

THE CRIMINAL CODE

Legislationline Note: This Criminal Code was adopted in 2004 and entered into force in July 2005. Amendments of 2006 are not included in the text.

The General Part

Title I

Criminal law and its application restrictions

Chapter I

Preliminary provisions

The purpose of criminal law

Art.1 – The criminal law defends, against criminal offences, Romania, the sovereignty, the independence, the unity and indivisibility of the state, the person, its rights and liberties, the property and the rule of law.

Legality of incrimination and of criminal law sanctions

Art.2 – (1) The law specifies what actions constitute offences, provides the penalties to be applied and the measures that can be taken in case such acts are committed.

(2) No one can be sanctioned for an act not provided in the law as an offence at the perpetration date, nor can a penalty be applied or a security or educative measure be taken that is not provided by the law in force at the perpetration date.

Crimes and delicts

Art.3 – Acts provided in criminal law as offences are divided, according to their seriousness, into crimes and delicts.

Chapter II

Criminal Law Application

Section 1

Criminal Law application in time

Force of the Criminal Law

Art.4 – The criminal law shall apply to offences committed while it is in force.

Criminal Law Non-Retroactiveness and Retroactiveness

Art.5 – (1) Criminal law does not apply to acts that were not provided as offences by the law at the moment of their perpetration.

(2) Criminal law does not apply to actions committed under the former law if they are no longer mentioned in the new law.

In this case, the execution of penalties, security and educational measures handed down based on the former law, as well as all criminal consequences of court decisions concerning these acts, shall cease by the entry into force of the new law.

Application of the most favourable criminal law

Art.6 – (1) In the case where from perpetration of the offence to the final judgment of the cause one or more criminal laws have emerged, the most favourable law shall apply.

(2) Paragraph (1) shall apply also to the law declared as unconstitutional, as well as to other normative acts, approved by the Parliament with amendments or supplementations or not approved, if while they were in force they had more favourable criminal provisions.

Application of the most favourable criminal law for final penalties

Art.7 – (1) When, from the time when the conviction decision remains final to the complete execution of a penalty involving detention or of a fine a law has emerged providing the same penalty, but with a smaller special maximum, the sanction applied, if it exceeds the special maximum provided in the new law for the offence committed, shall be reduced to this maximum.

(2) If, from the time when a decision of life detention or severe detention remains final to its execution, a law has emerged providing a different penalty of detention for the same act, the penalty of life detention or severe detention shall be replaced with the maximum of the penalty of detention provided in the new law for that offence.

(3) Should the new law provide instead of the penalty of imprisonment only the penalty of the fine, the penalty applied shall be replaced with fine, without exceeding the special maximum provided in the new law. Taking into account the part of the imprisonment already executed, the execution of the fine may be removed wholly or in part.

(4) Complementary punishments, security and educative measures not executed and not provided in the new law, shall no longer be executed, and those having a more favourable correspondent in the new law shall be executed according to the contents and restrictions provided in this new law.

(5) When a stipulation from the new law refers to punishments applied finally, the penalty reduced or replaced according to paragraphs (1)-(4) shall be taken into account for penalties executed prior to the entry into force of the new law.

Other situations regarding the application of the most favourable criminal law for final penalties

Art.8. – (1) When, from the time the conviction decision remains final to the complete execution of severe detention, strict imprisonment or imprisonment, a law has emerged providing the same penalty, but with a smaller special maximum and the sanction applied is smaller than the special maximum provided by the new law, taking into account the offence committed, the person of the perpetrator, its behaviour after the passing of the sentence or during the execution of the penalty and the time which has been executed out of the penalty, it shall be pronounced either the maintaining of the penalty, or the decreasing of the penalty. The penalty may not be reduced under the limit which results from the diminution of the penalty in proportion to the decrease of the special maximum provided for the offence committed.

Application of temporary law

Art.9 – (1) A temporary criminal law shall apply to offences committed while it was in force, even if the act was not prosecuted or tried during that time interval.

(2) A temporary criminal law is a criminal law providing its own expiry date or the application of which is restricted by the nature of the temporary situation that called for it.

Section 2

Criminal Law application in space

Territorial nature of Criminal Law

Art.10 – (1) Criminal Law shall apply to offences committed on Romanian territory.

(2) “Romanian territory” means the surface of land and water comprised by the State borders, including inner sea waters, the underground and the aerial space, as well as territorial sea with its soil, underground and aerial space.

(3) An offence is committed on Romanian territory also when it has been committed on a ship under the Romanian flag or a Romanian aircraft, as well as when only an execution act has been carried out or the result of the offence occurred on Romanian territory or on a ship under the Romanian flag or on a Romanian aircraft.

Criminal Law personality

Art.11 - Criminal law shall apply to offences perpetrated outside Romanian borders, by a Romanian citizen or by a person without citizenship which resides in Romania, if the act is provided as an offence also by the criminal law of the country of perpetration.

Criminal law reality

Art.12 - (1) Criminal law shall apply to offences committed outside Romanian territory by a foreign citizen or by a person without citizenship which resides in Romania, against national security or the security of the Romanian State, against a Romanian citizen or against a Romanian legal entity, if the Romanian law provides the penalty of life detention or severe detention.

(2) The initiation of criminal action against offences provided in paragraph (1) shall be done solely with prior authorisation from the General Prosecutor from the Prosecutor's Office attached to the Supreme Court of Justice.

Criminal law universality

Art.13 - (1) Criminal law shall apply also to other offences than those in Article 12 para.(1), committed outside Romanian territory, by a foreign citizen or by a person without citizenship which does not reside in Romania, if:

- a) the act is provided as an offence also by the criminal law of the country of perpetration;
- b) the perpetrator is in our country.

(2) For offences against the interests of the Romanian State or against a Romanian citizen, the perpetrator can be tried also in the case when his/her extradition has been obtained.

(3) Para.(1) and (2) shall not apply when, according to the law of the State of perpetration, there is a cause that hinders the initiation of criminal action or the continuation of the criminal lawsuit or the execution of the penalty or when the penalty has been executed or it is considered to have been executed.

(4) When the penalty has not been executed or has been executed only in part, the course of action shall be in accordance with the legal stipulations on recognition of foreign judgments.

Criminal law and international conventions

Art.14 – Articles 11- 13 shall apply if no international convention to which Romania is a Party ordains otherwise.

Jurisdiction immunity

Art.15 – Criminal law does not apply to offences committed by diplomatic representatives of foreign States or by other persons who, according to international conventions, are not subject to criminal jurisdiction in Romania.

Extradition

Art.16 – (1) Extradition shall be granted or may be requested based on an international convention or based on reciprocity.

(2) The conditions for requesting or granting extradition provided either in international conventions or declarations of reciprocity shall be supplemented by those provided in the special law.

Title II

Offences

Chapter I

General Provisions

Essential features of offences

Art.17 - (1) An offence is an act provided in the criminal law, manifesting a social peril and committed in guilt.

(2) Offences are the only grounds for criminal liability.

The social peril

Art.18 - An act representing a social peril according to the criminal law is any action or inaction through which one of the values provided in article 1 is damaged and for which the application of a penalty is necessary.

Acts that do not manifest a social peril

Art.19 – (1) If the act provided in the criminal law damages insignificantly one of the values protected by the law and by its concrete content, is obviously lacking importance, therefore not manifesting a social peril, the above said act does not constitute an offence.

(2) For the determination of the concrete social peril, it shall be taken into account the manner and the means by which the act was committed, the purpose of the act, the circumstances in which the act was committed, the result which was caused or which could have been caused, as well as the person and the behaviour of the perpetrator.

(3) In case of perpetration of an act provided by this article, the prosecutor or the court applies one of the following administrative sanctions:

- a) reproach;
- b) reproach with warning;
- c) a fine from 1.000.000 lei to 25.000.000 lei.

Guilt

Art.20 – (1) The act provided by the criminal law which manifests a social peril is committed in guilt when it is perpetrated in intent, in negligence or with exceeded intent.

1.The act is committed in intent, when the perpetrator:

- a) foresees the result of his act, pursuing its occurrence through the commission of that act;
- b) foresees the result of his act and, although he does not pursues it, accepts the possibility of its occurrence.

2.The act is committed in negligence when the perpetrator:

- a) foresees the result of his act, but he does not accept it, considering, without ground, that the result should not occur;
- b) he does not foresees the result of his act, although he should have and could have foreseen it.

(2) An act that resides either in an action or inaction shall be an offence only when it is committed with intent.

(3) An act committed in negligence shall be an offence only when the law so provides.

(4) There is exceeded intent when the more serious result of an action or inaction with intent is caused by the perpetrator's negligence.

Chapter II

Justifying causes

Justifying causes

Art.21 – (1) An act provided in the criminal law committed in the circumstances of one of the justifying clauses provided in the law shall not be an offence.

(2) The effect of justifying clauses is expanded also over the participants.

Legitimate defence

Art.22 - (1) The act committed in legitimate defence does not constitute an offence.

(2) Is in legitimate defence the person who commits the act in order to remove a material, direct, immediate and unjust attack against himself or against some other person or against a general interest, endangering the person or the rights of the one attacked or the general interest.

(3) It shall be presumed that the person committing an act in order to reject the penetration, without right, of a person by violence, deceit, forced entry or by any other such means, into a home, a room, an outbuilding or a enclosed space annexed to these is also in legitimate defence.

(4) An act provided in the criminal law committed while exceeding the limits of defence proportional with the seriousness of the danger and with the circumstances of the attack, shall not be considered an offence if the exceeding of limits took place because of the confusion or fear of the person responding.

State of necessity

Art.23 - (1) An act provided in the criminal law committed by a person in order to save his/her own life, corporal integrity or health or those of another person or an important asset of his/her own or of another person or a general interest, from imminent danger that could not be removed otherwise shall not be considered an offence.

(2) A person who, at the moment of perpetration, did not realise that he/she was causing obviously more serious consequences than those that could have occurred had the danger not been removed, shall also be in a state of necessity.

Order of the law and command of legitimate authority

Art.24 – (1) The commission of an act incumbent upon one or authorised by the law shall not be considered an offence if it has been executed according to the conditions provided in the law.

(2) The accomplishment of an act ordained by the legitimate authority shall not be an offence if the order is given in the form provided in the law and it is not obviously illegal.

The victim's consent

Art.25 – (1) An act committed with the victim's consent validly expressed when he/she was legally able to dispose of the social value infringed upon or endangered, shall not be an offence.

(2) Para.(1) shall not apply for offences against a person's life. In case of offences against the corporal integrity and health of persons para.(1) shall not apply if the act consented infringes the law or the good manners.

Chapter III

Causes that remove the criminality of acts

Causes that remove the criminality of acts

Art.26 – (1) An act provided in the criminal law committed in the circumstances of one of the causes provided by the law that remove the criminality of acts shall not be an offence.

(2) The effect of causes that remove the criminality of acts shall not be expanded over the participants, except for the fortuitous case.

Physical coercion

Art.27– An act provided in the criminal law committed because of physical coercion to which the perpetrator could not resist shall not be an offence.

Moral coercion

Art.28 – An act provided in the criminal law committed because of moral coercion, exercised by threat with a serious danger for the person of the perpetrator or for another person and that could not be removed otherwise shall not be an offence.

Fortuitous case

Art.29 – An act provided in the criminal law, the result of which is the consequence of unforeseeable circumstances shall not be an offence.

Perpetrator's minority

Art.30 – An act provided in the criminal law committed by a minor who, at the perpetration date did not meet the legal conditions for criminal liability shall not be an offence.

Irresponsibility

Art.31 – An act provided in the criminal law shall not be an offence if the perpetrator, at the time of perpetration, either because of mental alienation, or for other reasons, was unaware of his/her actions or inactions, or could not master them, shall not be an offence.

Inebriety

Art.32 – (1) An act provided in the criminal law shall not be an offence if the perpetrator, was, at the time of perpetration, due to circumstances beyond his/her will, in a state of total inebriety caused by alcohol or other substances.

(2) A state of voluntary total inebriety caused by alcohol or other substances shall not remove the criminality of acts. It can be, according to case, either a mitigating or an aggravating circumstance.

Error *de facto*

Art.33 – (1) An act provided in the criminal law shall not be an offence if the perpetrator, at time of perpetration, was unaware of the existence of a state, situation or circumstance on which the criminality of the act depends.

(2) A circumstance not known by the perpetrator at the time of perpetration shall not be an aggravating circumstance.

(3) Para.(1) and (2) shall apply also to acts committed by negligence that are punished by criminal law, only if the unawareness of the state, situation or circumstance concerned is not in itself the result of negligence.

Chapter IV

Attempt

Attempt

Art.34 – (1) Attempt is the execution of a decision to commit an offence, an execution that was interrupted or did not have its effect.

(2) There is also attempt when the occurrence of the offence was not possible due to the insufficiency or the defectiveness of the means used, or due to the fact that while the act was committed, the object was absent of the place where the perpetrator thought it would be.

(3) There is no attempt when the impossibility of occurrence of the offence is because of how the execution was conceived.

Punishment of attempt

Art.35 – (1) Attempt to crime shall always be punished, and attempt to delict shall be punished only when the law provides it.

(2) For natural persons, attempt shall be sanctioned by a penalty immediately inferior to the penalty provided in the law for an offence that did occur, if the law does not provide otherwise.

(3) For legal entities attempt shall be punished by a fine from the special minimum and the special maximum of the fine provided in the law for an offence that did happen, reduced by half, if the law does not provide otherwise. One or more of the complementary penalties can be added to this penalty, except for that of dissolution of the legal entity.

Divestment and hindrance of result occurrence

Art.36 – (1) A perpetrator who divested him/herself or who hindered the occurrence of the result before the act was discovered shall not be punished.

(2) If the acts accomplished up to the moment of divestment or hindrance of result occurrence is another offence, the penalty for that offence shall be applied.

Chapter V

Participation

Participants

Art.37 – Participants are persons who contribute to the perpetration of an act provided by the criminal law as authors, instigators or accomplices

Authors

Art.38– (1) A person committing an offence directly is an author.

(2) Should several persons commit an offence directly and together, each person shall be punished as an author.

Instigators

Art.39 – An instigator is a person who intentionally determines another person to commit an offence.

Accomplices

Art.40 – (1) An accomplice is a person who voluntarily facilitates or helps in any way in the commission of an offence.

(2) A person who promises, either before or during the commission of the offence, to conceal the proceeds emerging from it or to favour the perpetrator, even if after commission of the offence the promise is not kept, shall also be an accomplice.

Penalty for participation

Art.41 – Instigators and accomplices to an offence provided by the criminal law, committed intentionally, shall be sanctioned by the penalty provided in the law for authors. In establishing the penalty, each person's contribution to the commission of the offence, as well as the provisions of article 87, shall be taken into account.

Real and personal circumstances

Art.42 – (1) Circumstances relating to the person of the author or that of another participant shall not be transmitted to the others.

(2) Circumstances relating to the act shall be transmitted to the participants only to the extent that they were aware of them or foresaw them.

Hindrance of perpetration

Art.43 – (1) A participant shall not be punished if he/she hinders its occurrence, during execution, but before the act is discovered.

(2) If the acts committed until the moment of hindrance make up another offence, the participant shall be punished for that offence.

Improper participation

Art.44 – (1) Determining, facilitating or helping, in any manner, voluntarily, to the commission in negligence by another, of an act provided in the criminal law, shall be sanctioned by the penalty provided in the law for the act perpetrated in intent.

(2) Determining, facilitating or helping, in any manner, voluntarily, to the commission without guilt by another, of an act provided in the criminal law, shall be sanctioned by the penalty provided in the law for that act.

(3) Provisions of art.42 and 43 apply accordingly.

Chapter VI

Criminal liability for legal entities

Conditions for criminal liability of legal entities

Art.45 – (1) A legal entity, except for the State, the public authorities and the public institutions, shall be criminally liable, in cases provided in the law, for offences committed on behalf or in the interest of the legal entity, by its bodies or representatives.

(2) Criminal liability for legal entities shall not exclude the criminal liability of natural persons who partook in the commission of that same act.

Chapter VII

Plurality of offences

Forms of plurality

Art.46 – Plurality of offences shall be, according to each case, concurrence of offences or relapse.

Concurrence of offences

Art.47 – (1) There is actual concurrence of offences when two or more offences have been committed by the same person, by two or more actions or inactions, before being finally convicted for any one of them.

(2) There is formal concurrence of offences when an action or inaction committed by the same person has the elements of several offences, because of the circumstances of perpetration and because of the consequences it produced.

(3) For formal concurrence of offences, the act shall be sanctioned by the punishment provided by the law for the most serious of the offences committed.

Main penalty for actual concurrence of offences

Art.48 – (1) In case of actual concurrence of offences, the penalty for each offence is established separately, and from among these the penalty is applied in one of the following ways:

a) when only penalties involving detention have been provided:

1. the heaviest penalty established for one of the concurrent offences shall be applied. It can be increased up to its special maximum, and when this special maximum is not sufficient a supplementation can be applied, while not exceeding the total of length of penalties established for the concurrent offences nor the general maximum of the immediately superior penalty or

2. a penalty is applied that represents the total of the penalties established for the concurrent offences, while not exceeding the general maximum of the immediately superior penalty;

b) when only penalties by fine have been established:

1. the heaviest penalty established for one of the concurrent offences shall be applied. It can be increased up to its special maximum, and when this special maximum is not sufficient a supplementation can be applied, while not exceeding the total of penalties by fine established by the court for the concurrent offences nor the general maximum of the fine or

2. a penalty is applied that represents the total of the fines established for the concurrent offences, while not exceeding the general maximum of the fine;

c) when the court has established both penalties of detention and penalties of fine, the penalty of detention shall be applied according to lett.a) point 1, to which the fine can be added, wholly or in part.

(2) Should any of the punishments for the concurrent offences be life detention, this penalty shall be applied.

(3) Para.(1) and (2) shall apply also when a final decision of conviction has been handed down for one of or all the concurrent offences.

Complementary penalties and security measures for actual concurrence of offences

Art.49 – (1) If for one of the concurrent offences a complementary penalty has also been established, it shall apply together with the penalty of detention.

(2) Complementary penalties of a different nature or even of the same nature, but having different contents, shall apply together with the penalty of detention.

(3) If several complementary penalties have been established having the same nature and the same contents, the heaviest of them shall be applied.

(4) Security measures of the same nature in the case of concurrent offences shall be taken only once, and if they are different in nature they shall be cumulated.

Relapse

Art.50 – (1) There is relapse in the following cases:

a) when the person convicted to a final penalty of detention from one to 5 years deliberately commits a new offence for which the law provides a penalty of detention longer than one year, before the commencement of the penalty execution, during its execution or as an escaped convict;

b) when the person convicted to a final penalty of detention longer than 5 years deliberately commits a new offence for which the law provides a penalty of detention longer than one year, before the commencement of the penalty execution, during its execution or as an escaped convict;

c) when the person convicted to a final penalty of detention from one to 5 years deliberately commits a new offence for which the law provides a penalty of detention longer than one year, after execution of the penalty;

d) when the person convicted to a final penalty of detention longer than 5 years deliberately commits a new offence for which the law provides a penalty of detention longer than one year, after execution of the penalty.

(2) There is relapse also when one of the penalties in para.(1) is life detention.

(3) In order to establish the relapse, a decision of conviction handed down abroad for an act provided also in Romanian law shall be taken into account, if it has been recognized according to the law.

Sanction for relapse

Art.51 – (1) For relapse after conviction provided in Art.50 para.(1) a) the rules of the concurrence of offences shall apply. If the convicted person has executed a part of the penalty, the rules for concurrence of offences shall apply taking into account the penalty left to be executed.

(2) For relapse after conviction provided in Art.50 para.(1) b), the penalty established for the offence committed afterwards and the penalty applied for the previous offence shall be cumulated, while not exceeding the general maximum of the immediately superior penalty. Should the convicted person have executed a part of the penalty already, the cumulation shall be made between the penalty left to be executed and the penalty for the offence committed afterwards.

(3) For relapse after execution provided in Art.50 para.(1) c) and d), a penalty that can be increased by 10 years, within the restrictions of the immediately superior penalty can be applied.

Penalty for certain cases where there is no relapse

Art.52 – When after final conviction the person convicted commits a new offence, before the commencement of the penalty execution, during execution or as an escaped convict, and the legal requirements for relapse are not met, the penalty shall be applied according to the rules for concurrence of offences.

Convictions that do not entail relapse

Art.53 – (1) Upon establishment of relapse, decisions of conviction concerning:

- a) offences committed during minority;
- b) offences committed in negligence;
- c) offences amnestied;
- d) acts no longer provided as offences by the criminal law;

shall not be taken into account.

(2) Also, convictions for which rehabilitation occurred or with regard to which the rehabilitation term was reached shall not be taken into account.

Penalties for plurality of offences committed by legal entities

Art.54– (1) For occurrence of offences committed by a legal entity,the fine up to the special maximum provided in Art.80 para.(2) or (3) shall be applied for the most serious of offences, which can be increased by one fourth.

(2) When a legal entity has previously had a final conviction for an offence, para.(1) shall apply, if the penalty applied for the previous offence was not executed. If the previous penalty has been executed, the penalty of fine up to the special maximum provided in Art.80 para.(2) or (3) shall be applied, which can be increased by one third.

(3) Complementary penalties can be cumulated.

Unity of a continued offence and of a complex offence

Art.55 – (1) For continued offences and for complex offences there is no plurality of offences.

(2) An offence is continued when a person commits, at various time intervals, but for the realisation of the same resolution, actions or inactions each having the content of the same offence. In this case, the penalty provided by the law for the offence committed shall apply, to which an increase can be added up to the special maximum, and when this maximum is not sufficient an increase can be applied while not exceeding the general maximum.

(3) An offence is complex when its contents include, as a constitutive element or as an aggravated circumstantial element, an action or an inaction that is in itself an act provided in the criminal law.

Recalculation of the penalty for continued or complex offences

Art.56 – If the perpetrator who received a final conviction for a continued or complex offence is judged afterwards also for other actions or inactions included in the contents of the same offence, taking into account the offence committed as a whole, an appropriate penalty shall be established, and it cannot be shorter than the one previously handed down.

Title III

Penalties

Chapter I

Categories and general limits for penalties applied to natural persons

Penalties and their purposes

Art.57 – (1) A penalty is a coercion measure applied in order to re-educate the convict and to prevent the commission of new offences.

(2) The execution of penalties must not cause physical suffering nor degrade the convict's person.

Types of penalties

Art.58 – (1) Penalties that apply to natural persons are: main penalties, complementary penalties and accessory penalties.

(2) Main penalties are divided into: main penalties for crimes and main penalties for delicts.

(3) Main penalties for crimes are:

- a) life detention;
- b) severe detention from 15 to 30 years;

(4) Main penalties for delicts:

- a) strict imprisonment from one to 15 years;
- b) imprisonment from 15 days to one year;
- c) fine in the form of days/fine, from 5 to 360 days, each day being calculated from 100.000 to 1.000.000 lei;
- d) community service, from 100 to 500 hours.

(5) Complementary penalties for crimes and delicts are:

- a) prohibition of the exercise of certain rights from one to 10 years;
- b) military reduction to the ranks.

(6) The accessory penalty for delicts and crimes is the prohibition of the exercise of all rights provided as complementary penalty.

Chapter II

Categories and general limits for penalties applicable

to legal entities

Types of penalties

Art.54 – (1) Penalties applicable to legal entities for delicts or crimes are: main penalties and complementary penalties.

(2) The main penalty is the fine from 10.000.000 to 10.000.000.000 lei.

(3) Complementary penalties are:

- a) dissolution of legal entities;
- b) suspension of the activity or of one of the activities of the legal entity for a duration of one to 3 years;
- c) prohibition to partake in public acquisition proceedings, from one to 5 years;
- d) prohibition of access to certain financial resources, from one to 5 years;
- e) display of the conviction decision or its dissemination in the Official Gazette of Romania, or in the media.

(4) Complementary penalties provided in para.(3) b)-e) can be applied cumulatively, wholly or in part.

Chapter III

The regulation for execution of main penalties applied to natural persons

Section 1

Regulations for the execution of penalties of detention

General rules for the execution of main penalties of detention

Art.60 – (1) The regulations for executing main penalties of detention is based on the progressive system. The convicts have the possibility, in accordance with the law on penalty execution, to pass from one treatment to another.

(2) Penalties of detention are executed in one of the following treatments:

- a) the maximum-security treatment;
- b) the closed treatment;
- c) the semi-open treatment;
- d) the open treatment.

(3) The treatment for the execution of penalties of detention is founded on the convicts' possibility to carry out useful work, if they are able to, on the educational action that must be carried out with regard to the convicts, on their observance of labour discipline and of the inner

order of the places of detention, as well as on stimulating and remunerating those who are consistent in their work, disciplined and who show serious improvement. All these means need to be used to lead to the social reintegration of convicts and to the prevention of offence commission.

(4) After reaching the age of 60, convicts are allowed to work only if they ask for and only if they are capable to work.

The place and the manner of executing penalties of detention

Art.61– (1) Execution of penalties of detention is done, according to the law on penalty execution, in places expressly destined for this, called prisons.

(2) Women sentenced to penalties of detention shall execute these penalties separately from male convicts.

(3) Minors convicted to penalties of detention shall execute these penalties separately from adult convicts or in special places of detention, while ensuring the possibility for them to continue the obligatory education and to acquire professional training according to their abilities.

Treatment at work

Art.62 – (1) The work carried out by convicts is remunerated, except maintenance work necessary to the prison.

(2) The norms, the working hours and the remuneration for the convict are those established in the law.

(3) Of the convict's remuneration, one part shall be given to him/her, and the other part shall be given to the prison administration. These parts, as well as how the money is used shall be established through the law on penalty execution.

Section 2

Regulations for the execution of life detention and severe detention

The place and manner of executing the penalty of life detention and of severe detention

Art.63 – (1) Life detention and severe detention shall be executed in prisons expressly destined for this or in special sections of the other prisons.

(2) The treatment for life detention and severe detention is the maximum-security treatment. Persons convicted to life detention or severe detention can pass to the other treatments in accordance with the law on penalty execution.

Non-application of life-detention

Art.64 – (1) Life detention shall not apply to persons who, at the date of pronouncement of the conviction decision, have reached the age of 60 years. In this case, life detention shall be replaced by the maximum penalty of severe detention and the complementary penalty of the interdiction of the right of rights for the maximum length.

(2) When the person convicted to life detention has reached the age of 60 during the execution of the penalty, life detention shall be replaced with the maximum penalty of severe detention and the complementary penalty of the interdiction of the right of rights for the maximum length.

Calculating the penalty in case of commutation or replacement of life detention

Art.65 – In cases of commutation or replacement of life detention with severe detention, the period of detention executed is considered a part executed from the penalty of severe detention.

Section 3

Regulations for the execution of the penalty of strict imprisonment and of imprisonment

The place and manner of executing the penalty of strict imprisonment

Art.66 - (1) Execution of the penalty of strict imprisonment shall be done in prisons destined expressly.

(2) The treatment for the execution of the penalty of strict imprisonment shall be the closed treatment, for persons convicted to strict imprisonment for more than 5 years or the semi-open treatment, for strict imprisonment not exceeding 5 years.

(3) The persons convicted to strict imprisonment can pass to the other treatments in accordance with the law on penalty execution.

The place and manner of executing the penalty of imprisonment

Art.67 – (1) Execution of the penalty of imprisonment shall be done in prisons destined expressly.

(2) The treatment for the execution of the penalty of imprisonment shall be the open treatment, provided in the law on penalty execution.

Section 4

Regulations for execution of fines

Contents of the penalty of the fine in the form of days/fine

Art.68 – (1) The penalty of the fine is the sum of money that the perpetrator is sentenced to pay.

(2) The penalty of the fine is applied in the form of days/fine. In this case the total sum to be paid is the result of multiplying the number of days of penalty established by the court in relation to the seriousness of the act and the person of the perpetrator, by the sum representing the evaluation in money of each penalty day, taking into account the perpetrator's financial possibilities and the legal obligations he/she has with regard to the persons in his/her care.

(3) Should the law provide that an offence is punishable only by fine, without setting forth its limits, the special minimum of days/fine is 20 days, and the special maximum is 120 days.

(4) When the law provides the penalty of the fine, without showing its limits, alternatively with the penalty of detention, the special minimum of days/fine is 40 days, and the special maximum is 180 days, and when the law provides the penalty of the fine alternatively with the penalty of strict imprisonment, the special minimum is 60 days and the special maximum is 240 days.

Replacement of the penalty of the fine in the form of days/fine

Art.69– (1) In case of convicts who elude in ill faith the execution of the fine, if the law provides the penalty of strict imprisonment as a penalty alternative to the fine, the court may replace the fine with community service up to 500 hours or, if the convict does not consent to this penalty, with the penalty of strict imprisonment.

(2) In the case of convicts who elude in ill faith the execution of the fine, if the law provides the penalty of imprisonment as a penalty alternative to the fine, the court may replace the fine with community service up to 300 hours or, if the convict does not consent to this penalty, with the penalty of imprisonment.

(3) When replacing the penalty of the fine, the length of the days/fine not paid shall be taken into account.

Section 5

The regulation for execution of community service

Contents of penalties and execution

Art.70– (1) Should the law provide the penalty of imprisonment or strict imprisonment of no more than 3 years for a delict, the court can ordain the replacement of the penalty of detention with the execution of unremunerated community service, for a duration of at least 100 hours.

(2) The maximum length for community service is 300 hours, in the case where the law provides the penalty of imprisonment and 500 hours, in case the law provides the penalty of strict imprisonment of no more than 3 years.

(3) Community service can only be ordained with consent from the defendant.

(4) Should the convicted person fail to execute this penalty or, should he/she have inappropriate conduct during execution, by not fulfilling obligations or by fulfilling them in an inappropriate manner, the court can ordain, if the law does not provide another sanction, the revocation of community service, replacing it, wholly or in part, with, as the case requires, imprisonment or strict imprisonment of no more than 3 years.

(5) The manner of executing community service is regulated by the law on punishment execution.

Section 6

Parole

Parole for persons convicted to imprisonment, strict imprisonment and severe detention

Art.71– (1)After having executed at least two thirds of the penalty of imprisonment or of strict imprisonment or three fourths of severe detention, the convicts who are consistent in their work, well-disciplined and show serious improvement, taking into account the length of penalty still to be executed, the age, the health, the form of guilt and criminal antecedents, can be released on parole before the full execution of the penalty.

(2) Minors convicted to imprisonment or strict imprisonment can be released after the execution of one third of the penalty applied. When the person convicted has reached the age of 60 for men and 55 for women, she/he may be release on parole after the execution of one third of the penalty of imprisonment or strict imprisonment or half fo the severe detention.

(3) In the calculation of fractions of the penalty provided in para.(1) the part of the penalty that can be considered, according to the law, as being executed based on the work carried out shall be taken into account. In this case, parole cannot be granted before the actual execution of at least half of the penalty of imprisonment or strict imprisonment or of at least two thirds of the penalty of severe detention.

(4) During parole, the court can oblige the convict to submit to measures of supervision provided in Art.103.

Parole for life detention convicts

Art.72– (1) Persons convicted to life detention can be released on parole after the actual execution of 20 years of detention, if he/she is consistent at work, well disciplined and shows serious improvement, also taking into account the criminal antecedents.

(2) Convicts over the age of 60 can be released on parole after the actual execution of 15 years of detention, if the other conditions provided in para.(1) are also met.

(3) A penalty shall be deemed as executed if within 10 years from parole the convict has not committed any new offence. If during this interval the convict has committed a new offence, Art.73 shall apply accordingly.

(4) During parole the court can oblige the convict to submit to measures of supervision provided in Art.103.

Effects of parole

Art.73 – (1) The penalty is deemed as executed if during the time interval between parole release and the expiry of the penalty, the person convicted has not committed a new offence.

(2) If until completion of the penalty the person released on parole has committed a new offence for which the law provides the penalty of imprisonment, the court, taking into account its seriousness, can ordain either the maintenance of parole or its revocation.

(3) If until completion of the penalty the person released on parole has committed a new offence for which the law provides the penalty of severe imprisonment, of severe detention or of life detention, revocation of parole is obligatory.

(4) In case of revocation of parole, the penalty established for the ulterior offence and the rest of the penalty to be executed from the previous penalty shall be cumulated, without exceeding the general maximum of the heaviest penalty.

Section 7

Execution of penalty in a military prison

The manner of executing penalties in military prisons

Art.74 – (1) The execution of the penalty of imprisonment not exceeding 2 years, by active members of the military, shall be done in a military prison in the cases provided in the law, as well as in the cases where the law court, taking into account the circumstances of the cause and the person of the convict, so ordains.

(2) If the person convicted has executed half of the duration of the penalty and has shown serious improvement, the part of the penalty left to be executed shall be reduced by a third, and if the convict's behaviour was outstanding, the reduction can exceed a third; it can even include the entire rest of the penalty.

(3) If during the execution of penalty the person convicted becomes unable for service, is released on parole.

(4) If during execution of penalty the person convicted commits a new offence, the court that pronounces the conviction shall apply, according to case, Art.51 or Art.52. The penalty thus established is executed in a place of detention.

(5) After execution of the penalty according to para.(1)-(3) or after total pardon or after pardon of the rest of the penalty, the person convicted shall be rehabilitated *de jure*.

(6) Paragraphs (1)-(5) shall apply also for those who have begun military service after the conviction decision remained final.

(7) In case that, before commencement of the execution of the penalty in a military prison, the convict has been put in reserve, the penalty shall be executed in a place of detention.

Chapter IV

Complementary and accessory penalties

Section 1

Complementary penalties

Contents of the penalty of prohibition of the exercise of certain rights

Art.75 – (1) The complementary penalty of the prohibition to exercise certain rights resides in the prohibition of exercising one or more of the following rights:

- a) the right to elect and be elected into public authorities or as elected public officials;
- b) the right to hold an office involving the exercise of State authority;
- c) the right to hold an office or to exercise a profession or to carry out an activity, of the nature of the one that was used by the convict to commit the offence;
- d) parental rights;
- e) the right to be a guardian or a curator.

(2) Prohibition of exercising the rights provided in para.(1) b) cannot be pronounced unless it is accompanied by the prohibition of exercising the rights provided in para.(1) a), except when the law provides otherwise.

Application of the penalty of prohibition of the exercise of certain rights

Art.76 – (1) The complementary penalty of the prohibition of exercising certain rights can be applied, if the main penalty established is detention of at least 2 years and the court finds that, with regard to the nature and seriousness of the act, the circumstances of the cause and the person of the perpetrator, this penalty is necessary.

(2) The application of the prohibition to exercise certain rights is obligatory when the law provides this penalty.

(3) The condition provided in para.(1) concerning the quantum of the detention must be met also for the case when the application of the penalty provided in that penalty is compulsory.

Execution of the penalty of prohibition of exercising certain rights

Art.77– The execution of the penalty of prohibiting the exercise of certain rights shall commence after execution of the penalty of detention, after total pardon or pardon of the rest of the penalty, or after prescription of penalty execution.

Contents and application of the penalty of military reduction to the ranks

Art.78– (1) The complementary penalty of military reduction to the ranks consists of loss of rank and of the right to wear a uniform.

(2) Military reduction to the ranks shall be applied obligatorily to convicts in the military, either active or in reserve, if the main penalty established is life detention or severe detention.

(3) Military reduction to the ranks can be applied to members of the military, either active or in reserve, for offences committed deliberately, if the main penalty established is strict imprisonment at least 5 years and no more than 15 years.

Section 2

Accessory penalties

Contents and execution of accessory penalties

Art.79 –(1) The accessory penalty consists of the prohibition of all rights provided in Art.75.

(2) Conviction to a penalty of detention entails *de jure* the prohibition of rights provided in para.(1) from the moment when the decision of conviction remained final to the completion of penalty execution, to total pardon or the pardon of the rest of the penalty or to completion of the prescription term for the execution of the penalty.

(3) For the duration of the postponement or interruption of execution of the penalty of detention, the convict can exercise his/her parental rights and the right to be a guardian or a curator, except the case when these rights have been prohibited expressly for the convict by court decision.

(4) For the duration of the suspension of the penalty of detention, the execution of accessory penalties shall also be suspended.

Chapter V

Regulations for the execution of penalties applied to legal entities

Section 1

Regulations for execution of the penalty of the fine

Contents of the penalty of the fine

Art.80 – (1) The penalty of the fine consists of the sum of money that a legal entity is obliged to pay.

(2) When the law provides the penalty of detention for the offence committed by a natural person, the special minimum of the fine for legal persons shall be 25.000.000 lei, and the special maximum of the fine shall be 7.500.000.000 lei.

(3) When the law provides the penalty of imprisonment for the offence committed by a natural person, the special minimum of the fine for legal persons shall be 10.000.000 lei, and the special maximum of the fine shall be 5.000.000.000 lei.

Section 2

Regulations for execution of the penalty of dissolution of legal entities

Contents and execution of the penalty of dissolution of legal entities

Art.81 – (1) Dissolution of a legal entity can be pronounced when a legal entity has been founded in order to commit offences or when the object of its activity has been diverted for the commission of offences.

(2) Dissolution of a legal entity entails the opening of proceedings for liquidation, according to the law.

(3) The court shall designate the liquidator through the decision of dissolution of the legal entity.

(4) One copy of the enacting terms of judgment on dissolution shall be sent to the body that authorised the foundation of the legal entity and one to the body that registered the legal person, in order to take the necessary measures.

Section 3

Regulations for the execution of the penalty of suspension of the activity or of one of the activities of legal entities

Contents and execution of the penalty of suspension of the activity or of one of the activities of legal entities

Art.82 –(1) Suspension of the activity or of one of the activities of a legal person resides in the prohibition of the activity or of that particular activity from among the activities of the legal entity in the exercise of which the offence was committed.

(2) Suspension of the activity or of one of the activities of a legal person can be applied for a duration of one to 3 years.

(3) One copy of the enacting terms of judgment on suspension shall be sent to the body that authorised the foundation of the legal entity and one to the body that registered the legal person, in order to take the necessary measures.

Section 4

Common provisions for dissolution of legal entities and suspension of the activity or of one of the activities of a legal person

Contents of common provisions

Art.83 –(1) Dissolution and suspension cannot be applied to political parties, syndicates, employers' associations, religious cults or organisations of citizens belonging to national minorities, founded according to the law.

(2) Dissolution cannot be applied to legal entities carrying out activity in the media.

(3) Activity in the media cannot be suspended.

Section 5

Regulations for the execution of the penalty of prohibition to partake in public acquisitions proceedings

Contents and execution of the penalty of prohibition to partake in public acquisitions proceedings

Art.84 –(1) Prohibition to partake in public acquisitions proceedings resides in the prohibition to partake, either directly or indirectly, in proceedings for the assignment of public acquisitions contracts, provided in the law for a duration of one to 5 years.

(2) A copy of the enacting terms of judgment by which the penalty in para.(1) was applied shall be sent immediately to each of the following:

a) the office of the Trade Register attached to the tribunal, in order to operate the formalities for publication in the Trade Register;

b) the Ministry of Justice, in order to operate the formalities for publication in the national register of legal entities with no property-related purposes;

c) other authorities keeping records of legal entities, in order to operate the formalities for publication.

Section 6

Regulations for executing the penalty of prohibiting access to certain financial resources

Contents and execution of the penalty of prohibiting access to certain financial resources

Art.85 –(1) Prohibition of access to certain financial resources resides in the prohibition to obtain funds by placement of securities or to obtain funds from credit institutions or financial institutions, for a duration of one to 5 years.

(2) A copy of the enacting terms of the judgment of prohibition shall be sent to the National Bank of Romania, to the National Movable Assets Commission and to the Commission for Insurance Supervision.

Section 7

Regulations for the execution of the penalty of displaying or disseminating the decision of conviction

Contents and execution of the penalty of displaying or disseminating the decision of conviction

Art.86 – (1) Display of the decision of conviction or its dissemination in the Official Gazette of Romania or in the media shall be done at the expense of the legal entity convicted. Expenses for display or dissemination cannot exceed the quantum of the penalty of the fine applied to legal entities.

(2) The court can ordain the display or dissemination of the conviction decision to be made in full or in excerpt.

(3) Display or dissemination of the decision of conviction shall not reveal the victim's identity or that of his/her/its legal representative, without their consent.

(4) Display of the decision of conviction shall be done in the place and for the duration established by the court, while not exceeding 2 months.

(5) Dissemination of the conviction decision shall be done by publication in the Official Gazette of Romania, Part IV, in one or more newspapers or through one or more audiovisual communication services, as established by the court.

Chapter VI

Personalisation of penalties

Section 1

General provisions

General rules for penalty personalisation

Art.87 – (1) When establishing and applying penalties for natural persons, one shall take into account the provisions of the general part of this code, the penalty limits set forth by the special part, the seriousness of the act committed, the person of the perpetrator and the mitigating or aggravating circumstances.

(2) When, for the offence committed, the law provides alternative penalties, one shall take into account para.(1), both in choosing one of the alternative penalties, as well as in setting its proportional size.

(3) Penalties increased because of aggravating causes shall be executed in the treatment appropriate for the penalty provided in the law for the offence committed.

(4) When establishing and applying penalties for legal persons, one shall take into account the provisions of the general part of this code, the penalty limits set forth for natural persons by the special part, the seriousness of the act committed and the mitigating or aggravating circumstances.

(5) Aggravating and mitigating causes for the penalty, accepted by the court, must be motivated in the decision.

Section 2

Legal and judicial aggravating and mitigating circumstances

Legal mitigating circumstances

Art.88 – The following situations shall be legal mitigating circumstances:

- a) commission of the offence during powerful confusion or emotion, determined by a challenge of the person injured, caused either by violence, by a serious infringement of the person's dignity or by other serious illicit actions;
- b) exceeding the limits of legitimate defense or state of necessity;
- c) commission of the act with a motive or a purpose that emphasizes the low degree of danger represented by the person of the perpetrator;
- d) if by a minimum infringement of one of the values defended by the law and by its concrete contents the act has a low degree of seriousness.

Legal aggravating circumstances

Art.89 – The following situations shall be legal aggravating circumstances:

- a) commission of the act by two or more persons together;
- b) commission of the offence by methods or means that represent a public danger;
- c) commission of the offence by an adult perpetrator, if it was committed together with a minor;
- d) commission of the offence for ignoble reasons;
- e) commission of the offence by a person who took advantage of the situation caused by calamity;
- f) commission of the offence against a person who is unable to defend him/herself or to express his/her will, against a minor under the age of 15 or against family members;
- g) commission of the offence in order to elude prosecution, arrest or execution of the penalty for oneself or for another;
- h) commission of the offence in order to facilitate or conceal the commission of an offence.

Judicial mitigating circumstances

Art.90 – (1) The following situations can be judicial mitigating circumstances:

- a) the perpetrator's good conduct prior to committing the offence;
- b) consistence of the perpetrator in removing the result of the offence or repairing the damage caused;
- c) the perpetrator's attitude after commission of the offence, emerging from his/her presentation before authorities, honest behaviour during the trial, facilitation of discovery or arrest of the participants.

(2) The circumstances enumerated in the present Article are examples.

Judicial aggravating circumstances

Art.91 – Any situation other than those enumerated in Art.89 that gives the act a serious nature can be an aggravating circumstance.

Effects of mitigating circumstances

Art.92 – (1) In case of mitigating circumstances the main penalty for natural persons shall be amended as follows:

- a) when, for the offence committed, the law provides life detention, severe detention shall be applied;
- b) when, for the offence committed, the law provides severe detention, strict imprisonment shall be applied;
- c) when, for the offence committed, the law provides strict imprisonment, the penalty of imprisonment or that of community service or the fine in the form of days/fine shall be applied;
- d) when, for the offence committed, the law provides imprisonment, community service or fine in the form of days/fine shall be applied;
- e) when, for the offence committed, the law provides only the fine in the form of days/fine, the penalty from 5 to 20 days shall be applied.

(2) When there are mitigating circumstances, the complementary penalty of deprivation of rights, provided in the law for the offence committed, can be removed, and in the case of legal persons the complementary penalty of dissolution or suspension of the activity or of one of the activities of the legal entity cannot be applied.

(3) Lowering the penalty under the legal limits is compulsory for legal mitigating circumstances and optional in the other cases.

Effects of aggravating circumstances

Art.93 – (1) In case of aggravating circumstances, for natural persons a penalty that can be increased by 5 years can be applied, within the limits of the immediately superior penalty, if the law does not provide otherwise.

(2) In case of application of the fine in the form of days/fine, an increase of no more than a third of the special maximum may be applied while not exceeding the general maximum.

(3) When there are aggravating circumstances, for legal entities the penalty of the fine shall be applied up to the special maximum in Art.80 para.(2) or (3), which may be increased by one third.

Concurrence between aggravating and mitigating circumstances

Art.94 – (1) In case of concurrence of aggravating and mitigating circumstances, the court shall apply Art.92 or 93, depending on whether the mitigating or the aggravating circumstances are dominant. When mitigating circumstances are dominant, the aggravating circumstances shall be

ignored, and if aggravating circumstances are dominant, the mitigating circumstances shall be ignored.

(2) In case of equivalence of these circumstances, a penalty shall be applied ignoring the aggravating or mitigating circumstances.

Section 3

Conditional suspension of the execution of the penalty applied to natural persons

Conditions for applying the conditional suspension

Art.95 – (1) The court can ordain the conditional suspension of penalty execution for a certain duration, if the following conditions are met:

- a) the penalty applied for a delict is imprisonment of no more than 5 years or fine;
- b) the perpetrator has not been previously convicted to a penalty of detention, except for cases when the conviction falls within the provisions of Art.53;
- c) it is deemed that the purpose of the penalty can be attained even without its execution.

(2) Conditional suspension of penalty execution can be granted also for concurrence of offences, if the penalty applied is imprisonment of no more than 3 years and the conditions of para.(1) b) and c) are met.

(3) Conditional suspension of penalty execution does not entail the suspension of security measures and of civil obligations provided in the decision of conviction.

(4) Conditional suspension of penalty execution must be motivated.

Trial period

Art.96 – (1) The length of conditional suspension of penalty execution shall be a trial period for the convict and is made up of the quantum of the penalty of imprisonment applied, to which 2 years are added.

(2) If the penalty suspended consists of days/fine, the trial period shall be one year.

(3) The trial period shall be calculated from the date when the decision on suspension remained final.

Revocation in case of commission of an offence

Art.97– (1) If during the trial period the convict has committed a new offence, from which a final conviction has been handed down even after the expiry of this period, the court shall revoke conditional suspension, ordaining the full execution of the penalty.

(2) Revocation of conditional suspension shall not take place if the offence committed afterwards was discovered after expiry of the trial period.

(3) Should the ulterior offence have been committed in negligence, the conditional suspension can be applied again. In this case, revocation of the first suspension no longer takes place.

Revocation in case of failure to execute civil obligations

Art.98 – If by expiry of the trial period the convict has not fulfilled the civil obligations established in the convictional decision, the court can ordain revocation of suspension, except in cases when the convict proves that he/she was unable to fulfil those obligations.

Cancellation of suspension for offences committed previously

Art.99– (1) If it is discovered that the convict has committed an offence before the pronouncement of the decision ordaining suspension or by the time it stayed final, for which a penalty of detention was applied even after expiry of the trial period, conditional suspension shall be canceled, applying, according to case, the provisions on concurrence of offences or relapse.

(2) Cancellation of suspension shall not take place if the offence that could have incurred the cancellation was discovered after expiry of the trial period.

(3) In the cases provided in para.(1), if the penalty emerging from the application of concurrence of offences or relapse does not exceed 3 years, the court can apply Art.95.

(4) When conditional suspension is ordained, the trial period shall be calculated from the date when the decision that previously pronounced the suspension remained final.

Rehabilitation in case of conditional suspension of penalty execution

Art.100 – The convict shall be rehabilitated *de jure*, if he/she has not committed a new crime during the trial period and the revocation has not been ordained according to Art.97 or Art.98.

Section 4

Supervised suspension of penalty execution applied to natural persons

Conditions for application of supervised suspension of penalty execution

Art.101– (1) The court can ordain the supervised suspension of penalty execution, if the following conditions are met:

- a) the penalty applied for the delict is imprisonment of no more than 7 years;
- b) the perpetrator has not been previously convicted to a penalty of detention or strict imprisonment or has been convicted to imprisonment of up to 2 years, except for cases when the conviction falls within the provisions of Art.53;
- c) it is deemed that, judging by the convict's person and behaviour after commission of the act, that the pronouncement of the conviction is a warning for him/her and, even without execution of the penalty, the convict will no longer commit offences.

(2) Supervised suspension of execution can be granted also for concurrence of offences, if the penalty applied is imprisonment of no more than 5 years and the conditions in para.(1) b) and c) are met.

(3) Supervised suspension does not entail the suspension of security measures and of civil obligations provided in the decision of conviction.

(4) Supervised suspension of penalty execution must be motivated.

Trial period

Art.102– (1) The trial period for supervised suspension is made up of the quantum of the penalty of imprisonment applied, to which 2 to 5 years are added, as decided by the court.

(2) Art.96 para.(3) shall apply accordingly.

Supervision measures and obligations of the convict

Art.103– (1) During the trial period, the convict must submit to the following supervision measures:

- a) to present him/herself, at fixed intervals, before the judge designated to supervise him/her, before the service of social reinsertion and supervision or before other bodies established by the court;
- b) to notify, beforehand, any change of domicile, residence or habitation and any departure for more than 8 days, as well as return;
- c) to notify and justify changing the workplace;
- d) to provide information for the control of his/her means of subsistence.

(2) The information in para.(1) b), c) and d) shall be notified to persons or bodies established in para.(1) a).

(3) The court can demand the convict to observe one or more of the following obligations:

- a) to carry out an activity or to attend a course of education or qualification;
- b) not to change domicile or residence or not to exceed the territorial limit established, except in the conditions established by the court;
- c) not to frequent certain places established;
- d) not to come into contact with certain persons;
- e) not to drive a vehicle or certain vehicles;
- f) to submit to measures of control, treatment or care, in particular for rehabilitation.

(4) Supervision of execution of the obligations established by the court according to para.(3) a)-f) shall be done by the bodies provided in para.(1) a) and the same bodies shall notify the court in case of failure to fulfil the obligations, so that measures be taken according to Art.104 para.(2).

Revocation of supervised suspension of execution of penalty

Art.104 - (1) Art.97 and Art.98 shall apply accordingly also for supervised suspension.

(2) Should the convict not comply with the measures of supervision provided in the law or with the obligations established by the court, it can revoke the supervised suspension ordaining the full execution of the penalty, or prolong the trial period by up to 3 years.

Cancellation of supervised suspension of execution

Art.105 – (1) Art.99 para.(1) and (2) shall apply accordingly also for supervised suspension

(2) In cases provided in Art.99 para.(1), if the penalty emerging from the application of concurrence of offences or relapse does not exceed 5 years, the court can apply Art.101.

(3) (4) When supervised suspension is ordained, the trial period shall be calculated from the date when the decision that previously pronounced the conditional suspension remained final.

Rehabilitation in case of supervised suspension of penalty execution

Art.106– The convict shall be rehabilitated *de jure*, if he/she has not committed a new crime during the trial period and the revocation has not been ordained according to Art.104.

Section 5

Supervised suspension of penalty execution with the convict's obligation to perform community service

Supervised suspension of penalty execution with the convict's obligation to perform community service

Art.107 – (1) In cases when the court ordains supervised suspension of penalty execution according to Art.101, it can establish the convict's obligation to perform, during the trial period, a type of community service, for a duration of up to 300 hours, according to Art.70.

(2) Should the convict not carry out the community service or should he/she have inappropriate conduct during execution, by not fulfilling obligations or by fulfilling them in an inappropriate manner, the court can revoke the Supervised suspension of penalty execution and ordain execution of the penalty in full or the prolongation of the trial period by up to 3 years.

(3) Art.103-106 shall apply accordingly.

Section 6

Penalty non-application and postponement of application for natural persons

Penalty non-application

Art.108– For offences sanctioned with the penalty of imprisonment, the court may decide not to apply any penalty to a defendant with no criminal antecedents, who covered the damage caused and who showed clear signs of ability to correct his/her behaviour even without the application of the penalty.

Postponement of penalty application

Art.109 – (1) For offences for sanctioned by the law with imprisonment or strict imprisonment of up to 5 years, the court can, after establishment of the penalty, postpone its application, if the defendant has no criminal antecedents, has covered the damage caused or proves the possibility of covering it and is showing clear signs of ability to correct his/her behaviour even without the application of the penalty.

(2) In case the court postpones the application of the penalty, it shall appoint in the decision the date when it shall pronounce itself upon the penalty, which cannot exceed 2 years from the moment when the decision was uttered.

(3) The time interval between the moment of pronouncing the decision and the date appointed by the court according to para.(2) shall be a probation period for the defendant.

(4) During the probation period, the court can oblige the defendant to submit to measures of supervision and to observe one or more of the obligations in Art.103.

(5) If the defendant has had an appropriate conduct during the probation period, the court can decide not to apply any penalty, and if the defendant has had inappropriate conduct, the court can

either postpone application once more for the same duration or apply the penalty provided in the law.

Section 7

Penalty calculation

Length of execution

Art.110 – (1) The length of execution for penalties of detention shall be established beginning with the day when the convict began execution of the final decision of conviction.

(2) The day when the penalty execution commences and the day it ceases shall be calculated as part of the length of execution.

(3) The time in which the convict, during penalty execution, is ill in a hospital, shall be considered a part of the length of execution, except for cases when the illness is deliberately self-inflicted, and this circumstance is found during the penalty execution.

Calculating detainment and preventive arrest

Art.111– (1) The time spent in detainment and preventive arrest shall be deducted from the duration of the penalty pronounced. Deduction shall be done also when the convict has been prosecuted or tried, at the same time or separately, for several concurrent offences, even if he/she was removed from prosecution, if the criminal prosecution has ended or he/she was acquitted or the criminal trial for the act that determined the detainment or preventive arrest has concluded.

(2) Deduction of detainment and preventive arrest shall be done also in case of conviction to days/fine, by wholly or partly removing the execution of days/fine.

Calculation of detention executed outside the country

Art.112 – For offences committed according to Art.11, 12 or 13, the part of the penalty, as well as the detainment or preventive arrest executed outside the country shall be deducted from the duration of the penalty applied for the same penalty by Romanian courts.

Title IV

Minority

Limits of criminal liability

Art.113 – (1) A minor under the age of 14 shall not be criminally liable.

(2) A minor aged from 14 to 16 shall be criminally liable, only if it is proven that he/she committed the act in discernment.

(3) A minor over the age of 16 shall be criminally liable within the framework of the system of sanctions applicable to minors.

Consequences of criminal liability

Art.114– (1) With regard to a minor who is criminally liable, one can take an educatory measure or can apply a penalty. In choosing the sanction, one shall take into account the seriousness of the act committed, the physical condition, the intellectual and moral development of the minor, his/her behaviour, the conditions in which he/she was raised and lived and any other elements likely to characterise the minor's person.

(2) The penalty shall be applied to minors only if it is deemed that educatory measures would not be sufficient for correcting the minor's behaviour.

Educatory measures

Art.115 – Educatory measures that can be taken with regard to minors shall be:

- a) reprimand;
- b) supervised freedom;
- c) freedom under severe supervision;
- d) admission into a re-education centre;
- e) admission into a medical-educatory institute.

Reprimand

Art.116– (1) The educatory measure of reprimand consists of scolding the minor, of showing him/her the degree of seriousness of the act committed, of advising the minor to behave in such a way as to show correction, while at the same time warning him/her that if he/she commits a new offence, a more severe measure shall be taken or a penalty shall be applied in his/her case.

(2) The measure of reprimand cannot be taken if the minor has come of age until the time of judgment. In this case instead of the educatory measure of reprimand the fine shall be ordained, in the form of days/fine from 5 to 10 days, each day being calculated from 50.000 to 100.000 lei or community service from 25 to 50 hours.

Supervised freedom

Art.117– (1) The educatory measure of supervised freedom consists of giving freedom to the minor for one year under supervision from the minor's parents, from the person who adopted him/her or from the legal guardian. If they are unable to ensure satisfactory supervision, the court

shall ordain the minor's entrustment, for that period, to a trustworthy person, preferably a close relative, upon request from the latter.

(2) The court shall warn the person entrusted with supervision, that he/she has the duty to watch closely over the minor, in order to correct his/her behaviour. Also, he/she shall be warned that he/she is obliged to notify the court at once, should the minor elude supervision or commit a new offence.

(3) The court can demand that the minor observes one of the following obligations:

a) not to frequent certain places established;

b) not to come into contact with certain persons and, if he/she has been contacted by them, to announce it at once;

c) to attend scholastic courses in the general compulsory education;

d) to carry out an unremunerated activity in an institution of public interest decided by the court, from 50 to 100 hours, for no more than 3 hours per day, after school, and during holidays.

(4) The court shall warn the minor on the consequences of his/her behaviour.

(5) After taking the measure of supervised freedom, the court shall notify the school where the minor attended or the unit where he/she is hired and, the case being, the institution where he/she is carrying out the activity decided by the court.

(6) If during the time provided in para.(1) the minor eludes supervision or commits an offence, the court shall revoke supervised freedom and take with regard to the minor either the measure of freedom under severe supervision or the measure of admission into a re-education centre or apply a penalty.

(7) If the minor has come of age at the judgment date, instead of the educatory measure of supervised freedom, the fine in the form of days/fine shall be ordained, from 10 to 20 days, each day amounting from 50.000 to 200.000 lei or community service from 50 to 150 hours.

(8) The duration in para.(1) shall begin to flow at the date when execution of supervised freedom commences.

Freedom under severe supervision

Art.118 – (1) The educatory measure of freedom under severe supervision consists of giving freedom to the minor for one year to 3 years under supervision from an institution legally charged with supervising minors from the services for social reinsertion and supervision.

(2) Supervision can consist of including the minor in social reinsertion programs, as well as in granting him/her assistance and counselling. For the duration of severe supervision, the court can demand that the minor observes one or more of the obligations in Art.117 para.(3).

(3) Art.117 para.(2),(4) – (6) and (8) shall apply accordingly.

(4) If the minor has come of age at the judgment date, instead of the educatory measure of freedom under severe supervision, the fine in the form of days/fine shall be ordained, from 15 to 30 days, each day amounting from 50.000 to 300.000 lei or community service from 100 to 200 hours.

Admission into a re-education centre

Art.119 – (1) The educatory measure of admission into a re-education centre shall be ordained with regard to minors who, in relation to the seriousness of the act committed and with needs for re-education has the possibility of correcting even without a penalty being applied. During admission the minor shall be provided with the possibility of acquiring the necessary education and professional training according to his/her abilities.

(2) The measure shall be taken for an indeterminate period, nevertheless it can only last until the minor reaches the age of 18. Exceptionally, the educatory measure can last until the minor reaches the age of 20, if the minor has committed the act at an age close to that of 18 or if the seriousness of the act committed, the minor's needs for re-education and the need to ensure continuity for the process of training the minor justify this.

(3) If during admission into a re-education centre the minor commits a new offence for which the court deems that a penalty of detention needs to be applied, it shall revoke admission and apply the penalty. If the court does not deem it necessary to apply the penalty, the measure of admission shall be maintained.

(4) If it is discovered, after pronouncement of a decision ordaining the minor's admission into a re-education centre, that the minor had committed a concurrent offence for which the court deems that a penalty of detention needs to be applied, it shall revoke admission and apply the penalty. If the court does not deem it necessary to apply the penalty, the measure of admission shall be maintained.

(5) If it is discovered, after pronouncement of a decision ordaining the minor's admission into a re-education centre, that the minor had been subject to a conviction to penalty of detention for a concurrent offence, admission into a re-education centre shall be revoked.

(6) If the minor has come of age at the judgment date, one can ordain admission into a re-education centre until the age of 20 or the replacement of the educatory measure with the fine in the form of days/fine from 20 to 50 days, each day equaling from 50.000 to 350.000 lei or community service from 100 to 300 hours.

Admission into a medical-educatory institute

Art.120– (1) The measure of admission into a medical-educatory institute shall be taken for minors who, because of their physical or mental condition, need medical treatment and a special treatment for education.

(2) The measure shall be taken for an indeterminate period, nevertheless it can only last until the minor reaches the age of 18.

(3) The measure can be removed also before reaching the age of 18, if the cause that called for it has disappeared. When ordaining the removal of the measure, the court can take the measure of admission into a re-education centre.

(4) Art.119 para.(3) shall apply accordingly.

(5) If the minor has come of age at the judgment date, one can ordain admission into a medical-educatory institute until the age of 20 or the replacement of the educatory measure with obligation to medical treatment and the fine in the form of days/fine from 10 to 20 days, each day equalling from 50.000 to 200.000 lei or community service from 50 to 150 hours.

Release of the minor before coming of age

Art.121 – (1) If at least a year has passed from the date of admission into a re-education centre and the minor has shown clear signs of improvement and correction, one can ordain his/her release before his/her coming of age.

(2) The one who become major during trial and the court has ordered admission in a re-education centre up to the age of 20 years may be released on parole after the execution of at least 1 year of this measure, if he proved he improved his behaviour.

Revocation of the minor's release

Art.122– (1) If during release granted according to Art.121, the minor commits a new offence for which the law provides the penalty of imprisonment, the court can, taking into account the degree of seriousness, ordain either maintenance of the release, or its revocation and the application of a penalty. In case the application of a penalty is not necessary, only the release shall be revoked.

(2) If during release the minor commits a new offence for which the law provides the penalty of strict imprisonment, of severe detention or of life detention, the court shall revoke the release and apply a penalty. In case the application of a penalty is not necessary, only the release shall be revoked

Penalties for minors

Art.123– (1) Penalties applicable to minors shall be the following:

- a) strict imprisonment from 5 to 15 years, when the law provides the penalty of life detention for the offence committed;
- b) strict imprisonment from 3 to 12 years, when the law provides the penalty of severe detention for the offence committed;
- c) strict imprisonment within the limits provided in the law for the offence committed reduced by half, when the law provides the penalty of strict imprisonment, while the minimum of strict imprisonment applicable to the minor shall not exceed 3 years;
- d) imprisonment within the limits provided in the law for the offence committed reduced by half, when the law provides the penalty of imprisonment for the offence committed;
- e) fine in the form of days/fine, from 5 to 180 days, each day equalling 50.000 to 500.000 lei;
- f) community service, from 50 to 250 hours.

(2) Penalties applied to minors shall be executed according to the treatments established in the law on penalty execution.

(3) No complementary penalties shall apply to minors.

(4) Convictions uttered for acts committed during minority shall not incur any incapacity or loss.

Conditional suspension of execution of the penalty applied to minors

Art.124 – (1) In case of conditional suspension of execution of the penalty applied to minors, the trial period shall consist of the length of the penalty of imprisonment to which 6 months to 2 years are added, as the court ordains. If the penalty applied resides in fine, the trial period is 6 months.

(2) During the trial period, but only until reaching the age of 18, the court can ordain the entrustment of the minor to the supervision of a person of those in Art.117 or to an institution legally charged with supervising minors or to a social reinsertion and supervision service, according to Art.118. The court can also establish for the minor one or more of the obligations in Art.117para.(3), and after reaching the age of 18, the court can demand that the minor observes the supervision measures or the obligations in Art.103 and107.

(3) Art.95 para.(3), Art. 96 para.(3), Art. 97 and Art. 98shall apply accordingly.

(4) Should the minor elude the fulfilment of obligations in Art.117 para.(3), Art.103 and Art.107 this can incur revocation of the conditional suspension according to Art.104 para.(2) and Art.107 para.(2).

(5) In case of failure to comply with the measures of supervision or with the obligations set forth by the court, according to Art.103, Art.104para.(2) shall apply accordingly.

Supervised suspension of penalty execution applied to minors

Art.125 – (1) For supervised suspension of penalty applied to minors, the trial period shall consist of the length of the penalty of imprisonment to which one to 3 years are added, as the court ordains.

(2) For the duration of the trial period, the court can ordain the taking of any of the measures in Art.124 para.(2).

Non-application of penalty to minors

Art.126 – For offences sanctioned with the penalty of imprisonment or strict imprisonment of up to 2 years, the court may decide not to apply any penalty to a minor with no criminal antecedents, who covered the damage caused and who showed clear signs of ability to correct his/her behaviour even without the application of the penalty.

Postponement of application for penalties applied to minors

Art.127 – (1) For offences for sanctioned by the law with imprisonment or strict imprisonment of up to 5 years, the court can, after establishment of the penalty, postpone its application, if the minor has no criminal antecedents, has covered the damage caused or proves the possibility of covering it and is showing clear signs of ability to correct his/her behaviour even without the application of the penalty.

(2) In case the court postpones the application of the penalty, it shall appoint in the decision the date when it shall pronounce itself upon the penalty, which cannot exceed 2 years from the moment when the decision was uttered.

(3) The time interval between the moment of pronouncing the decision and the date appointed by the court according to para.(2) shall be a probation period for the minor.

(4) During the probation period, but only until reaching the age of 18, the court can ordain the entrustment of the minor to the supervision of a person of those in Art.117 or to an institution legally charged with supervising minors or to a social reinsertion and supervision service. The court can also establish for the minor one or more of the obligations in Art.117 para.(3).

(5) If the minor has had an appropriate conduct during the probation period, the court can decide not to apply any penalty, and if the minor has had inappropriate conduct, the court can either postpone application once more for the same duration or apply the penalty provided in the law.

Title V

Security measures

Chapter I

General provisions

Purpose of security measures

Art.128– (1) Security measures are aimed at overcoming a state of danger and preventing the commission of acts provided in criminal law.

(2) Security measures are taken with regard to persons who committed acts provided in criminal law.

(3) Security measures can be taken even if no penalty was applied to the perpetrator, except for the measure in Art.129d) and e).

Types of security measures

Art.129 – Security measures are:

- a) obligation to undergo medical treatment;
- b) admission into a medical facility;
- c) prohibition to hold a certain office or to exercise a certain profession, a trade or another activity;
- d) prohibition to be in certain towns or cities;
- e) prohibition to return to the family home for a determinate period;
- f) expulsion of foreigners;
- g) special confiscation.

Chapter II

Regulations for security measures

Obligation to undergo medical treatment

Art.130 – (1) If the perpetrator, because of illness or chronic intoxication by alcohol, drugs or other such substances, represents a danger to society, he/she can be obliged to regularly attend medical treatment until he/she regains health.

(2) When the person with regard to whom this measure was ordained does not regularly attend treatment, hospitalisation can be ordained.

(3) If the person obliged to undergo treatment is sentenced to a penalty of detention, treatment shall be undergone during penalty execution also.

(4) The measure of obligation to undergo medical treatment can be taken provisionally also during criminal prosecution or trial.

Admission into a medical facility

Art.131– (1) When the perpetrator is mentally ill or a drug addict and he/she is in a state that represents danger to society, the measure of admission into a specialised medical institute can be taken, until the person regains health.

(2) This measure can be taken provisionally also during criminal prosecution or trial.

(3) The person hospitalised who leaves the institute without leave shall be obliged with support from police bodies to return to the institute, if the law does not provide otherwise.

Prohibition of exercising an office or a profession

Art.132 – (1) When the perpetrator has committed the act because of incapacity, lack of training or other reasons that make him/her unfit to hold a certain office, or to exercise a certain profession, trade or another activity, one can take the measure of prohibition to hold that office or to exercise that profession, trade or activity.

(2) This measure can be revoked by request, after a period of at least one year, if it is found that the reasons that called for it have ceased to exist. A new request cannot be made except after at least one year from the date of rejection of the previous request.

(3) The measure of prohibition of an office or profession can be taken provisionally also in the course of criminal prosecution or trial.

(4) This measure cannot be taken in the case of persons exercising an elected term, having responsibilities in a syndicate or as an employer or working in the press.

Prohibition to be in certain towns or cities

Art.133 – (1) If the court finds that the presence of a person convicted to detention of at least one year in the place where he/she has committed the offence or in other places is a serious danger to society, it can ordain the prohibition for the convict to be in that place or in other places specified by the decision of conviction.

(2) This measure can be taken for up to 5 years and can be prolonged if the danger that justified it has not disappeared. Prolongation cannot exceed the length of the initial measure.

(3) The security measure can be revoked by request or *ex officio*, after at least one year, if the grounds that called for it have disappeared. A new request cannot be made except after at least one year from the date of rejection of the previous request.

Prohibition to return to the family home for a determinate period

Art.134 – (1) If the court finds that the presence in the family home of the person convicted to detention of at least one year for beating or any other kind of violence causing physical or mental suffering or for corporal injury or for sexual intercourse and for sexual corruption, committed against family members, represents a serious danger for the other family members, it can take, with regard to this person, the measure of prohibition to return to the family home, upon request from the injured party.

(2) This measure can be taken for up to 2 years and it can be prolonged if the danger that justified the measure has not disappeared. Prolongation cannot exceed the duration of the initial measure.

(3) The measure can be taken provisionally also during criminal prosecution or trial.

(4) The injured party can request revocation of the measure in para.(1) at any time.

Expulsion

Art.135 – (1) A foreign citizen who has committed an offence can be forbidden to stay on Romanian territory.

(2) If expulsion is accompanying the penalty of detention, the accomplishment of expulsion shall take place after execution of the penalty.

(3) Cessation of the expulsion shall be pronounced by the court.

(4) Persons provided in the present Article shall not be expelled if there is a real danger of being sentenced to death or subjected to torture, inhuman or degrading treatment in the State to which they would be expelled or if they are married to Romanian citizens, have domicile and family in Romania, and the marriage is prior to commission of the act.

Special confiscation

Art.136– (1) The following are subject to special confiscation:

a) goods produced by or that acquired a different judicial statute by commission of an offence;

b) goods that have served or that were destined to serve in the commission of an offence, if they belong to the perpetrator or if belonging to another person who was

aware of their usage. This measure cannot be ordained for offences committed through the press;

c) goods given away to determine the commission of an offence or to remunerate the perpetrator;

d) goods acquired through commission of the offence, if they are not returned to the person injured and to the extent that they do not serve to compensate the latter's losses;

e) goods possessed in violation of legal provisions.

(2) If the goods subject to confiscation cannot be found, their equivalent in money or the goods acquired in their stead shall be confiscated.

(3) The court can decide not to ordain confiscation of the goods, if they are part of the perpetrator's subsistence, daily necessities or serve in the exercise of profession.

Title VI

Causes that remove criminal liability

Effects of amnesty

Art.137 – (1) Amnesty removes criminal liability for the act committed. If it occurs after conviction, it removes also the execution of the penalty, as well as the other consequences of the conviction. The fine paid before amnesty is not returned.

(2) Amnesty does not affect security measures, educatory measures and rights of the injured person.

Prescription of criminal liability

Art.138 – (1) Prescription removes criminal liability.

(2) Prescription does not remove criminal liability for offences against humankind.

Terms of prescription for criminal liability

Art.139 – (1) The terms of prescription for criminal liability are:

a) 25 years, when the law provides life detention for the offence committed;

b) 20 years, when the law provides severe detention for the offence committed;

c) 15 years, when the law provides strict imprisonment for more than 10 years for the offence committed;

d) 10 years, when the law provides strict imprisonment of more than 5 years for the offence committed, while not exceeding 10 years;

e) 5 years, when the law provides strict imprisonment of one to 5 years for the offence committed;

f) 3 years, when the law provides imprisonment, fine in the form of days/fine or community service for the offence committed.

(2) Para.(1) e) shall apply also for penalties provided in the law for legal persons.

(3) The terms provided in the present article shall be computed from the date of commission of the offence. For continuous offences, the term starts at the date of termination of the action or inaction, and for continued offences, at the date of commission of the last action or inaction.

Interruption in the course of prescription

Art.140– (1) The course of the term of prescription in Art.139 shall be interrupted by the accomplishment of any act that, according to the law, must be notified to the accused or defendant in the course of the criminal trial.

(2) After each interruption a new term of prescription begins.

(3) Interruption in the course of prescription causes effects with regard to all participants in the offence, even if the act of interruption concerns only some of them.

(4) The terms in Art.139, if they have been exceeded by one more half, shall be deemed completed regardless of how many interruptions, except when there is a criminal trial pending for the act committed.

Suspension in the course of prescription

Art.141– (1) The course of the prescription term in Art.139 is suspended whilst a legal order or an unforeseeable or irremovable circumstance is hindering the initiation of criminal action or the continuation of the criminal trial.

(2) Prescription shall resume its course in the day when the cause for suspension ceases to exist.

Terms of limitation of criminal liability for minors

Art.142 – Terms of limitation of criminal liability shall be reduced by half for those who, at the date of offence commission, were minors.

Lack of prior complaint

Art.143 – (1) In case of crimes for which the initiation of the criminal action is conditioned by the filling of a prior complaint from the injured person, the lack of such a complaint removes the criminal responsibility.

(2) Also, withdrawal of prior complaint removes the criminal responsibility.

(3) An act that injured several persons entails criminal responsibility regardless of whether the prior complaint was made or is being maintained only by one of these injured persons.

(4) An act shall entail criminal liability of all participants in its commission, even if the prior complaint was filed or is being maintained only with regard to one of them.

(5) If the injured is a person who lacks exercise capacity or has a limited exercise capacity, the court initiates the criminal trial.

Reconciliation of parties

Art.144 – (1) Reconciliation of the parties in cases provided by the law removes the criminal responsibility and ends the civil action also.

(2) Reconciliation is personal and produces consequences only if it occurs until the decision remains final.

(3) For persons with no exercise capacity, reconciliation is performed only by their legal representatives. Persons who have limited exercise capacity can be reconciled with the approval of the persons provided in the law. Reconciliation produces consequences also if the criminal trial began at the court's initiative.

Title VII

Causes that remove penalty execution

Effects of pardon

Art.145– (1) Pardon totally or partially cancels the execution of the penalty or commutes this penalty with a lighter one.

(2) Pardon does not affect complementary penalties, except if the court decides otherwise in the pardon act.

(3) Pardon does not affect security and educatory measures, except when it is ordained otherwise in the pardon act.

(4) Pardon has effect also upon penalties that are conditionally suspended. In such case, the part of the rehabilitation term that represents the duration of the penalty pronounced by the court will

be reduced accordingly. If the suspension of the execution is revoked or annulled, it will be executed only the part of the penalty which has been not pardoned.

Limitation of penalty execution

Art.146 – (1) Limitation removes the execution of the main penalty.

(2) Limitation does not remove the execution of main penalties for crimes against humankind.

Terms of limitation for penalty execution

Art.147 – (1) The limitation terms for penalty execution are:

- a) 20 years, when the penalty to be executed is life detention or severe detention;
- b) 5 years, plus the length of the penalty of detention to be executed, but not exceeding 15 years, for penalties of imprisonment;
- c) 3 years, for the penalty of fine in the form of days/fine and for community service.

(2) Para.(1) c) shall apply accordingly also for penalties applied to legal entities.

(3) The terms in para.(1) shall be calculated from the date when the conviction decision has remained final.

(4) In case of revocation of conditional suspension of penalty execution or of revocation of supervised suspension, the term of limitation shall start at the date when the decision of revocation remained final.

(5) Security measures are not subject to limitation.

Terms of limitation for penalty execution in case of minors

Art.148 – Terms of limitation for penalty execution shall be reduced by half for those who were minors at the date of offence commission.

Interruption in the course of limitation of penalty execution

Art.149 – (1) The course of the limitation term for penalty execution is interrupted by commencement of the penalty execution. Elusion from execution, after commencement of penalty execution, causes a new limitation term to begin from the date of elusion.

(2) The course of the limitation term shall be interrupted also by the commission of a new offence.

Suspension in the course of limitation for penalty execution

Art.150 – (1) The course of the limitation term for penalty execution is suspended in the cases and conditions provided in the Criminal Procedure Code.

(2) Limitation resumes its course the day when the cause for suspension ceases to exist.

Title VIII

Causes that remove the consequences of conviction

Rehabilitation *de jure*

Art.151 – (1) Rehabilitation *de jure* occurs in case of conviction to fine in the form of days/fine, to community service or to imprisonment, if during 3 years the convict has not committed any new offences.

(2) Art.155 shall apply accordingly.

(3) Rehabilitation *de jure* can be found also by the law court. In this direction, the court shall check the meeting of requirements in para.(1), and then utter a decision on the findings

Rehabilitation by the court

Art.152 – (1) A convict can be rehabilitated, by request, by the law court:

a) in case of conviction to strict imprisonment, after 5 years, to which half of the penalty pronounced is added;

b) in case of conviction to severe detention or life detention commuted or replaced with the penalty of severe detention, after 7 years, to which half of the penalty pronounced is added;

c) in case of conviction to life detention considered executed because of pardon, expiry of the limitation term of penalty execution or of expiry of the term provided in the law for parole, after 20 years.

(2) The court can ordain, in exceptional cases, reduction of the terms provided in this Article.

(3) A convict who has deceased before meeting requirements for rehabilitation can be rehabilitated if the court, after evaluating the convict's behaviour until his/her death, judges him/her worthy of this benefit.

Calculating the rehabilitation term

Art.153– (1) The terms in Art.152 and 153 are calculated starting with the date when the execution of main penalty was completed or when this execution was limited.

(2) For persons convicted to fine in the form of days/fine the term starts with the moment the fine was paid or its execution ceased in other way.

(3) In case of total pardon or pardon of the rest of the penalty, the term starts with the date of the pardon act, if at that date the decision of conviction was final and with the date when the decision of conviction remained final, if the pardon act refers to offences pending.

Conditions of rehabilitation by the court

Art.154– (1)Requests for rehabilitation by the court are admitted if the convict meets the following requirements:

- a) has not been convicted again during the interval provided in Article 152;
- b) is able to provide for him/herself through work or other honest means, as well as the case when the convict has the age for retirement or is unable to work;
- c) he/she has had good conduct;
- d) he/she has paid in full the court expenses and civil compensations he was subject to, with exception for the case the injured party dropped the compensations, or when the court finds that the convict has regularly fulfilled the obligations regarding the civil provisions in the conviction decision.

(2) When the court finds that the requirement in para. (1) (d) is not accomplished, but this is not because of the convict's ill will, the court can ordain rehabilitation.

Effects of rehabilitation *de jure* and by the court

Art.155 – (1) Rehabilitation entails termination of declines and interdictions, as well as of incapacity resulting from conviction.

(2) Rehabilitation does not result in the obligation of reintegration the criminal in the position where he was before conviction or the obligation of rejoining the perpetrator to the permanent army forces or of restoring the lost military rank.

(3) Also, rehabilitation does not affect the security measures, except those in Art.129 d) and e).

Renewal of request for rehabilitation by the court

Art.156 – (1) In case of rejection of the rehabilitation request, a new request can be filed only after 3 years, in case of conviction to severe detention and after 2 years in case of conviction to strict imprisonment, these terms starting at rejection date.

(2) The requirements mentioned in Art.154 must be met also for the time interval that preceded the new request.

(3) A request rejected because of failure to meet formal conditions can be renewed according to the Criminal Procedure Code.

Canceling rehabilitation

Art.157 – Rehabilitation by the court shall be cancelled when, after granting it, it is discovered that the person rehabilitated had been previously convicted and, had this been known, the request for rehabilitation would have been rejected.

Title IX

Meaning of certain terms or phrases in the criminal law

Commission of an offence

Art.158 – “Commission of an offence” or “perpetration of an offence” shall mean the commission of any of the acts punished by the law as offences or attempts, as well as their commission as an author or participation in their commission as an instigator or accomplice.

Romanian citizen and foreign citizen

Art.154 – (1) A person who, at the date of offence commission, had acquired Romanian citizenship is a Romanian citizen.

(2) A foreign citizen is a person who, at the date of offence commission had not acquired Romanian citizenship or had no citizenship regardless of whether he/she was domiciling in Romania or abroad.

Public

Art.159– The term “public” means all that concerns public authorities, public institutions or other legal entities of public law.

Extremely serious consequences

Art.160– “Very serious consequences” means a material prejudice exceeding 3.000.000.000 lei or a particularly serious disturbance in activity, inflicted upon one of the units referred to in Art.159, or to another legal entity or natural person.

Public official

Art.161– “Public official” means any person exercising, either permanently or temporarily, a charge of any kind, at the service of one of the units in Art.159.

Employee

Art.162 – An employee is any person exercising a charge at the service of a legal entity of private law.

Person exercising a service of public interest

Art.163 – (1) A person exercising a service of public interest is any private person exercising a profession of public interest, for which a special qualification is necessary from public authorities and who is subject to their control.

(2) Private persons exercising a declared service of public interest according to the law have the same condition.

Close relatives

Art.164– (1) “Close relatives” are ascendants and descendants, brothers and sisters, their children, as well as persons who gained this statute through adoption, according to the law.

(2) Provisions in the criminal law with regard to close relatives, within the limits of para.(1), shall be applied in case of adoption, both for the adopted person, as well as for his/her descendants and with regard to the natural relatives.

Family member

Art.165 – “Family member” means the spouse or the close relative, if living and sharing a household with the perpetrator.

State secret information and other official documents

Art.166 – (1) “State secret information” is the information classified as such by the competent authorities, according to the law.

(2) “Official document” is any document issued by a unit in Art.155 or belonging to such a unit.

Weapons

Art.167– (1) “Weapons” are spare parts, instruments or devices declared as such by legal stipulations.

(2) Any other objects likely to be used as weapons and that have been used for attack are equated with weapons.

Act committed in public

Art.168 – An act is committed “in public” when it has been committed:

- a) in a place that, by its nature or destination, is always accessible to the public, even if there is no person present;
- b) in any other place accessible to the public, if two or more persons are present;
- c) in a place not accessible to the public, but with the intent of the act being heard or seen and if this result was produced with regard to two or more persons;
- d) in a gathering or reunion of several persons except reunions that can be judged as family reunions, because of the relations between the persons partaking in them.

Wartime

Art.169 – “Wartime” is the period starting when mobilisation is declared or when war operations begin and ending with the date when the army enters the state of peace.

Calculation of time

Art.170– In the calculation of time, days are calculated with 24 hours and weeks with 7 days. Months and years are considered completed one day before the day that corresponds to the date when they started.

Penalty provided in the law

Art.171– “Penalty provided in the law” means the penalty provided in the law text that incriminates the act, without taking into account causes of penalty reduction or increase.

The Special Part

Title I

Crimes and delicts against persons

Chapter I

Crimes against humankind

Genocide

Art.172 – (1) The commission of one of the following acts in order to completely or partly destroy a community or a national, ethnic, racial or religious group:

- a) killing of the members of the community or group;
- b) serious infringement upon the physical or mental integrity of the members of the community or group;

c) subjection of the community or group to living conditions or treatment likely to lead to physical destruction;

d) taking measures tending to hinder births in the community or group;

e) forced transfer of children belonging to a community or group into another community or group,

shall be punished by life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

(2) Agreement in order to commit the offence of genocide shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

Inhuman treatment

Art.173 – (1) Subjection of injured or diseased persons, of members of the civil health personnel or of the personnel of the Red Cross or of organisations equated to it, of castaways, prisoners of war and in general of any other person fallen into the enemy's powers to inhuman treatment, or to medical or scientific experiments not justified by a medical treatment in their best interest, shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

(2) The same penalty shall also sanction the commission with regard to the persons in para.(1) of one of the following acts:

a) coercion to serve in the enemy's armed forces;

b) taking hostages;

c) deportation;

d) dislocation or deprivation of freedom with no legal grounds;

e) conviction or execution without prior judgment by a court founded legally and that judged the case in observance of the fundamental judicial safeguards provided in the law.

(3) Torture, mutilation or extermination of persons in para.(1) shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Crimes against humankind committed in wartime

Art.174 – Acts in Art.172 and Art.173 committed in wartime shall be punished by life detention.

Other crimes against humankind

Art.175 – (1) Commission, during a generalised or systematic attack launched against the civil population, of any of the following acts:

- a) homicide;
- b) severe infringement upon physical integrity or physical or mental health;
- c) extermination;
- d) subjection to slavery;
- e) deportation or forced transfer of population;
- f) deprivation of freedom, without prior judgment by a court founded legally and that judged the case in observance of the fundamental judicial safeguards provided in the law;
- g) torture;
- h) rape, forced prostitution, forced pregnancy, forced sterilisation or any other form of sexual violence;
- i) discrimination of any group or any community for political, racial, national, ethnic, cultural, religious or sexual reasons;
- j) forced disappearances of persons,

shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

(2) The same penalty shall sanction also the detonation of nuclear weapons or of any kind of nuclear explosive device.

Exclusion of any justifying causes

Art.176 – In case of offences in the present chapter, any exceptional circumstance, be it war or threat with war, political instability or any other exceptional situation shall not be justifying cause; also, the order of the law and the command of the legitimate authority shall not be justifying causes.

Sanctions for attempt

Art.177 – Attempt to the crimes in this chapter shall be sanctioned by the penalty provided for the offence when it took place or by a penalty within the limits immediately inferior to the penalty provided in the law for the offences when it took place.

Chapter II

Crimes and delicts against the life of persons

Homicide

Art.178 – Homicide of a person shall be punished by severe detention from 15 to 25 years and the prohibition of certain rights.

First degree homicide

Art.179 – Homicide committed in one of the following circumstances:

- a) with premeditation;
- b) against the spouse or a close relative;
- c) against a minor under the age of 15;
- d) taking advantage of the victim's incapacity for defence;
- e) against a pregnant woman;
- f) by means of cruelties;
- g) against two or more persons;
- h) in order to commit or to conceal the commission of a robbery or piracy;
- i) in connection to the fulfilment of service or public duties of the victim;

shall be punished by life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

Infanticide

Art.180 – The killing of a newborn infant, committed immediately after birth by the mother who is in a state of confusion caused by birth, shall be punished by strict imprisonment from 2 to 7 years.

Homicide by negligence

Art.181 – (1) The homicide of a person by negligence shall be punished by strict imprisonment from 1 to 5 years.

(2) Homicide by negligence because of failing to observe legal provisions or precaution measures for the exercise of a profession or a trade, or by carrying out a certain activity shall be punished by strict imprisonment from 2 to 7 years.

(3) When homicide by negligence is committed by a person driving a vehicle with mechanical traction, with a level of alcohol concentration in the blood that exceeded the legal limits or who was inebriated by alcohol or was under the influence of narcotics or other toxic substances, the penalty shall be strict imprisonment from 5 to 12 years.

(4) The same penalty shall sanction also the homicide by negligence committed by any other person in the exercise of his/her profession or trade and who is inebriated by alcohol or is under the influence of narcotics or other toxic substances.

(5) If the act committed caused the death of two or more persons, the penalty shall be strict imprisonment from 7 to 15 years.

(6) If the act by which homicide by negligence was produced is in itself an offence, the rules for concurrence of offences shall apply.

Determining or facilitating suicide

Art.182 – (1) The act of determining or facilitating a person's suicide, if the suicide or attempt to suicide took place, shall be punished by strict imprisonment from 2 to 7 years.

(2) When the act in para.(1) was committed against a minor or against a person unaware of his/her act, or who was not in control of his/her actions, the penalty shall be strict imprisonment from 3 to 10 years.

Sanctions for attempt

Art.183 – Attempt to commit the crimes in Art.178 and Art.179 shall be sanctioned by the penalty provided for the offence when it took place or by a penalty within the immediately inferior limits of the penalty provided in the law for the offence when it took place.

Sanctioning legal entities

Art.180 – Legal entities shall be sanctioned for the offence provided in Art.181 para.(2).

Chapter III

Delicts against the corporal integrity and health of persons

Hitting or other forms of violence

Art.185 – (1) Hitting or any other act of violence causing physical suffering shall be punished by imprisonment from one month to 3 months or by days-fine.

(2) Acts in para.(1) committed against family members shall be punished by imprisonment from 6 months to one year or by days/fine.

(3) Hitting or acts of violence that caused an injury needing medical care of up to 20 days shall be punished by imprisonment from 6 months to one year or by days/fine.

(4) Acts in para.(3) committed against family members shall be punished by strict imprisonment from one to 2 years or by days/fine.

(5) Criminal action is initiated upon prior complaint of the person injured. For acts in para.(2) and (4) criminal action can also be initiated *ex officio*.

(6) Reconciliation of parties removes criminal liability, and it has effects also in case the criminal action was initiated *ex officio*.

Corporal injury

Art.186 – (1) Acts causing to corporal integrity or health an injury needing medical care of up to 60 days shall be punished by strict imprisonment from one to 5 years.

(2) The act provided in para.(1) committed against family members shall be punished by strict imprisonment from one to 6 years.

(3) Criminal action is initiated upon prior complaint of the person injured. For acts in para.(2) criminal action can also be initiated *ex officio*.

(4) Reconciliation of parties removes criminal liability, and it has effects also in case the criminal action was initiated *ex officio*.

Serious corporal injury

Art.187 – (1) Acts causing to corporal integrity or health an injury needing medical care of more than 60 days shall be punished by strict imprisonment from 2 to 7 years.

(2) If the act caused one or more of the following consequences: loss of a sense or of an organ, cessation of their operation, a permanent physical or mental disability, mutilation, abortion or jeopardy on the person's life, the penalty shall be strict imprisonment from 2 to 10 years.

(3) When the act has been committed in order to cause the consequences in para.(1) and (2), the penalty shall be strict imprisonment from 3 to 12 years.

Hitting or injury causing death

Art.188 – Should one of the acts in Art.185-187 result in the victim's death, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights.

Corporal injury by negligence

Art.189 – (1) Acts provided in Art.185 para.(3) causing to corporal integrity or health an injury needing medical care of more than 10 days, as well as the ones provided in Art.186, committed by negligence, shall be punished by imprisonment from one month to 3 months or by days/fine.

(2) Should the act have one of the consequences in Art.187 para.(1) or (2) the penalty shall be imprisonment from 3 months to one year or days/fine.

(3) When commission of the act in para.(1) is the result of non-abidance by legal provisions or precaution measures for the exercise of a profession or trade, or for the accomplishment of a certain activity, the penalty shall be imprisonment from 6 months to one year or days/fine.

(4) The act in para.(2), if it is the result of non-abidance by legal provisions or precaution measures in para.(3), shall be punished by strict imprisonment from one to 3 years or days/fine.

(5) Should the acts in para.(3) and (4) be committed by an inebriated person, the penalty shall be strict imprisonment from one to 3 years or days/fine, for para.(3), and strict imprisonment from one to 5 years, for para.(4).

(6) For acts in para.(1)-(4), criminal action is initiated upon prior complaint by the person injured. Reconciliation of parties removes criminal liability.

Abortion

Art.190 – (1) The act of interrupting the course of pregnancy, by any means, committed in one of the following circumstances:

- a) outside medical institutions or medical offices authorised for this purpose;
- b) by a person who is not a specialised physician;
- c) if the age of the embryo has exceeded fourteen weeks;

shall be punished by imprisonment from 6 months to one year or by days/fine.

(2) Interruption in the course of pregnancy, committed in any conditions, without the pregnant woman's consent, shall be punished by strict imprisonment from 2 to 7 years and the prohibition of certain rights.

(3) If the acts in para.(1) and (2) caused the pregnant woman a serious corporal injury, the penalty shall be strict imprisonment from 3 to 10 years and the prohibition of certain rights, and if the act resulted in the pregnant woman's death, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights.

(4) If the act provided in para.(2) or (3) has been committed by the physician, the penalty of imprisonment shall be supplemented by the prohibition to exercise the profession of physician, according to Art.75 para.(1) lett. c).

(5) Interruption in the course of the pregnancy by a physician shall not be punished in the following situations:

a) if interruption in the course of pregnancy was necessary in order to save the pregnant woman's life, health or corporal integrity, from serious and imminent danger that could not have been otherwise removed;

b) in the case in para.(1) c), when interruption in the course of pregnancy was called for by therapeutic reasons, according to legal provisions;

c) in the case in para.(2) when the pregnant woman was unable to express her will, and the interruption was called for by therapeutic reasons, according to legal provisions.

Sanctions for attempt

Art.191 – Attempt to the delictsin Art.187 para.(3) and Art.101 para.(2) is punishable.

Sanctions for legal entities

Art.192 – A legal personshall be sanctioned for the offences provided in Art.189 para.(3) and (4).

Chapter IV

Crimes and delicts of genetic manipulation

Genotype alteration

Art.193 – Alteration of the human genotype in full knowledge, by any means, shall be punished by strict imprisonment from 2 to 5 years.

Dangerous use of genetic engineering

Art.194 – The use of genetic engineering to produce biological weapons or weapons of mass destruction, shall be punished by severe detention from 15 to 25 years and the prohibition of certain rights.

Illegal creation of human embryos and cloning

Art.195 – (1) Creation of human embryos in other purposes than procreation shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(2) The same penalty shall sanction also the creation of a human being genetically identical to another human being either living or dead, by cloning.

Sanctions for attempt

Art.196 – Attempt to the delicts in Art.195 is punishable.

Sanctions for legal entities

Art.197 – A legal entity shall be sanctioned for the offences in the present chapter.

Chapter V

Delicts jeopardising the life, corporal integrity and health of persons

Jeopardising a person unable to look after him/herself

Art.198 – (1) The act of abandoning, sending away or leaving helpless a child or a person unable to look after him/herself, in any way, committed by the person charged with his/her supervision/care, placing his/her life, health or corporal integrity in imminent danger, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Persons who resume their duties at their will after commission of the offence shall not be punished.

Leaving persons helpless

Art.199 – Failure to give the help necessary or to notify the authorities, committed by one who has found a person whose life, health or corporal integrity is in jeopardy and who is deprived of the power to save him/herself, shall be punished by imprisonment from one month to one year or by days/fine.

Leaving persons helpless by failure to notify

Art.200 – Failure to notify the authorities committed by one who finds a person abandoned or lost, who needs help, his/her life, health or physical integrity being in jeopardy, shall be punished by imprisonment from one month to 6 months or by days/fine.

Chapter VI

Crimes and delicts against the freedom of persons

Illegal deprivation of freedom

Art.201 – (1) Illegal deprivation of freedom against a person shall be punished by strict imprisonment from 3 to 10 years.

(2) If the act is committed in one of the following circumstances:

- a) by simulating official qualities;
- b) by abduction;
- c) by a person who is armed;
- d) by two or more persons together;
- e) if in exchange for release a material or any other benefit is demanded;
- f) if the victim is a minor,
- g) if the victim is subjected to suffering or his/her health or life is endangered,

the penalty shall be strict imprisonment from 7 to 15 years.

(3) If for the person's release it is demanded, in any way, that the State, a natural or legal person, an international or intergovernmental organisation or a group of persons should accomplish or should not accomplish a certain act, the penalty shall be severe detention from 15 to 20 years.

(4) If the act resulted in the victim's death or suicide, the penalty shall be severe detention from 15 to 25 years.

Slavery

Art.202 – Placing or keeping a person in slavery, as well as trafficking in slaves, shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

Subjection to forced or obligatory labour

Art.203 – The act of subjecting a person, in other cases than those provided in the law, to any kind of labour against his/her will or to any kind of obligatory labour, shall be punished by strict imprisonment from one to 3 years.

Trafficking in adult persons

Art.204 – (1) The act of recruiting, conveying, transferring, lodging or taking over a person by threat or by other forms of coercion, by abduction, fraud or deceit, abuse of authority or taking advantage of the person's inability to defend him/herself and to express his/her will, or by giving, accepting or receiving money or other benefits in order to obtain consent from the person having authority over another person in order to exploit that person, shall be punished by strict imprisonment from 3 to 12 years and the prohibition of certain rights.

(2) The penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights, if:

- a) the act has been committed by two or more persons together;
- b) if the victim suffered serious injury of corporal integrity or health;
- c) the act produced significant material benefits.

(3) If the act resulted in the victim's death or suicide, the penalty shall be severe detention from 15 to 25 years and the prohibition of certain rights.

(4) The penalty para.(1) shall also sanction the act of determining or allowing, in full knowledge, either directly or indirectly, the entrance or stay on Romanian territory of a person who is not a Romanian citizen or does not domicile in Romania, and who is a victim of trafficking in persons, committed in one of the following circumstances:

- a) by using fraudulent means, violence, threats or any other form of coercion against the victim;
- b) by abusing the special condition of the victim, because of his/her illegal or poor situation of entrance or stay in the country, or because of pregnancy, disease or disability or a physical or mental disability.

(5) If the act in para.(4) is committed repeatedly, the special maximum of the penalty shall be increased by 2 years.

Trafficking in minors

Art.205 – (1)The act of recruiting, conveying, transferring, lodging or taking over a person aged 15 to 18 in order to exploit that person, shall be punished by strict imprisonment from 3 to 12 years and the prohibition of certain rights.

(2) The penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights, if:

- a) the act has been committed against a person under the age of 15;
- b) the act has been committed by threat, violence or other forms of coercion, by abduction, fraud or deceit, by abuse of authority or taking advantage of the minor's inability for defence or to express will, or by giving, accepting or receiving money or other benefits to receive consent from the person having authority over the minor;
- c) the act has been committed by two or more persons together;
- d) the victim suffered serious injury of corporal integrity or health;

e) the act produced significant material benefits.

(3) If the act resulted in the victim's death or suicide, the penalty shall be life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

The victim's consent

Art.206 – (1) For offences in Art.204 and Art.205, the victim's consent is not a justifying cause.

Defining the exploitation of a person

Art.207 - (1) For the purposes of Art.204 and Art.205, a person's exploitation means:

- a) the execution of labour or the performance of services, in a forced manner, while transgressing the legal norms concerning working conditions, remuneration, health and security;
- b) maintenance in slavery or other similar means of deprivation of freedom or subjection;
- c) obligation to practice prostitution, to pornographic performance in order to produce or disseminate pornographic material or other forms of sexual exploitation;
- d) obligation to practice begging;
- e) extraction of organs.

Violation of domicile or premises

Art.208 – (1) The act of penetrating, without right, in any manner, into a home, room, an outbuilding or an enclosed space annexed to these, without consent of the person using them, or refusal to leave them at the latter's request, shall be punished by strict imprisonment from one to 5 years.

(2) The penalty in para.(1) shall sanction also penetration without right into premises of central and local public authorities, public institutions, political parties or into the place where a natural or legal person carries out activity.

(3) If the act in para.(1) or (2) is committed by armed person, by two or more persons together, at night or by use of deceitful qualities, the penalty shall be strict imprisonment from 3 to 10 years.

(4) For the act in para.(1), criminal action is initiated upon prior request from the injured person. Reconciliation of parties removes criminal liability.

Violation of the right to a private life

Art.209 – (1) Violation of a person’s right to a private life by using means of remote interception for data, information, image or sound from the places in Art.209 para.(1), without consent of the person using them or without permission of the law, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The taking of photographs or filming from public places the exterior of a dwelling or holiday dwelling, belonging to any person, does not constitute an offence.

(3) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Threat

Art.210 – (1) The act of threatening a person with the commission of an offence or of a damaging act against him-her, his-her spouse or a close relative, if it is likely to alarm this person, shall be punished by imprisonment from 6 months to one year or by days/fine, while the penalty applied cannot exceed the sanction provided in the law for the offence that was the object of the threat.

(2) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Blackmail

Art.211 – (1) Coercion of a person by violence or threat, to give, to do, or not to do or to suffer something, if the act is committed in order to obtain an unlawful benefit, for oneself or for another, shall be punished by strict imprisonment from one to 5 years.

(2) When coercion resides in threat with revealing a real or invented act, which is likely to compromise the person threatened, his/her spouse or a close relative, the penalty shall be strict imprisonment from 2 to 7 years.

Violation of postal secrecy

Art.212 – (1) The act of opening postal communications addressed to another person or to listen to a communication by telephone, telegraph or by other means of remote transmission, without right, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The same penalty shall also sanction the theft, destruction or detainment of a postal communication, as well as the act of revealing the contents of a postal communication, even when it was sent open or it was opened by mistake, or revealing the contents of an intercepted conversation or communication, even if the perpetrator listened to it by mistake or by accident.

(3) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Use of devices to intercept communications

Art.213 – The act of installing, using, manufacturing or selling, without right, technical means designed for interception or hindrance of communications, shall be punished by strict imprisonment from 2 to 7 years.

Disclosure of professional secrecy

Art.214 – (1) The disclosure, without right, of data by the person to whom they were entrusted, or which he/she learned by virtue of profession or office, if the act is likely to cause prejudice to a person, shall be punished by imprisonment from 3 months to one year or by days/fine.

(2) Use or disclosure for other purposes than those provided in the law of documents or information under professional secrecy, by the person who received them or who took cognizance of them during the accomplishment of service attributions or in connection to his/her work, shall be punished by strict imprisonment from one to 3 years.

(3) Criminal action in para. (1) is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Sanctions for attempt

Art.215 – (1) Attempt to the delicts in Art.201 para.(1) and (2), Art.202, Art.204 para.(1) and (4) and Art.205 para.(1) is punishable.

(2) The manufacture or acquisition of the means, devices or taking the measures in order to commit the crime in Art.201 para.(3) is an attempt.

Sanctions for legal entities

Art.216 – Legal entities shall be sanctioned for the offences in Art.201-205 and Art.211-213.

Chapter VII

Crimes and delicts against sexual freedom

Rape

Art.217 – (1) Sexual intercourse, of any kind, with a person of the opposite sex or of the same sex, by coercion of this person or taking advantage of the person's inability for defence or to express will, shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(2) The penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights, if:

- a) the act has been committed by two or more persons together;
- b) the victim is under the care, protection, education, guard or treatment of the perpetrator;
- c) the victim is a family member;
- d) the victim is a minor under the age of 15;
- e) the victim suffered serious injury of corporal integrity or health.

(3) If the act resulted in the victim's death or suicide, the penalty shall be severe detention from 15 to 25 years and the prohibition of certain rights.

(4) Criminal action for the act provided in para.(1) is initiated upon prior complaint by the person injured.

Sexual intercourse with a minor

Art.218 – (1) Sexual intercourse, of any nature, with a person of the other sex or of the same sex, who has not reached the age of 15, shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(2) This penalty shall also be applied to sanction sexual intercourse, of any nature, with a person of the opposite sex or of the same sex aged between 15 and 18 years, if the act is committed by the person's tutor or guardian or by his or her supervisor, by the person in charge of his/her care, by the person's physician, teacher, professor or educator, while taking advantage of his/her quality, or if the perpetrator has abused the victim's confidence or his/her own authority or influence over the victim.

(3) If the sexual intercourse, of any nature, with a person of the opposite sex or of the same sex, who has not reached the age of 18, was determined by the perpetrator's offering or giving the victim money or other benefits, directly or indirectly, the penalty shall be strict imprisonment from 3 to 12 years and the prohibition of certain rights.

(4) If the acts stipulated in para.(1)-(3) were committed to the purpose of producing pornographic material, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights, and if for the accomplishment of such a purpose coercion was used, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

(5) When the deed in para.(1) has been committed in the circumstances provided in Art.217 para.(2) b) if the acts in para.(1)-(4) have had the consequences provided in Art.217 para.(2) e), the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

(6) If the act resulted in the victim's death or suicide, the penalty shall be severe detention from 15 to 25 years and the prohibition of certain rights.

Seduction

Art.219 – (1) The act of one who, through promises of marriage, determines a female person under the age of 16 to have sexual intercourse with him/her, shall be punished by strict imprisonment from one to 5 years.

(2) Reconciliation of parties removes criminal liability.

Sexual perversion

Art.220 - (1) Acts of sexual perversion committed in public shall be punished by strict imprisonment from one to 5 years.

(2) Acts of sexual perversion involving a person under the age of 15 shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(3) The same penalty shall sanction also acts of sexual perversion involving a person aged 15 to 18, if the act is committed by the guardian or curator, or by the person charged with his/her supervision or care, by the physician, teacher/professor or educator, using his/her quality, or if the perpetrator abused the victim's confidence or his/her authority or influence over him/her.

(4) If the acts of sexual perversion with a person under the age of 18 were determined by the perpetrator's offering or giving the victim money or other benefits, directly or indirectly, the penalty shall be strict imprisonment from 3 to 12 years and the prohibition of certain rights.

(5) If the acts in para.(2), (3) and (4) were committed for the production of pornographic material, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights, and if for this purpose coercion was used, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

(6) Acts of sexual perversion involving a person unable to defend him/herself or to express will or by coercion, shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(7) If the acts in para.(1)-(6) have resulted in the victim's death or suicide the penalty shall be severe detention from 15 to 25 years and the prohibition of certain rights.

Sexual corruption

Art.221 – (1) Acts of an obscene nature committed against minors or in the presence of a minor shall be punished by strict imprisonment from one to 5 years.

(2) When the acts in para.(1) are committed in the family, the penalty shall be strict imprisonment from 2 to 7 years.

(3) If the acts in para.(1) and (2) were committed to produce pornographic material, the special maximum of the penalty shall be increased by 2 years.

(4) The act of alluring a person in order to commit sexual intercourse with a minor of the opposite sex or of the same sex shall be punished by strict imprisonment from one to 5 years.

Incest

Art.222 – Sexual intercourse between persons directly related or between siblings shall be punished by strict imprisonment from 2 to 7 years.

Sexual harassment

Art.223 – (1)The act of harassing a person by threat or coercion in order to obtain sexual satisfaction, committed by a person abusing his/her quality or the influence provided by the office held at the workplace, shall be punished by imprisonment from 3 months to one year or by days/fine.

(2) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Sanctions for attempt

Art.224 - Attempt to commit the delicts in Art.217 para.(1), Art.218 para.(1)-(4), Art.220 para.(1)-(6), Art.221 and Art.222 is punishable.

Chapter VIII

Delicts against dignity

Slander

Art.225 – (1) Stating or imputing in public, by any means, a specific action regarding a person, which, if real, would expose that person to a criminal, administrative or disciplinary sanction or to public disgrace, shall be punished by days/fine from 10 to 20 days.

(2) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Proof of truthfulness or of good faith

Art.226 - (1) An act with regard to which the proof of truthfulness was brought or with regard to which the perpetrator proves that he/she had reasonable grounds to believe that it was true shall not be slander.

(2) For acts concerning the private life of a person, the proof of truthfulness or the proof that the perpetrator had reasonable grounds to believe that these acts were true is admissible for the defence of a legitimate interest.

(3) For acts concerning the private life of a person that affect this person's capacity to exercise public office, the proof of truthfulness or the proof that the perpetrator had reasonable grounds to believe that these acts were true is admissible without the need to prove a legitimate interest.

Chapter IX

Delicts against family

Bigamy

Art.227 – (1) Conclusion of a marriage by a person who is married shall be punished by imprisonment from 3 months to one year or by days/fine.

(2) An unmarried person who gets married to a person about whom he/she knows that she/he is married, shall be punished by imprisonment from one month to 6 months or by days/fine.

(3) Acts in the present article shall not be sanctioned if the first or the second marriage is declared null for another reason than bigamy.

Desertion of family

Art.228 – (1) Commission by the holder of the legal obligation of maintenance, with regard to a person in title to maintenance, of one of the following acts:

a) deserting, sending away or leaving helpless or subjecting to physical or moral suffering;

b) failure in ill faith to fulfil the obligation of maintenance provided in the law;

c) failure in ill faith to pay, for two months, the child support allowance established by the court,

shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

(3) If there is no reconciliation of the parties, but during the trial the defendant fulfils the obligations, the court, if it finds him/her guilty, shall pronounce a conviction with conditional suspension of the penalty, even if the conditions of Art.95 are not met.

(4) Revocation of conditional suspension shall only take place if during the trial period the convict commits a new offence of desertion of family.

(5) Para.(3) shall apply only for the perpetrator's first conviction for desertion of family.

Ill treatment applied to minors

Art.229 – The act of seriously jeopardising either by measures or treatments of any kind, the minor's physical, intellectual or moral development, committed by the parents or by any person entrusted with the minor for raising and education, shall be punished by strict imprisonment from 3 to 15 years and the prohibition of certain rights.

Non-abidance by measures for child entrustment

Art.230 – (1) If a parent keeps his/her minor child without the approval of the other parent or of the person entrusted with the minor according to the law, he/she shall be punished by imprisonment from one month to one year or days/fine.

(2) The same penalty shall also sanction the act of a person, entrusted with the minor by court decision, for raising and education, of repeatedly preventing any of the parents from having personal contact with the minor, according to the conditions agreed upon by the parties or by the qualified body.

(3) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Corruption acts related to adoption

Art.231 – (1) The act of a parent or of the legal representative of a child who claims or receives, either for him/herself or for another, money or other benefits in exchange for the child's adoption, shall be punished by strict imprisonment from 2 to 7 years and the prohibition of certain rights.

(2) The same penalty shall also sanction the act of a person acting as intermediary or facilitating a child's adoption in order to obtain undue advantage.

Sanctions for legal entities

Art.232 – Legal entities shall be sanctioned for the offence provided in Art.231 para.(2).

Chapter X

Crimes and delicts against good usage

Outrage against good usage and disturbing public order

Art.233 – (1) The act of a person who, in public, commits acts or gestures or utters words or expressions, or has any other manifestations infringing upon good usage or causing a public scandal or causes disturbance, in another manner, in the public calm and order, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) If the act provided in para.(1) caused serious disturbance of public order, the penalty shall be strict imprisonment from 2 to 5 years.

Prostitution

Art.234 – The act of a person who acquires main subsistence by practicing for this purpose sexual intercourse with various persons shall be punished by imprisonment from 3 months to one year or by days/fine.

Procurement

Art.235 – (1) The act of encouraging or facilitating the practice of prostitution or of acquiring benefits from the practice of prostitution by another person shall be punished by strict imprisonment from 2 to 7 years and the prohibition of certain rights.

(2) The act of recruiting a person for prostitution or coercing a person to practice prostitution shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(3) If the act in para.(1) or (2) is committed against a minor, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Dissemination of pornographic material

Art.236 – (1)The act of displaying, selling or disseminating, renting, distributing, manufacturing or producing in any other manner, transmitting, offering or making available or of possessing in order to disseminate pornographic material, without right, shall be punished by imprisonment from 6 months to one year or by days/fine.

(2) The same penalty shall also sanction import, export or handing over material of the kind in para.(1) to a transport or distribution agent, for sale or distribution.

Child pornography

Art.237 – (1) The act of displaying, selling or disseminating, renting, distributing, manufacturing or producing in any other manner, transmitting, offering or making available or of possessing in order to disseminate child pornography material, without right, shall be punished by strict imprisonment from 3 to 12 years and the prohibition of certain rights.

(2) The same penalty shall also sanction import, export or handing over material of the kind in para.(1) to a transport or distribution agent, for sale or distribution.

Child pornography through computer systems

Art.238 – The act of producing in order to disseminate, offer or make available, disseminate or transmit, obtain for oneself or for another, child pornography material through computer systems, or the possession, without right, of child pornography material in a computer system or data storage medium shall be punished by strict imprisonment from 3 to 12 years and the prohibition of certain rights.

Pornographic material

Art.239 – (1) For the purposes of Art.236, “pornographic material” means any material presenting a person having explicit sexual behaviour.

(2) For the purposes of Art.237 and Art.238, “child pornography material” means any material presenting a minor having explicit sexual behaviour or an adult who is presented as a minor having explicit sexual behaviour or images that, although not presenting a real person, simulate, credibly, a minor having explicit sexual behaviour.

Games of chance

Art.240 – (1) The organisation or toleration of games of chance for the public, without authorisation, shall be punished by imprisonment from 3 months to one year or by days/fine.

(2) The same penalty shall also sanction the habitual organisation or toleration of games of chance, in a private house, in order to acquire material benefits.

(3) The act of conducting, without license, any activities in the field of games of chance, shall be punished by strict imprisonment from one to 2 years or by days/fine.

Sanctions for attempt

Art.241– Attempt to the delicts in Art.235 para.(1) and (2), Art.237 and Art.238 is punishable.

Sanctions for legal entities

Art.242 – Legal entities shall be sanctioned for the offences in Art.235-238 and Art.240.

Chapter XI

Delicts against labour protection

Failure to take legal measures for labour protection

Art.243 – (1) Failure to take any of the legal measures for labour protection by the person who was charged with taking these measures, if it causes imminent danger of a labour accident or of

occupational disease, shall be punished by strict imprisonment from one to 2 years or by days/fine.

(2) If the act in para.(1) is committed in workplaces that present a particular danger, the penalty shall be strict imprisonment from one to 3 years or days/fine.

(3) The act provided in para.(1) committed by negligence shall be punished by imprisonment from 3 months to one year or by days/fine, and the act provided in para.(2) committed by negligence shall be punished by imprisonment from 6 months to one year or by days/fine.

Failure to observe rules of labour protection

Art.244 – (1) Non-abidance by any person of the measures established for labour protection, if this causes imminent danger of labour accident or occupational disease, shall be punished by strict imprisonment from one to 2 years or by days/fine.

(2) If the act provided in para.(1) is committed in workplaces that involve particular danger, the penalty shall be strict imprisonment from one to 3 years or days/fine.

(3) If non-abidance resides in resuming the operation of installations, machines or equipment, prior to the removal of all deficiencies for which their operation was stopped, the penalty shall be strict imprisonment from one to 2 years or days/fine.

(4) Acts in para.(1) and (3) committed by negligence shall be punished by imprisonment from 3 months to one year or by days/fine, and the act in para.(2) committed by negligence shall be punished by imprisonment from 6 months to one year or by days/fine.

Sanctions for legal entities

Art.245 – Legal entities shall be sanctioned for the offences provided in the present chapter.

Chapter XII

Delicts against the cult of and respect for the dead

Hindrance of freedom of the cults

Art.246 – (1) The act of hindering or disturbing the freedom to exercise any religious cult, which is organised and is functioning according to the law, shall be punished by imprisonment from one month to 6 months or by days/fine.

(2) The same penalty shall also sanction the act of forcing a person, by coercion, to partake in the religious service of any cult or to accomplish a religious act linked to the exercise of a cult.

Profanation of graves

Art.247 – The act of profaning by any means a grave, of a monument or a funeral urn or a corpse, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Sanctions for legal entities

Art.248 – Legal entities shall be sanctioned for the offence provided in Art.246.

Title II

Crimes and delicts against property

Theft

Art.249 – (1) The act of taking a movable asset from another person's possession or detainment, without the latter's consent, in order to make it one's own without right, shall be punished by strict imprisonment from one to 7 years.

(2) The act is a theft even if the asset belongs fully or partly to the perpetrator, if at the moment of commission that asset was in the legitimate possession or detainment of another person.

(3) The penalty in para.(1) shall also sanction the act of stealing electromagnetic impulses by using telecommunication means or by connection to the audiovisual means of a person, without right.

(4) Also, the act of taking according to para.(1) a vehicle in order to use it without right shall be a theft.

(5) Moveable assets shall also mean any energy that has economic value, as well as documents.

First degree theft

Art.250 – (1) Theft committed in the following circumstances:

- a) by a person holding a weapon, a narcotic or paralising substance;
- b) a person wearing a mask or disguise;
- c) in a public place;
- d) in means of public transportation;
- e) during night time;
- f) by forced entry, scaling or by use without right of a real key or a false key,

shall be punished by strict imprisonment from one to 10 years.

(2) The same penalty shall also sanction theft with regard to:

- a) an asset that is part of the cultural heritage;
- b) a document proving civil status, used for identification;
- c) oil, oil products or natural gas;
- d) equipment, installations and their components, if they are goods of general interest.

(3) Theft that caused particularly serious consequences shall be punished by severe detention from 15 to 20 years.

Punishment for certain cases of theft upon prior complaint

Art.252 – (1) Theft committed between spouses or close relatives, or by a minor against his/her guardian, by a person living together with the injured person or is a guest in the latter's house, shall be prosecuted only upon prior complaint from the injured person.

(2) Reconciliation of parties removes criminal liability.

Robbery

Art.252 – Theft committed by use of violence or threat, or by making the victim unconscious or unable to defend him/herself, as well as theft followed by the use of such means in order to keep the stolen goods or to remove the traces of the offence, or to ensure the perpetrator's escape, shall be punished by strict imprisonment from 3 to 12 years.

First degree robbery

Art.253 – (1) Robbery committed in the following circumstances:

- a. by a person holding a weapon, a narcotic or paralyzing substance;
- b. a person wearing a mask or disguise;
- c. in a public place;
- d. in means of public transportation;
- e. during night time;
- f. in a home or in annexes to it
- g. resulted in the consequences in Art.187,

shall be punished by strict imprisonment from 7 to 15 years.

(2) Robbery that caused particularly serious consequences or that resulted in the victim's death shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

Piracy

Art.254 – (1) The act of plundering by acts of violence committed for personal purposes, committed by the crew on a ship or by the passengers on a ship against persons or goods on that ship, or against another ship, if the ships are in the open sea or in a place that is not in the jurisdiction of any State, shall be punished by strict imprisonment from 3 to 12 years.

(2) There is piracy if the act has been committed in an aircraft or between aircraft and ships.

First degree piracy

Art.255 – (1) Piracy resulting in one of the consequences in Art.187 shall be punished by strict imprisonment from 7 to 15 years.

(2) Piracy that caused particularly serious consequences or that resulted in the death of the victim shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

Breach of trust

Art.256 – (1) The act of taking a movable asset belonging to another person, held with any title, or the unjust use of this asset, or the refusal to return it, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The same penalty shall also sanction the act of changing, wholly or in part, the substance or qualities of the merchandise entrusted for transportation.

(3) If the change in the substance or the quality of merchandise entrusted for transportation was done by using pernicious substances, the penalty shall be strict imprisonment from one to 5 years.

(4) The penalty in para.(3) shall also sanction the act of destroying objects received as pledge by the creditor.

(5) If the asset is private property, Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Breach of trust by fraud against creditors

Art.257 – (1) The act of concealing, deteriorating, destroying wholly or in part values or assets in private property or of claiming fictitious debt or other acts to the detriment of the creditors, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The same penalty shall also sanction the act of a person who, although he/she is unable to pay, claims or accepts to have made available to him/her merchandise or services, thus causing prejudice to the creditor.

(3) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Fraudulent management

Art.258 – (1) The act of causing damage to a person, in ill faith, on occasion of administering or preserving his/her assets, committed by the person charged with the administration or preservation of those assets, shall be punished by strict imprisonment from one to 5 years.

(2) Fraudulent management committed in order to acquire a material benefit shall be punished by strict imprisonment from 2 to 7 years.

(3) If the asset is in private property, criminal action for the act in para.(1) is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Appropriation of assets found

Art.259 – (1) The act of not handing over within 10 days an asset found to the authorities or to the person who lost it, or of using that asset as if it were one's own, shall be punished by days/fine.

(2) The same penalty shall also sanction the unjust appropriation of a movable asset belonging to another person, which came fortuitously into the perpetrator's possession.

(3) The criminal action for the act in para.(1) is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Deceit

Art.260 – (1) The act of deceiving a person, by presenting a false action as being true or a true action as being false, in order to obtain unjust material benefit for oneself or for another and if damage was caused, shall be punished by strict imprisonment from one to 7 years.

(2) Deceit committed by using untruthful names or qualities or other fraudulent means, shall be punished by strict imprisonment from 3 to 10 years.

(3) The act of deceiving or maintaining the deceit of a person, when concluding or executing a contract, if without this deceit the person would not have concluded or executed the contract in the conditions stipulated, shall be sanctioned by the penalty provided in para. (1) or (2), according to the distinctions shown there.

(4) The act of issuing a cheque or another payment instrument with regard to a credit institution or a person, while being aware that the supply or cover necessary for its realisation does not exist, as well as the act of withdrawing the supply, wholly or in part, after the issuing, or of prohibiting the obligation to pay before expiry of the presentation term, for the purpose in para.(1), if damage was caused against the owner of the cheque/other payment instrument, shall be sanctioned by the penalty provided in para.(2).

(5) The use of fraudulent means to remove a person from a public auction or to limit the auction or the number of participants shall be punished by strict imprisonment from one to 5 years.

(6) The penalty in para.(1) shall also sanction the exploitation of the ignorance or lack of experience of a minor or the state of weakness of persons vulnerable because of age, illness or pregnancy, in order to determine them to conclude acts that prejudice them.

(7) The act of deceiving or maintaining the deceit concerning the living conditions in the country of emigration, committed according to para.(1), in order to determine a person to emigrate, shall be punished according to para.(1).

(8) Deceit that resulted in particularly serious consequences shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

(9) If the fraudulent means used for the commission of the offence is in itself an offence the rules for concurrence of offences shall apply.

Destruction and appropriation of material values of interest to humankind

Art.261 – (1) Total or partial destruction:

a) of buildings, of any other constructions or ships serving as hospitals;

b) of the means of transportation of any kind assigned to a health or a Red Cross service, or to the organisations equated to the Red Cross, for transport of the wounded, the ill, of sanitary materials or materials of the Red Cross or of the organisations equated to the Red Cross;

c) of storage facilities for sanitary material,

if all these bear the legal distinctive signs, shall be punished by severe detention from 15 to 25 years and the prohibition of certain rights.

(2) The same penalty shall also sanction the appropriation in any form, unjustified by a military necessity and committed in large proportions, of the means or material destined to aid or care for the wounded or the ill fallen into the enemy's powers.

(3) The same penalty shall also sanction the partial or total destruction or the appropriation in any form, unjustified by any military necessity and committed in large proportions, of any other assets.

Destruction and appropriation of cultural values of peoples

Art.262 – (1) Destruction in any form, in the absence of military necessity, of monuments or constructions of artistic, historical or archaeological value, of museums, great libraries, historical or scientific archives, works of art, manuscripts, valuable books, scientific collections or important collections of books, archives or reproductions of the assets above and in general of any cultural assets belonging to peoples, shall be punished by severe detention from 15 to 25 years and the prohibition of certain rights.

(2) The same penalty shall also sanction the pillage or appropriation in any form of any of the cultural values shown in the present article, from the territories under military occupation.

Destruction

Art.263 – (1) The act of destroying, damaging or making unfit for use 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 punished by imprisonment from one month to one year or by days/fine.

(2) If the asset has a particular artistic, scientific, historical, archive value or any other such value, the penalty shall be strict imprisonment from one to 7 years.

(3) The act of destroying, damaging or making unfit for use an oil or a gas pipe, a high voltage cable, equipment or installations for telecommunication or for broadcasting radio and television programs, or water supply systems and magistral water supply pipes, shall be sanctioned by the penalty provided in para.(2).

(4) The total or partial destruction of an original document or of a document under private signature that does not belong (totally) to the perpetrator, or the concealment of a document not belonging to the perpetrator, in order to cause damage to a person, shall be punished by strict imprisonment from one to 5 years.

(5) The act of destroying or damaging milestones, landmarks, survey marks or geodetic marks in the national network, placed either on the soil or on buildings, or of landmarks, poles, sea marks or other marks that show the State border, or of hindering the taking of measures to preserve these goods, shall be sanctioned by the penalty provided in para.(2).

(6) If the act of destruction, damaging or making unfit for use is committed by arson, explosion or by any other such means and it results in a public danger, the penalty shall be strict imprisonment from 3 to 10 years.

(7) Para.(2), (3) and (6) shall apply even if the asset belongs to the perpetrator.

(8) If the asset is in private property. Criminal action for the offence in para. (1) is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

First degree destruction

Art.264 – (1) If the acts in Art.263 resulted in particularly serious consequences, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights, and if they resulted in disaster, the penalty shall be severe detention from 15 to 25 years and the prohibition of certain rights.

(2) Disaster consists of the destruction or damaging of means of public transportation, of either persons or merchandise, or of installations or work that resulted in the death or serious injury on the corporal integrity or health of several persons.

Destruction by negligence

Art.265 – (1) The act of destroying, damaging, or making a good unfit for use, by negligence, even if it belongs to the perpetrator, if the act is committed by setting fire, by explosion or by any other such means and if it causes a public danger, shall be punished by imprisonment from one month to one year or by days/fine.

(2) The same penalty shall also sanction the act of destroying or damaging by negligence an oil or gas pipe, a high voltage cable equipment or installations for telecommunication or for broadcasting radio and television programs, or water supply systems and magistral water supply pipes, if this made them unfit to use.

(3) The destruction, damage or making unfit for use, by negligence, of a good, even if it belongs to the perpetrator, if it had particularly serious consequences, shall be punished by strict imprisonment from one to 5 years, and if it resulted in disaster the penalty shall be strict imprisonment from 3 to 10 years.

(4) When the disaster or the particularly serious consequences were produced because of leaving the post or the commission of any other act by the staff driving a means of public transportation or by the staff directly ensuring the security of such transport, the penalty shall be strict imprisonment from 5 to 12 years.

Disturbance of possession

Art.266 – (1) The act of occupying, wholly or in part, without right, a building in the property of another, shall be punished by strict imprisonment from one to 2 years or by days/fine.

(2) The act of occupying, wholly or in part, land of any kind, founding or moving border signs and marks, without legally acquired approval, or the refusal to leave the land occupied without right, shall be punished by imprisonment from one to 3 years or by days/fine.

(3) If the act in para.(1) is committed by violence or threat or by removing or moving the border signs of a building in the possession of another, the penalty shall be strict imprisonment from one to 5 years.

(4) If the act in para.(2) is committed by violence or threat, the penalty shall be strict imprisonment from 2 to 7 years.

(5) The penalty in para.(3) shall also sanction the foundation or displacement of border signs and marks without approval, when they refer to regional limits of the railway, of roads, canals, airports, ports, navigable ways, sylvan, geological and mining borders.

(6) If the building is in the possession of a private person criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Concealment

Art.267 – (1) The act of receiving, acquiring or converting an asset, or facilitating its realisation, while aware of the fact that the asset emerges from the commission of an act provided in the criminal law, if by this the obtainment of material benefits for oneself or for another was intended, shall be punished by strict imprisonment from 2 to 5 years, while the sanction applied cannot exceed the penalty provided in the law for the offence from which the concealed asset has emerged.

(2) Concealment committed by a spouse or a close relative is not punishable.

Money laundering

Art.268 – (1) The following shall be punished by strict imprisonment from 3 to 12 years:

a) exchange or transfer of assets, while aware that they emerge from the commission of offences, in order to conceal or dissimulate the illicit origin of these assets or in order to help the perpetrator of the offence that produced the assets to elude prosecution, trial or penalty execution;

b) hiding or dissimulating the true nature, origin, location, arrangement, circulation or property of assets or rights over them, while aware that they emerge from the commission of offences;

c) acquisition, possession or use of assets while aware that they emerge from the commission of offences.

(2) For the purposes of para.(1), “assets” shall mean either corporal or non-corporal assets, movable or immovable, as well as judicial acts or documents certifying a title or a right with regard to them.

Sanctions for attempt

Art.264 - Attempt to the delicts in Art.249, Art.250 para.(1) and (2), Art.252, Art.253 para.(1), Art.254, Art.255 para.(1), Art.260 para.(1)-(7), Art.263 and Art.268 is punishable.

Sanctions for legal entities

Art.265 – Legal entities shall be sanctioned for the offences provided in Art.256-258 and Art.260-268.

Title III

Crimes and delicts against national security

Treason

Art.271 – The act of a Romanian citizen, of a person with no citizenship domiciling in Romania or of a foreigner working for the Romanian State of establishing connections with a foreign power or organisation or with its agents, in order to suppress or undermine the State unity, indivisibility, sovereignty or independence, by actions instigating a war against the country or facilitating foreign military occupation, or economic or political undermining, or undermining the State's capacity for defence, or submission to a foreign power, shall be punished by life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

Treason by transmission of State secret information

Art.273 – Transmission of State secret information to a foreign power or organisation or to its agents, as well as obtaining documents or data of State secrecy or possession of such documents by a person who was not qualified to know them, in order to transmit them to a foreign power or organisation or to its agents, committed by a Romanian citizen, by a person with no citizenship domiciling in Romania or by a foreigner working for the Romanian State, shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Treason by helping the enemy

Art.273 – (1) The act of a Romanian citizen, of a person with no citizenship domiciling in Romania or of a foreigner working for the Romanian State who, during wartime:

- a) hands over territories, towns, defence locations, storage facilities or installations belonging to the Romanian armed forces that serve for defence;
- b) hands over ships, aircraft, cars, devices, weapons or any other material that can be used in a war;
- c) procuring people, values and materials of any kind for the enemy;

d) fraternising with the enemy or carrying out any their actions likely to favour the enemy's activity or to weaken the power to fight of the Romanian armed forces or of the allied armed forces,

shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

(2) The same penalty shall also sanction a Romanian citizen who, during wartime, fights in or is a part of groups fighting against the Romanian State or its allies.

Hostile actions against the Romanian State

Art.274 – Acts in Art.271 and Art.273 committed by a foreign citizen, by a person with no citizenship not domiciling in Romania or a foreigner not working for the Romanian State, shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Espionage

Art.275 – Acts in Art.272 committed by a foreign citizen, by a person with no citizenship not domiciling in Romania or a foreigner not working for the Romanian State, shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Dissemination of false information in order to cause a war

Art.276 – The act of disseminating false information in order to cause a war, committed by any means, shall be punished by strict imprisonment from 2 to 7 years and the prohibition of certain rights.

Compromising State interests

Art.277 – The act of destroying, damaging or hiding a document that establishes rights of the Romanian State with regard to a foreign power, if the act is likely to compromise State interests, shall be punished by strict imprisonment from 7 to 10 years and the prohibition of certain rights.

Giving false information

Art.278 – The act of communicating or disseminating, in full knowledge, by any means, false news, data or information or forged documents, if the act is likely to infringe upon national security or upon the international relations of Romania or of an allied State, shall be punished by strict imprisonment from one to 5 years.

Hostile acts against a foreign State

Art.279 – (1) The commission on Romanian territory of hostile acts against one of the Member States of the North Atlantic Treaty Organization, or of the European Union or of the Council of

Europe shall be punished by strict imprisonment from 7 to 10 years and the prohibition of certain rights.

(2) The same penalty shall also sanction hostile acts against the security of States, others than those in para.(1), and which are not at war with Romania.

(3) Criminal action is initiated upon wish expressed by the foreign State.

Offences against persons enjoying international protection

Art.280 – (1) Offences against life, corporal integrity, health, freedom or dignity, committed against persons enjoying international protection, shall be sanctioned by the penalty provided in the law for the act committed, and if its special maximum is not sufficient a penalty can be applied up to the general maximum.

(2) Acts of violence committed against official premises of diplomatic missions, against the home or residence of persons enjoying international protection or against the means of transportation belonging to these persons, and which are likely to endanger their life or freedom, shall be sanctioned by the penalty provided in the law for the act committed, and if its special maximum is not sufficient a penalty can be applied up to the general maximum.

(3) Criminal action is initiated upon wish expressed by the foreign State.

Attempt that jeopardises national security

Art.281 – An attempt upon the life, corporal integrity or health of a person serving in an important State office or another important public activity, in circumstances that make the act jeopardise national security, shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Actions against constitutional order

Art.282 – The act of initiating, organising, committing or supporting violent actions intended to change constitutional order, the national, sovereign, independent, unitary and indivisible nature of the Romanian State, shall be punished by severe detention from 15 to 25 years and the prohibition of certain rights.

Undermining the State power

Art.283 – (1) An armed action likely to weaken State power shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

(2) Any other violent action committed by several persons together, likely to incur the same consequences, shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

(3) If following the acts in para.(2) public institutions, weapons storage facilities, premises of political parties have been attacked or occupied or arson, destruction or serious injury to the corporal integrity or health of persons has been committed, the penalty shall be severe detention from 15 to 25 years and the prohibition of certain rights.

Military usurpation

Art.284 – Illegal exercise of a military office, if the act is likely to endanger national security, shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

Acts of diversion

Art.285 – The act of destroying, damaging or making unfit for use, be it wholly or partly, through explosions, arson or in any other manner, factories, installations, ways of communication, means of transportation, means of telecommunication, buildings, industrial or agricultural products or other goods, if the act is likely to in any way infringe upon national security or an allied State's security, shall be punished by life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

Plots

Art.286 – (1) The initiation or constitution of an association or group in order to commit any of the offences against national security or adhesion to or any kind of support of such an association or a group, shall be punished by life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

(2) The penalty for plot cannot exceed the sanction provided in the law for the most serious of the offences intended by the association or group.

(3) If the acts in para.(1) were followed by the commission of an offence, the rules on concurrence of offences shall apply.

(4) A person who, having committed the act provided in para.(1) denounces it before it is discovered, shall not be punished.

Constitution of illegal informational structures

Art.287 – The initiation, organisation or constitution on Romanian territory of an informational structure, the development by it of activities of collecting, processing and realising information outside the legal framework, in circumstances that can infringe upon national security, their support of any kind or adhesion to them, shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

Non-abidance by the legal treatment of informational activities

Art.288 - (1) The development, without right, of informational activities subject to authorisation according to the law, as well as exceeding the authorisation granted, except situations calling for the removal, according to the law, of imminent danger for national security, shall be punished by strict imprisonment from 2 to 7 years.

(2) The same penalty shall also sanction the act of an employee who reveals, refuses or prevents, in any way, the execution of the authorisation issued in observance of legal provisions, or who makes public or uses the information on the private life, honour and reputation of persons, if this information was found incidentally during work.

Constitution of organisations of a fascist, racist or xenophobic character

Art.289 – (1) The constitution of an organisation of a fascist, racist or xenophobic character shall be punished by strict imprisonment from 5 to 15 years and the prohibition of certain rights.

(2) Adhesion to an organisation of a fascist, racist or xenophobic character, as well as any kind of support given to an organisation of this nature shall be sanctioned by the penalty provided in para.(1).

Revealing secrets that jeopardise national security

Art.290 – (1) The act of revealing State secret information or service secret information committed by a person who knows them thanks to his/her service prerogatives, if the act is likely to jeopardise national security, shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

(2) The possession, outside service duties, of a State secret document, if the act is likely to jeopardise national security, shall be punished by severe imprisonment from 3 to 10 years.

(3) The penalty in para.(2), shall also sanction the possession, outside service duties, of a service secret document, in order to reveal it, if the act is likely to jeopardise national security.

Propaganda in favour of a totalitarian State

Art.291 – (1) Propaganda for the foundation of a totalitarian State, committed by any means, in public, shall be punished by strict imprisonment from one to 5 years and the prohibition of certain rights.

(2) Propaganda is the systematic dissemination or the praise for an idea, view or doctrine, aiming at convincing and attracting new adepts.

Non-denunciation

Art.292 – (1) The act of non-denunciating the commission of any of the offences provided in Art.271-275, Art.281-283, Art.285 and Art.286 shall be punished by strict imprisonment from 2 to 5 years.

(2) Non-denunciation committed by a spouse or close relative shall not be punished.

(3) A person who, before commencement of the criminal prosecution for the offence not denounced, notifies the qualified authorities with regard to that offence or who, even after commencement of the criminal prosecution or after the perpetrators have been discovered, has facilitated their arrest, shall not be punished.

(4) A participant in the offences provided in this title shall not be punished if he/she denounces the commission of the offence before commencement of the criminal prosecution or before the perpetrators are discovered.

(5) A participant who, after commencement of the criminal prosecution or after discovery of the perpetrators, facilitates their arrest shall be sanctioned by a penalty reduced according to Art.92.

Attempt, concealment and support

Art.293 - (1) Attempts to the delicts in the present title are punishable.

(2) The act of producing or obtaining the means or the instruments, as well as of taking measures in order to commit the offences in this title shall also be considered attempt.

(3) Concealment or support with regard to the offences provided in this title shall be punished by strict imprisonment from 3 to 10 years.

(4) The penalty applied to concealers or supporters cannot be greater than the penalty provided in the law for the author.

(5) Concealment or support committed by a spouse or close relative for the offences in Art.271-275, Art.281-283, Art.285 and Art.286 are punishable. The limits of the penalty in para.(3) shall be reduced according to Art.92.

Sanctioning legal entities

Art.294 – Legal entities shall be sanctioned for the offences provided in Art.271-275, Art.277, Art.279, Art.282, Art.283, Art.285-287, Art.289 and Art.293 para.(1).

Title IV

Crimes and delicts of terrorism

Terrorist acts

Art.295 – (1) The following offences are terrorist acts when they are committed in order to seriously disturb public order, through intimidation, terror or by creating a state of panic:

- a) offences of homicide and first degree homicide provided in Art.178 and Art.179, corporal injury and serious corporal injury provided in Art.186 and 187, as well as illegal deprivation of freedom provided in Art.201;
- b) the offences provided in Art.105-108 of the Aerial Code;
- c) offences of destruction in Art.263 and 264;
- d) offences of non-abidance by the legal treatment of weapons and ammunition, non-observance of the legal treatment of nuclear material and other radioactive materials, as well as non-compliance with the legal treatment of explosives, provided in Art.406-408;
- e) the act of inserting or spreading, into the atmosphere, on the soil, into the underground or in water, products, substances, materials, microorganisms or toxins likely to endanger the health of people or animals or the environment;
- f) threats with bombs or other explosives.

(2) For the offences in para.(1) a)-d) the special maximum of the penalty provided in the law shall be applied, which can be increased up to its general maximum, and if the general maximum is not sufficient, the penalty can be increased up to the general maximum of the immediately superior penalty.

(3) For the offence in para.(1) e), the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights, and for the offence in para.(1) f), the penalty shall be strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(4) Attempt shall be sanctioned by the penalty provided for the offence when it takes place or by a penalty within the immediately inferior limits of the penalty provided in the law for the offence when it takes place.

(5) The act of producing or obtaining the means or the instruments, as well as of taking measures in order to commit the offences in para. (1) shall also be considered attempt.

(6) Agreement in order to commit terrorist acts shall be punished by strict imprisonment from 3 to 15 years and the prohibition of certain rights.

Association in order to commit terrorist acts

Art.296 - Association in order to commit terrorist acts shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

Financing terrorist acts

Art.297 – (1) The act of making available or collecting funds, be it directly or indirectly, while aware that these funds are used, wholly or in part, for the commission of terrorist acts, shall be sanctioned by severe detention from 15 to 20 years and the prohibition of certain rights.

(2) The same penalty shall also sanction the production of funds in order to finance terrorist acts.

(3) The funds made available or the collection of funds for committing terrorist acts or produced in order to finance terrorist acts shall be confiscated.

Threat for terrorist purposes

Art.298 – (1) Any threatening of a person or community with the dissemination or use of products, substances, materials, micro-organisms or toxins likely to endanger the health of persons or animals or the environment, shall be punished by strict imprisonment from 2 to 5 years.

(2) Threat against a State, an international organisation or natural or legal person, with the use of nuclear material, other radioactive matter or explosives, in order to cause corporal injury or death of a person or material damage, shall be punished by strict imprisonment from 3 to 12 years.

(3) If the act in para.(2) is conditioned by the accomplishment or non-accomplishment of an act or when by the threat, in any form, it is demanded that nuclear material, other radioactive material or explosives be handed over, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights.

Alarm for terrorist purposes

Art.299 – The act of causing the alarm with no good reasons of a person or of the public, of bodies specialised to intervene in case of danger or of bodies maintaining public order, by mail, telephone or any other means of remote transmission with regard to the dissemination or use of products, substances, materials, micro-organisms or toxins of those in Art.298 para.(1), shall be punished by strict imprisonment from one to 3 years or by days/fine.

Sanctions for legal entities

Art.300 – Legal entities shall be sanctioned for the offences provided in the present title.

Title V

Delicts against the exercise of political and citizen's rights

Hindering the exercise of electoral rights

Art.301 – (1) The hindrance by any means of the free exercise of the right to elect or be elected, or to partake in a referendum, shall be punished by strict imprisonment from one to 5 years and the prohibition of certain rights.

(2) If the act in para.(1) had one of the consequences in Art.187, the penalty shall be strict imprisonment from 3 to 10 years.

Revealing voting secrecy and forging elections

Art.302 – (1) The act revealing, by any means, voting secrecy, committed by members of the electoral bureau of voting sections or by other persons, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The printing or use of forged voting papers, the insertion into the ballot box of a number of voting supplementary to the ones cast by the voters, the forging by any means of documents in electoral bureaus, as well as the use of null or forged elector's cards, shall be punished by strict imprisonment from 2 to 7 years.

Corruption of electors

Art.303 – (1) The act of promising, offering or giving money or other benefits in order to determine an elector to vote or not to vote for a certain list of candidates or for an independent candidate or to vote or not to vote in a referendum, as well as their receipt by the elector, for the same purpose, shall be punished by strict imprisonment from one to 5 years.

(2) The same penalty shall also sanction the act of a person who votes without having a right to or the act of an elector who votes several times on the day of elections or of the referendum.

(3) If the act in para.(1) is committed by an inside observer, the penalty shall be strict imprisonment from 2 to 7 years.

Attack by any means against the voting section

Art.304 - Attack by any means against the premises of the voting section shall be punished by strict imprisonment from 2 to 7 years, if the act is not a more serious offence.

Prior opening of ballot boxes

Art.305 – The opening of a ballot box before the hour established for conclusion of the elections shall be punished by strict imprisonment from one to 5 years.

Hindrance in the exercise of union rights

Art.306 – (1) Hindrance in the exercise of free organisation or association in a union for the purposes and within the limits provided in the law, shall be punished by strict imprisonment from one to 3 years.

(2) The same penalty shall also sanction the conditions imposed upon a person or the coercion of a person, in any way, for the purpose of restricting the exercise of prerogatives of the office of members elected into the bodies of leadership of unions.

Sanctions for attempt

Art.307 – Attempt to the delicts in the present title is punishable.

Title VI

Crimes and delicts against public interests

Chapter I

Crimes and delicts of corruption

Bribe-taking

Art.308 – (1) The act of a public servant who, either directly or indirectly, for oneself or for another, claims or receives money or other undue benefits, or accepts the promise of such benefits or does not reject it, in order to perform, not to perform or to delay the accomplishment of an act with regard to his/her service duties or in order to perform an act that is contrary to these duties, shall be punished by strict imprisonment from 3 to 15 years and the prohibition of certain rights.

(2) The act in para.(1), if it has been committed by a servant or a person exercising a service of public interest, shall be punished by strict imprisonment from 3 to 12 years and the prohibition of certain rights.

(3) Para.(1) shall apply also to the following persons:

- a) employees or persons carrying out activity based on a work contract or other persons exercising similar prerogatives, in a public international organisation to which Romania is a Party;
- b) members of parliamentary assemblies of international organisations to which Romania is a Party;
- c) employees or persons carrying out activity based on a work contract or other persons exercising similar attributions, in European Communities;
- d) persons exercising judicial offices in international courts the competence of which is accepted by Romania, as well as public servants from the clerk's offices in these courts;
- e) employees of a foreign State;
- f) members of parliamentary or administrative assemblies of a foreign State.

(4) In case the bribe-taking resulted in extremely serious consequences, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

(5) The money, values or any other goods that were the object of the bribe-taking shall be confiscated, and if they cannot be found, the convict shall be obliged to pay their equivalent in money.

Bribe-giving

Art.309 – (1) The act of promising, offering or giving, either directly or indirectly, money or other benefits to a public servant or to an employee, for him/herself or for another, in order to perform, not to perform or to delay the accomplishment of an act with regard to his/her service duties or in order to perform an act that is contrary to these duties, shall be punished by strict imprisonment from one to 5 years.

(2) The act of promising, offering or giving, either directly or indirectly, money or other benefits to an employee of a foreign State or of a public international organisation, in order to perform or not to perform an act with regard to his/her service duties, in order to obtain undue advantage in international economic operations, shall be punished by strict imprisonment from one to 7 years.

(3) The penalty in para.(1) shall also sanction the act of promising, offering or giving, either directly or indirectly, money or other benefits to one of the persons in Art.308 para.(3), for him/herself or for another, in order to perform, not to perform or to delay the accomplishment of an act with regard to his/her service duties or in order to perform an act that is contrary to these duties.

(4) The act in para.(1), (2) or (3) shall not be an offence when the bribe-giver was coerced by any means by the bribe-taker.

(5) The bribe-giver shall not be punished if he/she denounces the act to the authorities before the body of prosecution is notified for that offence.

(6) Art.308 para.(5) shall apply accordingly, even if the offer was not followed by acceptance.

(7) The money, values or any other goods shall be returned to the person who gave them, in the cases provided in para.(4) and (5).

Receipt of undue advantage

Art.310 - (1) The act committed by a public servant of receiving, either directly or indirectly, money or other benefits after having accomplished an act by virtue of his/her office and which was incumbent upon him/her because of his/her office, shall be punished by strict imprisonment from one to 7 years.

(2) The act in para.(1), if it has been committed by an employee or by a person exercising an office of public interest, shall be punished by strict imprisonment from one to 5 years.

(3) Para.(1) shall apply also to persons in Art.308 para.(3).

(4) The money, values or other goods shall be confiscated, and if they cannot be found, the convict shall be obliged to pay their equivalent in money.

Unjust remuneration

Art.311 – (1) The act committed by a public servant who, by virtue of his/her office, was charged with the supervision or control of a legal entity of private law, of receiving remunerated tasks from such an entity, before the completion of 3 years from the retirement, resignation, dismissal or revocation date, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Persons in charge of such legal entities of private law shall be considered accomplices to the commission of the act in para.(1).

Influence peddling

Art.312 – (1) The receipt of or request for money or other benefits, or the acceptance of promises, gifts, be it directly or indirectly, for oneself or for another, committed by a person who is influential or who gives to believe that he/she is influential over an employee in order to determine him/her to perform, not to perform or to delay an act included within his/her service prerogatives or to perform an act contrary to these prerogatives, shall be punished by strict imprisonment from 2 to 10 years.

(2) The same penalty shall sanction also the act of promising, offering or giving money, gifts or other benefits, be it directly or indirectly, to a person who is influential or who gives to believe that he/she is influential over an employee in order to determine him/her to perform, not to perform or to delay an act included within his/her service prerogatives or to perform an act contrary to these prerogatives.

(3) The act in para.(2) shall not be punished if the perpetrator denounces the act to the authorities before the body of criminal prosecution is notified with regard to that act.

(4) The money, values or other goods that were the object of offences in para.(1) and (2) shall be confiscated, and if they cannot be found, the convict shall be obliged to pay their equivalent in money.

5) The money, values or other goods shall be returned to the person who gave it in the case provided in para.(3).

(6) For the purposes of para.(1) and (2), „employee” shall mean also any of the persons in Art.308 para.(3).

Sanctions for legal entities

Art.313 – Legal entities shall be sanctioned for the offences provided in Art.309 and Art.312.

Chapter II

Crimes and delicts against public interests committed by public officials and by employees

Embezzlement

Art.314 – (1) The act, committed by an employee, for him/herself or for another, of appropriating, using or trafficking money, values or other goods in his/her management, shall be punished by strict imprisonment from 3 to 12 years.

(2) In case the embezzlement had particularly serious consequences, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Malfeasance and nonfeasance against persons' interests

Art.315 – (1) The act of a public servant, who, in the exercise of service prerogatives, knowingly fails to perform an act or performs it erroneously and by this infringes upon the legal interests of a person, shall be punished by strict imprisonment from one to 5 years.

(2) The act in para.(1), if it has been committed by an employee or by a person exercising a service of public interest, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Malfeasance or nonfeasance by limitation of certain rights

Art.316 - (1) The act committed by a public servant of limiting the use or exercise of the rights of any citizen or of creating for a citizen situations of inferiority based on nationality, race, sex or religion, shall be punished by strict imprisonment from 2 to 5 years.

(2) The act in para.(1), if it has been committed by an employee or by a person exercising a service of public interest, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Malfeasance and nonfeasance against general interests

Art.317 – (1) The act of a public servant, who, in the exercise of service prerogatives, knowingly fails to perform an act or performs it erroneously and by this causes significant disturbance in the proper operation of a public authority or institution or of a legal entity, or causes damage of its property, shall be punished by strict imprisonment from 2 to 7 years.

(2) The act in para.(1), if it has been committed by an employee or by a person exercising a service of public interest, shall be punished by strict imprisonment from one to 3 years.

First degree malfeasance and nonfeasance

Art.318– (1) Acts in Art.315-317, if they have resulted in particularly serious consequences, shall be punished by strict imprisonment from 5 to 15 years, if they have been committed by public servants.

(2) The act in para.(1), if it has been committed by an employee or by a person exercising a service of public interest, shall be punished by strict imprisonment from one to 5 years.

Negligence at service

Art.319 – (1) The transgression, by negligence, committed by a public servant, of a service duty by its non-accomplishment or by its erroneous accomplishment, if it has caused significant disturbance in the proper operation of a public authority or institution or of a legal entity, or causes damage of its property or major injury upon the legal interests of a person, shall be punished by imprisonment from 6 months to one year or by days/fine.

(2) If the act in para.(1) resulted in particularly serious consequences, it shall be punished by strict imprisonment from 2 to 7 years.

Negligence in the keeping of State secret information

Art.320 – Negligence that results in the destruction, damage, loss or theft of a document containing State secret information, as well as negligence that gave the occasion to another person to find out such a secret, if the act is likely to infringe upon the State's interests, shall be punished by strict imprisonment from one to 3 years.

Profit by error

Art.321 – The act committed by a public servant, of receiving or retaining, for oneself or for another, money or other benefits while taking advantage of another person's error shall be punished by strict imprisonment from one to 3 years or by days/fine.

Abusive conduct

Art.322 – (1) The use of offensive language with regard to a person, a public servant in the exercise of service prerogatives, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Hitting or other acts of violence committed in the circumstances in para.(1), shall be punished by strict imprisonment de to one to 5 years.

Chapter III

Crimes and delicts against public intersts committed by any persons

Outrage

Art.323 – (1) A threat committed directly or by any means of direct communication against a public servant in an office that involves the exercise of State authority who is in the exercise of office or acts committed during the exercise of office shall be punished by strict imprisonment from one to 2 years or by days/fine.

(2) Hitting or any other acts of violence, as well as corporal injury committed against persons in para.(1), who are in the exercise of office or acts committed in the exercise of office, shall be punished by strict imprisonment from one to 6 years, and if serious corporal injury was caused, the penalty shall be strict imprisonment from 3 to 12 years.

(3) If the acts in para.(1) and (2) are committed against a magistrate, police officer or gendarme or other member of the military, the special maximum of the penalty shall be increased by 2 years.

(4) If against the spouse, children or parents, of persons in para.(3) the offences in Art.185-187, 201 and 210, were committed for purposes of intimidation or revenge for acts performed by the public servant in the exercise of service, the penalties provided in the law for these offences can be increased up to their general maximum.

Usurpation of official capacity

Art.324 – The use without right of an official capacity, accompanied or followed by the accomplishment of an act connected to that capacity, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Illegal wearing of decorations or distinctive signs

Art.325 – (1) The act of wearing, without right, decorations, uniforms or distinctive signs belonging to a public authority, shall be punished by imprisonment from one month to 3 months or by days/fine.

(2) The act of wearing, without right, military uniforms, rank marks or badges, shall be punished by imprisonment from 6 months to one year or by days/fine.

(3) If the act in para.(2) is committed during wartime, the penalty shall be strict imprisonment from one to 5 years.

Theft or destruction of documents

Art.326 – (1) The theft or destruction of a file, record, document or any other written act kept by a public body or authority, shall be punished by strict imprisonment from one to 5 years.

(2) Destruction by negligence of any of the written acts in para.(1), which has an artistic, scientific, historical, archive or other such value, shall be punished by imprisonment from 3 months to one year or by days/fine.

(3) If the acts in para.(1) and (2) are committed by a public servant in the exercise of service prerogatives, the penalty shall be strict imprisonment from 2 to 7 years.

Breaking of seals

Art.327 – (1) The act of removing or destroying a seal applied shall be punished by imprisonment from one month to one year or by days/fine.

(2) If the act was committed by the caretaker or by a public servant, the penalty shall be imprisonment from 6 months to one year or days/fine.

Theft from under distraint

Art.328 – (1) The theft of an asset that is legally under distraint shall be punished by imprisonment from one month to 1 an or by days/fine.

(2) If the act was committed by the caretaker or by a public servant, the penalty shall be imprisonment from 6 months to one year or days/fine.

Hindrance of competition in public auctions

Art.329– (1) The act of hindering or disturbing free competition in public auctions in order to remove rivals from it, shall be punished by imprisonment from 2 months to one year or by days/fine.

(2) The same penalty shall also sanction the act of an offerer or rival who demands or receives directly or indirectly money, promises or any other profit for refraining from partaking in the auction.

(3) If the act in para.(1) or (2) is committed by several persons who agreed upon this purpose, the penalty shall be strict imprisonment from one to 3 years or days/fine.

Fraudulent crossing of the State borders

Art.330 – (1) The act of entering or exiting the country by illegal crossing of State borders shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) If the act in para.(1) has been committed in order to elude the execution of a punishment, the penalty shall be strict imprisonment from one to 5 years.

(3) Fraudulent penetration of Romanian territory by a foreign person who was declared undesirable or to whom it has been forbidden in any way to enter or stay in the country shall be punished by imprisonment from 2 to 6 years.

(4) If the act in para.(2) has been committed repeatedly, the penalty shall be imprisonment from 3 to 7 years.

(5) The act of a person who recruits or guides one or several persons in crossing the State borders fraudulently, as well as of a person organising such activities shall be punished by strict imprisonment from 3 to 7 years.

Trafficking in migrants

Art.331– (1) Trafficking in migrants committed in order to obtain, either directly or indirectly, a material benefit, shall be punished by strict imprisonment from 3 to 7 years.

(2) If the act in para.(1) is likely to endanger the victim’s life or security or to subject the victim to inhuman or degrading treatment, the penalty shall be strict imprisonment from 5 to 10 years.

(3) The act of a person who, in order to facilitate trafficking in migrants, produces forged travel documents or identity documents or obtains, provides or possesses such documents, in order to obtain, directly or indirectly, a material benefit, shall be punished by strict imprisonment from 2 to 7 years.

(4) The penalty in para.(3) shall also sanction the act of a person who facilitates the stay on Romanian territory of a person with no Romanian citizenship or with no domicile in Romania, by any illegal means, in order to obtain, directly or indirectly, a material benefit.

(5) “Trafficking in migrants” means ensuring the illegal penetration of the territory of a State by a person not having the citizenship of that State or not domiciling in that State.

Sanctions for attempt

Art.332 – Attempt to the delicts in Art.326 para.(1), Art.330 and Art.331 is punishable.

Sanctions for legal entities

Art.333 – Legal entities shall be sanctioned for the offences provided in Art.326-329, Art.330 para.(5) and Art.331.

Title VII

Crimes and delicts against the accomplishment of justice

Slandorous denunciation

Art.334 – (1) The act of deceitful blaming, done by denunciation or complaint, concerning the commission of an offence by a certain person, shall be punished by strict imprisonment from one to 3 years.

(2) The production or devising deceitful proof, to support unjust blaming, shall be punished by strict imprisonment from one to 5 years.

(3) If the person who accomplished the act declares, before the commencement of the criminal action, with regard to the person against whom the denunciation or complaint was made, or against whom the proof was brought, that the denunciation, complaint or proof was deceitful, the penalty shall be reduced according to Art.92.

(4) When the person denounced has been unjustly convicted, the penalty in Art.335 shall be applied.

False testimony

Art.335 – (1) The act of a perpetrator who, in a criminal, civil or disciplinary cause or in any other cause in which witnesses are heard, makes false statements, or does not tell everything he/she knows regarding the essential circumstances concerning which he/she was questioned, shall be punished by strict imprisonment from one to 5 years.

(2) If the false testimony resulted in a conviction to a penalty of detention exceeding 5 years, the penalty shall be strict imprisonment from one to 5 years, and if the result was a conviction to a penalty exceeding 10 years, the penalty shall be strict imprisonment from 2 to 10 years.

(3) The act in para.(1) or (2) shall not be punished if, in criminal causes, before the defendant's arrest, or in all cases, before a decision is uttered or another solution is given following the false testimony, the witness shall withdraw his/her testimony.

(4) If withdrawal of testimony occurs in criminal causes after the defendant's arrest or in all causes after a decision is pronounced or another solution is given following the false testimony, the court shall reduce the penalty according to Art.92.

(5) Para.(1)-(4) shall apply accordingly also to experts or interpreters.

Attempt to determine false testimony

Art. 336 – (1) The attempt to determine a person by coercion or corruption to make false statements or not to testify in a criminal, civil, disciplinary cause or in any other cause in which witnesses are heard, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Para.(1) shall apply accordingly also if the act is committed with regard to an expert or interpreter.

Hindrance of participation in a trial

Art.337 – Hindrance of participation of a witness, expert, interpreter or defender in a criminal, civil, disciplinary cause or any other cause, committed by violence, threat or by any other means of coercion against them or their spouse or a close relative shall be punished by strict imprisonment from one to 7 years.

Non-denunciation of certain offences

Art.334 – (1) The act of not denouncing the commission of any of the offences provided in Art.178, 179, 252-255, Art.261-263 para.(2)-(6), Art.264 para.(1), Art.314 and Art.331 shall be punished by strict imprisonment from one to 3 years.

(2) If the act in para.(1) is committed by negligence, the penalty shall be imprisonment from 3 months to one year.

(3) The act in para.(1) or (2) committed by the spouse or a close relative shall not be punished.

(4) A person who, before commencement of criminal prosecution for the offence not denounced, notifies the qualified authorities concerning that offence or who, even after commencement of the criminal prosecution or after the perpetrators have been discovered, facilitated their arrest, shall not be punished.

Failure to notify judicial bodies

Art.339 – (1) The act of a public servant who, taking cognizance of the commission of an offence connected to the service where he/she works, fails to immediately notify the prosecutor or the body of criminal prosecution, according to the law on criminal procedure, shall be punished by strict imprisonment from one to 5 years.

(2) If the act is committed by a public servant with prerogatives of leadership or control, the penalty shall be strict imprisonment from one to 7 years.

Support for offenders

Art.340 – (1) Help given to an offender, without prior agreement made before or during the commission of the offence, in order to hinder or prevent criminal prosecution, trial or penalty execution or in order to provide the offender with the use or the proceeds of the offence, shall be punished by strict imprisonment from one to 7 years.

(2) The penalty applied to the supporter cannot exceed the penalty provided in the law for the author.

(3) Support of commission by a spouse or a close relative shall not be punished.

Failure to inform judicial bodies

Art.341 – (1) The act of not bringing to the cognizance of judicial bodies certain circumstances that, were they known, would lead to establishing the innocence of a person sent to justice or convicted unjustly or to the release of a person from unjust preventive arrest, shall be punished by imprisonment from 3 months to 1 year or by days/fine.

(2) The act in para.(1) shall not be punished if by informing, the person having this obligation would cause damage for him/herself, his/her spouse or a close relative.

Illegal arrest and abusive prosecution

Art.342 – (1) The act of illegally arresting, or subjecting a person to the execution of a penalty, safety or educatory measures, in other ways than those provided in the law, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The use of promises, threats or violence against a person undergoing criminal prosecution or trial, in order to obtain statements, shall be punished by strict imprisonment from one to 5 years.

(3) The same penalty shall sanction also the use of promises, threats or violence upon a witness, an expert or interpreter.

Torture

Art.343 – (1) An act deliberately causing a person pain or intense suffering, either physically or mentally, in order to obtain from that person or from a third party information or confessions, to punish him/her for an act committed by him/her or a third party or that he/she or a third party is suspected to have committed, to intimidate or exercise pressure on him/her or on a third party, or for any other reason based on a form of discrimination, regardless of its nature, when such pain or suffering is applied by an agent of public authority or by any other person acting in official capacity or upon instigation or with the express or tacit consent of such persons shall be punished by strict imprisonment from 2 to 7 years.

(2) If the act in para.(1) resulted in any of the consequences in Art.186 or Art.187, the penalty shall be strict imprisonment from 5 to 15 years.

(3) Torture that resulted in the victim's death shall be punished by life detention or by severe detention from 15 to 25 years.

(4) No exceptional circumstance, whatever its nature may be, regardless of whether it is a state of war or of war threats, internal political instability or any other exceptional state, can be invoked to justify torture; also, the order of the law or command of legitimate authority cannot be invoked either.

(5) Acts in para.(1) shall not be offences of torture if the pain or suffering are the exclusive result of legal sanctions and are inherent to these sanctions or caused by them.

Unjust repression

Art.344 – The act of initiating criminal action against, of ordaining the arrest, of sending to justice or of convicting a person, while aware that he/she is not guilty, shall be punished by strict imprisonment from 2 to 7 years.

Allowance of illegal detainment or arrest

Art.345 – The act of a person who, taking cognizance in any way of any illegal detainment or arrest, does not take the legal measures immediately, but no later than 6 hours, although it was a duty inherent to his/her office, shall be punished by strict imprisonment from one to 5 years.

Subjection to ill treatment

Art.346 – Subjection to ill treatment of a person in a state of detainment, detention or executing a security or educatory measure, shall be punished by strict imprisonment from one to 5 years.

Retaining or destroying documents

Art.347 – The act of retaining or destroying a document issued by a body of criminal prosecution, by a law court or by another body of jurisdiction, or hindering in any way the receipt of a document by one of the bodies aforementioned, when such documents are necessary for the resolution of a cause, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Hindrance in the activity of justice

Art.348 – (1) The act of partaking in demonstrations or meetings in the vicinity or in court rooms, when a trial is being judged, in order to intimidate and influence the judgment in any way, shall be punished by strict imprisonment from one to 5 years.

(2) The penalty in para.(1) shall sanction also any threat or act of intimidation committed against a judge, prosecutor, body of criminal prosecution, lawyer, expert or interpreter in order to influence his/her behaviour in the accomplishment of legal duties.

(3) The attempt to determine a person by coercion or corruption not to present proof in a criminal cause shall be punished by imprisonment from one to 3 years or by days/fine.

Escape

Art.349 – (1) Escape from the legal state of confinement or detention shall be punished by strict imprisonment from one to 3 years.

(2) If the act is committed using violence, weapons or other instruments, or by two or more persons together, the penalty shall be strict imprisonment from 2 to 8 years.

(3) The penalty applied for the offence of escape shall be added to the penalty being executed, without exceeding the general maximum of the immediately superior penalty.

Facilitating escape

Art.350 – (1) The act of facilitating escape by any means shall be punished by strict imprisonment from one to 5 years, and if the act was committed by a person in charge of guarding the person who escaped, the penalty shall be strict imprisonment from 2 to 7 years.

(2) The act of facilitating escape according to Art.345 para.(2) shall be punished by strict imprisonment from 2 to 8 years, and if the act was committed by a person in charge of guarding the person who escaped, the penalty shall be strict imprisonment from 3 to 10 years.

(3) The act of facilitating escape of a person confined, under arrest or convicted for an offence for which the law provides a penalty of more than 10 years, shall be punished by strict imprisonment from 3 to 10 years, and if the act was committed by a person charged with guarding the person who escaped, the penalty shall be strict imprisonment from 3 to 12 years.

(4) The act of facilitating escape committed by negligence by a person charged with guarding the person who escaped shall be punished by strict imprisonment from one to 3 years.

Non-abidance by court decisions

Art. 351 – (1) The act of resisting the execution of a court decision, by threat against the body of execution, shall be punished by strict imprisonment from one to 3 years, and if the act was committed by violence, the penalty shall be strict imprisonment from one to 7 years.

(2) The act of preventing a person from using a house or part of a house or building, held based on a court decision shall be punished by strict imprisonment from one to 2 years or by days/fine.

(3) If the act in para.(2) was committed by threat, the penalty shall be strict imprisonment from one to 3 years, and if the act was committed by violence, the penalty shall be strict imprisonment from one to 5 years.

(4) Non-abidance by court decisions, by eluding their execution of security measures provided in Art.129 c), d) and e) shall be punished by imprisonment from one month to 3 months or by days/fine.

Sanctions for attempt

Art.352 – Attempt to the delicts in Art.337, Art.343 para.(1), Art.349 and Art.350 para.(1)-(3) is punishable.

Sanctions for legal entities

Art.353 – Legal entities shall be sanctioned for the offences provided in Art.336-337, Art.340 and Art.347.

Title VIII

Crimes and delicts of public danger

Chapter I

Crimes and delicts concerning organised crime

Creation of an organised criminal group

Art.354 – (1) The act of initiating or creating an organised criminal group or adhering to it or supporting such a group in any way, shall be punished by severe detention from 15 to 20 years and the prohibition of certain rights.

(2) The penalty for acts in para.(1) cannot exceed the sanction provided in the law for the most serious of the offences intended by the organised criminal group.

(3) If the act in para.(1) was followed by the commission of a delict, the penalty for that delict shall be applied in concurrence with the penalty in para.(1), and if the offence committed is a crime, one can also apply life detention.

(6) Persons in para.(1) who denunciate the organised criminal group to the authorities before it is discovered and before the commission of the offence intended shall not be punished.

(7) A person who committed the act in para.(1) or one of the serious offences intended by the organised criminal group and who, during criminal prosecution or judgment, denounces and facilitates the identification and criminal trial of one or more of the group members, shall enjoy penalty reduction according to Art.92.

Association in order to commit offences

Art.355 - (1) The act of initiating or creating an association or group that does not have the nature of an organised criminal group, in order to commit one or more offences, others than those in Art.286 or adhering to or supporting in any way such an association or group shall be punished by strict imprisonment from 5 to 15 years, while not exceeding the penalty provided in the law for the most serious of offences intended by the association or group.

(2) If the act in para.(3) was followed by the commission of an offence, the penalty provided for that offence shall be applied in concurrence with the penalty in para.(1).

(6) Persons in para.(1) who denunciate the association or the group to the authorities before it is discovered and before the commission of the offence intended shall not be punished.

Defining the organised criminal group and the serious offence

Art.356 - (1) An “organised criminal group” is a structured group, made up of three or more persons, which exists for a certain period and acts in a coordinated manner for the commission of one or more serious offences, in order to directly or indirectly obtain a financial benefit or another material benefit. A group formed occasionally for the immediate commission of one or

more offences and that does not have continuity or a definite structure or pre-established roles for its members within the group shall not be an “organised criminal group”.

(2) A “serious offence” is any offence for which the law provides a penalty of confinement with a special maximum of at least 5 years.

Special provisions on concealment

Art.357 – (1) The offence of concealment provided in Art.267, if the asset emerges from a serious offence committed by one or more members of an organised criminal group, shall be punished by strict imprisonment from 3 to 10 years, while the sanction applied cannot exceed the penalty provided in the law for the serious offence that produced the concealed asset.

(2) Concealment committed by a spouse or a close relative shall not be punished.

Sanctions for legal entities

Art.358 – Legal entities shall be sanctioned for the offences provided in the present chapter.

Chapter II

Delicts against public order

Disturbing public order by violence

Art.359 – (1) The act of partaking in a crowd that is disturbing public order, even if the participants do not break up after three warnings from the law enforcement bodies, shall be punished by imprisonment from one month to one year or by days/fine.

(2) If the participants have committed acts of violence against persons or goods, the penalty shall be strict imprisonment from one to 3 years or days/fine, if the act is not a more serious offence.

Failure to take measures ensuring public order

Art.360 – Failure by the administrators of public and leisure establishments to ensure public order in those establishments, as well as their refusal to support qualified bodies in re-establishing public order or in taking measures against persons who broke the law, shall be punished by imprisonment from 3 months to one year or by days/fine.

Public instigation and favourable presentation of offences

Art.361 – (1) The act of urging the public by speech, in writing or by any means, not to observe the law or to commit offences shall be punished by imprisonment from 3 months to one year or by days/fine, while not exceeding the penalty provided in the law for the offence to the commission of which the instigation was made.

(2) If the act in para.(1) is committed by a public servant holding an office that involves the exercise of State authority or by a person in Art.281, the penalty shall be strict imprisonment from one to 5 years, while not exceeding the penalty provided in the law for the offence to the commission of which the instigation was made.

(3) If the public instigation resulted in the commission of the offence that was the object of instigation, the penalty shall be the one provided in the law for that offence.

(4) The act of wearing in public uniforms, badges or other such distinctive marks unauthorised, for the purposes in para.(1), shall be punished by imprisonment from 3 months to one year or by days/fine.

(5) The same penalty shall sanction also the public praise to those who committed offences or to the offences they committed.

Manifestations of racism or chauvinistic nationalism

Art.362 – (1) The act of preventing a Romanian citizen from freely establishing his/her nationality or native language, or any abusive modification of data concerning a person's nationality or native language shall be punished by imprisonment from 3 months to one year or by days/fine.

(2) The act of preventing by any means a person from using a language other than the official State language, as well as of refusing or preventing the free transmission of communication or correspondence if it is spoken or written in a language other than the official one, shall be punished by imprisonment from 3 months to 6 months or by days/fine.

Chauvinistic-nationalist propaganda

Art.363 – Chauvinistic-nationalist propaganda, instigation to hate based on criteria of race or nationality, if the act is not the offence provided in Art.286, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Disturbing the use of habitations

Art.364 – (1) The act of repeatedly disturbing the use of the homes of inhabitants in a building, or of preventing the normal use of the habitation shall be punished by imprisonment from 3 months to one year or by days/fine.

(2) Criminal action is initiated upon prior complaint from the injured person

(3) Reconciliation of parties removes criminal liability.

The exercise of a profession without right

Art.365 – The exercise without right of a profession or of any other activity requiring authorisation according to the law, or exercise in other conditions than the legal ones, if the special law provides that the commission of such acts shall be sanctioned according to criminal law, shall be punished by imprisonment from one month to one year or by days/fine.

Scuffle

Art.366 – (1) Participation to a scuffle between several persons shall be punished by imprisonment from one month to 6 months or by days/fine.

(2) If the scuffle caused any serious injury upon a person's corporal integrity or health, the perpetrator of this act shall be punished for the offence committed, the maximum of which shall be reduced by one year. The other participants shall be punished by the penalty provided in para.(1).

(3) In the case in para.(2), if it is not known which of the participants committed the acts in that paragraph, the penalty of strict imprisonment from one to 5 years shall be applied to all of them, if injury of corporal integrity or health was caused. In case that death was caused, the penalty shall be strict imprisonment from 3 to 15 years.

(4) A person who has been caught in a scuffle against his/her will, or who tried to separate others, to reject an attack or to defend another person, shall not be punished.

Begging

Art.367 – The act of a person who, while capable to work, repeatedly calls for public charity, requesting material aid, shall be punished by imprisonment from one month to 3 months or by days/fine.

First degree begging

Art.368 – The act of a child's parent or legal representative who, while being capable to work, uses the child in order to repeatedly call for public charity requesting material aid shall be punished by strict imprisonment from one to 5 years and the prohibition of certain rights.

Organised begging

Art.369 – (1) The act of urging or facilitating the a minor's begging or the act of having benefits from a minor's begging shall be punished by strict imprisonment from 2 to 5 years.

(2) The act of recruiting or coercing a minor to beg shall be punished by strict imprisonment from 2 to 7 years.

(3) If the act in para.(1) or (2) is committed by the child's parent or legal representative, the penalty shall be strict imprisonment from 3 to 7 years and the prohibition of certain rights for

para.(1) and strict imprisonment from 3 to 10 years and the prohibition of certain rights for para.(2).

The carrying and use of side arms without right

Art.370 – (1) The act of carrying, without right, in public places, knives, daggers, poniards, stilettos, or other such dangerous objects shall be punished by imprisonment from 3 months to one year or by days/fine.

(2) The act of carrying, without right, the objects in para.(1) in premises of public authorities, public institutions, institutions or other entities of public interest, in public meetings or in election premises shall be punished by strict imprisonment de to one to 3 years or by days/fine.

Use and obtainment of weapons with compressed air or compressed gasses

Art.371 – (1) The use in public places of weapons with compressed air or compressed gasses, of objects manufactured on the basis of pyrotechnical mixtures or of devices for electric shocks, for other purposes than legitimate defence, shall be punished by imprisonment from 3 months to one year or by days/fine.

(2) The act of importing or obtaining in any way, in order to sell, without right, weapons with compressed air or compressed gasses, which expulse the projectile at a speed exceeding 220 m/s, except those for sporting purposes, shall be punished by strict imprisonment de one to 3 years or by days/fine.

Sanctions for attempt

Art.372 –Attempt to the delict in Art.369 is punishable.

Sanctions for legal entities

Art.373 – Legal entities shall be sanctioned for the offences provided in Art.360, Art.364, Art.369 para.(1) and (2) and Art.371.

Chapter III

Crimes and delicts against the railway traffic safety

Failure to fulfil service duties or their erroneous fulfilment by negligence

Art.374 – (1) Failure to fulfil service duties or their erroneous fulfilment by negligence, committed by railway employees, if it could have jeopardised the safety of means of rail transportation shall be punished by strict imprisonment from one to 3 years.

(2) When the act in para.(1) resulted in disturbance in the transport activity or a rail accident, the penalty shall be strict imprisonment from 3 to 7 years, and if a railway disaster occurred, the penalty shall be strict imprisonment from 5 to 15 years.

Non-fulfilment of service duties or their erroneous fulfilment in awareness

Art.375 – (1) Non-fulfilment of service duties or their erroneous fulfilment in awareness committed by railway employees, if it could jeopardise the safety of means of rail transportation, shall be punished by strict imprisonment from one to 5 years.

(2) If the erroneous fulfilment or non-fulfilment in awareness shown in para.(1) resulted in disturbance in the transport activity or a rail accident, the penalty shall be strict imprisonment from 3 to 10 years, and if a railway disaster occurred, the penalty shall be severe detention from 15 to 20 years.

Leaving the post and inebriety during service

Art.376 – (1) The act of leaving the post, in any way and under any form, by employees in direct charge of ensuring rail transportation safety, if it could have jeopardised the safety of means of rail transportation, shall be punished by strict imprisonment from 2 to 7 years.

(2) The same penalty shall also sanction the exercise of service prerogatives while inebriated committed by employees in direct charge of ensuring rail transportation safety.

(3) If the acts in para.(1) and (2) caused disturbance in the transport activity or a rail accident, the penalty shall be strict imprisonment from 5 to 15 years, and when a railway disaster occurred, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Destruction and false signalling

Art.377 – (1) The act of destroying, damaging or making unfit for use the railway or the rail installations or the rail telecommunications, as well as any goods or equipment belonging to the rail infrastructure, or of placing obstacles on the railway, if this could have jeopardised the safety of rail transportation, shall be punished by strict imprisonment from 3 to 12 years.

(2) The same penalty shall sanction the commission of acts of false signalling or the commission of any acts likely to mislead the rail personnel during the exercise of service, if these acts could have caused a railway accident or disaster.

(3) If the acts in para.(1) and (2) caused disturbance in the transport activity or a rail accident, the penalty shall be strict imprisonment from 10 to 15 years and the prohibition of certain rights, and when a railway disaster occurred, the penalty shall be life detention or severe detention from 15 to 25 years.

(4) The commission by negligence of the acts in para.(1), (2) and (3) shall be punished for para.(1) and (2) by strict imprisonment from one to 5 years, and for para.(3) by strict

imprisonment from 3 to 7 years, if disturbance in the transport activity or a rail accident occurred, and by strict imprisonment from 10 to 15 years if a railway disaster occurred.

(5) If any of the acts in this article is committed by a railway employee the maximum of the penalty provided for the act committed shall be applied, and should this maximum be insufficient, the penalty can be applied up to its general maximum.

Railway accidents and disasters

Art.378 – (1) A railway accident is the significant destruction or damaging of the rolling stock or of other railway installations during circulation or during manoeuvres with means of railway transportation.

(2) A railway disaster is the derailment, overturn or crash of a means of railway transportation, or the producing of a similar result, as well as the collision of two means of railway transportation or of a means of railway transportation with a different vehicle, if this caused particularly serious consequences by the death or corporal injury of persons, or by destroying or damaging means of railway transportation, railway installations or the merchandise entrusted for conveyance.

Initiation of criminal action

Art.379 – Criminal action for acts in Art.374 para.(1), Art.375 para.(1) and Art.376 para.(1) and (2) shall be initiated only upon notification from qualified bodies of the railway company.

Sanctions for attempt

Art.380 – Attempt to the delicts in Art.377 para.(1)-(3) is punishable.

Sanctions for legal entities

Art.381 – Legal entities shall be sanctioned for the offences provided in Art.374-375 and Art.377.

Chapter IV

Crimes and delicts against public health

Failure to comply with provisions on importing toxic waste and residue

Art.382 – (1) The following acts shall be punished by strict imprisonment from 2 to 7 years:

- a) importing devices, installations, equipment, machinery, substances and products used and worn down belonging to the category of waste the import of which is prohibited;
- b) non-adoption or non-compliance with compulsory measures in the development of activities of collection, transport and storage of dangerous waste;

- c) selling, losing or abandoning waste during transit through Romanian territory;
- d) refusing to execute decisions of qualified authorities concerning the work or activities of producing and managing waste;
- e) refusing to return waste to the country of origin if such a measure has been ordained by the competent bodies;
- f) conducting any other operations of importing waste and residue of any kind or other merchandise that is dangerous for public health and for the environment or inserting in any way or transiting them on Romanian territory, while not observing legal provisions.

(2) If the acts in para.(1) have endangered the health or corporal integrity of a great number of persons or have resulted in any of the consequences in Art.188 or have caused significant material damage, the penalty shall be strict imprisonment from 3 to 10 years and the prohibition of certain rights, and if the death of one or several persons or major damage to the national economy was caused, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Preventing disease combating

Art.383 – Non-compliance with measures concerning the prevention and combating of contagious disease, if it has resulted in the spread of such a disease, shall be punished by imprisonment from one month to one year or by days/fine.

Venereal contamination and transmission of the acquired immunodeficiency syndrome

Art.384 – (1) The transmission of a venereal disease by sexual contact of any nature with a person of the opposite or same sex or by acts of sexual perversion committed by a person who is aware that he/she suffers from such a disease, shall be punished by strict imprisonment from one to 5 years.

(2) Transmission of the acquired immunodeficiency syndrome – AIDS – by a person who is aware that he/she suffers from this disease, shall be punished by strict imprisonment from 5 to 15 years.

(3) The law court shall ordain the security measure of obligation to undergo medical treatment.

Spreading disease among animals or plants

Art.385 – (1) Non-compliance with measures concerning the prevention or combating of contagious disease in animals or plants or of pests, if it has resulted in the spread of such a disease or of pests or other serious consequences shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The same penalty shall sanction also the concealment, in awareness, of the occurrence of a contagious disease in animals or plants, as well as non-submission to the application of measures to combat the disease and to prevent the spread of the disease.

Illicit drug trafficking

Art.386 – (1) The act of cultivating, producing, manufacturing, experimenting, extracting, processing, converting, offering, selling, distributing, delivering in any form, sending, transporting, obtaining, buying, possessing or other operations concerning the circulation of risk drugs, without right, shall be punished by strict imprisonment from 3 to 15 years and the prohibition of certain rights.

(2) If the acts in para.(1) concern high risk drugs the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

(3) The penalty in para.(2) shall sanction also the act of taking in or out of the country, as well as importing and exporting risk drugs, without right.

(4) If the act in para.(3) concerns high risk drugs, the penalty shall be severe detention from 15 to 25 years and the prohibition of certain rights.

(5) The act of organising, running or financing the acts in para.(1)-(4), shall be sanctioned by the maximum of the penalty provided for the act committed, and if this maximum is not sufficient, a penalty can be applied up to its general maximum.

Non-compliance with provisions regarding illicit drug administration

Art.387 – (1) The act of cultivating, producing, manufacturing, experimenting, extracting, processing, converting, buying or possessing drugs for one's own use, without right, shall be punished by strict imprisonment from 2 to 5 years.

(2) The act of making available, in awareness, in any form, a facility, a house or any other arranged place that the public has access to for illicit drug use, or tolerating illicit drug use in such places shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights

(3) The act of prescribing high-risk drugs, deliberately committed by a physician, while this is not necessary from a medical point of view, shall be punished by strict imprisonment from one to 5 years.

(4) The penalty in para.(3) shall sanction also the deliberate issuing or obtainment of high-risk drugs based on a medical prescription in para.(3) or forged medical prescription.

(5) The act of administering high-risk drugs to a person, outside legal conditions, shall be punished by strict imprisonment from one to 5 years.

(6) The act of supplying, for use, toxic chemical inhalants to a minor, shall be punished by strict imprisonment from one to 3 years.

(7) The act of urging some one to use drugs illicitly, by any means, if it is followed by execution, shall be punished by strict imprisonment from one to 5 years, and of the urging is not followed by execution, the penalty shall be strict imprisonment from one to 2 years or days/fine.

(8) The act of organising, running or financing the acts in para.(1)-(7) shall be sanctioned by the maximum of the penalty provided for the act committed, and should this maximum not be sufficient, penalty can be applied up to the general maximum.

Illicit drug traffic and administration resulting in the victim's death

Art.388 – If the acts in Art.386 para.(1), (2) and (5) and Art.387 para.(1), (3)-(6) and (8) resulted in the victim's death, the penalty shall be severe detention from 15 to 25 years and the prohibition of certain rights.

Non-abidance by the legal treatment of precursors

Art.389 – (1) The act of producing, synthesising, extracting, experimenting, owning, transporting, selling, placing on the market or any other operations with precursors, without right, shall be punished by strict imprisonment from one to 5 years.

(2) The penalty in para.(1) shall sanction also the sale of precursors by economic agents or natural persons with no authorisation.

(3) If the acts in para.(1) and (2) are committed in order to illicitly produce or manufacture drugs, others than high-risk drugs, the penalty shall be strict imprisonment from 3 to 10 years.

(4) The act of crossing the border with precursors, with no legal documents, shall be punished by strict imprisonment from 3 to 12 years.

(5) The act of producing, manufacturing, importing, exporting, offering, selling, transporting, delivering in any form, sending, obtaining, buying or possessing precursors, equipment or materials, in order to use them in cultivating, producing or manufacturing high risk drugs illicitly shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

Trafficking in toxic substances

Art.390 – The production, possession or any other operation relating to the circulation of toxic products, the cultivation for processing of plants that contain such substances or experimenting with toxic products or substances, all these without right, shall be punished by strict imprisonment from 3 to 15 years and the prohibition of certain rights.

Forgery of foods or other products

Art.391 – (1) The act of processing foods or beverages that are forged, altered or prohibited for consumption, harmful for the health, the act of exhibiting for sale or selling such foods or beverages, in awareness that they are forged, altered or prohibited for consumption, shall be punished by strict imprisonment from 2 to 8 years.

(2) The penalty in para.(1) shall sanction also the act of forging or replacing other merchandise or products, if by the forgery or substitution they became harmful for the health.

(3) The act of placing in public consumption meat or meat products coming from slaughtering of animals without veterinary control, if it resulted in a person's illness, shall be punished by strict imprisonment from 3 to 10 years, and if it resulted in death, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

(4) If through the acts in para.(1) or (2) injury was caused to one or more persons the recovery of which requires medical care of up to 20 days, the penalty shall be strict imprisonment from 3 to 10 years and the prohibition of certain rights, and if medical care of up to 60 days is required, the penalty shall be strict imprisonment from 5 to 10 years and the prohibition of certain rights.

(5) If the acts in para.(1) or (2) caused injury to one or more persons the recovery of which requires medical care of more than 60 days or any of the consequences in Art.187 para.(2) the penalty shall be strict imprisonment from 5 to 12 years and the prohibition of certain rights, and if they resulted in death, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Non-compliance with provisions on the management of recyclable waste

Art.392 – (1) The act, committed by the owner of recyclable industrial waste, of presenting false documents concerning their origin, shall be punished by strict imprisonment from one to 5 years.

(2) Theft of materials, products or equipment in order to sell them as waste, shall be sanctioned according to Art.249. If the act endangered the environment, the health or safety of the population, the penalty shall be the one provided in Art.250 para.(1).

Sanctions for attempt

Art.393 – (1) Attempt to the delicts in Art.382, Art.386 para.(1) and (5), Art.387, Art.390 and Art.391 para.(1)-(3) is punishable.

(2) The production or obtainment of the means or instruments, as well as the taking of measures to commit offences in Art.386 para.(1)-(5) and Art.387 para.(1)-(8) shall also be considered attempt.

Sanctions for legal entities

Art.394 – Legal entities shall be sanctioned for the offences provided in Art.382-383 and Art.385-392.

Chapter V

Crimes and delicts against the environment

Violation of rules on the protection of the atmosphere

Art.395 – (1) Failure to take measures to stop the operation of installations representing a major risk for the quality of air found by the qualified authorities, as well as failure to notify them, shall be punished by strict imprisonment from one to 5 years.

(2) If the act in para.(1) resulted in the serious corporal injury of a person or endangered the health or corporal integrity of a great number of persons or caused significant material damage, the penalty shall be strict imprisonment from 5 to 10 years and the prohibition of certain rights.

(3) If the act in para.(1) resulted in the death of one or more persons or major damage to national economy, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Violation of rules on water protection

Art.396 – (1) The act of expelling, throwing or injecting into surface or subterranean waters, into inner sea waters or into territorial sea waters used water, waste, residue or products of any kind, which contain substances, bacteria or microbes, in a quantity or concentration that can change characteristics of the water, thus jeopardising the life, health and corporal integrity of persons, the life of animals, the environment, agricultural or industrial production or the piscatorial supply, shall be punished by strict imprisonment from one to 5 years.

(2) The penalty in para.(1) shall sanction also the following acts:

a) polluting, in any way, water supplies, if this has a systematic nature and causes damage to the users of water downstream;

b) discharging used waters and waste from ships or floating platforms directly into natural waters;

c) pollution by expelling or sinking into natural waters dangerous substances or waste directly or from ships or floating platforms;

d) storing, in the major channel of rivers, nuclear fuel or waste emerging from its use.

(3) Storage or use of chemical fertilisers, pesticides or other toxic dangerous substances, in the water protection areas, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(4) Commission of the acts in para.(1) and (2) by negligence shall be punished by strict imprisonment from one to 3 years or by days/fine, and that of the acts in para.(3), by imprisonment from 6 months to one year or by days/fine.

(5) If the acts in para.(1)-(3) resulted in the serious corporal injury of a person or have endangered the health or corporal integrity of a great number of persons or caused significant material damage, the penalty shall be strict imprisonment from 5 to 10 years and the prohibition of certain rights.

(6) If the acts in para.(1)-(3) resulted in the death of one or more persons, in the mass poisoning of the population, in epidemics or in major damage to the national economy, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Violation of rules on water management

Art.397 – (1) The act of executing, modifying or expanding works, constructions or installations on waters or that are connected to waters, without legal approval or without notifying such work, as well as beginning the exploitation of such units, without a concomitant beginning of the use of sewage networks, stations and installations for filtering the used water, according to the authorisation for water management, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The same penalty shall sanction also:

a) the act of exploiting or maintaining works built on water or in connection with water, of melting linden, hemp, flax and other textile plants, of tanning leather and extracting mineral aggregates, without authorisation of water management;

b) the act of exploiting mineral aggregates in areas of sanitary protection of water sources, in areas of protection of river beds, banks, hydro-technical constructions, hydrometrical constructions and installations or installations for automatic measuring of water quality;

c) the use of minor river beds, without authorisation of water management, as well as of the sea beach and shore in other purposes than bathing or walking;

d) continuing the activity after losing the rights obtained according to the law.

(3) Acts in para.(1) and (2) committed by negligence shall be punished by imprisonment from 6 months to 1 year or by days/fine.

Violating rules on the use of potable water

Art.398 – (1) The act of restricting the use of potable water for the population for the benefit of other activities or exceeding the amount of water allotted, if this has a systematic nature or has caused disturbance in the activity of an unit of social protection or has caused malfunctions in the

supply of water to the population, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Commission of the act in para.(1) by negligence shall be punished by imprisonment from 6 months to one year or by days/fine.

Destruction of water protection works

Art.399 – (1) The destruction, damaging or operation by unauthorised persons of dams, gratings, valves, barriers or other hydro-technical constructions or installations, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The same penalty shall sanction also the act of carrying out digging, making holes or ditches in the dams, dikes or in the protection areas of these works, as well as extracting the land or other materials from the protection work, without approval from water management or by non-abidance by it.

(3) Commission of the acts in para.(1) and (2) by negligence shall be punished by imprisonment from 6 months to one year or by days/fine.

Violation of rules on soil protection

Art.400 – (1) The act of bringing into the country cultures of micro-organisms, live plants and animals belonging to the wild flora and fauna, without approval from the central public authority for environment protection, shall be punished by strict imprisonment from 2 to 7 years.

(2) The penalty in para.(1) shall sanction also the failure, in awareness, to take measures for the total removal of dangerous chemical substances that have become waste, not supervising and not securing storage facilities for waste and dangerous substances, as well as refusal to intervene in case of accidental pollution of waters and coastal areas.

(3) The following shall be punished by severe imprisonment from one to 5 years:

- a) transporting or transiting products for phyto-sanitary use, dangerous substances or waste for which authorisation is required, without having this authorisation;
- b) producing, delivering or using chemical fertilisers and products of phyto-sanitary use that do not comply with the EC quality norms;
- c) not complying with the norms for the use of phyto-sanitary products or chemical fertilisers on agricultural terrain;
- d) not complying with the obligation to store chemical fertilisers and phyto-sanitary products only packed and in protected places;

e) causing, because of non-supervision of sources of ionizing radiation, contamination of the environment and exposure of the population to ionizing radiation;

f) failing to immediately report an increase over the limits allowed in environment contamination;

g) inappropriate application or failure to take measures of intervention in case of nuclear accident;

h) uncontrolled storage of household, industrial and animal waste in areas not expressly established for this and unauthorised, resulting in severe damage to the soil and pollution of the environment;

i) not complying with legal obligations on the storage in places of specific destination and recycling recyclable waste.

(4) If the acts in para.(1)-(3) resulted in the serious corporal injury of a person or has endangered the health or corporal integrity of a great number of persons or caused significant material damage, the penalty shall be strict imprisonment from 5 to 10 years and the prohibition of certain rights.

(5) If the acts in para.(1)-(3) resulted in the death of one or more persons or in major damage to national economy, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Violation of rules on forest protection

Art.401 – The act of breaking up the wood vegetation outside the forest fund, located on terrains with very steep slopes or at the top limit of forest vegetation, if the acts have been likely to endanger human, animal or vegetal life, or health, shall be punished by imprisonment from 3 months to one year or by days/fine.

Acoustic pollution

Art.402- The act of making sounds that exceed the legal limits, deliberately and repeatedly, if this seriously endangers the health of persons, shall be punished by imprisonment from 3 months to one year or by days/fine.

Accidental pollution

Art.403– Accidental pollution, because of non-supervised execution of new works, operation of installations, technological equipment for treatment and neutralisation provided in the environment agreement or authorisation, shall be punished by imprisonment from 3 months to one year or by days/fine.

Sanctions for attempt

Art.404 – Attempt to the delicts in Art.395 para.(1), Art.396 para.(1)-(3), Art.397 para.(1) and (2), Art.398 para.(1), Art.399 para.(1) and (2) and Art.400 para.(1)-(3) is punishable.

Sanctions for legal entities

Art.405 – Legal entities shall be sanctioned for the offences provided in the present chapter.

Chapter VI

Crimes and delicts concerning the legal treatment of weapons, ammunition, radioactive material and explosives

Non-compliance with the legal treatment of weapons and ammunition

Art.406 – (1) The act of possessing, carrying, manufacturing, transporting, as well as any operation concerning the circulation of weapons and ammunition or the operation of workshops for repairing weapons, without right, shall be punished by strict imprisonment from 2 to 8 years.

(2) The penalty in para.(1) shall sanction also the failure to hand over the weapon or ammunition within the term appointed by the law to the qualified body, by the person whose request for prolongation of permit validity has been rejected.

(3) The following shall be punished by strict imprisonment from 3 to 10 years:

a) possession, alienation or carrying, without right, hidden weapons or military weapons, as well as ammunition for such weapons;

b) possession, alienation or carrying, without right, several weapons except those in (a), as well as panopoly weapons or the respective ammunition in large quantities.

(4) The act of carrying weapons without right, in the premises of authorities or of public institutions, in public meetings or election premises, shall be punished by strict imprisonment from 5 to 12 years.

Non-compliance with the legal treatment of nuclear material or of other radioactive material

Art.407 – (1) The act of receiving, possessing, using, surrendering, altering, alienating, dispersing, displaying, transporting or diverting nuclear material or other radioactive material, as well as any operation related to the circulation, research, designing, location, production, construction or assembling of nuclear objects or installations, beginning operation, exploiting, altering, closing, importing or exporting nuclear installations, without right, shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(2) Theft or destruction of nuclear material or of other radioactive materials, as well as development, manufacture, possession, import, export or transit of nuclear weapons or of any nuclear explosive devices shall be punished by imprisonment from 5 to 12 years.

(3) If the acts in para.(1) and (2) caused a public danger or had any of the consequences in Art.187 or 188, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights.

(4) If the acts in para.(1) and (2) had particularly serious consequences, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights, and if they caused death of one or more persons, the penalty shall be life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

(5) The total or partial removal from operation of supervision and control equipment, if the act is not justified by nuclear security or by radio-protection, shall be punished by strict imprisonment from one to 3 years or by days/fine, if the act is not a more serious offence.

(6) If the act in para.(5) is committed by negligence, the penalty shall be imprisonment from 6 months to one year or days/fine.

Non-compliance with the legal treatment of explosives

Art.408 – (1) The act of producing, experimenting with, processing, possessing, transporting or using explosive material or any other operations related to these materials, without right, shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(2) Theft of explosives shall be punished by strict imprisonment from 5 to 12 years and the prohibition of certain rights.

(3) Acts in para.(1) and (2), if they have caused public danger or have had any of the consequences in Art.187 and 188 or have caused material damage, shall be punished by strict imprisonment from 5 to 15 years and the prohibition of certain rights.

(4) When the acts in para.(1) and (2) concern an amount exceeding 1 kg TNT equivalent or when the amount of explosive is accompanied by instructions for use, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

(5) If the acts in para.(1), (2) and (4) have resulted in particularly serious consequences, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights, and if they caused the death of one or more persons, the penalty shall be life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

Sanctions for attempt

Art.409 – Attempt to the delicts in Art.406, Art.407 para.(1) and (2) and Art.408 para.(1) and (2) is punishable.

Sanctions for legal entities

Art.410 – Legal entities shall be sanctioned for the offences provided in the present chapter.

Chapter VII

Crimes and delicts concerning the quality of constructions and dams

Non-compliance with legal provisions on authorising constructions

Art.411 – The act of executing, with no authorisation for construction or closing down or in violation of its provisions, works that require such authorisation, of continuing the execution of works after their halt is ordained by the body of control, as well as compiling or signing technical projects and projects for the authorisation of constructions for a speciality other than those certified by university degree according to the law, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Non-compliance with legal provisions on the quality of constructions

Art.412 – (1) The act of designing, checking, making expertise, realising a construction or altering it, in violation of the technical regulations on stability and resistance, if this could cause loss of human lives, serious injury of corporal integrity or health of one or more persons, the total or partial destruction of the construction, the destruction or damaging of important installations or machinery or other particularly serious consequences, shall be punished by strict imprisonment from 5 to 10 years and the prohibition of certain rights.

(2) If any of the consequences in para.(1) occurred, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

3) The continuation of the construction work executed inappropriately and halted by order of the control bodies because they affect the resistance and stability of the construction, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Non-compliance by the provisions on the quality of dams

Art.413 – The following acts shall be punished by strict imprisonment from one to 3 years or by days/fine:

- a) executing dams without agreement of safe operation of the dam;
- b) operating dams without authorisation for operation in safety conditions, thus endangering the population and the environment;
- c) not declaring dams owned and their features;

d) not applying the measures established by expertise approved by the qualified body, if the act endangers the safety of the construction and causes serious consequences for the population or the environment;

e) damaging or destroying the devices for measurement and control placed in the dams or using non-standardised devices.

Sanctions for legal entities

Art.414 – Legal entities shall be sanctioned for the offences provided in the present chapter.

Title IX

Delicts against cultural values and against intellectual property

Chapter I

Delicts against national cultural heritage and against the national archival fund

Non-compliance with the legal protection of assets

Art.415 – (1) The act of alienating, hiding or any other act that causes the loss to the national cultural heritage or to the national archival fund of an asset that, according to the law, is a part of that heritage or fund, shall be punished by strict imprisonment from 2 to 7 years.

(2) If loss of the asset from the heritage or fund in para.(1) was caused by the commission of an act that is in itself another offence, the rules on concurrence of offences shall apply.

(3) The act in para.(1) shall not be punished if, before the decision remains final, the perpetrator removes the result of the offence, returning the asset to that heritage or fund.

Crossing the border with archive documents

Art.416 – The act of crossing the border with documents that are part of the National Archival Fund of Romania or of alienating them to foreign natural persons or legal entities, without authorisation from the National Archives, shall be punished by imprisonment from 3 to 7 years, if the act is not a more serious offence.

Non-compliance with the measures of protection of movable national heritage

Art.417 – (1) The act of executing copies, casts, posthumous editions or facsimiles of filed movable cultural assets, without written approval from the owner of the right to administer the heritage or from the owner, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The copies, casts, posthumous editions or facsimiles in para.(1) shall be confiscated and sent into the administration of the specialised public institutions, with approval from the National Commission of Museums and Collections.

(3) The act of forging filed movable cultural assets, for commercial purposes or for any other purposes, shall be punished by strict imprisonment from one to 5 years.

(4) The act of destroying, damaging or making unfit for use a filed movable cultural asset, or of preventing the preservation or rescue measures for such an asset, as well as of removing the measures taken shall be punished by strict imprisonment from 2 to 7 years.

Illegal export of movable cultural assets

Art.418 – (1) The act of carrying out export operations with movable cultural assets without an export certificate shall be punished by strict imprisonment from 2 to 7 years.

(2) The movable cultural assets that were the object of illegal export shall be confiscated and sent into the administration of the specialised public institutions, with approval from the National Commission of Museums and Collections.

(3) If the act in para.(1) resulted in the loss of a filed movable cultural asset, the penalty shall be strict imprisonment from 3 to 10 years.

(4) The act of carrying out any operations for the export of filed movable cultural assets of public property or of movable cultural assets filed in the treasury, which are the property of natural or legal persons of private law, shall be punished by strict imprisonment from 3 to 10 years, and the assets shall be confiscated and sent into the administration of the specialised public institutions, with approval from the National Commission of Museums and Collections.

Illegal import of movable cultural assets

Art.419 - (1) Bringing on the territory of the Romanian State, as well as holding, trading, organizing exhibitions or any other operation regarding the circulation of the movable cultural assets or resulted from dismemberment of movable cultural assets, being a part of the cultural patrimony of a foreign state, and which have been exported illegally, is punished by strict imprisonment from 3 to 10 years.

(2) Goods provided in para.(1) shall be confiscated and transmitted to specialized institutions, in order to be preserved and returned to the state to whose patrimony they belong.

Provision of confidential data on the national movable cultural heritage

Art.420 – The act of providing confidential data concerning the national movable cultural heritage to other natural or legal persons than those provided in the law shall be punished by imprisonment from 6 months to one year or by days/fine.

Changing the judicial category of a movable cultural asset

Art.421 – The act of transferring a movable cultural asset from one judicial category of cultural heritage into another, as well as the act of removing a movable cultural asset from records while not observing the legal provisions, shall be punished by imprisonment from 6 months to one year or by days/fine.

Carrying out illegal work upon assets in the cultural heritage

Art.422 – (1) The act, committed by unauthorised natural or legal persons, of conducting detection or digging into archaeological sites, shall be punished by strict imprisonment from one to 5 years.

(2) The penalty in para.(1) shall sanction also the act of melting or any form of altering filed movable cultural assets that are held under any title by the National Bank of Romania, by the State Mint or by the other banks.

(3) The act of conducting preservation or restoration work on filed movable cultural assets, committed by persons not accredited and having no certificate of free practice, shall be punished by imprisonment from 6 months to one year or by days/fine.

(4) The penalty in para.(3) shall sanction also the unauthorised activity of laboratories and workshops carrying out work of restoration and preservation of filed movable cultural assets.

Sanctions for attempt

Art.423 – Attempt to the delicts in Art.416, Art.417 and Art.419 and Art.422 para.(1) is punishable.

Sanctions for legal entities

Art.424 – Legal entities shall be sanctioned for the offences provided in the present chapter.

Chapter II

Delicts against intellectual property

Forgery of the object of an invention and appropriation, without right, of the capacity of an inventor

Art.425 – (1) The act of forging or using, without right, the object of an invention, as well as the appropriation, without right, in any manner, of the capacity of an inventor, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Criminal action is initiated upon prior complaint from the injured person.

(3) Reconciliation of parties removes criminal liability.

Placing forged objects in circulation

Art.426 – The act of placing in circulation the forged products or of using the object of an invention, without right, shall be punished by strict imprisonment de to one to 3 years or by days/fine.

Non-compliance with measures of protection for industrial designs and models

Art.427 – (1) Appropriation, without right, in any manner, of the capacity of author of an industrial design or model, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Reproduction, without right, of an industrial design or model in order to manufacture products of identical appearance, manufacture, offering for sale, sale, import, use or storage of such products in order to put them in circulation or use them, without agreement of the holder of the registration certificate for that industrial design or model, during its validity period, shall be sanctioned by the penalty provided in para.(1).

(3) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Disclosure of data included in the request for patent or in the request for registration of industrial designs or models

Art.428 – The disclosure, by the personnel of the State Office for Inventions and Marks, as well as by the persons carrying out work connected to the inventions or industrial designs or models, of the data included in the request for patent or in the request for registration, prior to their publication, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Non-compliance with measures for protecting the topography of integrated circuits

Art.429 – (1) The act of exploiting, without authorisation from the owner, a registered topography of integrated circuits, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Non-compliance with measures for protecting marks and geographical indications

Art.430 – (1) The following acts shall be punished by strict imprisonment from one to 3 years or by days/fine:

a) forging, imitating or using without right a mark, in order to mislead the public on the quality of products or services to which the mark refers;

b) placing in circulation, without right, a product bearing a mark that is identical or similar to a registered mark for products identical or similar and that prejudice the owner of the registered mark;

c) placing in circulation products bearing geographical indications suggesting that the product concerned originates from a geographical region, other than the actual place of origin, in order to mislead the public on the product's geographical origin.

(2) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Disloyal use of marks or geographical indications

Art.431 – (1) The use of marks or geographical indications, in a manner that is contrary to loyal practice in the industrial or commercial activity, in order to mislead consumers, shall be punished by imprisonment from 6 months to one year or by days/fine.

(2) Criminal action is initiated upon prior complaint from the injured person. Reconciliation of parties removes criminal liability.

Producing and placing in circulation of pirate wares and devices

Art.432 - (1) The production for commercial purposes, by any means and in any way, of pirate wares or devices for access control, as well as the import, transit or any other modality to let in the internal market, is punished by strict imprisonment from 3 to 5 years.

(2) Distribution or possession, for commercial purposes, of pirate wares or devices for access control, in stores which are specialized in distribution of wares bearer copyrights or rights connected to copyrights, is punished by strict imprisonment from 2 to 5 years.

(3) Storage and transport, for commercial purposes, of pirate wares or devices, is punished by strict imprisonment from one to 5 years.

(4) Is punished by strict imprisonment from 1 to 3 years, if two administrative sanctions for acts of the same sort have previously been applied, the perpetration of the following acts:

a) Distribution of pirate wares or devices or possession of these, for the purpose of distribution, when these acts are perpetrated in public, except for those perpetrated in stores specialised in distribution of wares bearer copyrights or rights connected to copyrights;

b) Offering for sale or rent of pirate wares, by presenting their covers or the pirate wares catalogue.

(5) If the acts provided in para.(1)-(3) have produced extremely serious consequences, these are punished by strict imprisonment from 5 to 10 years. In such case, the calculus of the damages is made taking into account the pirate wares possessed in the circumstances provided in para. (1)-(3) and the price in lei/unit of the similar original wares, at the date of the perpetration of the crime

(6) The rental of pirate wares or devices for access control, as well as offering for selling or rental of these, by public advertisement or by electronic means of communication is punished by strict imprisonment of 1 to 3 years.

(7) *Pirate wares* means: all the copies produced without the author or the legal authorized persons' consent, and which are produced directly or indirectly, in whole or in part, after a ware bearer of copyrights or rights connected to copyrights.

(8) *Pirate devices for access control* means any unauthorized device produced in order to facilitate access to encoded television programs.

(9) The commercial purpose is presumed if the pirate ware is identified at the headquarters or in the transport devices of the economic agents which have, as an economic activity, the reproduction, distribution, rental, storage or the transport of wares bearer of copyrights or rights connected to these rights.

(10) It shall not be punished the person who, prior to the beginning of the criminal pursuit, denounces to the competent authorities his/her participation in an association or agreement with the view of committing one of the acts provided in para.(1)-(6), having as a result the identification and punishment of the other participants.

(11) The person who committed one of the acts provided in para.(1)-(6) and who, during the pursuit, denounces and facilitates the identification and punishment of other persons which have committed offences related to pirate wares devices for access control, shall have the special limits of the punishment reduced by half.

Refusal to cooperate to the competent authorities

Art.433 – Refusal to declare to the qualified bodies the origin of the pirate wares or devices for access control is punished by strict imprisonment of 1 to 2 years or by days/fine.

Making the goods bearing rights available to the public

Art.434 – Making available to the public the goods bearing IP rights, associated rights or *sui generis* rights of the data bases producers, without the consent of the holders, so that the public may access them at any place and time chosen individually, shall be punished with strict imprisonment from one year to four years or with days-fine.

The unauthorised reproduction of the computer programs

Art.435 – (1) The unauthorised reproduction on IT systems of software applications in any of the following ways: installing, storing, running or executing, displaying or transmitting via a network shall be punishable by strict imprisonment from one year to four years or with days-fine.

(2) The criminal action shall be initiated upon prior complaint of the injured person. Reconciliation of the parties removes the criminal liability.

Infringement of the norms concerning the protection of patrimonial IP rights and associated rights

Art.436 – (1) The following actions committed without the prior authorisation or assent from the IP right or associated right holder, if they do not constitute a more serious offence, shall be punishable with strict imprisonment from one year to three years or with days/fine:

- a) distributing the works or products bearing IP associated rights;
- b) importing, on the internal market, of copies of the works or products bearing IP associated rights, made with the assent of the holders;
- c) the rental of works or products bearers of associated rights;
- d) the public communication of works, other than musical productions, or of products bearers of associated rights;
- e) the broadcast of works or of products bearers of associated rights;
- f) the re-transmission via cable of works or products bearers of associated rights;
- g) the creation of derived works;
- h) the recording, for commercial purposes, of the interpretations or artistic performances, or of radio or television broadcasts.

(2) By *products bearers of associated rights* the following shall be understood: recorded interpretations or artistic performances, phonograms, videos or the radio and television institutions' own broadcasts or services.

(3) The criminal action shall be initiated upon prior complaint of the injured person. Reconciliation of the parties removes the criminal liability.

Infringement of the norms concerning the protection of non patrimonial copyrights

Art.437 – (1) The deed of the person who unlawfully assumes the capacity of author of a work or the deed of the person who makes public a work under a name different from the name established by its author is punished by strict imprisonment from 1 to 5 years or days-fine.

(2) The criminal action shall be initiated upon prior complaint of the injured person.
Reconciliation of the parties removes the criminal liability.

Infringement of the technical measures of protection and of information regarding the regime of copyrights and of associated rights

Art.438 – (1) The deed of the person who produces, imports, distributes or rents, offers, by any modality, for sale or rental or possesses, with a view to commercialise, devices or components which allow the neutralization of technical measures of protection or who performs services which lead to the neutralization of technical measures of protection, including the digital area, is punished with strict imprisonment from 1 to 3 years or with days-fine.

(2) It shall be punished with strict imprisonment from 1 to 3 years or with days-fine, the deed of the person who, without the consent of the rights owners:

a) removes, for commercial purposes, from works or other protected products or modifies any information in electronic shape regarding the regime of copyrights or of enforceable associated rights inscribed on them ;

b) unlawfully distributes, imports for the purpose of distributing, broadcasts or communicates publicly or puts at the disposal of the public, in order to be accessed in any place and at any time chosen individually, by digital means, works or other protected products for which the information existing in electronic shape regarding the regime of copyrights or of associated rights have been removed or modified without authorisation, being aware that this allows, facilitates, provokes or hides a crime provided at art. 434 – 437.

The sanctioning of the legal person

Art.439 – The legal person is sanctioned for the crimes provided at art.425-427, art.429-432 and art.434-438.

Title X

Delicts against computer data and systems

Chapter I

Delicts against confidentiality and integrity of computer data and systems

Illegal access to a computer system

Art.440 - (1) Access, without right, to a computer system shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The act in para.(1) committed in order to obtain computer data shall be punished by strict imprisonment from one to 5 years.

(3) If the act in para.(1) or (2) is committed by violation of security measures, the penalty shall be strict imprisonment from 3 to 12 years.

Illegal interception of a computer data transmission

Art.441 - (1) Interception without right of non-public transmissions of computer data to, from or within a computer system shall be punished by strict imprisonment from 2 to 7 years.

(2) The same penalty shall sanction the interception, without right, of an electromagnetic emission coming from a computer system containing non-public computer data.

Altering computer data integrity

Art.442 – (1) The act of altering, deleting or damaging computer data or restricting access to this data, without right, shall be punished by strict imprisonment from 2 to 7 years.

(2) Unauthorised data transfer from a computer system shall be punished by strict imprisonment from 3 to 12 years.

(3) The penalty in para.(2) shall sanction also unauthorised data transfer from a computer data storage medium.

Disturbing the operation of computer systems

Art.443 – The act of seriously disturbing, without right, the operation of a computer system by inputting, transmitting, altering, deleting, damaging or restricting access to computer data shall be punished by strict imprisonment from 3 to 15 years.

Illegal operations with computer devices or programs

Art.444 – (1)The following shall be punished by strict imprisonment from one to 6 years:

a) the act of producing, selling, importing, distributing or otherwise making available, without right, a computer device or program conceived or adapted in order to commit one of the offences provided in Art.433-436;

b) the act of producing, selling, importing, distributing or otherwise making available, without right, a password, an access code or other such computer data which allows total or partial access to a computer system in order to commit one of the offences provided in Art.433-436.

(2) The same penalty shall sanction also the possession, without right, of a device, computer program, password, access code or computer data such as those provided in para.(1) in order to commit one of the offences in Art.433-436.

Chapter II

Computer delicts

Computer forgery

Art.445 – The act of inserting, altering, deleting or restricting access to computer data without right, if the act results in inauthentic data, in order to use them for producing a legal consequence, shall be punished by strict imprisonment from 2 to 7 years.

Computer fraud

Art.446 – The act of causing loss of property to a person by inserting, altering or deleting computer data, by restricting access to it or by hindering in any way the operation of a computer system, in order to obtain an economic benefit for oneself or for another, shall be punished by strict imprisonment from 3 to 12 years.

Chapter III

Common provisions

Sanctions for attempt

Art.447 – Attempt to the delicts in the present title is punishable.

Sanctions for legal entities

Art.448 – Legal entities shall be sanctioned for the offences provided in the present title. – nedefinitivat.

Meaning of certain terms or phrases

Art.449– (1) For the purposes of the present title:

- a) "computer system" means any device or a group of inter-connected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;
- b) "computer program" means any collection of commands that can be executed by a computer system in order to obtain a pre-determined result;

c) "computer data" means any representation of facts, information or concepts in a form suitable for processing in a computer system. This category also includes any computer program suitable to cause a computer system to perform a function;

d) "security measures" means the use of any specialised procedures, devices or computer programs by which access to a computer system is restricted or prohibited for certain user categories.

(2) For the purposes of the present title, a person acting without right is a person in one of the following situations:

a) not authorised, on grounds of the law or a contract,

b) exceeding limits of authorisation;

c) not having permission, from the natural or legal person qualified, according to the law to grant it, to use, manage or control a computer system or to conduct scientific research or to conduct any other operation in a computer system.

Title XI

Crimes and delicts against economy, industry and trade

Chapter I

Delicts against economic life

Profiteering with products that cannot be the object of private trade and pawn-broking

Art.450 – (1) The commission of one of the following acts:

a) purchase in order to resell industrial or agricultural products that cannot be the object of private trade according to the law;

b) purchase of industrial or agricultural products in order to process and resell them, if the results of the processing cannot be the object of private trade according to the law;

shall be punished by strict imprisonment from one to 5 years.

(2) The same penalty shall sanction also the following acts:

a) operations of money or securities lending, carried out with a professional title by unauthorised persons, directly or by simulated acts, if the interest rate established exceeds the interest provided in the law;

b) operations of money or securities lending, carried out by unauthorised persons, directly or by simulated acts, if, a capitalisation of the interest is established for interests due in a period under a year.

Disclosure of economic secrecy

Art.451 – (1) The act of disclosing secret information, relating to the service, committed by a person who is aware of it thanks to service prerogatives, if the act is likely to cause damage, shall be punished by strict imprisonment from 2 to 7 years.

(2) If the act in para.(1) is committed by another person, in order to obtain undue advantage for oneself or for another, the penalty shall be strict imprisonment from one to 5 years.

Non-compliance with provisions on import and export operations

Art.452 – The act of conducting any unauthorised acts considered by the law to be operations of export, import or transit, shall be punished by strict imprisonment from 2 to 7 years.

Disloyal competition

Art.453 – The act of manufacturing or placing in circulation products bearing false names of origin or indications of provenance, as well as the act of applying false mentions concerning invention patents on products placed in circulation or of using trade names or names of trade or industrial organisations, in order to mislead the beneficiaries, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Embezzlement

Art.454 – (1) The act of changing the destination of pecuniary funds or of material resources, while violating legal provisions, if the act caused disturbance in the economic-financial activity or caused damage to a public authority or institution, shall be punished by strict imprisonment from one to 5 years.

(2) If the act in para.(1) has had particularly serious consequences, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights.

(3) The use of funds emerging from the pledge for a local public debt for other purposes than the ones approved, as well as providing erroneous data for the documentation presented in order to obtain authorisation to pledge or secure external loans, shall be punished by strict imprisonment from one to 5 years.

(4) The same penalty shall sanction also the use of funds in Lei and in foreign currency, emerging from the pledge for a public debt, for other purposes than the ones approved, as well as providing erroneous data for the documentation presented in order to obtain endorsements necessary in order to pledge for or secure external loans.

Deceitful measurement

Art.455 – The act of deceiving by the use of inaccurate measuring instruments or by the fraudulent use of accurate measuring instruments, shall be punished by strict imprisonment from one to 5 years.

Deceit relating to the quality of merchandise

Art.456 – (1) The act of forging or replacing merchandise or any other products, as well as displaying for sale or selling such goods, in awareness that they are forged or replaced, shall be punished by strict imprisonment from one to 7 years.

(2) If the merchandise or products became harmful to the health by the forging or replacement, the provisions of Art.391 para.(2) shall apply.

(3) The act of forging or replacing raw matter or material used in the manufacture or processing of foods, as well as in their delivery in awareness that they have been manufactured or processed from forged or replaced raw matter or material, shall be sanctioned by the penalty provided in para.(1).

(4) If the forgery or replacement of raw matter or materials, foods have become harmful to the health, the penalty shall be the one provided in Art.391 para.(2).

Sanctions for attempt

Art.457 – Attempt to the delicts in Art.455 and Art.456 is punishable.

Sanctions for legal entities

Art.458 – Legal entities shall be sanctioned for the offences provided in Art.450 and Art.451-456.

Chapter II

Offences against the fiscal regime

The unlawful embezzlement of equity stocks or of assets

Art.459.– The assignment or embezzlement by the administrator, director or legal representative of the authorised contractor or of a company, in any form, of shares, of social shares or of fixed assets belonging to the authorised contractor or to a contractor whose authorisation was cancelled or annulled in accordance with the Fiscal Code, without informing the competent fiscal authority with at least 60 days before the accomplishment of this operation, with a view to performing the financial-fiscal control, is punished with strict imprisonment from 1 to 2 years.

The infringement of the fiscal regime of alcohol

Art.460.– The perpetration of one of the following deeds by the administrator, director or legal representative of the authorised contractor or of a company:

- a) the purchase of ethylic alcohol and of distilled products from suppliers other than the contractors authorised for production or the importers authorised for such products according to the Fiscal Code;
- b) the use of pure alcohol, of ethylic alcohol and of industrial spirit as raw material for the production of alcoholic drinks of any kind, is punished with strict imprisonment from 1 to 3 years.

The infringement of the fiscal regime of mineral oils

Art.461. – (1) The perpetration of one of the following deeds by the administrator, director or legal representative of the authorised contractor or of a company:

- a) the purchase of mineral oils resulted from the processing of crude oil or of other raw materials from suppliers other than the contractors authorised for production or importers authorised according to the Fiscal Code;
- b) the purchase of un-excisable mineral oils, resulted from the processing of crude oils or of other raw materials, which have the flammability point under 85⁰C, otherwise than directly to the final users, which utilise these products for industrial purposes;
- c) the commercialisation, through gas stations pumps, of other mineral oils than those from the category of GPL, of auto petrol and Diesel oils which correspond to the national standards of quality, is punished with strict imprisonment from 1 to 3 years.

(2) The delivery of mineral oils by contractors authorised for production, without presenting to the buyer - legal person of the payment documents which prove the transfer to the state budget of the value of excises correspondent to the quantity to be invoiced, is punished with strict imprisonment from 2 to 7 years.

Sanctioning the attempt

Art.462.– The attempt to the offences provided at art. 459-461 shall be punished.

Sanctioning the legal person

Art.463.– The legal person is sanctioned for the offences provided at art. 459-461.

Chapter III

Crimes and delicts against public trust

Forgery of coinage or other values

Art.464 – (1) The act of forging metallic coinage, paper coinage, public credit titles, cheques, titles/deeds of any kind for payment, electronic payment instruments, issued by competent credit institutions or of forging any other similar securities, shall be punished by strict imprisonment from 3 to 12 years and the prohibition of certain rights.

(2) The same penalty shall sanction also the act of placing in circulation, by any means, the forged values in para.(1), or of possessing them in order to place them in circulation.

(3) If the acts in para.(1) and (2) could have caused significant damage to the financial system, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights, and if they have caused significant damage to the financial system, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Forgery of stamps, marks or transportation tickets

Art.465 – The act of forging stamps, postage stamps, post envelopes, postcards, travel or transportation tickets or sheets, international reply coupons, or placing in circulation such forged values, shall be punished by strict imprisonment from one to 5 years.

Forgery of foreign values

Art.466 – The provisions in the present chapter shall apply also in case the offence concerns coinage or stamps belonging to other States or other foreign values.

Possession of instruments for the forgery of values

Art.467 – The act of manufacturing or possessing instruments or materials in order to use them in the manufacture of values or titles in Art.464-466, shall be punished by strict imprisonment from one to 5 years.

Forging official instruments

Art.468 – The act of forging a seal, a stamp or a marking instrument used by public authorities or institutions shall be punished by strict imprisonment from one to 4 years or by days/fine.

Use of forged official instruments

Art.469 – (1) The use of forged instruments in Art.468, shall be punished by strict imprisonment from one to 3 years or by days/fine.

(2) The same penalty shall sanction also the use without right of a seal or a stamp containing the emblem of the country.

Material forgery in official documents

Art.470 – (1) The act of forging an official document by counterfeiting the writing or the signatures or by altering it in any way, likely to produce a legal consequence, shall be punished by strict imprisonment from one to 4 years.

(2) The forgery in para.(1), committed by an employee during the exercise of service prerogatives, shall be punished by strict imprisonment from one to 5 years.

(3) Tickets or any other printed documents producing legal consequences are equated with official documents.

Intellectual forgery

Art.471 – The act of forging an official document when it is drawn up, committed by an employee during the exercise of service prerogatives or by a person exercising a service of public interest, by certifying untrue acts or circumstances or by omitting, in awareness, to insert certain data or circumstances, shall be punished by strict imprisonment from one to 5 years.

Forgery of documents under private signature

Art.472 – The forgery of a document under private signature by any of the means in Art.470, if the perpetrator uses the forged document or gives it to another person for use, in order to produce legal consequences shall be punished by strict imprisonment from one to 3 years or by days/fine.

Use of forgery

Art.473 – The use of an official document or of a document under private signature, while aware that it was forged, in order to produce legal consequences, shall be punished by strict imprisonment from one to 4 years when the document is official and by strict imprisonment from one to 3 years or by days/fine when the document is under private signature.

Forged declarations

Art.474 – The act of making an untruthful declaration before a public authority or institution, in order to produce a legal consequence, for oneself or for another, when, according to the law or to the circumstances, the declaration made is used to produce that consequence, shall be punished by strict imprisonment from one to 3 years or by days/fine.

Forged identity

Art.475 – (1) The presentation under a false identity or the act of ascribing such an identity to another person, in order to mislead or maintain the deceit of a public authority or institution, in order to produce a legal consequence for oneself or for another, shall be punished by strict imprisonment from one to 3 years.

(2) The same penalty shall sanction also the act of handing over a document that proves civil status or identification, in order for it to be used without right.

Forgery concerning the use of the “Red Cross” emblem

Art.476 – (1) The use without right of the emblem or the name “Red Cross” or of an emblem or a name equated with this, as well as the use of any sign or name that is an imitation of such an emblem or name, if the act has caused material damage, shall be punished by imprisonment from one month to 1 year or by days/fine.

(2) If the act is committed in wartime, the penalty shall be strict imprisonment from one to 5 years.

Sanctions for attempt

Art.477 – Attempt to the delicts in Art.464, Art.465, Art.468, Art.470, Art.471 and Art.472 is punishable.

Sanctions for legal entities

Art.478 – Legal entities shall be sanctioned for the offences provided in the present chapter.

Chapter IV

Crimes and delicts against the financial interests of European Communities

Non-compliance with the norms concerning the obtainment of funds from the budgets of European Communities

Art.479 - (1) The act of using or presenting false, inaccurate or incomplete documents or declarations, which have as effect the misappropriation of funds from the general budget of the European Communities from budgets managed by, or on behalf of the European Communities, shall be punished by strict imprisonment from 3 to 15 years and the prohibition of certain rights.

(2) The same penalty shall sanction also the act of intentionally omitting to provide, in awareness, the data requested according to the law for the obtainment of funds from the general budget of the European Communities from budgets managed by, or on behalf of the European Communities, if the act resulted in the unjust obtainment of these funds.

(3) If the acts in para.(1) and (2) have caused particularly serious consequences, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Embezzlement of funds from the general budgets of European Communities

Art.480 - (1) The act of changing, in violation of legal provisions, the destination of funds obtained from the general budget of the European Communities or from budgets managed by, or on behalf of the European Communities, shall be punished by strict imprisonment from one to 5 years.

(2) If the act in para.(1) caused particularly serious consequences, the penalty shall be strict imprisonment from 5 to 15 years and the prohibition of certain rights.

(3) The act of changing, in violation of legal provisions, the destination of a legally obtained benefit, if the act results in the illegal diminution of resources in the general budget of the European Communities or from budgets managed by, or on behalf of the European Communities, shall be sanctioned by the penalty provided in para.(1).

Illegal diminution of resources in the budgets of European Community

Art.481 - (1) The use or presentation of false, incorrect or incomplete documents or statements, resulting in the illegal diminution of resources of the general budget of the European Communities or of budgets managed by, or on behalf of the European Communities, shall be punished by strict imprisonment from 3 to 15 years and the prohibition of certain rights.

(2) The same penalty shall sanction also the act of omitting to provide, in awareness, the data requested according to the law, if the act results in the illegal diminution of resources in the general budget of the European Communities or of budgets managed by, or on behalf of the European Communities.

(3) If the acts in para.(1) and (2) have caused particularly serious consequences, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Sanctions for attempt

Art.482 – Attempt to the delicts in Art.479-481 is punishable.

Negligence that causes damage to the financial interests of European Communities

Art.483 – The violation by negligence, committed by the director, administrator or the person in charge of control or making decisions in an economic agent, of a service duty, by not fulfilling it or by fulfilling it inappropriately, if it has resulted in the commission of one of the offences provided in Art.479-481 or in the commission of an offence of corruption or money laundering linked to the funds of European Communities, committed by a person subordinated to him/her or acting on behalf of that economic agent, shall be punished by strict imprisonment from one to 5 years and the prohibition of certain rights.

Sanctions for legal entities

Art.484 – Legal entities shall be sanctioned for the offences provided in the present chapter.

Title XII

Crimes and delicts against the country's capacity for defence

Chapter I

Crimes and delicts committed by members of the military

Unjustified absence

Art.485 – (1) Unjustified absence from the unit or from service, that exceeded 24 hours but no more than 3 days, of an active member of the military or of a concentrated member of the armed forces having a degree equal to the one granted to the active member of the military shall be punished by imprisonment from 3 months to one year.

(2) The penalty applied to active members of the military shall be executed in a military prison.

(3) During wartime, the unjustified absence from the unit or service of any member of the armed forces, which exceeded 4 hours but no more than 24 hours, shall be punished by strict imprisonment from one to 5 years.

Desertion

Art.486 – (1) Unjustified absence of any member of the armed forces from the unit or from service, exceeding 3 days, shall be punished by strict imprisonment from one to 7 years.

(2) During wartime, the unjustified absence of any member of the armed forces from the unit or service, exceeding 24 hours, shall be punished by strict imprisonment from 3 to 12 years.

Transgression of orders

Art.487 – (1) The transgression of rules pertaining to the guard, watch, accompaniment or security service, shall be punished by imprisonment from 3 months to one year.

(2) The penalty in para.(1) shall sanction also the leaving of command or of any other post by the member of the armed forces.

(3) The act of transgressing orders committed by the sentinel during guard or watch service near storage facilities containing weapons, ammunition or other explosive materials, near the frontier or in other posts of particular military or State interest, or if the act could have had serious consequences, shall be punished by strict imprisonment from one to 5 years.

(4) Acts in para.(1)-(3) committed during wartime shall be punished by strict imprisonment from 3 to 12 years.

Insubordination

Art.488 – (1) Refusal to carry out an order concerning a service duty shall be punished by strict imprisonment from one to 2 years.

(2) If the act is committed by an officer, by a military master or by a non-commissioned officer, by a hired member of the military, by one or more members of the military together or before the

gathered troops or if the act has serious consequences, the penalty shall be strict imprisonment from one to 5 years.

(3) During wartime, the penalty for the act in para.(1) is strict imprisonment from 2 to 7 years, and for the act in para.(2), from 3 to 12 years.

Striking a superior

Art.489 – (1) The act of striking a superior committed by the inferior or of striking the chief committed by a subordinated person, shall be punished by strict imprisonment from one to 2 years.

(2) If the person was struck during exercise of service prerogatives, the penalty shall be strict imprisonment from one to 5 years.

(3) If the acts in para.(1)-(2) are committed during wartime, the maximum of penalties shall be increased by 2 years.

Striking an inferior

Art.490 – (1) The act of striking an inferior or a subordinated person committed by a superior or chief, shall be punished by imprisonment from one month to 1 year.

(2) The provisions of para.(1) shall not apply during wartime, if the acts were determined by a military necessity.

Initiation of criminal action

Art.491 – Criminal action for the offences in Art.485 – 490 shall be initiated only upon notification from the commanding officer.

Surrender

Art.492 – The act committed by the commanding officer of handing over to the enemy the armed forces under his/her command, of leaving into the enemy's hands, destroying or making unfit to use the combat means or other means necessary for waging a war, while this was not determined by combat conditions, shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Leaving the battlefield

Art.493 – The act of leaving the battlefield or of refusing to act, committed during combat, or of handing over in captivity, or of committing other such acts likely to benefit the enemy, shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Unauthorised flight

Art.494 – (1) The act of flying an aircraft belonging to the Romanian armed forces, without prior authorisation, as well as of not complying with flight rules, if this jeopardises flight security in the aerial space or security of the aircraft, shall be punished by strict imprisonment from one to 2 years.

(2) If the act provided in the previous paragraph has caused serious consequences, the penalty shall be strict imprisonment from one to 5 years, and if it has caused disaster, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

Abandoning ship

Art.495 – (1) The act of abandoning a military ship in case of wreck, committed by the commanding officer before having fully exercised service duties, as well as by any other persons that are part of the ship's crew, without order from the commanding officer, shall be punished by strict imprisonment from one to 5 years.

(2) The same act committed during wartime shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Leaving command

Art.496 – (1) The act of leaving command by the commanding officer of a ship or of a group of military ships, in situations that could have jeopardised the military ship or ships or the crew, shall be punished by strict imprisonment from 2 to 7 years.

(2) If the act of leaving command was committed during combat, by the commander of a military ship or group of ships, the penalty shall be life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

Failure to take necessary measures in naval operations

Art.497– The act committed by a commanding officer of a military ship or group of ships who, without having been stopped by an order or without having been prevented by his/her special mission, did not take the necessary measures for attack, for fighting the enemy, for helping a ship, belonging to the Romanian state or to an allied country, that is being followed by the enemy or that is engaged in combat, or did not take the necessary measures to destroy an enemy convoy, or did not follow the enemy's war or commercial ships, shall be punished by life detention or severe detention from 15 to 25 years and the prohibition of certain rights.

Lowering the flag

Art.498 – The act of lowering the flag during combat, in order to benefit the enemy's cause, committed by the commanding officer of a military ship or group of ships, as well as by any

other person on board, shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Collision

Art.499 – (1) The act of a commanding officer of a military ship or of any other person on board the ship, which caused, by negligence, collision or brought the ship on land, if the act resulted in serious damage to the ship or in other serious consequences, shall be punished by strict imprisonment from one to 3 years.

(2) If the act in para.(1) was committed deliberately, the penalty shall be severe detention from 15 to 20 years and the prohibition of certain rights.

(3) During wartime, the act in para.(2) shall be punished by life detention or by severe detention from 15 to 25 years and the prohibition of certain rights.

Sanctions for attempt

Art.500 – Attempt to the delicts in Art.494, Art.495 para.(1), Art.496 para.(1) and Art.499 para.(1) is punishable.

Offences concerning aircraft

Art.501 – Art.495-500 shall apply accordingly also with regard to military aircraft.

Chapter II

Delicts committed by the military and by civilians

Instigating members of the military to disobey duties

Art.502 – (1) Any act of instigating members of the military to disobey laws and to break their military oath or duties, shall be punished by strict imprisonment from one to 5 years.

(2) The same penalty shall sanction also the following acts:

- a) instigating members of the military summoned by the law court not to fulfil this duty;
- b) instigating civil personnel at service for the army not to fulfil legal duties of national defence.

Eluding military service

Art.503 – (1) The act of a person who self-inflicts injury to corporal integrity or health, simulates an illness or disability, uses false documents or any other means, in order to elude

military service, shall be punished by strict imprisonment from one to 5 years, and, during wartime, by strict imprisonment from 3 to 10 years.

(2) Criminal action is initiated only upon notification from the commanding officer.

Defeatism

Art.504 – The dissemination or publication during wartime of rumours or false information relating to the country’s economic and political status, to the moral status of the population in connection to the initiation of war and to the developments of the war, as well as the commission of other such acts likely to weaken the population’s moral resistance, shall be punished by strict imprisonment from 5 to 12 years and the prohibition of certain rights.

Robbing persons fallen on the battlefield

Art.505 – (1) The act of robbing the dead or injured of the objects they have upon them on the battlefield, shall be punished by strict imprisonment from 3 to 10 years and the prohibition of certain rights.

(2) The same penalty shall sanction also the act in para.(1), which, while not committed on the battlefield, is the consequence of a war operation.

Use of the Red Cross emblem during military operations

Art.506 – The use, without right, during wartime and in connection to military operations, the emblem or name of the “Red Cross” or the other equated emblems or names, shall be punished by strict imprisonment from 3 to 7 years.

Eluding military requisitions

Art.507 – (1) Unjustified refusal to make available to the armed forces the goods legally requisitioned, the act of eluding the fulfilment of these obligations, or of not declaring in a census the goods subject to requisitioning, shall be punished by strict imprisonment from one to 2 years or by days/fine.

(2) If the act is committed during wartime, the penalty shall be strict imprisonment from one to 5 years.

Chapter III

Delicts committed by civilians

Eluding recruitment

Art.508 – (1) The act of eluding recruitment during peacetime shall be punished by imprisonment from one month to 3 months or by days/fine.

(2) The act of eluding recruitment during wartime shall be punished by strict imprisonment from one to 5 years.

Failure to present oneself for incorporation or concentration

Art.509 – (1) Failure to present oneself for incorporation or concentration within 3 days from notification, and if the term appointed for presentation is greater than 3 days, failure to appear within this term committed by the person summoned by the military authority, shall be punished by strict imprisonment from one to 5 years.

(2) The penalty in para.(1) shall sanction also the failure of persons incorporated or concentrated to appear at the unit they have been assigned to.

(3) During mobilisation or wartime, as well as in case of urgent call, expressly provided in the calling order, the presentation terms are those specified in the order. In case of failure to appear, the penalty shall be strict imprisonment from 3 to 10 years.

(4) The terms for presentation in para.(1)-(3) shall be increased by 10 days if the persons called are abroad.

Initiation of criminal action

Art.510 – Criminal action for the offences in Art.508 and 509 is initiated only upon notification from the commanding officer.

Final provisions

Art.511 – The provisions in the general part of this code shall apply also to acts criminally sanctioned through other special laws, if the law does not provide otherwise.

Art.512 – The present Code shall enter into force within one year from the date when it is published in the Official Gazette of Romania.

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