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REVIEW OF SOME CRIMINAL JUDGMENTS THAT DO NOT RESOLVE THE SUBSTANCE OF THE CASE - PROCEDURAL MEAN TO ENSURE THE LEGAL ORDER

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Abstract

Among the meanings of the concept of "legal security" is the feeling of confidence of citizens in the correct application and interpretation of the law, as well as in the state's ability to ensure the legal order and, implicitly, public order. One of the requirements arising from the principle of security of legal relations is ensuring access to justice by guaranteeing the right to an effective remedy.

In this context, the present study approaches the institution of revision, bringing into attention the possibility of subjecting to re-examination, by exercising this way of attack, definitive criminal judgments that do not resolve the merits of the case.

Using, as research methods, observation, documentation, interpretation and comparative scientific analysis (including some European provisions), this paper also discusses some jurisprudential aspects regarding criminal judgments that can be subject to revision, with reference to the recent practice of the supreme court (High Court of Cassation and Justice) in Romania.

The objective of the study is to highlight the need to correlate the requirement of ensuring the stability of final criminal judgments with the requirement of guaranteeing access to justice by exercising an effective remedy.

Key words: *effective remedy, criminal case, legal order, legal security, access to justice.*

INTRODUCTION

Between the concepts of "public security" and "legal security" there is an undeniable connection and interrelation.

"Public security" signifies that feeling of citizens' trust in the state's provision of a normal climate of coexistence, in which interpersonal relations are based on mutual respect and compliance, voluntary or imposed, to the mandatory rules necessary for the functioning of a civilized society.

"Legal security" can be defined as that feeling of confidence of citizens, among others, in the correct application and unitary interpretation of legal norms, as well as in the state's ability to ensure the rule of law (legal order), in the sense of guaranteeing the preeminence of law, the supremacy of accessible and predictable laws, which allow compliance with their provisions.

Considered an essential element of the preeminence of law, the principle of the security of legal relations is explicitly enshrined in the jurisprudence of the European Court of Human Rights[1] in relation to one of the fundamental rights provided for in the Convention for the Protection of Human Rights and Fundamental Freedoms, namely the right to a fair trial, including through the requirement to ensure access to justice[2].

The right of access to justice is guaranteed in the member states of the European Union and by the provisions of the Charter of Fundamental Rights of the European Union[3], which stipulates, along with the right to a fair trial, the right to an effective remedy.

From this perspective, this paper approaches the institution of review, an extraordinary way of appeal in criminal matters, bringing into question the possibility of exercising this way of appeal against criminal court decisions that do not resolve the merits of the case.

The objective of the study is to highlight the need to correlate and achieve a balance between two seemingly opposite requirements of the principle of legal security: ensuring the stability of final court decisions and guaranteeing access to justice through the possibility of exercising an effective remedy.

I. PRINCIPLE OF LEGALITY OF ATTACK WAYS

Starting from the well-known saying "*errare humanum est*", we must accept the fact that the judgment, in the sense of reasoning, of the logical

[1] For example, the ECtHR Judgment of August 31, 2000 pronounced in *the Brumărescu Case against Romania*, published in the Official Gazette of Romania no. 414 of August 31, 2000.

[2] Art. 6 paragraph 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms, concluded on November 4, 1950, with subsequent amendments and additions, published in the Official Gazette of Romania no. 135 of May 31, 1994.

[3] Art. 47 of the Charter of Fundamental Rights of the European Union of December 12, 2007, published in the Official Journal of the EU. no. C 303/1 of December 14, 2007.

operation by which the panel solves a criminal case, is subject to error, like any other human activity.

In order to eliminate possible mistakes that occurred during the trial, either in terms of establishing the factual situation or in terms of the application of the law, the institution of appeals (attack ways) against court decisions considered unfounded or illegal was conceived, with the role of a procedural remedy. From this perspective, the rationale for the establishment of appeals is based on two presumptions: a "presumption of error for the challenged judgment" and "a presumption of correction for the judgment that will follow" (*Dongoroz, 1942, p. 316*).

Correcting or avoiding judicial errors is subordinated to the fundamental principle of finding the truth in the criminal process, a principle specific to all disciplines in the branch of criminal sciences (*Iancu, 2019, p. 460*), by correctly establishing the factual situation based on the administration and thorough evaluation of all evidentiary material, as support used by the magistrate in pronouncing the solution (*Paraschiv, 2023, p. 305*).

The role of appeals in the judicial approach to find out the truth, through the execution of criminal justice, is also recognized by the enshrining in the Romanian Constitution [4] of the principle according to which "against court decisions, interested parties and the Public Ministry can exercise appeals under the law".

Therefore, there is the possibility of exercising a judicial control over the decisions handed down, with the aim of abolishing any illegal or groundless decisions, resulting from some errors in the judicial activity, but this control can only be carried out through the ways of attack provided by law and capitalized under the conditions of the law. In other words, the legality of appeals, elevated to the rank of a constitutional principle, implies the requirement that court decisions be subject to the appeals provided by law.

The means of appeal through which it is possible to request the abolition of final decisions that "enjoy" the authority of *res judicata* have an extraordinary character, the cases and conditions in which they can be used being expressly and limitedly provided by law. In criminal matters, according to the current Romanian Code of Criminal Procedure, there are four extraordinary appeals: appeal for annulment, appeal in cassation, revision and reopening of the criminal process in case of trial in the absence of the convicted person.

The final criminal judgment is vested *ope legis* with *res judicata* authority based on a presumption, it is true relative, of expressing the truth in the case that was the subject of the judgment (*res judicata pro veritate habetur*). As an effect

[4] Art. 129 of the Romanian Constitution, republished in the Official Gazette of Romania no. 767 of October 31, 2003.

of *res judicata*, in principle a new judgment against the same person and regarding the same deed is no longer possible (*ne bis in idem*).

Moreover, among the newly introduced principles within the express regulation of the principles of the application of the criminal procedural law in the current Romanian Criminal Procedure Code [5] there is also the principle *ne bis in idem*, according to which "no person can be prosecuted or tried for the commission of a crime when a final criminal judgment was previously pronounced against that person regarding the same act, even under a different legal framework"[6].

It is necessary to specify the fact that the ne bis in idem rule is enshrined at the European level as a fundamental human right, both in Protocol no. 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms [7] ("No person may be prosecuted or punished criminally by the jurisdictions of the same state for the commission of the crime for which he has already been acquitted or convicted by a final judgment according to the law and criminal procedure of this state"), as well as in the Charter of Fundamental Rights of the European Union[8] ("No one can be tried or convicted for a crime for which he has already been acquitted or convicted within the Union, by a final court decision, in accordance with the law") (*Lorincz, Stancu, 2022, p. 118*).

In this context, extraordinary appeals appear as exceptions to the principle of *res judicata* of final judicial decisions, which gives the legal possibility of overturning (removing) the relative presumption of *res judicata pro veritate habetur*, even if the stability of these decisions is thus affected (*Kahane, 1963, p. 299*), without, however, violating the principle of legal security.

In more recent doctrine, emphasizing the importance of the principle of legal security (legal certainty), it has been stated that this principle guarantees, among other things, the stability of legal relations and protects decisions that have already been made (*Shcherbanyuk, Gordieiev, Bzova, 2023, p. 22).*

At the same time, it should be highlighted that legal security, by ensuring the stability of legal relations and the rule of law, also guarantees a climate of public security, by removing that feeling of insecurity that can lead to atypical reactions (*Iancu, 2021, p. 633*) of social behavior.

On the other hand, unlike the criminal matter, in the civil procedural law, another applicable principle regarding the exercise of appeals is enshrined, related to the principle of legality, namely the principle of the uniqueness of the attack

[5] Law no. 135/2010 on the Criminal Procedure Code, published in the Official Gazette of Romania no. 486 of July 15, 2010, with subsequent amendments and additions (entered into force on February 1, 2014).
[6] Art. 6 CCP.
[7] Art. 4 of Protocol no. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, cited above.
[8] Art. 50 of the Charter of Fundamental Rights of the European Union, cited above.

way: "a way of attack can be exercised against a decision only once, if the law provides for the same period of exercise for all the reasons existing on the date of the declaration of that attack way"[9]. We note that, although such a principle is not regulated in the Code of Criminal Procedure, judicial practice has also translated it into criminal matters. Thus, in a case before the Criminal Section[10], the supreme court invoked the violation of the principle of the uniqueness of the right of appeal, closely related to the violation of the principle of its legality, in the case of the recognition of a right of appeal in other situations than those provided by the procedural law.

II. THE REVIEW CASE REGARDING THE ADMISSION OF AN EXCEPTION OF UNCONSTITUTIONALITY

Among the extraordinary appeals provided for in the Romanian Code of Criminal Procedure, the review is the typical example of a retraction appeal, whereby a court that ruled in the respective case annuls the challenged final decision and pronounces a new decision if it considers that, concretely, the invoked review case is well-founded.

Since revision is an extraordinary way of appeal, the cases in which it can be exercised are strictly provided by law[11], the particular case referring to the admission of an exception of unconstitutionality knowing an interesting evolution in terms of regulation.

Thus, following the legislative changes made in 2010[12] on the Criminal Procedure Code in force at that time[13], a distinct revision case was introduced into the code[14] ("Revision in the case of decisions of the Constitutional Court"): "The final judgments pronounced in the cases in which the Constitutional Court admitted an exception of unconstitutionality can be subject to revision, if the solution pronounced in the case was based on the legal provision declared unconstitutional or on other provisions of the contested act which, necessarily and obviously, cannot be dissociated from the provisions mentioned in the referral". Moreover, the addition of this new review case is explained by the abrogation[15] of

[9] Art. 460 alin. (1) Civil Procedure Code.
[10] Decision of the High Court of Cassation and Justice, Criminal Section, no. 717/2023, document available online at *www.scj.ro*., accessed on 08.02.2025.
[11] There are 7 review cases provided for in art. 453 para. (1) lit. a)-f) and art. 465 CCP.
[12] By Law no. 177/2010 for the amendment and completion of Law no. 47/1992 regarding the organization and functioning of the Constitutional Court, the Code of Civil Procedure and the Code of Criminal Procedure of Romania, published in the Official Gazette of Romania no. 672 of October 4, 2010.
[13] The Criminal Procedure Code adopted in 1968, republished in the Official Gazette of Romania no. 78 of April 30, 1997, with subsequent amendments and additions.
[14] In art. 408^2 CCP from 1968.
[15] By the same Law no. 177/2010, cited above.

the provisions of the code[16] according to which, in the case of raising an exception of unconstitutionality, the court had to suspend the trial until the resolution of the exception by the Constitutional Court.

The new Code of Criminal Procedure (CCP) adopted in 2010 (and entered into force in 2014) maintained this distinct case of review [17] in the following formulation: when "the decision was based on a legal provision that was declared unconstitutional after the decision became final, in the situation where the consequences of the violation of the constitutional provision continue to occur and can only be remedied by revising the decision".

Later, in 2016, the Constitutional Court[18] decided that the legislative solution contained in art. 453 para. (1) lit. f) CCP, which does not limit the review case to the case in which the exception of unconstitutionality was invoked, is unconstitutional. More precisely, the court of constitutional control considered that "the failure to regulate the condition that the exception of unconstitutionality was invoked in the case in which the decision whose review is requested attributes *ex tunc* effects to the jurisdictional act of the Court", in violation of the constitutional provisions[19], "determining an impermissible violation of the *res judicata* authority".

As a result of this decision of the Constitutional Court, by the Government's Emergency Ordinance no. 18/2016[20], the review case provided for in letter f) of paragraph (1) of art. 453 CCP was amended as follows: "the decision was based on a legal provision which, after the decision became final, was declared unconstitutional as a result of the admission of an exception of unconstitutionality raised in that case, in the situation where the consequences of the violation of the constitutional provision continue to occur and can only be remedied by revising the decision".

In the regulation of the current Code of Criminal Procedure, this review case is also justified by the fact that, in the situation where an exception of unconstitutionality is raised, the trial is no longer suspended (*Lorincz, 2016, p. 137*).

III. JURISPRUDENTIAL ASPECTS REGARDING THE OBJECT OF THE REVIEW

Unlike other extraordinary appeals, the revision has been characterized in the doctrine as a *de facto* appeal (*Dongoroz et al, 1976, p. 257*) which aims at a *de*

[16] Art. 303 para. (6) CCP from 1968.
[17] In art. 453 para. (1) lit. f) CCP.
[18] By Decision no. 126/2016, published in the Official Gazette of Romania no. 185 of March 11, 2016.
[19] Art. 147 para. (4) of the Constitution.
[20] Government Emergency Ordinance no. 18/2016, published in the Official Gazette of Romania no. 389 of May 23, 2016.

facto re-examination of the criminal case, in order to correct some judicial errors related to its correct resolution (*errores in judicando*).

Therefore, the object of the review is judicial decisions that contain errors of judgment discovered after the moment when they became final. This means that, as a rule, it is possible to request a review of the final criminal judgments by which the merits of the case are resolved, that is, those judgments by which the court pronounces on the accusation in criminal matters by conviction, acquittal, termination of the criminal process, waiver of the application of the penalty or postponement of the application of the penalty.

So, in principle, decisions that do not decide the merits of the case are not subject to review, such as: conclusions given during the trial, final decisions by which the judge of the preliminary chamber rules on the complaint against solutions of non-prosecution or non-sentence, decisions by which the court rules on abstention or recusal, divestment sentences, etc. By way of exception, within the special procedure of active extradition, the possibility of reviewing the final decision by which the court found that the conditions for requesting extradition are met is regulated, if the Minister of Justice assesses, following the conclusions of the examination of international regularity, that the conditions of international regularity are not met to request extradition[21]; this is, moreover, a special case of review, distinct from those provided for in the Romanian Code of Criminal Procedure (*Lorincz, 2016, p. 133*).

According to the general legal framework in force [22], final court decisions are subject to review, before the criminal court, both on the criminal side and on the civil side. f the final judgment concerns more than one offense or more than one person, review may be requested for any of the acts or perpetrators.

On the other hand, the request for the revision of final criminal court decisions, exclusively regarding the civil side, can only take place before the civil court, according to the civil procedural legislation[23].

In relation to the object of the revision, we note a dynamic of jurisprudence in Romania, starting from the application of the provisions of the Code of Criminal Procedure from 1968 and up to the application of the current regulation (the Code of Criminal Procedure adopted in 2010 and entered into force in 2014).

Thus, within the limits of the legal framework of the provisions of the old Code of Criminal Procedure, the High Court of Cassation and Justice ruled[24] in

[21] Art. 65 para. (9) from Law no. 302/2004 regarding international judicial cooperation in criminal matters, republished in the Official Gazette of Romania no. 411 of May 27, 2019, with subsequent amendments and additions.
[22] Art. 452 CCP.
[23] Art. 453 para. (2) CCP.

the sense of the inadmissibility of the revision directed against criminal judgments that do not resolve the merits by resolving the criminal action. It is noteworthy, however, that the supreme court gave such an interpretation before the introduction, in the Code of Criminal Procedure of 1968, of the particular case of review regarding the decisions of the Constitutional Court.

After the entry into force of the new Code of Criminal Procedure, under the conditions of maintaining an express regulation of the review case regarding the admission of an exception of unconstitutionality, the jurisprudence of the High Court of Cassation and Justice[25] established the exercise of the extraordinary appeal of review, based on the invocation of this case, also against final criminal decisions that do not resolve the criminal action, i.e. the merits of the case.

On the other hand, the Romanian constitutional court ruled[26] that the review of criminal court decisions as a result of the pronouncement of the decisions of the Constitutional Court represents an extraordinary way of attack "with a sui generis character", emphasizing the difference between review cases based on judicial errors and this distinct review case provided for in art. 453 para. (1) lit. f) CCP, including from the perspective of the admissibility of the re-examination of decisions that do not resolve the merits of the case.

Relevant, in relation to this issue, is also the preliminary ruling issued by the High Court of Cassation and Justice[27] on the interpretation of the provisions of the current Code of Criminal Procedure regarding judgments subject to review, with reference to the case of admitting an exception of unconstitutionality.

More precisely, in a case before the Bucharest Court, Criminal Section I, the court requested the High Court of Cassation and Justice to resolve the following legal issue: "If in the interpretation of the provisions of art. 452 para. (1) CCP a review request based on the provisions of art. 453 para. (1) lit. f) CCP it can also be directed against a definitive criminal decision, but which does not resolve the merits of the criminal action".

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[24] By Decision of the High Court of Cassation and Justice, Panel of 9 judges, no. 42/2005, document available online at https://legeaz.net/spete-penal-iccj-completul-de-9-judecatori/decizia-42-2005 (accessed on 14.02.2025) and by the Decision of the High Court of Cassation and Justice, United Sections, no. XVII/2007, published in the Official Gazette of Romania no. 542 of July 17, 2008.

[25] Decision of the High Court of Cassation and Justice, Criminal Section, no. 195/2019, document available online at https:/www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=150128#highlight=##, accessed on 14.02.2025.

[26] In the considerations of the Constitutional Court Decision no. 126/2016 (mentioned above) and of the Decision of the Constitutional Court no. 220/2019, published in the Official Gazette of Romania no. 421 of May 29, 2019.

[27] Decision of the High Court of Cassation and Justice, Panel for resolving a question of law in criminal matters, no. 68/2020, published in the Official Gazette of Romania no. 99 of January 29, 2021.

As can be seen from the considerations of this decision, the question sought to establish whether a review request based on the case regulated in art. 453 para. (1) lit. f) CCP may refer to a final court decision that does not resolve the merits of the criminal action, i.e. a decision pronounced during the execution phase of the sentence (in resolving an enforcement contestation based on the provisions of art. 595 CCP[28]).

At the same time, in the debates before the High Court, for the resolution of the preliminary issue, it was invoked that the reason for revision based on the provisions of art. 453 para. (1) lit. f) CCP represents a procedural remedy to remove a possible judicial error and that, if such an interpretation were not given, access to justice would become "formal and illusory", lacking efficiency "the legal approach represented by the referral to the Constitutional Court".

In order to solve this legal problem, the supreme court held that the exception of unconstitutionality admitted by a decision of the Constitutional Court published after the criminal court decision remained final constitutes a "legal reason for the reformation" of that decision based on the provision declared unconstitutional, under the conditions in which the exception was raised in the respective case.

Also, the High Court considered that the examination required by the procedure regulated in art. 595 CCP ("The intervention of a new criminal law or a decision of the Constitutional Court") is related to the criminal side of the case, which could be modified following the admission of the exception of unconstitutionality. Moreover, the supreme court considered that the review case provided for in art. 453 para. (1) lit. f) CCP it signifies the fact that the stability of the court decision, even final, "cannot prevail in relation to the provisions with value of principle contained in the Constitution".

In conclusion, in response to the question, the High Court of Cassation and Justice established that "*in the interpretation of the provisions of art. 452 para. (1) CCP, a review request based on the provisions of art. 453 para. (1) lit. f) CCP can also be directed against a final criminal judgment, pronounced in the settlement of a request based on the provisions of art. 595 CCP*".

CONCLUSION

Although, both the doctrine and the jurisprudence developed around the criminal procedural provisions regarding the extraordinary appeal of the revision have appreciated, for a long time, that this appeal can only be used against the final judgments that have been pronounced on the criminal action, more recently

[28] Art. 595 CCP - "The intervention of a new criminal law or a decision of the Constitutional Court".

we are witnessing a change in interpretation, recognizing that the revision can also concern judgments that do not resolve the merits of the case.

The purpose for which the possibility of review was regulated in the particular case of the admission of an exception of unconstitutionality is "the removal from the scope of the real legal order of a definitive criminal decision that contains a judicial error, which seriously affects the constitutional legal order"[29]*. If the possibility of revision were not accepted, by invoking this special case, including a criminal judgment that does not resolve the merits of the case, a continuous state of violation of the mandatory effects of the decision of the Constitutional Court would be maintained whereby, after the finality of that criminal judgment, the legal provision on which it was based was declared unconstitutional. So, in this case, the revision is the only procedural means by which the restoration of the violated legal order is ensured.*

BIBLIOGRAFIE

1. The Convention for the Protection of Human Rights and Fundamental Freedoms, concluded on November 4, 1950, with subsequent amendments and additions, published in the Official Gazette of Romania no. 135 of May 31, 1994;
2. The Charter of Fundamental Rights of the European Union of December 12, 2007, published in the Official Journal of the EU. no. C 303/1 of December 14, 2007;
3. The Constitution of Romania, republished in the Official Gazette of Romania no. 767 of October 31, 2003;
4. The Criminal Procedure Code adopted in 2010 by Law no. 135/2010, published in the Official Gazette of Romania no. 486 of July 15, 2010, with subsequent amendments and additions.
5. The Criminal Procedure Code adopted in 1968, republished in the Official Gazette of Romania no. 78 of April 30, 1997, with subsequent amendments and additions.
6. Law no. 302/2004 regarding international judicial cooperation in criminal matters, republished in the Official Gazette of Romania no. 411 of May 27, 2019, with subsequent amendments and additions.
7. Law no. 177/2010 for the amendment and completion of Law no. 47/1992 regarding the organization and functioning of the Constitutional Court, the Code of Civil Procedure and the Code of Criminal Procedure of Romania, published in the Official Gazette of Romania no. 672 of October 4, 2010.
8. Government Emergency Ordinance no. 18/2016, published in the Official Gazette of Romania no. 389 of May 23, 2016;
9. Dongoroz, Vintilă. *Curs de procedură penală [Criminal procedure course]*, 2nd edition. Bucharest, 1942;

[29] Decision of the High Court of Cassation and Justice, Panel for resolving a question of law in criminal matters, no. 68/2020, cited above.

10. Dongoroz, Vintilă, Siegfrid Kahane, George Antoniu, Constantin Bulai, Nicoleta Iliescu, and Rodica Stănoiu. *Explicații teoretice ale Codului de procedură penală român. Partea specială, vol. II [Theoretical explanations of the Romanian Criminal Procedure Code. Special part, vol. II]*. Bucharest: RSR Academy Publishing House, 1976;
11. Iancu, Elena-Ana. "The Contribution of Forensic Science to Establishing the Truth in Criminal Proceedings. " *Athens Journal of Law* 5, no. 4 (October 2019): 457-470. DOI: https://doi.org/10.30958/ajl.5-4-6
12. Iancu, Elena-Ana. "Regulation of Offences against Public Security in the Criminal Code of Romania. " *International Journal of Legal and Social Order*, no. 1 (2021): 633–642. DOI: https://doi.org/10.55516/ijlso.v1i1.45
13. Kahane, Siegfrid. *Drept procesual penal [Criminal procedural law]*. Bucharest: Didactic and Pedagogical Publishing House, 1963.
14. Lorincz, Anca-Lelia. *Drept procesual penal (conform noului Cod de procedură penală), vol. II [Criminal procedural law (according to the new Criminal Procedure Code), vol. II]*. Bucharest: Universul Juridic Publishing House, 2016.
15. Lorincz, Anca-Lelia, and Adriana Iuliana Stancu, "Qualification of the request to take over criminal procedure in the context of international judicial cooperation. " *Proceedings of 9th SWS International Scientific Conference on Social Sciences - ISCSS 2022* 9, no. 1 (2022): 115-122. DOI: http://dx.doi.org/10.35603/sws.iscss.2022/s02.015
16. Paraschiv, Carmen Silvia. "Compliance with the principle of equal finding the truth in criminal proceedings – 'sine qua non' principle. " *International Journal of Legal and Social Order*, no. 1 (2023): 304–309. DOI: https://doi.org/10.55516/ijlso.v3i1.167
17. Shcherbanyuk, Oksana, Vitalii Gordieiev, and Laura Bzova. "Legal nature of the principle of legal certainty as a component element of the rule of law. " *Juridical Tribune* 13, no. 1 (March 2023): 21-31. DOI: 10.24818/TBJ/2023/13/1.02.
18. The ECtHR Judgment of August 31, 2000 pronounced in *the Brumărescu Case against Romania*, published in the Official Gazette of Romania no. 414 of August 31, 2000.
19. Decision of the Constitutional Court of Romania no. 126/2016, published in the Official Gazette of Romania no. 185 of March 11, 2016.
20. Decision of the Constitutional Court of Romania no. 220/2019, published in the Official Gazette of Romania no. 421 of May 29, 2019.
21. Decision of the High Court of Cassation and Justice, Panel of 9 judges, no. 42/2005, document available online at https://legeaz.net/spete-penal-iccj-completul-de-9-judecatori/decizia-42-2005 (accessed on 14.02.2025).

22. Decision of the High Court of Cassation and Justice, United Sections, no. XVII/2007, published in the Official Gazette of Romania no. 542 of July 17, 2008.
23. Decision of the High Court of Cassation and Justice, Criminal Section, no. 195/2019, document available online at https:/www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=150128#highlight=## (accessed on 14.02.2025).
24. Decision of the High Court of Cassation and Justice, Panel for resolving a question of law in criminal matters, no. 68/2020, published in the Official Gazette of Romania no. 99 of January 29, 2021.
25. Decision of the High Court of Cassation and Justice, Criminal Section, no. 717/2023, document available online at *www.scj.ro*. (accessed on 08.02.2025).