SARA Law **R**esearch **C**enter
International **J**ournal of **L**egal and **S**ocial **O**rder, https://www.ccdsara.ro/ijlso
ISSN 2821 – 4161 (Online), ISSN 2810-4188 (Print), ISSN-L 2810-4188
N°. 1 (2022), pp. 1-12

CONSTITUTIONAL RELEVANCE OF THE PRESUMPTION OF INNOCENCE

M.C. ARĂDAN

Constantin-Marius ARĂDAN
West University of Timişoara, Romania
Doctoral School of Law
E-mail: aradan.constantin@yahoo.com
ORCID ID: https://orcid.org/0000-0001-5976-9955

Abstract

In this paper we propose to present the place of the presumption of innocence in the Romanian constitutional landscape and to show that it can be delimited by the notoriety of criminal law.

In order to achieve our objective, we briefly presented the situations that can contribute to the definition of the presumption of innocence. Even if the presumption of innocence coexists only in the relationship of "collaboration" with the accused or the defendant, it bears nuances specific to human rights, equity, the rule of law and even the legislative policy of the state.

In this sense, the specific discussions will start from the provisions of art. 16 para. (1) and (2) of the Constitution in conjunction with those of art. 23 para. (8) and (11) and from the provisions of art. 4 para. (1) of the Code of Criminal Procedure in order to establish the normative content of the "presumption of innocence".

From a simple benefit to the complexity of legal protection is only one step because the presumption of innocence constitutes a fundamental human right through its implications on individual freedom, a fact recognized at the level of the Fundamental Law.

Finally, deepening the principle of "presumption of innocence" throughout this article, we believe that it will be natural to conclude that this is a principle of constitutional rank.

Key words: *Presumtion of innocence; Constitution; fundamental rights, constitutional guarantees, Criminal Law.*

INTRODUCTION

1. THE PRESUMPTION OF INNOCENCE – PRINCIPLE OF CONSTITUTIONAL RANK

Often known as a corollary of rights in criminal law, the presumption of innocence is linked to the idea of individual freedom, which can be restricted at any time under the coercive power of the state. Only the suspect or defendant benefits from the presumption of innocence, but only until overturned by the burden of proof. Not by chance, over time, the presumption of innocence has been characterized as "another human right" *(Roberts and Hunter, 2012, p. 259)* "an indisputable, axiomatic and elementary law" *(Sorrentino, 1996, p. 453)*, or a fundamental principle of procedural fairness in criminal law *(Ashworth and Horde, 2013, p. 71)*.

Deepening the principle of the "presumption of innocence", we note that it has the rank of a constitutional principle, because it includes all the guarantees aimed at protecting human dignity. Through this objective, the presumption of innocence imposes itself in the hierarchy of legal categories as a constitutional instrument that keeps distance from repressive regimes.

In the doctrine, it was appreciated that the presumption of innocence should have a much clearer and neutral individual status defined at the constitutional level, in order not to limit its exercise only, to the action of the principle of individual freedom, but to give it the effectiveness of the effects that arise in the case of consecration as independent principle, effects that guarantee the person that he will not be subjected to abuse in a judicial procedure" *(Tulbure, 1993, p. 47)*.

In our opinion, the presumption of innocence has a double dimension – one of that establishes the guarantee of the person's freedom and another one enshrines the existence of specific guarantees in the cases provided by law *(Tulbure, 1993, p. 49)*. We refer to the character of substantive law that the constitutional nature of the presumption of innocence has. We believe that the Romanian constituent legislator was of the same opinion when, during the revision of the Constitution of 2003, he enshrined the presumption of innocence at the constitutional level, turning it into an "obvious barometer of the quality of the judicial act" *(Budișan, 2017, p. 36)*. More than that, we can extrapolate an idea related to the usefulness of the presumption in law to the opportunities that the presumption of innocence creates in the subsidiary – fundamental legislative policy decisions *(Fabien, 2021, p. 192)*.

In this sense, we argue that the presumption of innocence is an essential part of the set of universal principles, especially alongside the principles of legality and equal rights before the law. In this sense, we note that "the principle of legality was intended to serve as a guarantee of the person's freedom against arbitrariness in the activity of the judiciary, as well as against a law that would criminalize *ex novo* an act that, at the time it was committed, was not provided by

law as a crime" *(Costică and Bogdan Bulai, 2007, p. 57)*. On the other hand, the legality of the incrimination correlated with the presumption of innocence, excludes the use of analogies, assumptions and rumors, being necessary the detailed description of the facts. The main objective is, in our opinion, to protect the individual against any abuse of power by conferring some guarantees of individual freedom, finding the truth in the judicial investigation and denying the stereotypes that lead to the idea that a person targeted by a criminal investigation is guilty.

Finally, we conclude that the assessment is founded according to which presumption, in all its facets, represents authority *(Dănișor, 2015, p. 211)*. Beyond the intuitive meaning of the explanation, the presumption is felt in law by a verb "with impersonal pronominal value (...) in the affirmative or negative form, to denote the authenticity of a legal fact until the contrary is proved" *(Dănișor, 2015, p. 211)*.

Discussions regarding the normative content of the expression "presumption of innocence" in Romanian law start from art. 16 paragr. (1) and (2) of the Romanian Constitution read together with art. 23 paragr. (8) and (11).

Art. 23 paragr. (11) of our Romanian Constitutional Law establishes that "Until the court decision of conviction remains final, the person is considered innocent". Thus, we deduce the fact that the presumption of innocence is perceived as a "benefit, a legal protection that accompanies the accused person, in order to balance the balance of forces within the criminal process" *(Muraru and Tănăsescu, 2019, p. 194)*.

Looking strictly at the interpretation of art. 23 paragr. (11), it was held that the presumption of innocence represents a basic rule of the modern criminal process, which manages to overcome the strict limits of its judicial incidence, because it constitutes a fundamental human right through its implications on individual freedom *(Theodoru , 1959, p. 124)*.

The doctrine also highlighted the procedural guarantee that the presumption of innocence has, because it is granted to persons prosecuted or tried. Thus, it was judged that the establishment of the presumption is justified for all persons to be investigated, even if only one person under investigation was found innocent *(Volonciu, 2016, p. 13)*.

Moreover, the constitutional character of the procedural guarantee *(Pavel, 1978, p. 10)* of the presumption of innocence is also supported, whether we are talking about the start of the criminal prosecution *in rem*, the continuation of the criminal prosecution in personam at the time of hearing the suspect or the accused, whether it is about starting the criminal action, taking preventive measures, sending to court, extending the criminal action and the criminal process, pronouncing the decision, exercising the appeals *(Gorgăneanu, 1996, p. 33)*.

As a procedural guarantee, the presumption of innocence acts being correlated with the burden of proof.

Instrumentation of the evidence contributes to a just resolution of the case and to the correct administration of evidence, to prove guilt with certainty. Nicolae Volonciu appreciated that "the presumption of innocence must not oppose a fair and rigorous repression" *(Volonciu, 1996, p. 120-122)*.

If, through an exercise of imagination, we could see on a board the entire set of provisions of the Criminal Procedure Code, we would notice that they make up a chain of syllogisms that attest to the validity of the principle of the presumption of innocence. And, in the opposite sense, it is assumed that this principle is respected, precisely to ensure the right to a fair trial and the law, in its entirety. In other words, it is about the functioning of the apparatus of rights and guarantees of the person that has an impact on the coherence of the law and legal certainty.

Article 4 paragr. (1) of the Criminal Procedure Code together with other corroborated articles complete the constitutional picture that evokes individual freedom in general "Every person is considered innocent until his guilt is established by a final criminal decision". In addition, at paragr. (2) of the same article it is established that "After the administration of all the evidence, any doubt in the formation of the conviction of the judicial bodies is interpreted in favor of the suspect or the accused."

In other words, the presumption of innocence represents the idea that derives from legal liability, *lato sensu*, and from criminal liability, *stricto sensu*, because it offers procedural guarantees against arbitrariness *(Volonciu, 1996, p. 120-122)*. In these cases, the normative provisions certify that "innocence is presumed, the right must be formulated as a categorical logical-legal presumption" *(Tulbure, 1993, p. 50)*.

2. BRIEF EXAMPLES

Reading by comparison art. 23 paragr. (11) of the Romanian Constitution and art. 4 paragr. (1) from Criminal Procedure Code, we note that the ordinary legislator did not faithfully reproduce the fundamental provision in the law. On the contrary, we find the wording from the original Criminal Procedure Code, according to which when the criminal trial continued and if no case of acquittal was found, the court ordered the termination of the criminal trial. In doctrine, it was appreciated that the legislator's option was correct, because the presumption of innocence can be overturned in several situations, not only through a final criminal judgment of conviction. Thus, under the conditions of art. 18, the defendant can request the continuation of the criminal process and the court can order the termination of the criminal process if it does not find any of the cases provided for in art. 16 paragr. (1) lit. a)-d). In situations where the decision remains final, the court, although it finds the defendant guilty, does not pronounce

his conviction. Also, in relation to the new ways of solving the criminal action provided by art. 396 paragr. (3) and (4), the defendant's guilt is not established only by a final judgment of conviction, but also in cases where the sentence was waived or the sentence was postponed *(Tulbure, 1993, p. 13-16).*

We note that the key points of the secondary legal regulation are highlighted in the phrase "final criminal decision", from which it unequivocally follows that "the functionality and procedural significance of the presumption of innocence is put into question throughout the criminal process" *(Muraru and Tănăsescu, 2019) , p. 194)*.

The criminal process has three stages, namely the prosecution, the trial and the execution of the decision, but the Criminal Procedure Code omits the normative discussion on the application of the presumption of innocence in the last phase. In other words, the presumption applies from the first procedural acts in a criminal case until the final conviction, excluding the execution phase of the criminal sanction. In the same sense, the presumption is also applicable in cases in which an acquittal was pronounced or in those in which the criminal proceedings were interrupted in any form, and the person in question is the subject of other proceedings – bearing legal costs, compensation to the victims, subsequent disciplinary proceedings. *(Anghel-Tudor, Barbu and Şinc, 2021, p. 15)*.

In our opinion, it is natural to be so, because the purpose of the criminal process is to find out the truth, or from the moment of the existence of a final and irrevocable decision, its enforcement naturally follows, a situation that no longer entails the presumption of innocence, because it has been overturned and legal liability has been incurred.

Also, the content of paragr. (2) represents an element of novelty in the Romanian Criminal Procedural Law, by which the *in dubio pro reo* principle is given legal value, applied, with weighting, in the previous judicial practice of the Criminal Procedure Code.

From the point of view of Professor Anastasiu Crișu, there is a doubt only when, from the corroboration of the evidence, the guilt or innocence of the person in question cannot be determined with certainty *(Theodoru and Moldovan, 1969, p. 123)*. From the perspective of George Antoniu, this principle should not be interpreted as a privilege or an allowance of the law to exempt the judicial body from evidentiary efforts, but is a procedural remedy when all means for establishing the truth have been exhausted *(Antoniu, 2008, p. 16).*

An interesting opinion shows that "the presumption of innocence represents a solution for the provisional situation in which the person accused of committing a crime finds himself" *(Tomuleț, 2015, p. 46)*.

In the doctrine it is appreciated that art. 103 paragr. (2) from Criminal Procedure Code (appreciation of the evidence) must be read in conjunction with art. 4 of Criminal Procedure Code *(Buneci, 2014, p. 5-6).* Considering that the

mentioned article emphasizes that the conviction is decided only when the court is convinced that the charge has been proven beyond any reasonable doubt, we also appreciate that these provisions are intended to complete the action table of the principles related to the action value of the presumption of innocence. From the perspective of art. 103 Criminal Procedure Code, the evidence does not have a value established in advance by law and is subject to the free assessment of the judicial bodies following the evaluation of all the evidence administered in the case. In the light of this provision, there is no longer an *a priori* difference established by the legislator between the statements of the witness and the statements of the parties or the main procedural subjects *(High Court of Cassation and Justice, 2017, no. 169).*

In another case, it was held that the administration of two means of evidence, following which contradictory conclusions were formulated, does not determine, *ex ante*, the removal of the second act from the evidential body, but both must be examined and interpreted through corroboration with the other evidence in the case file *(High Court of Cassation and Justice, 2014, no. 2891).*

We note that the Romanian legislator's option for the *in dubio pro reo* principle in the Criminal Code, raises the presumption of innocence to the rank of norm with the value of a fundamental principle, since any doubt the judicial body has in forming its own conviction, after the administration of all the evidence in a criminal case, it will be interpreted in favor of the suspect or defendant.

The judicial interpretation of the provisions of the law shows that "The *in dubio pro reo* rule is a complement to the presumption of innocence, an institutional principle that reflects the way in that the principle of finding the truth is found in the matter of probation. It is explained by the fact that, to the extent that the evidence administered to support the guilt of the accused contains doubtful information precisely regarding the guilt of the perpetrator in relation to the imputed act, the criminal judicial authorities cannot form a conviction that constitutes a certainty and, therefore, they must conclude in the sense of the accused's innocence and acquit him" *(Criminal decision of the Alba-Iulia Court of Appeal, 2018, no. 319).* In the same sense, it was noted that the provisions of the Criminal Procedure Code made the transition from "the principle of free assessment of the evidence and the principle of the judge's free or intimate conviction to the standard of proof beyond any reasonable doubt. *(Idem).* In the same interpretation, it is noted that the *in dubio pro reo* rule is a matter of fact, which is based on the high professional standards of judges, which aims to obtain certainty through decisive, complete, reliable evidence, able to reflect the objective reality and reconstructed with the help of evidence" *(Idem).*

Last but not least, in the saraband of legal correlations, we also stop at art. 83 Criminal Procedure Code, which establishes the rights of the accused or the suspect. Nicolae Volonciu concludes that, only the law can grant the legal guarantee by which it ensures that no one will be held criminally liable and

subject to discretionary sanctions". Complementarily, it is emphasized that the role of the presumption of innocence is to be "the basis of all procedural guarantees related to the protection of the person in the criminal process".

The provisions of art. 83, lit. a) from Criminal Procedure Code, mentions "the right not to make any statement during the criminal trial, drawing his attention to the fact that if he refuses to make a statement he will not suffer any adverse consequences, and if he makes a statement these can be used as evidence against him" .

The article refers to the defendant, who undergoes a transformation, in the sense that he loses the exhaustive palette of rights provided as a free person to be guaranteed only procedural rights during the criminal action *(Tudor, Barbu and Şinc, 2021, p. 263).*

As it is about the criminal action and the rights of the defendant, the normative prescriptions have the generic name of "right to defense - art. 10, which leads to the organization and conduct of a hearing - art. 109 para. (3); the preventive measure of detention - art. 209 para. (6); resolution of the proposal for preventive arrest during the criminal investigation - art. 225 para. (8); preventive arrest of the defendant in the preliminary chamber procedure and during the trial - art. 238; informing about the accusation, clarification and request - art. 374 para. (2).

Lit. a), was introduced when the Criminal Procedure Code was amended by Law no. 255/2013 and enshrines the right to be informed about the act for which he is being investigated and its legal framework. In the doctrine, it has been appreciated that this provision is interpreted in relation to the regulations of the right to freedom and security - art. 9, the right to defense - art. 10 related to the organization and conduct of the hearing - art. 108, order to maintain the detention measure - art. 209 paragr. (17) and house arrest - art. 218 para. (4), of preventive arrest - art. 228 paragr. (2), of bringing to the notice of the quality of the suspect - art. 307, when initiating the criminal action - art. 309 paragr. (2). Correlatively, the provisions of art. 83 lit. b) and c) which are incidents in the stages already mentioned, including those aimed at carrying out specific procedures such as listening - art. 109, recording of statements - art. 110, the hearing of the protected witness - art. 129, protection of attorney-client confidentiality - art. 139 etc. The right of the suspected or accused person not to make any statement is provided for in the provisions of art. 10 from the Criminal Procedure Code with the marginal name "Right to defense", where in paragr. (4) states that "Before being heard, the suspect and the accused must be advised that they have the right not to make any statement".

If the criminal investigation bodies heard persons suspected of having committed acts provided for by the criminal law, without ordering the continuation of the criminal investigation, according to art. 305 paragr. (3) from

the Criminal Procedure Code, and informing them that they have acquired the quality of suspect, the rights they have, the facts for which they are being investigated and their legal status according to art. 83 from the Criminal Procedure Code, and not recording statements on standard forms for the suspect, but in minutes, then the latter have no probative value, because they violate the provisions of art. 198 from the Criminal Procedure Code, to be respected art. 83 from the Criminal Procedure Code, the recording of the statements of the perpetrators in minutes by the criminal investigation bodies could have constituted evidence if they had been informed that they were suspects before being heard. On the contrary, the recorded statements were rejected, finding relative nullity according to art. 282 paragr. (1) from the Criminal Procedure Code, abolishing the minutes and removing the damage caused to the defendants *(Galați Court of Appeal, December 22, 2015, minute of conclusion)*.

Then, the rejection by the prosecutor of the defendant's request to rehear the witnesses heard before being notified about the suspect status assigned to the case was assessed as a violation of the right to defense and the right to a fair trial *(Tudor, Barbu and Şinc, 2021, p. 338).*

In the context in which the criminal facts that were the subject of the criminal complaint were not analyzed, the judge of the Preliminary Chamber noting the existence of elements that are of a general nature, which are not based on an effective, necessary and absolutely mandatory investigation to identify and verify the elements in fact and the conditions of the commission of an act provided by the criminal law, we are in a situation that violates the presumption of innocence. In such a case, the judge of the preliminary chamber must take note of the omissions of the investigation and request the reopening of the criminal investigation. Thus, the criminal investigation bodies are obliged to comply with the provisions of the law during the criminal prosecution phase and the administration of any evidence to clarify the factual situation and find out the truth *(High Court of Cassation and Justice, 11 June 2020, Conclusion no. 211).*

In the doctrine, it was held that the preventive arrest procedure does not fully meet the standards imposed by the presumption of innocence in Criminal Law. The author has in mind the omission of the Romanian legislator to make an obvious differentiation between the measure of preventive arrest and house arrest and the presumption of innocence *(Rusu, 1997, p. 119)*. Thus, it is noted that "a person arrested preventively or at home, or against whom judicial control has been ordered, should not be regarded as a guilty person, against him there is only a reasonable suspicion, based on evidence, that he has committed a crime *(Drîmbu, 2019, p. 197)*. The court ruled in the opposite direction, which held that "the measure of deprivation of liberty of a person can be ordered when there are plausible reasons that a crime has been committed or there are solid reasons to believe in the possibility of committing new crimes, being thus necessary to protect public order, the rights and freedoms of citizens, as well as the conduct of

the criminal process in good conditions" *(Bistrița-Năsăud Court, October 16, 2007, criminal decision no. 86R).*

Lit. c) of art. 83 of Criminal Procedure Code enshrines the defendant's right *"to have a lawyer chosen, and if he does not appoint one, in cases of mandatory assistance, the right to have a lawyer appointed ex officio"*.

This normative provision must be viewed in the light of art. 8 paragr. (2) lit. b) from Directive (EU) 2016/343, according to which if a person is absent from his own trial then a series of minimum conditions must be met in order to ensure the right to a fair trial. It is about informing the suspect or accused person about the process, to be represented by a lawyer chosen or appointed by the state. The Romanian Criminal Procedure Code establishes that the defendant must appoint a chosen defender or an attorney, who can appear at any time during the trial. In the doctrine, it was found that "the Romanian legislator excludes the possibility of appointing a defense attorney *ex officio* by the court", appreciating that "such a provision is normal, the Romanian law being more complete and ensuring in a more efficient way the observance of the right to a new process" *(Rusu, 1997, p. 119).*

Regarding the Criminal Procedure Code, art. 99 paragr. (2) unequivocally establishes that the accused is not required to prove his innocence.

Also, art. 103 paragr. (2) from the Criminal Procedure Code, orders conviction only when the court is satisfied that the charge has been proven beyond reasonable doubt.

As far as we are concerned, we appreciate that there is another article from Criminal Code which completes the legal picture of the collateral consequences of the presumption of innocence on Romanian law. It is about compromising the interests of justice, art. 277 Criminal Code, Special part. This legal institution is relatively young in Romanian law, having been introduced with the Criminal Procedure Code of 2009. However, in comparative law we find similar criminalizations (for example, art. 379 bis of the Italian Penal Code, art. 466 of the Spanish Penal Code or article 371 of the Portuguese Penal Code).

The Romanian legislator decreed in art. 277 paragr. (1) the standard offence, and in para. (2) and (3) two mitigating options. Thus, paragraph (1) establishes the prevention of the leakage of confidential information regarding the criminal investigation. In our view, the purpose of criminalizing this offense is closely related to the presumption of innocence. Such a situation, in which information can be disclosed, can lead to the difficulty or even the impossibility of administering some evidence (We are considering the situation in which the address of a home for which it was authorized is disclosed and a home search is to be carried out or where they will informative-operative investigations took place), under the consequence of affecting the act of justice.

Related to the mitigated versions of the crime, we believe that they have the role of ensuring the fairness of the criminal process, protecting the presumption of innocence by prohibiting the disclosure of evidence from an ongoing criminal case, preventing the formation of erroneous or subjective opinions about to the guilt of the suspect. Thus, removing a piece of evidence from the entire evidentiary file and bringing it to the public's attention can lead to a wrong conclusion on the guilt or innocence of the accused, a conclusion that sometimes can hardly be changed *(Toader, Michinici and Crișu-Ciocîntă, 2014 , pp. 446-447).*

CONCLUSION

In our opinion we agreed that the presumption of innocence mainly refers to situations where the deed attributed to a person has criminal connotations (Muraru and Tănăsescu, 2019, p. 195).

However, the dynamics of law brought to the fore other situations in which the presumption of innocence expanded its scope.

As we have shown, the extended concept of the rule of law sums up the rule of law, the principle of legal stability and security, respect for human rights. Elements subordinated to them are the rights-guarantees, among which the presumption of innocence represents the binder of procedural rights (Toader, 2013, p. 165-166).

In short, it is about a series of key elements, which have been retained in the jurisprudence of the courts regarding the resonance of the presumption of innocence with a series of elements of the criminal procedure, such as the right to a fair trial, the principle of incriminating yourself alone, speeding up deadlines, overturning evidence, etc.

These, viewed from the perspective of human rights, are positioned in a set of principles, procedures, mechanisms, being specific to national, regional, international, universal law.

Under these conditions, the presumption of innocence - an universal human right, a guarantee of constitutional rank - has become a national norm, with direct and immediate legal effects on the population and state bodies.

BIBLIOGRAFIE

Paul Roberts, Jill Hunter (editori), *Criminal Evidence and Human Rights: Reimagining Common Law Procedural Traditions*, Hart Publishing, Oxford, No.1/ 2012.

Joseph N. Sorrentino, *Demystifying the Presumption of Innocence'* în Glendale Law Review NO. 16–26/1996.

Andrew Ashworth, Jeremy Horder, *Principles of Criminal Law*, Oxford University Press, Oxford, 2013.

Adrian Ștefan Tulbure, *Prezumția de nevinovăție în Constituția României și în perspectiva modernizării legislației procesuale penale* în Dreptul nr. 9/1993.
Călin Budișan*, Prezumția de nevinovăție. Evoluția conceptului și valențele sale actuale, în Caiete de drept penal, nr. 4/2017.*
Claude Fabien, *Codul civil al Québec-ului. Prezumțiile legale de vinovăție și de răspundere se aplică la contract?* Revista română de drept privat nr. 6/2021.
Costică Bulai, Bogdan N. Bulai, *Manual de drept penal, Partea generală*, Universul Juridic, București, 2007.
Diana Dănișor, *Interpretarea Codului civil. Perspectivă jurilingvistică*, C.H. Beck, București, 2015.
Ion Muraru, Elena Simina Tănăsescu, *Constituția României, Comentariu pe articole*, Ediția 2, C.H. Beck, București, 2019.
Grigore Theodoru, *Curs de drept procesual penal*, Partea generală, Univ. Al. I. Cuza, Iași, 1959.
Nicolae Volonciu, *Noul Cod de Procedură Penală*, *adnotat. Partea generală*, Ediția a II-a, revizuită și adăugită, Universul Juridic, București, 2016.
Doru Pavel, *Considerații asupra prezumției de nevinovăție*, R.R.D. nr.10/1978.
Ion Gh. Gorgăneanu, *Prezumția de nevinovăție*, Ed. Intact, București, 1996.
Nicolae Volonciu, *Tratat de procedură penală, Partea generală*, vol. I, Ed. Paidea, București, 1996.
Ioan Muraru, Elena Simina Tănăsescu, *Constituția României, Comentariu pe articole*, Ediția 2, C.H. Beck, București, 2019.
Georgiana Anghel-Tudor, Alina Barbu, Alexandra Mihaela Șinc, *Codul de procedură penală adnotat cu jurisprudență națională și europeană*, Ediția a 2-a, revăzută și adnotată, Ed. Hamangiu, București, 2021.
Anastasie Crișu, *Drept procesual penal*, Editura Hamangiu, București, 2011.
Grigore Theodoru, Lucia Moldovan, *Drept procesual penal*, E.D.P., București, 1969.
George Antoniu, *Observații la proiectul noului Cod de procedură penală (I),* în RDP nr. 4/2008.
Cristina Tomuleț, *Interese contradictorii în materia arestării preventive. De la prezumția de nevinovăție la pericolul pentru ordinea publică* în Caiete de drept penal nr. 2/2015.
Petre Buneci (coord.)*, Noul Cod de procedura penala, Note. Corelații. Explicații.,* Editura C.H. Beck, București, 2014.
Georgiana-Anghel Tudor, Alina Barbu, Alexandra Mihaela Șinc. *Codul de procedură penală adnotat cu jurisprudență națională și europeană, Ediția a 2-a, revăzută și adnotată, Ed. Hamangiu, București, 2021.*
Ion Rusu, *Forma de guvernământ,* Editura Lumina Lex, București, 1997.
Ionuț Drîmbu, *Prezumția de nevinovăție în dreptul procesual penal român*, în Revista Pro lege, nr. 2-3/2019.

Ion Rusu, *Forma de guvernământ,* Editura Lumina Lex, București, 1997.
Tudorel Toader, Maria-Ioana Michinici, Anda Crișu-Ciocîntă, *Noul Cod penal, Comentat pe articole*, Editura Hamangiu, București, 2014.
Ioan Muraru, Elena Simina Tănăsescu, *Constituția României, Comentariu pe articole*, Ediția 2, C.H. Beck, București, 2019.
Tudorel Toader (coord.), *Selecții de decizii ale Curții Constituționale Federale a Germaniei*, Fundația Konrad Adenauer, Editura C.H. Beck, București, 2013.

Î.C.C.J, secția penală, Încheiere, JCP nr. 211 din 11 iunie 2020.
Curtea de Apel Galați, secția penală, minuta încheierii din 22 decembrie 2015.
Decizia penală a Curții de Apel Alba-Iulia nr. 319/2018.
Î.C.C.J. secția penală, încheierea judecătorului de Cameră preliminară - JCP nr. 169 din 21 februarie 2017.
I.C.C.J, secția penală, decizia nr. 2891 din 28 octombrie 2014.
Tribunalul Bistrița-Năsăud, încheierea penală nr. 86R din 16 octombrie 2007.