CZU 343.1
DOI https://doi.org/10.52388/1811-0770.2023.1(249).08

# CORELAREA IMPRUDENȚEI (CULPEI) PENALE CU EROAREA DE FAPT SAU EROAREA DE DREPT ÎN MATERIE DE INFRACȚIUNI SĂVÂRȘITE CU IMPRUDENȚĂ

**Roman EREMCIUC**
Doctorand, Academia „Ștefan cel Mare" a Ministerului Afacerilor Interne al Republicii Moldova, Chișinău, Republica Moldova
e-mail: *r.eremciuc@procuratura.md*
https://orcid.org/0000-0002-5792-5691

**Alexandru MARIȚ**
Doctor în drept, profesor universitar, Academia de Studii Economice din Moldova, Chișinău, Republica Moldova
e-mail: *alexmarit123@gmail.com*
https://orcid.org/0000-0002-3198-8398

*În prezentul articol autorii efectuează o analiză a relației de neglijență penală cu greșeli de fapt în cazul infracțiunilor din domeniul securității. În opinia autorilor, pentru a stabili vinovăţia ca temei al răspunderii în dreptul penal trebuie avut în vedere principiul răspunderii subiective. În baza acestui principiu oricât de gravă ar fi fapta săvârşită de o persoană, oricât de periculoase ar fi urmările ei pentru societate, atâta timp cât nu s-a stabilit că făptuitorul nu a acţionat cu intenție sau din culpă, fapta şi urmările sale nu-i sunt imputabile. Drept urmare răspunderea penală este exclusivă.*
***Cuvinte-cheie:*** *imprudență, legalitate, pedeapsă, reprezentare, antijuridicitate, proces, infracțiune.*

## CORRELATION OF CRIMINAL IMPRUDENCE (GUILT) WITH FACTUAL ERROR OR LEGAL ERROR IN MATTERS OF CRIMES COMMITTED WITH IMPRUDENCE

*In this article, the authors carry out an analysis of the relationship of criminal negligence with factual mistakes in the case of security crimes. According to the authors, in order to establish guilt as a basis for liability in criminal law, the principle of subjective liability must be taken into account. Based on this principle, no matter how serious the act committed by a person, no matter how dangerous its consequences for society, as long as it has not been established that the perpetrator did not act intentionally or through fault, his deed and consequences are not attributable to him/her. As a result, criminal liability is exclusive.*
***Keywords:*** *imprudence, legality, punishment, representation, illegality, trial, crime.*

## CORRÉLATION DE L'INSOUCIANCE CRIMINELLE (CULPABILITÉ) AVEC UNE ERREUR DE FAIT OU UNE ERREUR DE DROIT EN TERMES DE CRIMES COMMIS IMPRUDEMMENT

*Dans cet article, les auteurs effectuent une analyse de la relation entre la négligence criminelle et les erreurs factuelles dans le cas des délits dans le domaine de la sécurité. De l'avis des auteurs, pour établir la culpabilité comme fondement de la responsabilité pénale, le principe de la responsabilité subjective doit être pris en compte. Sur la base de ce principe,*

*quelle que soit la gravité de l'acte commis par une personne, quelle que soit la dangerosité de ses conséquences pour la société, tant qu'il n'a pas été établi que l'auteur n'a pas agi intentionnellement ou par faute, l'acte et ses conséquences ne lui sont pas imputables. En conséquence, la responsabilité pénale est exclusive.*

***Mots-clés:*** *insouciance, légalité, punition, représentation, antijuridicité, procès, crime.*

## СООТНОШЕНИЕ ПРЕСТУПНОЙ НЕОСТОРОЖНОСТИ (ВИНЫ) С ФАКТИЧЕСКОЙ ИЛИ ЮРИДИЧЕСКОЙ ОШИБКОЙ В ВОПРОСАХ ПРЕСТУПЛЕНИЙ, СОВЕРШЕННЫХ ПО НЕОСТОРОЖНОСТИ

*В данной статье авторы проводят анализ взаимосвязи преступной халатности и фактических ошибок по делам о преступлениях в сфере безопасности. По мнению авторов, для установления вины как основания ответственности в уголовном праве необходимо учитывать принцип субъективной ответственности. Исходя из этого принципа, каким бы тяжким не было деяние, совершенное лицом, какими бы опасными не были его последствия для общества, пока не установлено, что виновный действовал не умышленно или по вине, деяние и его последствия не подлежат вменению: в результате уголовная ответственность является исключительной.*

***Ключевые слова:*** *неосторожность, законность, наказание, представительство, незаконность, суд, преступление.*

### Introduction

To establish guilt as the basis of liability in criminal law, the principle of subjective accountability must be taken into account. On the basis of this principle, however serious the act of a person is, however dangerous its consequences for society are, as long as it has not been established that the perpetrator has not acted intentionally or by fault, his deed and its consequences are not imputable: As a result, criminal liability is exclusive. The offense provided for by the criminal law does not constitute an offense committed by the person who, at the time of the offense, was unaware of the existence of a condition, circumstances or circumstances on which the criminal character of the deed depends.

In order to establish guilt as the basis of liability in criminal law, the principle of subjective liability must be taken into account. Based on this principle, however serious the deed committed by a person may be, however dangerous its consequences may be for society, as long as it has not been established that the perpetrator did not act intentionally or out of fault, the deed and its consequences are not imputable: as a result, criminal liability is exclusive.

### The main ideas of the research

The intentional commission of a crime requires, on the part of its author, a series of circumstances, states, situations on the existence of which the incriminating norm depends. When establishing guilt, this knowledge is never assumed nor applied, but always examined concretely, in relation to the factual and legal circumstances, as well as the person of the perpetrator.

In some situations, the perpetrator acts without having known those states, situations or circumstances, or having known them wrongly.

The perpetrator could misperceive the object on which he directed his activity, he could think falsely about the social significance of his act, etc.

However, whatever the sense in which the error manifests itself, since the perpetrator acted on the basis of wrong knowledge, both the deed and its consequences are other than those represented and desired by him.

In relation to the legal consequences, in the first hypothesis there is only the intention, not realized, and in the second one there is no intention to commit such an act.

Seen under the second aspect, ignorance or wrong knowledge of the actual circumstances appear as negative factors, which make the activity conscious, or imposed by special circumstances.

Under the influence of ignorance or wrong knowledge of reality, neither the representation of the deed and its consequences, nor the will to act correspond to objective reality. The consequences that wrong knowledge or ignorance of reality can have on guilt and therefore on criminal liability justify the importance of their investigation and regulation.

Asrespects to the application of the legal provisions regarding the factual error, our legal practice follows the theoretical principles, according to which it has formulated solutions according to these principles in a series of concrete problems.

Some legislative systems like for example the Romanian one, regulates the Error in art. 30 of the criminal code of Romania: «Art. 30 Error (1) The deed provided for by the criminal law, committed by the person who, at the time of committing it, did not know the existence of a state, situations or circumstances on which the criminal character of the deed depends, does not constitute a crime.

And in paragraph (2) it is mentioned that: «The provisions of paragraph (1) also apply to acts committed through fault that the criminal law punishes, only if ignorance of the state, situation or circumstance in question is not itself the result of fault».

Likewise, in the case of premeditated crimes, the error on the more serious consequences that exceed the perpetrator's intention, excludes liability in terms of causing those consequences only if it is not imputable to the author's fault; times, the consequences «correspond» to a constitutive element of the crime. Finally, in the case of the terminal attempt, although the perpetrator did not obtain the desired result due to the error in the action, the criminal liability is indisputable with regard to the attempt. That is why the wording would have been more accurate if it had referred to the circumstances, states or situations whose knowledge was necessary for the existence of the crime.

In the case of crimes committed through negligence, the following conditions must be met in order to operate the error of fact:

a) to criminalize the culpable commission of the respective deed, and not only the deed committed with intent;

b) the very error (ignorance or wrong knowledge) about the state, situation or circumstance on which the criminal character of the act depends should not be due to the fault of the perpetrator; for example, it is not a factual error when a driver commits an accident resulting in the death of a person due to a technical defect that must and could be detected during the mandatory technical control at the start of the race.

Certain acts provided by the criminal law can be committed with the form of culpability, which according to art. 19 of the Criminal Code of the Republic of Moldova, consists in the fact that the criminal either foresees the result of his deed, but does not accept it, considering without grounds that it will not occur (a form known as culpability with foresight or ease), or does not foresee the result of his deed, although he should and could foresee it (a form known as unforeseeable fault).

The error removes the criminal nature of the act that cannot be imputed to the perpetrator, when it is not due to his own fault. Thus, if a driver, after taking the vehicle from the inspection and being assured that the technical control that he was required to have been carried out, starts the race and while driving the steering bar breaks, which results in an accident resulting in the death of a persons, is not

responsible for the manslaughter caused. His liability is removed because he cannot be imputed any fault in causing the victim's fault; he took over the car with the assurance that the inspection had been carried out, which in reality had not been carried out or had been carried out improperly.

The error may be due to the fault of the agent, but it may also be due to another person, who, by misleading the agent (delusion), caused an erroneous representation in his mind. Deception can be direct, when the challenger acts directly on the challenged, or it can be indirect, mediated when the challenger uses certain means to cause the error (for example, changes the meaning of a road sign or changes the content of a medical prescription).

It does not matter who caused the error of the agent: if a person intentionally caused his error, the person who caused the error will be liable for the acts committed by the person in error (for example, for the forgery committed by the notary, as a result of the responsibilities, intentionally erroneous, given by the person who requested the act, the latter person will respond); if the error caused was avoidable and the agent should and could have verified the situation presented by the provocateur, the agent will be liable for fault (for example, the agent who received a gun, which he was told was not loaded, without verifying the statement, directs it at a person and kills him), will be responsible for the crime of negligence. If the error originated directly from the agent's culpable behavior, he will also be liable for a culpable offense (if the law criminalizes the act in question and when it is committed culpably).

The provoked error excludes the intention of the provoked only for the crime in relation to which the provoker acted and not for another person on the quality of the official whom the agent wanted to hit (he was told that he was some official, although the one in question was a carrier official of the state authority) will not be liable for insult but will be liable for a hit in relation to which the provocation has no relevance. The provocateur - according to some authors - will answer, however, in relation to the crime of insult, committed by the act of the provocateur[1].

Some clarifications are, we think, necessary in relation to the so-called *willful misconduct*. As a form of guilt, negligence also implies an *error on the part of the subject, which does not bear on circumstances necessary for the existence of the crime*, but on *circumstances, states or situations on which its non-existence depends*, i.e. the prevention of socially dangerous consequences (self-instigation, quality the means used for this purpose, the conditions for carrying out the activity, etc.). This error *on the possibility of preventing consequences* allows the existence of *guilt in the form of lenience*, only if the crime can also be committed through fault. In order to understand the *mechanism of the influence of the factual error on guilt, it is necessary to determine those circumstances, states or factual situations whose knowledge is necessary for the existence of guilt*.[2]

However, it is known that not all the circumstances, states or situations in which a certain deed is committed are important for its characterization as a crime. In the case of the crime of murder, for example, the use of *one mean or another* to illegally take a person's life, as well as a series of circumstances related to the *place or time of the act*, etc. they have no importance in considering the fact as a state. However, it is not about such circumstances, but about those whose presence is necessary for the

[1] Ferrando Mantovani, Diritto penale, parte generale, secondo edizione „CEDAM", Padova, 1988, p. p.349

[2] L. Biro, M. Basarab, *op. cit*., (2), p. 154; A. A.Pionkovski, *Studiul asupra vinovăţiei, op. cit.,* p. 133; I. Oancea, notă în J.N., nr.1/1956, p. 145; Alexandru Radulescu, notă în *L.P*., nr. 3/1961, p. 96.

existence of the crime. In establishing these circumstances, there can only be the criterion of the law in our criminal law. The criminal law determines for each individual crime what are those *circumstances, states or situations* that are characteristic and therefore *necessary for the existence of the crime*, where *the error on one of them influences the guilt in the commission of this crime*. Therefore, these circumstances, states or situations cannot be divided into essential and non-essential. For a fuller understanding of the *mechanism* by which *the factual error influences the guilt*, as well as the *degree of this influence*, we consider it useful to appreciate the fact that the examination of the error on the *circumstances, states or situations*, and in connection with the *elements of the crime*[3].

Moreover, under this aspect, it should be mentioned that the factual error can be *invincible* or *culpable* (vincible). The effects of the error are somewhat different in the two situations. Thus, if the error is *invincible*, it completely exonerates from liability, *regardless of whether the act committed was done intentionally or by mistake.* For example, in the case of art. 218 Criminal Code (R. Moldova) (sexual intercourse with a minor), if the author was in an *invincible error* regarding the age of the minor with whom he had sexual intercourse - as happens when, in relation to her physical development, the author could not realize that she is not 15 years old - he will not answer for any crime.

If, however, *the error was due to the fault of the author, it will remove the possibility of holding the accused responsible for an intentional crime, but leaves open the way for him to be held liable for a culpable act*, to the extent that the act committed is also criminalized in this manner. For example, during a hunting party, a participant notices movement in a bush and fires a gun, convinced that there is an animal there, although in reality it was a person. in this case, the error is due to the fault of the author who did not make sure that it was really an animal. Consequently, the error will exonerate the liability for the intentional act, but the perpetrator will be held liable for manslaughter. If the deed is not criminalized and in the event that it was committed through fault, the author will be completely exonerated from liability, even if the error was culpable. Returning to the first example, in the case of the sexual act with a minor, even if the error regarding the age of the minor was due to the perpetrator's fault, he will not be held criminally responsible because the crime committed is criminalized only in the manner of committing it with intent.

In most cases, *the failure to foresee a state, situation or circumstance* (unforeseen fault) or the *easy hope* that the harmful results of an action or inaction *will not occur* (premeditated fault) is *due to the fault of the perpetrator*, as he *did not inform himself sufficiently on the circumstances in which he carried out his conduct, or acted recklessly or recklessly, although he had to take them into account*. For example, in the case of *unforeseeable fault* - it is possible that the perpetrator, as the attending physician of a patient, as we mentioned before, administers to him

[3] Ludovic. Biro, Matei. Basarab, *Curs de drept penal*, al R.P.R., Ed. "Didactică şi Pedagogică", Bucureşti, 1963, p.420; G. Antoniu, *Eroarea de drept penal,* Revista de drept penal Nr. 1, Bucureşti, 1994, p. 29, Gaston Ştefani, George Levasseur, Bernard Bouloc , *Droit pénal général*, treizième édition, „Dalloz", Paris, 1987, p. 424-425; R. Merle, André Vitu, *Traité de droit criminel*, Tome I 5e, Editura „Cujas", Paris 1984, p.428; R. Garraud, *Traite theorique et pratique du droit penal francais*, Tome premier, treisieme edition, Sirey, Paris, 1913, p. 605, Reinhardt Maurach, *Deuîsches Sîrafrecht, Allgemeiner Teii, 3, Auflage*, C.F. Muller Karlsruhe 1965, p. 237; ; Donnedreu de Vobres, *op.cit.,* p. 84:, Giuseppe Bettioi, Diritto penale, parte generale, „Ottava edizione", CEDAM, Padova, 1973, p. 464; Williams; Hans Heinrich Jescheck, Lehrbuch des Strafrechts. Allgemeiner Teii, vierie Auflage, Duncker und Humblot, Berlin, 1988, p. 278; Hermann. Blei, *Strafrecht I Allgemeiner Teil*, Ed."C. H. Beck", Munchen, 1983, p. 215.

a medicine dosed wrongly by the pharmacist, with the full belief that the medicine is useful and to cause *serious injury to the patient by mistake*. Obviously, the doctor *was not at fault for the act* committed, as *he could not foresee either the pharmacist's mistake or the harmfulness of the medicine*.

In the case of *premeditated fault*, the error occurs when the perpetrator, although he *behaves carelessly* in terms of the assessment of the circumstances on which the possibility of preventing the harmful result depends, and it will be proven that he was still in error *in relation to a situation, circumstance or state, on which the criminal nature of the act would depend*. Thus, it can be noted that he will benefit from the error excuse, the perpetrator who, engaging in a dangerous car race, on a busy road, in the hope of avoiding any danger due to the exceptional qualities of the vehicle or his driving skills, produces a serious accident due to a *vehicle breakdown*, which he thought had been fixed a short time before. In this way, the *error removes the criminal nature of the act* that cannot be imputed to the perpetrator, when *it is not due to his own fault*. Thus, if a driver, after ta*king the vehicle from the inspection and being assured that the technical control that he was required to have been carried out*, starts driving, and while driving, the steering bar breaks, which results in an accident resulting in death to a person, *is not liable for manslaughter thus produced.* His liability is removed because no fault can be imputed to him in causing the victim's fault; he took over the car with the certainty that the control had been carried out, which in reality had not been carried out or had been done improperly. *This error,* however*, can be due to the fault of another person*, who, by misleading the agent (delusion), caused an erroneous representation in his mind. The deception can be *direct*, when the provocateur acts directly on the provoked, or it can be *indirect*, mediated when the provocateur uses certain means to cause the error (for example, changes the meaning of a road sign, or changes the content of a medical prescription). If *a person intentionally caused his error,* the person who caused the error will be liable for the acts committed by the person in error (for example, for the forgery committed by the notary, which generated the commission of another crime of forgery or tax evasion. In this meaning that if *the error caused was avoidable*, and *the agent should and could have verified the situation presented by the provocateur, he will be liable for the crime committed through negligence* (for example, the agent who received a gun, which he was told was not loaded , without verifying the statement, directs it at a person and kills him), will be liable for the crime of negligence. And if t*he error came directly from the culpable manner of behavior of the agen*t, he will also be responsible for a crime committed by negligence ( if the law criminalizes that act)[4].

*Speaking further about the incidence of the factual error in the case of the aggravating circumstances of the crimes committed due to imprudence or fault*, certain acts provided by the criminal law can be committed with guilt in the form of fault according to art. 190 para. 2 Criminal Code of the Republic of Moldova, and in art. 30 para. 2 of the Criminal Code of Romania, provisions are provided that regulate the incidence of error in the matter of *intentional crimes and their aggravating circumstances,* and they also apply to acts committed out of *fault* that the law punishes, only if *ignorance of the respective state, situation or circumstance it is not itself the result of the perpetrator's fault*[5].

Thus, according to art. 30 para. 2 of the current criminal legislation of Romania, the factual error can

[4] Padovani, *op. cit.,* p. 280; Mantovani, *op. cit.,* p. 344; Pannain, *op. cit.,* p. 671; Merle, Vitu, *op. cit.,* p. 428; Stefani, Levaseur, Bouloc, *op. cit.,* p. 424; G. Antoniu, *op. cit.,* p. 28

[5] V. Dongoroz, *op. cit., Tratat,* p. 419.

also have the effect of removing the aggravating character (of the aggravating circumstances) of a deed committed due to fault, if at the time of the commission he, the perpetrator, *did not know or was wrongly aware of the state, situation or circumstance on which the legal aggravation of the act depends*. And in order for the error to remove the aggravated nature of a deed committed through fault, the following conditions must be met [6]:

1. Therefore, *the crime of imprudence or fault*, in connection with which the error occurs, should be provided by the criminal law not only in a simple form but also in an *aggravated manner*. The criminal code in force criminalizes a series of acts committed by imprudence in the form of negligence or fault without provision, in both forms, such as *body injury due to imprudence or fault, destruction by imprudence or fault or negligence in the service*, etc.

2. Through his act, the person invoking the error must have produced socially dangerous results that *characterize the aggravated form of the act due to imprudence or fault*.

3. The perpetrator must demonstrate that he was in error in connection with any state, situation or circumstance on which the occurrence of the negative result that characterizes the act in its aggravated form depended, for example in the case where the author of a destruction proves that he did not he knew, or he knew wrongly, a circumstance that depended on the amplification of the damage caused up to its actions and implications.

Of course, the factual error on the *aggravating circumstances* will produce the same effects of *partial annihilation of the criminal liability* even if they have a judicial character. In this hypothesis, the error *will not completely remove the criminal liability* for the committed deed, but it will remove the aggravating effect of the legal circumstance, *contributing to the individuality of the criminal liability* and the fixing of a punishment that correctly reflects the seriousness of the deed and the *real degree of guilt of the perpetrator* [7].

It is generally accepted in the theory of criminal law and in the legislation that a *circumstance that the perpetrator was not aware of at the time of committing the act does not constitute an aggravating circumstance* of the crime committed. *The factual error excludes in this case the aggravated character* of the crime which can only exist under its simple aspect. The factual error can influence the guilt, even when it exists in the form of imprudence or fault, under the double condition that the deed committed in such circumstances constitutes a crime, and when it is committed due to imprudence or fault, there will no longer be a factual error, because the deed to be imputed to the perpetrator himself as a result of his imprudence or fault [8].

Speaking further about the incidence of the factual error in the case of the aggravating circumstances of the crimes committed due to imprudence or fault, certain acts provided by the criminal law can be committed with guilt in the form of fault according to art. 190 para. 2 Criminal Code of the Republic of Moldova, and in art. 30 para. 2 of the Criminal Code of Romania, provisions are provided that regulate the incidence of error in the matter of intentional cri-

[6] I. Tanoviceanu, V. Dongoroz, *Tratat de drept şi procedură penală*, vol. I, *op. cit*., p. 673; V. Dongoroz, *op.cit.,* p. 423; *T. Pop Drept penal comparat. Partea generală*, vol. II, Cluj, 1923, p. 469. V.Dongoroz, *op. cit*., p. 318, L. Biro şi M. Basarab, *op.cit.,* (2), p. 143, nota 1; V.Papadopol, în *L.P.* , nr. 8/1856, p. 901-914.

[7] L. Biro, M. Basarab, *op.cit.,* (2), p. 154;; A. A. Пионтковский «Учение о преступлении по совецкому уголовному праву», Москва, 1961., p. 133; В.И. Якушин «Ошибка и значение ее установления в уголовном праве», Издательство Казанского Университета, 1988, p.29.; I. Oancea, notă în *J.N.,* nr.1/1956, p. 145; Alexandru Radulescu, notă în *L.P.,* nr. 3/1961, p. 96.

[8] V. Papadopol, *op. cit.,* Speţa. Proca în *J.N*., nr. 7/1964, p. 908.

mes and their aggravating circumstances, and they also apply to acts committed out of fault that the law punishes, only if ignorance of the respective state , situation or circumstance it is not itself the result of the perpetrator's fault.

Thus, according to art. 30 para. 2 of the current criminal legislation of Romania, the factual error can also have the effect of removing the aggravating character (of the aggravating circumstances) of a deed committed due to fault, if at the time of the commission he, the perpetrator, did not know or was wrongly aware of the state, situation or circumstance on which the legal aggravation of the act depends. And in order for the error to remove the aggravated nature of a deed committed through fault, the following conditions must be met:

1. Therefore, the crime of imprudence or fault, in connection with which the error occurs, should be provided by the criminal law not only in a simple form but also in an aggravated form. The criminal code in force criminalizes a series of acts committed by imprudence in the form of negligence or fault without provision, in both forms, such as bodily injury due to imprudence or fault, destruction by imprudence or fault or negligence in the service, etc.

2. Through his act, the person invoking the error must have produced socially dangerous results that characterize the aggravated form of the act due to imprudence or fault.

3. The perpetrator must demonstrate that he was in error in connection with any state, situation or circumstance on which the occurrence of the negative result that characterizes the act in its aggravated form depended, for example in the case where the author of a destruction proves that he did not he knew, or he knew wrongly, a circumstance that depended on the amplification of the damage caused up to his actions and implications

## Conclusions

Of course, the factual error on the aggravating circumstances will produce the same effects of partial annihilation of the criminal liability even if they have a judicial character. In this hypothesis, the error will not completely remove the criminal liability for the committed deed, but it will remove the aggravating effect of the legal circumstance, contributing to the individuality of the criminal liability and the fixing of a punishment that correctly reflects the seriousness of the deed and the real degree of guilt of the perpetrator.

It is generally accepted in the theory of criminal law and in the legislation that a circumstance that the perpetrator was not aware of at the time of committing the act does not constitute an aggravating circumstance of the crime committed. The factual error excludes in this case the aggravated character of the crime which can only exist under its simple aspect. The factual error can influence the guilt, even when it exists in the form of imprudence or fault, under the double condition that the deed committed in such circumstances constitutes a crime, and when it is committed due to imprudence or fault, there will no longer be a factual error, because the deed to be imputed to the perpetrator himself as a result of his imprudence or fault.

So, for example, the norm of criminalizing slander stipulates the requirement that the imputable statement could have exposed the victim to a criminal sanction, if the agent is convinced that the statement made does not expose the victim to a criminal sanction, the intention of slander is excluded (if the other alternative hypotheses also , described in the incrimination norm regarding the consequences to which the victim may be exposed, the slanderous statement is not verified); in this case, the agent represents a fact other than the one disclosed in the incrimination norm. Likewise, if the person accused of conceal-

ment is in error regarding the circumstance that the concealed asset comes from an act provided for by the criminal law.

### Bibliographical references


1. TANOVICEANU, I., DONGOROZ, V. T*reatise on law and criminal procedure*, vol. I, op. cit., p. 673.

2. POP, T. *Comparative criminal law*. *General part,* vol. II, Cluj, 1923, p. 469.

3. OANCEA, I. *Note in J.N.*, no. 1/1956, p. 145; Alexandru Radulescu, note in L.P., no. 3/1961, p. 96.

4. PAPADOPOL, V. Op. cit., Speța. Proca in J.N., no. 7/1964, p. 908.

5. BASARAB, Matei. *Criminal Law Course of the Republic of Poland*, Ed. "Didactics and Pedagogy", Bucharest, 1963, p.420.

6. ANTONIU, G. *Criminal Law Error,* Criminal Law Review No. 1, Bucharest, 1994, p. 29.

7. MANTOVANI, Ferrando. *Diritto penale, parte generale.* Secondo edizione "CEDAM", Padua, 1988, p. p.349.

8. GASTON, Ștefani, LEVASSEUR, George. *Droit pénal général*. Treizième edition, "Dalloz", Paris, 1987, p. 424-425.

9. MERLE, V., VITU, André. *Traité de droit criminel,* Tome l 5e, "Cujas" Publishing House, Paris 1984, p.428.

10. GARRAUD, R. *Traite theorique et pratique du droit penal francais*, Tome premier, treisieme edition, Sirey, Paris, 1913, p. 605.

11. REINHARDT, Maurach. *Deuîsches Sîrafrecht,* Allgemeiner Teii, 3, Auflage, C.F. Müller Karlsruhe 1965, p. 237.

12. GIUSEPPE, Bettioi. *Diritto penale, parte generale,* "Ottava edizione", CEDAM, Padova, 1973, p. 464.

13. Williams; Hans Heinrich Jescheck, Lehrbuch des Strafrechts. Allgemeiner Teii, vierie Auflage, Duncker und Humblot, Berlin, 1988, p. 278.

14. HERMANN. Blei, *Strafrecht I Allgemeiner Teil,* Ed."C. H. Beck", Munich, 1983, p. 215.

15. PIONTKOVSKY, A. A. *Teaching about crimes under Soviet criminal law*. Moscow, 1961., p. 133.

16. YAKUSHIN, V. I. *Ошибка и значение ее установния в криминальном праве.* Издательство Казанского Университета, 1988, p.29.

17. PIONKOVSKI, A. A. *Study on guilt*, op. cit., p. 133; I. Oancea, note in J.N., no. 1/1956, p. 145; Alexandru Radulescu, note in L.P., no. 3/1961, p. 96.