



THE 6<sup>TH</sup> EDITION OF THE INTERNATIONAL CONFERENCE  
**EUROPEAN INTEGRATION  
REALITIES AND PERSPECTIVES**

**The Protection of the Right to  
Life in the New Criminal Code**

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**Abstract:** The present article illustrates general aspects of the actual regulation on the protection of the right to life, in comparison with the new regulation, which shall be analyzed more carefully. The paper is based on the study of the new Criminal Code, emphasizing the most important differences between the actual regulation and the new Criminal Code, and the few texts elaborated in this area. The approach of the subject is a more practical one, because few texts were written about the new Criminal Code, at the moment of its entrance into force, the doctrinaires will need to know the differences and the innovations brought by it. The result is meant to increase the understanding of the new text and to enrich the analysis and synthesis of the new Criminal Code.

**Key words:** right to life; offences against human life; new Criminal Code; homicide upon request

## **1. Introduction**

The right to life is fundamental. Life is itself the fundament of any other right, the very breath that animates and supports us in everything we do. Without it we could not discuss of any other right or anything else, no matter how good our intentions, aspirations and wishes to personal achievement may be. But, as important life may be, it sometimes seems so fragile “in the hands” of persons arguing with the law or with their own consciousness. So, mostly, as a coin with two sides, life goes along with death, without denying and contradicting one to another, being one of the paradoxes in our existence. A truth putted in metaphorical words by Lucian Blaga, a great philosopher and poet: *“If each life is ended by death, it does not necessarily mean that the purpose of life is the very death”* (Iulian Poenaru, 1999).

Correlating now, this fundamental right with the law, we shall notice that it is protected in the fundamental law, which by its Art 22 shows that: “1. The right to life, as well as the right to physical and mental integrity of person is guaranteed; 2. No one may be subjected to torture or to any kind of inhuman or degrading punishment or treatment; 3. The death penalty is prohibited”.

Being such an important right, it was appreciated and protected since immemorial times. All known regulations kept until nowadays refer to the punishment for those who committed murder. This is why the protection of this right was and is associated with the criminal right and with the idea of offence and punishment.

## 2. Incrimination of Offences against Life in the Criminal Code

### 2.1. The Regulation in the Current Criminal Code. General Aspects

The actual Criminal Code<sup>1</sup> incriminates a series of offences which result in the death of a person. The most important ones are found in Title 2 *Offences against person*, Chapter I *Offences against life, corporal integrity and health*. This chapter was divided into three sections, Section 1 *Homicide*, comprising the offences having life as special legal subject, in different stages, and as final consequence the immediate death of the victim<sup>2</sup>; Section 2 *Hitting and harming the corporal integrity or health*, were are found the offences having as special legal subject the person's corporal integrity or health, and sometimes even the death of the victim<sup>3</sup>, and, finally, Section 3 *Abortion*, comprising a single offence, that of abortion, having as special legal subject the corporal and psychical integrity or life of the woman, and as immediate consequence the lost of the result of conception and the corporal injury of the woman<sup>4</sup>. We have presented this, in the idea of comparing the actual regulation with the new one and to emphasize the qualitative and quantitative differences.

As mentioned above, outside Chapter 1, Section 1, dedicated entirely to offences of murder, the Code also states, especially in its Title 1, other offences resulting in the death of the person, only the fact that their placement in other chapters dues to their *prater intentioned* consequence, harming the social relations, fundamental values of the human being such as freedom<sup>5</sup> or sexual life<sup>6</sup>. Also, the Criminal Code settles offences resulting in the death of a person in other titles and chapters, such as robbery<sup>7</sup> or piracy<sup>8</sup>, comprised in Title 2 *Offences against property*, some offences such as failure to fulfill service duties or their erroneous fulfillment, out of negligence committed by railway employees<sup>9</sup> settled in Title 6 *Offences that infringe upon activities of public interest or upon another activities regulated by the law*, Chapter 3 *Offences against railway traffic safety*, the offence of non-compliance with the legal treatment of nuclear material or of other radioactive materials<sup>10</sup> or non-compliance with the legal treatment of explosives<sup>11</sup>, both in serious forms, regulated by Title 6, Chapter 4 *Offences regarding the legal treatment established for certain law-regulated activities etc.*

Even the exhaustive enumeration of those offences directly or indirectly committed against life shows us a vast regulation of this situation, as the importance of the right protected. What most interests us in this moment is the way in which the new Criminal Code has understood to protect life, this being the main subject of the article.

<sup>1</sup> The Criminal Code was published in the Official Bulletin No. 79-79 bis of 21 June 1968 and entered into force on 1 January 1969; republished for two more times, once in 1973 and once in 1997, being subjected to many modifications and amendments especially after 1992.

<sup>2</sup> These offences are: murder (Art 174), first degree murder (Art 175), particularly serious murder (Art 176), infanticide (Art 177), determining or facilitating suicide (Art 179) of the actual Criminal Code.

<sup>3</sup> These offences are: hitting or other forms of violence (Art 180), bodily harm (Art 181), serious bodily harm (Art 182), hitting or injury causing death (Art 183) and bodily harm by negligence (Art 184) of the actual Criminal Code.

<sup>4</sup> See Art 185 – illegal causing of abortion, in the actual Criminal Code.

<sup>5</sup> We hereby refer to the illegal deprivation of freedom (Art 189, Para 6), settled by Title 1, Chapter 2, *Offences against the freedom of persons*.

<sup>6</sup> We hereby refer to rape (Art 197 Para 3), sexual intercourse with a minor (Art 198 Para 6) and sexual perversion (Art 201 Para 5) settled in the actual Criminal Code, Title 1, Chapter 3 *Offences regarding sexual life*.

<sup>7</sup> See Art 211 Para 3 of the actual Criminal Code.

<sup>8</sup> See Art 212 Para 3 of the actual Criminal Code.

<sup>9</sup> We are referring to the failure to fulfil service duties or their erroneous fulfilment, out of negligence (Art 273 Para 1, when a catastrophe on the railway has occurred), Non-fulfilment of service duties or their erroneous fulfilment, in awareness (Art 274 Para 2, when a catastrophe on the railway has occurred), leaving the post, and inebriety during service (Art 275 Para 3), destruction and false signalling (Art 276 Para 3-4) of the actual Criminal Code.

<sup>10</sup> See Art 279<sup>1</sup> Para 5 of the actual Criminal Code.

<sup>11</sup> See Art 280 Para 5 of the actual Criminal Code.

## 2.2. Regulation in the New Criminal Code; Comparison with the Current Regulation; General Aspects

The new Code regarding the offences against life was systematized, eliminating confusing regulations, the new Code being completed with general or special provisions. From this point of view, the simplification of texts, has sometimes determined a specialization of them, thus sometimes the number of offences is bigger, new one appearing, inexistent until now in the previous Romanian codes.

The first aspect noticed in the new regulation is the fact that the *Offences against life* are settled in Title 1, unlike the actual regulation where are stipulated by Title 2, the first title being dedicated to *Offences against state security*. Though, the new political vision wishes to create the impression that the life and the person comes first, yet, in our opinion the order settled by the actual Code should have been maintained. Although we agree to the fact that a person's life is the most important asset, is no less true that the values ensuring the state security are those who help the person fulfill her destiny, creating the necessary environment, the "stage" to perform it.

Beyond this fact, we notice that confronted by the three chapters in force contained by the second title of the actual code (Chapter 1 *Homicide*, Chapter 2 *Offences against freedom of persons* and Chapter 3 *Offences regarding sexual life*), the new Code sees a multifaceted person, settling no less than 9 chapters (Chapter 1 *Offences against life* – the subject of the hereby article, Chapter 2 *Offences against corporal integrity or health*, Chapter 3 *Offences against a family member*, Chapter 4 *Offences against the fetus*, Chapter 5 *Failure to assist endangered persons*, Chapter 6 *Offences against the freedom of the person*, Chapter 7 *Trafficking and exploiting vulnerable persons*, Chapter 8 *Offences regarding sexual freedom and integrity*, Chapter 9 *Offences regarding domicile and private life*).

Among these chapters are some new ones, and among the latter ones are some directly connected to the right to life, even if this fact does not result explicitly, from the name of the chapter which included them or from the marginal name of the texts. Directly, the right to life is protected by Chapter 1, whose title was changed from *Homicide* with the more appropriate one, *Offences against life*. Then, also directly, but less explicitly as shown above, life is also protected against the offences stated by Chapter 3, regarding a family member. These offences are specialized because refer to all offences committed by violence against a family member, including those causing the immediate death of the family member, or the death of the newborn child.

Finally, among the offences stated by Title 1 are found, as well as in the actual Criminal Code, offences which are not directly against life, have a second special legal subject, such as hitting or injury causing death (Art 195 of the new Criminal Code), illegal deprivation of freedom (Art 205 Para 4 of the new Criminal Code), aggravated rape (Art 218 Para 4 of the new Criminal Code), sexual aggression (Art 219 Para 3 of the new Criminal Code) etc have as result the death of the victim, as a prater intentioned result of the main offence.

## 2.3. Offences against Life in the New Criminal Code. Comparison with the Current Regulation

Chapter 1 of the new Criminal Code states five offences in Art 188-192 as following: murder (Art 188), first degree murder (Art 189), homicide upon request (Art 190), determining or facilitating suicide (Art 191) and homicide out of negligence (Art 192).

**a. Murder – Art 188.** The new text is identical to the actual regulation; even the penalty is the same.

**b. First degree murder – Art 189.** Regarding this text, it is the only one legally qualifying murder, unlike the actual regulation, which in two articles expresses a gradation of consequences, the most serious forms of murder: first degree murder (Art 175 of the actual Criminal Code) and particularly serious murder (Art 176 of the actual Criminal Code) (exposure of reasons)<sup>1</sup>. But this is not the only difference, the new Art 189 states a simplification of the regulation, comprising the offences which can be committed by any person, but in certain circumstances have a particularly serious form, rather than the simple one. Therefore, we shall notice that some of these aggravated forms resulting from the existence of an active or passive subject were included in other offences. The first of these is the aggravation resulting from the murder against the spouse or a close relative (Art 175 Para 1 Point c). In the new Criminal Code, this aggravation is no longer found for murder, being stated by Art 199 Family violence, as part of the constitutive element, not as a circumstantial one. Though, Art 199 has a broader regulation, referring to a family member, in that the active and the passive subjects are family members, but in the new definition given by Art 177. Unlike the actual framing of the term of family member, the new definition does no longer assume that the spouse or the close relative lives or shares a household with the perpetrator<sup>2</sup>, adding between family members those who are not legally married but have a relationship similar to that between spouses or between parents and children, explaining the term of close relatives for the adopted person, as well as for his/her ascendants or descendants with regard to the natural relatives. Another aggravated form which is no longer found and resulted from the quality of the passive subject of the offence is that stated by Art 176 Para 1 Point f, namely murder committed against a magistrate, police officer, gendarme or member of the military, during or in connection to the fulfillment of their service or public duties. This aggravation is also found in the new Criminal Code in two of its texts, namely Art 257 Para 1 and 3 incriminating *insult* and Art 279 Para 1, incriminating *judicial insult*. Art 257 Para 1 refers to murder or praeter intended murder against a *public officer performing a position assuming the state authority, during or in connection to the fulfillment of his public duties*. In this case, the special limits (both, namely the inferior as well as the superior limit) shall be increased by a third<sup>3</sup>. Para 3 of the same text expressly mentions police officers and gendarmes, connecting their murder, with intention or praeter intention, with the fulfillment of their service duties, increasing even more the limits of the punishment, i.e. by half of the special limits for the offence committed against them<sup>4</sup>. Nevertheless, this differentiation between military and police officers and gendarmes has no rational or criminal justification. It is rather the product of a mistake, because it is hard for me to consider that the legislator could have generated such a hierarchy between law enforcement and homeland defense forces. Continuing our analysis with the situation of murder against a magistrate, we shall notice that in the new Criminal Code, was taken by Art 279 Para 1, stating that the offence of hitting, injuring causing death or murder against a judge or prosecutor (magistrate – in the actual text) is punished with the punishment provided for this offence whose limits are majored by half (as in the case of *judicial insult*).

Two aggravated forms entirely found in the new text of Art 189 Point a) and b) are those stated initially by Art 175 Point a) and b), regarding *murder with premeditation* or *out of a material interest*.

Further, the aggravated forms currently stated by Point d) and e) of Art 175, namely those stating *murder by taking advantage of the victim's inability of defense* or *by means that jeopardize the life of*

<sup>1</sup> The choice for this regulation was made for the concordance of our criminal legislation with the occidental European legislations.

<sup>2</sup> See Art 149<sup>1</sup> of the actual Criminal Code.

<sup>3</sup> If is committed murder against a military, the punishment shall be between 13 years and 4 months and 26 years and 8 months of imprisonment.

<sup>4</sup> According to this text, if a police officer is murdered during the fulfillment of or in connection with his service duties, the punishment limits are between 15 and 30 years of imprisonment.

several persons, are no longer stated in the new Criminal Code. These two aggravated forms are also no longer stated in the special part, but have become legal aggravated circumstances applicable to any offence, in the case they are found as circumstances of a situation. Thus, according to Art 77 Para 1 Point c) represents an aggravated circumstance *the commission of the offence by means endangering other persons or goods*, and according to Point e) is an aggravated circumstance *the commission of the offence by taking advantage of the victim's vulnerability, due to his age, health condition, disability or other causes*. Even if the phrasing is not identical with that of Art 175 Point d) and e), has the same legal value, but not the same punishment. Following the same reasoning, the legislator should have noticed that the aggravating circumstance stated by Art 189 Para 1 Point h), currently Art 176 Point a), namely murder by cruelties, would not have justified the difference of statute, because both in the actual code, as well as in the new code the commission of murder by *means of cruelties*<sup>1</sup> is an aggravated circumstance which can be valued, as well as in the previous cases, just as a general legal aggravated circumstance. There is though a difference in the legal regime regarding the statement of this circumstance as an aggravated form of murder. As simple general legal aggravating circumstance its regulation would have eventually determined a punishment by its special maximum, and possibly an increase in this maximum of a further 2 years<sup>2</sup>, i.e. punishment by 22 years. Its statement as an aggravating circumstance for murder determines a mandatory increased punishment, whose maximum can reach 25 years. We consider that the legislator sees this circumstance as a more aggravating one than the two previous one which he excluded from first degree murder, but will value as aggravating circumstances of murder.

Another circumstance no longer states is that determining the consideration of murder as *first degree murder connected to the victim's accomplishment of service or public duties*<sup>3</sup>. But when we have analyzed the circumstance stated by the actual code in Art 176 Para 1 Point f) we have noticed that such an aggravating circumstance is also stated for insult –Art 257 Para 1 of the new Criminal Code.

The circumstance stated by the actual Criminal Code in Art 175 Para 1 Point g) “*in order to elude or to elude another person's prosecution, arrest or penalty service*” is rephrased by Art 189 Point c) of the new Criminal Code “*in order to elude or to elude another person's criminal liability or penalty service*”. The phrase *prosecution or arrest* was replaced with the more appropriate one *criminal liability*, because it comprises the entire criminal process, not just the stage of prosecution or arrest, which can be ordered both in the course of the prosecution, as well as during the criminal trial.

Stated by Art 175 Point h), *commission of first degree murder in order to facilitate or conceal the commission of another offence*, completed with Art 176 Point d), *commission of first degree murder in order to commit or to conceal the commission of a robbery or piracy*, the two circumstances were joined in Art 189 Point d), without distinguishing the type of offence which is committed or concealed.

Finally, having discussed the situations aggravating murder, considered first degree murder by the actual regulation, we shall note that the condition that murder must be committed *in public*<sup>4</sup> is no longer stated by the new Art 189, nor by any text of the new Criminal Code, considering that is no longer justifiable (exposure of reasons).

<sup>1</sup> According to Art 77 Para 1 Point b) of the new code it is an aggravated circumstance the commission of the offence by means of cruelties or by subjecting the victim to degrading treatment, while the provisions of the actual Art 75 Para 1 point b<sup>1</sup>) states this aggravating circumstance: *commission of the offence by acts of cruelty, by violence against family members or by methods or means that represent a public danger*.

<sup>2</sup> See Art 78 Para 1 of the new Criminal Code.

<sup>3</sup> See Art 175 Para 1 Point f) of the actual Criminal Code.

<sup>4</sup> Stated by Art 175 Para 1 Point i) of the actual Criminal Code.

Two circumstances of the actual Criminal Code which have enough troubled jurisprudence are also stated by the new Criminal Code, similar in phrasing. We refer to Art 176 Point b) and c), i.e. particularly serious murder against *two or more persons* and *by a person who has previously committed another murder*. These two are also stated by the new Art 189 Point e) and f), where e) of the new Criminal Code corresponds to Art 176 Point c) of the actual Code and vice versa. Art 189 Point e) seeking to clarify things, uselessly explained it. As we were saying, the completion with *attempt to murder is useless*; this text should only have been corroborated with Art 174, few pages before, according to which the attempt of an offence is the attempt to the commission of any action punished by law as offence or as attempt, as well as the participation to the commission as co-author, instigator or accomplice.

To complete the comparative analysis between the forms of murder in the actual and new Criminal Code, we only have two circumstances, both stated as forms of particularly serious murder – Art 176 Point e) and f). Point e) states as particularly serious murder the murder committed against a pregnant woman, circumstance identical in Art 189 Point g) of the new Criminal Code. The difference is that the new code raises another question. The aggravation of Art 189 Point g), if the perpetrator deliberately or assuming that the woman is pregnant commits murder against her. What if the perpetrator is a member of the pregnant woman's family? In the actual regulation, the situation is simple, meaning that it is considered to be in the presence of a particularly serious murder, comprising the aggravating circumstance of Art 175 Point c), and if it did not match its provisions, would have been applicable the general legal aggravating circumstance stated by Art 75 Point b<sup>1</sup>). But in the new Criminal Code, the aggravating circumstance of Art 175 Point c) was included in the constitutive element of the offence stated by Art 199. We consider that in this situation we have a concurrence of offences between Art 189 Point g) and Art 199 Para 1 of the new Criminal Code.

The last of the actual circumstances not stated at all in the new Criminal Code is that stated by Art 176 Point f), namely the *commission of murder against a magistrate, police officer, gendarme or member of the military, during or in connection to the fulfillment of their service or public duties*. We appreciate that such a circumstance should have been maintained, especially that there is not another general legal aggravating circumstance, and that it was not “redistributed” to another offence, as seen before for other elements of circumstances. Such situation, although it did not occurred in practice, if it did it would generate a serious social inequality; in other words, a simple person committing murder against a magistrate or police officer etc shall be punished up to 30 years of imprisonment; but if the same offence is committed by a magistrate or police officer, who should have protected and enforced by his attitude and behavior order and justice, shall be punished up to 20 years of imprisonment. Moreover, the new Criminal Code, in the lack of an express text, as found in Art 75 Para 2, the judge trialing such a case, would no longer consider the situation as a judicial aggravating circumstance, because the new law no longer allows it<sup>1</sup> (exposure of reasons).

**c. Homicide upon request**, is a mitigated form of murder, reinserted in the Criminal Code, in accordance with the Romanian tradition (Art 468 of the Criminal Code in 1936), but also in accordance with the occidental regulations (Art 216 of the German Criminal Code, Art 77 of the Austrian Criminal Code, Art 143 Para 4 of the Spanish Criminal Code etc) (Alexandru Boroiu, 2011, p.51). Reinserting this text is required because of the new regime of aggravating circumstances, enshrined in the general part. According to the new regulation, the statement of the judicial aggravating circumstance does no longer assume the reduction of the punishment under its special

<sup>1</sup> According to the exposure of reasons, the elimination of the judicial aggravating circumstances was made because are placed at the limit of the principle of predictability of law.

minimum. Thus, to allow the application of a punishment corresponding to the degree of social danger of the offence, a distinct regulation became necessary (exposure of reasons). The offence, regulated by Art 190 in the new Criminal Code is defined as *murder committed upon explicit, serious, conscious and repeated request of the victim suffering from an incurable disease or a serious medically attested infirmity, causing permanent and unbearable sufferance*.

The wording of the material element of offence raises several questions. One of them is that of how to define the phrase *explicit, serious, conscious and repeated request of the victim*. The request is explicit when there is no place for interpretations and doubts (Alexandru Boroiu, 2011), when it is written or clearly expressed.

The request is serious when it is not made as a joke or as a game; it is conscious when the person issuing is in the fullness of his mental faculties, it is awake and responsible; and, finally, the request must be repeated for several times. The issue is how many times? Two times is sufficient to consider it repeated, or must be made for 4-5 times to have this feature? We sustain the latter point of view, because it also a way to support the seriousness of the request.

Beside these conditions, the material element of the offence relies also on two essential conditions, namely that the victim must suffer from an incurable disease or a serious medically attested infirmity. A disease is incurable at a given moment. It does not last indefinitely, at any moment possibilities of healing can be discovered, regardless of the disease.

This is why the incurability must be appreciated at the moment of the request referring to real and predictable medical progresses which can be made at that moment or in a near future. An infirmity is serious when it determines a serious immobility of the person, or a restriction of the activities and physiological needs. Both the incurable disease and the serious infirmity must be medically confirmed by medical documents.

The second essential requirement refers to the fact that the disease or infirmity must cause permanent and unbearable sufferance for the victim. The sufferance is permanent when is daily and become a major inconvenient for daily living, because cause serious pains, eventually needing other medicines to alleviate it.

The introduction of this offence shall be the subject of discussion regarding the possibility of euthanasia in Romania. Though it is obvious that euthanasia is prohibited, by its regulation it receives an easier regime of punishment, given the victim's situation.

**d. Determining or facilitating suicide**, stated by Art 191 of the new Criminal Code, is different from the actual regulation, the differentiations made by this new regulation being inspired from the Italian, Portuguese or Norwegian criminal codes. The new text, on the one hand, differentiates between the situation in which the determination or facilitation of suicide resulted in the suicide of the victim (Art 191 Para 1-3 of the new Criminal Code), and the situation in which though the victim's suicide was determined or eased it did not resulted in the victim's death (Art 191 Para 4 of the new Criminal Code). On the other hand, the first three paragraphs of Art 191 sort between different forms of determination or easing suicide, regarding of the passive subject. If the subject is a mature and conscious person, then the offence is similar to that stated by Art 179 Para 1 of the actual Criminal Code, with the difference that the special minimum of the punishment, in the new code, is increased by a year, from 2 to 3 years of imprisonment. The difference in given by Para 2 and 3 of Art 191 of the new Criminal Code, an auspicious explanation from Art 179 Para 2 of the actual code. Though, the new code mainly stated lower punishments for most offences, in this case, we notice a justifiably

increment of punishments. Thus, according to Art 191 Para 2 of the new code, the offence is more serious if the attempt to determine suicide is made upon a minor between 13-18 years old, or upon a person with a diminished discernment at the moment of the commission of the offence, for other causes than minority of age, the punishment in this situation being between 5-10 years, confronted by the punishment of 3-10 years of imprisonment from the actual code. Moreover, if the determination or facilitation of suicide is against a minor person underage of 13 or a person, who from other reasons than minority, could not realize the consequences of his actions or inactions, the offence is assimilated to the offence of murder, punishable with the same punishment, i.e. 10-20 years of imprisonment. But, for some doctrinaires, this aggravating circumstance is questionable. One might sustain that the determination of a person without discernment, namely medically irresponsible, is rather murder, and to frame the offence in this regulation, the person must have at least a partial capacity of understanding and will (Alexandru Boroi, 2011).

**e. Homicide out of negligence** is stated by Art 192, having a much more simple regulation, jointing in its two paragraphs the aggravated forms stated in Art 178 of the actual code and eliminating some of them. The aggravated form stated by Art 192 Para 2: *homicide out of negligence because of failing to observe legal provisions or precaution measures for the exercise of a profession or a trade, or by carrying out a certain activity, shall be punished by imprisonment from 2 to 7 years*. In the case in which the failure to observe legal provisions for the exercise of a profession or trade is offence, being stated by another law, is applicable the punishment of the concurrence of offences. Another regulation aimed to settle the dispute in the jurisprudence in favour of the rules applicable for the concurrence of offences, clarified by the High Court of Cassation and Justice in favour for the uniqueness of offence as the complex offence<sup>1</sup> (Jurisprudence of the Supreme Court, 2008).

This short and simple regulation, undistinguishing, shall apply regardless of the provisions violated and of the professional environment in which it occurs. In other words both when the offence is committed by the driver of a vehicle with mechanical traction, when it occurs as a result of driving inebriated (actual Art 178 Para 3), as well as when the offence is committed by a doctor in the exercise of his profession, whether because was inebriated or not (actual Art 178 Para 4). Returning to the application of rules of concurrence of offences, we must note that offences regarding circulation on public roads, which determines the majority of the homicides out of negligence are stated in Title 7 *Offences against public safety*, Chapter 2 *Offences regarding circulation on public roads*, the offence stated by Art 192 concurring with one or more offences stated by this chapter, namely the offence of driving a vehicle without driving licence – Art 335 of the new code, or with the offence of driving inebriated or under the influence of other substances – Art 336 of the new code. A final change of the offence of homicide out of negligence stated by Art 192 Para 3 of the new code refers to the possible applicable punishment. When it immediately resulted in the death of two or more persons, both limits, not just the maximum as actually stated, special of the punishment stated by the previous paragraphs shall be increased by half.

### 3. Conclusions

The new Criminal Code inserts novelty aspects and simplifies the actual regulation. Not all the modifications are tangible and untouchable, but most of them are a step forward to the modernization of the regulation. If we appreciate the simplification of the regulation of first degree murder, we do not

<sup>1</sup> High Court of Cassation and Justice, Decision 1/2007 given in an appeal for the law.



agree to the fact that some of the aggravating circumstances are eliminated; regarding the homicide upon request we consider that it will raise numerous interpretations and controversies, even if the text seems legally and historically correct. Also, we agree to the decrement of the number of aggravating circumstances for the homicide out of negligence. The simplification of the wording, that we mentioned several times, is also auspicious.

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