



THE 17TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

Desertion, Fear of War or Cowardice

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Abstract: Since ancient times, mankind has been confronted with this political phenomenon called war. In an etymological sense, the word war refers to an armed conflict (of long duration) between two or more states, nations, human groups, for the realisation of economic and political interests, so it becomes our instinct to defend ourselves, to neutralise what we consider to be a threat to us. In times of armed conflict, belligerents are willing to create a state of psychological fear in those they consider enemies by destroying symbols they hold dear; a church or monument that has been desecrated with explosives, so this is a direct blow to the community that has grown up around them. It's not just about the demolition of stone, mortar and glass; it's also about the loss of centuries of history, customs and safety assent.

Keywords: war; criminal; military; conditions

1. Introduction

The offence of desertion is criminalised by Article 414 of the Criminal Code and is defined as leaving a military unit, training centre or place of military service in order to evade military service, reduced military service or military training, or refusing to return to military service or military training for the same reasons.

The criminal offence of desertion, i.e. leaving the military unit, training centre or place of duty for the purpose of evading military service, compulsory military instruction in short term military service or concentration, and failure to report for service or concentration for the same reasons in cases of leave from the military unit or curative institution. Desertion is defined as a soldier of any rank missing from his unit or duty for more than three days.

The legal content of the offence of desertion is, in fact, an aggravated version of the offence of truancy. The difference between the two offences is the length of time the soldier is absent; in the case of desertion, the absence exceeds three days.

Desertion differs from unauthorised absence in that it is more socially dangerous and also involves a wider range of people, including all military personnel.

The legislator wanted the offence of unauthorised absence to be criminalised in order to ensure compliance with the military's obligation to be present for duty. It was considered that military units and services can only function if all military personnel assigned to a unit or service are present regularly

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and on time. Military units and services can only function if all military personnel assigned to a unit or service are present regularly and on time.

The legislator wanted unexplained absences to be criminalised in order to ensure that the military's responsibility to be present for duty is respected. It was considered that military units and services can only function if all military personnel assigned to a unit or service are present regularly and on time. Military units and services can only function if all military personnel assigned to a unit or service are present regularly and on time.

Desertion has been defined in the legal literature as the unlawful abandonment by a military member of his corps and service for a period longer than the grace period. When the legislator provided for the criminalisation of the offence of unjustified absence, it had in mind the need to ensure that the military's obligation to be present for duty was respected. It was considered that the work of military units and services can only be carried out if all military personnel belonging to a unit or assigned to a service are present regularly and on time. The activity of military units and services can only be carried out by the regular and timely presence of all military personnel belonging to a unit or assigned to a service.

2. Concept and Characterisation

Desertion has been defined in the legal literature as the act of a military person who unlawfully abandons his corps and service for a period longer than the grace period established by the legislator.

Article 414 of the Criminal Code provides that "any military person whose unjustified absence from the unit or from duty exceeds three days shall be punished by imprisonment for a term of one to seven years".

During a war, the unjustified absence of any serviceman from his unit or place of duty for more than 24 hours is punishable by imprisonment for a term of between three and twelve years.

According to the provisions of Article 414 of the Criminal Code (Cojocaru, 1975, p. 45), some authors consider that desertion can be defined as the unjustified absence of a serviceman from his unit or duty for more than three days, either by non-attendance on leave, secondment, delegation, concentration or from a medical institution where he has been interned, or by non-attendance at the new unit in the event of transfer, appointment or transfer.

The explanatory memorandum to this definition shows that the concept of the offence of desertion refers to the manner in which the offence is committed.

The fact that the unexplained absence from the unit or from work takes place over a longer period of time means a more serious breach of order and discipline and therefore presents a greater degree of social danger. The social danger of desertion is thus based on the same sources as that of unexcused absence, i.e. weakening of discipline, disruption of order in the unit's activities and, as a result, reduction of the unit's defence capability (Dongoroz, 1946, p. 775).

3. Legal Object of the Offence

The generic legal object of the offence of desertion is common to all offences against Romania's defence capability and consists in the protection of a set of social relations whose formation, development and development are guaranteed by the existence of a real and effective defence capability of the country.

The special legal object is constituted by social relations relating to military order and discipline, which imply the permanent presence of any military person in a unit or service. The same offence of desertion may be used to undermine military order and discipline through a violation other than the absence of the soldier from the unit or service, i.e. when the soldier's unjustified departure is accompanied by a violation of military orders (Article 414 of the Criminal Code), in which case the rules of concurrence of offences apply, the legal object remaining the same.

3.1. Material Object

Desertion, as a dangerous act, does not normally have its own material object. If the unit suffers damage as a result of the soldier's absence, the object to which the damage is inflicted (through degradation or destruction) becomes the material object of the offence.

3.2. Subjects of the Offence

The active subject of the offence of desertion must be a member of the armed forces (qualified active subject), irrespective of category, weapon or rank: active members of the armed forces, students of military schools and military institutions of higher education, permanent active members of the armed forces and those who are concentrated or mobilised.

Criminal participation in the form of co-perpetration is not possible, since desertion, like unjustified absence, is a single-subject offence (Dongoroz, 1946, p. 778). Criminal participation in the other forms, instigation or complicity, is possible, and the instigator or accomplice can be any natural person (unqualified active subject). The military unit in which the deserter serves is the passive subject of the offence of desertion.

3.3. Place of the Offence

In terms of place and time, the offence of desertion presupposes the fulfilment of certain spatial and temporal conditions. Thus, for the offence to exist, there must be an absence from a certain place lasting a certain period of time (more than 3 days).

As regards the temporal factor, the offence is likely to have a different level of social danger depending on whether it is committed in peacetime or in wartime.

Thus, the simple variant specifies that the offence is committed in peacetime, while the aggravated variant specifies that it is committed in wartime.

3.4. Structure and legal content of the offence

The legal content of the offence of desertion is made up of a prerequisite situation which allows the offence to be committed and a constituent content which is fully realised by the perpetrator.

Military service, on the basis of which the offender is a member of a military unit or service, is required.

The prerequisite for the offence of desertion is met in the case of any person who is a member of the armed forces, any member of the military, regardless of rank.

The constituent elements of the offence of desertion, like the constituent elements of any other offence, are the totality of the constituent, characteristic, objective and subjective elements on which the offence is defined by law.

The objective aspect consists of the material element, the immediate consequence and the causal link between the material element and the immediate consequence.

The material element of the objective side of the offence of desertion is the unjustified absence of the soldier from his unit or duty for more than three days.

If the desertion continues for several months, the duration of the unexcused absence will be calculated in whole days.

Statutory holidays must also be taken into account when calculating days absent from the unit (Cojocaru, 1975, p. 47).

Statutory holidays are included in the calculation of the three days because the period of unexcused absence from the unit or service begins when the soldier leaves (does not report) and ends when the soldier returns to the unit or service.¹

However, some courts have ruled that public holidays should not be included.

Unexcused absence from unit or service can be committed by action, when the soldier leaves or leaves the unit or service without a good reason, i.e. without the permission of his commander or chief, and remains in this situation for more than the 3-day period prescribed by law (i.e. 24 hours in the case of the aggravated form of the offence), or by inaction, when the soldier is on leave, detachment, secondment, leave of absence, etc., or when he is transferred.

The offence is committed after the expiry of the 3-day period (i.e. 24 hours in wartime), the unjustified absence from the unit or service lasting until the perpetrator returns voluntarily or is apprehended by the authorities.

Voluntary surrender of the offender to the unit, service or authorities is considered as the end of desertion. The arrest of the offender by the authorities is also considered as the end of desertion.

The offence of desertion involves the absence of the soldier from the unit or service for a period longer than the legal limit and only if the soldier has acted freely, with the option of returning to the unit or remaining a deserter.

On the other hand, if a soldier is arrested while he still has the option of returning voluntarily to the unit before the expiry of the time limit, he is no longer liable to the offence of desertion, since he is at the disposal of the authorities who ordered his arrest (Cojocaru, 2020, p. 48).

A military staff member who is in custody pending prosecution or trial or serving a sentence of more than two years is not guilty of desertion because he is at the disposal of the authorities who ordered his arrest and his absence is justified.

The Timisoara Military Court handed down a dubious decision, wrongly sentencing Sergeant Major R.P. to prison for the crime of desertion.

¹ The Military Court of the Bucharest Military Region, Decision no. 366/1964.

The court found that on 13 September 2004, the soldier left his unit without permission, was arrested for theft and sentenced to one year's imprisonment by a civilian court before serving 24 hours. He served his sentence until 21 April 2005, when he was granted parole.

The Timisoara military court ruled that the period between 22.04.2005 (the day after his release) and 16.05.2005 (when he was detained) constituted a desertion offence.

The soldier was acquitted of this offence on appeal, as there were no legal grounds for requiring a person sentenced to a penalty to be served in a place of common detention to report to the military unit to which he belonged immediately after the sentence was imposed¹.

Similarly, the offence of desertion is not committed by a soldier who (escapes while on remand or in custody, nor by a convicted soldier who escapes from a prison, even if his absence exceeds the period specified in Article 332(1) of the Criminal Code, because in such cases only social relations related to the administration of justice are affected, and not those related to military order and discipline, since the offence constitutes only the offence of desertion.²

According to another view, a soldier serving a criminal sentence in a military prison who is unjustifiably absent for more than three days is criminally liable for both escape and desertion.

Thus, a soldier who has served his sentence in a place of detention is not obliged to report to his home unit for further service after serving his sentence.

The material element of desertion is committed when a serviceman serving a disciplinary sentence in a unit or serving a sentence of up to two years' imprisonment in a disciplinary military unit evades execution by being absent without justification for more than three days (Dongoroz, 1946, p. 780)

Military personnel serving a disciplinary sentence for acts contrary to military order and discipline shall be charged with desertion if they leave the detention unit without authorisation and are absent for more than three days (Dongoroz, 1946, p. 780).

It shall also be an offence of desertion for a serviceman who, after fraudulently crossing the border, is arrested by foreign authorities less than three days after leaving the unit and who is absent from the unit for more than three days after his arrest and punishment by the authorities of the State which he entered illegally.

It is clear that any person who fraudulently crosses the border, for whatever reason, anticipates and implicitly accepts the possibility of being arrested and punished by the authorities of the State into whose territory he has arrived, in breach of the laws of that State; the defendant must therefore be regarded as having been unjustifiably absent from the establishment during the period in which he was detained in the execution of his sentence and until his surrender by the authorities.

Against that solution, it could be argued that the detention of the soldier in custody by the authorities of the foreign State constitutes a cause of forced interruption of the continuation of the offence by the intervention of a competent State body. In that hypothesis, account should be taken of the duration of the period prior to arrest, which could constitute an actual unjustified absence from the unit which, being shorter than that provided for in Article 414 of the Criminal Code, could render the soldier liable only for the offence provided for in Article 414 of the Criminal Code.

¹ Sentence no. 278/2005 of the Timisoara Military Court.

² Decision 877/2005 of the Bucharest Military Court.

Against this solution, it could be argued that the detention of the soldier in custody by the authorities of the foreign State constitutes a cause of forced interruption of the continuation of the offence by the intervention of a competent State body. In that hypothesis, account should be taken of the length of the period preceding the arrest, which could constitute an actual unjustified absence from the unit which, being shorter than that provided for in Article 414 of the Criminal Code, could render the soldier liable only for the offence provided for in Article 414 of the Criminal Code.

It should be noted that, once the sentence has been imposed, the period during which the soldier was detained by the authorities of the foreign State is deducted from the duration of the sentence, which contradicts the conclusion that the soldier continued to commit the offence charged during that period. We consider it irrelevant that the defendant believed he would be absent from the unit for a longer period of time and that he could be detained by the foreign State authorities if the offence was forced to be interrupted.

In this case, the actual length of absence from the unit is important, not how the defendant planned to commit the crime (Dongoroz, 1946, p. 780).

If the recipients acted in good faith, the granting of leave, furlough or recreational leave by persons other than those authorized to approve it does not constitute desertion or, as the case may be, unexcused absence.

It shall be an offence of desertion or unauthorised absence if the grant was made on the basis of an improper agreement between military staff and their superiors.

Desertion is sometimes committed in combination with other offences. Thus, if a serving soldier leaves the unit without permission during guard duty or on guard duty, he will be charged with desertion as well as with breaking the rules (Article 333 of the Criminal Code). Thus, the accused Sergeant Major C. D. D. of Military Unit 02246 Caracal was sentenced in the indictment of the Bucharest Territorial Military Prosecutor's Office for the joint commission of the offences of escape under Article 269(1) of the Criminal Code and desertion under Article 332(1) of the Criminal Code, with the retention of post-conviction recidivism under Article 37(a) of the Criminal Code.

It was found that the defendant was serving a sentence of 8 months' imprisonment imposed by the final sentence of the Bucharest Military Tribunal No 11/2005 for the offence of unjustified absence under Article 331(1) of the Criminal Code, and that he had evaded the legal state of detention by going to his home in Simeria, Simeria County, Romania, Hunedoara, from where he subsequently returned to the unit on his own initiative.¹

For the offence of escape under Article 285(2)(a) of the Criminal Code, the offender was convicted of the following offences 1 of the Criminal Code with application of Art. 37 lit. a) of the Criminal Code, the defendant was sentenced to 1 year imprisonment, which, pursuant to Art. 269 para. 3 of the Criminal Code, was added to the sentence of 4 months and 28 days of imprisonment remaining unexpired from the sentence of 8 months imposed on the defendant by sentence no. 11/2005 of the Bucharest Military Court. He was also sentenced to 2 years' imprisonment for the offence of desertion under Article 414(1) of the Criminal Code, with the application of Article 37(a) of the Criminal Code, and under Article 33(a) of the Criminal Code and Article 34(a) of the Criminal Code, the defendant will serve the heavier sentence of 2 years' imprisonment.

¹ Criminal sentence no. 108/1996 of the Bucharest Territorial Military Court.

In judicial practice, it has been decided that there is a concurrence of offences if a serving soldier, serving a custodial sentence in a military prison (under the conditions laid down in Article 62 of the Criminal Code), leaves that unit without right and goes unjustifiably absent beyond the limits laid down in Article 332 of the Criminal Code, he will be criminally liable for both the offence of escape and desertion (Cojocaru, 2020, p. 46).

While serving a sentence of one year and six months for desertion in the M.U. 02246 Caracal, convicted C. A. escaped on 26 September 2005, after reaching an agreement with another convicted soldier.

After being caught on 13 July 2005, defendant C. A. was convicted of escape under Article 85(2) of the Criminal Code, with post-execution recidivism under Article 37(a) of the Criminal Code.

The sentence imposed for the escape offence was added to the remaining unexpired days of imprisonment of the sentence imposed for the previous offence of desertion, which was not appealed, under Article 285(3) of the Criminal Code.

There are also different perspectives on the situation of soldiers who are absent from their unit several times but commit a new act of desertion each time. The doctrine has held that in such cases there can only be a plurality of desertions and not a single continuous offence, since the act of desertion usually involves a new criminal resolution, determined by new circumstances and situations.

In judicial practice, it has been decided that several acts of desertion committed at close intervals of time constitute a single (continuous) offence because they are based on the same criminal resolution.

When a soldier returns to the unit for a few hours to deal with purely personal matters, without reporting to the competent body and without this return being formalised by a unit order, it has been decided in practice that the desertion does not cease, as the soldier's behaviour does not show that he has decided to end the desertion.

The soldier could be considered absent from the unit or from duty without justification during the period he was in the unit, even if he did not report to the competent body to establish his return from desertion; this would be a legal fiction because the soldier was in the unit. It was the responsibility of the unit to take the necessary steps to ensure that the soldier reported immediately to the competent authorities. It is not necessary for the soldier to have acted with this intention in order to put an end to the state of desertion, as the cessation of the offence can also be enforced by the intervention of the competent authority to restore legality.

According to this view, the soldier's voluntary presence in the unit interrupted the continuity of the offence of desertion, and the soldier's subsequent departure and absence for more than three days could amount to the commission of a new offence of desertion in addition to the previous one.

We agree with the first view that the soldier's presence in the unit was not due to his intention to voluntarily return to the unit, as the return was to attend to personal matters and not to return and voluntarily report to the unit.

Desertion is an intentional act committed by commission or omission, and the servicemember's presence in the unit does not imply that the servicemember intended to interrupt his or her unexcused absence from the unit. It is correct that the unit is in a position to act to restore legality, and the failure to act is due to the unit's failure to take appropriate action, not the servicemember's.

The immediate consequence of desertion is the soldier's absence from the unit for more than three days. It is the state of increased danger caused by the soldier's unjustified and prolonged absence from the unit.

When the three days of unexplained absence are completed, causation is established and the link between cause and effect need not be proven.

As regards the subjective part. Desertion can be committed with intent (direct or indirect) or with fault, as it is an offence committed by inaction (simple or with intent). When the material element is achieved by an action (omission by action), the offence is committed intentionally; otherwise, the act of desertion is committed culpably.

According to the legal literature, the offence of desertion can only be committed with direct intent, which follows from the fact that any serviceman who is absent from his unit or service for more than three days (24 hours in wartime) foresees and intends the socially dangerous consequences of his act.

Although the purpose pursued by the perpetrator has no legal significance, it is taken into account in the individualisation of the penalty.

In the case of desertion, the perpetrator seeks to avoid certain activities indefinitely, unlike the purpose pursued by the perpetrator in the case of absence without leave, where the perpetrator seeks to return to the unit or service.

The reasons for committing the offence may vary, and where they are known, they can be taken into account when determining the seriousness of the offence and imposing the penalty.

Desertion, like unauthorised absence, is an offence committed by omission (inaction) and is not subject to imperfect forms (preparatory acts or attempts)

Therefore, there is no preparatory or attempted act in the case of desertion as there is in the case of unauthorised absence.

Where desertion is carried out by an action (e.g. leaving the unit, fraudulent border crossing), the offence may be susceptible to preparatory acts of crime (e.g. theft of a consignment note necessary for the soldier's movement; aid or assistance obtained by the perpetrator from other persons for the purpose of committing the offence).

Desertion, like absenteeism, is a continuing offence which is consummated when the duration of the unexcused absence from the unit or duty exceeds three days and is exhausted when the absence ends. According to Article 414(1) of the Criminal Code, the subject of the offence of desertion can only be a military person, including a concentrated military person, and the offence consists of the perpetrator's unjustified absence from unit or duty for a period of more than three days. According to the text, desertion is a continuous offence, the commission of which begins when the serviceman voluntarily reports to the unit or service, or to the competent authority, or is detained by law enforcement bodies, and ends when the unjustified absence ends (the serviceman voluntarily reports to the unit or service, or to the competent authority, or is detained by law enforcement bodies) or when the perpetrator loses his military status under the conditions laid down by law.

Since the defendant's unjustified absence from the unit - a concentrated soldier - ended only one year and three months after leaving the unit, without his losing his military status under the conditions laid down by law, it must be concluded that the defendant was a deserter throughout that period, regardless of the period of time for which he could have been concentrated.

The fact that the unjustified absence is prolonged over time, leading to an amplification of the immediate prosecution, does not change the unitary character of the offence; if during the continuation other prosecutions take place, which in themselves constitute another offence, then there will be a concurrence of offences.

4. Forms

The offence of desertion is consummated when the absence, which constitutes the material element of the offence, ceases when the offender is surrendered or captured and transported to the unit.

Desertion has two forms: a simple (typical) form, as defined in Article 414(1) of the Criminal Code, and an aggravated form, as defined in Article 332(2) of the Criminal Code.

The simple form exists when the offence is committed in peacetime and the absence of the serviceman must exceed 3 days, according to paragraph 1: “Unjustified absence from unit or duty of any serviceman exceeding 3 days shall be punishable by imprisonment for a term of 1 to 7 years.”

The aggravated procedure described in paragraph 2 requires two elements of circumstance: the offence must have taken place during wartime and the unjustified absence must have lasted more than 24 hours.

The aggravating circumstance of the state of war is explained by the fact that the offence in this case presents a much greater social danger: “In time of war, the unjustified absence of any military person from his unit or service for a period of more than 24 hours shall be punishable by imprisonment for a term of 3 to 12 years.”

The fact that the time interval is much shorter, 24 hours when the offence is committed during wartime, underlines the increased social danger.

The offence will qualify as aggravated if it was committed in peacetime but continued after the outbreak of war. The offence remains aggravated if it began during wartime and continued in peacetime.

The simple form of desertion is punishable by imprisonment from one to seven years under Article 414(1) of the Criminal Code. If the offence is committed during wartime (Article 414(2) of the Criminal Code), the penalty is 3 to 12 years.

In determining the penalty, the provisions of Article 72 of the Criminal Code relating to the general criteria for individualisation are taken into account.

If there are mitigating circumstances (the soldier returned voluntarily after a short absence), the sentence is reduced to the general minimum (Article 76(d)), but if there are aggravating circumstances, the sentence is increased to the special maximum and, if this is not mitigating, to 2 years and 4 additional months (Article 78).

If aggravating and mitigating circumstances coexist, the sentence is determined taking into account the aggravating circumstances, the mitigating circumstances and the state of recidivism (Article 80(1) of the Criminal Code). If aggravating and mitigating circumstances exist, the sentence must not be reduced below the special minimum. If the provisions on aggravating circumstances, recidivism and concurrence of offences apply concurrently, the term of imprisonment may not exceed 25 years if the special maximum for each offence is 10 years or less and 30 years if the special maximum for at least one of the offences is more than 10 years.

Desertion in time of war is punishable by imprisonment for a term of between 3 and 12 years. where there are mitigating circumstances, the sentence is reduced to less than 3 years but not less than 3 months (Article 76(c)), and where there are aggravating circumstances, the sentence is increased to the special maximum, to which may be added an increase of up to 3 years (Article 78) where it is not considered aggravating.

If the penalty is more than two years, in addition to the main penalty, a penalty of up to ten years' disqualification and military demotion may be imposed.

Where the main penalty is a prison sentence of more than ten years, the additional penalty of military demotion is mandatory (Article 67(2) of the Criminal Code).

The commanding officer personally conducts the criminal investigation, as do officers specifically designated by the unit commander or the military prosecutor (Art. 208 lit. a, Art. 209 para. 3 C. p. p.).

The military prosecutor initiates and conducts criminal proceedings, but only at the request of the commander (Article 337 of the Criminal Code and Article 226(2) of the Code of Criminal Procedure).

The refusal of the commanding officer to refer a case of desertion of a subordinate military officer to the criminal prosecution body may be challenged before the commander of the superior unit and, where appropriate, before the Minister of National Defence. The military tribunal (Article 26(1) of the Code of Criminal Procedure) and the territorial military tribunal (Article 28(1) of the Code of Criminal Procedure) are competent to hear the case at first instance.

Articles 225-233 of the 1881 military justice system criminalised desertion. The severity of the punishment was determined by the seriousness of the desertion (imprisonment from 2 to 6 months for desertion in peacetime in the country and from 2 to 5 years in wartime). Desertion abroad or to the enemy was punishable by harsher penalties.

Article 520 of the 1937 Code of Military Justice criminalised desertion. The penalty was correctional imprisonment for 3 to 10 years and hard labour for 5 to 25 years if the offence was committed in wartime.

Desertion in favour of the enemy was covered by Article 522 of the same code and was punishable by death and confiscation of property.

Article 156(d) of the Criminal Code defines desertion in favour of the enemy as an offence against state security.

Article 555 of the same 1937 Code of Military Justice incriminated any serviceman or sailor who, after embarkation, abandoned the ship without permission.

Article 589 also made it an offence for air force personnel to desert, and Article 590 made it a wartime offence. In addition, the penalties for peacetime offences were lower than those for wartime offences. The new Penal Code is comprehensive in content, incorporating all variants of the defunct Code of Military Justice and avoiding parallel incriminations for the same offence committed by soldiers of different arms. Desertion in favour of the enemy is considered an offence against state security in the current Penal Code and is covered by Article 156(d) of the Penal Code.

Article 555 of the same 1937 Code of Military Justice criminalises any soldier or sailor who abandons ship after embarkation.

Article 589 also made it illegal for air force personnel to desert, and Article 590 made it illegal for air force personnel to desert during wartime.

Also included in these regulations were penalties for acts committed in peacetime that were less severe than those committed in wartime. The new Penal Code is comprehensive in scope, incorporating all variants of the defunct Code of Military Justice and avoiding parallel incriminations for the same offence committed by soldiers of different arms.

References

*** (2009). The new Criminal Code - Law no. 286/2009 published in the Official Gazette no. 510/July 24, with subsequent amendments and additions.

*** (2012). Law no. 187/2012 for the implementation of Law no. 286/2009 regarding the Criminal Code, published in the Official Gazette no. 757 of November 12.

*** (2012). Law no. 187/2012 for the implementation of Law no. 286/2009 regarding the Criminal Code, published in the Official Gazette no. 757 of November 12.

*** *Criminal sentence* no. 108/1996 of the Bucharest Territorial Military Tribunal.

Bulai, Costică & Bulai, Bogdan Nicolae (2007). *Manual of Criminal Law*. Bucharest: Universul Juridic Publishing House.

Cojocaru D. (2020). *Offences against defence capacity*.

Cojocaru, D. (1975). *Crimes against the defense capabilities of the Socialist Republic of Romania*. Bucharest: Scientific and Encyclopedia Publishing House.

Dongoroz, V. (1946). *Criminal law course and criminal procedure*. Bucharest.