### **Main features of an offense**

- (1) An offense is an action stipulated by criminal law that has been committed under guilt, without justification and for the commission of which a person can be charged.
- (2) An offense is the only basis for criminal liability.

###### **ART. 16**

###### **Guilt**

- (1) An action only constitutes an offense if committed under the form of guilt required by criminal law.
- (2) Guilt exists when an action is committed with direct intent, with basic intent or oblique intent.
- (3) An action is committed with intent when the perpetrator:
  - a) can foresee the outcome of their actions, in the expectation of causing such outcome by perpetrating the act;
  - b) can foresee the outcome of their actions and, while not intending to produce it, nevertheless accepts the likelihood that it will occur.
- (4) An action is committed with basic intent when the perpetrator:
  - a) can foresee the outcome of their actions but does not accept it, believing without reason that such outcome will not occur;
  - b) cannot foresee the outcome of their actions, though they should and could have done so.
- (5) Oblique intent exists when an act, consisting of an intentional action or inaction, causes unintended more serious consequences and is attributable to the perpetrator.
- (6) The act consisting of an action or inaction shall constitute an offense when committed with direct intent. The act committed with basic intent constituted an offense only when the law specifically establishes it as such.

###### **ART. 17**

###### **Violation committed by omission**

A committed offense that involves the causing of an outcome is also considered as having been committed by omission, when:

- a) there exists a legal or contract obligation to take action;



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b) the author of the omission, through previous action or inaction, created a state of threat for the protected social value, which facilitated the occurrence of the outcome.

## **CHAPTER II**

### **Justifying causes**

#### **ART. 18**

##### **General stipulations**

- (1) An act stipulated by criminal law shall not constitute an offense if one of the justifying causes stipulated by law applies.
- (2) The effects of justifying causes extend to the other participants in the act.

#### **ART. 19**

##### **Legitimate defense**

- (1) An act stipulated by criminal law is justified when committed in legitimate defense.
- (2) A person is in legitimate defense when committing an act to remove a material direct, immediate and unjust attack that endangers their own person, or another person, their rights or a general interest, if the defense is proportional with the seriousness of the attack.
- (3) A person is presumed to have been in legitimate defense as defined by par. (2) when they committed an act so as to repel an individual having entered a domicile, room, annex or enclosed structure appertaining to such domicile, without any right to do so, by violence, deception, breaking in, or other such unlawful procedure, or during the night.

#### **ART. 20**

##### **State of necessity**

- (1) An act stipulated by criminal law is justified when committed in a state of necessity.
- (2) A person is deemed to be in a state of necessity when they commit an act in order to save life, bodily integrity or health of their own person or another's from an immediate threat which cannot be removed otherwise; the same applies for saving an important asset of their own or another person's or a general interest. This principle applies if the consequences of the act are not clearly more serious than those that would have occurred in case the threat was not removed.

#### **ART. 21**

##### **Exercising a right or meeting an obligation**

- (1) An act stipulated by criminal law is justified when committed in the exercise of a right granted by law or of an obligation mandated by law, in compliance with the conditions and limitations stipulated by law.



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(2) An act stipulated by criminal law is justified when committed in complying with an obligation mandated by a jurisdictional authority, in the form stipulated by law, if the act is not visibly illegal.

## **ART. 22**

### **Consent of the victim**

(1) An act stipulated by criminal law is justified when committed based on consent of the victim, if said victim had legal authority over the injured or threatened social value.

(2) Consent by the victim does not apply in case of crimes against life, and in case the law excludes this avenue of justification.

## **CHAPTER III**

### **Causes of non-imputability**

## **ART. 23**

### **General stipulations**

(1) An act stipulated by criminal law does not constitute an offense when committed in the conditions of one of the causes of non-imputability.

(2) The effect of causes of non-imputability does not extend to participants in the act, except for fortuitous participants.

## **ART. 24**

### **Physical constraint**

An act stipulated by criminal law does not carry imputability when committed as a result of physical constraint which the perpetrator was unable to withstand.

## **ART. 25**

### **Moral constraint**

An act stipulated by criminal law does not carry imputability when committed as a result of moral constraint, exercised by threatening grave danger of the person of the perpetrator or another person and which cannot be removed in any other way.

## **ART. 26**

### **Non-accountable Excessiveness**

(1) An act stipulated by criminal law does not carry imputability when committed by a person in legitimate defense who exceeded, because of psychological turmoil or fear, the limits of defense proportional with the seriousness of the attack.

(2) An act stipulated by criminal law does not carry imputability when committed by a person in a state of necessity, who at the moment of committing the act did not realize



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they were causing consequences that were clearly more serious than those that would have occurred had the threat not been removed.

#### **ART. 27**

##### **Underage perpetrator**

An act stipulated by criminal law does not carry imputability when committed by an underage person, who at the date of commission of the act did not meet the legal requirements for criminal liability.

#### **ART. 28**

##### **Mental incompetence**

An act stipulated by criminal law does not carry imputability when committed by a person who, at the time of commission of the act, was unable to understand their actions or inactions or to control them, either because of a mental condition or because of other reasons.

#### **ART. 29**

##### **Intoxication**

An act stipulated by criminal law does not carry imputability when committed by a person who, at the time of commission of the act, was unable to understand their actions or inactions or to control them, because of involuntary intoxication with alcohol or other psychoactive substances.

#### **ART. 30**

##### **Error**

(1) An act stipulated by criminal law does not constitute an offense when committed by a person who, at the time of commission of the act, was unaware of the existence of a state, situation or circumstance that determines the criminal nature of the act.

(2) The stipulations of par. (1) also apply to acts committed with basic intent that are punishable under criminal law, but only if ignorance of the state, situation or circumstance is not itself the result of basic intent.

(3) The state, situation or circumstance the perpetrator was unaware of at the moment of commission of the act shall not constitute an aggravating circumstance or aggravating circumstantial element.

(4) The stipulations of par. (1) - (3) shall apply accordingly to the case of ignorance of a legal stipulation outside the scope of criminal law.

(5) An act stipulated by criminal law does not carry imputability when committed as a result of ignorance or erroneous knowledge of its illegal character owing to a circumstance that could not have been avoided in any way.



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## **ART. 31**

### **Fortuitous case**

An act stipulated by criminal law does not carry imputability when its result is a consequence of a circumstance that could not have been foreseen.

## **CHAPTER IV**

### **Attempt**

## **ART. 32**

### **Attempt**

- (1) An attempt means acting on the intent to commit an offense, where the consummation of the act was interrupted or failed to cause its effect.
- (2) “Attempt” does not exist when the impossibility to consummate the offense was the result of the way in which consummation was designed.

## **ART. 33**

### **Penalty for attempt**

- (1) Attempt shall be punishable only when the law specifies it.
- (2) Attempt shall be punishable by half the penalty specified by law for the consummated offense. When the law specifies life imprisonment for the consummated offense, and the court is inclined to rule towards that sentencing, attempt shall be punishable by no less than 10 and no more than 20 years of imprisonment.

## **ART. 34**

### **Withdrawal and precluding consummation of offense**

- (1) A perpetrator shall not be punishable if, before the offense was identified by the authorities, they withdrew from the criminal activity or reported the criminal activity to the authorities so that consummation might be precluded, or by themselves precluded the consummation of the offense.
- (2) If the acts committed until withdrawal or precluding of consummation constitute another offense, the latter shall be punishable.

## **CHAPTER V**

### **Unity and plurality of offending**

## **ART. 35\*)**

### **Unity of a continuing offense and of a complex offense**

- (1) An offense is said to be continuing when a person commits, at various time intervals but for the realization of the same resolution and against the same passive subject, actions or inactions each having the content of the same offense.



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(2) An offense is complex when its contents include, as a constitutive element or as an aggravating circumstantial element, an action or an inaction that is in itself an act stipulated by criminal law.

### #CIN

\*) We are quoting below the stipulations of [art. 238](#) of Law no. 187/2012 ([#M3](#)).

### #M3

#### **"ART. 238**

*In the application of the stipulations under [art. 35](#) paragraph (1) of the Criminal Code, the unity of the passive subject is also achieved when:*

- a) the assets deemed the object of the offense are jointly owned by several people;*
- b) the offense has prejudiced different secondary passive subjects, but there is only one main passive subject. ”*

### #B

#### **ART. 36**

##### **Penalty for the continuing offense and for the complex offense**

(1) The penalty provided by law for the offense committed applies for the continuing offense, to which a maximum increase of 3 years can be added up for imprisonment, respectively at least a third in case of fines.

(2) Complex violations are sanctioned with the penalty provided by the law for that offense.

(3) Complex violations committed intentionally, if only the more serious outcome of the secondary activity has occurred, are sanctioned with the penalty provided by the law for the committed complex offense.

#### **ART. 37**

##### **Recalculation of the penalty for continuing or complex violations**

If an offender who received a final conviction for a continuing or complex offense is subsequently tried also for other actions or inactions included in the contents of the same offense, taking into account the offense committed as a whole, an appropriate penalty is established, and it cannot be shorter than the one previously handed down.

#### **ART. 38**

##### **Multiple offenses**

(1) There exist multiple violations when two or several violations have been committed by the same person, via various actions or inactions, before receiving a final conviction for any of them. There also exist actual multiple violations when one of those has been committed in order to commit or conceal another offense.



(2) There exist formal multiple violations when an action or inaction committed by a person, because of the circumstances under which it occurred and because of the consequences it produced, contains the elements of several violations.

#### **ART. 39**

##### **Main penalty for multiple offenses**

(1) In case of multiple offenses, the penalty for each offense is established separately and the penalty is applied as follows:

- a) when a penalty of life imprisonment and one or more penalties of imprisonment or fine have been established, the penalty of life imprisonment shall be applied;
- b) when only penalties of imprisonment have been established, the heaviest penalty shall be applied, which can be increased by one-third of the total of all the other penalties handed down;
- c) when only fines have been established, the heaviest penalty shall be applied, which can be increased by one-third of the total of all the other penalties handed down;
- d) when a penalty of imprisonment and a penalty of fine have been established, the penalty of imprisonment shall be applied, to which the full fine can be added;
- e) when several penalties of imprisonment and several penalties of fine have been established, the penalty of imprisonment shall be applied, according to letter b), to which the full fine can be added, according to letter c).

(2) When several penalties of imprisonment have been established, if, by adding to the heaviest penalty a third of the total of all other penalties of imprisonment, and for at least one of the multiple offenses the penalty provided by law is 20 years or more, the penalty of life imprisonment can be applied.

#### **ART. 40**

##### **Merger of penalties for multiple offenses**

(1) If an offender that has been handed a final sentence is subsequently tried for one of the multiple offenses, [Art. 39](#) shall apply.

(2) [Art. 39](#) shall also apply in the case where, after a conviction judgment has remained final, it is found that the convicted individual had previously been convicted for one of the multiple offenses.

(3) If the offender has served their penalty as previously sentenced, in full or in part, the portion that has been served shall be deducted from the length of sentencing for the multiple offenses.

(4) Stipulations concerning sentencing in case of multiple offenses also apply to the case where life imprisonment was subject to commutation or replacement by simple imprisonment.





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(5) In case of a merger of penalties as under paragraphs (1) - (4) consideration shall also be given to penalties enforced through a conviction that was returned abroad, for one of the multiple offenses, if the conviction is recognized under the law.

#### **ART. 41**

##### **Repeat offense**

(1) A repeat offense exists when, after a conviction and sentence of more than one year of imprisonment remains final, and before rehabilitation or completion of sentenced term, the convicted individual commits another violation with direct intent or oblique intent, for which the law mandates a term of more than one year of imprisonment.

(2) A repeat offense also exists in case one of the penalties under par. (1) is life imprisonment.

(3) To establish the existence of a repeat offense, consideration shall also be given to a conviction judgment returned in another country, for a violation that is also included in Romanian criminal law, if that conviction has been recognized under the law.

#### **ART. 42**

##### **Convictions that do not cause existence of repeat offense**

In establishing the existence of repeat offense consideration shall not be given to convictions for:

- a) acts that are no longer stipulated in criminal law;
- b) violations that have been pardoned;
- c) violations committed with basic intent.

#### **ART. 43**

##### **Penalties for repeat offense**

(1) If, before the previous sentence has been fully served or deemed as served, a new offense is committed and constitutes a repeat offense, the penalty attributed to it shall be added to the time of the previous sentence or the time not yet served from the previous sentence.

(2) If, before the previous sentence has been fully served or deemed as served, multiple offenses are committed, at least one of which is a repeat offense, penalties shall be merged as under the stipulations concerning multiple offenses and the resulting sentence shall be added to the time of the previous sentence or the time not yet served from the previous sentence.

(3) If the addition of sentences as under paragraphs (1) and (2) results in more than 10 years over the maximum imprisonment penalty allowed, and for at least one of the violations committed the penalty under the law is no less than 20 years, the terms of imprisonment can be replaced by life imprisonment.



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- (4) If the previous penalty or the penalty set for the violation committed as a repeat offense is life imprisonment, the sentence to be served is life imprisonment.
- (5) If, after the previous sentence has been fully served or deemed as served, a new violation is committed as a repeat offense, the special thresholds for the penalty under the law for the new violation shall be increased by half.
- (6) If, after the conviction for the new violation has remained final and before the previous sentence has been fully served or deemed as served, the convicted person is found to be in a state of repeat offense, the court shall use the stipulations in paragraphs (1) - (5).
- (7) Paragraph (6) also applies in the case where life imprisonment has been subject to commutation or replacement by simple imprisonment.

#### **ART. 44**

##### **Intermediate plurality**

- (1) Intermediate multiple offenses exists when after a conviction remains final and before the date the sentence has been fully served or deemed as served, the convicted person commits a new violation and the legal conditions are not met for the state of repeat offense to be declared.
- (2) In case of intermediate plurality the penalty for the new violation and the one for the previous violation shall be merged according to the stipulations applicable to multiple offenses.

#### **ART. 45**

##### **Ancillary penalties, additional penalties, and security measures in case of multiple offenses**

- (1) If one of the committed violations carries a ancillary penalty, such penalty shall be awarded alongside the main penalty.
- (2) When several ancillary penalties are established that have different natures, or even the same nature but a differing content, they shall be awarded alongside the main penalty.
- (3) When several ancillary penalties are established that have the same nature and the same content:
  - a) in case of multiple violations or intermediate plurality the harshest of them shall apply;
  - b) in case of repeat offense, the part of the previous ancillary penalty that has not yet been served shall be added to the penalty for the new violation.
- (4) In case of successive convictions for multiple offenses the part of the previous ancillary penalty that has been served until the date of merger of the main penalties shall be deducted from the length of the ancillary penalty awarded alongside the resulting penalty.



(5) If one or more additional penalties have been awarded alongside the main penalties, the stipulations of paragraphs (1) - (3) shall apply, and the resulting additional penalty shall be served until such date when the main penalty has been served or deemed to have been served.

(6) Security measures of differing nature or even of the same nature but with differing content, for the committed violations, shall be merged.

(7) If several security measures have been awarded that are of the same nature and the same content but for differing lengths of time, the longest of the security measures shall apply. Security measures awarded under [Art. 112](#) shall be merged.

## **CHAPTER VI**

### **Author and participants**

#### **ART. 46**

##### **Author and co-authors**

(1) An author is the person who personally commits an act stipulated by criminal law.

(2) Co-authors are persons who personally commit the same act stipulated by criminal law.

#### **ART. 47**

##### **Instigator**

An instigator is a person who, with direct intent, determines another to commit an act stipulated by criminal law.

#### **ART. 48**

##### **The accomplice**

(1) The accomplice is the person who deliberately facilitates or helps in any way with the commission of an act stipulated by criminal law.

(2) The accomplice is also the person who promises, before or during the commission of the act, that they will conceal the assets originating from it or that they will favor the perpetrator, even if, after the commission of the act, the promise is not fulfilled.

#### **ART. 49**

##### **Penalty in case of participants**

The coauthor, the instigator and the accomplice to a deliberately performed crime is punished with the penalty stipulated by law for the author of the act. When the penalty is established, the contribution of each person to the commission of the act shall be taken into account, as well as the stipulations stipulated in [art. 74](#).



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## **ART. 50**

### **Personal and real circumstances**

- (1) The circumstances related to the author or to a participant do not reflect on the others.
- (2) The circumstances concerning the act reflect on the author and on the participants only if they knew or anticipated those circumstances.

## **ART. 51**

### **Preventing the commission of a crime**

- (1) The participant shall not be punishable if, before the act is discovered, they denounce the commission of the crime, so that the consummation of it can be prevented, or if they prevent the consummation of the respective crime.
- (2) If the acts performed until the denouncement or the prevention constitute another crime, the participant shall receive the penalty corresponding to the respective crime.

## **ART. 52**

### **Improper participation**

- (1) The direct, deliberate commission by a person of an act stipulated by criminal law, to which, with basic intent or without guilt, another person contributes with acts of service, is punishable by the penalty stipulated by the law for the act committed with direct intent.
- (2) The determining, facilitating or helping in any way, with intent, in the commission by another person with basic intent of an act stipulated by criminal law is punishable by the penalty stipulated by the law for the act committed with direct intent.
- (3) The determining, facilitating or helping in any way, with intent, in the commission by another person who performs that act without guilt, is punishable by the penalty stipulated by the law for the respective crime.
- (4) The stipulations in [art. 50](#) and [art. 51](#) shall apply accordingly.



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## **TITLE III\*)**

### **Penalty**

#### **#CIN**

*\*) Also see [Art. 9 - 16](#) in Law #187/2012 ([#M3](#)), which are reproduced in endnote 2 to the updated text.*

#### **#B**

### **CHAPTER I**

### **Categories of penalties**

#### **ART. 53**

#### **Main penalties**

The main penalties are:

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

#### **ART. 54\*)**

#### **Additional penalty**

An additional penalty consists of a ban on the exercise of certain rights, as of the moment a conviction remains final and until the date the sentence of imprisonment has been fully served or deemed as served.

#### **#CIN**

*\*) Also see [Art. 12](#) par. (1) in Law #187/2012 ([#M3](#)), which is reproduced in endnote 2 to the updated text.*

#### **#B**

#### **ART. 55\*)**

#### **Ancillary penalties**

The ancillary penalties are:

- a) ban on the exercise of certain rights;
- b) military demotion;
- c) publication of judgment to convict.

#### **#CIN**

*\*) Also see [Art. 12](#) par. (2) in Law #187/2012 ([#M3](#)), which is reproduced in endnote 2 to the updated text.*



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**#B**

## **CHAPTER II Main penalties**

### **SECTION 1 Life imprisonment**

#### **ART. 56**

##### **Serving a life imprisonment sentence**

Life imprisonment consists of deprivation of freedom for an indeterminate duration of time and shall be served according to the Law on the Service of Penalties.

#### **ART. 57**

##### **Life imprisonment exception**

If, at the date when the judgment to convict is returned, the defendant has turned 65 years of age, the sentence of life imprisonment shall be replaced by a prison term of 30 years and a ban on the exercise of certain rights for the maximum duration of the prison sentence.

#### **ART. 58**

##### **Replacement for life imprisonment**

In case the defendant sentenced to life imprisonment turns 65 years of age during the serving of that sentence, life imprisonment can be replaced by a term of 30 years of imprisonment and a ban on the exercise of certain rights for the maximum duration of the prison sentence, if they had good behavior throughout serving their sentence until that point, were in full compliance with all their civil obligations as ruled in the judgment to convict them (except for the case when proof is brought that they had no avenue to comply) and they made constant and visible progress towards social reintegration.

#### **ART. 59**

##### **Calculation of penalty when life imprisonment is subject to commutation or replacement**

When life imprisonment is subject to commutation or replacement by a regular prison sentence, the time already served in prison shall be deemed as prison sentence already served.



## SECTION 2

### Prison sentences

#### ART. 60

##### Serving a prison sentence

A prison sentence consists of deprivation of freedom for a determined length of time, comprised between 15 days and 30 years, and shall be served according to the Law on the Service of Penalties.

## SECTION 3

### Fines

#### **ART. 61\*)**

##### Establishing the amount of fine

(1) A fine consists of the amount of money a convicted individual is compelled to pay to the State.

(2) The amount of the fine shall be established in the system of fine-days. The amount for one fine-day ranges from 10 RON and 500 RON, and will be multiplied by the number of fine-days, which ranges from 30 and 400.

##### **#M3**

*(3) A court shall establish the number of fine-days according to the general criteria for customization of sentencing. The amount that corresponds to one fine-day shall be calculated on the basis of the financial status of the convicted defendant and their legal obligations towards persons they are supporting.*

##### **#B**

(4) The special thresholds for fine-days range between:

- a) 60 to 180 fine-days, when the law stipulates only a penalty by fine for that offense;
- b) 120 to 240 fine-days, when the law stipulates a penalty by fine alternatively for a term of imprisonment of no more than 2 years;
- c) 180 to 300 fine-days, when the law stipulates a penalty by fine alternatively for a term of imprisonment of more than 2 years.

(5) If the committed offense was intended to provide a material gain, and the penalty stipulated by law is only a fine or the court chooses to only sentence to that penalty, the special thresholds for fine-days can be increased by one-third.

(6) Increments established by law for mitigating or aggravating circumstances shall apply to the special thresholds for fine-days stipulated at par. (4) and par. (5).

##### **#CIN**

*\*) Also see [Art. 13](#) par. (1) in Law #187/2012 (**#M3**), which is reproduced in endnote 2 to the updated text.*



## **#B**

### **ART. 62\*)**

#### **Penalty by fine that accompanies a penalty by imprisonment**

- (1) If the committed offense was intended to provide a material gain, the penalty by imprisonment can be accompanied by a penalty by fine.
- (2) The special thresholds for fine-days stipulated at [Art. 61](#) par. (4) lett. b) and lett. c) shall be calculated on the basis of the length of the term of imprisonment awarded by the court and cannot be reduced or increased as an effect of mitigating or aggravating causes.
- (3) In establishing the amount of one fine-day consideration shall be given to the amount of material gain that was obtained or desired.

## **#CIN**

*\*) Also see [Art. 11](#) in Law #187/2012 ([#M3](#)), which is reproduced in endnote 2 to the updated text.*

## **#B**

### **ART. 63\*)**

#### **Replacement of a penalty by fine by a term of imprisonment**

- (1) If the convicted defendant fails to pay their fine, in ill-faith, in whole or in part, the number of fine-days shall be replaced by the same number of days of imprisonment.
- (2) If the unpaid fine accompanied a penalty by imprisonment, the number of fine-days that was not paid up shall be replaced by the same number of days of imprisonment, which shall be added to the term of imprisonment, and the resulting penalty shall constitute one single penalty.
- (3) In case a penalty by fine is replaced by a penalty by imprisonment, as under par. (1) and par. (2), one fine-day shall be substituted by one day of imprisonment.

## **#CIN**

*\*) Also see [Art. 14](#) par. (1) in Law #187/2012 ([#M3](#)), which is reproduced in endnote 2 to the updated text.*

## **#B**

### **ART. 64\*)**

#### **Serving the penalty by fine by performing community service**

- (1) In case the whole or part of the penalty by fine cannot be served for reasons not attributable to the convicted defendant, with the latter's consent, the Court can replace the obligation to pay a fine by the obligation to perform community service, except for the case where the person's health precludes them from performing such service. One fine-day is equal to one day of community service.





(2) If the fine that was replaced as under par. (1) was accompanying a penalty by imprisonment, the obligation to perform community service shall be served after the end of the term of imprisonment.

(3) The Probation Service shall be in charge of supervising performance of the community service.

(4) Performance of community service as under par. (1) shall cease once full payment is received for the number of fine-days not yet served.

(5) The Court shall replace fine-days that were not served as community service by a corresponding number of days of imprisonment if:

a) the convicted defendant fails to perform community service as ordered by the Court;

**#M3**

*b) the convicted defendant commits a new offense which is discovered before full performance of community service. The fine-days that were not served in the form of community service at the date of final conviction for the new offense, replaced by days of imprisonment, shall be added to the penalty for the new offense.*

**#B**

(6) If a convicted defendant who is in the situation stipulated at par. (1) does not consent to perform community service, the amount of fine not paid shall be replaced by a penalty by imprisonment as under [Art. 63](#).

**#CIN**

*\*) Also see [Art. 14](#) par. (2) in Law #187/2012 (**#M3**), which is reproduced in endnote 2 to the updated text.*

**#B**

## CHAPTER III

### Additional and ancillary penalties

#### SECTION 1

#### Additional penalty

#### **ART. 65**

**Contents and manner of serving the additional penalty of receiving a ban on the exercise of a number of rights**

**#M3**

*(1) An additional penalty consists of a ban on exercising the rights stipulated at [Art. 66](#) par. (1) lett. a),b) and d) - o), whose exercise was banned by a court of law as a ancillary penalty.*

*(2) In the case of life imprisonment the additional penalty consists of the court banning the exercise of the rights stipulated in [Art. 66](#) par. (1) lett. a) - o) or a number of those.*



**#B**

(3) The additional penalty of a ban on the exercise of certain rights shall begin being served as of the moment the conviction remains final and until the moment the main penalty by imprisonment has been served or is deemed to have been served.

**#M3**

(4) *In the case of life imprisonment the additional penalty whose content is stipulated in [Art. 66](#) par. (1) lett. c) shall begin being served on the date parole release is granted or after the penalty is deemed to have been served.*

**#B**

**SECTION 2**

**Ancillary penalties**

**ART. 66**

**Content of the ancillary penalty of receiving a ban on the exercise of a number of rights**

(1) The ancillary penalty of a ban on the exercise of a number of rights consists of a ban, for one to five years, on the exercise of one or several of the following rights:

- a) right to be elected to the ranks of public authorities or any other public office;
- b) right to take a position that involves exercise of State authority;
- c) right of a foreign citizen to reside on Romanian territory;
- d) right to vote;
- e) parental rights;
- f) right to be a legal guardian or curator;
- g) the right to take the position, exercise the profession or perform the activity they used in order to commit the offense;
- h) the right to own, carry and use any category of weapons;
- i) the right to drive certain categories of vehicles as established by the Court;
- j) the right to leave Romanian territory;
- k) the right to take a managerial position with a public legal entity;
- l) the right to be in certain localities as established by the Court;
- m) the right to be in certain locations or attend certain sports events, cultural events or public gatherings, as established by the Court;
- n) the right to communicate with the victim or the victim's family, with the persons together with whom they committed the offense or with other persons as established by the Court, or the right to go near such persons;
- o) the right to go near the domicile, workplace, school or other locations where the victim carries social activities, in the conditions established by the Court.

(2) When the law mandates a ban on the right to take a public position, the Court shall rule to ban the exercise of the rights stipulated at par. (1) lett. a) and lett. b).



(3) The exercise of the rights stipulated at par. (1) lett. a) and lett. b) shall be banned together.

(4) The penalty stipulated at par. (1) lett. c) shall not be ruled where there is probable cause to believe the person's life might be at risk or that the person might be subjected to torture or other inhuman or degrading treatment in case they are expelled.

(5) When the ban regards one of the rights stipulated at par. (1) lett. n) and lett. o), the Court shall specifically customize the content of that penalty so as to consider the circumstances of the case.

#### **ART. 67**

##### **Enforcing the ancillary penalty of a ban on the exercise of certain rights**

(1) The ancillary penalty of a ban on the exercise of certain rights can be enforced if the main penalty is imprisonment or a fine and the Court finds that, considering the nature and seriousness of the offense, the circumstances of the case and the person of the offender, such penalty is necessary.

(2) Enforcing the ancillary penalty of a ban on the exercise of certain rights is mandatory when the law stipulates such penalty for an offense.

(3) Banning a foreign citizen's right to be on Romanian territory does not apply in case the defendant has received a probation sentence.

#### **ART. 68**

##### **Serving the ancillary penalty of a ban on the exercise of certain rights**

(1) Serving the ancillary penalty of a ban on the exercise of certain rights begins:

a) as of the date the sentence to a fine penalty remains final;

b) as of the date the sentence remains final that ruled the defendant shall serve their penalty on probation;

c) after the prison sentence is served, after total pardon or a pardon for the remainder of the penalty, after serving a sentence has come under the statute of limitations or after expiry of the duration of probation.

(2) In case a penalty is to be served on probation, the ban for a foreign citizen to be on Romanian territory shall begin as of the date of release.

(3) If serving a sentence on probation is revoked, or a penalty by fine is replaced by a penalty by imprisonment, for reasons other than the commission of a new offense, the remainder of the ancillary sentence banning the exercise of certain rights that has not yet been served at the date of revocation or replacement shall be served after completion of the prison sentence.



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## **ART. 69**

### **Military demotion**

- (1) The ancillary penalty of military demotion consists of a military person being stripped of their rank and the right to wear the uniform until the date the conviction judgment remains final.
- (2) Military demotion applies obligatorily to convicted military personnel that is active, in reserve or in retirement, if the main penalty they have received is more than 10 years of imprisonment of life imprisonment.
- (3) Military demotion can be ruled against convicted military personnel that are active, in reserve or in retirement for offenses committed with direct intent, if the main penalty ruled against them is no less than 5 years and no more than 10 years of imprisonment.

## **ART. 70**

### **Publication of final conviction judgment**

- (1) Publication of the final conviction judgment can be ordered when, in consideration of the nature and seriousness of the offense, the circumstances of the case and the convicted person, the Court feels publication will contribute to deterring other individuals from committing such violations.
- (2) The conviction judgment is to be published in summary, in a format established by the Court, in a local or national daily newspaper, to be run only once.
- (3) Publication of the final conviction judgment shall be performed at the expense of the convicted defendant, without the identity of other individuals being revealed.

## **CHAPTER IV**

### **Calculation of the length of penalties**

## **ART. 71**

### **Duration of serving a sentence**

- (1) The duration of serving a prison sentence starts counting on the day the convicted defendant has begun serving the sentence in the final conviction judgment.
- (2) The day when the penalty begins being served and the day the penalty ends are included in the duration of serving the sentence.
- (3) The length of time while the convict is hospitalized for an illness, during the serving of their sentence, is included in the duration of serving their sentence except for the case where the convict deliberately caused their medical condition and this action is identified during the course of their serving their sentence.
- (4) Permissions to leave the penitentiary, granted to the convict under the Law on the Service of Penalties, are included in the duration of serving the sentence.



## **ART. 72**

### **Calculating the duration of pre-trial arrest**

(1) The length of time while a person was placed in pre-trial arrest shall be deducted from the duration of the term of imprisonment ruled against the defendant. The deduction shall also be performed when the convict has been investigated or tried, at the same time or separately, for a number of multiple offenses, even if they were convicted for an act that is different from the one that warranted the pre-trial arrest.

(2) The length of time while a person was placed in pre-trial arrest shall also be deducted from the penalty in case the sentence is a fine, by removing the number of fine-days entirely or in part.

(3) In case of a fine that accompanies a penalty by imprisonment, the length of time while a person was placed in pre-trial arrest shall be deducted from the length of the penalty by imprisonment.

## **ART. 73**

### **Calculating penalties and preventive measures to be served outside the country**

(1) In the case of offenses committed as under [Art. 8](#), [Art. 9](#), [Art. 10](#) or [Art. 11](#), the part of the penalty and the duration of pre-trial arrest served outside Romanian territory shall be deducted from the length of the sentence enforced for the same violation in Romania.

(2) Par. (1) applies accordingly in the case where the sentence served outside the country is a penalty by fine.

## **CHAPTER V**

### **Customization of sentencing**

#### **SECTION 1**

##### **General stipulations**

## **ART. 74**

### **General criteria for customization of a sentence**

(1) Establishing the length or amount of a penalty shall be made on the basis of the seriousness of the offense and the threat posed by the convict, all of which shall be assessed based on the following criteria:

- a) the circumstances and manner of commission of the offense, as well as the means that were used;
- b) the threat to the protected social value;
- c) the nature and seriousness of the outcome produced by the offense or other consequences of the offense;
- d) the reason for committing the offense and intended goal;



- e) the nature and frequency of offenses in the convict's criminal history;
  - f) the convict's conduct after committing the offense and during the trial;
  - g) the convict's level of education, age, health, family and social situation.
- (2) When the law stipulates alternative penalties for the offense, the criteria stipulated in par. (1) shall be a factor in selecting one of those alternatives.

## SECTION 2

### Mitigating and aggravating circumstances

#### ART. 75

#### Mitigating circumstances

(1) The following situations represent legal mitigating circumstances:

- a) offense committed under the influence of a strong disturbance or emotion, caused by the victim, caused either by violence, by infringement of a person's dignity or by other serious illicit actions;
- b) exceeding the limits of legitimate defense;
- c) exceeding the limits of a state of necessity;

#### #M3

*d) covering all the material damage caused by an offense, during criminal investigation or trial, until the first hearing, if the offender has not benefited from this circumstance within 5 years prior to committing the crime. Mitigating circumstances do not apply if the following offenses are committed: offense against the person, aggravated theft, robbery, piracy, fraud committed through computer systems and electronic means of payment, assault, judicial assault, abusive behavior, offenses against public safety, offenses against public health, offenses against freedom of religion and respect due to the deceased, against national security, against the fighting capacity of the armed forces, crime of genocide, crimes against humanity and war crimes, offenses against Romanian state border, offenses against the law on preventing and combating terrorism, corruption offenses, offenses assimilated to corruption offenses, or against the financial interests of the European Union, violation of regulations concerning explosive, nuclear and radioactive materials, drug offenses, drug precursors offenses, money laundering offenses, offenses against civil aviation activities and which might endanger flight safety and aviation security, offenses against witness protection, offenses against bans on organizations and symbols with fascist, racist and xenophobic character and against the promotion of worship of persons guilty of crimes against peace and humanity, offenses relating to trafficking in human organs, tissues or cells, offenses relating to preventing and combating pornography and relating to adoption rules.*



## #B

- (2) The following situations may represent judicial mitigating circumstances:
- a) efforts made by an offender to eliminate or reduce the consequences of their offense;
  - b) circumstances relating to the committed offense, which reduce the seriousness of the offense or the threat posed by the offender.

### **ART. 76**

#### **The effects of mitigating circumstances**

- (1) In case of mitigating circumstances, the special limits of penalty prescribed by law for the committed offense are reduced by one-third.
- (2) If the penalty prescribed by law is life imprisonment, and if mitigating circumstances apply, the penalty by imprisonment shall be set to no less than 10 and no more than 20 years.
- (3) Special limits of penalty are reduced only once, regardless of the number of mitigating circumstances applying.

### **ART. 77**

#### **Aggravating circumstances**

The following constitute aggravating circumstances:

- a) the offense was committed by three or more persons together;
- b) the offense was committed with cruelty or subjecting the victim to degrading treatment;
- c) the offense was committed by methods or means of a nature likely to endanger other persons or assets;
- d) the offense was committed by an offender who is of age, if they were joined by an underage person;
- e) the offense was committed by taking advantage of a clear state of vulnerability of the victim, caused by age, health, impairment or other reasons;
- f) the offense was committed in a state of voluntary intoxication with alcohol or other psychoactive substances, when such state was induced with a view to committing the offense;
- g) the offense was committed by a person who took advantage of the situation caused by a disaster, of a state of siege or a state of emergency;
- h) the offense was committed for reasons related to race, nationality ethnicity, language, gender, sexual orientation, political opinion or allegiance, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection, or for other reasons of the same type, considered by the offender to cause the inferiority of an individual from other individuals.



## **ART. 78**

### **Effects of aggravating circumstances**

- (1) In case aggravating circumstances exist, sentencing can go up to the special maximum. If the special maximum is insufficient, in the case of a prison sentence an addition of up to 2 years can be added that cannot exceed one-third of the maximum, and in the case of a fine one-third of the special maximum can be added at most.
- (2) Increasing the threshold of the maximum penalty can only be done once, irrespective of the number of aggravating circumstances found.

## **ART. 79**

### **Concurrence between mitigating and aggravating causes**

- (1) When two or more stipulations are applicable to one offense, that have the effect of reducing a penalty, the special threshold of the penalty stipulated by law for that offense shall be reduced by successively applying the stipulations concerning attempt, mitigating circumstances and special cases for sentence reduction, in that order.
- (2) When two or more stipulations are applicable to one offense, that have the effect of increasing a penalty, the penalty shall be established by successively applying the stipulations concerning aggravating circumstances, continuing offense, multiple offenses or repeat offense.
- (3) When one or more stipulations are applicable to one offense that have the effect of reducing a penalty and one or more stipulations are applicable that have the effect of increasing a penalty, the special threshold of the penalty stipulated by law for that offense shall be reduced according to par. (1), after which the resulting penalty shall be increased according to par. (2).

## **SECTION 3**

### **Waiver of sentence enforcement**

#### **ART. 80\*)**

### **Conditions for waiver of penalty enforcement**

- (1) A Court can waive enforcement of a penalty if the following conditions are met:
  - a) the committed offense has a low degree of seriousness, given the nature and extent of its consequences, means used, manner and circumstances of commission, reason and goal intended;
  - b) considering the person of the defendant, their conduct before committing the offense, their efforts to remove or minimize the consequences of their offense, and their likelihood of rehabilitation, the Court feels that enforcing a penalty would be untimely because of its consequences on the defendant.
- (2) Enforcement of a penalty cannot be waived if:





- a) the defendant has a previous conviction, except for the cases stipulated in [Art. 42](#) lett. a) and lett. b) or for which rehabilitation has taken place or the deadline for rehabilitation has arrived;
- b) the same defendant has already had a case of penalty waiver granted to them in the 2 years previous to the commission of the offense for which they are on trial;
- c) the defendant has evaded criminal investigation or prosecution or tried to obstruct discovery of the truth or identification and prosecution of themselves or participants in the offense;

### **#M3**

*d) the penalty for that offense is more than 5 years of imprisonment.*

### **#B**

(3) In case of multiple offenses, a waiver of penalty enforcement can be granted if the conditions in par. (1) and par. (2) are met for each of the multiple offenses.

### **#CIN**

*\*) According to [Art. 239](#) in Law #187/2012 (**#M3**), the term “conviction” used in [Art. 80](#) par. (2) lett. a) in the Criminal Code also refers to judgments for an educational measure against the defendant when they were underage, except for the case where at least 2 years have passed since the date of serving such measure or since the measure was deemed to have been served.*

### **#B**

## **ART. 81**

### **Warning**

- (1) When ruling to waive a penalty a Court will issue the defendant with a warning.
- (2) A warning consists of a presentation of the factual reasons that led to the Court waiving enforcement of the penalty and telling the defendant about their future conduct and consequences of committing further offenses.
- (3) Only one warning can be granted in a situation of multiple offenses.

### **#M3**

## **ART. 82**

### ***Rescission and effects of waiving a penalty***

- (1) *A defendant who has been granted a waiver of penalty shall not be subject to any restriction of rights, ban or incapacity that might devolve from the offense.*
- (2) *A waiver of penalty enforcement does not cause effects on the serving of security measures and civil obligations ordered in the Court’s judgment.*
- (3) *If, within 2 years of the waiver judgment remaining final, it is found that the recipient of the waiver had committed another offense previous to that judgment remaining final, and for which a sentence was returned even after the expiry of that deadline, the waiver is canceled and a sentence will be enforced for the offense that originally received a*



*waiver, after which stipulations shall apply, as the case may be, concerning multiple offenses, repeat offense or intermediate plurality.*

## **#B**

### **SECTION 4**

#### **Postponement of penalty enforcement**

##### **ART. 83**

##### **Conditions for postponement of penalty enforcement**

(1) The Court can rule to postpone enforcement of a penalty and set a time period to be served on probation, if the following conditions are met:

- a) the sentence, including for a situation of multiple offenses, is a fine or no more than 2 years of imprisonment;
- b) the defendant does not have any previous prison sentences, except for the cases stipulated in [Art. 42](#) lett. a) and lett. b) or for which rehabilitation has taken place or the deadline for rehabilitation has arrived;
- c) the defendant has consented to perform community service;
- d) considering the person of the defendant, their conduct before committing the offense, their efforts to remove or minimize the consequences of their offense, and their likelihood of rehabilitation, the Court feels that enforcing a penalty immediately is not necessary, but it is nevertheless mandatory to have their conduct supervised for a determined period.

(2) Enforcing a sentence cannot be postponed if the penalty stipulated by law for the committed offense is no less than 7 years of imprisonment or if the defendant has evaded the criminal investigation or prosecution or tried to obstruct discovery of the truth or identification and prosecution of themselves or participants in the offense.

(3) Postponing enforcement of a prison sentence will also entail postponement of enforcement of the fine that accompanies the prison sentence according to [Art. 62](#).

##### **#M3**

*(4) It is mandatory to present the reasons for postponing enforcement of the sentence and warn the defendant about their future conduct and consequences of committing further offenses or failing to comply with probation or with their obligations for the duration of the probation period.*

## **#B**

### **ART. 84**

#### **Probation period**

(1) The probation period is 2 years and starts as of the date when the judgment remained final that postponed enforcement of the penalty.



(2) For the duration of the probation period the person on probation must comply with the probation measures and their obligations as part of it, as ordered by the Court.

### **ART. 85**

#### **Probation measures and obligations**

(1) For the duration of the probation period, a defendant who has been granted postponement of penalty enforcement must comply with the following probation measures:

- a) report to the Probation Service on the dates set by the latter;
- b) receive visits by the probation officer appointed to supervise them;
- c) give notice of changing domicile and of any travel longer than 5 days, as well as of their return date;
- d) give notice of changing jobs;
- e) provide information and documents of a nature that will make it possible to check into their livelihood.

(2) The Court can order a defendant who has been granted postponement of penalty enforcement to comply with one or several of the following obligations to:

- a) take classes in school or a vocational training;
- b) perform community service for a duration between 30 and 60 days, in the conditions ordered by the Court, except for the case where their health precludes them from performing that service. The daily number of hours to be performed shall be established as under the Law on the Service of Penalties;
- c) attend one or more social reintegration programs operated by the Probation Service or given in cooperation with community entities;
- d) comply with medical checkups, treatment or care;
- e) not communicate with the victim or the victim's family, with the persons together with whom they committed the offense or with other persons as established by the Court, or to not go near such persons;
- f) not be in certain locations or attend certain sports events, cultural events or public gatherings established by the Court;
- g) not drive certain vehicles established by the Court;
- h) not own, use and carry any category of weapons;
- i) not leave Romanian territory without securing agreement from the Court;
- j) not take or exercise the position, profession, occupation or activity they used in the commission of the offense.

### **#M3**

*(3) To order the obligation stipulated at par. (2) lett. b), the Court shall consult the information made available periodically by the Probation Service concerning the actual compliance possibilities the Probation Service and the community can provide.*



(4) *When ordering the obligation stipulated at par. (2) lett. e) -g), the Court is specifically customizing the contents of that obligation in consideration of the circumstances of the case.*

**#B**

(5) The defendant on probation must comply in full with their civil obligations as ordered in the Court judgment, no later than 3 months before expiry of the probation period.

**ART. 86**

**Supervision**

(1) During the probation period the information stipulated in [Art. 85](#) par. (1) lett. c) - e) shall be reported to the Probation Service.

(2) Supervising compliance with the obligations stipulated in [Art. 85](#) par. (2) lett. a) -c) and par. (5) shall be provided by the Probation Service. Checking into the manner of compliance with obligations stipulated in [Art. 85](#) par. (2) lett. d) - j) shall be performed by jurisdictional bodies that shall refer any and all violations of said obligations to the Probation Service.

(3) The Probation Service shall take all necessary steps to ensure compliance with obligations stipulated in [Art. 85](#) par. (2) lett. a) -d), within the shortest delay after the conviction remained final.

(4) For the duration of the probation period the Probation Service is under an obligation to inform the Court if:

- a) any grounds have emerged to warrant either an amendment to the obligations ordered by the Court or discontinuation of compliance with some of them;
- b) the person under supervision does not comply with probation measures or fails to comply with their obligations in the conditions set for them;
- c) the person under supervision has failed to comply with their civil obligations as ordered in the Court judgment, no later than 3 months before expiry of the probation period.

**ART. 87**

**Amending or discontinuing obligations**

(1) If during the probation period reasons occur that warrant either the ordering of new obligations or the increase or decrease of the existing compliance conditions, the Court shall order an amendment of the obligations accordingly, to provide the supervised individual with increased chances for rehabilitation.

(2) The Court shall order some of the original obligations to cease when it feels that maintaining them is no longer necessary.



## **ART. 88**

### **Revocation of postponement of penalty enforcement**

- (1) If during the probation period the supervised individual, in ill-faith, fails to comply with the probation measures or obligations ordered them, the Court shall revoke the postponement and rule to enforce the penalty.
- (2) In the case where, before expiry of the probation period, the supervised individual fails to fully comply with their civil obligations as ordered in the Court judgment, the Court shall revoke the postponement and rule to enforce the penalty except for the case where the individual can prove they had no avenue to comply.
- (3) In the case where, after postponement of penalty enforcement, the supervised individual commits a new offense, with direct or oblique intent, which is discovered during the probation period, and for which a conviction was returned even after expiry of this term, the Court shall revoke the postponement and rule to enforce the penalty. The penalty enforced as a result of revocation and the penalty for the new offense shall be calculated according to the stipulations concerning multiple offenses.
- (4) If the new offense is committed with basic intent, the Court is at liberty to maintain or revoke the postponement of penalty enforcement. In case of revocation the stipulations of par. (3) shall apply accordingly.

## **ART. 89**

### **Nullification of postponement of penalty enforcement**

- (1) If during the probation period the supervised individual is found to have committed another offense before the date when the postponement judgment remained final, and for which they were sentenced to imprisonment even after the expiry of that term, the postponement shall be nullified, and the stipulations shall apply, as the case may be, on multiple offenses, repeat offense or intermediate plurality.
- (2) In the case of multiple offenses the Court can order a postponement of resulting penalty enforcement if the conditions are met that are stipulated in [Art. 83](#). If the Court orders a postponement of penalty enforcement, the probation period shall start being calculated as of the date the previous judgment remained final that postponed penalty enforcement.

## **ART. 90**

### **Effects of postponement of penalty enforcement**

- (1) A defendant who has been granted a postponement of penalty enforcement shall not be subject to serving the penalty or to any restriction of rights, ban or incapacity that might devolve from the offense, unless they have committed a new offense before the expiry of the probation period, postponement has not been revoked and no cause for nullification has occurred.



(2) Postponement of penalty enforcement does not produce effects on serving the security measures and the civil obligations stipulated in the Court judgment.

## **SECTION 5\*)**

### **Suspension of service of a sentence under supervision**

#CIN

*\*) Also see [Art. 16](#) in Law #187/2012 ([#M3](#)), an Article that is reproduced in endnote 2 to the updated text.*

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### **ART. 91**

#### **Conditions for suspending service of a sentence under supervision**

(1) The court may suspend service of a sentence under supervision if the following conditions are met:

- a) the penalty imposed, including in case of multiple offenses, is a term of no more than three years of imprisonment;
- b) the offender was not previously convicted to imprisonment for a term exceeding one year, except as under Art. 42, when rehabilitation has taken place or the deadline for rehabilitation has arrived;
- c) the offender agreed to perform community service;
- d) by considering the offender's person, the offender's conduct prior to the commission of the criminal offense, their efforts to eliminate or mitigate the consequences of such criminal offense and their means of reformation, the court feels that the penalty is sufficient, even without service thereof, that the convict will not commit other offenses, but that it is necessary to monitor their behavior for a limited period of time.

(2) Where imprisonment is accompanied by a fine as under Art. 62, the penalty fine shall be enforced even if the service of the prison sentence was suspended under supervision.

(3) Suspension of service of a sentence under supervision may not be ordered if:

- a) a fine is the only penalty;
- b) enforcement of the sentence was initially postponed, and such postponement was subsequently revoked;
- c) the defendant has evaded criminal investigation or prosecution or tried to obstruct discovery of the truth or identification and prosecution of themselves or participants in the offense.

(4) It is mandatory to submit the grounds for their sentence, as well as those that led to the suspension of the sentence enforcement and to warn the convict about their future conduct and about the consequences they are exposed to if they continue to commit



offenses or fail to comply with the supervision measures or to fulfill their obligations during the term of supervision.

## **ART. 92**

### **Term of supervision**

- (1) The term of suspension of a sentence under supervision shall be the convict's supervision period, which ranges from 2 to 4 years, but may not be shorter than the term of the sentence enforced.
- (2) The supervision period shall be calculated from the date when the decision to have the sentence served under supervision was returned and remained final.
- (3) During the supervision period a convict must comply with supervision measures and fulfill their obligations in the terms set out by the Court.

## **ART. 93**

### **Supervision measures and obligations**

- (1) During the supervision period, a convict shall comply with the following supervision measures:
  - a) report to the Probation Service on the dates set by the latter;
  - b) receive visits by the probation officer appointed to supervise them;
  - c) give notice of changing domicile and of any travel longer than 5 days, as well as of their return date;
  - d) give notice of changing jobs;
  - e) provide information and documents of a nature that will make it possible to check into their livelihood.
- (2) The Court can order a defendant to comply with one or several of the following obligations to:
  - a) take classes in school or a vocational training;
  - b) attend one or more social reintegration programs operated by the Probation Service or given in cooperation with community entities;
  - c) comply with medical checkups, treatment or care;
  - d) not leave Romanian territory without securing agreement from the Court;
- (3) During the supervision period, a convict shall perform community service for a period between 60 and 120 days, under the terms set out by Court, unless their health prevents them from performing such work. The daily number of hours shall be determined by the Law on the Service of Penalties.

#M3

- (4) In determining the content of the obligation set out in par. (3), the Court shall consult the information provided periodically by the Probation Service on the existing concrete capacities to serve at the level of the Probation Service and the community institutions.

#B



(5) The convict must comply in full with their civil obligations as ordered in the Court judgment, no later than 3 months before expiry of the probation period.

#### **ART. 94**

##### **Supervision of convict**

(1) During the supervision term, the dates stipulated in Art. 93 par. (1) lett. c) - e) shall be notified to the Probation Service.

(2) Fulfillment of the obligations set out in Art. 93 par. (2) lett. a) and b), par. (3) and par. (5) is supervised by the Probation Service. The way the obligations under Art. 93 par. (2) lett. c) and d) are fulfilled is verified by the competent authorities, which shall notify the Probation Service of any violation thereof.

(3) The Probation Service shall take all necessary steps to ensure that the obligations stipulated in Art. 93 par. (2) lett. a) and b) and par. (3) are met as soon as possible as of the date when the judgment of conviction remained final.

(4) During the supervision term, the Probation Service shall notify the court if:

- a) certain reasons justifying either a change of the obligations imposed by the court or cessation of some of them have appeared;
- b) the supervised person does not comply with the supervision measures or fails to meet their obligations under the established conditions;
- c) the supervised person has not met their civil obligations as under the Court judgment no later than three months before expiry of the supervision term.

#### **ART. 95**

##### **Change or cessation of obligations**

(1) If during the supervision term reasons justifying either the imposition of new obligations or the extension or reduction of the service conditions for those existing appeared, the court orders the change of obligations accordingly so as to ensure better chances for the convict to reform.

(2) The court suspends service of some of the obligations imposed by it when it deems that their maintaining is no longer required.

#### **ART. 96**

##### **Revocation of suspension of sentence enforcement under supervision**

(1) If during the supervision term, a supervised person, in ill-faith, does not comply with the supervision measures or fails to perform the obligations imposed or established by law, the court shall revoke suspension and shall order service of the penalty.

(2) If before expiry of the supervision term, a supervised person does not fully perform their civil obligations established by the court judgment, the court shall revoke suspension and shall enforce the sentence, unless the person proves to have been unable to fulfill such obligations.





(3) If the fine accompanying imprisonment under Art. 62 was not paid and was replaced by imprisonment pursuant to Art. 63 par. (2) or Art. 64 par. (5) and par. (6), the court shall revoke suspension and shall enforce the sentence, plus the imprisonment which replaced the criminal fine.

(4) If during the supervision term a convict commits a new offense, which is discovered before the term's expiry and for which a sentence of imprisonment was returned, even after the expiry of this term, the court shall revoke suspension and shall enforce the sentence.

(5) The main penalty for the new offense is established and served, as applicable, according to the stipulations relating to repeat offenses or intermediary plurality.

(6) If the subsequent offense is committed with basic intent, the court may retain or revoke suspension of the sentence enforcement under supervision. Upon revocation, the stipulations of par. (1), par. (4) and par. (5) shall apply accordingly.

#### **ART. 97**

##### **Rescission of suspension of sentence enforcement under supervision**

(1) If during the supervision term a convicted person is found to have committed another offense before the judgment ordering suspension remains final, and for which they were sentenced to imprisonment even after this period, the suspension is rescinded, and the stipulations on multiple offenses, repeat offenses and intermediary plurality shall apply accordingly.

(2) In case of multiple offenses or intermediary plurality, the court may order suspension of service of the resulting sentence if the conditions laid down in Art. 91 are met. If the suspension of the sentence service under supervision is ordered, the supervision period is calculated from the date the judgment of conviction whereby the suspension of the sentence enforcement under supervision was previously ruled becomes final.

#### **ART. 98**

##### **Effects of suspending service of a sentence under supervision**

#M3

(1) If a convicted person did not commit a new offense, discovered before the expiry of the supervision term, the revocation of suspension of the sentence enforcement under supervision was not ordered and no reason for rescission appeared, the penalty is deemed served.

#B

(2) Suspension of service of a sentence under supervision has no effect on the precautionary measures and civil obligations ordered in the sentence.



## SECTION 6 Conditional Release

### ART. 99

#### Conditions for conditional release in case of life imprisonment

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

- a) a convict effectively served 20 years in prison;
- b) a convict had a good conduct during the entire sentence service;
- c) a convict entirely met all civil obligations established by the judgment of conviction, unless they prove to have been unable to do so;
- d) the court is convinced that the convicted person has reformed and is able to reintegrate into society.

(2) It is mandatory to submit the *de facto* reasons that led to the granting of conditional release and to warn the convict about their future conduct and about the consequences they are exposed to if they continue to commit offenses or fail to comply with the supervision measures or to fulfill their obligations during the term of supervision.

(3) As of the date of conditional release, the convict is subject to a supervision period of 10 years.

### ART. 100

#### Conditions of conditional release in case of imprisonment

(1) Conditional release may be ordered if:

- a) a convict has served at least two-thirds of the penalty, in case of a term of imprisonment no longer 10 years, or at least three quarters of the penalty, but no more than 20 years in prison, in case of a term of imprisonment exceeding 10 years;
- b) a convict is serving their sentence in an open or semi-open regime;
- c) a convict fulfilled completely all civil obligations established by the judgment of conviction, unless they prove to have been unable to do so;
- d) the court is convinced that the convicted person has reformed and is able to reintegrate into society.

(2) If a convicted person turned 60, conditional release may be ordered after the effective serving of half of the penalty, in case of a term of imprisonment not exceeding 10 years, or at least two-thirds of the penalty, in case a term of imprisonment exceeding 10 years, provided that the conditions set forth in par. (1) lett. b) - d) are fulfilled.

(3) In calculating increments of penalty provided in par. (1), the part of the sentence term that may be deemed, according to law, as served due to the work performed is to be considered. In this case, conditional release may be ordered prior to the effective service



of at least half of the prison sentence, when it does not exceed 10 years, and at least two-thirds, when the penalty is more than 10 years.

(4) In calculating increments of penalty provided in par. (2), consideration shall be given to the part of the sentence term that may be regarded as served, according to law, due to the work performed. In this case, conditional release may be ordered prior to the effective service of at least one-third of the imprisonment sentence, when it does not exceed 10 years, and at least half of it, when the sentence is more than 10 years.

(5) It is mandatory to submit the de facto reasons having led to the granting of conditional release and to warn the convict about their future conduct and about the consequences they are exposed to if they continue to commit offenses or fail to comply with the supervision measures or to fulfill their obligations during the term of supervision.

(6) The period between the conditional release date and the date of the sentence expiry is the term throughout which the convict is supervised.

## **ART. 101**

### **Supervision measures and obligations**

(1) If the remaining part of an un-serviced penalty is, upon conditional release, of 2 years or more, a convict shall comply with the following supervision measures:

- a) report to the Probation Service on the dates set by the latter;
- b) receive visits by the probation officer appointed to supervise them;
- c) give notice of changing domicile and of any travel longer than 5 days, as well as of their return date;
- d) give notice of changing jobs;
- e) provide information and documents of a nature that will make it possible to check into their livelihood.

(2) In the case referred to in par. (1), the court may require a convict to perform one or more of the following obligations:

- a) take classes in school or a vocational training;
- b) attend one or more social reintegration programs operated by the Probation Service or given in cooperation with community entities;
- c) not leave Romanian territory
- d) not be in certain locations or attend certain sports events, cultural events or public gatherings established by the Court;
- e) not communicate with the victim or the victim's family, with the persons together with whom they committed the offense or with other persons as established by the Court, or to not go near such persons;
- f) not drive certain vehicles established by the Court;



g) not own, use and carry any category of weapons.

(3) The obligations set out in par. (2) lett. c) - g) may be imposed to the extent they have not been enforced by the ancillary penalty prohibiting the exercise of certain rights.

#M3

(4) In determining the obligation set forth by par. (2) lett. d) - f), the Court practically customizes the content of such obligation, considering the circumstances of the case.

#B

(5) The supervision measures and the obligations provided in par. (2) lett. a) and lett. b) shall be fulfilled as of the date of release, for a period equal to one-third of the supervision term, but no more than 2 years, and the obligations set out in par. (2) lett. c) - g) are to be performed throughout the entire supervision period.

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(6) \*\*\* *Repealed*

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## **ART. 102**

### **Supervision of convict**

(1) During supervision, the data provided in Art. 101 par. (1) lett. c) - e) shall be notified to the Probation Service.

(2) Fulfillment of the obligations set out in Art. 101 par. (2) lett. a) and b) is supervised by the Probation Service. The way in which the obligations set forth in Art. 101 par. (2) lett. c) - g) are fulfilled is verified by the competent authorities, which shall notify the Probation Service of any violation thereof.

(3) The performance of obligations under Art. 101 par. (2) lett. d) and lett. e) may be monitored through an electronic surveillance system, as provided by the special law.

(4) During supervision, the Probation Service has the obligation to notify the court if:

a) certain reasons have occurred requiring either the change of the obligations imposed by the court or cessation of some of them;

b) a supervised person does not comply with the supervision measures or fails to meet their obligations under the established conditions;

## **ART. 103**

### **Change or cessation of obligations**

(1) If during the supervision term, reasons justifying either the imposition of new obligations or the extension or reduction of the service conditions for those existing have appeared, the court orders the change of obligations accordingly so as to ensure better chances for the convict to be socially reintegrated.

(2) The court suspends service of some of the obligations imposed by when it deems that their maintaining is no longer required.



## **ART. 104**

### **Revocation of conditional release**

- (1) If during the supervision term a convicted person, in ill-faith, does not comply with the supervision measures or fails to perform the obligations imposed, the court shall revoke release, and shall order service of the rest of the penalty.
- (2) If after conditional release is granted, a convicted person commits a new offense, which is discovered during the supervision period and for which a judgment for imprisonment was returned, even after the expiry of such term, the court shall revoke release and order service of the rest of the sentence. The penalty for the new offense is set and served, as applicable, according to the stipulations on repeat offenses and intermediary plurality.
- (3) The stipulations of par. (1) and par. (2) shall apply accordingly also to conditional release in case of life imprisonment.

## **Art. 105**

### **Rescission of conditional release**

- (1) If during the supervision term it is found that a convicted person committed another offense before receiving conditional release, for which imprisonment was ordered even after this period, the conditional release is rescinded, the stipulations on multiple offenses, repeat offenses and intermediary plurality shall apply accordingly.
- (2) In the event that, in respect of the penalty resulted, the conditions laid down in Art. 99 or Art. 100 are met, the court may grant conditional release. If conditional release was granted, the supervision term is calculated as of the date of the first conditional release.
- (3) When, after rescission, the court orders service of the resulting penalty, the part of the ancillary penalty that prohibits the exercise of certain rights that was not served upon rescission of release shall be served after serving the imprisonment sentence.

#M3

## **ART. 106**

### **Effects of conditional release**

If a convicted person did not commit a new offense that was discovered before expiry of the supervision term, revocation of the conditional release was not ordered and no rescission reason occurred, the sentence is deemed as served.



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## **TITLE IV**

### **Security measures**

#### **CHAPTER I**

##### **General stipulations**

###### **ART. 107**

###### **Security measures**

- (1) Security measures seek to eliminate any state of hazard and to prevent the commission of offenses provided by criminal law.
- (2) Security measures are taken against a person who committed an unjustified offense under criminal law.
- (3) Security measures may also be taken in case no penalty is applied to the offender.

###### **ART. 108**

###### **Categories of security measures**

Security measures are:

- a) compulsion to undergo medical treatment;
  - b) admission to a medical facility;
  - c) prohibition to become employed in, or practice a certain profession;
  - d) special confiscation;
- #M2
- e) extended confiscation.

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#### **CHAPTER II**

##### **Regime of security measures**

###### **ART. 109**

###### **Compulsion to undergo medical treatment**

- (1) If a perpetrator, due to illness, including that caused by chronic consumption of alcohol or other psychoactive substances, is presumed to be a threat to society, they may be required to undergo medical treatment until recovery or until health improvement that eliminates any threat is achieved.
- (2) When the person ordered to comply with such measure refuses to undergo any medical treatment, the Court can order their admission to a medical facility.
- (3) If a person subject to treatment is sentenced to imprisonment, such treatment is also administered during service of the sentence.



## **ART. 110**

### **Hospital admission**

When a perpetrator is mentally ill, chronically uses psychoactive substances or suffers from a contagious infectious disease and is a threat to society, they may be committed to specialized medical units until recovery or until their condition gets improved and is no longer dangerous.

## **ART. 111**

### **Prohibition to become employed in, or practice a certain profession**

(1) When an offender committed a criminal act because of their inability, lack of training or other causes that make them unfit to be employed for any particular function or to practice a profession or trade or to conduct other activities, their right to hold that position or to practice that profession, trade or activity may be forbidden to be exercised.

(2) The security measure may be revoked upon request, after a period of at least one year, if it is ascertained that the grounds on which it was based ceased. A new application may be submitted only after a period of at least one year as from the prior application's dismissal.

## **ART. 112**

### **Special confiscation**

(1) The following shall be subject to special confiscation:

- a) assets produced by perpetrating any offense stipulated by criminal law;
- b) assets that were used in any way, or intended to be used to commit an offense set forth by criminal law, if they belong to the offender or to another person who knew the purpose of their use;
- c) assets used immediately after the commission of the offense to ensure the perpetrator's escape or the retention of use or proceeds obtained, if they belong to the offender or to another person who knew the purpose of their use;
- d) assets given to bring about the commission of an offense set forth by criminal law or to reward the perpetrator;
- e) assets acquired by perpetrating any offense stipulated by criminal law, unless returned to the victim and to the extent they are not used to indemnify the victim;
- f) assets the possession of which is prohibited by criminal law.

(2) In the case referred to in par. (1) lett. b) and c), if the value of assets subject to confiscation is manifestly disproportionate to the nature and severity of the offense, confiscation will be ordered only in part, by monetary equivalent, by taking into account the result produced or that could have been produced and asset's contribution to it. If the assets were produced, modified or adapted in order to commit the offense set forth by criminal law, they shall be entirely confiscated.



(3) In cases referred to in par. (1) lett. b) and c), if the assets cannot be subject to confiscation, as they do not belong to the offender, and the person owning them was not aware of the purpose of their use, the cash equivalent thereof will be confiscated in compliance with the stipulations of par. (2).

(4) The stipulations of par. (1) lett. b) do not apply to offenses committed by using the press.

(5) If the assets subject to confiscation pursuant to par. (1) lett. b) - e) are not to be found, money and other assets shall be confiscated instead, up to the value thereof.

(6) The assets and money obtained from exploiting the assets subject to confiscation as well as the assets produced by such, except for the assets provided for in par. (1) lett. b) and c), shall be also confiscated.

#M2

## **ART. 112<sup>^1</sup>**

### **Extended confiscation**

(1) Assets other than those referred to in Art. 112 are also subject to confiscation in case a person is convicted of any of the following offenses, if such offense is likely to procure a material benefit and the penalty provided by law is a term of imprisonment of 4 years or more:

- a) drug and precursor trafficking;
- b) trafficking in and exploitation of vulnerable people;
- c) offenses on the state border of Romania;
- d) money laundering offenses;
- e) offenses related to the laws preventing and fighting pornography;
- f) offenses related to the legislation to combat terrorism;
- g) establishment of an organized crime group;
- h) offenses against property;
- i) failure to observe the law on firearms, ammunition, nuclear materials and explosives;
- j) counterfeiting of currency, stamps or other valuables;
- k) disclosure of economic secrets, unfair competition, violation of the stipulations on import or export operations, embezzlement, violations of the laws on imports and exports, as well of the laws on importing and exporting waste and residues;
- l) gambling offenses;
- m) corruption offenses, offenses assimilated thereto, as well as offenses against the financial interests of the European Union;
- n) tax evasion offenses;
- a) offenses related to customs regulations;
- p) fraud committed through computer systems and electronic payment means;
- q) trafficking in human-origin organs, tissues or cells.





- (2) Extended confiscation is ordered if the following conditions are cumulatively met:
- a) the value of assets acquired by a convicted person within a time period of five years before and, if necessary, after the time of perpetrating the offense, until the issuance of the indictment, clearly exceeds the revenues obtained lawfully by the convict;
  - b) the court is convinced that the relevant assets originate from criminal activities such as those provided in par. (1).
- (3) In enforcing the stipulations of par. (2), the value of the assets transferred by a convicted person or by one-third party to a family member or to a legal entity over which that convicted person has control shall also be considered.
- (4) Sums of money may also constitute assets under this Article.
- (5) In determining the difference between the legitimate income and the value of the assets acquired, the value of the assets upon their acquisition and the expenses incurred by the convicted person and their family members shall be considered.
- (6) If the assets to be seized are not to be found, money and other assets shall be confiscated instead, up to the value thereof.
- (7) The assets and money obtained from exploiting the assets subject to confiscation as well as the assets produced by such shall be also confiscated.
- (8) Confiscation shall not exceed the value of assets acquired during the period referred to in par. (2) that are above a convicted person's lawfully obtained income.

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## **TITLE V\*)**

### **Underage offenders**

#CIN

*\*) Also see Art. 9 par. (2), and Art. 17 through 22 of Law no. 187/2012 (# M3), that are reproduced in endnote 2 to the updated text.*

## **CHAPTER I**

### **Rules on criminal liability of an underage offender**

#### **ART. 113**

##### **Criminal liability limits**

- (1) A juvenile who has not turned 14 years of age does not have criminal liability.
- (2) A juvenile who is between 14 and 16 years of age shall have criminal liability if proven they committed the act with competence.
- (3) A juvenile who turned 16 shall have criminal liability as under the law.



## **ART. 114**

### **Consequences of criminal liability**

(1) A juvenile who, at the time of the offense, is aged between 14 and 18, shall be subject to a non-custodial educational measure.

(2) The juvenile referred to in par. (1) may be subject to custodial educational measures in the following cases:

- a) the juvenile committed another offense for which an educational measure was taken and served or the service of which started before the commission of the offense for which the juvenile is subject to trial;
- b) the penalty required by law for the committed offense is a term of imprisonment of seven years or more, or life imprisonment.

## **ART. 115**

### **Educational measures**

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

1. The non-custodial educational measures are:

- a) civic traineeship;
- b) supervision;
- c) curfew on weekend;
- d) assistance on a daily basis.

2. The custodial educational measures are:

- a) confinement in an educational centre;
- b) confinement in a detention centre.

(2) The educational measures to be taken against a juvenile shall be chosen in terms of Art. 114, according to the criteria stipulated in Art. 74.

## **ART. 116**

### **Assessment report**

(1) For the purpose of assessing a juvenile, according to the criteria laid down in Art. 74, the court shall require the Probation Service to draft a report also including justified recommendations on the nature and duration of social reintegration programs that the juvenile should follow, as well as any other obligations imposed on a juvenile by the Court.

#M3

(2) The compliance assessment report or the enforcement of educational measures and imposed obligations shall be prepared by the Probation Service in all cases in which the court orders the educational measure or the change or cessation of fulfillment of the imposed obligations, except as provided in Art. 126, when such report shall be drafted by the educational or detention centre.



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## **CHAPTER II**

### **Rules on non-custodial educational measures**

#### **ART. 117**

##### **Civic traineeship**

(1) The educational measure of civic traineeship consists of a juvenile's obligation to participate in a program not exceeding 4 months, which would help them understand the legal and social consequences they are exposed to when perpetrating offenses and would make them accountable for their future behavior.

(2) The Probation Service shall coordinate the organization, the juvenile's participation and the supervision during such civic traineeship, without affecting the juvenile's school or professional program.

#### **ART. 118**

##### **Supervision**

The educational measure of supervision consists of controlling and guiding a juvenile throughout their daily program, for a time period between two and six months, under the supervision of the Probation Service, in order to ensure their participation in school or vocational courses and to prevent them from engaging in certain activities or from contacting certain persons that might affect their reformation process.

#### **ART. 119**

##### **Curfew on weekend**

(1) The educational measure of curfew on weekend consists of a juvenile's obligation not to leave their domicile on Saturdays and Sundays, for a time period between 4 and 12 weeks, unless, in this period, they are required to participate in certain programs or to carry out certain activities imposed by the court.

(2) Supervision is performed under the coordination of the Probation Service.

#### **ART. 120**

##### **Assistance on a daily basis**

(1) The educational measure of assistance on a daily basis consists of a juvenile's obligation to follow a schedule set by the Probation Service, which contains the timetable and conditions for conducting activities as well as the prohibitions imposed on the juvenile.

(2) The educational measure of assistance on a daily basis is enforced for a period between 3 and 6 months and supervision is performed under the coordination of the Probation Service.



## **ART. 121**

### **Obligations imposed on a juvenile**

(1) During the service of non-custodial educational measures, the court may impose on a juvenile one or more of the following obligations:

- a) take classes in school or a vocational training;
- b) not to cross the territorial limit set by the Court, without the Probation Service's approval;
- c) not to be in certain places or at certain sporting cultural events or other public meetings indicated by the Court;
- d) to stay away from and not communicate with the victim or members of their family, the participants in the offense or other persons indicated by the Court;
- e) to report to the Probation Service on the dates set by the latter;
- f) to comply with medical control, treatment or care measures.

(2) In determining the obligation set forth by par. (1) lett. d), the court effectively customizes the content of such obligation, considering the circumstances of the case.

(3) Supervision of fulfillment of the obligations imposed by the Court is performed under the coordination of the Probation Service.

(4) During the service of a non-custodial educational measure, the Probation Service has to notify the court if:

- a) reasons justifying either the change of the obligations imposed by the court or cessation of some of them appeared;
- b) a supervised person violates the conditions of the educational measure's service or fails to meet their obligations, under the established terms.

## **ART. 122**

### **Change or cessation of obligations**

(1) If during the supervision term reasons justifying either the imposition of new obligations or the increase or reduction of the service conditions for those existing appeared, the court orders the change of obligations accordingly so as to ensure better chances for the supervised person to reform.

(2) The court orders suspension of the service of the obligations imposed by it when it deems that their maintaining is no longer required.

## **ART. 123**

### **Increase or replacement of non-custodial educational measures**

(1) If a juvenile does not comply, in ill-faith, with the educational measure's conditions or with the obligations imposed, the court rules to:

- a) increase the educational measure, without exceeding the maximum term provided by law for it;



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- b) replace the previous measure by another, more severe, non-custodial educational measures;
  - c) replace the enforced measure by confinement in an educational centre, in case the most severe non-custodial educational measure was taken initially.
- (2) In the cases referred to in par. (1) lett. a) and b), if the conditions for the service of the educational measure or obligations imposed are still not complied with, the court shall replace the non-custodial educational measure with the measure of confinement in an educational centre.
- (3) If a juvenile serving a non-custodial educational measure commits a new offense or is subject to trial for one of multiple offenses committed previously, the court rules to:
- a) increase the educational measure, without exceeding the maximum term provided by law for it;
  - b) replace the previous measure by another, more severe, non-custodial educational measure;
  - c) replace the previous measure by a custodial educational measure.
- (4) In the cases referred to in par. (1) lett. a) and b), as well as in par. (3) lett. a) and b), the Court may order new obligations to a juvenile or may extend the service conditions of the existing ones.

## **CHAPTER III**

### **Rules on custodial educational measures**

#### **ART. 124**

##### **Internment in educational centers**

- (1) The educational measure represented by the internment in educational centers consists of the internment of underage offenders in institutions specialized in the recovery of underage offenders, where the latter attend educational and professional training programs in accordance to their skills, as well as social reintegration programs.
- (2) Internment in educational centers is ordered for a time period between one and three years.
- (3) If, during the internment period, an underage offender commits a new offense or is tried for a previously committed multiple offense, the court may sustain the measure of internment in an educational center, extending the duration of such measure without exceeding the maximum duration provided by law, or may replace it by the measure of internment in a detention center.
- (4) If, during the internment period, an underage offender proves a continuous interest in acquiring knowledge and professional training, and shows obvious progress in view of social reintegration, following service of at least half of the internment period, the court may order as follows:



- a) replacement of the internment by the educational measure of daily assistance for a period equal to the duration of the internment still to be served, but no more than six months, if the person admitted to a medical facility has not turned 18;
  - b) release from the educational center, if the person admitted to a medical facility has turned 18.
- (5) Simultaneously with such replacement or release, the court shall order the observance of one or several obligations provided under Art. 121, until reaching the duration of internment.
- (6) If an underage offender, in ill-faith, does not observe the conditions for the service of the measure of daily assistance or the obligations ordered, the court shall reconsider the replacement or release, and shall order service of the remaining measure of internment in an educational center.
- (7) If, until the completion of the internment period, the person not having turned 18, with respect to whom the measure of internment in an educational center was replaced by the measure of daily assistance, commits a new offense, the court shall reconsider the replacement and shall order as follows:
- a) service of the remaining initial internment measure, with a possibility of extension until reaching the maximum provided by law;
  - b) internment in a detention center.

## **ART. 125**

### **Internment in detention centers**

- (1) The educational measure of internment in detention centers consists of the internment of an underage offender in an institution specialized in the recovery of underage persons, under guard and monitoring, while attending intensive social reintegration programs, as well as educational and professional training programs tailored according to their skills.
- (2) Internment is ordered for a time period between 2 and 5 years, except for the case when the penalty provided by law for the committed offense is a term of imprisonment of 20 years or more, or life imprisonment, in which case internment is ordered for no less than 5 and no more than 15 years.
- (3) If, during the internment period, an underage offender commits a new offense or is tried for a previously committed multiple offense, the court shall increase the measure of internment, without exceeding the maximum provided under par. (2), established considering the most serious penalty provided by law for the committed offenses. The measure of internment served until the date of the court order shall be deducted from the educational measure.
- (4) If, during the internment period, an underage offender proves a continuous interest in acquiring knowledge and professional training, and shows obvious progress in view of social reintegration, following the service of at least half of the internment period, the court may order:



- a) replacement of the internment by the educational measure of daily assistance for a period equal to the duration of the internment still to be served, but no more than six months, if the interned person has not turned 18;
  - b) release from the detention center, if the interned person has turned 18.
- (5) Concurrently with the replacement or release, the court shall order the observance of one or several obligations provided under Art. 121, until reaching the duration of internment.
- (6) If an underage offender, in ill-faith, does not observe the conditions for service of the measure of daily assistance or the obligations ordered, the court shall reconsider the replacement or release, and shall order service of the remaining measure of internment in a detention center.
- (7) If, until completion of the internment period, a person not having turned 18, in whose respect a measure of internment in a detention center was replaced by a measure of daily assistance, commits a new offense, the court shall reconsider the replacement and shall order:
- a) service of the remaining initial internment measure in a detention center;
  - b) extension of such internment as provided under par. (3).

## **ART. 126**

### **Replacement of the penalty service regime**

If, during the service of a custodial educational measure, an interned person who has turned 18 demonstrated conduct that has a negative impact on, or prevents the recovery or reintegration of other interned persons, the Court may order the service of the rest of the educational measure in prison.

## **ART. 127**

### **Calculating the duration of educational measures**

With regard to the custodial educational measures, the stipulations of Art. 71 - 73 shall apply accordingly.

## **CHAPTER IV**

### **Common stipulations**

## **ART. 128**

### **Effects of mitigating and aggravating circumstances**

With respect to offenses committed while underage, mitigating and aggravating circumstances are considered when ordering an educational measure and these are effective within the limits provided by law for each educational measure.



## **ART. 129**

### **Multiple offenses**

(1) In case of multiple offenses committed while underage, a single educational measure is ordered for all offenses, as under Art. 114, by observing the criteria under Art. 74.

(2) In case of two offenses, one of which is committed while underage and the other one after having turned 18, an educational measure shall be ordered for the offense committed while underage and a penalty shall be ordered for the offense committed after having turned 18, and:

- a) in case of non-custodial educational measures, only the penalty shall be served;
- b) in case of custodial educational measures, if the penalty is imprisonment, the imprisonment shall apply and shall be extended by at least one-fourth of the duration of the educational measure or of the remaining educational measure still to be served at the date of the offense committed after having turned 18;
- c) if the penalty ordered for an offense committed after having turned 18 is life imprisonment, only this penalty shall be served;
- d) in case of custodial educational measures, and the penalty consists of a fine, the educational measure shall be served, and its duration shall be extended by no more than six months, by observing the maximum term provided by law for such measure.

(3) With regard to the case provided under par. (2) let. b), the penalty served between the date of the offense committed after having turned 18 and the trial date shall be deducted from the ordered sentence.

(4) In case two or more multiple offenses are committed after having turned 18, the rules on multiple offenses shall apply first and then the stipulations under par. (2) shall be applied.

(5) The penalty ordered pursuant to the stipulations of par. (2) let. b) may not be subject to enforcement postponement or to suspension of service of a sentence under supervision.

## **ART. 130**

### **Discovery of an offense committed while underage**

If, during the supervision period for the postponement of a sentence enforcement, under suspension of service of a penalty under supervision or during the probation period, it is discovered that a person under supervision committed another offense while underage, for which a custodial educational measure is ordered even after the expiry of such period, the postponement, suspension or probation shall be rescinded and the stipulations under Art. 129 par. (2) - (4) shall apply accordingly.





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## **ART. 131**

### **Criminal statute of limitations for underage offenders**

In case of persons who are underage at the date the offense is committed, the statute of limitations of criminal liability provided under Art. 154 shall be reduced to half and shall be postponed or suspended as provided by law for persons of age.

## **ART. 132**

### **Statute of limitations for educational measures**

(1) Non-custodial educational measures shall have a limitation term of two years, which runs from the date the conviction sentence ordering them is final.

(2) Custodial educational measures shall have a limitation term equal to the duration of the relevant educational measure, but no less than two years.

(3) The statute of limitations term of educational measures shall be interrupted and suspended as provided by law for persons of age.

(4) In case of replacement of educational measures, service is limited to the statute of limitations term of the most serious educational measure and runs from the date the conviction sentence ordering them is final.

## **ART. 133**

### **Effects of educational measures**

Educational measures do not entail prohibitions, loss of rights or incapacities.

## **ART. 134**

### **Underage offenders coming of age**

(1) The stipulations under this Title shall also apply to offenders of age who, at the date the offense is committed, were aged between 14 and 18.

(2) If an offender turned 18 at the date the decision ordering a custodial educational measure is ruled, the Court, considering the possibility of rehabilitation of such offender, as well as the other criteria provided under Art. 74, may order service of the educational measure in prison.



## TITLE VI

### Criminal liability of a legal entity

#### CHAPTER I

##### General stipulations

###### ART. 135\*)

###### Conditions for the criminal liability of legal entities

- (1) Legal entities, except for state and public authorities, shall have criminal liability for offenses committed in the performance of the object of activity of legal entities or in their interest or behalf.
- (2) Public institutions shall not be held criminally liable for offenses committed in the performance of activities that cannot be the object of the private domain.
- (3) Criminal liability of legal entities does not exclude the criminal liability of the individual participating in the commission of the same act.

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\*) In compliance with Art. 240 of Law no. 187/2012 (#M3), in enforcing the stipulations under Art. 135 of the Criminal Code, public authorities are represented by the authorities specifically provided under Title III, as well as under Art. 140 and 142 of the Constitution of Romania, as republished.

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###### ART. 136

###### Penalties applicable to legal entities

- (1) The penalties applicable to legal entities include main penalties and ancillary penalties.
- (2) The main penalty is represented by fines.
- (3) The ancillary penalties are:
  - a) winding-up of legal entities;
  - b) suspension of the activity or of one of the activities performed by the legal entity, for a term between three months and three years;
  - c) closure of working points of the legal entity for a term between three months and three years;
  - d) prohibition to participate in public procurement procedures for a term between one and three years;
  - e) placement under judicial supervision;
  - f) display or publication of the conviction sentence.



ART. 137\*)

### **Calculating fines for legal entities**

- (1) A fine consists of the money a legal entity is ordered to pay to the State.
- (2) The amount of the fine is determined based on the fine-days system. The amount corresponding to the fine-days, varying between Lei 100 and 5000, shall be multiplied by the number of days subject to the fine (between 30 and 600 days).
- (3) The court shall decide on the number of days subject to the fine considering the general criteria for the customization of penalty. The amount of the fine-days is determined by taking into account the turnover (in case of for-profit legal entities), and the value of assets (in case of the other legal entities), as well as other obligations of the legal entity.
- (4) The special limits of the days subject to the fine range between:
  - a) 60 and 180 days, when only the penalty consisting of the fine is provided by law for the offense committed;
  - b) 120 and 240 days, when the law provides a term of imprisonment of max. five years, as such or as alternative to the fine;
  - c) 180 and 300 days, when the law provides a term of imprisonment of max. 10 years;
  - d) 240 and 420 days, when the law provides a term of imprisonment of max. 20 years;
  - e) 360 and 510 days, when the law provides a term of imprisonment exceeding 20 years or life imprisonment.
- (5) When the offense committed by legal entity was intended to the obtaining of a monetary benefit, the special limits of the fine-days provided by law for the committed offense may be increased by one-third, without exceeding the general maximum of the fine. When determining the fine, the value of the monetary benefit obtained or sought shall be considered.

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*\*) Also see Art. 13 of Law no. 187/2012 (#M3), an Article that is reproduced in endnote 2 to the updated text.*

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## **CHAPTER II**

### **Rules of ancillary penalties applied to legal entities**

**ART. 138**

#### **Enforcement and service of ancillary penalties for legal entities**

- (1) The enforcement of one or more ancillary penalties is ordered when the court acknowledges that, considering the nature and gravity of the offenses, as well as the circumstances of the case, such penalties are necessary.



- (2) The enforcement of one or more ancillary penalties is mandatory when the law stipulates such penalty.
- (3) The ancillary penalties provided under Art. 136 par. (3) let. b) - f) may be enforced cumulatively.
- (4) The service of ancillary penalties starts after the relevant conviction sentence is final.

## **ART. 139**

### **Dissolution of legal entities**

- (1) The ancillary penalty consisting of the dissolution of legal entity is enforced when:
  - a) a legal entity was incorporated for the purpose of committing offenses;
  - b) the objects of a legal entity were altered for the purpose of committing offenses, and the penalty provided by law for the offense committed is a term of imprisonment exceeding 3 years.
- (2) In case of failure to serve one of the ancillary penalties under Art. 136 par. (3) let. b) - e), in ill-faith, the Court shall order the dissolution of the legal entity.

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- (3) *\*\*\* Repealed*

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## **ART. 140**

### **Suspending the activity of legal entities**

- (1) The ancillary penalty consisting in suspending the activity of the legal entity implies the prohibition to perform the activity or one of the activities of the legal entity, during the performance of which the offense was committed.
- (2) In case of failure to serve the ancillary penalty under Art. 136 let. f), in ill-faith, the court shall order the activity or one of the activities of the legal entity suspended until the service of the ancillary penalty, but no longer than three months.
- (3) If the ancillary penalty is not served before the term provided under par. (2) is reached, the court shall order the dissolution of the legal entity.

## **ART. 141**

### **Non-enforcement of the penalty of dissolution or suspension of the activity of the legal entity**

- (1) The ancillary penalties provided under Art. 136 par. (3) let. a) and let. b) may not be enforced against public institutions, political parties, trade unions, employers' associations, and religious organizations or organizations of the national minorities, incorporated according to law.
- (2) The stipulations under par. (1) shall apply to legal entities performing activities in the media.



## **ART. 142**

### **Closure of operation locations of a legal entity**

- (1) The ancillary penalty consisting in the closure of operation locations of the legal entity implies the closure of one or several operation locations of the for-profit legal entity, where the activity that included the offense was performed.
- (2) The stipulations under par. (1) shall not apply to legal entities performing activities in the mass-media.

## **ART. 143**

### **Ban on taking part in public procurement tenders**

The ancillary penalty of a ban on taking in public procurement tenders implies the prohibition to participate, either directly or indirectly, in the procedures for the awarding of public contracts, provided by law.

## **ART. 144**

### **Placement under judicial supervision**

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- (1) The ancillary penalty of placement under judicial supervision consists of the performance, under the supervision of a judicial agent, of the activity on the occasion of which the offense was committed, for a period between one and three years.
- (2) The judicial agent has the obligation to inform the Court when it finds that the legal entity failed to take the necessary steps to prevent commission of new offenses. If the court finds the notification to be grounded, it shall order the replacement of such penalty with the penalty provided under Art. 140.

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- (3) The placement under judicial supervision shall not apply to legal entities provided under Art. 141.

## **ART. 145**

### **Posting or publication of the conviction sentence**

- (1) The posting or publication of the final conviction sentence is done at the expense of the sentenced legal entity.
- (2) Disclosure of the identity of other persons is not allowed in the posting or publication of the conviction sentence.
- (3) The conviction sentence shall be posted as extract, in the manner and at the place decided by the court, for a period between one and three months.
- (4) The conviction sentence shall be posted as extract and in the manner decided by the court, by means of the written or audiovisual media or using other audiovisual means of communication indicated by court.



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(5) If publication is made in the written or audiovisual media, the court shall decide on the number of publications which may not be higher than ten; in case of publication using other audiovisual means, such duration shall not exceed three months.

## **CHAPTER III**

### **Common stipulations**

#### **ART. 146**

##### **Repeat offense in case of legal entities**

(1) Repeat offense in the case of legal entities occurs when, after the conviction sentence is final and before rehabilitation, the legal entity commits a new offense, with direct or oblique intent.

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

(3) If the prior fine is not served, either in whole or in part, the fine ordered for the new offense, pursuant to par. (2), shall be added to the prior penalty or to the remaining part to be served.

(4) The stipulations under Art. 42 shall apply accordingly.

#### **ART. 147**

##### **Mitigation and aggravation of the criminal liability of legal entities**

(1) In case of multiple offenses, intermediary plurality or circumstances for mitigation or aggravation of criminal liability, a legal entity shall be punished based on the rules provided by law for individuals.

(2) In case of multiple offenses, ancillary penalties of different nature, except for dissolution, or of the same nature but having a different content, shall be cumulated; in case of ancillary penalties of the same nature and having the same content, the most serious penalty shall be enforced.

(3) In case of multiple offenses, security measures enforced as per Art. 112 shall be cumulated.

#### **ART. 148**

##### **Limitation of criminal liability**

The liability of the legal entities is limited as provided by law for individuals; the stipulations under Art. 153 - 156 shall apply accordingly.



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## **ART. 149**

### **Statute of limitations for serving penalties**

- (1) The statute of limitations term for the service of the fine penalty for legal entities is five years.
- (2) The service of ancillary penalties enforced on legal entities is limited to a period of three years which runs from the date the fine penalty was served or considered served.
- (3) The stipulations under Art. 161, Art. 162 par. (2), Art. 163 and Art. 164 shall apply accordingly.

## **ART. 150**

### **Rehabilitation of legal entities**

The statutory rehabilitation of a legal entity occurs when such legal entity does not commit another offense within three years as of the date the fine or the ancillary penalty was served or considered served.

## **ART. 151**

### **Effects of consolidation and demerger of legal entities**

- (1) In case of loss of legal personality by merger, absorption or demerger occurred after the offense is committed, the criminal liability and the relevant consequences will rest upon:
  - a) the legal entity resulting from merger;
  - b) the absorbing legal entity;
  - c) the legal entities resulting from demerger or that acquired parts of the estate of the initial legal entity subject to demerger.
- (2) In the case provided under par. (1), when customizing the penalty, the turnover, the value of the assets of the legal entity perpetrating the offense respectively, shall be considered, as well as the part of the estate which was transferred to each legal entity participating in such operation.

## **TITLE VII**

### **Causes that remove criminal liability**

## **ART. 152**

### **Effects of amnesty**

- (1) Amnesty removes criminal liability for the offense committed. If amnesty occurs after sentencing, it removes both service of the ordered penalty and the other consequences of the sentencing. The fine collected prior to the amnesty shall not be reimbursed.
- (2) Amnesty has no impact on security measures and on the rights of the injured party.



## ART. 153

### Statute of limitations for criminal liability

(1) Limitation of liability removes criminal liability.

#M1

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

- a) genocide, offenses against humanity and war offenses, irrespective of the date when they were committed;
- b) the offenses provided under Art. 188 and 189 and of offenses committed with intent and followed by the death of the victim.

(3) Furthermore, limitation of liability does not remove the criminal liability in case of the offenses provided under par. (2) let. b) with respect to which the statute of limitations term, either general or special, was not reached upon the coming into force of this stipulation.

#B

## ART. 154

### Statute of limitations for criminal liability

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

- a) 15 years, when the penalty provided by the law for the offense committed is life imprisonment or a term of imprisonment exceeding 20 years;
- b) 10 years, when the penalty provided by the law for the offense committed is a term of imprisonment exceeding 10 years, but no more than 20 years;
- c) 8 years, when the penalty provided by the law for the offense committed is a term of imprisonment exceeding 5 years, but no more than 10 years;
- d) 5 years, when the penalty provided by the law for the offense committed is a term of imprisonment exceeding one year, but no more than 5 years;
- e) 3 years, when the penalty provided by the law for the offense committed is a term of imprisonment not exceeding one year or a fine.

(2) The statute of limitations terms stipulated under this article shall run as of the date the offense is committed. In case of continuing offenses, the statute of limitations term runs as of the date the action or inaction is ceased, in case of continuous offenses, as of the date the last action or inaction is performed, and in case of habitual offenses, as of the date the last act is performed.

(3) In case of **progressive offenses**<sup>1</sup>, the statute of limitations of criminal liability runs as of the date the action or inaction is performed and shall be computed in consideration of the penalty that is appropriate for the final consequence it caused.

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<sup>1</sup> *Translator's note:* a type of offense where, after consummation of the ultimate goal of the crime, the effects of that crime continue to exist and grow progressively, with no intervention by the offender, or new effects are created that would correspond to a more serious crime.





(4) In case of offenses against sexual freedom and integrity the victim of which is an underage person, the liability limitation term runs as of the date the victim becomes of age. If the underage person dies before becoming of age, the statute of limitations term runs as of the date of death.

#### **ART. 155**

##### **Interruption of the statute of limitations**

(1) The statute of limitations for criminal liability is interrupted as a result of the performance of any step in the lawsuit.

(2) A new statute of limitations term shall run after each interruption.

(3) The interruption of the statute of limitations term produces effects with respect to all participants in the offense, even if the interruption order only regards some of such participants.

#M3

(4) The statute of limitations terms provided under Art. 154, if exceeded over again, shall be considered completed irrespective of the number of interruptions.

#B

(5) The admission in principle of the request to reopen a criminal case causes a new statute of limitations term of criminal liability to run.

#### **ART. 156**

##### **Suspension of the statute of limitations**

(1) The running of the statute of limitations of criminal liability is suspended for the duration when a legal stipulation or a circumstance that could not be unforeseen or removed prevents the initiation or continuation of the criminal process.

(2) The running of the statute of limitations term is resumed upon cessation of the suspension grounds.

#### **ART. 157\*)**

##### **Absence of prior complaint**

(1) In case of offenses requesting the victim to file a prior complaint for the initiation of the criminal process, absence of such complaint removes criminal liability.

(2) The act causing damages to several persons entails criminal liability even if a prior complaint is filed only by one of such persons.

(3) The act entails the criminal liability of all legal entities or individuals participating in the performance of such act, even if the prior complaint was filed only against one of them.

(4) If the victim enjoys no mental competence or only enjoys limited mental competence or, if the legal entity is represented by the perpetrator, the criminal lawsuit may be initiated *ex officio*.



(5) If the victim dies or, in case of legal entities, such legal person is dissolved before the expiry of the term provided by the law for the filing of the complaint, the criminal lawsuit may be initiated *ex officio*.

#CIN

\*) We present below the stipulations under Art. 69 par. (1) of Law no. 192/2006, as subsequently amended.

#D1

“ART. 69

(1) *If mediation takes place prior to the initiation of the criminal process and results in the settlement of the conflict and in reaching an agreement, as per Art. 56 par. (1) let. a), by way of exception from the stipulations under Art. 157 par. (3) of the Criminal Code, the act shall not entail the criminal liability of the perpetrator with respect to the conflict settled by mediation.*”

#B

#### **ART. 158**

##### **Withdrawal of a prior complaint**

(1) Withdrawal of a prior complaint is possible before a final decision is returned, in case of offenses for which initiation of criminal action is conditioned on filing a prior complaint, ruled.

(2) Withdrawal of a prior complaint removes criminal liability from the person with respect to the person of the withdrawn complaint.

(3) In case of persons with no mental competence, the prior complaint may be withdrawn only by the legal representatives of the same. In case of persons with limited mental competence, the withdrawal shall be authorized by the persons provided by law.

(4) In case of offenses for which the criminal liability is conditioned on filing a prior complaint and the criminal action was initiated *ex officio*, according to law withdrawal of the complaint causes effects only if acknowledged by the prosecuting attorney.

#### **ART. 159**

##### **Reconciliation**

(1) Reconciliation may occur if the criminal action is initiated *ex officio*, if expressly provided by law.

(2) Reconciliation removes criminal liability and cancels the civil action.

(3) Reconciliation is effective only with respect to the persons who agree to such reconciliation and if it takes place before the legal action document is read.

(4) In case of persons with no mental competence, reconciliation may be agreed only by the legal representatives of the same, whereas in case of persons with limited mental competence, reconciliation is possible only if authorized by the persons provided by law.



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(5) With respect to legal entities, reconciliation is reached by the legal or conventional representative of the same or by the person appointed to replace the representative. Reconciliation between the legal entity perpetrating the offense and the legal entity harmed by such offense has no impact on the individuals who participated in the commission of the same offense.

(6) If the offense is committed by the representative of the legal entity harmed by such offense, the stipulations under Art. 158 par. (4) shall apply accordingly.

## **TITLE VIII**

### **Causes that remove or change service of penalty**

#### **ART. 160**

##### **Effects of pardon**

(1) Pardon causes the removal, either in whole or in part, of the service or commutation of a penalty.

(2) Pardon has no impact on ancillary or non-custodial educational measures, unless otherwise provided in the pardon document.

(3) Pardon has no impact on security measures and on the rights of the victim.

(4) Pardon has no impact on the penalties the service of which is suspended under supervision, unless otherwise provided in the pardon document.

#### **ART. 161**

##### **Statute of limitations of service of penalties**

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

#M1

(2) The statute of limitations does not remove the service of main penalties as follows:

a) in case of genocide, offenses against humanity or war offenses, irrespective of the date when such offenses were committed;

b) in case of the offenses provided under Art. 188 and 189, as well as from the offenses committed with intention, which resulted in the death of the victim.

(3) Furthermore, the statute of limitations does not remove the service of main penalties in case of the offenses provided under par. (2) let. b) the statute of limitations term for the service of which was not reached upon the entry into force of this stipulation.

#B

#### **ART. 162**

##### **The statute of limitations of the service of penalty**

(1) In case of individuals, the statute of limitations term for the service of a penalty is as follows:



- a) 20 years, when the penalty to be served is life imprisonment or a term of imprisonment exceeding 15 years;
  - b) 5 years, plus the term of the penalty to be served, but no more than 15 years, for all other penalties represented by imprisonment;
  - c) 3 years, if the penalty is a fine.
- (2) The statute of limitations term under Art. (1) runs as of the date the conviction sentence is final.
- (3) In case of withdrawal or rescission of postponement of penalty enforcement, suspension of service of a penalty under supervision or probation, the statute of limitations term runs as of the date the decision on such withdrawal or rescission is final.
- (4) In case of revocation of probation, as per Art. 104 par. (1), the statute of limitations term runs as of the date the revocation decision is final and shall be computed proportional to the penalty remained to be served.
- (5) In case of replacement of the fine by imprisonment, the statute of limitations term runs as of the date when the decision on such change is final and shall be computed considering the duration of the imprisonment.
- (6) Ancillary penalties enforced to individuals, as well as security measures, do not have a limitation term.
- (7) Penalty to be served shall mean the penalty ordered by the court, considering the subsequent causes for the amending of such penalty.

### **ART. 163**

#### **Interruption of the statute of limitations term for the service of penalty**

- (1) The statute of limitations term for the service of a penalty is interrupted by the initiation of the service of such penalty. Absconding from the service, upon initiation of service, shall cause a new limitation term to run as of the date of the absconding.
- (2) The statute of limitations term for the service shall also be interrupted by commission of a new offense.
- (3) The statute of limitations term for the service of a penalty by fine shall also be interrupted by change of the obligation to pay with the obligation to perform unpaid community service.

### **ART. 164**

#### **Suspension of the statute of limitations term for the service of penalty**

- (1) The statute of limitations term for the service of a penalty is suspended in the cases and as provided by the Criminal procedure code.
- (2) The statute of limitations term is resumed when the suspension cause ceases.

## **TITLE IX**

### **Causes that remove consequences from conviction**



## **ART. 165**

### **Statutory rehabilitation**

In case of a fine, as well as in case of imprisonment for a period of no more than two years or of imprisonment the service of which was suspended under supervision, statutory rehabilitation occurs if the convict does not commit another offense within a period of three years.

## **ART. 166**

### **Judicial rehabilitation**

(1) Rehabilitation may occur upon request by the convict filed with the court, upon completion of the following terms:

- a) 4 years, in case of a penalty to a term of imprisonment exceeding 2 years, but no more than 5 years;
- b) 5 years, in case of a penalty to a term of imprisonment exceeding 5 years, but no more than 10 years;
- c) 7 years, in case of a penalty to a term of imprisonment exceeding 10 years or in case of life imprisonment, changed or replaced by imprisonment;
- d) 10 years, in case of life imprisonment considered served as a result of pardon, completion of the statute of limitations term for the service of penalty, or probation.

(2) In case of a convict who dies before the completion of the term necessary for rehabilitation, rehabilitation may occur if the Court, upon assessing the conduct of the convict until death, considers that this benefit is deserved.

## **ART. 167**

### **Computing of rehabilitation terms**

(1) The terms provided under Art. 165 and Art. 166 run as of the date when the service of the main penalty is completed or as of the date limitation term for such penalty is reached.

(2) In case of a fine, the term runs as of the date the fine is entirely paid or the service of such penalty is completed in another manner.

(3) In case of total pardon or pardon of the remaining penalty, the term runs as of the date of the pardon document, if the conviction sentence was final at that date, or as of the date the conviction sentence is final, if the pardon document relates to offenses pending trial.

(4) In case of suspension of the service of a penalty under supervision, the term runs as of the date the supervision period is completed.

(5) In case of consecutive sentencing, the rehabilitation term shall be computed considering the most serious penalty and runs as of the date when the last penalty is served.



## **ART. 168**

### **Requirements for judicial rehabilitation**

A judicial rehabilitation request is admitted if the convict meets the following requirements:

- a) has not committed another offense during the term provided under Art. 166;
- b) has paid entirely the legal expenses and has complied with the civil duties set by the conviction sentence, unless the convict proved the impossibility to do so or when the civil plaintiff waived damages.

## **ART. 169**

### **Effects of statutory or judicial rehabilitation**

- (1) Rehabilitation removes loss of rights and prohibitions, as well as the lack of capacity resulting from the sentence.
- (2) Rehabilitation does not bring an obligation to reinstate the convicted person to the position they were removed from by conviction, or to reinstate the military rank that was lost.
- (3) Rehabilitation does not impact the security measures.

## **ART. 170**

### **Renewal of the judicial rehabilitation request**

- (1) In case of denial of the rehabilitation request, a new request may be filed only after a period of one year, calculated as of the date prior to the request being denied by final decision.
- (2) The requirements provided under Art. 168 shall be also met during the time frame preceding the new request.
- (3) The request denied for incompliance with the requirements of form may be renewed as per the Criminal Procedure Code.

## **ART. 171**

### **Rescission of rehabilitation**

Judicial rehabilitation shall be rescinded when, upon granting it, it is discovered that the beneficiary of the rehabilitation committed another offense which, if the court had been aware of, would have lead to the denial of the rehabilitation request.



## TITLE X

### Definition of terms or phrases in Criminal Law

#### ART. 172

##### General stipulations

Each time criminal law uses a term or phrase mentioned in this title, the meaning of such term or phrase shall be the one indicated in the following article, unless otherwise provided by criminal law.

#### ART. 173

##### Criminal law

Criminal law means any criminal stipulation included in organic laws, emergency orders or other regulatory acts which, at the date they were adopted, had legal power.

#### ART. 174

##### Commission of an offense

The commission or perpetration of an offense means the performance of any of the acts punished by law as completed offense or attempted offense, as well as the participation in the commission of the same, as co-author, instigator or accomplice.

#### ART. 175

##### Public servant

(1) For the purposes of criminal law, **public servant** is the person who, on a permanent or temporary basis, with or without remuneration:

a) shall exercise the duties and responsibilities, set under the law, to implement the prerogatives of the legislative, executive or judiciary branches;

b) shall exercise a function of public dignity or a public office irrespective of its nature;

#M3

c) shall exercise, alone or jointly with other persons, within a public utility company, or another economic operator or a legal entity owned by the state alone or whose majority shareholder the state is, responsibilities needed to carry out the activity of the entity.

#B

(2) At the same time, for the purposes of criminal law, the following shall be deemed a public servant: the person who supplies a public-interest service, which they have been vested with by the public authorities or who shall be subject to the latter's control or supervision with respect to carrying out such public service.



## **ART. 176**

### **Public**

The term Public designates everything relating to public authorities, public institutions or other legal entities managing or exploiting public assets.

## **ART. 177**

### **Family member**

(1) Family member means:

- a) ascendants and descendants, brothers and sisters, their children, as well as the persons becoming such relatives as a result of adoption;
- b) spouse;
- c) persons establishing relations similar to those existing between spouses or between parents and children, if cohabiting.

(2) In case of adoption, criminal law stipulations on family members, to the extent provided under par. (1) let. a), shall also apply to the adopted person or the descendants of the same, with respect to kin.

## **ART. 178**

### **Information classified as state secret and official documents**

(1) Information classified as state secret is the information designated as such under the law.

(2) Official documents mean any document emanating from the legal entities provided under Art. 176 or from the persons provided under Art. 175 par. (2) or pertaining to such persons.

## **ART. 179**

### **Weapons**

(1) Weapons mean tools, devices or parts declared as such by legal stipulations.

(2) Any other objects likely to be used as weapons and which have been used for attacks shall be assimilated to weapons.

## **ART. 180**

### **Electronic payment devices**

Electronic payment devices mean tools allowing the holder to withdraw cash, charge and discharge an electronic currency device, as well as transfer funds, other than the ones managed and performed by financial institutions.





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## **ART. 181**

### **Computer systems and digital data**

(1) Computer systems mean any device or group of (functionally) interconnected devices, where one or several of such systems ensure automatic processing of data, using a computer program.

(2) Digital data means any representation of facts, information or concepts in a manner which allows processing by means of a computer system.

## **ART. 182**

### **Exploitation of a person**

Exploitation of a person means:

- a) forcing a person to carry out work or a task;
  - b) enslavement or other similar procedures to deprive of freedom or place in bondage;
  - c) forcing persons into prostitution, pornography, in view of obtaining and distributing pornographic material or any other types of sexual exploitation;
  - d) forcing into mendicancy;
- #M3
- e) illegal collection of body organs, tissues or other cells.

#B

## **ART. 183**

### **Extremely serious consequences**

Extremely serious consequences mean a material damage in excess of RON 2,000,000.

## **ART. 184**

### **Act committed in public**

Acts are committed in public if committed:

- a) in a place which, by its nature or intended use, 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 inaccessible to the public, but with the intention of making the act heard or seen by the public, and if such act is performed in the presence of two or more persons;
- d) during a meeting or reunion of several persons, except for reunions which may be considered family reunions considering the nature of the relationship between the participants.



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## **ART. 185**

### **Wartime**

Wartime mean the duration of mobilization of armed forces or the duration of the state of war.

## **ART. 186**

### **Computing time**

(1) For the computing of time, a 24-hour day, a 7-day week, and a 12-month year shall be considered. A month and a year shall be considered complete a day before the day corresponding to the date considered as the beginning of that month or year.

(2) If the penalty limit is expressed in terms using “month” as reference, which cannot be divided by the increment for the increase or reduction which should be applied, the increment shall be applied to the term converted into days, and the resulted duration shall be converted into months. In this case, a month is considered to have 30 days, any only the entire days resulting from the application of the increment shall be considered.

(3) In case of penalties expressed in years, the stipulations under par. (2) shall apply accordingly, the conversion being made between months and years.

## **ART. 187**

### **Penalty provided by law**

Penalty provided by law means the penalty stipulated by the text of the law incriminating the completed offense, not considering the circumstances for the aggravation or mitigation of the penalty.

## **SPECIAL PART**

### **TITLE I**

### **Offense against the person**

#### **CHAPTER I**

#### **Offenses against life**

## **ART. 188**

### **Murder**

(1) Murdering an individual shall be punishable by no less that 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

(2) The attempt shall be also punishable.

## **ART. 189\*)**

### **Aggravated murder**

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



- a) with premeditation;
- b) for a material interest;
- c) in order to avoid or to help another individual avoid criminal liability or the service of a sentence;
- d) in order to facilitate or conceal the commission of another offense;
- e) by an individual who committed other murders or attempted murders previously;
- f) against two or more individuals;
- g) against a pregnant woman;
- h) with cruelty,

shall be punished by life imprisonment or no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

(2) The attempt shall be also punishable.

### **#CIN**

*\*) According to Art. 242 of Law no. 187/2012 (#M3), in applying the stipulations of Art. 189 par. (1) lett. e) of the Criminal Code, murder committed previously means the act of killing an individual, committed with the intent set by Art. 16 par. (3) of the Criminal Code, except for the offenses set by Art. 190și200 of the Criminal Code.*

### **#B**

#### **ART. 190**

##### **Killing upon request by the victim**

Killing committed upon explicit serious, conscious and repeated request by a victim suffering from an incurable disease or from a serious impairment, attested medically, which causes permanent and unbearable suffering shall be punishable by no less than 1 and no more than 5 years of imprisonment.

#### **ART. 191**

##### **Determining or facilitating suicide**

(1) An act of determining or facilitating the suicide of an individual, if the suicide has taken place, shall be punishable by no less than 3 and no more than 7 years of imprisonment.

(2) When the act specified by par. (1) was committed against a juvenile between 13 and 18 years of age or against a person having a reduced competence, the penalty shall be no less than 5 and no more than 10 years of imprisonment.

(3) Determining or facilitating the suicide of a underage person who did not reach the age of 13 or of a person who was unable to realize the consequences of their actions or inactions or to control them, if suicide has taken place, shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.



(4) If actions of determining or facilitating suicide set under par. (1) - (3) were followed by a suicide attempt, the special limits of the penalty shall be reduced down to half.

## **ART. 192**

### **Manslaughter**

(1) Manslaughter of an individual shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) Manslaughter as a result of failure to observe the legal stipulations or precautionary measures established for the practice of a profession or of a craft or for the performance of a specific activity shall be punishable by no less than 2 and no more than 7 years of imprisonment. When a breach of the legal stipulations or of precautionary measures represents an offense in itself, the rules on multiple offenses shall apply.

(3) If a committed act caused the death of two or more individuals, the special limits of the penalty set under par. (1) and par. (2) shall be increased by one-half.

## **CHAPTER II**

### **Offenses against bodily integrity or health**

## **ART. 193**

### **Battery and other acts of violence**

(1) Battery or any other acts of violence causing physical suffering shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) An act causing traumatic injuries or affecting the health of an individual, the seriousness of which is assessed based on medical-care days of maximum 90 days, shall be punishable by no less than 6 months and no more than 5 years of imprisonment or by a fine.

(3) The criminal action shall be initiated based on a prior complaint filed by the victim.

## **ART. 194**

### **Bodily harm**

(1) The act set by [Art. 193](#), which caused any of the following consequences:

- a) an impairment;
- b) traumatic injuries or health impairment of an individual the healing of which required more than 90 medical care days;
- c) a serious and permanent aesthetic injury;
- d) miscarriage;
- e) endangering of an individual's life,

shall be punishable by no less than 2 and no more than 7 years of imprisonment.



(2) When such act was committed for the purpose of causing any of the consequences listed under par. (1) lett. a), lett. b) and lett. c), it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(3) The attempt to commit the offense set under par. (2) shall be punishable.

#### **ART. 195**

##### **Battery and bodily harm causing death**

If any of the acts set by [Art. 193](#) and [Art. 194](#) result in the death of the victim, the penalty shall be no less than 6 and no more than 12 years of imprisonment.

#### **ART. 196**

##### **Bodily harm with basic intent**

(1) The act set by [Art. 193](#) par. (2) committed with basic intent by a person under the influence of alcohol or of a psychoactive substance or during the performance of an activity that represents an offense in itself shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) The act set by [Art. 194](#) par. (1) committed with basic intent shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

(3) When the act set by par. (2) was committed as a result of failure to observe the legal stipulations or precautionary measures established for the practice of a profession or of a craft or for the performance of a specific activity, the penalty shall be no less than 6 months and no more than 3 years of imprisonment.

(4) If the consequences listed under par. (1) - (3) were caused against two or more individuals, the special limits of the penalty shall be increased by one-third.

(5) If failure to observe the legal stipulations or precautionary measures or the performance of an activity that resulted in the commission of the acts set by par. (1) and par. (3) represents an offense in itself, the rules on multiple offenses shall apply.

(6) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **ART. 197**

##### **Ill treatments applied to underage persons**

Serious jeopardy, through measures or treatments of any kind, of the physical, intellectual or moral development of an underage person, by parents or by any person under whose care the underage person is, shall be punishable by no less than 3 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 198**

##### **Brawling**

(1) Participation in a brawl between several individuals shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.



(2) If during a brawl bodily harm were caused to one or more individuals and the participant who caused such consequences is not known, a term of no less than 1 and no more than 5 years of imprisonment shall be applied to all participants, except for the victim, who is held liable as per par. (1).

(3) When an act committed as per par. (2) caused the death of an individual, the penalty shall be no less than 6 and no more than 12 years of imprisonment, and if such act caused the death of two or more individuals, the special limits of the penalty shall be increased by one-third.

(4) An individual who was caught in a brawl against their will, or who tried to separate others shall not be punishable.

## CHAPTER III

### Offenses against a family member

#### ART. 199

##### Domestic violence

(1) If the acts set by [Art. 188](#), [Art. 189](#) and [Art. 193](#)– 195 are committed against a family member, the special maximum term of the penalty set by law shall be increased by one-fourth.

(2) In case of offenses set by [Art. 193](#) and [Art. 196](#) committed against a family member, a criminal action may be initiated also *ex officio*. Reconciliation shall eliminate criminal liability.

#### ART. 200

##### Killing or harming of a newly-born baby by their mother

(1) Killing of a newly-born baby immediately after birth, but no later than 24 hours, committed by a mother who is in a state of mental disorder shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) If the acts set by [Art. 193](#) - 195 are committed against a newly-born baby immediately after birth, but no later than 24 hours, by a mother who is in a state of mental disorder, the special limits of the penalty shall range between one month and 3 years, respectively.

## CHAPTER IV

### Assault on a fetus

#### ART. 201

##### Termination of pregnancy

(1) Termination of pregnancy committed under any of the following circumstances:  
a) outside medical facilities or offices authorized for this purpose;



- b) by a person who does not have the capacity as physician specialized in obstetrics and gynecology and a license for medical practice in this specialty;
  - c) if the length of pregnancy exceeded fourteen weeks, the punishment shall be of no less than 6 months and no more than 3 years of imprisonment or a fine and a ban on the exercise of certain rights.
- (2) Termination of pregnancy, committed under any circumstances, without the consent of the pregnant woman, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- (3) If the acts set under par. (1) and par. (2) caused bodily harm to a pregnant woman, the penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, and if such acts resulted in a pregnant woman's death, the penalty shall be no less than 6 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.
- (4) When such acts were committed by a physician, in addition to the imprisonment penalty, a prohibition to practice their profession shall apply.
- (5) The attempt to commit the offenses set under par. (1) and par. (2) shall be punishable.
- (6) Termination of pregnancy for therapeutic purposes performed by a physician specialized in obstetrics and gynecology, up to the pregnancy length of twenty four weeks, or subsequent termination of pregnancy for therapeutic purposes, in the interest of the mother or of the fetus, shall not constitute an offense.
- (7) A pregnant woman who terminates her own pregnancy shall not be punishable.

## **ART. 202**

### **Harming the fetus**

- (1) Harming the fetus during birth, which prevented installation of extrauterine life shall be punishable by no less than 3 and no more than 7 years of imprisonment.
- (2) Harming the fetus during birth, which subsequently caused a bodily harm to the baby, shall be punishable by no less than 1 and no more than 5 years of imprisonment, and if it resulted in the baby's death, the penalty shall be no less than 2 and no more than 7 years of imprisonment.
- (3) Harming the fetus during pregnancy, which subsequently caused a bodily harm to the baby, shall be punishable by no less than 3 months and no more than 2 years of imprisonment, and if it resulted in the baby's death, it shall be punishable by no less than 6 months and no more than 3 years of imprisonment.
- (4) Harming the fetus during birth by a mother who is in a state of mental disorder shall be punished by the penalty set at par. (1) and par. (2), the limits of which shall be reduced to one-half.
- (5) If the acts set by par. (1) - (4) were committed with basic intent, the special limits of the penalty shall be reduced to one-half.



(6) The acts listed under par. (1) - (3) performed by a physician or by a person authorized to assist to birth or to monitor pregnancy, if performed during a medical act, in compliance with the stipulations specific to this practice and were performed in the interest of a pregnant woman or a fetus as a result of the risks inherent to the medical profession, shall not constitute offenses.

(7) A fetus injury during pregnancy by a pregnant woman shall not be punishable.

## **CHAPTER V**

### **Violations of the obligation to assist persons in danger**

#### **ART. 203**

##### **Abandoning an individual in distress**

(1) Failure to provide the necessary help or to announce forthwith the authorities by a person who found an individual whose life, bodily integrity or health is threatened and is unable to save themselves shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) Such act does not constitute an offense if, by providing such help, the author would expose themselves to a serious danger to their life, bodily integrity or health.

#### **ART. 204**

##### **Obstruction of rescue**

Obstruction of rescue interventions in saving an individual from an imminent and serious threat to their life, bodily integrity or health shall be punishable by no less than 1 and no more than 3 years of imprisonment or by a fine.

## **CHAPTER VI**

### **Offenses against individual freedom**

#### **ART. 205**

##### **Illegal deprivation of freedom**

(1) Illegal deprivation of freedom of an individual shall be punishable by no less than 1 and no more than 7 years of imprisonment.

(2) The kidnapping of an individual unable to express their will or to defend themselves shall also constitute deprivation of freedom.

(3) If such act is committed:

a) by an armed person;

b) against a underage person;

c) by jeopardizing the victim's health or life, it shall be punishable by no less than 3 and no more than 10 years of imprisonment.





- (4) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.
- (5) The attempt to commit the offenses set under par. (1) - (3) shall be punishable.

## **ART. 206**

### **Threats**

- (1) The act of threatening an individual with the commission of an offense or of a prejudicial act against them or other individual, if this is of nature to cause a state of fear, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine; however, the applied penalty may not exceed the penalty established by law for the offense that was the subject matter of the threat.
- (2) Criminal action shall be initiated based on a prior complaint filed by the victim.

## **ART. 207**

### **Blackmail**

- (1) Coercion of an individual to give, to do, not do, or suffer something for the purpose of unlawfully acquiring a non-financial benefit, for themselves or for another individual, shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) The same penalty shall apply to a threat to disclose a real or fictitious fact that is compromising for the threatened individual or for a member of their family, for the purpose set under par. (1).
- (3) If the acts set by par. (1) and par. (2) were committed for the purpose of deriving a financial benefit, for themselves or for another individual, they shall be punishable by no less than 2 and no more than 7 years of imprisonment.

## **ART. 208**

### **Harassment**

- (1) The act of an individual who repeatedly, with or without a right or legitimate interest, pursues an individual or supervises their domicile, working place or other places attended by the latter, thus causing to them a state of fear, shall be punishable by no less than 3 and no more than 6 months of imprisonment or by a fine.
- (2) Making of phone calls or communications through remote communication devices which, through their frequency or content, cause a state of fear to an individual, shall be punishable by no less than 1 and no more than 3 months of imprisonment or by a fine, unless such act represents a more serious offense.
- (3) Criminal action shall be initiated based on a prior complaint filed by the victim.



## CHAPTER VII

### Trafficking in, and exploitation of vulnerable persons

#### ART. 209

##### Slavery

Pressing of keeping an individual in a state of slavery, as well as the trafficking in slaves shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

#### #M3

#### ART. 210

##### Trafficking in human beings

(1) *Recruitment, transportation, transfer, harboring or receipt of persons for exploitation purposes:*

- a) *by means of coercion, abduction, deception, or abuse of authority;*
- b) *by taking advantage of the inability of a person to defend themselves or to express their will or of their blatant state of vulnerability;*
- c) *by offering, giving and receiving payments or other benefits in exchange for the consent of an individual having authority over such person,*

*shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.*

(2) *Trafficking in human beings committed by a public servant in the exercise of their professional duties and prerogatives shall be punishable by no less than 5 and no more than 12 years of imprisonment.*

(3) *The consent expressed by an individual who is a victim of trafficking does not represent an acceptable defense.*

#### #B

#### ART. 211

##### Trafficking in underage persons

(1) *Recruitment, transportation, transfer, harboring or receipt of a juvenile for the purpose of their exploitation shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.*

#### #M3

(2) *If such act was committed under the terms of [Art. 210](#) par. (1) or by a public servant while in the exercise of their professional duties and prerogatives, it shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.*

#### #B



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(3) The consent expressed by an individual who is a victim of trafficking does not represent a acceptable defense.

#### **ART. 212**

##### **Pressing into forced or compulsory labor**

An act of compelling a person, in cases other than the ones established by the legal stipulations, to work against their will or to compulsory labor shall be punishable by no less than 1 and no more than 3 years of imprisonment.

#### **ART. 213**

##### **Pandering**

(1) The causing or facilitation of the practice of prostitution or the obtaining of financial benefits from the practice of prostitution by one or more individuals shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) In the event that a person was determined to engage in or continue the practice of prostitution through coercion, the penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(3) If such acts are committed against an underage person, the special limits of the penalty shall be increased by one-half.

(4) Practicing prostitution means having sexual intercourse with various individuals for the purpose obtaining financial benefits for oneself or for others.

#### **ART. 214**

##### **Exploitation of beggary**

(1) An act of an individual who causes a juvenile or a person having physical or psychic disabilities to resort repeatedly to the public's pity in order to ask for material help or benefits from financial benefits from such activity shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) If such act is committed in the following situations:

a) by a parent, guardian, curator or by the person under whose care the begging person is;

b) by means of coercion,

it shall be punishable by no less than 1 and no more than 5 years of imprisonment.



## **ART. 215**

### **Use of underage persons for mendicancy**

The action of a person who is of age and has the capacity to work, who resorts repeatedly to the public's pity in order to ask for material help, by using the presence of a juvenile for this purpose, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

## **ART. 216**

### **Use of an exploited person's services**

The action of using the services listed under [Art. 182](#), provided by a person about whom the beneficiary knows that they are a victim of trafficking in human beings or of trafficking of underage persons, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine, unless such action is a more serious offense.

## **ART. 217**

### **Punishing the attempt**

The attempt to commit the offenses set forth by [Art. 209-211](#) and [Art. 213](#) par. (2) shall be punishable.

## **CHAPTER VIII**

### **Offenses against sexual freedom and integrity**

## **ART. 218**

### **Rape**

(1) Sexual intercourse, oral or anal intercourse with a person, committed by constraint, by rendering the person in question unable to defend themselves or to express their will or by taking advantage of such state, shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) The same penalty shall apply to any act of vaginal or anal penetration committed under par. (1).

(3) It shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights, when:

- a) the victim is entrusted to the perpetrator for care, protection, education, guard or treatment;
- b) the victim is a direct-line relative, a brother or sister;
- c) the victim has not turned 16 years;
- d) the act was committed for the production of pornographic materials;



- e) the act resulted in bodily harm;
  - f) the act was committed by two or more individuals, acting together.
- (4) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 18 years of imprisonment and a ban on the exercise of certain rights.
- (5) Criminal action for the act set by par. (1) and par. (2) shall be initiated based on a prior complaint filed by the victim.
- (6) The attempt to commit the offenses set out in par. (1) - (3) shall be punishable.

## **ART. 219**

### **Sexual assault**

- (1) An act that is sexual in nature, other than those set out under [Art. 218](#), with a person, committed by constraint, by rendering the person in question unable to defend themselves or to express their will or by taking advantage of such state, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- (2) The penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, when:
- a) the victim is entrusted to the perpetrator for care, protection, education, guard or treatment;
  - b) the victim is a direct-line relative, a brother or sister;
  - c) the victim has not turned 16 years of age;
  - d) the act was committed for the production of pornographic material;
  - e) the act resulted in bodily harm;
  - f) the act was committed by two or more individuals, acting together.
- (3) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.
- (4) If the sexual assault acts were preceded or followed by the commission of the sexual intercourse set out in [Art. 218](#) par. (1) and par. (2), such act shall constitute rape.
- (5) Criminal action for the act set by par. (1) shall be initiated based on a prior complaint filed by the victim.
- (6) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.

## **ART. 220**

### **Sexual intercourse with a juvenile**

- (1) Sexual intercourse, oral or anal sex, as well as any act of vaginal or anal penetration committed with a juvenile aged 13 to 15 shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) The act set by par. (1), committed on a juvenile who has not turned 13 years of age, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.



(3) The act set by par. (1), committed by a person of age with a juvenile aged 13 to 18, when the former abused their authority or influence over the victim, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(4) The act set by par. (1) - (3) shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, when:

- a) the juvenile is a direct-line relative, a brother or sister;
- b) the juvenile is entrusted to the perpetrator for care, protection, education, guard or treatment;
- c) the act was committed for the production of pornographic materials.

(5) The acts set out in par. (1) and par. (2) shall not be punishable if the age difference does not exceed 3 years.

## **ART. 221**

### **Sexual corruption of juveniles**

(1) The commission of an act that is sexual in nature, other than the one set out in [Art. 220](#), against a juvenile who has not turned 13 of age, as well as determining a juvenile to endure or carry out such an act shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The penalty shall be no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights, when:

- a) the juvenile is a direct-line relative, a brother or sister;
- b) the juvenile is entrusted to the perpetrator for care, protection, education, guard or treatment;
- c) the act was committed for the production of pornographic materials.

(3) The sexual act of any nature, committed by a person of age in the presence of a juvenile who has not turned 13 shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

(4) Determination of a juvenile who has not yet turned 13 years of age, by a person of age, to assist to the commission of acts that are exhibitionist in nature or to shows or performances in which sexual acts of any kind are committed, and making materials that are pornographic in nature available to the juvenile shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(5) The acts set out in par. (1) shall not be punishable if the age difference does not exceed 3 years.

## **ART. 222**

### **Recruitment of juveniles for sexual purposes**

The act of an individual of age to propose that a juvenile who has not yet turned 13 years of age to meet for the purposes of the commission of one of the acts set out in [Art. 220](#) or



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[Art. 221](#), including when such proposal has been made using remote communication means, shall be punishable by no less than 1 month and no more than 1 year of imprisonment or by a fine.

#### **ART. 223**

##### **Sexual harassment**

(1) Repeatedly soliciting sexual favors as part of an employment relationship or a similar relationship, if by so doing the victim was intimidated or placed in a humiliating situation, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **CHAPTER IX**

##### **Offenses against home and private life**

#### **ART. 224**

##### **Trespassing**

(1) Unlawfully entering, in any way, a house, a room, an outbuilding or any fenced premises related to them, without the consent of the individual who uses them, or the refusal to leave them upon request shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) If the offense is committed by an individual carrying a weapon, during night time, or by using false capacities, the penalty shall be no less than 6 months and no more than 3 years of imprisonment.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **ART. 225**

##### **Trespassing in professional offices**

(1) Unlawfully entering, in any way, any of the offices where a legal entity or a natural person carries out their business or the refusal to leave them upon the request of the entitled person shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) If the offense is committed by an individual carrying a weapon, during night-time, or by using false capacities, the penalty shall be no less than 6 months and no more than 3 years of imprisonment.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.



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## **ART. 226**

### **Violation of privacy**

- (1) The unlawful violation of privacy, by photographing, capturing or recording images, by listening using technical means or by recording audio of an individual, in a house or room or outbuilding related to them or to a private conversation shall be punishable by no less than 1 month and no more than 6 months of imprisonment or by a fine.
- (2) The unlawful disclosure, dissemination, presentation or transmission of sounds, conversations or images set out in par. (1) to another person or to the general public shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.
- (3) Criminal action shall be initiated based on a prior complaint filed by the victim.
- (4) The following do not constitute offenses:
  - a) the act committed by the individual who attended the meeting with the victim during which the sounds and conversations were recorded and photos were taken, if there is a legitimate interest;
  - b) if the victim has acted with the explicit intention to be seen or heard by the perpetrator;
  - c) if the perpetrator has records of the commission of an offense or helps prove that an offense was committed;
  - d) if public-interest acts are recorded, which are meaningful to the life of the community and whose disclosure has public advantages that outweigh the damage to the victim.
- (5) Unlawfully installing technical means for audio or video recording, in order to commit the acts set out in par. (1) and par. (2), shall be punishable by no less than 1 and no more than 5 years of imprisonment.

## **ART. 227**

### **Disclosure of professional secrecy**

- (1) The disclosure, without right, of data or information regarding the privacy of an individual, which might bring harm to an individual, by someone who has knowledge thereof by virtue of profession or office, and who has the obligation to maintain the confidentiality of said data, shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.
- (2) Criminal action shall be initiated based on a prior complaint filed by the victim.





## **TITLE II**

### **Offenses against property**

#### **CHAPTER I**

##### **Theft**

##### **ART. 228**

###### **Theft**

- (1) The act of taking a movable asset from another person's possession or control, without the latter's consent, in order to unlawfully appropriate it, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.
- (2) The action is a theft also when the asset belongs fully or partly to the perpetrator, but at the time of commission the asset in question was in the legitimate possession or control of another person.
- (3) Any document, electrical energy, as well as any form of energy that has an economic value, shall be deemed movable assets.

##### **ART. 229**

###### **Aggravated theft**

- (1) The theft committed under the following circumstances:
  - a) in a public transportation vehicle;
  - b) during the night;
  - c) by a person wearing a mask or in disguise or in a costume;
  - d) by forced entry, climbing or by unlawful use of a genuine key or a counterfeit key,
  - e) by disabling the alarm or surveillance system,shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) If the theft was committed under the following circumstances:
  - a) on an asset that is part of the cultural heritage;
  - b) by trespassing in a domicile or professional office;
  - c) by a person carrying a weapon,it shall be punishable by no less than 2 and no more than 7 years of imprisonment.
- (3) Theft regarding the following categories of assets:
  - a) crude oil, kerosene, condensate, liquid ethane, gasoline, Diesel oil, other oil products or natural gases from pipes, storage facilities, tanks or tanker train cars;
  - b) components of irrigation systems;
  - c) components of electrical networks;
  - d) a device or system for signaling, alarm or alert in case of fire or other public emergencies;



e) a means of transportation or any other means of intervention for a fire, for railroad, road, naval or air accidents, or in case of disaster;  
f) installations for railway, road, naval, air traffic security and direction, and their components, as well as the components of the related means of transportation;  
g) assets whose appropriation jeopardizes the security of traffic and individuals on public roads;  
h) cables, lines, equipment and installations of telecommunication, radio communication, as well as communication components  
shall be punishable by no less than 3 and no more than 10 years of imprisonment.

## **ART. 230**

### **Stealing for personal use**

(1) The theft of a vehicle, committed for the unlawful use thereof, shall be punished as set out in [Art. 228](#) or [Art. 229](#), as applicable, the special limits which are reduced by one-third.

(2) The penalty provided for in par. (1) shall be applied to the unlawful use of a communication terminal belonging to another or the use of a communication terminal unlawfully connected to a network, if a loss occurred.

### **#M3**

## **ART. 231**

### ***Prior complaint and reconciliation***

*(1) The acts set out in this chapter, committed between family members, by a juvenile against his guardian or by a person living together with the victim or who is a guest in the latter's house, shall be punished only based on a prior complaint by the victim.*

*(2) In the case of the acts set out in [Art. 228](#), [Art. 229](#) par. (1), par. (2) lett. b) and c) and [Art. 230](#), reconciliation of the parties removes criminal liability.*

### **#B**

## **ART. 232**

### **Punishing the attempt**

The attempt to commit the offenses set out in this chapter shall be punishable.

## **CHAPTER II**

### **Robbery and piracy**

## **ART. 233**

### **Robbery**

Theft committed by resorting to violence or threats, or by rendering the victim unconscious or unable to defend themselves, as well as the theft followed by the use of



such means in order to keep the stolen assets or to remove the traces of the offense, or to ensure the perpetrator's escape, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

### **ART. 234**

#### **Aggravated robbery**

(1) The robbery committed under the following circumstances:

- a) by a person carrying a weapon, an explosive, narcotic or paralyzing substance;
- b) by simulating formal capacities;
- c) by a person wearing a mask or disguise or a costume;
- b) during night time;
- e) in a means of transportation or upon a means of transportation;
- b) by trespassing in a domicile or professional office;

shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

#### **#M3**

(2) *The robbery committed in the circumstances set out in [Art. 229](#) par. (3) shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.*

#### **#B**

(3) The same penalty is applied for the robbery that resulted in bodily harm.

### **ART. 235**

#### **Piracy**

(1) The act of theft, by acts of violence or threats, committed by an individual who is part of the crew of a ship or is one of the passengers of a ship in open sea, against assets on that ship, or on another ship, shall be punishable by no less than 3 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(2) The penalty provided for in par. (1) also applies to the act of capturing a ship located in open sea or causing, by any means, the shipwreck thereof, in order to acquire its cargo or rob the individuals on board, shall also be punished.

(3) In the case of piracy that caused bodily harm, it shall be punishable by no less than 5 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(4) When the offense was committed on aircraft or between aircraft and ships, it shall also constitute piracy.



## **ART. 236**

### **Robbery or piracy resulting in the victim's death**

If the acts set out in [Art. 233](#) - 235 resulted in the victim's death, they shall be punishable by no less than 7 and no more than 18 years of imprisonment and a ban on the exercise of certain rights.

## **ART. 237**

### **Punishing the attempt**

The attempt to commit the offenses set out in [Art. 233](#) - 235 shall be punishable.

## **CHAPTER III**

### **Offenses against property by breach of trust**

## **ART. 238**

### **Abuse of trust**

(1) The act of taking, disposing of or unlawfully using a movable asset belonging to another by the individual to whom it was entrusted based on a title and for a certain purpose, or the refusal to return it shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) Criminal action shall be initiated based on a prior complaint filed by the victim.

## **ART. 239**

### **Breach of a fiduciary by defrauding creditors**

(1) The act of the debtor to dispose of, conceal, damage or destroy, in whole or in part, assets or values they own or to invoke fictitious acts or debts in order to defraud creditors shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The same penalty shall apply to the individual who, knowing that they will not be able to pay, purchases goods or services thus causing damage to the creditor.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

## **ART. 240**

### **Simple bankruptcy**

(1) The failure to submit or the late submission, by the individual debtor or by the legal representative of the legal entity debtor, of the request for the opening of insolvency proceedings, within a period of time not exceeding by more than six months the period of time provided by the law since the occurrence of the insolvency, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) Criminal action shall be initiated based on a prior complaint filed by the victim.



## **ART. 241**

### **Bankruptcy fraud**

- (1) The act committed by the individual who, to defraud creditors:
- a) falsifies, steals or destroys the records of the debtor or conceals a part of their assets;
  - b) invokes the existence of non-existent debts or makes entries, in the debtor's books, in other documents or in the financial statement, of amounts that are not owed;
  - c) transfers, in the event of the debtor's insolvency, a part of the assets,
- shall be punishable by no less than 6 months and no more than 5 years of imprisonment.
- (2) Criminal action shall be initiated based on a prior complaint filed by the victim.

## **ART. 242**

### **Fraudulent management**

- (1) The act of causing prejudice to an individual, on occasion of managing or preserving their assets, committed by the individual tasked with the management or preservation of those assets, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.
- (2) When the act set out in par. (1) was committed by the receiver, the liquidator of the debtor's assets or by a representative or servant thereof, it shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (3) The acts set out in par. (1) and par. (2) committed in order to acquire material assets shall be punished by a term of imprisonment between 2 and 7 years.
- (4) Criminal action shall be initiated based on a prior complaint filed by the victim.

## **ART. 243**

### **Appropriation of assets found or into the perpetrator's possession by error**

- (1) The act of not surrendering an asset that one found, within 10 days, to the authorities or to the person who lost it, or of using that asset as if it were one's own, shall be punishable by no less than 1 and no more than 3 months of imprisonment or by a fine.
- (2) The same penalty shall apply to the unlawful appropriation of a movable asset belonging to another, which came into the perpetrator's possession by error or fortuitously, or the perpetrator's failure to surrender it within 10 days of the moment when they learned that the asset did not belong to them.
- (3) Reconciliation removes criminal liability.

## **ART. 244**

### **Misrepresentation**

- (1) Misrepresenting false facts as being true, or of true facts as being false, in order to obtain undue material gains for oneself or for another, and if material damages have been



caused, shall be punishable by no less than 6 months and no more than 3 years of imprisonment.

(2) Misrepresentation committed by using false names or capacities or other fraudulent means shall be punishable by no less than 1 and no more than 5 years of imprisonment. If the fraudulent means is in itself an offense, the rules for multiple offenses shall apply.

(3) Reconciliation removes criminal liability.

#### **ART. 245**

##### **Insurance fraud**

(1) The act of destroying, deteriorating, making unfit for use, concealing or transferring an asset insured against destruction, deterioration, wear and tear, loss or theft, in order to obtain, for oneself or for another, the insured amount, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The act committed by an individual who, for the purposes set out in par. (1), simulates, inflicts upon oneself or aggravates injuries or bodily harm caused by an insured risk shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(3) Reconciliation removes criminal liability.

#### **ART. 246**

##### **Diversion of public tenders**

The act of removing a bidder from a public tender, by coercion or corruption, or engaging in a collusion between bidders to distort the award price shall be punishable by no less than 1 and no more than 5 years of imprisonment.

#### **ART. 247**

##### **Material exploitation of a vulnerable individual**

(1) The act of a creditor who, when lending money or property, by taking advantage of the debtor's obvious vulnerable state due to age, health, disability or dependency of the debtor on the creditor, makes him establish or transfer, for oneself or for another, a real right or claim, the value of which is manifestly disproportionate to the benefit, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) Inducing a state of obvious vulnerability in an individual by causing poisoning either using alcohol or psychoactive drugs in order to obtain the victim's consent to establish or transfer a real right or claim, or to waive a right, if a damage has occurred, shall be punishable by no less than 2 and no more than 7 years of imprisonment.



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## **ART. 248**

### **Punishing the attempt**

The attempt to commit the offenses set out in [Art. 239](#) par. (1), [Art. 241](#) and [Art. 244 – 247](#) shall be punishable.

## **CHAPTER IV**

### **Fraud committed using computer systems and electronic payment methods**

## **ART. 249**

### **Computer fraud**

Entering, altering or deleting computer data, restricting access to such data or hindering in any way the operation of a computer system in order to obtain a benefit for oneself or another, if it has caused damage to a person, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

## **ART. 250**

### **Making fraudulent financial operations**

(1) Making cash withdrawal operations, loading or unloading of an electronic money instrument or a fund transfer instrument, by using, without the consent of the owner, an electronic payment instrument or the identification information that allow its use, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) The same penalty is applicable to the operations referred to in par. (1), performed by means of the unauthorized use of any identification information or by using fictitious identification data.

(3) The unauthorized transmission to another person of any identification information, in order to perform one of the operations referred to in par. (1), shall be punishable by no less than 1 and no more than 5 years of imprisonment.

## **ART. 251**

### **Accepting transactions made fraudulently**

(1) The acceptance of a cash withdrawal operation, loading or unloading of an electronic money instrument or fund transfer instrument, knowing that it is carried out by using an electronic payment instrument that was counterfeited or used without the consent of the owner, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The same penalty applies to accepting one of the operations referred to in par. (1), knowing that it was made by the unauthorized use of any identification information, or by using false identification information.



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## **ART. 252**

### **Punishing the attempt**

The attempt to commit the offenses set out in this chapter shall be punished.

## **CHAPTER V**

### **Destruction and disturbance of possession**

## **ART. 253**

### **Destruction**

(1) The act of destroying, damaging or making unfit for use of an asset belonging to another, or hindering the taking of measures of preservation or rescue for such an asset, as well as removing the measures taken, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) The destruction of a deed under private signature, belonging wholly or in part to another and which serves to prove a material right, if resulting in a loss, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(3) If the act set out in par. (1) concerns assets forming part of the cultural heritage, it shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(4) The act of destroying, damaging or making unfit for use of an asset, committed by arson, explosion or by any such means and, if it endangers human life or other property, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(5) The stipulations of par. (3) and par. (4) apply even if the asset belongs to the perpetrator.

(6) For the acts set out in par. (1) and par. (2) criminal action shall be initiated based on a prior complaint filed by the victim.

(7) The attempted acts set out in par. (3) and par. (4) shall be punished.

## **ART. 254**

### **Aggravated destruction**

(1) If the acts set out in [Art. 253](#) - 235 resulted in a disaster, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(2) Disaster consists of the destruction or damaging of real estate property or of works, equipment, plant or components thereof and that resulted in the death or bodily harm of two or more individuals.





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## **ART. 255**

### **Destruction with basic intent**

(1) The act of destroying, damaging, or making an asset unfit for use, with basic intent, even if it belongs to the perpetrator, if the act is committed by arson, explosion or by any other such means and if it resulted in endangering human life or property, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) If the acts resulted in a disaster, it shall be punishable by no less than 5 and no more than 12 years of imprisonment.

## **ART. 256**

### **Disturbance of possession**

(1) Unlawfully occupying a building possessed by another, in whole or in part, through the use of violence or threats or by taking down or moving border markers away, shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.

(2) Criminal action shall be initiated based on a prior complaint filed by the victim.

## **TITLE III**

### **Offenses against state authority and state borders**

#### **CHAPTER I**

#### **Offenses against authority**

## **ART. 257**

### **Assault of a public official**

(1) A threat committed either directly or by any means of direct communication, blows or any other acts of violence, bodily harm, blows or bodily harm which result in death, or murder, committed against a public servant holding an office that involves the exercise of state authority, who is in the exercise of their service responsibilities or in relation to the exercise of such office shall be punished as provided by the law for those offenses, and the special limits of the penalty shall be increased by one-third.

(2) The commission of an offense against a public servant holding an office that involves the exercise of state authority or against their property, for the purpose of intimidation or revenge, in relation to the exercise of the office, shall be punished as provided by the law for those offenses, and the special limits of the penalty shall be increased by one-third.

(3) The same penalty applies to the acts committed as set out in par. (2), if they concern a member of the public servant's family.

(4) The acts set out in par. (1)-(3), committed against a police officer or gendarme who is in the exercise of office or in relation to the exercise of such office, shall be punished as



provided by the law for those offenses, and the special limits of the penalty shall be increased by one-half.

#### **ART. 258**

##### **Usurpation of official capacity**

- (1) The unlawful use of an official capacity which involves the exercise of state authority, accompanied or followed by the commission of an act connected to that capacity, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.
- (2) The same penalty applies to the acts of public servants who continue to hold an office involving the exercise of state authority, after losing such right under the law.
- (3) If the acts set out in par. (1) or par. (2) were committed by an individual who unlawfully wears uniforms or insignia of a public authority, the penalty shall consist of no less than 1 and no more than 5 years of imprisonment.

#### **ART. 259**

##### **Stealing or destroying documents**

- (1) The act of stealing or destroying a document kept or in the possession of an individual as set out in [Art. 176](#) or [Art. 175](#) par. (2) shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) If the act is committed by a public servant in the exercise of their service responsibilities, the special limits of the penalty shall be increased by one-third.
- (3) The attempt shall be also punishable.

#### **ART. 260**

##### **Breaking seals**

- (1) The act of removing or destroying a legally applied seal shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.
- (2) If the act was committed by the guardian, the penalty shall consist of no less than 6 months and no more than 2 years of imprisonment or a fine.

#### **ART. 261**

##### **Stealing from under distraint**

- (1) The act of stealing an asset that is legally under distraint shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.
- (2) If the act was committed by the guardian, the penalty shall consist of no less than 6 months and no more than 2 years of imprisonment or a fine.



## CHAPTER II

### Offenses against state borders

#### ART. 262

##### **Fraudulent crossing of the border**

- (1) Entering or leaving the country by fraudulently crossing Romania's state border shall be punished by an imprisonment year between 6 months and 3 years or by a fine.
- (2) If the act set out in par. (1) was committed:
  - a) in order to avoid criminal liability or the serving of a sentence or of an custodial educational measure;
  - b) by an alien who was declared undesirable or who was denied entry or stay in the country, in any way, the penalty shall consist of no less than 1 and no more than 5 years of imprisonment.
- (3) The attempt shall be also punishable.
- (4) The act set out in par. (1), committed by a victim of trafficking in human beings or in juveniles, shall not be punishable.

#### ART. 263

##### **Trafficking in migrants**

- (1) Recruitment, instructing, guiding, transporting, transferring or harboring individuals for the purposes of fraudulently crossing Romania's state border shall be punishable by no less than 2 and no more than 7 years of imprisonment.
- (2) When the act was committed:
  - a) in order to obtain material gain, directly or indirectly;
  - b) using means that endanger the life, integrity or health of the migrant;
  - c) by subjecting migrants to inhuman or degrading treatment,it shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.
- (3) The attempt shall be also punishable.

#### ART. 264

##### **Facilitating illegal stay in Romania**

- (1) Any individual who facilitates, by any means, the illegal stay on the Romanian territory of an individual who is a victim of offenses of trafficking in human beings, juveniles or migrants, who is not a Romanian citizen and does not reside in Romania, shall be punishable by no less than 1 and no more than 5 years of imprisonment and a ban on the exercise of certain rights. If the mean used is in itself an offense, the rules for multiple offenses shall apply.
- (2) When the act was committed:
  - a) in order to obtain a material gain , directly or indirectly;



c) by a public servant in the exercise of office  
it shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(3) When the acts set out in par. (1) and par. (2) are committed in relation to another alien who is on Romanian territory illegally, the special limits of the penalty shall be reduced by one-third.

## **ART. 265**

### **Evading expulsion from Romanian territory**

(1) Evading the fulfillment of the obligations ordered by the relevant authorities to the alien against whom measures were taken for the expulsion from Romanian territory or against whom a prohibition of the right to stay was ordered shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

## **TITLE IV**

### **Obstruction of justice**

## **ART. 266**

### **Failure to report**

(1) The act of the individual who, becoming aware of the commission of an offense against human life or which resulted in the death of an individual, as provided by criminal law, does not notify the authorities immediately, shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

(2) Failure to report shall not be punishable when committed by a family member.

(3) A person who, before the commencement of criminal action against an individual for the commission of the offense that was not reported, notifies the relevant authorities concerning such offense or who, even after commencement of the criminal action, has facilitated the criminal action against the perpetrator or the other persons involved in the commission of the offense, shall not be punishable.

## **ART. 267**

### **Omission to notify the judicial bodies**

(1) The act of a public servant who, becoming aware of the commission of an offense criminalized by law in connection with the service where they work, omits to immediately notify the criminal investigation body, shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.

(2) If the act is committed with basic intent, the penalty shall consist of no less than 3 months and no more than 1 years of imprisonment or a fine.



## **RT. 268**

### **Misleading the judicial bodies**

(1) The criminal notification, by report or complaint, in relation to the existence of an act provided for in criminal law or in relation to the commission of such an act by a certain person, while being aware of the fact that it is not real, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The production or fabrication of false evidence, in order to prove the existence of an act stipulated by criminal law or in relation to the commission of such an act by a certain person, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(3) The individual who has misled the judicial bodies shall not be punishable if they declare, before the detainment, arrest or commencement of the criminal action against the individual in relation to whom the report or complaint has been lodged or the evidence has been brought, that the report, complaint or evidence is not real.

## **ART. 269**

### **Aiding and abetting a perpetrator**

(1) The act of aiding and abetting a perpetrator, for the purposes of preventing or hindering the investigation in a criminal case, criminal liability, serving a sentence or a custodial sentence shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.

(2) The penalty for the individual who has aided and abetted the perpetrator may not exceed the penalty provided by the law for the offense committed by the perpetrator.

3) Aiding and abetting committed by a family member shall not be punishable.

## **ART. 270**

### **Receipt and sale of stolen goods**

(1) Whoever receives, acquires or converts an asset, or facilitates disposal thereof, knowing or foreseeing, following concrete circumstances, that the asset originates from the commission of an act stipulated by criminal law, even without awareness of its nature, shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.

(2) The penalty for the individual engaging in the receipt and sale cannot exceed the penalty provided by the law for the offense committed by the perpetrator.

3) When this offense is committed by a family member it shall not be punishable.

## **ART. 271**

### **Obstruction of justice**

(1) The individual who, being warned of the consequences of their actions:



- a) unlawfully prevents the criminal prosecution body or the court to conduct a procedural act as under the law;
- b) refuses to provide the criminal prosecution body, the court or the bankruptcy judge, in whole or in part, any data, information, documents or assets they hold and which have been explicitly requested, under the law, in order to settle a case, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) Par. (1) does not apply to an individual who is prosecuted or on trial for offenses that are the subject of the criminal trial.

## **ART. 272**

### **Tampering with testimony**

(1) The attempt to determine, or determining an individual, regardless of their capacity, by coercion, corruption, or by another act of intimidation, committed on said individual or on one of their family members, to refrain from notifying the criminal investigation authorities, to refrain from giving statements, to withdraw their statements, to give false statements or to refrain from submitting evidence in a criminal or civil case or in any other judicial proceedings, shall be punishable by no less than 1 and no more than 5 years of imprisonment. If the intimidation or corruption act is in itself an offense, the rules for multiple offenses shall apply.

(2) A material settlement between the perpetrator and the victim, occurring in the case of offenses for which criminal action is to be initiated based on prior complaint by the victim or for which reconciliation occurs, does not constitute an offense.

## **ART. 273**

### **False testimony**

(1) The act of a witness who, in a criminal, civil or other proceeding in which witnesses are heard, gives false statements, or does not tell everything they know regarding the essential acts or circumstances in relation to which they are heard, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The false testimony committed:

- a) by a witness whose identity is protected or who is included in the witness protection program;
- b) an investigator working undercover;
- c) a person who prepares an expert report or an interpreter;
- d) in relation to an offense for which the law provides life imprisonment or a term of imprisonment of 10 years or more

shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(3) The witness shall not be punishable if they withdraw their testimony, in criminal cases, before the defendant's detention or arrest, or before the commencement of the



criminal action or in other cases before a decision or another solution is given, following the false testimony given.

#### **ART. 274**

##### **Revenge for cooperation with the judicial authorities**

The commission of an offense against an individual or a family member thereof, for having notified the criminal investigation authorities, for having given statements or for having given evidence in a criminal, civil or other proceeding of the ones set out in [Art. 273](#) shall be punished as provided by the law for these offenses, and the special limits of the penalty shall be increased by one-third.

#### **ART. 275**

##### **Stealing or destroying evidence or documents**

(1) The act of stealing, destroying, withholding, concealing or altering material evidence or documents, for the purposes of preventing the judicial authorities to find out the truth in a judicial proceeding shall be punishable by no less than 6 months and no more than 5 years of imprisonment.

(2) The same penalty is applicable to the act of preventing, in any way, a document necessary for the solution of a case, issued by a judicial body or directed to it, from reaching its recipient.

#### **ART. 276**

##### **Placing pressure on justice**

The act of an individual who, during an ongoing legal proceeding, makes false public statements regarding the commission, by the judge or by the criminal investigation authorities, of an offense or of a serious disciplinary violation related to the investigation of the cause in question, in order to influence or intimidate them, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

#### **ART. 277**

##### **Undermining justice**

(1) Unlawful revealing of confidential information regarding the date, time, place, manner or means by which evidence is to be administered, by a magistrate or by another public servant who has become aware thereof by virtue of their office, if such action can hinder or obstruct the criminal prosecution, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) Unlawful disclosure of evidence or official documents in a criminal case, before taking a decision not to prosecute or before the return of a final ruling in the matter, by a public servant who has become aware thereof by virtue of their office, shall be



punishable by no less than 1 month and no more than 1 year of imprisonment or by a fine.

(3) Unlawful disclosure of confidential information in a criminal case, by a witness, expert or interpreter, when a prohibition to do so is set out in the criminal procedure law, shall be punishable by no less than 1 month and no more than 1 year of imprisonment or by a fine.

(4) The act by which obviously illegal acts or activities, committed by the authorities in a criminal case, are disclosed or revealed, does not constitute an offense.

#### **ART. 278**

##### **Violation of the solemnity of the hearing**

The use of offensive or obscene words or gestures, which would disrupt the court, by a person participating in or attending a proceeding that takes place in court, shall be punishable by no less than 1 and no more than 3 months of imprisonment or by a fine.

#### **ART. 279**

##### **Assault on representatives of the judicial authorities**

(1) Threatening, hitting or any other acts of violence, bodily harm, hitting or bodily harm which result in death, or murder, committed against a judge or prosecutor in the exercise of their office, shall be punished as provided by the law for these offenses, and the special limits of the penalty shall be increased by one-half.

(2) The commission of an offense against a judge or prosecutor or against their property, for intimidation or revenge in relation to the exercise of their office, shall be punished as provided by the law for these offenses, and the special limits of the penalty shall be increased by one-half.

(3) The same penalty applies to the acts committed as set out in par. (2), if they concern a member of the judge's or prosecutor's family.

(4) The stipulations of par. (1) - (3) shall apply accordingly to the acts committed against a counsel in relation to the exercise of their profession.

#### **ART. 280**

##### **Abusive investigation**

(1) The use of promises, threats or violence against a person undergoing investigation, criminal prosecution or trial, by a criminal investigation body, a prosecutor or a judge in order to determine such person to give or to refrain from giving statements, to give false testimony or to withdraw testimony shall be punishable by no less than 2 and no more than 7 years of imprisonment and the deprivation of the right to hold a public office.

(2) The same penalty is applied to the production, counterfeiting or fabrication of false evidence by a criminal investigation body, a prosecutor or a judge.





## **ART. 281**

### **Submission to ill treatment**

(1) Submission of an individual to serve a sentence, security or education measure otherwise than as provided by the legal stipulations shall be punishable by no less than 6 months and no more than 3 years of imprisonment and the deprivation of the right to hold a public office.

(2) Submission of an individual who is in custody, detained or serving a custodial security or custodial education measure to degrading or inhuman treatments shall be punishable by no less than 1 and no more than 3 years of imprisonment and the deprivation of the right to hold a public office.

## **ART. 282**

### **Torture**

(1) The act of a public servant holding an office that involves the exercise of state authority or of other person acting upon the instigation of or with the specific or tacit consent thereof to cause an individual pain or intense suffering, either physically or mentally:

- a) to obtain information or statements from that person or from a third-party
- b) to punish them for an act committed by them or by a third party or that they or a third party is suspected to have committed
- c) to intimidate or pressure them or a third-party
- d) for a reason based on any form of discrimination,

shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) If the act set out in par. (1) has resulted in bodily harm, the penalty shall consist of no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(3) Torture that resulted in the victim's death shall be punishable by no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

(4) The attempt to commit the offenses set out in par. (1) shall be punishable.

(5) No exceptional circumstance, regardless of its nature or of whether it involves a state of war or war threats, internal political instability or any other exceptional state, can be raised to justify torture. The order of a superior or of a public authority cannot be called upon to justify torture either.

(6) The pain or suffering that result exclusively from legal penalties and which are inherent thereto or caused by them do not constitute torture.



## **ART. 283**

### **Unlawful repression**

(1) The act of prosecuting, of taking measures different from custodial sentences or of bringing an individual before justice, while aware that they are not guilty, shall be punishable by no less than 3 months and no more than 3 years of imprisonment and deprivation of the right to hold public office.

(2) The act of detaining or arresting or sentencing an individual, while aware that they are not guilty, shall be punishable by no less than 3 and no more than 10 years of imprisonment and the deprivation of the right to hold public office.

## **ART. 284**

### **Unfair assistance and representation**

(1) The act committed by a counsel or representative of an individual who, having entered into a fraudulent understanding with a person having conflicting interests in the same case, as part of a proceeding before the judicial authorities or before a notary, harms the interests of the client or of the individual that they represent shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) The same penalty is applicable to the fraudulent understanding between the counsel or the representative of an individual and a third party interested in the solution to be given in the case, for the purposes of harming the interests of the client or of the individual represented.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

## **ART. 285**

### **Escape**

(1) Escape from the legal state of custody or detention shall be punishable by no less than 6 months and no more than 3 years of imprisonment.

(2) If the escape is committed using violence or weapons, the penalty shall consist of no less than 1 and no more than 5 years of imprisonment and a ban on the exercise of certain rights.

(3) The following are deemed acts of escape:

a) the unjustified failure of the individual sentenced to detention to report to their place of detention, after the expiry of the period of time during which he was legally at large;

b) leaving, without authorization, by the convicted person, of their workplace located outside the place of detention.

(3) The penalty applied for the offense of escape shall be added to the remaining penalty being served at the date of the escape.

(5) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.



## **ART. 286**

### **Facilitating escape**

- (1) The act of facilitating escape, by any means, shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) The act of facilitating escape:
  - a) committed by a person using violence, carrying weapons, narcotic or paralyzing substances;
  - b) by two or more individuals in the same circumstance;
  - c) of an individual detained or arrested for offenses punishable by life imprisonment or by imprisonment of 10 years or more, or convicted to serve such sentenceshall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- (3) If the acts set out in par. (1) and par. (2) are committed by a person in charge of guarding the detainee, the special limits of the penalty shall be increased by one-third.
- (4) The act of facilitating escape, committed with basic intent, by a person charged with guarding the detainee, shall be punishable by no less than 3 months and no more than 2 years of imprisonment.
- (5) The attempt to commit the offenses set out in par. (1) - (3) shall be punishable.

## **ART. 287**

### **Failure to enforce court orders**

- (1) The failure to enforce court orders, committed:
  - a) by resisting the enforcement of a court decision, by resisting the actions of the authority in charge of said enforcement;
  - b) by the refusal of the authority in charge of the enforcement to enforce a court order, by means of which it must carry out a certain act;
  - c) by the refusal to support the authority in charge of the enforcement in implementing the court order, by individuals who are under this obligation by law;
  - d) by failure to enforce a court order reinstating an employee;
  - e) by failure to enforce the court order regarding the payment of wages within 15 days of the date when the enforcement request was submitted by the interested party to the employer;
  - f) by failure to enforce court orders on establishing, paying, indexing and recalculating pensions;
  - g) preventing an individual from using, in whole or in part, a house or part of a house or building held based on a court order, committed by the person against whom the court order was returned, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by fine.



(2) In the case of the acts listed under lett. d) through g), criminal action shall be initiated based on a prior complaint filed by the victim.

## **ART. 288**

### **Failure to serve criminal penalties**

(1) The act of evading the service of or the failure to serve, according to the legal stipulations, an ancillary or additional sentence or a security measure provided in [Art. 108](#) lett. b) and c), by an individual against whom such penalties were ordered, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine, unless such act is a more serious offense.

(2) Evading the service of a custodial educational sentence by unlawfully leaving the education or detention centre or by the failure to report to their place of detention after the expiry of the period of time during which they were legally at large, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(3) The failure to serve, by a trustee or administrator, of the ancillary sentences returned against a legal entity as listed in [Art. 141](#) shall be punishable by a fine.

## **TITLE V**

### **Corruption and offenses in public position**

#### **CHAPTER I**

##### **Corruption**

## **ART. 289**

### **Taking a bribe**

#### **#M3**

### **Taking a bribe**

*(1) The action of the public servant who, directly or indirectly, for themselves or on behalf of others, solicits or receives money or other undue benefits or accepts a promise of money or benefits, in exchange for performing, not performing, speeding up or delaying the performance of an action which falls under purview of their professional duties or with respect to the performance of an action contrary to their professional duties, constitutes a violation of the law and shall be punishable by no less than 3 and no more than 10 years of imprisonment and the ban from exercising the right to hold a public office or to exercise the profession or the activity in relation to which they committed the violation.*

#### **#B**

(2) The action provided under par. (1), committed by one of the persons provided under Article 175 par. (2), shall constitute a criminal offense only when committed in relation



with the performance or delaying the performance of an action related to their legal duties or related to the performance of an action contrary to such duties.

(3) The money, valuables or any other benefits received shall be subject to forfeiture, and when such can no longer be located, the forfeiture of the equivalent shall be ordered.

## **ART. 290**

### **Giving a bribe**

(1) The promise, the giving or the offering of money or other benefits in the conditions provided under Article 289 shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) The action provided under par. (1) shall not constitute an offense when the bribe giver was constrained by any means by the bribe taker.

(3) The bribe giver shall not be punishable if they report the action prior to the criminal investigation bodies be notified thereupon.

(4) The money, valuables or any other assets given shall be given back to the person who gave them in the case provided under par. (2) or given following the denunciation provided under par. (3).

(5) The money, valuables or any other benefits offered or given shall be subject to forfeiture, and when such cannot be located anymore, the forfeiture of the equivalent shall be ordered.

## **ART. 291**

### **Influence peddling**

(1) Soliciting, receiving or accepting the promise of money or other benefits, directly or indirectly, for oneself or for another, committed by a person who has influence or who alleges that they have influence over a public servant and who promises they will persuade the latter perform, fail to perform, speed up or delay the performance of an act that falls under the latter's professional duties or to perform an act contrary to such duties, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) The money, valuables or any other assets received shall be subject to forfeiture and when such cannot be located anymore, the forfeiture of the equivalent shall be ordered.

## **ART. 292**

### **Buying influence**

#M3

(1) The promise, the supply or the giving of money or other benefits, for oneself or for another, directly or indirectly, to a person who has influence or who alleges they have influence over a public servant to persuade the latter perform, fail to perform, speed up or delay the performance of an act that falls under the latter's professional duties or to



perform an act contrary to such duties, shall be punishable by no less than 2 and no more than 7 years of imprisonment and the prohibition to exercise certain rights.

#B

(2) The perpetrator shall not be punishable if they report the action prior to the criminal investigation bodies be notified thereupon.

(3) The money, valuables or any other assets shall be given back to the person who gave them if they were given following the denunciation provided under par. (2).

(4) The money, valuables or any other benefits given or supplied shall be subject to forfeiture, and when such cannot be located anymore, the forfeiture of the equivalent shall be ordered.

### **ART. 293\*)**

#### **Acts committed by members of the courts of arbiters or in connection thereto**

The stipulations under Article 289 and Article 290 shall apply accordingly also to persons who, based on an arbitration agreement, are called upon to issue a ruling with respect to a case entrusted to them for settlement by the parties to that agreement, irrespective whether the arbitration proceedings are carried out based on the Romanian law or based on another law.

#CIN

\*)The stipulations under Article 293 shall apply, irrespective whether the members of the courts of arbitration are Romanians or foreigners.

#B

### **ART. 294**

#### **Acts committed by foreign officials or related to them**

The stipulations of this Chapter shall apply to the following persons, unless the international agreements that Romania is party to provide otherwise:

a) officials or persons who carry out their activity based on a labor agreement or other persons with similar duties in an international public organization that Romania is party to;

b) members of parliamentary assemblies of international organizations that Romania is party to;

#M3

c) officials or persons who carry out their activities based on a labor agreement or other persons with similar duties within the European Union;

#B

d) persons who exercise judicial functions within the international courts whose jurisdiction is accepted by Romania, as well as officials working for the registrar's office of such courts;

e) officials of a foreign state;



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- f) members of parliamentary or administrative assemblies of a foreign state;  
#M3
- g) jurors within foreign courts.

#B

## **CHAPTER II**

### **Offenses in public position**

#### **ART. 295**

##### **Embezzlement**

- 1) Acceptance, use or traffic of money, valuables or any other assets managed or administrated by a public servant, on their or on another person's behalf, shall be punishable by no less than 2 and no more than 7 years of imprisonment and the ban from exercising the right of holding public office.
- (2) The attempt thereof shall be punishable.

#### **ART. 296**

##### **Abusive conduct**

- (1) Use of offensive language toward another person by the one carrying out professional duties shall be punishable by no less than one month and no more than 6 months of imprisonment, or by a fine.
- (2) The threat, the assault or any other acts of violence committed in the conditions provided under par. (1) shall be penalized by the punishment stipulated in the law for that crime, whereas the special limits shall be increased by one-third.

#### **ART. 297**

##### **Abuse in office**

- (1) The action of the public servant who, while exercising their professional responsibilities, fails to implement an act or implements it faultily, thus causing damage or violating the legitimate rights or interests of a natural or a legal entity, shall be punishable by no less than 2 and no more than 7 years of imprisonment and the ban from exercising the right to hold a public office.
- (2) The same punishment applies to the action of a public servant who, while exercising their professional responsibilities, limits the exercise of a right of a person or creates for the latter a situation of inferiority on grounds of race, nationality, ethnic origin, language, religion, gender, sexual orientation, political membership, wealth, age, disability, chronic non-transmissible disease or HIV/AIDS infection.



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## **ART. 298**

### **Professional negligence**

The culpable breach by a public official of a professional duty by failing to carrying it out or by faultily carrying it out, if it results in damage or violation of the legitimate rights or interests of a natural or legal entity shall be punishable by no less than 3 months and no more than 3 years of imprisonment, or by a fine.

## **ART. 299**

### **Abuse of power for sexual gain**

(1) The action of the public servant who, for the purpose of performing or not performing, speeding up or delaying the performance of an act related to their professional duties or for the purposes of performing an act contrary to such duties, solicits or is awarded sexual favors by a person who has a direct or indirect vested interest in that professional act shall be punishable by no less than 6 months and no more than 3 years of imprisonment and the ban from exercising the right to hold a public office or to practice the profession or the activity in the exercise of which the action was committed.

(2) The solicitation by or the award of sexual favors to a public servant who uses or takes advantage of a situation of authority or power over the victim, arising from the office held, shall be punishable by no less than 3 months and no more than 3 years of imprisonment, or by a fine and the ban from exercising the right to hold public office or to practice the profession or the activity in the exercise of which the action was committed.

## **ART. 300**

### **Abuse of position**

The conduct of the public servant who, while at work, performs an act that does not fall under their duties, if such results in one of the consequences provided under Article 297, shall be punishable by no less than 1 and no more than 5 years of imprisonment, or by a fine.

## **ART. 301**

### **Conflict of interests**

(1) The conduct of the public servant who, while carrying out their professional duties, committed an act or participated in making a decision that resulted, directly or indirectly, in a material gain for themselves, their spouses, for a relative or an affiliate, including those twice removed, or for another person with whom they were in business or labor relations for the past 5 years or from whom they had or have benefits of any nature, shall





be punishable by no less than 1 and no more than 5 years of imprisonment and the ban from exercising the right to hold a public office.

(2) Par. (1) shall not apply to issuing, endorsing or adopting regulatory documents.

### **ART. 302\*)**

#### **Violating the privacy of correspondence**

(1) Opening, stealing, destroying or seizing, without any right, the correspondence addressed to another person, as well as the unlawful revelation of the contents of such correspondence, even when it was sent open or it was opened by mistake, shall be punishable by no less than 3 months and no more than 1 year of imprisonment, or by a fine.

(2) Unlawful wiretapping of phone or any electronic means of communication shall be punishable by no less than 6 months and no more than 3 years of imprisonment.

(3) If the actions provided under par. (1) and par. (2) were committed by a public servant holding the legal obligation to observe professional secrecy and the confidentiality of information they are privy to, the punishment shall be no less than 1 year and no more than 5 years of imprisonment and deprivation of certain rights.

(4) The unlawful revealing, broadcasting, presenting or transmitting to another person or to the general public the contents of a wiretapped conversation or communication, even when the perpetrator became aware of it by mistake or by chance, shall be punishable by no less than 3 months and no more than 2 years of imprisonment, or by a fine.

(5) The following acts committed shall not be constitute offenses:

- a) if the perpetrator catches a crime in the act or contributes to providing evidence as to the commission of a crime;
- b) if the perpetrator catches acts of public interest, with significance for the life of the community, and whose revelation has public advantages much higher than the damage caused to the victim.

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(6) The unlawful possession or manufacturing of specific wiretapping or communication-recording devices shall be punishable by no less than 3 months and no more than 3 years of imprisonment, or by a fine.

(7) In the case of the actions provided under par. (1), the criminal investigation shall be launched based on the preliminary report by the victim.

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*\*) Under [Article 244](#) of Law No. 187/2012 (#M3) the stipulations of Art. 302 in the Criminal Code shall apply irrespective of whether the actions were committed in the framework of professional relations or not.*



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### **ART. 303**

#### **Disclosure of information classified as state secret**

(1) The unlawful disclosure of information classified as state secret by the person aware thereof owing to their professional responsibilities, if it affects the interests of a legal entity of those provided under Article 176, shall be punishable by no less than 2 and no more than 7 years of imprisonment and the ban from exercising certain rights.

(2) The unlawful possession of a document, beyond one's professional responsibilities, containing state-secret information, if likely to affect the activity of one of the legal entities provided under Article 176, shall be punishable by no less than 3 months and no more than 2 years of imprisonment, or by a fine.

(3) The person in possession of a document containing state-secret information, which is likely to affect the activity of one of the legal entities provided under Article 176, shall not be punishable if they surrender the document without delay to the issuing body or institution.

### **ART. 304**

#### **Disclosure of information classified as service secret or not public**

(1) The unlawful disclosure of information classified as service secret, or which is not for the general public, by the person aware thereof owing to their professional responsibilities, if it affects the interests or the activity of a person, shall be punishable by no less than 3 months and no more than 3 years of imprisonment, or by a fine.

(2) The unlawful disclosure of information classified as service secret, or which is not for the general public, by the person aware thereof shall be punishable by no less than 1 month and no more than 1 year, or by a fine.

(3) If, as a result of the action provided under par. (1) and par. (2), a crime was committed against an undercover investigator, a protected witness or a person included in the Witness Protection Program, the punishment shall be no less than 2 and no more than 7 years of imprisonment and if a crime against life was committed with direct intent, shall be punishable by no less than 5 and no more than 12 years of imprisonment.

### **ART. 305**

#### **Negligence in storing information**

(1) The negligence resulting in the destruction, alteration, loss or theft of a document containing state-secret information, as well as the negligence resulting in another person's becoming aware of such information shall be punishable by no less than 3 months and no more than 1 year of imprisonment, or by a fine.

(2) The same punishment shall be applied to the actions under Article 303 par. (1) and Article 304, in case they were committed with basic intent.



## **ART. 306**

### **Illegal monetary gain**

- (1) Use or submission of false, inaccurate or incomplete documents or data, to receive the approvals or the guarantees required for the award of funding obtained or guaranteed from public funds, if it results in the unjust award of such funds, shall be punishable by no less than 2 and no more than 7 years of imprisonment.
- (2) The attempt thereof shall be punishable.

## **ART. 307**

### **Diversion of funds**

- (1) Diversion from their original destination of money or material resources allocated to a public authority or public institution, without observing the legal stipulations shall be punishable by no less than 1 year and no more than 5 years of imprisonment.
- (2) The same punishment shall apply to diversion, without observing the legal stipulations, of the destination of funds resulting from the funding obtained or guaranteed from public funds.
- (3) The attempt thereof shall be punishable.

## **ART. 308**

### **Corruption offenses and service offenses committed by other persons**

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- (1) The stipulations under Articles 289 – 292, 295, 297 – 301 and 304 regarding civil servants shall apply accordingly to acts committed by or in connection with the persons who carry out, on a permanent or on a temporary basis, with or without a remuneration, a duty irrespective of its nature in the service of a natural person of those provided under Article 175 par. (2) or within any legal entity.

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- (2) In this case, the special limits of the punishment shall be decreased by one-third.

## **ART. 309**

### **Actions that resulted in extremely severe consequences**

If the actions provided under Article 295, Article 297, Article 298, Article 300, Article 303, Article 304, Article 306 or Article 307 caused extremely severe consequences, the special limits of the punishment stipulated in the law shall increase by one-half.



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## **TITLE VI**

### **Counterfeiting**

#### **CHAPTER I**

#### **Counterfeiting of currency, stamps or securities**

##### **ART. 310**

##### **Currency counterfeiting**

- (1) The act of counterfeiting currency with circulation value shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.
- (2) The same penalty shall apply to the act of counterfeiting currency issued by the relevant authorities before it is officially released.
- (3) The attempt shall be also punishable.

##### **ART. 311**

##### **Counterfeiting of bonds or payment instruments**

- (1) The act of counterfeiting bonds, securities or instruments used to make payments or any other instruments or similar securities shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- (2) If the act set out in par. (1) concerns an electronic payment instrument, the penalty shall consist of no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.
- (3) The attempt shall be also punishable.

##### **ART. 312**

##### **Counterfeiting of stamps or postage**

- (1) The act of counterfeiting stamps, postage stamps, postal envelopes, postcards, international reply coupons shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.
- (2) The attempt shall be also punishable.

##### **ART. 313**

##### **Circulation of counterfeited securities**

- (1) The release into circulation of the counterfeit securities referred to in [Art. 310](#) - 312, as well as the act of receiving, possessing or transmitting them with the purpose of releasing them into circulation shall be punished as provided in the law for the counterfeit offense through which they were produced.



(2) The release into circulation of the counterfeit securities referred to in [Art. 310](#) - 312, committed by the author or by a party participating in the counterfeit offense, shall be punished as provided by the law for the counterfeit offense through which they were produced.

(3) The act of returning into circulation of one of the instruments provided in [Art. 310](#) - 312 by an individual who discovered, after coming into possession thereof, that it is counterfeit, shall be punished as provided by the law for the counterfeit offense through which they were produced, the special limits being reduced by one-half.

(4) The attempt shall be also punishable.

#### **ART. 314**

##### **Possession of tools used for the counterfeit of securities**

(1) The manufacture, receipt, possession or transfer of tools and materials to be used in the counterfeiting of bonds or instruments referred to in [Art. 310](#), [Art. 311](#) par. (1) and [Art. 312](#) shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The manufacture, receipt, possession or transfer of equipment, including hardware or software, to be used in the counterfeiting of electronic payment instruments shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(3) No penalty shall be applied to the individual who, after the commission of any of the acts stipulated at par. (1) or par. (2), before their discovery and before the act of counterfeit is committed, surrenders the tools and materials to the judicial authorities or brings the existence of such tools to the knowledge of the authorities.

#### **ART. 315**

##### **Fraudulent issuance of currency**

(1) The printing of authentic currency by using plants or materials designated for this purpose, in violation of the conditions established by the competent authorities or without their approval, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) The same penalty applies to the release into circulation of currency printed as specified in par. (2), as well as the receipt, possession or transmission thereof, for the purposes of releasing it into circulation.

#### **ART. 316**

##### **Counterfeiting of foreign instruments**

The stipulations of this chapter shall also apply to the offenses concerning coinage, stamps, securities or payment instruments issued abroad.



## CHAPTER II

### Counterfeiting of authentication or marking instruments

#### ART. 317

##### Counterfeiting of official instruments

(1) The act of counterfeiting a seal, a stamp or a marking instrument used by the individuals set out in [Art. 176](#) or the individuals set out in [Art. 175](#) par. (2) shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The act of counterfeiting a seal, a stamp or a marking instrument used by individuals other than the ones set out in par. (1) shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(3) The attempt shall be also punishable.

#### ART. 318

##### Use of counterfeit instruments

(1) The use of the counterfeit instruments set out in [Art. 317](#) shall be punished by imprisonment term between 3 months and 3 years or by a fine.

#### ART. 319

##### Counterfeiting of foreign authentication instruments

The stipulations of this Chapter shall also apply to the offenses related to authentication or marking tools used by foreign authorities.

## CHAPTER III

### Counterfeiting documents

#### ART. 320

##### Tampering with official documents

(1) The act of tampering with an official document by counterfeiting the writing or the signatures or by altering it in any manner, likely to have legal consequences, shall be punishable by no less than 6 months and no more than 3 years of imprisonment.

(2) The action described in par. (1), committed by a public servant during the exercise of their office duties, shall be punishable by no less than 1 and no more than 5 years of imprisonment and a ban on the exercise of certain rights.

(3) Tickets or any other printed documents producing legal consequences are assimilated to official documents.

(4) The attempt shall be also punishable.



## **ART. 321**

### **Creating false documents**

(1) The act of tampering with an official document when it is drawn up, committed by a public servant during the exercise of office duties, by certifying untrue facts or circumstances or by knowingly omitting to insert certain data or circumstances, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The attempt shall be also punishable.

## **ART. 322**

### **False deeds under private signature**

(1) The tampering with a deed under private signature in any of the ways set out in [Art. 320](#) or [Art. 321](#), if the perpetrator uses the false deed or entrusts it to another individual for use, in order to produce legal consequences, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The attempt shall be also punishable.

## **ART. 323**

### **Use of false documents**

The use of an official document or of a deed under private signature, while knowing that it is false, in order to produce legal consequences, shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine, when the document is official, and by no less than 3 months and no more than 2 years of imprisonment or by a fine, when the document is issued under private signature.

## **ART. 324**

### **Tampering with a technical record**

(1) The act of tampering with a technical record by counterfeiting, alteration or by determining the certification of untruthful circumstances or by omitting to record data or circumstances, if it was followed by the use, by the perpetrator, of the record or by entrusting it to another for use, in order to produce legal consequences, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The same penalty applies to the use of a false technical record in order to produce legal consequences.

(3) Technical record means, for the purposes of this article, the certification of a value, weight, measurement or the conduct of an event, performed automatically, in whole or in part, by an approved technical device and which is designed to ascertain a specific fact, in order to produce legal consequences.



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## **ART. 325**

### **Tampering with computer data**

The unlawful inputting, alteration or deletion of computer data, or unlawful restriction of access to such data, resulting in inauthentic data, to be used to produce legal consequences, constitutes an offense and shall be punishable by no less than 1 and no more than 5 years of imprisonment.

## **ART. 326**

### **False statements**

The act of giving a false statement to an individual as mentioned in [Art. 175](#) or before a body in which they carry out their activity, in order to produce legal consequences either for themselves or for another, when, according to the law or to the circumstances, the statement made is used to produce such consequence, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

## **ART. 327**

### **False identity**

1) The act of presenting oneself under a false identity or the act of ascribing such an identity to another individual, committed before an individual as set out in [Art. 175](#) or transmitted to a unit in which they carry out their activity, by fraudulent use of a document that serves for identification purposes or to prove one's civil status or of such a forged document, to mislead or maintain the deceit of a public servant, in order to produce legal consequences for oneself or for another, shall be punishable by no less than 6 months and no more than 3 years of imprisonment.

(2) When the document was produced by using the real identity of an individual, the penalty shall consist of no less than 1 and no more than 5 years of imprisonment.

(3) The act of handing over a document that proves civil status or serves as identification, to be used unlawfully shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

## **ART. 328**

### **Offenses of falsification committed in relation to the authority of a foreign state**

The stipulations of this chapter also apply when the act concerns documents issued by a competent authority of a foreign state or by an international organization established by a treaty to which Romania is a party or statements or an identity assumed before it.





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## **TITLE VII**

### **Offenses against public security**

#### **CHAPTER I**

##### **Offenses against railway traffic security**

###### **ART. 329**

###### **Failure to perform service responsibilities or faulty performance thereof**

(1) Failure to perform service responsibilities or faulty performance thereof by employees managing a rail infrastructure or by employees of operators in charge of transportation, interventions or maneuvering, if such failure endangers the security of traffic for the means used for transportation, interventions or maneuvering on the railway, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) If such act resulted in a railway accident, the penalty shall consist of no less than 3 and no more than 10 years of imprisonment.

###### **ART. 330**

###### **Failure to perform service responsibilities or faulty performance thereof with basic intent**

(1) The failure to perform service responsibilities or faulty performance thereof, with basic intent, by employees managing a railway infrastructure or by employees of operators in charge of transportation, interventions or maneuvering, if such failure jeopardizes the security of the means used for transportation, interventions or maneuvering on the railway, shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.

(2) If such act resulted in a railway accident, it shall be punishable by no less than 1 and no more than 5 years of imprisonment.

###### **ART. 331**

###### **Leaving one's post and reporting to duty under the influence of alcohol or other substances**

(1) The act of leaving one's post, in any manner and in any form, committed by employees in charge of ensuring the security of the means of transportation, intervention and maneuvering, in case this act jeopardizes the security of the traffic of such means, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) The same penalty shall apply to the exercise of the service responsibilities by an employee whose duties are related to the security of the means used for railway transportation, intervention or maneuvering, while having a blood alcohol concentration over 0.80 g/l or who is under the influence of psychoactive substances.



(3) When the acts set out in par. (1) and par. (2) have resulted in a railway accident, the penalty shall consist of no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 332**

##### **Destruction or false signaling**

(1) The act of destroying, damaging or making the railway, the rail installations, the railway communications installations, the rolling stock or any other equipment related to the railway infrastructure unfit for use, or of placing obstacles on the railway, if this jeopardizes the security of the means used for rail transportation, intervention or maneuvering shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) The same penalty shall apply to the commission of acts of false signaling or to the commission of any acts likely to mislead the railway personnel ensuring the circulation of the means used for rail transportation, intervention or maneuvering during the performance of their duties, if these acts could result in a railway accident.

(3) If the acts set out in par. (1) and par. (2) resulted in a railway accident, the penalty shall consist of no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(4) When the acts set out in par. (1) - (3) are committed with basic intent, the special limits of the penalty are reduced by one-half.

(5) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.

#### **ART. 333**

##### **Railway accidents**

(1) A railway accident is the significant destruction or damage of the means of transportation, of the rolling stock or of other railway installations during circulation or during maneuvers with means of railway transportation, maneuvers, maintenance, or intervention.

## **CHAPTER II**

### **Offenses against public roads safety**

#### **ART. 334**

##### **Registering a vehicle as fit for traffic or driving an unregistered vehicle**

(1) The act of registering a vehicle as fit for traffic or driving an unregistered vehicle or tramway on public roads, under the law shall be punishable by no less than 1 and no more than 3 years of imprisonment or by a fine.



- (2) The act of registering a vehicle as fit for traffic or driving an unregistered vehicle or tramway using a false registration number or false plates shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.
- (3) Towing a trailer that has not been registered or placed on record or having a false registration number or false plates shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.
- (4) Driving, on public roads, a vehicle or towing a trailer the number plates or registration numbers of which have been withdrawn or a vehicle registered in another state, which is not authorized for driving in Romania, shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

#### **ART. 335**

##### **Driving a vehicle without a driving license**

- (1) Driving a vehicle or a tramway, on public roads, without having a driving license shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) Driving, on public roads, a vehicle for which a driving license is required by law, by an individual who owns a driving license which was issued for a different category or subcategory than the one in which the vehicle is included, or whose license has been withdrawn or rescinded or who is not entitled to drive vehicles in Romania shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.
- (3) The same penalty shall apply to the person who knowingly entrusts a vehicle for which the law requires a license for driving on public roads, to an individual who they know is in one of the situations referred to in par. (1) or par. (2) or under the influence of alcohol or of psychoactive substances.

#### **ART. 336**

##### **Driving a vehicle under the influence of alcohol or other substances**

- (1) Driving, on public roads, a vehicle for which a driving license is required by law, by an individual who, at the time when biological samples were taken, has a blood alcohol concentration exceeding 0.80 g/l shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.
- (2) The same penalty shall be applied to an individual who, while under the influence of psychoactive substances, drives a vehicle for which a driving license is required by law.
- (3) If the individual who is in one of the situations set out in par. (1) and par. (2) carries out activities such as public passenger transportation, transportation of hazardous substances or products or is imparting practical training to candidates wishing to obtain a driving license or during the practical tests of the examination sit to obtain the driving license, they shall be punishable by no less than 2 and no more than 7 years of imprisonment.



## **ART. 337**

### **Refusing or avoiding to provide biological samples**

The act of refusing or avoiding, by the driver of a vehicle for which a driving license is required by law, or by the driving instructor, during training, or by the examiner of the competent authority, during the practical tests of the examination for obtaining a driving license, to provide the biological samples required to determine the presence of alcohol or of psychoactive substances in the blood stream shall be punishable by no less than 1 and no more than 5 years of imprisonment.

## **ART. 338**

### **Leaving the scene of an accident or change or deletion of traces of the accident**

(1) The act of leaving the scene of the accident, without the consent from the police or the prosecutor conducting crime scene investigations, by the driver of the vehicle or by the driving instructor, during training, or by the examiner of the competent authority, during the practical tests of the examination to obtain the driving license involved in a traffic accident, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) The same penalty shall apply to the act committed by any individual to change the condition of the scene of the traffic accident resulting in the killing or causing bodily harm or health harm to one or more individuals, without consent from the crime scene investigation team.

(3) The following do not constitute offenses, in case of leaving the scene of the accident:

- a) the accident only resulted in material damages;
- b) the driver of the vehicle, in the absence of other means of transportation, carried the injured individuals to the nearest health care facility able to provide the medical assistance required, where they also communicated their personal identification information and the registration number of the vehicle, entered into a special register, if they return immediately to the scene of the accident;
- c) the driver of the special-use vehicle shall notify the police immediately, and shall report after the mission is complete to the police station in the jurisdiction of which the accident has occurred, in order to draft the investigation reports;
- d) the victim leaves the scene and the driver of the vehicle immediately notifies the accident to the nearest police station.

## **ART. 339**

### **Hindering traffic on public roads**

(1) The installation of traffic road signs or changing their positions, without a permit issued by the competent authorities, which is likely to mislead road users or to hinder



traffic on public roads shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) Taking part, as a driver, to unauthorized vehicle races on public roads shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(3) The same penalty shall apply to placing obstacles which hinder traffic on public roads, if traffic security is jeopardized or if the right of free movement of other road users is affected.

(4) Leaving a vehicle carrying dangerous goods or substances unattended, on the carriageway of a public road, shall be punishable by no less than 1 and no more than 3 years of imprisonment or by a fine.

#### **ART. 340**

##### **Failure to perform duties related to technical checks or repairs**

(1) The faulty performance or the failure to perform the duties related to the technical checks or periodical technical inspection of motor vehicles, trailers or tramways or of the duties related to repairs or technical interventions by individuals who have been assigned such duties, if, because of the technical condition of the vehicle, road safety is jeopardized, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) If, as a consequence of the act set out in par. (1), a traffic accident occurred, which resulted in bodily harm or harm to the health of one or more individuals, the penalty shall consist of no less than 1 and no more than 5 years of imprisonment, and if the death of one or more individuals occurred, it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(3) If the acts set out in par. (1) and par. (2) were committed with basic intent, the special limits of the penalty are reduced by one-third.

(4) The act of repairing motor vehicles, trailers, tramways or mopeds which display traces showing they were involved in an accident, without fulfilling the legal requirements, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

#### **ART. 341**

##### **Executing unauthorized works on public roads**

(1) Carrying out building, alteration, modernization or rehabilitation works of public roads or of road accesses to the public roads, without having a building permit issued under the law or in violation of requirements in that building permit, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) Erecting buildings, placing billboards and advertisements in the road area, without a building permit issued under the law or in violation of requirements in that building



permit, if such action results in endangering road safety, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(3) The individual authorized by the administrator of the railway who fails to take the appropriate measures for the signaling of the railway level crossings shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(4) The penalty provided for in par. (3) shall also apply to the individual authorized by the administrator of a public road or the contractor carrying out works on the carriageway, who fails to take the appropriate measures for signaling obstacles or works performed on the road, if this resulted in a traffic accident.

### CHAPTER III

### Violation of rules for the control of weapons, ammunition, nuclear material and explosives

#### **ART. 342**

#### **Non-compliance with the rules governing weapons and ammunition**

(1) The act of possessing, carrying, manufacturing, as well as any operation concerning the circulation of lethal weapons, ammunition, mechanisms or devices thereof or the operation of workshops for unlawful repairing lethal weapons shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) The act of unlawful possessing or carrying of non-lethal weapons which require a license shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(3) The act of stealing weapons or ammunition as set out in par. (1) and par. (2) shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(4) The act of unlawfully carrying weapons as set out in par. (1) and par. (2) on the premises of public authorities, public institutions or of other public-interest legal entities or in spaces to be used for elections, shall be punishable by no less than 1 and no more than 5 years of imprisonment and a ban on the exercise of certain rights.

(5) If the acts set out in par. (1) and par. (3) concern prohibited weapons or ammunition, mechanisms or devices thereof, the special limits of the penalty shall be increased by one-third.

#### **#M3**

(6) *The failure to surrender the weapon and the ammunition to a licensed gunsmith within 10 days of the expiry date of the license constitutes an offense and shall be punishable by no less than 6 months and no more than 3 years of imprisonment.*

(7) *The manufacture or assembly of lethal weapons, of parts or ammunition for those weapons:*

*a) using any essential components that are illegally trafficked;*



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b) without a license issued by a competent authority of the Member State where the manufacture or assembly takes place;  
c) without marking the lethal weapons assembled on the date of their assembly, in accordance with legal stipulations,  
shall be punishable by no less than 2 and no more than 7 years of imprisonment.

### **#B**

#### **ART. 343**

##### **Unlawful use of a weapon**

- (1) The unlawful use of a lethal or prohibited weapon shall be punishable by no less than 1 and no more than 3 years of imprisonment.
- (2) The unlawful use of a non-lethal weapon included in the category of weapons for which a license is required shall be punishable by no less than 6 months and no more than 2 years of imprisonment.

### **#M3**

#### **ART. 344**

##### **Counterfeiting or alteration. Removing or changing the markings of lethal weapons**

*The unlawful counterfeiting or deletion, the removal or change of the markings made on lethal weapons shall be punishable by no less than 1 and no more than 3 years of imprisonment or by a fine.*

### **#M3**

#### **ART. 345**

##### **Non-compliance with the rules governing nuclear materials and other radioactive materials**

- (1) *The act of receiving, possessing, using, handing over, altering, transfer, distributing, displaying, manufacturing, processing, handling, ensuring the intermediate storing, importing, exporting or ensuring the final storage, transporting or diverting nuclear material or other radioactive material, as well as any other operation related to their unlawful circulation shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.*
- (2) *The act of stealing nuclear material or other radioactive materials shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.*
- (3) *If the acts set out in par. (1) and (2) endangered individuals or property, caused the bodily harm of one or more individuals, they shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.*



*(4) If the acts set out in par. (1) and (3) caused the death of one or more individuals, the penalty shall consist of no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.*

*(5) If the acts set out in par. (1), (3) and (4) are committed with basic intent, the special limits of the penalty are reduced by one-half.*

## **#B**

### **ART. 346**

#### **Failure to observe the rules governing explosives**

(1) The act of unlawfully manufacturing, experimenting with, processing, possessing, transporting or using explosive materials or any other operations related to these materials shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) The act of stealing explosives shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(3) When the acts set out in par. (1) and par. (2) concern an amount exceeding 1 kg of Trinitrotoluene-equivalent or when the amount of explosives is accompanied by initiation materials, the penalty shall consist of no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.

(4) If the acts set out in par. (1) - (3) resulted in the death of one or more individuals, the penalty shall consist of no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

### **ART. 347**

#### **Punishing the attempt**

The attempt to commit the offenses set out in [Art. 342](#) par. (1) and par. (3), [Art. 345](#) par. (1) and par. (2), as well as in [Art. 346](#) par. (1) and par. (2) shall be punishable.

## **CHAPTER IV**

### **Violation of rules established for activities regulated by law**

### **ART. 348**

#### **Unlawful practice of a profession or activity**

The unlawful practice of a profession or of any other activity for which a permit is required by law, or the practice thereof in conditions other than the legal ones, if the special law provides that the commission of such acts is punishable under criminal law, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.





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## **ART. 349**

### **Failure to take labor health and safety measures**

(1) Failure to take any of the legal labor health and security measures by a person who was tasked with taking these measures, in case it results in the imminent danger of a labor accident or of an occupational disease, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The act set out in par. (1) committed with basic intent shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

## **ART. 350**

### **Non-compliance with labor health and safety rules**

(1) Non-compliance with the labor health and safety rules by any individual, if this results in the imminent danger of a labor accident or of an occupational disease, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The same penalty shall apply to the act of resuming the operation of installations, machines or equipment before removing all the deficiencies that caused their operation to be stopped.

(3) The acts set out in par. (1) and par. (2) committed with basic intent shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

## **ART. 351**

### **Usury**

Lending money with interest, as an occupation, by an unauthorized person, shall be punishable by no less than 6 months and no more than 5 years of imprisonment.

## **CHAPTER V**

### **Offenses against public health**

## **ART. 352**

### **Preventing the fighting of diseases**

(1) Failure to comply with the measures taken for the prevention and combating of infectious and contagious diseases, if this resulted in the spreading of such a disease, shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

(2) If the act set out in par. (1) is committed with basic intent, the penalty shall consist of no less than 1 and no more than 6 months of imprisonment or a fine.



## **ART. 353**

### **Venereal contamination**

- (1) The transmission of a venereal disease by sexual intercourse or other sexual relations, by a person who is aware that they suffer from such a disease, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.
- (2) The court shall order compulsory medical treatment as a security measure.

## **ART. 354**

### **Transmission of the acquired immunodeficiency syndrome**

- (1) The transmission, by any means, of the acquired immunodeficiency syndrome – AIDS – by a person who is aware that they suffer from this disease, shall be punishable by no less than 3 and no more than 10 years of imprisonment.
- (2) The transmission, by any means, of the acquired immunodeficiency syndrome - AIDS – by a person other than the one specified in par. (1), shall be punishable by no less than 5 and no more than 12 years of imprisonment.
- (3) When the acts set out in par. (1) and par. (2) resulted in the victim's death, they shall be punishable by no less than 7 and no more than 15 years of imprisonment.
- (4) When the act set out in par. (2) was committed with basic intent, it shall be punishable by no less than 6 months and no more than 3 years of imprisonment, and if it caused the victim's death, it shall be punishable by no less than 2 and no more than 7 years of imprisonment.
- (5) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.

## **ART. 355**

### **Transmitting diseases to animals or plants**

- (1) Failure to comply with measures concerning the prevention or combating of infectious and contagious diseases in animals or plants, or vermin, if it resulted in the spreading of such disease or vermin, shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.
- (2) If the act was committed with basic intent, the special limits of the penalty are reduced by one-half.

## **ART. 356**

### **Water contamination**

- (1) The act of contaminating water sources and networks, by any means, if the water thus contaminated is harmful to the health of people, animals or plants, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.
- (2) The attempt shall be also punishable.



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#### **ART. 357**

##### **Fraudulent or substitution foods or other products**

(1) The act of preparing, offering or displaying foods, beverages or other products that are fraudulent or substituted, if they are harmful for health, shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine and a ban on the exercise of certain rights.

(2) The act of preparing, offering or displaying medicine that is fraudulent or substituted, which is harmful for health, shall be punishable by no less than 6 months and no more than 5 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 358**

##### **Sale of spoiled products**

(1) The sale of foods, beverages or other products, while being aware that they are spoiled or that their best-before date has expired, if they are harmful for health, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine and a ban on the exercise of certain rights.

(2) The same penalty shall apply to the sale of meat or meat products originating from slaughtering of animals which has not been subject to veterinary inspection, if they are harmful for health.

(3) The act of selling medicine, while being aware that it is fraudulent, deteriorated or that their best-before date has expired, if they are harmful for health or if it lost its therapeutic value in whole or in part, shall be punishable by no less than 1 and no more than 5 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 359**

##### **Trafficking in toxic products or substances**

(1) The act of unlawfully manufacturing, possessing or any operation regarding the circulation of toxic products or substances, the cultivation, for the purposes of processing, of plants that contain such substances or the act of experimenting with toxic products or substances shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) The attempt shall be also punishable



## **CHAPTER VI**

### **Offenses against security and integrity of computer systems and data**

#### **ART. 360**

##### **Illegal access to a computer system**

- (1) Unlawful access to a computer system shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.
- (2) The act set out in par. (1), committed in order to obtain computer data, shall be punishable by no less than 6 months and no more than 5 years of imprisonment.
- (3) If the act set out in par. (1) was committed on a computer system to which, through processes, devices or specialized programs, access is restricted or prohibited for certain categories of users, it shall be punishable by no less than 2 and no more than 7 years of imprisonment.

#### **ART. 361**

##### **Illegal interception of computer data transmissions**

- (1) The unlawful interception of a computer data transmission which is not public and which is intended for a computer system, originates from such a computer system or is carried out within a computer system shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) The same penalty shall apply to the unlawful interception of electromagnetic emissions from a computer system that contains computer data which is not public information.

#### **ART. 362**

##### **Altering computer data integrity**

Unlawful altering, deleting or corrupting of computer data or restricting access to such data shall be punishable by no less than 1 and no more than 5 years of imprisonment.

#### **ART. 363**

##### **Disruption of the operation of computer systems**

The act of unlawfully seriously disrupting the operation of a computer system by inputting, transmitting, modifying, deleting or corrupting data or by restricting access to data, shall be punishable by no less than 2 and no more than 7 years of imprisonment.



## **ART. 364**

### **Unauthorized transfer of computer data**

The unauthorized transfer of computer data from a computer system or from a data storage device shall be punishable by no less than 1 and no more than 5 years of imprisonment.

## **ART. 365**

### **Illegal operations with devices or software**

(1) Whoever unlawfully produces, imports, distributes, or makes available in any form:

- a) devices or software designed or adapted for the purpose of perpetrating any of the offenses referred to in [Art. 360](#) - 364;
- b) passwords, access codes or other such computer data allowing full or partial access to a computer system for the purpose of perpetrating any of the offenses referred to in Art. 360-364,

shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) Unlawfully owning a device, a piece of software, a password, access code or other data as mentioned in par. (1) with the purpose of perpetrating any of the offenses referred to in Art. 360-364, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

## **ART. 366**

### **Punishing the attempt**

The attempt to commit the offenses set out in this chapter shall be punished.

## **TITLE VIII**

### **Offenses that harm social relationships**

#### **CHAPTER I**

### **Offenses against public order and peace**

## **ART. 367**

### **Creation of an organized crime group**

(1) The act of initiating or creating an organized crime group or of joining or supporting such a group in any way shall be punishable by no less than 1 and no more than 5 years of imprisonment and a ban on the exercise of certain rights.

(2) When the offenses included in the purpose of an organized crime group are punished by life imprisonment or by a term of imprisonment exceeding 10 years, it shall be



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punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(3) If the acts set out in par. (1) and par. (2) were followed by the commission of an offense, the rules on multiple offenses shall apply.

(4) No penalty shall apply to the individuals who committed the acts set out in par. (1) and par. (2) if they report the organized crime group to the authorities before it was discovered and before the commission of any of the offenses included in the purpose of the group.

(5) If the perpetrator of one of the acts referred to in par. (1) - (3) facilitates, during the criminal investigation, discovery of the truth and the prosecution of one of more members of the organized crime group, the special limits of the penalty are reduced by one-half.

(6) An “organized crime group” means a structured group, made up of three or more persons, which exists for a certain period of time and acts in a coordinated manner for the purpose of perpetrating one or more offenses.

## **ART. 368**

### **Public instigation**

(1) The act of urging the public, verbally, in writing or by any means, to commit offenses shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine, without exceeding however the penalty provided by law for the offenses to which the perpetrators instigated.

(2) If the act set out in par. (1) is committed by a public servant, it shall be punishable by no less than 1 and no more than 5 years of imprisonment and a ban on the exercise of certain rights, without exceeding however the penalty provided by law for the offenses to which the offender instigated.

(3) If public instigation resulted in the commission of the offense that was the object of the instigation, the penalty applied shall be the one provided in the laws for the offense in question.

## **ART. 369**

### **Incitement to hatred or discrimination**

Inciting the public, using any means, to hatred or discrimination against a category of individuals shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

## **ART. 370**

### **Attempt to determine the commission of an offense**

The act of determining an individual, by coercion or corruption, to commit an offense for which the law stipulates the penalty of life imprisonment or a term of imprisonment



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exceeding 10 years shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.

#### **ART. 371**

##### **Disturbance of public order and peace**

(1) The act of the individual who, in public, by violent acts committed against persons or property or by threats or serious violations of human dignity, disturbs public order and peace, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

#### **ART. 372**

##### **Unlawful carrying or using dangerous objects**

(1) The act of unlawfully carrying to public assemblies, to cultural and sports events, in special places authorized for leisure activities or on public transportation means:

- a) a knife, a dagger, a brass knuckle or other such item produced or manufactured specifically to cut, stab or hit;
- b) non-lethal weapons that are not subject to permits, or electrical shock devices;
- c) irritating substances, tear gas, paralyzing substances,

shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) The act of unlawfully using in public assemblies, in cultural and sports events, in special places authorized for leisure activities or on public transportation means any item or substances described in par. (1) shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

(3) The act of unlawfully carrying the objects or substances described in par. (1) on the premises of public authorities, in public institutions and in other public or legal entities of public interest, or in spaces intended to electoral activities shall be punishable by no less than 1 and no more than 3 years of imprisonment or by a fine.

#### **ART. 373**

##### **Preventing the conducting of a public assembly**

The act of preventing, by any means, the conducting of a public assembly that has been authorized under the law shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

#### **ART. 374**

##### **Child pornography**

(1) The production, possession for display or distribution, the purchase, storage, display, promotion, distribution and supplying, in any manner, of child pornography shall be punishable by no less than 1 and no more than 5 years of imprisonment.



(2) If the acts set out in par. (1) are committed using a computer system or other means of data storage, it shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(3) The act of unlawfully accessing child pornography through computer systems or other means of electronic communication shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.

(4) Child pornography means any material that shows a juvenile displaying a sexually explicit behavior or that, even if not presenting a real person, simulate a juvenile with such behavior in a credible manner.

(5) The attempt shall be also punishable.

#### **ART. 375**

##### **Indecent exposure**

The act committed by an individual who unlawfully exposes or distributes images that display a sexually explicit activity, other than the one referred to in Art. 374, or who commits exhibitionist acts or other sexually explicit acts shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

#### **CHAPTER II**

##### **Offenses against family**

#### **ART. 376**

##### **Bigamy**

(1) Entering of a new marriage by an individual who is still legally married to another shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) An unmarried individual who gets married to an individual about whom they know is married, shall be punishable by no less than 1 month and no more than 1 year of imprisonment or by a fine.

#### **ART. 377**

##### **Incest**

Sexual intercourse with consent, between persons related in direct line or between siblings, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

#### **ART. 378**

##### **Family abandonment**

(1) The commission by an individual having a legal obligation of support with regard to an individual entitled to receive such support, of one of the following acts:





- a) abandoning, sending away or leaving helpless, and thus subjecting them to physical or moral suffering;
- b) failure, in ill-faith, to fulfill their obligation of support provided by the law;
- c) failure, in ill-faith, to pay, for two months, the support allowance established by a Court,

shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) The same penalty shall apply to the failure, in ill-faith, by the convict to pay the regular benefits established by Court order in favor of the individuals entitled to support, for the victim of the crime.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

(4) The act shall not be punishable if, before commencing the criminal action, the defendant meets their obligations.

(5) If, before the Court order remains final, the defendant meets their obligations, the Court shall order, as applicable, the deferred enforcement of the penalty, or the suspended service of the sentence under supervision, even if the requirements provided by the law for such action are not met.

#### **ART. 379**

##### **Failure to comply with measures taken for a juvenile's custody**

(1) If a parent withholds their juvenile child without the approval of the other parent or of the individual to whom the juvenile was entrusted under the law, they shall be punishable by no less than 1 month and no more than 3 months of imprisonment or by a fine.

(2) The same penalty shall apply to the act of an individual to whom the juvenile was entrusted by Court order, to be raised and educated, in order to repeatedly prevent any of the parents from having personal interactions with the juvenile, according to the conditions agreed upon by the parties or by the authorized body.

(3) Criminal action shall be initiated based on a prior complaint filed by the victim.

#### **ART. 380**

##### **Preventing access to compulsory public education**

(1) A parent or a person to whom a juvenile was entrusted by law and who withdraws the juvenile from school or prevents them, by any means, from attending compulsory public education, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) The act shall not be punishable if, before the criminal investigation is complete, the defendant submits evidence that the juvenile has resumed attendance.

(3) If, before the Court order remains final, the defendant ensures the resumption of attendance to courses by the juvenile, the Court shall order, as applicable, the deferred



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enforcement of the penalty or the suspended service of the sentence under supervision, even if the requirements provided by the law for such action are not met.

### **CHAPTER III**

#### **Offenses against freedom of religion and respect owed to the deceased**

##### **ART. 381**

###### **Preventing the freedom to practice religion**

(1) The act of preventing or disturbing the freedom to practice any ritual specific to a religion, which was organized and operates according to the law, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

(2) The act of compelling a person, by coercion, to take part in the service of any religion or to perform a religious act related to the practice of a religion shall be punishable by no less than 1 and no more than 3 years of imprisonment or by a fine.

(3) The same penalty shall apply to compelling an individual, by violence or threats, to perform a religious act forbidden by the religion, organized according to the law, to which they belong.

(4) Criminal action shall be initiated based on a prior complaint filed by the victim.

##### **ART. 382**

###### **Desecration of places or objects of worship**

The desecration of a place or object of worship belonging to a religious denomination which is organized and operates according to the law, shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

##### **ART. 383**

###### **Desecration of corpses or graves**

(1) The theft, removal, destruction or desecration of a corpse or of the ashes resulting from its cremation shall be punishable by no less than 6 months and no more than 3 years of imprisonment.

(2) The desecration, by any means, of a grave, of a funeral urn or of a funereal monument shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.

##### **ART. 384**

###### **Illegal harvesting of tissues or organs**

Unlawful harvesting of tissues or organs from a corpse shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.



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## **TITLE IX**

### **Election offenses**

#### **ART. 385**

##### **Preventing the exercise of electoral rights**

- (1) Preventing, by any means, the free exercise of the right to elect or be elected shall be punishable by no less than 6 months and no more than 3 years of imprisonment.
- (2) An attack, by any means, on the polling station shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 386**

##### **Corruption of voters**

- (1) The act of offering or giving money or other benefits in order to determine a voter to vote or not to vote for a certain list of candidates or for an independent candidate shall be punishable by no less than 6 months and no more than 3 years of imprisonment and a ban on the exercise of certain rights.
- (2) The goods of symbolic value, bearing the insignia of a political party, are not included in the category of goods mentioned in par. (1).

#### **ART. 387**

##### **Voting fraud**

- (1) The act committed by the individual who votes:
  - a) without having the right;
  - b) two or more times;
  - c) by introducing in the box more ballots than allowed;shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine and a ban on the exercise of certain rights.
- (2) The same penalty shall apply to the use of a voter card or identity document that are counterfeit, or to the use of counterfeit ballots.

#### **ART. 388**

##### **Electronic vote fraud**

The act of printing and using false access data, fraudulent access to the electronic voting system or falsification, by any means, of electronic vote ballots shall be punishable by no less than 1 and no more than 5 years of imprisonment.

#### **ART. 389**

##### **Violation of voting secrecy**

- (1) The violation, by any means, of the voting secrecy shall be punished by a fine.



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(2) If the act was committed by a member of the electoral bureau of the polling section, it shall be punishable by no less than 6 months and no more than 3 years of imprisonment and a ban on the exercise of certain rights.

## **ART. 390**

### **Failure to observe the rules governing ballot boxes**

(1) The act of opening a ballot box before the time established for the closure of elections shall be punishable by no less than 1 and no more than 3 years of imprisonment or by a fine and a ban on the exercise of certain rights.

(2) Entrusting the special ballot box to individuals other than members of the electoral bureau of the polling station, or its transportation by other individuals or in conditions different from those provided by law shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine and a ban on the exercise of certain rights.

## **ART. 391**

### **Counterfeiting documents and voting records**

(1) *Falsification by any means of electoral documents from polling stations shall be punishable by no less than 1 and no more than 5 years of imprisonment and a ban on the exercise of certain rights.*

### **#M3**

*(2) The same penalty shall apply to the enrolment on the copy of the permanent voting list or on the supplementary voting list of individuals who do not belong on such list.*

### **#B**

(3) The introduction in use, or the use of flawed computer software that alters the records or the counting of results from the polling stations or that determines the illegal distribution of seats shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(4) The same penalty shall apply to the input of data, information or procedures that lead to alterations in the national computer system required to establish the election results.

## **ART. 392**

### **Offenses committed in relation to a referendum**

The stipulations of [Art. 385](#) - 391 shall apply accordingly in the case of offenses committed in relation to a referendum.



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## **ART. 393**

### **Punishing the attempt**

The attempt to commit the offenses set out in [Art. 385](#) and [Art. 387](#) - 391 shall be punishable.

## **TITLE X**

### **Offenses against national security**

## **ART. 394**

### **Treason**

The act of a Romanian citizen of establishing connections with a foreign power or organization or with its agents, in order to suppress or undermine the State unity, indivisibility, sovereignty or independence, by:

- a) provocation of war against the country or facilitating foreign military occupation;
- b) economic or political undermining of the State, or undermining of the State's defense capabilities;
- c) submission to a foreign power or organization;
- d) helping a foreign power or organization to carry out an activity hostile to national security,

shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

## **ART. 395**

### **Treason by disclosure of state secrets**

The disclosure of state secrets to a foreign power or organization or to its agents, as well as obtaining and possessing documents or data representing state secrets, by individuals who are not authorized to know them, in order to transmit them to a foreign power or organization or to its agents, committed by a Romanian citizen, shall be punished by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

## **ART. 396**

### **Treason by helping the enemy**

The act of a Romanian citizen who, during wartime:

- a) surrenders territories, towns, strategic defense locations, storage facilities or installations belonging to the Romanian armed forces or that are used for defense;
- b) surrenders ships, aircraft, vehicles, devices, weapons or any other material that can be used in waging a war;
- c) procures troops, valuables and materials of any kind for the enemy;



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- d) fraternizes with the enemy or carries out any other actions likely to facilitate the enemy's activity or to weaken the Romanian armed forces' or the allied armed forces' capacity to fight,
- e) fights for and is part of war formations fighting against the Romanian state or of its allies

shall be punished by life imprisonment or by no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 397**

##### **Actions against constitutional order**

- (1) An armed action carried out to change the constitutional order or to hinder or impede the exercise of the state's power shall be punishable by no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.
- (2) The act of undertaking any violent actions against humans or property, committed by several individuals acting together, in order to change the constitutional order or to hinder or impede the exercise of the state's power, if national security is jeopardized, shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 398**

##### **High treason**

The acts set out in [Art. 394](#) – 397, committed by the President of Romania or by another member of the Supreme Council for National Defense, constitute offenses of high treason and shall be punished by life imprisonment or no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 399**

##### **Hostile actions against the State**

The acts set out in [Art. 394](#) and [Art. 396](#) committed by a foreign citizen or by a stateless person shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 400**

##### **Espionage**

The acts set out in Art. 395, committed by a foreign citizen or by a stateless person shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.



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#### **ART. 401**

##### **Attack that jeopardizes national security**

An attack on the life of an individual who holds a public office, if such attempt jeopardizes national security, shall be punished by life imprisonment or by no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 402**

##### **Attack against a community**

The attack on a community by mass poisoning, causing epidemics or by any other means, likely to weaken the state's power, shall be punished by life imprisonment or by no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 403**

##### **Diversionsary acts**

An act of destroying, damaging or making unfit for use, wholly or in part, through explosion, arson or in any other manner, of factories, of industrial installations, machines, ways of communication, means of transportation, means of telecommunication, buildings, industrial or agricultural products or other assets, if this is likely to jeopardize national security, shall be punished by life imprisonment or by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

#### **ART. 404**

##### **Giving false information**

The act of communicating or disseminating, in full knowledge, by any means, of false news, data or information or false documents, if such act is likely to jeopardize national security or the international relations of Romania, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

#### **ART. 405**

##### **War propaganda**

(1) Propaganda for a war of aggression, as well as the spreading of biased or fabricated news in order to start a war of aggression shall be punished by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) The same penalty applies to the acts set out in par. (1), committed in order to start a war of aggression against Romania or of an domestic armed conflict.



## **ART. 406**

### **Compromising State interests**

An act of destroying, damaging or hiding documents that establish rights of the Romanian State with regard to a foreign power, if such act is likely to compromise or harm the State interests, shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

## **ART. 407**

### **Disclosure of secrets that endanger national security**

(1) The disclosure of documents or data representing state secrets by an individual who has become aware of the contents thereof by virtue of their office, if such act jeopardizes national security, shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(2) Possessing, outside office duties, documents containing state secrets, if such act jeopardizes national security, shall be punishable by no less than 5 and no more than 10 years of imprisonment.

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*(3) The unlawful disclosure of documents or data containing state secrets by a person who becomes aware of their content outside office duties shall be punishable by no less than 1 and no more than 5 years of imprisonment.*

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## **ART. 408**

### **Offenses against representatives who have international immunity**

(1) An attack on the life of a representative of a foreign state or another person who has immunity under international conventions, who is on official mission in Romania, shall be punished by life imprisonment or by no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

(2) Deliberate offenses against integrity, health or freedom, committed against one of the individuals described in par. (1), shall be punished as provided by the laws for the committed act, the special limits of which shall be increased by one-half.

## **ART. 409**

### **Creation of illegal intelligence structures**

The establishing, organization or creation on Romanian territory of intelligence structures for the purpose of collecting state secrets or of conducting, through such structures, intelligence collecting or processing activities, outside the legal framework, shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.





## **ART. 410**

### **Failure to report offenses against national security**

(1) The act of the individual who, becoming aware of the preparation or commission of one of the offenses set out in [Art. 394 – 397](#), [Art. 399 – 403](#) and [Art. 406 – 409](#), fails to notify the authorities immediately, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) Failure to denounce shall not be punishable when committed by a family member.

(3) A person who, before the commencement of a criminal action against an individual for the commission of the offense that was not reported, notifies the competent authorities concerning such offense or who, even after commencement of the criminal action, has facilitated the criminal action against the perpetrator and the other persons involved in the commission of the offense, shall not be punishable.

## **ART. 411**

### **Grounds for sentence reduction**

If a person who committed one of offenses set under this title facilitates, during prosecution, the finding of the truth and the bringing of the perpetrator or of the participants before the court, the special limits of the penalty are reduced by one-half.

## **ART. 412**

### **Punishing the attempt**

(1) The attempt to commit the offenses set out in this title shall be punished.

(2) The production or procurement of means or instruments, as well as the act of taking measures to commit the offenses referred to in [Art. 395 – 397](#), [Art. 401 – 403](#), [Art. 408](#) and [Art. 399](#) in relation to the offense of treason by helping the enemy shall be also deemed attempts.

## **TITLE XI**

### **Offenses against the fighting capacity of the armed forces**

## **CHAPTER I**

### **Offenses committed by the military**

## **Art. 413**

### **Unjustified absence**

Unjustified absence of any serviceman from their base or from work, beyond 4 hours and no longer than 24 hours, in wartime, during a state of siege or state of emergency, shall be punishable by no less than 1 and no more than 3 years of imprisonment, or by a fine.



## **Art. 414**

### **Desertion**

- (1) Unjustified absence of any serviceman from their base or from work, beyond 3 days, shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.
- (2) Desertion in the following circumstances:
  - a) two or several serviceman together;
  - b) carrying a military weapon;
  - c) during missions where they are deployed outside the Romanian State's territory, shall be punishable by no less than 3 and no more than 10 years of imprisonment.
- (3) During wartime or on a territory where a state of siege or a state of emergency has been declared, desertion of any serviceman from their base or work place beyond 24 hours shall be punishable by no less than 3 and no more than 10 years of imprisonment.

## **Art. 415**

### **Violation of guard and security duty**

- (1) Violation of the rules of guard duty, intervention, escort or security shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.
- (2) Violation of guard and security duty by a sentinel on station at arms, ammunition or explosive depots, or in other stations of particular military or State interest shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (3) The violations stipulated in par. (1) and par. (2), when committed in wartime, during a state of siege or a state of emergency, shall be punishable by no less than 3 and no more than 10 years of imprisonment.

## **Art. 416**

### **Leaving station of command**

- (1) A serviceman's leaving their station, job or any other place where they are supposed to be shall be punishable by no less than 3 months and no more than 1 year of imprisonment.
- (2) Any serviceman's leaving their command or duty-service station shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (3) The violations stipulated in par. (1) and (2), when committed during a state of siege or a state of emergency, shall be punishable by no less than 2 and no more than 7 years of imprisonment, and when committed in wartime shall be punishable by no less than 3 and no more than 10 years of imprisonment.

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## **Art. 417**

### **Insubordination**

(1) Refusal to execute an order related to service duties shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.

(2) In wartime, during a state of siege or a state of emergency, the violation stipulated in par. (1) shall be punishable no less than 2 and no more than 7 years of imprisonment.

## **Art. 418**

### **Constraint applied to a superior**

(1) Constraint by any means of a superior serviceman by an inferior serviceman, or of a supervisor by a subordinate, to violate their service duties shall be punishable by no less than 1 and no more than 3 years of imprisonment.

(2) The violation stipulated in par. (1), when committed by 2 or more servicemen together or before a gathered troop or with the use of a weapon shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(3) In wartime the violation stipulated in par. (1) shall be punishable by no less than 2 and no more than 7 years of imprisonment, and the violation stipulated in par. (2) shall be punishable by no less than 3 and no more than 12 years of imprisonment.

## **Art. 419**

### **Abuse of authority**

The action of a superior or supervisor who, in violation of their service duties, causes serious harm to the legal interests of an inferior or subordinate or compels them to violate their service duties shall be punishable by no less than 1 and no more than 3 years of imprisonment.

## **Art. 420**

### **Striking a superior or inferior serviceman**

(1) The act of an inferior serviceman who strikes a superior serviceman or of a subordinate who strikes a supervisor, when the superior serviceman or supervisor is in the exercise of their service duties, or for actions completed in the exercise of those service duties, shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.

(2) The same penalty shall be applicable to the act of a superior serviceman who strikes an inferior serviceman or a supervisor who strikes a subordinate, when the inferior serviceman or subordinate is in the exercise of their service duties or for actions completed in the exercise of those service duties.



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(3) When the acts stipulated in par. (1) and par. (2) were committed in wartime during a state of siege or a state of emergency, the special thresholds of the penalty shall be increased by one-third.

#### **Art. 421**

##### **Capitulation**

The act of a commanding officer who surrenders the forces under their command to the hands of the enemy, or who leaves battle equipment or other equipment necessary for prosecuting the war in the hands of the enemy or destroys or renders such equipment unusable without any of those having been determined by battle conditions, shall be punishable by life imprisonment or by no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

#### **Art. 422**

##### **Leaving the battlefield**

The act of leaving the battlefield or refusal to take action during the fighting, or surrender into captivity or other acts of a nature that serves the cause of the enemy shall be punishable by life imprisonment or no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

#### **Art. 423**

##### **Unauthorized flight**

(1) Flying in an aircraft property of the Romanian air forces without previous authorization to this effect, as well as failure to comply with flight regulations if thereby a threat is posed to flight security in the airspace or to the aircraft, shall be punishable by no less than 1 and no more than 3 years of imprisonment or by a fine.

(2) If the act resulted in the destruction or deterioration of the aircraft, it shall be punishable by no less than 5 and no more than 10 years of imprisonment and a ban on the exercise of certain rights; if it resulted in a disaster it shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

#### **Art. 424**

##### **Abandoning ship**

(1) A Captain abandoning a navy vessel in case of shipwreck, before having exercised all service duties to the full, as well as any other crew members without orders from the Captain, shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) If the act is committed in wartime, during a state of siege or state of emergency, it shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.



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## **Art. 425**

### **Leaving command**

(1) The act of a Captain in charge of a navy vessel or a group of navy vessels who leaves his command, in situations that could have endangered that navy vessel or groups of navy vessels or their crews, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) The act of a Captain in charge of a navy vessel or a group of navy vessels who leaves his command during battle shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

## **Art. 426**

### **Failure to take appropriate steps during navy operations**

The act of a Captain in charge of a navy vessel or a group of navy vessels who, without having been stopped by any orders or prevented by the special mission he was on, does:

- a) not take the necessary steps to attack the enemy, fight the enemy, help a vessel of the Romanian navy or of an allied country, which is being chased or is engaged in battle;
- b) not take the necessary steps to destroy an enemy convoy;
- c) not chase the enemy's navy or commercial vessels

shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

## **Art. 427**

### **Lowering the flag**

The act of a Captain in charge of a military vessel or a group of military vessels, as well as of any other person on board, who lowers the flag during battle so as to serve the enemy's cause, shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

## **Art. 428**

### **Collision**

(1) The act of a Captain in charge of a military vessel or of any other person on board who caused a collision of the vessel or caused the vessel to run aground, if such act resulted in serious damage to the ship, shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.

(2) In case the act described in par. (1) was committed with basic intent, it shall be punishable by no less than 6 months and no more than 3 years of imprisonment.



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(3) When the act described in par. (1) is committed in wartime, during a state of siege or state of emergency, shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

#### **Art. 429**

##### **Punishing the attempt**

The attempt to commit the acts stipulated in Art. 421 - 425, Art. 427 and Art. 428 par. (1) shall be punishable.

#### **Art. 430**

##### **Offenses related to military aircraft**

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The stipulations in Art. 424 – 426, 428 and 429 shall apply accordingly to military aircraft.

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#### **Art. 431**

##### **Beginning of the criminal investigation**

A criminal investigation into the acts stipulated in Art. 413 - 417 shall only start on the basis of the commanding officer's motion.

## **CHAPTER II**

### **Offenses committed by military and civilian personnel**

#### **Art. 432**

##### **Avoiding military service in wartime**

The act of a person who, in wartime or during a state of siege, self-inflicts damage to their bodily integrity or health, simulates a medical condition or disability, uses counterfeit documents or any other means to avoid military service, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

#### **Art. 433**

##### **Assault against a sentinel**

(1) The act of a person who threatens or strikes a sentinel or a serviceman on intervention, escort or security detail shall be punishable by no less than 1 and no more than 3 years of imprisonment.

(2) If this act is committed with the use of a weapon, or by two or more persons together, it shall be punishable by no less than 2 and no more than 7 years of imprisonment.



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#### **Art. 434**

##### **Avoiding being put on military record**

(1) The act of avoiding being put on military record, avoiding selection, avoid being tested for skills and options on discharging military duties, in times of peace, shall be punishable by a fine.

(2) If the act is committed in wartime or during a state of siege it shall be punishable by no less than 1 and no more than 5 years of imprisonment.

#### **Art. 435**

##### **Failure to report for drafting or concentration**

(1) Failure to report for drafting, concentration or mobilization in wartime or during a state of siege, within the deadline set in the summoning order, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(2) The same penalty is applicable to a draftee's or concentrated man's failure to report to the base they were assigned to, as well as to the person who, in lawful performance of alternative service, fails to report to their employer within the specified deadline.

(3) In case the person summoned is abroad, the reporting deadlines stipulated in par. (1) and par. (2) shall be extended by 10 days.

#### **Art. 436**

##### **Robbing servicemen fallen on the battlefield**

(1) Robbing the dead or wounded on the battlefield shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) The same penalty applies to the act described in par. (1) that, without being committed on the battlefield, is the result of war operations.

#### **Art. 437**

##### **Using the Red Cross logo during military operations**

Unlawful use of the "Red Cross" logo or name, or those assimilated to it, in wartime or during a state of siege, in relation to military operations, shall be punishable by no less than 2 and no more than 7 years of imprisonment.



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## **TITLE XII**

### **Crimes of genocide, crimes against humanity and war crimes**

#### **CHAPTER I**

#### **Crimes of genocide and crimes against humanity**

##### **Art. 438**

##### **Genocide**

(1) The act of committing, with the goal of destroying, in whole or in part, a national, ethnic, racial or religious group, one of the following offenses:

- a) killing members of the group;
- b) harming the bodily or mental integrity of members of the group;
- c) subjecting the group to living conditions of a nature that will lead to their physical destruction in whole or in part;
- d) enacting steps to prevent births within the group;
- e) forced transfer of children belonging to one group to a different group,

shall be punishable by life imprisonment or no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

(2) If the acts described in par. (1) are committed in wartime, shall be punishable by life imprisonment.

(3) Conspiracy to commit the crime of genocide shall be punishable by no less than 5 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(4) Incitement to commit the crime of genocide, committed directly, in public, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

##### **Art. 439**

##### **Crimes against humanity**

(1) The act of committing, as part of a generalized or systematic attack on a civilian population, one of the following offenses:

- a) killing persons;
- b) subjecting a population or parts of it to living conditions of a nature that will lead to their physical destruction in whole or in part, with the goal of destroying it;
- c) slavery or trafficking in human beings, especially women or children;
- d) deportation or forced transfer, in violation of the general rules of international law, of persons legally located on a certain territory, by expelling them to another state or territory or by using other means of constraint;
- e) torturing persons who are under the perpetrator's guard or under control in any other form, causing them to sustain physical or psychological harm, or grave physical





or psychological suffering, that goes beyond the consequences of penalties accepted by international law;

f) rape or sexual assault, compelling to engage in prostitution, forced sterilization or illegal detention of a woman who was forced to become pregnant, with a goal to change a population's ethnic composition;

g) harming certain persons' physical or psychological integrity;

h) causing certain persons to go missing, by force, with a goal to deprive them of the protection of the law, for an extended period, by kidnapping, arresting or detention, on orders or authorization, support or endorsement, from a state or a political organization, followed by refusal to admit that the person is deprived of freedom or to provide genuine information on the intentions concerning them or on their location, as soon as such information is requested;

i) imprisonment or any other form of serious deprivation of freedom, in violation of the general rules of international law;

j) persecution of a specific group or community, by deprivation of fundamental human rights or by grave restriction of their exercise of those rights, on political, racial, national, ethnic, cultural, religious, or sexual grounds or based on other criteria recognized as inadmissible under international law;

k) other similar inhuman acts that cause grave suffering or physical or psychological harm,

shall be punishable by life imprisonment or no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

(2) The same penalty applies to acts stipulated in par. (1) and committed as part of an institutionalized regime of systematic oppression and domination of one racial group over another, with the goal of maintaining the existence of that regime.

## **CHAPTER II**

### **War crimes**

#### **Art. 440**

##### **War crimes against persons**

(1) The act of committing, as part of an armed conflict, irrespective of whether it has and international character, against one or several individuals protected by international humanitarian law, one of the following offenses:

a) murder;

b) taking hostages;

c) applying cruel or inhuman treatment, thus causing physical or psychological harm or grave physical or psychological suffering, especially by torture or mutilation;



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- d) rape or sexual assault, compelling to engage in prostitution, forced sterilization or illegal detention of a woman who was forced to become pregnant, with a goal to change a population's ethnic composition;
  - e) deportation or forced transfer, in violation of the general rules of international law, of persons legally located on a certain territory, by expelling them to another state or territory or by using other means of constraint;
  - f) applying or executing severe punishment, especially the death penalty or a penalty of imprisonment, to a person who has not been tried as part of a legal impartial procedure that provides the guarantees required by international law;
  - g) exposing an individual to danger of death or serious health harm by:
    - 1. performing experiments on them without their voluntary, specific and previous consent, or that are not necessary for their health or are not performed in their best interest;
    - 2. harvesting tissues or organs from them for the purpose of transplant, with the exception or taking blood or skin for therapeutic purposes, in compliance with generally recognized medical principles and with the person's voluntary, specific and prior consent;
    - 3. subjecting them to methods of treatment that are not recognized by medicine, without them being necessary for the individual's health and without their voluntary, specific and prior consent;
  - h) subjecting an individual to a degrading treatment,
- shall be punishable by life imprisonment or no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.
- (2) The same penalty shall apply to recruiting or drafting juveniles who have not turned 15 years of age to the armed forces or armed groups, as well as causing them, by any methods, to take active part in hostilities.
- (3) Injury as part of an armed conflict, irrespective of whether it has and international character, or a member of the enemy armed forces or a combatant thereof, after such person has surrendered unconditionally or who has been taken out of the fighting in any manner, shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.
- (4) Commission, as part of an armed conflict with an international character, of one of the following offenses:
- a) illegally keeping in detention or unjustified delay of repatriation of one or several individuals of those described at par. (5) lett. a);
  - b) direct or indirect transfer, by an agent of the occupying power, of a part of the civilian population to whom he belongs, in the occupied territory;
  - c) compelling, by violence or threat, of one or several individuals of those described at par. (5) lett. a) to serve in the enemy's armed forces;



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- d) compelling the citizens of the enemy power to take part in war operations against their own country shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.
- (5) The persons protected by international humanitarian law are:
- a) in an armed conflict with an international character: persons protected under the Geneva Conventions of 12 August 1949 and the Additional Protocol I of 8 June 1977, especially the wounded, the sick, the shipwrecked, the prisoners of war and civilians;
  - b) in an armed conflict without an international character: the wounded, the sick, the shipwrecked and the persons who are not directly involved in the hostilities and are under the power of the enemy side;
  - c) in an armed conflict with or without an international character: members of the armed forces and combatants of the enemy side, who have laid down their arms or who, for any reason, can no longer defend themselves and are not under the power of the enemy side.

#### **Art. 441**

##### **War crimes against property and other rights**

- (1) The act of a person who, as part of an armed conflict, with or without an international character, robs or, in violation of international law and without it being justified by military necessity, destroys, appropriates or commandeers assets belonging to the enemy side which are under the power of the side the perpetrator is a member of, shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.
- (2) Declaring, as part of an armed conflict with an international character, the rights and actions of all citizens of the enemy side or a significant part of them as nullified, suspended or inadmissible in a court of law shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

#### **Art. 442**

##### **War crimes against humanitarian operations and insignia**

- (1) The act of a person who, as part of an armed conflict with or without an international character:
- a) launches an attack against the personnel, facilities, materiel, units or vehicles that are participating in a humanitarian aid mission or a peace-keeping mission under the Charter of the United Nations and which enjoy the protection international humanitarian law guarantees to civilians or civilian assets;
  - b) launches an attack against the personnel, facilities, medical buildings or medical transportation vehicles that are using the distinctive insignia stipulated in the Geneva Conventions, according to the stipulations of international humanitarian law, shall be



punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(2) The act of a person who, as part of an armed conflict with or without an international character, unlawfully uses the distinctive insignia stipulated in the Geneva Conventions, the parley flag, the enemy's or the United Nations Organization's flag, military insignia or uniform thus causing the death or injury of one or more individuals, shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

### **Art. 443**

#### **Use of forbidden methods in combat operations**

(1) The act of a person who, as part of an armed conflict with or without an international character:

- a) launches an attack by military means against a civilian population or civilians who are not directly involved in hostilities;
  - b) launches an attack by military means against civilian assets that are protected as such by international humanitarian law, especially buildings devoted to religious worship, education, art, science, charities, historic monuments, hospitals, staging locations for the sick or the wounded, as well as against towns, villages, domiciles or buildings that are undefended or located in demilitarized areas, or against facilities or equipment that contains hazardous substances, insofar as those are not used for military operations;
  - c) carries an attack by military means, knowing he will cause loss of human lives in the ranks of the civilian population, destruction of civilian assets, that would be visibly disproportionate with the overall specific and anticipated military advantage;
  - d) uses a person protected by the stipulations of international humanitarian law to avoid that certain locations, areas or military forces become a target for military operations by the enemy side;
  - e) uses, as a method to wage war, deliberate starvation of civilians, depriving them of materials indispensable to survival or preventing them, in violation of international humanitarian law, from receiving aid intended for them;
  - f) declares or orders that there shall be no mercy for the defeated;
  - g) kills or wounds a member of the enemy armed forces or a combatant of the enemy forces by using deceit;
- #M3
- h) makes use of cultural assets protected as such by international humanitarian law, especially historic monuments, buildings devoted to religious worship, education, art or science, to launch an attack on the enemy side by military means,

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shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

(2) The carrying of an attack by military means, as part of an armed conflict with an international character, knowing that it will cause extended, lasting and grave damage to the environment, which is visibly disproportionate with the overall specific and anticipated military advantage, shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

#### **Art. 444**

##### **Use of forbidden means in combat operations**

The act of a person who, as part of an armed conflict, with or without an international character:

- a) uses poison or weapons carrying poisonous substances;
- b) uses asphyxiating, toxic or similar gas and any similar liquids, material or procedures;
- c) uses weapons that cause unwarranted physical suffering shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

#### **Art. 445**

##### **Punishing the attempt**

The attempt to commit the offenses stipulated in this Title shall be punishable.

### **TITLE XIII**

#### **Final stipulations**

#### **Art. 446**

##### **Entry into force**

(1) This Code shall enter into force on the date to be set in the Law for its enactment, except for the stipulations of par. (2) and par. (3), which shall come into force 4 days after the date of this Code's publication in the Official Journal of Romania, Part I.

(2) Law #301/2004 – the Criminal Code, published in the Official Journal of Romania, Part I, #575 of 29 June 2004, as amended, and Law #294/2004 on the Service of Criminal Penalties and Measures Ordered by the Judicial Bodies as Part of the Criminal Process, published in the Official Journal of Romania, Part I, #591 of 1 July 2004, as amended, are hereby repealed.

(3) Within 12 months of the date this Code is published in the Official Journal of Romania, Part I, the Government shall submit to Parliament for adoption the draft law for the enactment of the Criminal Code.



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#CIN

ENDNOTES:

1. Herein below we reproduce the stipulations of Art. IV, as well as of the mention in Law #63/2012 (#M2) on transposition of the EU regulations.

#M2

“Art. IV

Whenever special laws, the Criminal Code or the Criminal Procedure Code send to Art. 112 in Law #286/2009 of the Criminal Code, the sending shall be deemed to refer to Art. 112 and 112<sup>1</sup>. Whenever special laws, the Criminal Code or the Criminal Procedure Code send to seizure as a security measure, the sending shall be deemed to include the extended forfeiture.”

#M2

\*

“This Law transposes into national law Art. 3 in Framework Decision 2005/212/JAI of the Council from 24 February 2005 on forfeiture of products, instruments and assets linked to the offense, as published in the Official Journal of the European Union series L#68 of 15 March 2005.”

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2. Herein below we reproduce the stipulations of Art. 3 – 22, Art. 236 and Art. 241 in Law #187/2012 (#M3).

#M3

“Art. 3

(1) The stipulations of Art. 4 in the Criminal Code on decriminalization are also applicable to the situations where a specific act, committed under the sway of the previous law, no longer constitutes an offense under the new law owing to amendments to the constitutive elements of the offense, including the form of guilt, required under the new law for an offense to exist.

(2) The stipulations of Art. 4 in the Criminal Code do not apply in the situation where the act is criminalized by the new law or another law in force, even under a different name. ”

#M3

“Art. 4

The penalty for an offense, enforced through a judgment that has remained final under the sway of the 1969 Criminal Code, and which does not exceed the special maximum stipulated by the Criminal Code, cannot be reduced following the entry into force of this Law.”

#M3

“Art. 5



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(1) When a criminal rule sends to another specific rule, from which it borrows one or several elements, amending the complementing rule also entails amending the incomplete rule.

(2) In case the complementing rule is repealed, the incomplete rule shall preserve the elements it borrowed from the other, including the penalty thresholds, in the format that existed at the date of repealing, except for the case when the law mandates otherwise.”

#M3

“Art. 6

Loss of rights, bans and incapacities devolving from convictions under the previous law shall continue to produce effects until lawful rehabilitation takes effect or a judicial rehabilitation is ordered, insofar as the act the conviction was returned for is also stipulated in the new criminal law and if the loss of rights, bans and incapacities are stipulated in this law.”

#M3

“Art. 7

Whenever a rule that is in force sends to one or more offenses stipulated in the Criminal Code of 1969 or a special law that is amended by the stipulations of this Law, the sending is deemed to refer to the offense or offenses stipulated by the new law, with the same constitutive elements.”

#M3

“Art. 8

The stipulations of Art. 4 shall apply accordingly to the penalties ordered under judgments that remained final previous to the entry into force of this Law, for acts criminalized by the rules stipulated in TITLE II.”

#M3

“Art. 9

(1) Penalties of imprisonment enforced under the Criminal Code of 1969 for offenses committed while underage shall not be considered in establishing a state of repeat offense under the Criminal Code.

(2) Offenses committed while underage, for which penalties were ordered under the Criminal Code of 1969, shall not constitute obstacles for waiving enforcement of a penalty, postponement of penalty or suspension of serving a penalty on probation for an offense committed subsequently to the final conviction.”

#M3

“Art. 10

The penalty system for multiple offenses shall apply as under the new Law when at least one of the offenses in the structure of the multiple offenses was committed under the applicability of the new Law, even if for the other offenses the penalty was ordered under the old, more favorable law.”

#M3



“Art. 11

The stipulations of Art. 62 in the Criminal Code on the fine that accompanies the punishment by imprisonment do not apply in the case of offenses committed previous to the Code’s entry into force and shall not be considered in the determination of the more favorable criminal law.”

#M3

“Art. 12

(1) In the case of the succession of criminal laws that are enacted by the time the conviction remains final, additional and ancillary penalties shall apply under the law that has been identified as the more favorable for the committed offense.

(2) The ancillary penalty stipulated in Art. 55 lett. c) in the Criminal Code does not apply to offenses committed previous to its entry into force.”

#M3

“Art. 13

(1) In case of penalties by fine where the judgment remained final under the sway of the Criminal Code of 1969, the obligatory use of the more favorable criminal law shall be done by comparing the ordered fine to the amount that results from the stipulations of Art. 61 par. (2) and (4) in the Criminal Code, with the use of a reference amount of 150 RON for one fine-day.

(2) The stipulations of par. (1) shall apply accordingly to final orders of fines against legal entities, in which case the reference amount for one fine-day, used in applying Art. 137 par. (2) and (4) in the Criminal Code, shall be 2,000 RON.”

#M3

“Art. 14

(1) Replacement of the punishment by fine with a punishment by imprisonment shall be done as follows:

a) if the fine had remained final previous to the entry into force of the Criminal Code, replacement shall be made under Art. 63<sup>1</sup> in the Criminal Code of 1969, without the duration of the punishment by imprisonment being allowed to exceed the maximum fine-days calculated under Art. 61 par. (4) in the Criminal Code for the offense subject to conviction;

b) if the fine was ordered after the entry into force of the Criminal Code, for offenses committed previous to that date, replacement shall be performed based on the stipulations in the law on whose basis the fine was ordered.

(2) The stipulations of Art. 64 in the Criminal Code shall not apply in the case of offenses committed previous to its entry into force, even if the fine was ordered under Art. 61 in the Criminal Code.”

#M3

“Art. 15





(1) The measure of conditional suspension of serving a sentence, ordered under the Criminal Code of 1969, shall be maintained after the entry into force of the Criminal Code.

(2) The regime of conditional suspension of serving a sentence as under par. (1), including in terms of revocation or nullification of said sentence, is the one stipulated in the Criminal Code of 1969.”

#M3

“Art. 16

(1) The measure of suspending the serving of a sentence under supervision, ordered under the Criminal Code of 1969, shall be maintained after entry into force of the Criminal Code, until completion of the probation term ordered in the conviction judgment.

(2) To establish the more favorable criminal law concerning suspension under supervision of serving a sentence as under Art. 5 in the Criminal Code, the Court shall consider the totality of obligations ordered against the convict and the effects of suspension according to the successive laws, with a priority to the duration of the probation or supervision term.”

#M3

“Art. 17

In applying the stipulations concerning the more favorable criminal law that was enacted during the time of the trial, a penalty with suspended service, applicable as under the Criminal Code of 1969, shall be regarded as more favorable than an custodial educational measure as under the Criminal Code.”

#M3

“Art. 18

(1) The educational measure of supervised freedom ordered under the Criminal Code of 1969 shall be served as under that Code.

(2) If the measure stipulated in par. (1) is revoked after entry into force of the Criminal Code for a reason other than the commission of an offense, supervised freedom shall be replaced by internment in an educational center for a duration of one year.

(3) In case supervised freedom is revoked because of the commission of a new offense, depending on the seriousness of the new offense the Court shall order an educational measure of internment as under the Criminal Code. ”

#M3

“Art. 19

(1) The educational measure of internment in a re-education center ordered under the Criminal Code of 1969 shall be replaced by the educational measure of internment in an educational center for a duration equal to the time left between the date the judgment to



intern in an educational center remained final and the date of the convicted individual's coming of age, but no longer than 3 years.

(2) The time served from the educational measure of internment in a re-education center, as well as the duration of pre-trial arrest and detention, shall be considered time served from the total length of the educational measure of internment in an educational center.

(3) In the case where, under the Criminal Code of 1969, an order has been returned to prolong the educational measure of internment in a re-education center, that time shall be served in an educational center.”

#M3

“Art. 20

An enforceable penalty of a fine, ordered for offenses committed under the Criminal Code of 1969 while being underage and not served in whole or in part until the entry into force of the Criminal Code, shall be replaced by the educational measure of a curfew on weekends, but also considering the part of the fine that has been covered.”

#M3

“Art. 21

(1) An enforceable punishment by imprisonment, ordered under the Criminal Code of 1969 for offenses committed while being underage, shall be replaced by the educational measure of internment in a detention center for a length equal to that of the punishment by imprisonment.

(2) A punishment by imprisonment longer than 20 years, ordered for offenses committed while being underage, shall be replaced by internment in a detention center for a length of 15 years.

(3) In case of multiple offenses, the replacement stipulated at par. (1) and (2) shall be applied to the resulting penalty.

(4) The part of the penalty by imprisonment that has been served, as well as the length of pre-trial arrest and detention, shall be considered time served from the length of the educational measure of internment in a detention center.”

#M3

“Art. 22

(1) The measure of suspending serving of sentences ordered under the Criminal Code of 1969 for offenses committed while being underage shall be maintained after entry into force of the Criminal Code.

(2) In case suspension of serving a prison sentence as under par. (1) is revoked for reasons other than commission of a new offense, the penalty by imprisonment shall be replaced by the educational measure of internment in an educational center for a length equal to the duration of the suspended sentence, but no longer than 3 years.

(3) In the situation stipulated in par. (2), the penalty by fine that whose service has been suspended shall be replaced by the educational measure of curfew on weekends for a length of 6 weeks.



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(4) If, inside the probation term of suspending a sentence for offenses committed while being underage, the convict has committed a new offense, the Court shall revoke the suspension and replace the penalty as under par. (2) or (3), after which:

a) if the new offense has been committed while being underage, an educational measure shall be ordered for that offense too, and then the harshest educational measure shall be enforced;

b) if the new offense has been committed after turning of age, a resulting penalty shall be ordered as under Art. 129 par. (2) in the Criminal Code."

#M3

"Art. 236

The stipulations of the General Part of the Criminal Code, as well as the general stipulations of this Law, shall also apply to acts that carry criminal penalties under special laws, unless the law mandates otherwise."

#M3

"Art. 241

The meaning of psychoactive substances is substances listed in the Law, as nominated by the Ministry of Health."

#B

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