The enforcement of the Romanian Criminal Law in time. Implications in the activity of international judicial assistance in criminal matters

Assistant Professor Minodora-Ioana BALAN-RUSU, Ph.D in progress
"DIMITRIE CANTEMIR" Christian University
Bucharest, Romania
oanarusu_86@yahoo.com

Abstract: *In this paper there are examined the conditions of enforcing the Romanian criminal law in time, under the situation imposed by the entry into force of the new criminal and criminal procedure Codes, with direct implications in the complex activity of international judicial assistance in criminal matters. The novelty consists of the general examination of the principles of criminal law enforcement in time, in the case where Romania is requested or required for the execution or submission of a request for international judicial assistance in criminal matters. The paper continues other research activities conducted on the line of the Romanian involvement in the activity of judicial assistance in criminal matters in the relations with EU member states. Due to the novelty elements and the importance of this form of international judicial cooperation in criminal matters, under the conditions of intensifying such activities at the level of European Union, the paper can be useful to law students, theoreticians and practitioners, and others whose work involves knowledge of these legal norms.*

Keywords: *extra-activity; retrospective; non-retroactivity of the criminal law.*

Introduction

The recent entry into force of the new Criminal and Criminal Procedure Codes requires, in our opinion, a brief examination of some provisions that regulated the institution of enforcing the Romanian criminal law in time.

This research is necessary as more favorable Romanian criminal law enforcement has direct implications in the work of international judicial cooperation in criminal matters, with direct reference to international judicial assistance in criminal matters.

A particular problem is represented by the decriminalization of some facts, the case in which the demand of another state requiring the application of one of the known forms of cooperation will be refused by the Romanian state, as in this situation there is no longer the double incrimination.

According to the doctrine the "judicial efficiency could be gained *only through the entry into force of the law*; with that time it starts the *duration* of the application of the law" [1].

This principle, which is governing the activity of the Romanian criminal law, is expressly provided in article 3 of the Criminal Code, which provides that "*criminal law applies to offenses committed at the time it is in force*". Therefore, the general rule established by the Romanian legislator is that criminal law applies to all acts committed under its rule, i.e. from its entry into force until its termination.

Regarding the entry into force of a criminal law, this is achieved, after 3 days from the publication in the Official Monitor of Romania, or at another time specifically provided for in its content.

In the case of the laws of a particular scale such as the criminal codes, their entry into force is achieved by a different procedure (determined by the need to study and inform citizens) at a later date in relation to the time of publication, by a special law of implementation. In this regard we illustrate the procedure of entry into force of the current Criminal Code, which was originally published by Law. 286/2009 [2] and entered into force on 01.02.2014 by Law no. 187/2012 for implementing Law no. 286/2009 on the Criminal Code [3].

The main way to decide the termination of a criminal law is by repealing, which may be express or implied.

Besides repealing, as the main way of termination, in the criminal law theory there are reviewed other three cases, respectively: it expires or the disappearance of the special conditions imposing the adoption of the

law, the termination by the by the disappearance of the object of preservation (protection) and the termination by changing the political social conditions [4].

In order to establish the incidence of the criminal law relating to time, it is important to determine when the offense is committed and the time of the result. Thus, the offenses whose result occurs immediately after the execution of the incriminated action or inaction, the establishment of the timing of the commission does not raise any problem, as it is estimated that the time of the commission of the act identifies with the moment of executing the action and its result, in which case it will be applied the law in force at that time. For resulting crimes, where the achievement of the material consequences can occur after the implementation of the incriminated action, after a certain period of time in relation to the moment of the execution of the action, in the doctrine there were adopted three theories, namely: *the theory of action, the theory of result and the mixed theory*.

The European and Romanian law theory of the action is accepted by most specialists in the field, others being open to numerous objections [4].

In the science of criminal law, in relation to the application of criminal law in time, a particular problem was identified in the case of *competing criminal laws* and the *competition of criminal rules*. Thus, we will be in a competitive situation where more criminal laws are in force at the same time and the competition of criminal rules will exist when there are likely to be applied several criminal provisions in force at the same time.

The doctrine held that, in the evolution of criminal law, there is a competition of criminal laws in time, when two or more criminal laws governing the same social relations, one of the laws being a general criminal law, the other criminal law being special or exceptional [5]. Thus, the special or even exceptional law enters into force after the general law and it "*creates a special regime, imposing certain rules that will apply on some situations and for some time. For these reasons, the special law derogates from the provisions of the general law, which still remains into force*" [4].

The *competition of criminal rules* will exist in the situation where there are into force two or more criminal rules at the same time and they can be applied on the same offense.

In the specialized literature, in the case of competition of criminal rules, several forms have been considered, namely:

- *alternative qualifications* (it will exist when between the legal contents of the offenses likely to be detained, there is an essential opposition, so that the choice of a qualification would necessarily exclude the other);
- *incompatible qualifications* (when a crime is the logical consequence and somehow natural to other, with which it merges another, as they tend to protect the same collective or individual interest based on a single criminal resolution);
- *redundant qualifications* (when fully covering the facts already included in another qualification);
- *competition between a general and a special qualification* (it applies the principle of specialty, standard with special feature, having priority over the general rule);
- *competition between two qualifications, one of which is the element or circumstance of the other* (there will be most often the assumption of the complex offense where the incrimination norm of the complex act and the incriminating norm of the absorbed fact seem to have equally applicability in this case);
- *equivalent qualifications* (when the same material activity is subject to two qualifications) [4].

1. Non-retroactivity of the Criminal Law

Under the provisions of article 15 paragraph (2) of the Constitution the "*law proscribes only for the future, except the more favorable criminal or contravention law."*

This principle is taken and expressly provided in the two provisions contained in article 1, paragraph (2) and article 2, paragraph (2) of the Criminal Code. Thus the article 1, paragraph (2) as part of the principle of incrimination legality and criminal penalties provides that "*no person may be criminally punished for an offense which was not provided for in the criminal law at the time it was committed*" and in article 2, paragraph (2) it provides that "*it cannot be imposed a penalty or it cannot take an educational or a safety measure, if it was no longer under the criminal law when the act was committed*".

This principle is repeated in another form in article 4 of the Criminal Code which provides that "*the criminal law does not apply to offenses committed under the old law, if they are not provided for in the new law."*

The principle of non-retroactivity of the criminal law, examined as a constitutional principle, implicitly results from the provisions of international judicial instruments to which Romania is a party, which relate to the rights and freedoms of citizens, and which, according to article 20 of the Constitution, *will be interpreted and applied in accordance with the Universal Declaration of Human Rights, with the pacts and other treaties to which Romania is a party.* Thus, according to article 11, paragraph (2) the International enactment mentioned "*no one shall be convicted of any act or omission which did not constitute, at the time when the act was committed, a criminal offense under the national or international law. Nor it will apply a heavier penalty than the one that was applicable at the time the criminal offense was committed*."

Similar provisions are found in most of the legal instruments on judicial cooperation in criminal matters adopted at EU level, with direct effects on the refusal of enforcement of a request for cooperation or international legal assistance in criminal matters.

We highlight that in the substantive criminal law matters, the non-retroactivity criminal law is provided for in the provisions of article 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms [6].

Taking into consideration those rules (constitutional law and criminal law), it results that the criminal law is non-retroactive; therefore it can only apply to acts committed at the time of being in force.

Therefore, this principle establishes the rule according to which a new law incriminating an act cannot be applied, under the conditions where at the time of the commission, the act did not represent an infringement.

2. The Extra-activity of the Criminal Law

Notwithstanding the principle of criminal law activity, the extra-activity, if the criminal law requires, in some cases, expands the law's effectiveness over time, before the effective date of entry into force or its termination.

Thus, these two exceptions to the principle of criminal law activity aimed at: expanding the efficiency over time of the new criminal law and the facts committed before the entry into force of the law (retroactive) and extending the effect of a law repealed after its termination (ultra-activity) [4].

3. Retroactivity

According to the doctrine, the *retroactivity* of criminal law means the appliance of the provisions of the criminal law, of some acts committed before its entry into force.

Extending the effectiveness of criminal law has only an exception feature, in relation to the principle of non-retroactivity of the criminal law [4].

The doctrine held that "*the principle of retroactivity of the criminal law operates in two specific assumptions: retroactivity of the law which abolishes the incrimination of an act and the retroactivity of the interpretative criminal law*" [7].

In another opinion it is sustained that "*in the criminal doctrine there are known several categories of laws that retroactivate, some of them no longer being consistent with the constitutional principles*" [4].

The categories of criminal law which retro-activate are:

- the law which *expressly provides* in its content the provisions to be applied to other acts committed before its entry into force;
- *criminal law of interpretation*, which interprets a number of terms that are part of a law passed earlier;
- *criminal law of decriminalization* that provides the decriminalization of certain acts;
- *more favorable criminal law* [4];

Given the importance and scope of the present conditions, we will briefly examine the retroactivity of the decriminalization law, an institution that should be considered by the Romanian judicial authorities when it is requested the approval of a demand for judicial assistance in criminal matters.

3.1. The Retroactivity of the Decriminalization Law

a) *General aspects*

The evolution over time of the society involves directly changes of the criminal policy of a state, the ultimate goal being to achieve an efficient activity on prevention and combating crime.

The changes occurring in the legislation involve in addition to the incrimination of new acts the decriminalization of other acts which are no longer considered as being dangerous to society or not violating certain social values identified in the new criminal law. Usually, "*such situations occur after major legislative reforms, such as the emergence of the Criminal Code of 1968, which led to the decriminalization of more than 70 offenses under the previous Criminal Code, which could not find its counterpart in the new Criminal Code, which had in relation to these acts the character of a decriminalization law*" [8].

The change of the political regime in 22 December 1989 also imposed the decriminalization of offenses under the Criminal Code of 1969, as well as others from special laws (which usually regulated the social relations specific to a totalitarian regime). Regarding the decriminalization of offenses in the Criminal Code of 1969, we mention the fully repeal of Title IV (Crimes against public property - article 223-235), as well as other acts, such as those provided in articles 236, 237, 238, 251, 253, etc.

In fact, amid the political regime change, after 1990, certain incriminations provided in the Criminal Code of 1969 have been repealed or successively modified or sometimes supplemented, due to new social conditions that have imposed a new criminal policy.

The new Criminal Code entered into force on 02.01.2014 has also brought other changes and additions of some incriminations, but also the repeal or incrimination of other acts. Thus the provisions of article 4 of the Criminal Code marginally and suggestively called "The decriminalization application of criminal law" stipulates that the *criminal law does not apply to offenses committed under the old law, if not provided by the new law.* The same article provides that in case of final court decisions under the influence of the old law, *the enforcement of sentences, educational and safety measures and criminal consequences of judgments on these acts cease with the entry into force of the new law*.

Although decriminalization of acts is usually achieved by repealing the rule of incrimination, not in all cases, the repeal of this rule leads to the decriminalization of the offense, an aspect that requires careful investigation of the judicial bodies on the provisions of the law in force, compared to those of the old law, especially in terms of constitutive content of the crime. In this regard, we will examine the priority of the actions or inactions by which there are achieved the material element of the offense, the requirement or essential requirements (if any), and the form of guilt (of the two laws).

Highlighting the above issues, the legislator of the criminal code has regulated specifically this situation, by the provisions of article 3 of Law no. 187/2012 for the implementation of Law no. 286/2009 on the Criminal Code [9].

Thus, according to article 3, paragraph (1) of the mentioned normative act, *the provisions of article 4 of the Criminal Code concerning the criminal law on decriminalization are applicable in situations where a determined act, committed under the influence of the old law, no longer constitutes a criminal offense under the new law, is due to changing the elements of the offense, including the form of guilt, required by the new law for the existence of the crime.*

After analyzing the criminal legal norms mentioned above, it results that the provisions of the law relating to criminal law enforcement of decriminalization are applicable in situations where a determined act (an act which has a marginal name), committed under the rule of the old law, no longer is provided as a crime under the new law, either due to changes in the structure of the objective side or the changes in the structure of the subjective side (the form of guilt).

As an example we present the offense of "*preventing or hindering traffic on public roads*" in the article 339 paragraph (2) of the Criminal Code, where it is incriminated the act of *participation in the quality of driving a vehicle in unauthorized competitions on public roads.*

In the old law, the constitutive content of the offense referred to in article 92 paragraph (3) E.G.O. no. 195/2002 on public road traffic, along with the action provided in the current law, it was added the action to organize such competitions, and the participation as head of livestock.

The research of the two legal rules leads to the conclusion of the incidence of the provisions from article 3, paragraph (1) of Law no. 187/2012, based on article 4 of the Criminal Code, where it was sent to trial

or has been convicted under the rule of the old law a person who has held such a contest, organized or participated in a race with animals.

As for the marginal name, the legislator of the Criminal Code provides in Article 3, paragraph (2) of the same law that the *provisions of article 4 of the Criminal Code do not apply if the act is incriminated by the new law or other applicable law, even under a different name*.

It will be incidental thereto in the case of "Infanticide", crime provided in article 177 of the Criminal Code of 1969, an offense which in the Criminal Code in force does not have a correspondent, but only in terms of marginal title or name (as the legislator expressed). The legal content of this crime has been taken over and supplemented the offenses referred to in article 200 of the new law, the offense having a different marginal name "*killing or harming a newborn committed by the mother*".

b) ***Implications of provisions on criminal enforcement of decriminalization in the activity of international legal assistance in criminal matters***

The new rules promoted by the Romanian legislator by adopting the Criminal Code entered into force on 01.02.2012, as well as the law enforcing the mentioned criminal code has major implications in terms of international judicial cooperation activity in criminal matters and implicitly that of international legal assistance in criminal matters.

Thus, in the activity of international judicial assistance in criminal matters, it will be possible the request of assistance from another state, based on an act, which was decriminalized in the Romanian law. In these circumstances, the question arises whether the Romanian judicial authorities empowered by the law will execute or refuse the execution of such a request.

This problem will not exist if the Romanian state will have de quality of Requesting State, as the act is being decriminalized, the request will not be prepared and transmitted.

Given these features, we will proceed to a brief examination on the way in which the competent authorities of the Romanian state will deal with the requests for international judicial assistance in criminal matters.

b.1. ***The execution of requests for international judicial assistance in criminal matters in relations with all countries***

Unlike the regulation of other forms of international judicial cooperation in criminal matters (extradition, surrender under a European Arrest Warrant, etc.), for international judicial assistance in criminal matters, the Romanian legislator did not provide provisions to expressly indicate situations where the Romanian judicial authorities may refuse to execute such a request transmitted by another state. In these circumstances, in the case where it is required the execution of a demand for judicial assistance, which is based on an offense in Romanian law which has been decriminalized, we consider that according to its object, it can be executed or its enforcement may be refused, based on the need to respect the general principles of international judicial cooperation activity or other depositions of some internal legislative acts to which Romania is a party.

Based on the object of international legal assistance in criminal matters, we find that every way of insuring judicial assistance has certain features, based on which the request for assistance can be executed or its enforcement may be refused. Thus, the international rogatory commission, which has as activity collecting objects and documents, achieving searches, will not be executed unless special conditions are fulfilled, according to article 176, paragraph (4) of the special law. Note that one of these conditions concerns the requirement that *the punishment provided by the Romanian law and the requesting state is of at least one year in prison.*

In the case where the act for which it calls for a search warrant or collecting objects or documents is decriminalized in Romania, the request for assistance *will not be achieved* by the Romanian judicial authorities. Given the subject matter, we believe that the decision should be taken with other applications of this kind, dealing with the special or extended seizure and confiscation.

Regarding the execution of other activities required by the international rogatory commission provided for in the special law [article 174 paragraph (1)], we believe that they can be executed even if in Romania the act under which the international rogatory commission was requested is decriminalized. This finding is needed especially when the offense was committed in the requesting State and the Romanian judicial authorities have no jurisdiction over the prosecution and trial.

Regarding other ways that can ensure international judicial assistance in criminal matters, we believe that they may be executed in the case of decriminalization of the act in Romania, where the offense was committed in the requesting State and the Romanian judicial authorities have no jurisdiction of prosecution or trial.

b.2. ***The execution of the depositions of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common Schengen borders***

In the case where the Romanian state is required to execute a request for mutual legal assistance in criminal matters, which is based on a decriminalized act in the Romanian law, we believe that this application can be executed or its enforcement may be refused, depending on the application.

Thus, for the execution of a rogatory commission which covers searches and seizures, the Romanian state may impose certain conditions concerning double incrimination in general.

b.3. ***Enforcement in the European Union of orders for freezing assets or evidence***

The first issue that we examine concerns the situation where another member state of the European Union under the provisions of Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders of freezing assets or evidence, seeking recognition and enforcement of an order for freezing assets or evidence, in the case of an offense which has been decriminalized by the Romanian legislator, and they are not incident with the provisions of article 3 paragraph (2) of Law no. 187/2012, we will take into consideration the date to which it was received the certificate provided by the Romanian law as well.

Under the provisions of article 223 paragraph (2) of Law no. 302/2004 on international cooperation in criminal matters, as amended and supplemented, *for cases other than those referred to in paragraph (1) [10] for a freezing order issued to ensure evidence, the recognition and enforcement of such an order is subject to the condition that the offense for which the order was issued represents an offense under the Romanian law, regardless of the constituent elements or legal classification in the law of the issuing State*. Therefore, except for serious facts stipulated in paragraph (1) both recognition and subsequently execution of an order for freezing evidence involves finding the existence of a double incrimination.

It is important to note the moment of decriminalization in relation to the date of the request, as there will be considered two such moments. The first point to which we refer is the commission of the offense, and the second the date the request was received and not the date of its preparation. Thus, in the case of the offense under which it is requested the recognition and enforcement of an order for freezing evidence is decriminalized upon the receipt of the certificate, and they are not applicable to the provisions of article 3, paragraph (2) of Law no. 187/2012, the Romanian judicial authorities shall also refuse to execute such order. Another situation will exist when the time of the offense under which there are requested the recognition and the execution of an order on freezing the evidence, the offense was not decriminalized in the Romanian criminal law, the decriminalization of the act intervening later, but before the receipt of the request. We believe that in this situation, the competent Romanian judicial authorities shall refuse the execution of the order for freezing evidence, motivated by the provisions of article 4 of the Romanian Criminal Code.

The mentioned above solutions are correct from our point of view, being reasoned by the Romanian criminal law provisions and other provisions of the international legal instruments to which Romania is a party, and to which we previously referred. This applies to some decisions taken by the European Court of Human Rights in the application of article 7, paragraph 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms [11].

Regarding the freezing order issued for the subsequent confiscation of assets, for cases other than those referred to in paragraph (1) of the special law, the recognition and enforcement *are subject to the condition that the offense for which the order was issued constitutes an offense which, under the Romanian law, may lead to this type of freezing, regardless of the constituent elements or legal qualification of in the law of the issuing State* [article 223, paragraph (3) special law].

After analyzing the mentioned provisions, it reaches to the conclusion that the recognition and enforcement of a freezing order issued for the subsequent confiscation of an asset, it is necessary for the Romanian judicial authorities to establish the cumulative fulfillment of two conditions, namely:

- the offense under which the recognition and enforcement of such order would be provided also in the Romanian law;

- for the commission of the offense, the Romanian law should provide the possibility of confiscating the asset;

On the first condition, we consider that no further explanations are needed, as in the case of decriminalization of the act, the Romanian judicial authorities shall proceed in an identical manner to that regarding the freezing of evidence, as examined above.

The second condition states the compulsoriness of the provision in the Romanian law of the possibility of confiscating the asset, which means the incidence of provisions from article 112 or 1121 of the Romanian Criminal Code.

The general conclusion is that both orders on freezing goods and evidence will not be executed by the Romanian judicial authorities, if the act under which the requested freezing was decriminalized by the Romanian legislator.

b.4. ***Enforcement of pecuniary penalties in the European Union***

Taking into consideration the Romanian law's depositions, we believe that in the case of the request for enforcing a pecuniary penalty issued by a competent authority of another Member State of the European Union, if the offense underlying the request was decriminalized, the Romanian judiciary authorities will refuse its execution.

The refusal of enforcing such a request is justified by the provisions of article 239 of the special law and those of the Romanian criminal law.

b.5. ***Enforcement in the European Union of confiscation orders***

Regarded as a distinct way of judicial assistance in criminal matters between the Member States of the European Union, the recognition and enforcement of an application requesting the confiscation of goods or values will be refused by the Romanian authorities, when the act underlying the decision was decriminalized in Romania.

Refusal of enforcement of such a request is justified by the provisions of article 251 of the special law and by the Romanian criminal laws.

4. The Ultra-activity of the Criminal Law

Besides the retroactivity of criminal law, its ultra-activity is another form of extra-activity of criminal law which in its essence promotes totally opposite effects of retroactivity, which consist in that the criminal law applies to acts committed under their influence, even if they have not been prosecuted or tried in the period when it was in force.

This exception to the criminal law activity principle, like that of retroactivity has been limited by the legislator only on the temporary criminal laws [12].

In the Romanian doctrine it was argued that "*the reason for which the legislator has established the exception of ultra-activity of these laws resides in achieving their goal, which could not be achieved because of the short period in which it operates and that it would not allow finding, prosecuting and final judgment of the crimes committed during this period. Moreover, knowing the term by which the temporary law is in force, some offenders could evade prosecution or trial until the termination of the law in force*" [8].

Conclusions

The entry into force of the new criminal and criminal procedure Code, in addition to the importance of applying them in transitional situations in the Romanian law, involves some changes in the activity of international judicial assistance in criminal matters.

These modifications concern the general way in which Romania, both as executing State and as requesting State of international judicial assistance in criminal matters, recognize, execute or submit a demand for the assistance of this kind.

Thus, as requesting State the competent Romanian judicial authorities shall waive to the requirement of assistance from another Member State or third country, under the conditions where the offense requiring the assistance was decriminalized, except where the legal content of the decriminalized offense is taken to the legal content of other crimes, with a new marginal name.

At the same time, as an executing State, Romania will refuse to execute a request for judicial assistance, whether sent by an EU Member State or third state, when the act to which the request for assistance refers was decriminalized in the Romanian law.

If the first case requires not to submit the application, in the second case, it is required informing the requesting State on the reasons which have led to the non-application of the demand.

Acknowledgements

"This work was supported by the strategic grant POSDRU/159/1.5/S/141699, Project ID 141699, co-financed by the European Social Fund within the Sectorial Operational Program Human Resources Development 2007-2013".

References

[1] Vintilă Dongoroz, *Drept penal/Criminal Law*, Bucharest, 1939;

[2] Published in the Official Monitor of Romania, Part I, no. 510 of 24 July 2009;

[3] Published in the Official Monitor of Romania, Part I, no. 757 of 12 November 2012;

[4] A. Boroi, *Drept penal, Partea specială, Conform noului Cod penal/Criminal Law, Special Part, Under the new Criminal Code*, C.H. Beck Publishing House, Bucharest, 2010;

[5] M. Zolyneak, *Concepţia unităţii de infracţiune în material participaţiei şi implicaţiile ei în cazul succesiunilor în timp a legii penale/The Concept of crime unity in its participation and implications in the cases of succession in time of criminal law*, DRR / Romanian Journal of Law No. 10/1971, p. 81 et seq.;

[6] The article 7 of the Convention for the Protection of fundamental Human Rights and Freedoms, adopted in Rome on 4 November 1950, provides: 1. No one can be condemned for an act or omission which, at the time of the offense, did not constitute a criminal offense, under the national or international law. Nor shall a penalty be imposed greater than the one that was applicable at the time of the offense. 2. This article is not detrimental to the trial and punishment of persons guilty of any act or omission which, at the time it was committed, it was considered crime according to the general principles of law recognized by the civilized nations;

[7] C. Bulai, B. N. Bulai, *Manual de drept penal, Partea generală*/*Manual on Criminal Law, General Part*, Universul Juridic Publishing House, Bucharest, 2007;

[8] Paşca, *Curs de drept penal, Partea generala, Ediţia a II-a, actualizată cu modificările noului Cod penal*/*Criminal Law Course, The general part, second edition, updated with the changes of the new Criminal Code*, Universul Juridic Publishing House, Bucharest, 2012;

[9] Published in the Official Monitor of Romania, Part I, no. 757 of 12 November 2012;

[10] Article 223 paragraph (1) of the special law provides a total of 32 offenses and criminal groups, which regardless of the name that they have in the issuing State, if they are sanctioned by the law of the issuing State by a deprivation of liberty punishment, whose duration is of at least three years, they will not be checked for the fulfillment of the condition of double incrimination;

[11] Kokkinakis v. Greece, Judgment of 25 May 1993, in RDP / Journal of Criminal Law No. 1/1996, p. 149;

[12] Article 7, paragraph (1) of the Criminal Code provides that the *temporary criminal law applies to the offense committed while it was still in force, even if the act was not prosecuted or tried in that time frame*;