The Object of the Recourse in Cassation – Unconstitutionality of Some Provisions of the Romanian Criminal Procedure Code in this Field

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Abstract: *The institution of recourse in cassation, an extraordinary remedy introduced in our criminal procedural legislation by the provisions of the current Code of Criminal Procedure (Law no. 135/2010, entered into force on February 1, 2014), has been analyzed, several times, by to the court of constitutional contention, including regarding the provisions governing its object, respectively the decisions that may be subject to this way of attack. Noting a reconsideration, in recent years, of the jurisprudence of the Constitutional Court of Romania regarding the provisions of art. 434 para. (2) of the Code of Criminal Procedure, referring to the decisions that cannot be recourse in cassation, the present study treats the effects of Decision no. 651/2017, Decision no. 573/2018 and of the Decision pronounced on April 7, 2022, in the context of the legislative amendments expected by the most recent draft law amending and supplementing the Code of Criminal Procedure, a project launched in public debate by the Ministry of Justice in September 2021.*

Keywords: *cassation appeal; criminal trial; the current Romanian Code of Criminal Procedure; unconstitutionality; legislative changes*

1. Introduction. Decisions Subject to Recourse in Cassation

Unlike the criminal procedural system established by the amendment[2], in 1993, of the Code of Criminal Procedure in force at that time[3], a system which presupposed the existence of three degrees of jurisdiction (trial in first instance, trial on appeal and trial on recourse), the current Romanian Code of Criminal Procedure[4], in order to ensure the speed of judicial proceedings, regulates only two degrees of

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[2] By Law no. 45/1993 for the amendment and completion of the Code of Criminal Procedure (published in the Official Gazette no. 147 of July 1, 1993), the appeal was reintroduced, as an ordinary way of attack in criminal matters.

[3] The Code of Criminal Procedure adopted in 1968, republished in the Official Gazette no. 78 of April 30, 1997, as subsequently amended and supplemented

[4] Law no. 135/2010, published in the Official Gazette no. 486 of 15 July 2010 (entered into force on 1 February 2014), as subsequently amended and supplemented

jurisdiction (trial in first instance and trial on appeal), the recourse becoming an extraordinary way of attack, under the name of recourse in cassation[1]. Thus, the provisions of the current Code of Criminal Procedure are limited to the principle of the right to two degrees of jurisdiction in criminal matters, a principle enshrined in the European jurisprudence; in this sense, art. 2 paragraph 1 of Protocol 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms it provides for "the right of the person declared guilty of a crime by a court to ask for the examination of the statement of guilt or of the conviction by a higher instance"[2].

As it is an extraordinary remedy, the recourse in cassation can only be exercised against final judgments.

The object of the recourse in cassation is regulated in art. 434 of the Code of Criminal Procedure (CCP) (*Decisions subject to recourse in cassation*), in para. (1) being provided that "the decisions pronounced by the courts of appeal and by the High Court of Cassation and Justice, as appeal instances, may be recourse in cassation, except for the decisions by which the retrial of the cases was ordered"[3].

It should be noted that the scope of decisions that can be recourse in cassation has been extended by the Government Emergency Ordinance no. 70/2016[4], as a result of the implementation of the Decision of the Constitutional Court no. 540/2016[5]. In the initial form of para. (1) of art. 434 CCP (therefore, prior to the amendment by Government Emergency Ordinance no. 70/2016) the possibility of attack with recourse in cassation was provided only for the decisions pronounced by the courts of appeal, as appeal instances, except for the decisions by which the retrial of the cases was ordered. The court of constitutional contentious (by Decision no. 540/2016) found, however, that "*the legislative solution contained in the provisions of art. 434 para. (1) the first sentence of the Code of Criminal Procedure, which excludes to the possibility of attack with recourse in cassation the decisions of the High Court of Cassation and Justice, as an appeal instance, is unconstitutional*".

As a way of regulating the object of the recourse in cassation, we notice that the legislator opted to providing, in para. (2) of art. 434 CCP, of several categories of

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[1] Lorincz, A. L. (2016). *Drept procesual penal (conform noului Cod de procedură penală)/ Criminal procedural law (according to the new Criminal Procedure Code),* second volume, Bucharest: Universul Juridic, p. 94.

[2] Udroiu, M. & Predescu, O. (2008). *Protecția europeană a drepturilor omului şi procesul penal român*, Bucharest: C.H. Beck, p. 906.

[3] The exception is explained by the fact that, insofar as the appellate instance annuls the sentence of the first instance and orders the retrial by the court whose decision was overturned or by the competent court, the criminal proceedings will resume, the decision of the appellate instance, in this case, not being final [as it appears from the corroboration of art. 424 para. (4) with art. 552 para. (1) CCP] –Lorincz, A. L. (2014). *Recursul în casație în noul Cod de procedură penală/ The cassation appeal in the new Code of Criminal Procedure,* Bucharest: Universul Juridic, p. 40.

[4] Government Emergency Ordinance no. 70/2016, published in the Official Gazette no. 866 of October 31, 2016

[5] Decision of the Constitutional Court no. 540/2016, published in the Official Gazette no. 841 of October 24, 2016

decisions / solutions that cannot be recourse in cassation. From the time the current Code of Criminal Procedure was adopted (2010), the regulation of these categories of decisions has evolved, as a result of successive legislative changes (in 2013 - by the Law for the implementation of the Code of Criminal Procedure[1] and in 2016 - by Government Emergency Ordinance no. 18 regarding the modification and completion of the code[2]).

Thus, in the initial form of the code (prior to the substantial changes made even before its entry into force), art. 434 para. (2) CCP had the following content:

" (2) They cannot be attacked with recourse in cassation:

a) the sentences in respect of which the persons provided in art. 409 did not use the appeal or when the appeal was withdrawn, if the law provides for this appeal. The persons provided in art. 409 may declare a recourse in cassation against the decision pronounced in the appeal, even if they did not use the appeal, if by the decision pronounced in the appeal the solution of the sentence was modified and only regarding this modification;

b) decisions rendered on appeal by the High Court of Cassation and Justice;

c) decisions on preventive and other procedural measures;

d) final judgments on complaints against non-prosecution solutions, when the complaint has been rejected, those on requests for review or reopening of criminal proceedings in case of trial in the absence of the convicted person, rejected, and those on the execution of sentences or rehabilitation."

In the Explanatory Memorandum of the draft Law on the implementation of the Code of Criminal Procedure[3], the amendments to the provisions of the Code on recourse in cassation were justified by the need to avoid an "overload of the role of the Supreme Court" (cassation being the responsibility of the Criminal Section of the High Court of Cassation and Justice), meaning that the scope of judgments against which this extraordinary way of attack may be brought has been limited by the introduction of the provision that the final judgments on the offenses for which the criminal action is initiated upon the prior complaint of the injured person cannot be attacked with recourse in cassation. Therefore, following the amendments made by Law no. 255/2013, art. 434 para. (2) CCP had the following content:

"(2) They cannot be attacked with recourse in cassation:

a) judgments rendered after the retrial of the case following the admission of the request for review;
b) decisions rejecting the request to reopen the criminal proceedings in case of trial in the absence of the convicted person;
c) judgments on the execution of sentences and rehabilitation;
d) decisions on rehabilitation;

[1] Law no. 255/2013, published in the Official Gazette no. 515 of 14 August 2013
[2] Government Emergency Ordinance no. 18/2016, published in the Official Gazette. no 389 of May 23, 2016
[3] https://www.just.ro/

e) the pronounced solutions regarding the crimes for which the criminal action is initiated upon the prior complaint of the injured person;
f) the solutions pronounced as a result of the application of the procedure regarding the recognition of the accusation;
g) judgments rendered following the admission of a plea agreement."

Another substantial legislative intervention on the provisions of the current Code of Criminal Procedure took place through the Government Emergency Ordinance no. 18/2016, when some other changes were made and regarding para. (2) of art. 434 CCP. In order to justify the extraordinary situation which necessitated the adoption of this emergency ordinance, the Government relied on several decisions of the Constitutional Court declaring unconstitutional provisions of the Code of Criminal Procedure and the need to transpose Community acts (directives of the European Parliament and of the Council) in respect of which there were even advanced infringement proceedings. Thus, following the entry into force of the Government Emergency Ordinance no. 18/2016 (which, even so far, has not been approved by law), art. 434 para. (2) CCP has acquired the following content:

"(2) They cannot be attacked with recourse in cassation:

a) decisions rejecting the request for review as inadmissible;
b) decisions rejecting the request to reopen the criminal proceedings in case of trial in the absence of the convicted person;
c) judgments on the execution of sentences;
d) decisions on rehabilitation;
e) the pronounced solutions regarding the crimes for which the criminal action is initiated upon the prior complaint of the injured person[1];
f) the solutions pronounced as a result of the application of the procedure regarding the recognition of the accusation[2];
g) judgments rendered following the admission of a plea agreement[3]".

We notice that, in addition to correcting a material error existing in letters c) and d), even the text from letter a) was modified, this change not being explained by the Government, given that it cannot be justified by the reasons set out in the preamble from the emergency ordinance.

The regulation of the object of the recourse in cassation was supplemented (in addition to the provisions of the Code of Criminal Procedure) by the provisions on transitional situations determined by the implementation of the Code of Criminal Procedure. Thus, in art. 11 of Law no. 255/2013 provided that the decisions pronounced in the appeal before the entry into force of the new code regarding which the term for declaring the ordinary way of attack provided by the previous

[1] By the Decision of the Constitutional Court pronounced in the session of April 7, 2022 (unpublished at the date of elaboration of this paper), https://www.ccr.ro/, these provisions were declared unconstitutional.
[2] By the Decision of the Constitutional Court no. 651/2017 (published in Official Gazette no. 1000 of December 18, 2017), these provisions were declared unconstitutional
[3] by the Decision of the Constitutional Court no. 573/2018 (published in Official Gazette no. 959 of November 13, 2018), these provisions were declared unconstitutional

law had not expired on the date of entry into force of the new law are subject to recourse in cassation; these decisions became final on the date of entry into force of the new Code of Criminal Procedure, and appeal requests against such decisions, filed prior to the entry into force of the new law, were considered requests of recourse in cassation.

Also, in art. 12 of Law no. 255/2013 is if recourses pending at the date of entry into force of the new law, declared against decisions which have been appealed under the old law, remain in the jurisdiction of the same court and are judged according to the provisions of the old law regarding the recourse, the decisions pronounced in the recourse thus resolved cannot being appealed in cassation.

Even the decisions that remained final before the entry into force of the new law (February 1, 2014) cannot be recourse in cassation under the conditions of the new law (art. 13 of Law no. 255/2013).

Closely related to the evolution of the regulation of the object of the recourse in cassation is the regulation of the reasons for which this way of attack can be declared, these reasons being expressly and limitingly provided by law (art. 438 CCP).

Compared to the form adopted in 2010 of the current Code of Criminal Procedure, by Law no. 255/2013 for the implementation of the code, amendments were also made regarding the reasons for which it can be use the recourse in cassation, reducing their number from 14 to 5. Thus, as shown in the Explanatory Memorandum to the draft Law for the implementation of the Code of Criminal Procedure, to ensure the specificity of the recourse in cassation as an extraordinary remedy by which the High Court of Cassation and Justice exercises its unifying role of judicial practice, the number of reasons for which it can be use the recourse in cassation has been reduced, remaining in the jurisdiction of the supreme court mainly the reasons of law concerning substantive issues; legal reasons concerning procedural issues have been transformed into reasons of contestation in annulment, according to the nature of this extraordinary way of attack[1].

Therefore, at present, according to art. 438 para. (1) CCP, the decisions are subject to quashing for the following reasons:

- during the trial, the provisions regarding the jurisdiction by matter or by the quality of the person were not observed, when the trial was conducted by a court inferior to the one with legal jurisdiction;
- the defendant was convicted of an act not provided for by criminal law;
- the termination of the criminal proceedings was wrongly ordered;
- no pardon was found or it was wrongly found that the sentence imposed on the defendant was pardoned;
- punishments were applied within limits other than those provided by law.

[1] Explanatory Memorandum to the draft Law for the implementation of the Code of Criminal Procedure, https://www.just.ro/

2. Reconsideration of the Jurisprudence of the Constitutional Court of Romania Regarding the Regulation of the Object of the Recourse in Cassation in the Current Romanian Code of Criminal Procedure

The provisions governing the object of recourse in cassation have been subject to constitutional review, the Constitutional Court ruling, on several occasions, on some exceptions of unconstitutionality raised in this matter.

● Thus, by ***Decision no. 651/2017***, it was resolved the exception of unconstitutionality of the provisions of art. 434 para. (2) letter f) CCP, exception raised in several cases of the High Court of Cassation and Justice - Criminal Section, on verifying the admissibility in principle of some requests for recourse in cassation.

According to art. 434 para. (2) letter f) CCP, cannot be recourse in cassation "*the solutions pronounced as a result of the application of the procedure regarding the recognition of the accusation*".

In motivating the exception, its authors invoked the violation of the constitutional provisions of art. 1 para. (5) (principle of legality), art. 16 (equality in rights), art. 21 (free access to justice and the right to a fair trial), art. 24 para. (1) (right to defense), art. 53 (restriction of the exercise of certain rights or freedoms), art. 124 para. (2) (uniqueness, impartiality and equality of justice), art. 129 (use of remedies) and art. 131 para. (1) (the role of the Public Ministry), as well as from art. 11 para. (2) (treaties ratified by Parliament) and art. 20 (international human rights treaties), related to the provisions of art. 6 on the right to a fair trial under the Convention for the Protection of Human Rights and Fundamental Freedoms.

In order to resolve this exception, the Court first found that the provisions of art. 434 para. (2) letter f) CCP were also subject to constitutional review, in accordance with the provisions of art. 16, art. 21 and art. 124 para. (2) of the Constitution, as well as of art. 6 of the Convention, by Decisions no. 525/2015[1] and no. 879/2015[2] being rejected, as unfounded, the exception of unconstitutionality of these provisions. Through the two decisions pronounced in 2015, the court of constitutional contentious considered that the provisions of art. 434 para. (2) letter f) CCP "represents the option of the legislator, in accordance with the criminal policy of the state, not contravening the constitutional and European provisions invoked by the author of the exception".

Furthermore, however, the Court held that "starting from the purpose of the recourse in cassation - which is to correct certain serious errors of law committed in the trial of the appeal ...", "it is necessary to re-evaluate the effects of the provisions of art. 434 para. (2) letter f) CCP and the reconsideration of its jurisprudence regarding the criticized text of law". In essence, the court of constitutional review justified its reconsideration of the jurisprudence by the need to "reduce the margin

[1] Decision of the Constitutional Court no. 525/2015, published in the Official Gazette no. 600 of August 10, 2015.
[2] Decision of the Constitutional Court no. 879/2015, published in the Official Gazette no. 179 of March 10, 2016.

of appreciation of the legislator in the field of extraordinary remedies" and " increase the guarantees that accompany free access to justice".

Therefore, in 2017, the Constitutional Court found that the provisions of art. 434 para. (2) letter f) CCP violates the provisions of art. 16, of art. 21 and of art. 11 of the Constitution, "whereas, on the one hand, it creates for the parties a clear inequality of treatment by preventing access to justice in the situation of resolving the appeal by pronouncing an illegal final decision as a result of the application of the procedure for recognizing the accusation, and, on the other hand, the prosecutor is deprived of the levers necessary to exercise his specific role in the criminal proceedings".

● Another decision by which the unconstitutionality of some provisions regarding the object of the recourse in cassation was found is ***Decision no. 573/2018***. Thus, in a case pending before the High Court of Cassation and Justice - Criminal Section, was raised an exception of unconstitutionality of the provisions of art. 434 para. (2) letter g) CCP, according to which" judgments pronounced as a result of the admission of the plea agreement" cannot be recourse in cassation.

In motivating the exception, its author pointed out that the criticized provisions violate the constitutional provisions of art. 16 (equality in rights) and of art. 21 (free access to justice).

In the recitals of this decision, the Constitutional Court invoked the tendency of its recent jurisprudence to establish and develop increased constitutional requirements for the effective protection of fundamental rights and freedoms regarding the exercise of extraordinary remedies, including the recourse in cassation (mentioning, in this regard, Decision no. 651/2017).

The court of constitutional convention held that, in relation to the grounds of recourse in cassation provided in art. 438 para. (1) CCP, as well as in relation to the fact that the provisions of art. 434 para. (2) letter g) CCP exclude the possibility of challenging final judgments pronounced as a result of the admission of a plea agreement, it appears that there may be situations where, in a case definitively resolved by the application of this special procedure (an abbreviated, simplified procedure to ensure the speed of criminal proceedings), would remain unpunished issues such as: non-compliance, in the course of the trial, with the provisions on jurisdiction over the matter or the quality of the person, when the trial was conducted by a lower court than the legally competent one, the conviction of the defendant for an act not provided for by the criminal law, non-determination of pardon or application of penalties within limits other than those provided by law. In this regard, the Court also pointed out that, if the rules of law considered by the provisions of art. 438 para. (1) CCP are violated, it is necessary to ensure both the interested party and the prosecutor the possibility to request and obtain the restoration of legality by quashing the illegal final decision rendered as a result of the admission of a plea agreement.

Consequently, the court of constitutional review established that the provisions of art. 434 para. (2) letter g) CCP violates the provisions of art. 16, art. 21 and art. 131 of the Constitution.

● More recently, by the ***Decision pronounced in the session of April 7, 2022***, the Constitutional Court also admitted the exception of unconstitutionality of the provisions of art. 434 para. (2) letter e) CCP, according to which "*the solutions pronounced regarding the offenses for which the criminal action is initiated upon the prior complaint of the injured person*" cannot be attacked with recourse in cassation.

3. The Effects of the Declaration of Unconstitutionality of Some Criminal Procedural Provisions regarding the Object of the Recourse in Cassation

As it is known, pursuant to art. 147 para. (1) of the Constitution, after the publication in the Official Gazette of Romania of a decision by which the unconstitutionality of some legal provisions was found, those provisions become inapplicable; if, within 45 days from the date of publication of the decision of the Constitutional Court, the Parliament or the Government does not amend those provisions in order to bring them into line with the constitutional provisions, they shall cease to have legal effect, being suspended by law during this period.

As we have shown, there are three decisions of the Constitutional Court which have accepted exceptions of unconstitutionality of some provisions of the Code of Criminal Procedure on the regulation of categories of judgments that cannot be attacked with recourse in cassation:

- by Decision no. 651/2017, the Court found that "*the provisions of art. 434 para. (2) letter f) of the Code of Criminal Procedure are unconstitutional*";
- by Decision no. 573/2018, the Court found that "*the provisions of art. 434 para. (2) letter g) of the Code of Criminal Procedure are unconstitutional*";
- by the Decision pronounced on April 7, 2022, the Court found that "*the provisions of art. 434 para. (2) letter e) of the Code of Criminal Procedure are unconstitutional*".

Therefore, in order to comply with the provisions declared unconstitutional with the provisions of the Fundamental Law, it is necessary to modify the content of art. 434 CCP which regulates the object of the recourse in cassation.

In fact, through the latest draft law for amending and supplementing Law no. 135/2010 on the Code of Criminal Procedure (draft launched in public debate, by the Ministry of Justice, on September 2, 2021)[1], by reference to the Decision of the Constitutional Court no. 651/2017 and the Decision of the Constitutional Court no. 573/2018, in order for the recourse in cassation to be exercised against the solutions pronounced as a result of the application of the abbreviated court procedure regarding the admission of the accusation, respectively against the judgments pronounced as a result of the admission of the plea agreement, ***it was proposed to repeal letters f) and g) of art. 434 para. (2) CCP***.

[1] https://www.just.ro/.

Considering the Decision of the Constitutional Court pronounced on April 7, 2022, so after the initiation of the draft law for the amendment of the Code of Criminal Procedure, it is obvious that ***it is necessary to repeal letter e) art. 434 para. (2) CCP***.

4. Conclusions

From the logical interpretation of par. (2) in art. 434 CCP, reported in par. (1) of the same article, it appears that the legislator intended, at the time of the adoption of the current Code of Criminal Procedure (in 2010) to limit the scope of final decisions that can be recourse in cassation, by listing certain categories of decisions / solutions that do not they may be the subject of such a way of attack, although they may have been the subject of a recourse in cassation.

However, as we have shown, the current Code of Criminal Procedure has undergone several legislative interventions, from the date of its adoption until now (both before and after its entry into force), so we consider that as a result of these amendments, as well as the declaration as unconstitutional of some of the provisions regarding the decisions that cannot be attacked with recourse in cassation [the provisions of letters e), f) and g) of art. 434 para. (2)], it is no longer justified to maintain in force para. (2) in art. 434 CCP, its content becoming useless.

Compared to the *per a contrario* interpretation of the content of para. (1) in art. 434 CCP, some of the provisions of para. (2) [those from letters c) and d)], appeared as redundant[1] from the date of entry into force of the code. Thus, from the interpretation of para. (1) in art. 434 CCP and from the analysis of the reasons for which a recourse in cassation can be made (art. 438 CCP - the 5 reasons that remained after the amendments brought by Law no. 255/2013), it appears that they can be attacked with recourse in cassation the final judgments (respectively the decisions) by which the merits of the case are resolved[2]. Or, the judgments referred to in letters c) and d) of art. 434 para. (2) CCP there are not from the ones that resolve the merits of the case; moreover, these judgments, not being subject to appeal, but to the contestation [art. 597 para. (7), respectively art. 535 CCP], are not likely to be quashed, not even implicitly, by way of recourse in cassation.

Regarding the content of letter a) in art. 434 para. (2) CCP, we observe that it was amended (by Government Emergency Ordinance no. 18/2016) from "the judgments pronounced after the retrial of the case as a result of the admission of the request for review" to "the judgments rejecting the request for review as inadmissible". Or, the judgment rejecting the request for review as inadmissible is not a judgment resolving the merits of the case, so it is not likely to be attacked with recourse in cassation.

Regarding the provisions of letter b) in art. 434 para. (2) CCP, we note that even by the judgment to reject the request to reopen the criminal trial in case of trial in

[1] Tudor, G. in Volonciu, N.; Uzlău, A. S. and collectively (2014). *Noul Cod de procedură penală comentat/ The new Criminal Procedure Code commented,* Bucharest: Hamangiu, p. 1101.
[2] See, in this sense, also paragraph 24 of the Decision of the Constitutional Court no. 651/2017, respectively paragraph 17 of the Decision of the Constitutional Court no. 573/2018.

absentia, the merits of the case are not resolved, so there is no possibility that such a judgment be subject to recourse in cassation. Therefore, these provisions also appear to be unnecessary, leading to an unjustified over-regulation.

Consequently, we ***propose*** that, in the context of the imminent legislative changes that will be brought to the Code of Criminal Procedure, ***the entire content of para. (2) of art. 434 to be repealed***.

5. Bibliography

Lorincz, A. L. (2016). *Drept procesual penal (conform noului Cod de procedură penală)/Criminal procedure law (according to the new Code of Criminal Procedure)*], second volume, Universul Juridic Publishing House, Bucharest, 2016;

Lorincz, A. L. (2014). *Recursul în casație în noul Cod de procedură penală/The recourse in cassation in the new Code of Criminal Procedure*. Bucharest: Universul Juridic Publishing House.

Tudor, G. in Volonciu, N.; Uzlău, A. S. and collectively (2014). *Noul Cod de procedură penală comentat/The new Code of Criminal Procedure commented)*, Bucharest: Hamangiu.

Udroiu, M. & Predescu, O. (2008). *Protecția europeană a drepturilor omului şi procesul penal român/European protection of human rights and the Romanian criminal trial*. Bucharest: C.H. Beck.

European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in 1950, entered into force on 3 September 1953.

The Romanian Constitution, adopted in 1991, republished in the Official Gazette no. 677 of October 31, 2003.

The Romanian Code of Criminal Procedure adopted in 2010 (by Law no. 135/2010), published in the Official Gazette no. 486 of July 15, 2010, as subsequently amended and supplemented.

The Romanian Code of Criminal Procedure adopted in 1968, republished in the Official Gazette no. 78 of April 30, 1997, as subsequently amended and supplemented.

Law no. 255/2013 for the implementation of Law no. 135/2010 on the Code of Criminal Procedure and for the amendment and completion of some normative acts that include criminal procedural provisions, published in the Official Gazette no. 515 of 14 August 2013.

Law no. 45/1993 for the amendment and completion of the Code of Criminal Procedure (published in Official Gazette no. 147 of July 1, 1993).

Government Emergency Ordinance no. 70/2016 for amending and supplementing the Code of Criminal Procedure and Law no. 304/2004 on judicial organization, published in the Official Gazette no. 866 of October 31, 2016.

Government Emergency Ordinance no. 18/2016 for the amendment and completion of Law no. 286/2009 regarding the Criminal Code, Law no. 135/2010 on the Code of Criminal Procedure, as well as for completing art. 31 para. (1) of Law no. 304/2004 on judicial organization, published in the Official Gazette no. 389 of May 23, 2016.

Decision of the Constitutional Court of Romania pronounced in the session of April 7, 2022 (unpublished at the date of elaboration of this paper), https://www.ccr.ro/.

Decision of the Constitutional Court no. 573/2018, published in the Official Gazette no. 959 of November 13, 2018.

Decision of the Constitutional Court no. 651/2017, published in the Official Gazette no. 1000 of December 18, 2017.

Decision of the Constitutional Court no. 540/2016, published in the Official Gazette no. 841 of October 24, 2016.

Decision of the Constitutional Court no. 879/2015, published in the Official Gazette no. 179 of March 10, 2016.

Decision of the Constitutional Court no. 525/2015, published in the Official Gazette no. 600 of August 10, 2015.

Explanatory Memorandum to the draft Law for the implementation of the Code of Criminal Procedure, https://www.just.ro/.

The draft law amending and supplementing Law no. 135/2010 on the Code of Criminal Procedure, as well as other normative acts, launched in public debate by the Ministry of Justice on September 2, 2021, https://www.just.ro/.