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„ELECTION CRIMES"

= SUMMARY=

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I. General standpoint of the thesis

Approaching such a subject is of great scientific significance, given that it considers rarely explored legal matters, and the current relevance of such a subject is ascertained both by the insertion of a separate title – Title IX in the Special Section of the New Criminal Code (the Law no. 286/2009) – and by the alarming increase in the election criminal activity witnessed over the last years, in conjunction with the increase and diversification in the types of elections in our country.

A comprehensive analysis of election crimes is, in our opinion, a real challenge, considering the response of the society to the negative consequences of this epidemic, as well as the absence of some guiding principles to direct the activity of the judiciary in fighting such a phenomenon.

The prevention and fighting against election crimes is a priority for any legal system, but in Romania this phenomenon has spread widely over the last two decades, in the context of the overthrow of the political regime in 1989, the period of transition from a communist regime to a democratic one presenting serious irregularities also as far as the lawful exercising of election rights is concerned.

Moreover, the enactment of the new Criminal Code and unifying the regulations on election crime matters under a single title, through restructuring the texts of several special laws – The Law no. 67/2004 on the election of local public authorities; The Law no. 35/2008 on the election of the Lower Chamber and the Upper Chamber; The Law no. 370/2004 on the election of the Romanian President; The Law no. 3/2000

on the organization of a referendum – are milestones in the evolution of criminal laws, facilitating the implementation of measures of protecting the legality of the election process.

The subject of our research is the judicial-criminal review of election crimes set forth in Title IX in the Special Section of the New Criminal Code (The Law no. 286/2009), recalling the complementary provisions of relevant special laws, and also the description of the international legal instruments used in these matters, as well as the regulation of election crimes in the legal systems of other countries. We shall trace the evolution of the regulation on means of legal-criminal protection of freely exercising election rights, the legal rules in matters of election crimes, both nationally, at a European level, and internationally, the slight attempts in judicial practice, being well-known that this field is facing difficulties.

II. Structure and content of the paper

The paper is structured, as evidenced upon reading the contents, in five parts – three chapters, each chapter consisting of several sections and each section being formed of several subsections and paragraphs, a case study, conclusions and proposals of *lege ferenda*. At the same time, the paper contains a bibliography and contents.

Chapter I – Introductory issues regarding election crimes contains a review of election rights and the election process, then of the election crimes, from a conceptual and historical perspective, while the last section focuses on the Permanent Election Authority.

The Greeks, especially the Athenians, were the first to effect what Robert Dahl called the first democratic transformation: from the idea and practice of the governance by the few to the idea and practice of governance by the many. For the Greeks, the only place favorable for democracy was, certainly, the city state – *polis*.

Ancient democracy (that is direct democracy) was governed by the principles of freedom, equality and majority. It opposed the power of a single person (monocracy) or of several persons (oligarchy). It involved the freedom of expression of any opinions, anyone being able to express themselves – as Euripides said – „through a good piece of advice or by keeping silent". In a democratic state, power emanates from the people and belongs to them.

The election rights of citizens is a distinct category among citizens' rights and freedoms, being thus recorded in constitutions, as fundamental rights, and in laws, as subjective rights, and their exclusive scope is the participation of citizens in the governance or in the formation of local public administration authorities (local councils, county councils, presidents of county councils or mayors). The scope of subjective election rights is wider than the one arising from fundamental laws, this meaning that not all the election rights of citizens are nominated in constitutions. In other words, constitutions regulate only the fundamental election rights of citizens, whereas the other election rights are set forth by law (the citizens' right to check the recording on the election lists, to lodge pleas, complaints, appeals or petitions regarding election

operations, to lodge pleas against omissions, erroneous recording and against any other errors, the right to challenge nominations, etc.).

Traditionally, the fundamental election rights recorded in constitutions are the right to vote and the right to be elected (involving also the latest version of the right to be elected in the European Parliament), considered fundamental political rights.

In our opinion, these rights are fundamental rights of the Romanian citizens, given that they have all the features of such rights, as underlined in the specialist doctrine, as follows: they are subjective rights of the Romanian citizens; they are essential rights and are set forth in the Constitution.

In Romania, the dispositions under art. 36 in the Constitution describe constitutionally the democratic issues of the right to vote and of the vote itself. Thus, a person is able to vote if: they are Romanian citizens, they are aged 18 by the election date inclusively, their mental capacity is sufficient and they have the moral capacity to vote.

The equality of voting is a materialization of the constitutional principle of equality of citizens and is assumed by the universality of voting.

The singularity of voting involves the equality of each vote, inclusively in terms of value, such equality being ensured by election laws whereby each voter has the right to one vote, may be recorded on just one election list, has just one domicile, just one identity document (identity bulletin, identity card or passport), just one voter card, etc. The vote secret is the constitutional feature that enables the voter to express their option regarding the candidates proposed, without this option being

known by others or subject to any pressure whatsoever. The vote is freely cast, in case of participation in the voting process, the voter having the possibility to express or not, freely, their option for a certain list or a certain candidate, if the vote is a right and not an obligation.

The right to vote is supplemented by the right to be elected, set forth under art. 37 in the Constitution, therefore any person that runs for an office should meet first the minimum requirements of a „voter" and not only them.

Given that the person that exercises their right to be elected would participate in the people exercising their sovereign power, that person should meet some additional requirements, namely they should be Romanian citizens and resident in the country, respectively they should not be forbidden to associate in political parties, pursuant to art. 40 par. 3 in the Constitution, and also they should meet certain age-related requirements: "by the election date inclusively, be aged at least 23 for being elected in the Lower Chamber or in the local public administration bodies, aged at least 33 for being elected in the Upper Chamber and aged at least 35 for being elected the President of Romania."[1]

The revision of the Romanian Constitution in 2003 meant also the insertion of art. 38 regarding the right to elect and to be elected in the European Parliament, granted to the Romanian citizens in the conditions of the accession of Romania to the European Union. As a matter of fact, the participation of the Romanian citizens in the election process aimed at the designation of the representative body at a European level means

[1] *Art. 37 par.2 in the Romanian Constitution, as revised in 2003*

exercising their fundamental political rights at a supra state level in connection to a body that influences directly or indirectly the exercising of state power through the accession to the European Union.

Based on the content criterion, the doctrine identified a category of rights including exclusively political rights, namely those rights that by their content may be exercised by citizens solely for participating in the governance. This category contains: the right to vote, the right to be elected (inclusively in the European Parliament).

The wider category of social-political rights and freedoms shall include those rights and freedoms that, through their content, may be exercised by citizens, freely, either for settling some social and spiritual issues, or for participating in the governance. Such rights and freedoms ensure the possibility of expressing one's thoughts and opinions, and that is why they are often called freedoms of opinion. This category contains: freedom of conscience, freedom of expression, the right to information, freedom of meeting, the right to associate, the secret of correspondence, etc.

The fundamental political rights were among the rights of the Roman citizens, namely *ius suffragii* – the right to elect and *ius honorum* –the right to run for magistrate. In the Dacian-Getae law, „the institution of royalty was hereditary, but was also based on the principle from Dionysopolis, which meant that, before Burebista, his father was a king, therefore the heredity principle wasapplied. Decebal was elected king following the replacement of Duras, therefore the electiveness principle was applied."

In Roman Dacia, „the right to elect, and all the rules regarding the manner in which some citizens were elected in the state leadership offices, were regulated by "jus suffragii". A special right regarded the right to run for and be elected as a magistrate, an honor right, called "jus honorum". In the Romanian medieval states, the first events regarding the designation and attracting some representatives in the governance of masses were witnessed when the unions of town folks were set up, the basic one being the census system, among which the age census and the wealth census were predominant – as a sure proof of wisdom and power.

The Organization Regulations of 1831 brought about the organization of the first assembly with some legislative powers, the People's Assembly, and, following the Convention from Paris of 1858, the Elective Assembly was granted a real legislative power and the Principalities received a real election law — Election stipulations attached to the Convention of 19 August 1858.

The statute of the Convention of 1858 was approved and legitimated together with the election law by plebiscite, by an overwhelming majority, in May 1864. The election law of 1864 meant a modern basis for the elections in Romania, determining an increase in the number of voters and their classification in two categories: primary voters that voted through delegation, and direct voters that voted themselves, the origin of such representation consisting also of census related reasons. The Constitution of 1866 introduced the census and capacity based vote, the voters being divided in four electoral colleges depending on their income, profession and offices held. On 10th July 1917, the universal, equal, direct, mandatory and secret vote was

introduced.

Maintaining or developing the legal dispositions regarding the formation and recruitment of the election body, the Constitution of 1923 led to a significant extension of the right to vote, providing citizens with the possibility to participate in the political life of their country. Although, at face value, the new Constitution of 1938 seemed to be more comprehensive as regards election rights, the Election Law of May 1939 was an expression of the autocratic propensities of the king, the universal vote of citizens being replaced by the limited vote of those aged 30 and over and enrolled in the professional organizations represented in the Parliament, a new procedure of electing the Parliament's members being established, ensuring the formation of the Parliament of people devoted to the king.

Starting from these regulations introduced during king Carol's rule, we may say that a period of limitation and then of complete distortion of the election rights started, reaching a climax with the investiture of the communist regime, lasting until the end of 1989.

The return to democracy, in the meaning of restitution to the Romanians of their fundamental political rights, was set forth by the Decree no. 92/1990 (14th March) on the election of the Parliament and of the Romanian President, the Romanian Parliament being formed again of two chambers (the Lower Chamber and the Upper Chamber). Both the members of Parliament and the Romanian President are to be from now on elected by universal, equal, direct and secret vote, freely cast, and the representation of the people of all nationalities in the supreme legislative body is to be based on the allocation system following the vote.

Although, over time, there have been opinions considering election crimes as devious conduct that is less dangerous for the society, the establishing of the importance of the fundamental political rights worldwide, especially starting from the second half of the 20th century, resulted in paying a special attention to such deeds criminal in character.

The French legal doctrine considered the political character of election crimes as absolutely certain, supporting such an opinion also on the judicial practice; they are crimes and offences against the Constitution and, especially, election fraud.

It is obvious that by punishing election crimes one aimed at protecting some values related to state sovereignty, containing, on the one hand, social relationships regarding the creation and observance of the general organizational framework for the deployment of the election process, in complete safety and overseeing the democratic process of election of public authorities, which has to be deployed in complete fairness, so that to make the outcome of the vote of the electoral body legitimate.

The regulation of election crimes was due to the election fraud committed even from the beginning of the organization of public consultation and the first nomination of some officials for governing the Romanian countries in the 19th century.

The election law voted on in July 1866 contained a disposition that set forth that any abuse on the part of the voters was punishable by a fine or imprisonment and five voters had the right to lodge an action in court for the punishment of the offences committed during the elections, if the public ministry did not take any action in this respect.

The census based vote in between 1866 and 1919 made possible a type of fraud, the proportional representation in between 1919 and 1937 another, but with the same outcome: a crisis of democracy. In 1937, king Carol II believed that it was the right time for personal government, and the plebiscite for the Constitution of 1938 was just a simulacra whereby the open vote was cast, only 5,483 Romanians having the courage to vote against the others 4,300,000.

Thus, we should note that election crimes had a special regulation: „in title II in the Criminal Code of 1936, election crimes were treated as *offences against exercising the political and civic rights* and set forth under art. 232, 235, articles referring mainly to violent or threatening deeds preventing the exercise of political or civic rights, as well as election fraud"[2].

Democracy in Romania was too new for implementing the observance of the fundamental political rights, and, following the reassessment of their importance worldwide, the introduction of some criminal rules for defending such social values was strictly formal, in the context of the Carol II regime and later of the totalitarian one.

The revolution of December 1989 brought about crucial changes in the Romanian political life, transforming drastically implicitly also the election regulations, reinstating actually a democratic regime, through the recognition of political pluralism and of the real participation of the people in the governance of the country, through the organization of free elections.

[2] ***V. Pantea*** *– op.cit., p.65.*

The first law that consecrated the revival of the democratic election processes in Romania was the Decree no. 92/1990, which set forth the mode of organizing by universal, equal, direct and secret vote, freely expressed, the election for the two-chamber Parliament and the president of Romania. This law contains also the first post December regulation governing election crimes. The second law including regulations regarding election crimes was the **Law no. 70/1991,** on local elections. **The Law no. 68/1992** on the election of the Lower Chamber and of the Upper Chamber brought about some changes as regards election crimes. Until the time when the Constitution of 2003 was revised, just one other law containing regulations about election crimes was enacted by the Romanian Parliament, namely the **Law no. 3/2000** on the organization and implementation of a referendum.

Based on a synthetic analysis of the legislative regulations on election crimes occurred after December 1989 and until 2003, we should note that, following the Decree no. 92/1990, setting forth the first set of rules on the organization of free elections after approximately half a century of a totalitarian regime, during just two years (1991-1992) a set of mostly similar dispositions was adopted, notwithstanding the offices or positions nationally or locally for which the fundamental political rights were exercised, corresponding to the provisions of the Constitution of 1991, lasting with minor amendments until the revision of the Constitution of 2003.

The action of revising the fundamental law of the state in 2003 imposed naturally a renewal of the entire legal framework in election matters, in 2004 being enacted the Law no. 67 on the election of local

public administration authorities, the Law no. 370 on the election of the Romanian president, and also the Law no. 373 on the election of the Lower Chamber and of the Upper Chamber, and in 2007, following the accession of Romania to the European Union, the Law no. 33 on the organization and deployment of elections for the European Parliament, while in 2008 the Law no. 35 on the election of the Lower Chamber and Upper Chamber and on the amendment and supplementation of the Law no. 67/2004 on the election of the local public administration authorities, the Law no. 215/2001 on local public administration and the Law no. 393/2004 on the status of the locally elected.

Considering that, through the adoption of the New Criminal Code (The Law no. 286/2009), the legislator considered preferable the reclassification of election crimes under a separate Title in the Criminal Code, in order to ensure a greater stability for these texts and also to remove the parallelism existing currently in the regulation, the analysis of other laws or amendments to other laws with a lower legal force than the one of the New Criminal Code which appeared after the adoption of the latter seems to be uncalled for.

The Permanent Election Authority is a fundamental autonomous administrative institution of the Romanian state aiming at the organization and deployment of election operations, for the purpose of ensuring the proper conditions for the exercising of election rights, of equal opportunity in political competition, of transparency in financing the activity of political parties and election campaigns.

The Authority has the mission to ensure the organization and deployment of election and referendum, as well as the financing of

political parties, in compliance with the Constitution, the law and the international rules in these matters.

The principles the activity of the Authority is based on are: a) independence; b) impartiality; c) legality; d) transparency; e) efficiency; f) professionalism; g) responsibility; h) sustainability; i) predictability; j) legitimacy.

The constant attempt at creating a useful and efficient legal framework materialized in the Election Code draft, proposed on 25th January 2011 for public debate by the Permanent Election Authority. Analyzing the incriminations in the Election Code draft of 2011, we note the systematization of the parallel incriminations in the election legislation, reiterated then in the Criminal Code without essential differences and also the absence of any incriminatory disposition regarding the electronic vote fraud.

Another quite important duty of the Permanent Election Authority is checking the financing of political parties and the election campaign. Presently, the law that treats particularly such matters is the Law no. 334/2006 on financing the activity of political parties and election campaigns, having as its purpose to ensure equal opportunity in the political competition and transparency in financing the activity of political parties and the election campaigns.

The Permanent Election Authority is, pursuant to art. 35 in this law, the public authority authorized to check the compliance with legal provisions regarding the financing of political parties, of political or election alliances, of independent candidates and of election campaigns, and the check on subsidies from the state budget is to be performed

simultaneously also by the Court of Accounts. We should mention that on 06.05.2015, the Lower Chamber, as a decision-making chamber, adopted and submitted for promulgation, following a request for review on the part of the Romanian president, the legislative proposal no. 95/2014 on amending and supplementing the Law no.334/2006 on financing the activity of political parties and the election campaigns[3], containing several essential provisions, and having as its purpose the complete alignment with the European legislative rules in these matters.

In **Chapter II – The analysis of election crimes listed in the New Criminal Code,** we review common features and also specific features of the incriminations in the New Criminal Code, by analyzing the pre-existing elements and their constitutive content.

As justified also by the legislator in the Statement of reasons in the New Criminal Code, it was considered preferable to reclassify the election crimes under a separate title in the Criminal Code, in order to ensure a greater stability of such texts and also to remove existing parallelism in regulation.

It is obvious that election crimes have a complex generic legal object, including, on the one hand, social relationships regarding the creation and observance of the general organizational framework of deployment of election process, in complete safety and overseeing the democratic process of election of public authorities, which has to be deployed with complete fairness, in order for the outcome of the vote of the election body to be legitimate. On the other hand, the whole of

[3] *http://www.cameradeputatilor.ro/pls/proiecte/docs/2014/pr095_14;1.pdf*

incriminations mentioned in the New Criminal Code aims at the observance of the exercising of fundamental political rights (*the right to elect* and *the right to be elected*, inclusively in the European Parliament), which protect the person, as a social relationship, given their belonging to the Romanian state.

An important observation common to all the election crimes under this title refers to an inconsistency mentioned under art. 153 in The Law no. 187/2012 – the legislator, although modifying the title of the chapter in which election incriminations were mentioned previously in The Law no. 370/2004 (on the election of the Romanian president, printed in The Official Gazette, Part I, no. 887 of 29th September 2004, reprinted in The Official Gazette 650/2011, as amended by The Law no. 76/2012) from ”Contraventions and crimes” into ”Contraventions”, it omits to state the abrogation of art. 57-64 of the amended law, as mentioned in the case of the other laws in election matters. Therefore, we should underline that, in this case, the abrogation was tacit, the only interpretation that corresponds to the legislator's vision in the NCC, who, as regards election crimes, aimed exactly at the removal of incrimination parallelism and the unification of the relevant dispositions.[4]

At the same time, from a criminal procedure standpoint, criminal action is initiated *ex officio*, according to the principle of formality of the criminal proceedings, considering that there are no express legal

[4] ***M.C. Sinescu în M.A. Hotca (coord.), M. Gorunescu ș.a.*** *– ”The New Criminal Code. Notes. Correlations. Explanations”, C.H. Beck Publishing House, Bucharest, 2014, p. 658*

dispositions stipulating that criminal action is to be initiated upon the prior complaint of the injured person.

The following incriminations in The New Criminal Code are comprehensively reviewed starting from their legal content, by comparison with previous dispositions, pre-existing and constitutive elements, forms, modes, sanctions and temporary situations:

- **The prevention to exercise election rights (art. 385 The Criminal Code)**
- **Corruption of voters (art. 386 The Criminal Code)**
- **Vote fraud (art. 387 The Criminal Code)**
- **Electronic vote fraud (art. 388 The Criminal Code)**
- **Violation of the confidentiality of vote (art. 389 The Criminal Code)**
- **The failure to observe the status of the ballot box (art. 390 The Criminal Code)**
- **Forgery of election documents and records (art. 391 The Criminal Code)**
- **The deeds done regarding a referendum (art. 392 The Criminal Code).**

C**hapter III - Election crimes in the comparative criminal law,** first section, reviews European regulations and international milestones regarding election crimes, referring to the Code of Good Practices in election matters – Venice, 2002 and the Venice Commission and also to the Manual of Electoral Justice of the International Institute for Democracy and Electoral Assistance – 2010.

The European Commission for Democracy and Law, known rather as the Venice Commission, is the consulting body of the European Council in constitution matters. The role of the Venice Commission is to provide legal assistance to its member states and, especially, to help the states that want to align their institutional and legislative structures to the European standards, considering the international experience in democracy issues, human rights and the law state. These fundamental principles of the European constitutional heritage are also the guiding features of the activity of the Commission in the three fields of action: democratic institutions and fundamental rights; constitutional justice and common justice; elections, referenda and political parties.

In the election field, the activity of the Commission was supported, starting from its creation, through providing opinions regarding legislative election projects in various states, Romania among others, and this received a completely new dimension starting from 2002, through the creation of the Council for Democratic Elections. Thus, the Venice Commission together with the Council for Democratic Elections, in their desire to make the election legislation stable, developed the principles of the European election heritage through drawing up the Code of good practices in election matters[5].

[5] *Adopted by the European Commission for Democracy through Law at its 52th Plenary Session (Venice, 18-19 October 2002), under no. CDL-AD(2002)23rev, by the Parliamentary Assembly of the European Council at the session of 2003 – the first part and by the Congress of Local and Regional Powers of Europe at the session of spring 2003.*

Thus, as shown by the Guidelines and the Explanatory report of the Code of good practices in election matters, the five fundamental principles the European election heritage is based on are universal, equal, freely expressed, secret and direct suffrage. On the other hand, elections should be organized periodically.

At the same time, voters should be protected against any threats or restrictions on the part of authorities or individuals, which would prevent them from exercising their right to vote or voting according to their wishes. The state is obliged to prevent and sanction such practices.

The first recommendation for preventing election fraud is to keep the voting process simple. Thus, starting from the idea that the political forces involved in the election poll are equally represented at the vote centers and, therefore, that material fraud is difficult, only two factors should be considered for assessing the fairness of the vote: „the number of voters casting their vote by comparison with the number of ballot papers in the ballot box. The first parameter can be determined through the number of signatures in the election register. Considering the true human nature (and independently of any intent to fraud), it is very difficult to reach a perfect equality between the two parameters. An additional check of the stub of the book of numbered ballot papers, or a comparison between the total number of ballot papers found, ballot papers cancelled and unused ballot papers and the number of ballot papers available to the vote center may be illustrative, but a perfect consistency between the various parameters is pure illusion. The risk is, in case of their multiplication, the differences between total numbers and, finally, true irregularities be not taken seriously. It is better to have a

strict check of the two parameters than a superficial, therefore inefficient check of a larger number of parameters.

One should not neglect, as far as recommendations are concerned, the military servicemen's vote, which, in the Romanian criminal law, does not benefit from an incriminatory protection, for the purposes of the express regulation on the creation of a special supervising commission, eliminating the risk of imposition or order from the superior in rank to their subordinates as regards the expression of choice of any kind at the election poll.

As regards the safety of the election process, particularly the locations where this takes place, an important role is assigned in the Code of good practices to vote centers, whose organization and activity is essential for the quality of the voting and drawing system, as well as for the observance of election procedures. Thus, a series of technical irregularities are presented, which were identified by international observers " improperly covered ballot boxes or with wrong instructions, excessive complexity of certain ballot papers, unsealed ballot boxes, improper ballot papers and ballot boxes, the improper use of ballot boxes, the insufficient identification of voters or the absence of local observers. All these irregularities and shortcomings plus the political propaganda in the vote centers, as well as the intimidation by the police may seriously harm the integrity and validity of the election process."[6]

[6] *Points 105-106 in the Explanatory report of the Code of good practices in election matters*

The Venice Commission recommends also the strict maintenance of the vote confidentiality not only during voting as such, but also during the counting of votes, the failure to comply with it should be sanctioned through the cancellation of ballot papers. Furthermore, the secret nature of vote involves also the prevention of family vote (influencing the vote of family members by one of them) and also not to print the list of persons that did not exercise their right to vote, considering that such a conduct might also signify a choice made by the citizen.

The attempts of the Venice Commission to systematize and make uniform the legal provisions in election matters, translated in the Code of good practices in election matters were followed by an increase in the tendency to consolidate democracy via analyses of the election phenomenon made by the specialists in the field.

Thus, sub no. CDL-AD(2010)043, was adopted on 16th December 2010, at the 35th meeting, by the Council for Democratic Elections and on 17-18 December 2010, at the 85th Plenary Session, by the Venice Commission, the Report of management of potential election frauds based on figures[7], exploring the possibility to detect potential election frauds by statistical methods.

In order to prevent the possibility of election fraud, in the opinion of the Venice Commission, three key issues should be emphasized within an election process: transparency, accounting all the civil servants involved in the implementation of the election process and public trust in

[7] *The report was based on the comments made by 2 experts– Nikolai Vulchanov (Bulgaria) and Anders Eriksson (Sweden)*

it. The performance of the Election Authority, the public debate of voters' lists, proper outcome forms, the timely and comprehensive reporting of outcomes, the presence of election observers and the parallel listing/counting of votes are conditions that, if met, may ensure an election process deployed in compliance with democratic principles.

The consolidation of democracy by eradicating the election fraud phenomenon is a constant endeavor worldwide, one of the bodies that support democratic institutions and processes being the International Institute for Democracy and Electoral Assistance, an intergovernmental organization providing comparative research in key expertise fields: election processes, constitutional development, political participation and representation, democracy and development, conflicts and security.

Considering that, among the main objects of activity of the Institute, are the assistance provided to political actors in reforming democratic institutions, in 2010, under the supervision of the Institute, an impressive body of specialists in election matters (magistrates, professors, researchers, lawyers, writers, consultants, OSCE officials, etc.) developed the Manual of Electoral Justice, in the attempt at facilitating the knowledge and understanding of the operation mechanisms of various legislative systems in election matters, and also the means that may be used for the protection of election rights.

The comprehensive scientific research made starts with the concept of *electoral justice* as an expression of the guarantee that "any action, procedure and decision regarding the election process observes the law (constitution, legislation, international instruments or treaties and the other provisions in force in a given country), as well as that

exercising election rights is protected and restored, providing the persons that believe that their election rights were infringed upon the possibility to lodge a petition, to obtain a judgment term/ a hearing and to be provided with a settlement."[8]

In the opinion of the IDEA specialists, the elements of electoral justice are: the prevention of election disputes, election dispute settlement instruments (of two types – the relief type, by cancellation, amendment or recognition of irregularity, and the punitive type, by imposing sanctions on the doer or on the entity responsible for the irregularity, resulting in criminal or contravention liability) and the alternative mechanisms of settling election disputes.

Although there are essential differences between the criminal status and the contravention one, they have some common characteristics related to fundamental law principles, mainly expressions of the principle of legality of incrimination and sanction, namely: the law is not retroactive, materialized in the limitation of jurisdiction of courts or bodies that make decisions on criminal/contravention sanctions when judging the culpable deeds according to *tempus regit actum*, without creating classes of new deeds, given that this would be an interference on the area of legislative power; the certainty and objectivity of the legal rule describing criminal or contravention deeds (stated in writing abstractly, generally and impersonally, clarifying the conduct that is regulated or forbidden and the legal consequences of violating the rule); the strict interpretation and application of provisions describing the

[8] *Electoral Justice: The International IDEA Handbook, page 9*

criminal or contravention sanction (the inapplicability of the analogical method of interpretation, which would result in uncertainty and arbitrariness upon the enforcement of sanction).

Reviewing various law systems, different criminal policy, as well as the legislative technique of several states, the authors of the Manual of Electoral Justice noticed that, although the purpose of incrimination is the same, unchanged over time, namely the protection of legal values and interests, expected to be reached or materialized by exercising election rights, namely the individual's right to participate in the performance of public activities via elections, there are two types of codification of election incriminations:

The first approach is in favor of including such crimes in the Criminal Code, while the second claims that these should be included in the election law: "those that defend the first position argue that it is best that election crimes or offences be regulated in criminal codes for protecting them against the constant amendments to the election law.

The others claim that election crimes or offences are not and should not be outside the evolutionary dynamics of elections and that the definition of such crimes should be revised whenever the general legal framework regulating the elections is subject to modification, for maintaining a consistency between material election law and the punitive election law."[9]

At the same time, the criteria of codification of election crimes vary from one state to another, some law systems focusing on the doer of

[9] *Electoral Justice: The International IDEA Handbook, page 43*

criminal deeds, such as citizens, election officers, party leaders and so on and so forth, whereas others focus on the protected legal interest, such as freedom of vote or equal conditions for all the candidates. It is obvious though that the mode of codification or the room occupied in the law system is less relevant than the essence of protecting the legality of the election process, through the existence of a proper legal framework concerning election crimes or offences, which facilitates the organization of free, fair and genuine elections.

The protection of election rights is performed in every state through reference to the teleological-historical and social-political context, in such a way as to meet the legal need for regulation of election crimes. Political culture and tradition (accompanied sometimes by other reasons, such as religious ones) and also the election practices of some country may determine whether and within what time limit, a certain conduct is considered unacceptable because it infringes upon principles such as freedom or equality and, therefore, should be forbidden or whether is considered in compliance with such principles and, therefore, it is allowed.

The second section includes a review of comparative law in election matters in the following states:

- The United States of America;
- France;
- Spain;
- Belgium;
- Germany;

- The Scandinavian states (Finland, Sweden, Norway, Denmark);
- The Baltic states (Estonia, Latvia, Lithuania);
- The former Yugoslavian states (Serbia, Croatia, Slovenia, Albania, Bosnia-Herzegovina);
- The states in the Asian area of the former Soviet Union (Armenia, Azerbaijan, Tajikistan, Kazakhstan)
- Switzerland;
- Hungary;
- Mongolia.

Chapter IV¸ presents a case study, being maybe the most relevant criminal case judged in matters of election crimes over the last 25 years, where we may notice various factual modes of committing election crimes (violation of vote confidentiality, corruption of voters, preventing the exercise of election rights, forgery of election documents and records, vote fraud, etc.), considering that the said case has not been finally settled by the court of law, we may not present other comments or reviews of legal nature.

Last but not least, **the conclusions and proposals of *lege ferenda*** present the importance of alternative governments as an expression of democracy and an operation mechanism of the society which rules by people's decision-making component, consisting of voters, whose expression legitimates and creates the power itself and state authorities. On the other hand, we make some recommendations for the improvement of election legislation: the creation of a unique voters' electronic register,

the creation of functional mechanisms for the electronic vote system, the introduction of mandatory vote, the creation of a specialty in matters of election disputes, both for the civil servants in charge with the management of elections and who have to ensure the stage of ”graceful justice”, and also for the magistrates and criminal prosecution bodies, ensuring the monitoring and strict control of the funds used for election campaigns, an independent incrimination of the deed involving the punishment of the abuse by the military authority, defining the notion of „voting center location”, introducing the temporary requirement for a period of time between informing the public of the final candidates and the time of closing the ballots in order to meet the conditions of typical nature of the crime of corrupting voters, the re-incrimination of acceptance or of receiving election bribery by the voter, clarification of the phrase „goods of symbolic value”, within the content of the election corruption crime, by reinstating the dispositions of art. 55 par. 3-5 in the Law no. 35/2008, prior to the abrogation by the Law no. 187/2012; in conclusion, we reiterate the need for unification of all the legal dispositions in these matters in an Election Code, except for the election crimes regarding which the legislator created a special title in the New Criminal Code, which would become though completely effective, if the entire legal framework in these matters would be coherent and uniform, not allowing any lack of clarity or inconsistency in the application of the incriminating legal texts, so that the election process may consecrate the freely expressed will of the people.

BIBLIOGRAPHY

I. Laws, decrees, by-laws

1. The Criminal Code in force - The Law no. 286/2009, printed in the Official Gazette, Part I, no. 510 of 24 July 2009, as amended by The Law no.27/2012, The Law no. 63/2012, The Law no. 187/2012 and The Law no. 159/2014;

2. The Criminal Code of 1968, printed in the Official Bulletin no. 79–79 bis of 21 June 1968 and also reprinted in the Official Bulletin no. 55–56 of 23 April 1973, pursuant to art. III in The Law no. 6/1973, printed in the Official Bulletin no. 49 of 6 April 1973, reprinted pursuant to art. III in The Law no. 140/1996, printed in the Official Gazette of Romania, Part I, no. 289 of 14 November 1996, as subsequently amended;

3. The Criminal Code of 1936, called "Carol II" according to the law called: "Name of the Codes unifying the legislation", ordered under No. 577/1936 and printed in the Official Gazette, Part I, No. 73 of 27 March 1936

4. The Constitution – adopted at the meeting of the Constitutive Assembly of 21 November 1991, was printed in the Official Gazette of Romania, Part I, no. 233 of 21 November 1991 and came into force following its approval at the national referendum of 8 December 1991, as amended and supplemented by the Law revising the Romanian Constitution no. 429/2003, printed in the Official Gazette of Romania, Part I, no. 758 of 29 October 2003, reprinted by the Legislative Council.

5. The Constitution of 1866, printed in the Official Gazette no. 142/1 June 1866

6. The Constitution of 1923, printed in the Official Gazette no. 282/29 March 1923

7. The Constitution of 1938, printed in the Official Gazette no. 48/27 February 1938

8. The Constitution of 1952, printed in the Official Bulletin no. 1/27 September 1952

9. The Constitution of 1965, printed in the Official Bulletin no. 1/21 August 1965

10. The developing statute of the Paris Convention, concluded on 7/19 August 1858

11. The Code of Criminal Procedure (The Law no. 135/2010), printed in the Official Gazette, Part I, no. 486 of 15 July 2010, as amended by The Law no. 255/2013, E.G.O. no. 3/2014 and E.G.O. no. 82/2014

12. The Election Law of 1864, printed in the Official Gazette no. 146 of 15 July 1864

13. The Decree on the election reform of 1918, printed in the Official Gazette No.291 of 16 November 1918

14. The Election Law of 1926 – The Decree no. 1424/1926 and printed in the Official Gazette no. 71/27 March 1926

15. The Election Law of 1939, printed in the Official Gazette no. 106 bis/9 May 1939

16. The Election Law of 1946 – The Decree no. 2219/13 July 1946, printed in the Official Gazette no. 161 of 15 July 1946

17. The Election Law of 1966 - The Law no. 28/1966 on the election of members of the Great National Assembly and Popular Councils, printed in „Buletinul Oficial", no. 86 of 29 December 1966

18. The Election Law of 1974 – The election law of the Socialist Republic of Romania no. 67/1974, printed in „Buletinul Oficial", no. 161 of 23 December 1974

19. The Decree no. 92/1990, printed in the Official Gazette no. 35 of 18 March 1990

20. The Law no. 70/1991, printed in the Official Gazette no. 239 of 28 November 1991

21. The Law no. 68/1992, printed in the Official Gazette no. 164 of 16 July 1992

22. The Law no. 3/2000, printed in the Official Gazette of Romania, Part I, no. 84 of 24 February 2000, as amended by E.G.O. no. 92/2003, The Law no. 551/2003, E.G.O. no. 99/2005, E.G.O. no. 27/2007, The Law no. 129/2007, E.G.O. no. 34/2007, E.G.O. no. 103/2009, E.G.O. no. 41/2012, The Law no. 131/2012, The Law no. 76/2012, The Law no. 187/2012 and The Law no. 341/2013

23. The Emergency Government Ordinance 93/2003, printed in the Official Gazette of Romania, Part I, no. 716 of 14 October 2003, as amended by The Law no. 187/2012

24. The Law no. 67/2004, printed in the Official Gazette of Romania, Part I, no. 271 of 29 March 2004, reprinted in the Official Gazette of Romania, Part I, no. 333 of 17 May 2007, as amended by The Law no. 131/2005, E.G.O. no. 20/2008, The Law no. 35/2008, E.G.O. no.

32/2008, The Law no. 129/2011, The Law no. 76/2012, The Law no. 338/2013, The Law no. 187/2012 and E.G.O. no. 4/2014

25. The Law no. 370/2004, printed in the Official Gazette of Romania, Part I, no. 887 of 29 September 2004, reprinted in the Official Gazette of Romania, Part I, no. 650 of 12 September 2011, as amended by The Law no. 76/2012, The Law no. 187/2012, E.G.O. no. 4/2014, E.G.O. no. 45/2014, the BEC Decision no. 3/2014 and the BEC Decision no. 5/2014

26. The Law no. 373/2004, printed in the Official Gazette no. 887 of 29 September 2004

27. The Law no. 334/2006, printed in the Official Gazette of Romania, Part I, no. 632 of 21 July 2006, reprinted în the Official Gazette no. 510 of 22.7.2010, as amended by The Law no.124/2011 and The Law no. 187/2012

28. The Law no. 33/2007, printed in the Official Gazette of Romania, Part I, no. 28 of 16 January 2007, reprinted in the Official Gazette of Romania, Part I, no. 627 of 31 August 2012, as amended by The Law no. 187/2012 and E.G.O. no. 4/2014

29. The Law no. 35/2008, printed in the Official Gazette of Romania, Part I, no. 196 of 13 March 2008, as amended by E.G.O. no.66/2008, E.G.O. no. 97/2008, E.G.O. no. 46/2012, E.G.O. no. 67/2012, E.G.O. no. 70/2012, The Law no. 76/2012, The Law no. 187/2012, E.G.O. no. 4/2014 and E.G.O. no.12/2014

30. The Code of good practices in election matters - Venice 2002, adopted by the European Commission for Democracy through Law at its 52nd Plenary Session (Venice, 18-19 October 2002), adopted under no.

CDL-AD(2002)23rev, by the Parliamentary Assembly of the European Council at the session in 2003 – the first part and by the Congress of Local and Regional Powers of Europe at the session in spring 2003.

31. The law on election assistance in America of 2002 (HAVA)

32. The Law on federal election campaigns of 1971 (FECA)

33. The Code of the Unites States of America

34. The French Election Code of 2011

35. The Spanish Organizational Law no. 5/1985

36. The Belgian Election Code of 2007

37. The German Criminal Code of 1998, as subsequently amended

38. The Finnish Criminal Code of 1889, as amended in 2012

39. The Swedish Criminal Code of 1962, as amended in 1999

40. The Norwegian Criminal Code for civilians of 1902, as amended in 2005

41. The Law no. 271/1987, on parliamentary elections in Denmark

42. The Estonian Criminal Code of 2001, as amended in 2013

43. The Latvian criminal law of 1998, as amended in 2013

44. The Lithuanian Criminal Code of 2000, as amended in 2010

45. The Serbian Criminal Code of 2005, as amended in 2012

46. The Croatian Criminal Code of 1997, as amended in 2006

47. The Slovenian Criminal Code of 2008

48. The Albanian Criminal Code of 1995, as revised in 2013

49. The Criminal Code of Bosnia and Herzegovina of 2003, as amended in 2010

50. The Armenian Criminal Code of 2003

51. The Azeri Criminal Code of 2000

52. The Criminal Code of Tajikistan of 1998, as subsequently amended

53. The Criminal Code of Kazakhstan of 1997, as subsequently amended

54. The Swiss Criminal Code of 1937, as amended in 2014

55. The Hungarian Criminal Code of 2012

56. The Mongolian Criminal Code of 2002, as subsequently amended

II. Treatises, courses, monographs and dictionaries

1. Allen M.J. – *Criminal law* – Oxford University Press Publishing House, 2009

2. Antoniu G., Bulai C. – *Dictionary of criminal law and criminal procedure* – Hamangiu Publishing House, Bucharest, 2011

3. Antoniu G. **(coord), and others. –** *Preliminary explanations of the new Criminal Code Vol. II* – Universul Juridic Publishing House, Bucharest, 2011

4. Aristotel – *Politics* – Antet Publishing House, Bucharest, 1999;

5. Banciu A. – *A History of the constitutional life in Romania (1866 – 1991)* – Casa de editură şi presa Șansa SRL, Bucharest, 1996;

6. Barbu C.– *Election Systems – Interactions with the Institutional Environment* – Universul Juridic Publishing House, Bucharest, 2010;

7. Barthelemy J. – *La crise de la democratie contemporaine* – Paris, 1931;

8. Basarab M. ş.a. – *The Criminal Code with comments. Vol. I. General Part*, Hamangiu Publishing House, Bucharest, 2007;

9. Basarab M., ș.a. – *The Criminal Code with comments – Vol. II. Special Part* – Hamangiu Publishing House, Bucharest, 2008;

10. Bogdan S., Șerban D.A., Zlati G. – *The New Criminal Code. The Special Part. Analyses, explanations, comments. The Cluj Perspective* – Universul Juridic Publishing House, Bucharest, 2014

11. Bulai C., B.N. Bulai – *Manual of criminal law. The general part*, Universul Juridic Publishing House, Bucharest, 2007;

12. Chiș I. – *A History of the Romanian State and law* – Walters Kluwer Publishing House, Bucharest, 2010;

13. Constantinescu M., A. Iorgovan, E. S. Tănăsescu – *The Revised Romanian Constitution, with comments and explanations*, All Beck Publishing House, Bucharest 2004;

14. Constantinescu T. – *The effects of the election law and the learning resulting from the elections after the war* – Bucharest, Imprimeriile Independenţa, 1927;

15. De Tocqueville A. – *About Democracy America* – vol. I – Humanitas Publishing House, Bucharest, 1995;

16. Deleanu I. – *Institutions and constitutional procedures in the Romanian law and comparative law*, C.H. Beck Publishing House, Bucharest, 2006;

17. Deleanu I.– *Legal Prolegomena* – Universul Juridic Publishing House, Bucharest, 2010;

18. Descartes R.– *Principles of philosophy* – Iri Publishing House, Bucharest, 2000;

19. Diaconescu Gh., C-tin Duvac – *Criminal Law. The Special Part. The New Criminal Code. – vol.I* – România de Maine Publishing House, Bucharest, 2006;

20. Dima T., *Criminal Law. The General Part.*, Hamangiu Publishing House, Bucharest, 2007;

21. Dissescu C-tin G. – *Constitutional Law* – Publishing House of the Library SOCEC & Co, A Public Company, Bucharest, 1915;

22. Djuvara M. – *General Theory of Law. Rational Law. Sources and positive law,* ALL Beck Publishing House, Bucharest, 1999;

23. Dobrinoiu V., Pascu I., Chiș I., Hotca M.A., Păun C., Gorunescu M., Dobrinoiu M., Neagu N., Sinescu M. C. – *The New Criminal Code with comments. Vol. II. The Special Part* – Universul Juridic Publishing House, Bucharest, 2012;

24. Dobrinoiu V. – *Corruption in the Romanian criminal law*, Atlas Lex Publishing House, Bucharest, 1995;

25. Dobrinoiu V., M-A. Hotca, M. Murea – *The Law no.78/2000 on the prevention, detection and sanctioning corruption deeds*, Wolters Kluwer Publishing House, Bucharest 2008;

26. Dobrinoiu V., N. Neagu – *Criminal Law. The Special Part. Legal Theory and Practice* – Wolters Kluwer Publishing House, Bucharest, 2008;

27. Dobrinoiu V., W.G. Brânză, M.A. Hotca – *Law Issues in criminal law case* – Wolters Kluwer Publishing House, Bucharest, 2008;

28. Dongoroz V. – *Criminal Law* – Bucharest, 1939;

29. Dongoroz V. and others – *Theoretical explanations of the Romanian Criminal Code*, vol. I, Academiei Publishing House, Bucharest, 1969;

30. Dongoroz V. and others – *Theoretical explanations of the Romanian Criminal Code*, vol. II, Academiei Publishing House, Bucharest, 1969;

31. Dongoroz V. and others – *Theoretical explanations of the Romanian Criminal Code*, vol. III, Academiei Publishing House, Bucharest, 1969;

32. Dongoroz V. and others – *Theoretical explanations of the Romanian Criminal Code*, vol. IV, Academiei Publishing House, Bucharest, 1972;

33. Dosanto C. C., Simmons N. L. – *Federal Prosecution of Election Offenses*, 7th Edition, Practicing Law Institute, 2007;

34. Enache M., M. Constantinescu – *The reinstatement of the parliamentary system in Romania*, Polirom Publishing House, Iaşi, 2001;

35. Garraud R. – *Traite theorique et pratique du droit penal francais* – Paris, 1989;

36. Gilia C.– *Election Systems and Procedures* – C.H.Beck Publishing House, Bucharest, 2007;

37. Gorghiu A.– *Crimes against election rights* – Universul Juridic Publishing House, Bucharest, 2012;

38. Hamangiu C. – *Addresses* – Institutul de Editură „Samitca”, Craiova, 1908;

39. Hegel G.W.F. – *Principles of the philosophy of law or Elements of intellectual law and science of state* – Iri Publishing House, Bucharest, 1996;

40. M.A. Hotca (coord.), Gorunescu M., Sinescu M.C. ș.a. – *"The New Criminal Code. Notes. Correlations. Explanations*" – C.H. Beck Publishing House, Bucharest, 2014

41. Hotca M. A. – *The Criminal Code. Comments and explanations*, C.H. Beck Publishing House, Bucharest, 2007;

42. Hotca M. A. – *Criminal Law. The General Part*, C. H. Beck Publishing House, Bucharest, 2007;

43. Hotca M. A., M. Dobrinoiu – *Crimes set forth in special laws*, C.H. Beck Publishing House, Bucharest, 2008;

44. Iancu Gh. – *Election Law* – C.H. Beck Publishing House, Bucharest, 2012;

45. Ionescu C. – *The Romanian Constitution. The revised law commented on and annotated with parliamentary debates*, All Beck Publishing House, Bucharest, 2003;

46. Kelsen H. – *Pure doctrine of law* – Humanitas Publishing House, Bucharest, 2000;

47. Leclercq C.– *Droit constitutionnel et institutions politiques* – Paris, Litec Publishing House, 1999;

48. Loghin O., T.Toader – *The Romanian Criminal Law– The Special Part, 3rd Edition, revised and supplemented*, Casa de editură şi presă Şansa SRL Bucharest 1997;

49. Malaurie Ph. – *Anthology of Legal Thinking* – Humanitas Publishing House, Bucharest, 1997;

50. Merle R., Vitu A. – *Traite de droit criminel* – Cujas Publishing House, Paris, 1967;

51. Mitrache C-tin., C.Mitrache – *The Romanian Criminal Law– The General Part*, Universul Juridic Publishing House, Bucharest 2007;

52. Molcuț E.– *The Romanian Law* - Edit Press Mihaela SRL Publishing House, Bucharest, 2002;

53. Moruzi J. – *De la territorialite a L'exterritorialite des lois penales* – Buc, Typographies Roumaines Unies, 1926;

54. Muraru I., E.S. Tănăsescu – *Constitutional Law and Political Institutions*, Vol. II, 11th Edition, All Beck Publishing House, Bucharest, 2004;

55. Muraru I., E.-S. Tănăsescu, A. Muraru, K. Benke, M.-C. Eremia, Gh. Iancu, C.-L. Popescu, Șt. Deaconu – *Election and the Election Body* – All Beck Publishing House, Bucharest, 2005;

56. Muraru I., M. Constantinescu – *The Romanian Parliamentary Law*, Actami Publishing House, Bucharest, 1999;

57. Neagu I. – A *Treatise on Criminal Procedure*. *The General Part*, Universul Juridic Publishing House, Bucharest, 2009;

58. Neagu I. – *A Treatise on Criminal Procedure*. *The Special Part*, Universul Juridic Publishing House, Bucharest, 2010;

59. Negulescu P. – *A Course of Constitutional Law* – Edited by Al. Th. Doicescu, Bucharest, 1927;

60. Nistoreanu Gh., Al. Boroi – *Criminal Law, The Special Part*, All Beck Publishing House, Bucharest, 2005;

61. Nistoreanu Gh., C. Păun – *Criminology*, Europa Nova Publishing House, Bucharest, 2000;

62. Pantea V. – *Political Crimes and the Contemporary Criminal Law* – LuminaLex Publishing House, Bucharest, 1998;

63. Pascu I. – *Criminal Law. The General Part* – Hamangiu Publishing House, Bucharest, 2007;

64. Platon – *The Laws* – Iri Publishing House, Bucharest, 1999;

65. Popa N. – *General Theory of Law*, 3rd Edition, C.H. Beck Publishing House, Bucharest, 2008;

66. Popa N., I. Dogaru, Gh. Danisor, D.C. Danisor – *The Philosophy of Law. Main Currents* – All Beck Publishing House, Bucharest, 2002;

67. Preda M. – *The Law on local elections (The Law no. 67/2004, reprinted)* – Universul Juridic Publishing House, Bucharest, 2008;

68. Radu Al. – *Contemporary political systems: Government forms in 29 states* – C.H.Beck Publishing House, Bucharest, 2010;

69. Radu Al. – *Election systems. Typology and operation*. – Universitaria Publishing House, Bucharest, 2012;

70. Radu S. – *Modernization of the election system in Romania (1866-1938)* – Institutul European Publishing House, Iaşi, 2001;

71. Rătescu C.G., I.Ionescu-Dolj, ş.a. – *The Criminal Code Carol II annotated vol.II Special Part,* Publishing House of the Library SOCEC & Co. S.A., Bucharest, 1937;

72. Rousseau J.J. – *The Social Contract*, Ştiinţifică Publishing House, Bucharest, 1957;

73. Streteanu F. – *Treatise on Criminal Law. The General Part*, Vol. I, C.H. Beck Publishing House, Bucharest, 2008;

74. Tanoviceanu I. – *Course of Criminal Law* – Atelierele grafice Socec and co, Bucharest, 1912;

75. Tănăsescu E. S. – *Election laws. Comments and explanations* – CH BECK Publishing House, Bucharest, 2004;

76. Vallimărescu Al. – *Encyclopedia of Law II* – Edited by Al. Th. Doicescu, Bucharest, 1932;

77. Vasiliu T., ş.a. – *The Criminal Code of the Socialist Republic of Romania, commented on and annotated*, *The Special Part, vol. II*, Ştiinţifică şi Enciclopedică Publishing House, Bucharest, 1977;

78. Vile J.R. – *Essential Supreme Court Decisions. Summaries of Leading Cases in U.S Constitutional Law*, Rowman & Littlefield Publishers Inc, Maryland, 2010.

III. Articles, studies and comments

1. Ciuncan D. – *The crime of exercising the vote without a right and of introducing in the ballot box an additional number of votes* - ”Dreptul” no. 12/1997;

2. Gheorghe T. V. – *Some comments and proposals of lege ferenda regarding the crime of election corruption*, Dreptul Journal, no. 10/2005;

3. Gorunescu M., Stănculescu C. – *The concept of fraud in the Romania legislation*– ”Dreptul” no. 12/2009;

4. Hotca M. A. – *Comments on the Special Part of the New Criminal Code (II)* – Pandectele Române no. 1/2010;

5. Rusu I. – *Offences against exercising political and civic rights* – ”Dreptul” no. 6/2005.

IV. Case law

1. www.scj.ro

2. www.jurindex.ro

3. www.legalis.ro

V. Miscellaneous sources

1. www.roaep.ro

2. www.aec.gov.au

3. www.apd.ro

4. http://www.legislationline.org/documents/section/criminal-codes

5. http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation__Criminal-Code.pdf

6. http://www.mpravde.gov.rs/en/tekst/1701/criminal-matter.php

7. http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=366707

8. www.vvc.gov.lv/export/sites/default/docs/LRTA/.../The_Criminal_Law.doc

9. http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X30068K12&keel=en&pg=1&ptyyp=RT&tyyp=X&query=karistusseadustik

10. https://aceproject.org/ero-en/regions/europe/DK/denmark-parliamentary-election-act

11. http://www.ub.uio.no/ujur/ulovdata/lov-19020522-010-eng.pdf

12. http://www.government.se/content/1/c6/02/77/77/cb79a8a3.pdf

13. http://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf

14. http://www.gesetze-im-internet.de/englisch_stgb/

15. http://aceproject.org/ero-en/regions/europe/FR/france-code-electoral-francais-2011/view

16. https://aceproject.org/ero-en/regions/europe/BE/belgium-election-code-2007

17. http://www.legislationline.org/documents/section/criminal-codes/country/47