THE SCIENTIFIC RESEARCH IN THE MATTER OF CRIMINAL LAW, AT THE 60TH ANNIVERSARY

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Abstract:

In doing a deep analysis of the criminal law in force after 1943, Professor Dongoroz divided the transformations brought to the criminal law in this period into three parts: primary changes, meaning changes that were based on changing the nature of criminal law, from a law that protects the whole society into a law with a class character. The second transformation (general changes) referred to those who aimed to achieve in new ways the general and special prevention and the third category consists of specific changes to the criminal law by changing the content of specific penal institutions.

Making a review of the scientific contributions to the development of criminal science in 15 years of Institute of Legal Research, Professor Traian Ionaşcu, director of the institution, emphasized the contribution to improving the political and social character and of the normative content of the regulations adopted in the 15 years from it's establishment.

Keywords: *law, penal institutions, legal phenomenon, research plans, scientific fight against crime, rigorous application of the criminal law.*

1. In the history of the emergence and development of the knowledge about nature, human beings and society, the scientific research represented a new stage of this development; such a research having occurred for a long time, this being a well-known fact, in the educational activity of the professors or in the research units of the large companies, and later it became a stand-alone preoccupation, a sort of superior generalization of the theoretical and practical activity and set up in independent units.

A similar process occurred also in the field of the legal scientific research which was separated gradually from the educational activity and from the practical activity, still having a certain independence and even own units, designated as Research Institutes or Research Centers.

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The same process occurred also within the scientific research in Romania and since 1950, certain scientific research institutes have been established attached to the Romanian Academy in different fields, among which the Legal Research Institute starting with the year 1954, as units which were independent from the university departments.

For a short period of time, the Legal Research Institute, like other social sciences institutes, was managed by the Faculty of Law and the Academy of Social and Political Science and subsequently, it returned as an Institute of the Romanian Academy.

2. These changes related to the identification of the most suitable solution for the organization of the scientific research, occurred, as known, within some great political, social and economic transformations, under the dominant influence of the Soviet Union, deemed as a liberator of our country under the domination of Nazi Germany; a government of a great democratic concentration was established gradually in the country, under such an influence, Petru Groza (6 March 1945), being a communist majority government at the beginning and later a government entirely composed of the members of the Communist Party and its allies.

Making use of the natural wish of popular masses of the quick uplifting of the country and of the increase of the standard of living of the workers and farmers, as well as of the support granted by the great majority of the citizens to this program, the communist party initiated and undertook a series of reforms, such as: the overthrow of the monarchy as at 31 December 1947, the nationalization of the main production means, the collectivization of agriculture, the reform of education, the reform of the state power body and other reforms, on the chance that the condition of economic backwardness of the country would be remedied.

3. A political and legal instrument in order to determine the masses to follow the program of the Communist Party was represented also by the law, the legislation, especially the criminal laws, through the regulations which imposed a severe repression over the individuals who opposed to the new political programs. In those times, the death sentence was reintroduced in the criminal law for certain serious deeds against order and against the measures initiated by the new government and a more severe labour dictatorship regime was established, for the reason that the class struggle would have escalated as a result of the opposition to the plans of the Communist Party conducted by the middle class and the landed proprietors, and of the political parties of these classes.

A series of criminal laws of this period regarding the protection of the state socialist ownership or of the ownership of the collective households, the estate seizure, the incrimination of certain serious deeds as they prejudiced the actions taken by the party, the introduction of the incrimination analogy in the criminal law, which made possible to sanction certain individuals based upon the similarity of the committed deeds and those actually incriminated, reflected

the policy of the Communist Party of that period, directed to the violent abolition of the former exploitative classes.

During this period, although the Criminal Code of the year 1937 continued to be enforceable, as republished in the year 1948, many existing provisions were amended or supplemented in order to serve as an instrument of the class struggle.

4. A significant influence on the Romanian criminal laws of this period was exercised by the Soviet laws (many translations of the laws and of the comments to the Soviet laws were made, as well as of the Soviet authors), and this influence was not limited to a simple import of ideas, concepts which might guide the new laws and the Romanian criminal doctrine, but it consisted of any suggestions of concrete political measures, as well, consecrated by severe criminal laws of Soviet inspiration.

5. Making a thorough analysis of the applicable criminal law after the year 1943, professor Dongoroz divided the changes brought to the criminal laws during this period in three parts: primary changes, namely those changes based upon the change of the nature of the criminal law, from the law defending the entire society into a law of a class nature. The second category of changes (general changes) refers to those intended to bring into effect the general detention and the special detention in new ways, and the third category consisted of the special changes brought to the criminal laws by amending the content of certain determined criminal institutions.

Among the amendments belonging to the second category of changes, professor Dongoroz enumerated: the limitation of the criminal law by eliminating the contraventions of the criminal law, the establishment of the panels of judgment, the replacement of the criminal liability by an administrative or disciplinary liability, the introduction of the social danger in the definition of the offence (art. 1 para. (2) of the previous Criminal Code), and in the third category, the famous professor enumerated: the new formulation of the purpose of the criminal law, the provisions regarding the defence to criminal liability and the manner in which certain incriminations are formulated.

Although the synthetic analysis of the professor relating to some new manifestations and trends of the criminal laws developed in those times was perfectly justified, it is impossible for us not to remark that they referred to the minor issues of the criminal laws, even if they were very frequent and their exclusion from the criminal law was completely founded.

In relation to the more serious criminal deeds and especially the deeds which subverted the existing regime, the new regulations showed an increasing severity, the limits of punishment being permanently increased and even the death sentence was applied.

6. To be noticed that the death sentence was introduced in the modern laws of Romania as at 24 September 1938, and afterwards its abolition occurred in the year 1948 under the Criminal Code republished, being reintroduced in the

year 1949 (Law no. 16/1949), as well as under the Decree no. 2002/1953, Decree no. 469/1957, Decree no. 318/1958, Decree no. 212/1960.

Likewise, the Decree no. 192/1950 (published in the Official Gazette no. 167 of 5 August 1950), introduced the total seizure of the estate in case of certain offences committed against the state (art. 194-196, 198-199, 207-2012, 2014, 2015-219, 227-229 and 267); at the same time, art. 183 item (3) was reformulated, defining the concept of public property, public unit or organization and other phrases containing the public word. For the offence of the simple form of the embezzlement, the punishment by imprisonment from 2 to 7 years was provided, and for the aggravated form of embezzlement, the punishment of forced work from 2 to 15 years was provided; the participants were punished in the same way as the author, and the attempt was sanctioned similarly to the committed offence.

The Decree no. 79/1952 increased again the limits of punishment for the offence of embezzlement, which were the following: imprisonment from 3 to 12 years for the simple form and imprisonment from 5 to 15 years of forced work for the aggravated form of the offence.

Among the aggravating legal circumstances there was also the organized committing of the deed or a particularly serious crime. That Decree as well, introduced the aggravated form of the offence of professional negligence (art. 242 para. (2). In this case, if a railway accident occurred, the punishment consisted of imprisonment from 2 to 15 years; the limits of punishment were increased for the offence of abuse of office, provided in art. 245, which sanctioned these deeds with imprisonment from 2 to 10 years. According to a Decree issued on 5 August 1950, the Decree no. 183/1949 was amended, for sanctioning certain economic offences, incriminating the intentional destruction, damage of certain production means. The Decree comprised as well, certain procedural amendments regarding the summoning and in relation to the remedies at law used by the civil party; in these cases, the court could rule also on the punishment.

The harshness of these actions was justified in the publications of that time by the escalation of the class struggle and the necessity of defeat by any means (even by means of the criminal law) of the opposition of the classes overthrown and of their parties.

7. The theoretical studies about criminal repression in this period are situated on the same line of thought, as well. Thus, in the Journal of Legal Studies, besides the study of professor Dongoroz that we mentioned, the studies of Mrs. Nicoleta Iliescu, “The issue of incriminating and of sanctioning the preparatory documents”, the study of Mrs. Simona Petrovici, “About favouring criminals”, were published, as well, especially in relation to the crimes against public property and the study of professor Ion Oancea, named “The legal regime of the nature of conduct offence and of the object offence, especially in relation to the offences against the public property”.

The criminal doctrine of this period highlights the revolutionary nature of the decriminalizing actions adopted by the new management (even if they referred to minor offences) and they try to clarify the limits within which the law, in the form of legislation, amends its objectives and the way of action under the influence of the class interests, generally, or in the interest of promoting the needs of the working class and of removing the former exploitative classes from power, having as special objective to build another type of society.

8. Capitalizing the ideas of certain lucid bourgeois attorneys such as: Piccard, François Geny, who demonstrated at that time not only the existence of changes, of the evolution of legal institutions in the course of time, but also the existence of certain items of continuity from a historical age to another and of maintenance of certain institutions, ideas, concepts about the legal phenomenon, a series of studies published during this period approached also the question whether we could identify, in addition to certain immediate changes of the laws compliant with the order of law newly established, some items of continuity of the past structure.

The analysis of these items represented the fundamental subject of the study designated "Foreword", belonging to the academician Ion Gheorghe Maurer, published in the first number of the Journal of the Legal Research Institute of the year 1956, "Legal Studies and Research"[1].

In the content of the study, the author argues in a thorough and documented manner the sentence according to which, the evolution of the Romanian law is not characterized only by an immediate and complete passage from the law of a society based on exploitation to the law of a new society, but it reveals any items of continuity, as well, as a result of the existence of certain needs for regulation, identical from one historical stage to the other.

In this vision, the law is not exhausted by the formulation of normative provisions, however, it considers certain pre-existing realities, namely the fact that they are previous to the rule and respond to certain objective needs. The legislator does not invent rules, but it formulates them only, giving expression to certain objective needs which require a certain regulation or another. The science of law studying the objective laws which act in the field of the legal regulation cannot ignore the fact that, together with the institutions, concepts, the law comprises both changing items from a type of society to the other type, as well as constant items, revealing any needs for regulation common to many types of society, as, besides the economic laws being specific to a social structure, there are also general economic laws which are common to several structures.

9. These ideas which were appropriated and developed by other members of the Legal Research Institute, laid the foundations of the research performed

[1] Ion Gheorghe Maurer, Foreword, Legal Studies and Research no. 5-6 /1956 p. 11 and the following

within the institute, including the foundations of the research in the field of criminal law.

The proceedings of the institute, such as: Criminal liability (1957), Offences against the public property (1963), Amendments of the Criminal code (1962), exactly as those six volumes comprising the *Theoretical explanations of the Criminal Code*, published within the period 1969-1976 and those five volumes of theoretical analysis of the judicial practice 1988-1998, published with the participation of certain important personalities, as well, cooperating actively in the conduct of the research programs of the Institute of Legal Research, emphasized not only the variable side of the regulations and of the new criminal concepts, but also the items of continuity with the theories and ideas having a scientific and deeply democratic content of the previous organizations of the legal life.

During the period in which Ion Gheorghe Maurer was the president of the Council of Ministers, the Institute of Legal Research was regularly consulted regarding the legislative solutions which were foreseen by the state managing bodies, and during these consultations they promoted the above-mentioned ideas, managing to contribute to a certain interception of the extremist, abusive and contemptible tendencies in relation to order and legality, which sometimes manifested even against the will of the president of the Council of Ministers.

10. In this contradictory atmosphere a series of regulations of amending the Code of criminal Procedure were adopted: The Decree no. 338/1948, the Decree no. 206/1953[2] and the Decree no. 212/1960[3], and these amendments referred both to the general part (criminal action, civil action, jurisdiction, transposition and denial of the parties in the criminal trial, precautionary measures), as well as the special part (conduct of the criminal prosecution, bringing to trial, conduct of the criminal trial in the judgment stage, means of appeal, prosecution and judgment of the minor criminals and of the flagrant offences).

11. During this period as well, important amendments were made to the Criminal Code: The Decree no. 44/1953, the Decree no. 141/1953, the Decree no. 212/1960. According to this last decree art. 1 of the Criminal Code is amended by adding another paragraph: "The deed being obviously lacked of importance, not involving a social danger, shall not be deemed as an offence". At the same time, the death sentence is introduced for the most serious offences against the social and state order, in the enumeration of the penalties of art. 24 of the Criminal Code.

Under the Decree no. 201/1953 the section I bis was introduced in the Criminal Code, comprising in art. 209^1 the indictment of the offence of subversion of the national economy and the sabotage counter-revolution, art. 209^2 incriminated the offences of destruction or degradation for counter-

[2] Published in the New Justice (Justiția Nouă) journals no. 6-7/1953.
[3] Published in the Popular Legality (Legalitatea Populară) journal no. 8/1960.

revolution purposes, art. 209^3 incriminated the intentional non-performance of certain obligations, for the purpose of undermining the economic activity. At the same time, very hard penalties are set forth for the crime of betrayal, espionage (art. 194-194^1), transmission of any documents containing state secrets (art. 194^2), the aggravated form being punished by death or by forced work for an unlimited time.

Under the same regulation a new text was introduced [art. 209 item 2 letter c)], which incriminated the public defamation, denigration of the social and state establishment, of the state social and public institutions, committed in an organized way by two or more persons. Art. 216 was reformulated, incriminating the deeds by which the contempt was expressed in relation to our national flag and for which harder penalties were provided.

12. The same severe and exaggerated repression tendency arose also from the content of the Decree no. 212/1960, setting forth harder penalties for the offences of professional negligence, in relation to the value of the prejudice of the public property.

The offence of abuse of office set forth in art. 245^1 was punished more severely, when the crime consisted of leaving the train or of any other deed by which a railway disaster occurred. Any harder penalties were set forth also for committing the offence of bribery (art. 251 of the Criminal Code). A new paragraph was introduced in art. 256, namely the receipt of undue benefits, and in certain cases a harder penalty was set forth[4].

13. As a response against the offences committed by the Romanian citizens who, leaving abroad in order to accomplish certain missions on the part of the state bodies or of the public organizations, refused to return to their country, very hard actions were taken. Such an offence was incriminated in the newly introduced art 196^1, following art. 196. The punishment set forth under the Decree no. 129/1959 for the above-mentioned offence was the hard prison labour, from 5 to 15 years, civic degradation, from 4 to 8 years, the total or partial seizure of the estate.

14. Significant amendments of the Criminal Code and of the Code of Criminal Procedure were made under: The Decree no. 318/1958, amending a great part of the crimes against state security (betrayal, espionage, transmission of secrecy, acts of terror, crime of revolt, crime of armed insurrection (art. 184-228), for which the death sentence or life forced labour was provided. Likewise, hard penalties were set forth for the offences of embezzlement, abuse of office, professional negligence and others (art. 326-322), as well as for the crimes against public property (art. 536^1 to 536^4), in relation to the value of the prejudice caused by having committed the above-mentioned crimes.

Under the same Decree (318/1958), a series of amendments were made also to the Code of criminal procedure, in order to comply with the amendments

[4]Art. 256 para. (3) provided a harder penalty for the offence of illegal exercise of an office.

of the criminal law, as well as of the aggravating tendencies of the penalties in case of certain serious offences committed against the regime instituted in those times.

15. The legislative mobility, the preoccupation for the identification of any new solutions for the amendment of the existing provisions, for the supplement of the content of certain crimes were specific to that period and to the subsequent period as well, all these amendments having as object to transform the criminal law into a political and legal instrument, of establishment of a new society deemed to be more adequate to the requirements of the new political and legal concepts.

16. Taking stock of the contributions of the scientific research to the development of the criminal science during the 15 years of existence of the Institute for Legal Research, professor Traian Ionaşcu, the director of this institution, emphasized the contribution to the improvement of the social and political nature and of the normative content of the regulations adopted during these 15 years from its establishment. The professor mentioned, among the achievements of the new state management, the limitation of the use of the criminal law as a consequence of the restriction of the repression function of the overthrown classes, this process being considered as well, by the decriminalization of certain offences, by the replacement of the criminal liability with the administrative or disciplinary liability, as well as by the intensification of the role of the public influence bodies[5].

As we mentioned above, these transformations in the matter of the criminal law, even if real, considered certain minor aspects of the criminal repression, and referred to any offences which did not involve a significant social danger in relation to tightening up the criminal penalties, which was required for the great majority of the offences set forth in the criminal law, deemed to be dangerous for the new regime, determined to abolish, even by forcing the criminal law, the former exploitative classes, namely the bourgeois and the landed proprietor classes and in a much more intense rhythm.

This hardness of the criminal law, even if driven against the former exploitative classes, unfortunately, made victims not only amongst the persons belonging to the respective classes (unfair attachments, convictions, unjustified subversive economic measures, restriction of liberty for a part of the population etc.), but they reflected also upon other categories of persons (upon the intellectual class whose ideas were contrary to the regime, upon the middle peasants, upon the civil servants etc.), giving rise to a lot of unfairnesses and individual dramas.

[5] Traian Ionaşcu, *Contribution of the Institute for Legal Research to the development of the legal science in the Socialist Republic of Romania and during those 15 years of activity from its establishment,* Legal Studies and Research no. 4/1969, p. 585.

17. Rightfully, on the occasion of the 50 years anniversary from the establishment of the Institute for Legal Research[6], our honourable colleague, Simona Maya Teodoroiu, evoking the past times, wrote that many years would pass until the good and creative past aspects might be revealed, but also what represented an exaggeration of certain new ideas, of a distorted vision about the role of the law during the examined periods.

Our colleague, although she referred to the science of law, generally, in connection with all its branches, the above-mentioned reflections are very valuable as well, for the science of the criminal law, as well as for the criminal law of those times. Indeed, alongside the supporters eager for making their way in life at all costs by using their political membership, there were also scientists and practitioners acting in good faith, being seduced from the beginning by the generosity of the ideas of building up a better society, where "Roses and bread for everyone" should exist.

Unfortunately, the excesses, the injustices, the abuses prevailed over many of the programmatic statements, which remained simple illusions, even if after exceeding the age of the society based on the labour dictatorship and it came to the society based on the moral and political unity of the people.

Under these circumstances, the rejection of the idea of socialist society by the Romanian people and the preference for building up a better society, even under the circumstances of a society based upon the private property, on free competition and market, seemed to be justified.

18. The Institute for Legal Research was taken credit that even under such circumstances and controversies it directed its research correctly on the legal phenomenon, approaching any essential topics which illustrated exactly those items of continuity and of largely democratic resolution of the social problems which our country coped with.

These tendencies of lucidity and competence were materialized also in the legal consultancies provided to the state bodies (Parliament, Government, Ministries), in the approvals given to certain important regulations (even if sometimes the content of these consultations and approvals were not considered), through the agency of the highly scientific studies published in the journal of the Institute for Legal Research, *Legal Studies and Research (*its name was that of Studies of Romanian Law during a certain period), and in the journal drafted in French (Revue des Sciences Juridiques until 1990), through the agency of scientific conferences, symposiums and debates organized by the Institute regarding the latest issues of the legislative improvement (including criminal improvement) and of the doctrine in the matter.

These manifestations should be supplemented with the participations in the international conferences, the scholarships granted to the young Romanian researchers who studied in Canada, France, Germany, the exchange of books

[6] The Institute for Legal Research - 50 years of existence (1954-2004), All Beck Publishing House, Bucharest, 2004, p. 77.

and journals with the large universities and research institutes of more than 60 countries of Europe, North America, Asia, Australia, and also during the mutual visits of the foreign researchers paid in Romania and of the Romanian researchers abroad, based upon certain strict research programs being of mutual interest.

The contribution of the Institute for Legal Research during this period consisted of the fact that it had provided valuable workplaces for certain professors and researchers, who were compromised from the political point of view, but who accepted to submit to the discipline and research plans of the Institute and to participate in the achievement of its research programs.

To notice also the preoccupation of the Institute for Legal Research to keep, to the extent of its possibilities, a certain independence as compared to the excesses of certain party activists.

We could not neglect, among the relatively independent manifestations of the institute during those times, the critical spirit of the proceedings drawn up there, not only in relation to the theories and concepts of the non-socialist countries, but even regarding certain extremist concepts of certain attorneys of the socialist countries, the Romanian researchers invoking, among other issues, the national particulars as the ground of the differences existing in the laws and in the legal practice as compared to certain socialist countries.

This relative possibility of the Institute for Legal Research, of maintaining a certain independence as compared to the political bodies, was due to a great extent to the support received from Ion Gheorghe Maurer, the founder of this institute, who was an awake political personality and having large competence in the matter of law.

19. Under these circumstances of a great political and legal fermentation, the new Criminal Code of the year 1969 was drafted and adopted, which, together with certain compromises with the ideology of those times, comprised also numerous largely democratic provisions, the due importance being given to the principle of the legality of indictment and penalty. Under this issue, it has to be noticed that our criminal law admitted the principle of the analogy of indictment only for a short period of time, maintaining itself firmly on the legality position, even within a period in which this principle was not considered as subordinated to the analogy of indictment as the dominant principle of the criminal repression in other socialist states.

20. Among the regulations of this period, the following have to be mentioned: The Decree no. 154/1970, of amending the Criminal Code and the Code of criminal procedure. The new rules aggravate the criminal liability of the persons who did not return from the mission confined to them abroad (the punishment consisted of the imprisonment from 5 to 15 years, when any state interests were involved or imprisonment from 3 to 10 years, when the confined mission referred to a public interest).

Likewise, the limits of penalty were increased for the crimes against public property, considering the value of the prejudice caused. To be noticed as well, certain amendments of the Code of criminal procedure [art. 27 item 1 letter a), art. 28 letter b), art. 28 para. (4)].

21. During this period (1965-1976) valuable studies and articles were worked out in the field of criminology by the professor Rodica Stănoiu, PhD., a scientific 1st degree researcher (*International legal assistance, Introduction in criminology, Research methods and techniques in the field of criminology*), in the field of criminalistics (the studies signed by Ion Angelescu, Lucian Ionescu, Ion Mircea) and in the field of legal medicine (Gheorghe Scripcaru and Moise Terbancea).

During this period as well, important amendments were made to the criminal law. Thus, under the Law no. 421/1965 the application of the civic degradation and of the correctional interdiction was enhanced, art. 449 was amended under the Decree no. 779/1965 (the termination of pregnancy with the consent of the pregnant woman, the punishment consisted of the imprisonment from 1 to 3 years, and if the termination took place without the consent of the pregnant woman, the punishment consisted of the imprisonment from 2 to 5 years). The Decree no. 886 of 1967 incriminated the taking out of the country or the introduction into the country, of foreign currency exceeding a certain value, the punishment consisting of imprisonment from 1 to 2 years and in its aggravated form from 2 to 5 years; under Law no. 6/1973, art. 18^1 was introduced in the Criminal Code, according to which the deed provided by the criminal law was not considered as an offence if by a minimum prejudice caused to one of the values defended by law and by its concrete content being obviously without any importance, it did not have the degree of social danger of an offence. This regulation as well, reformulated a series of provisions of the Criminal Code, and the Law no. 7/1973 amended certain provisions of the Code of criminal procedure.

Such amendments were made also under a series of regulations such as: Law no. 59/1991 on the social security of Romania, Law no. 105/2000 on the state border, Law no. 678/2001 on human trafficking.

22. The high mobility of the regulations was also significant for the legislative activity of this period, however not being always justified. Thus: the protection of the agricultural real estate was regulated according to the Law no. 59/1974, but also under the Law no. 18/1991. The airline code was amended under the Decree no. 516/1969, but also under the Ordinance no. 29/1977; the forests were protected by the Forest Code of the year 1950, subsequently according to the Law no. 31/1962 and to the Law no. 26/1968; the environmental protection was ensured under the Law no. 9/1973 and under the Law no. 135/1985; the fruit growing was organized under the Law no. 11/1974, but also under the Law no. 348/2003, the grape growing was regulated under the

Law no. 29/1975 and under the Law no. 7/1997; the construction quality was regulated under the Law no. 8/1971, but also under the Law no. 2/1994.

23. This flow of regulations was required by the need for finding quick and efficient answers of certain economic and social processes which actually, would have needed much more time in order to establish and generate probative results. On the other hand, these changes reflected also the lack of commitment and competence of certain professors interested in improving the different regulations quickly, in order to emphasize their personal merits, instead of reflecting more on the regulation solutions. A certain exaggerated fear related to the possible hostile actions of the former exploitative classes is added to this, which caused many valuable professors, who were capable professionals, highly competent technicians, to be marginalized, deemed to be the enemies of the working class in an unfair way or persons who did not deserve any trust in relation to the new realities.

By taking over the power, the working class and the peasantry had neither the ability to manage and to administer a complex economy from the beginning, nor the full trust in the former leadership staff (of whom only a minority part proved to had been hostile to the social order instituted in those times), in order to continue to keep them in their offices and to participate in the performance of the new programs of the economic, social, political and legal development of the country.

This historical dilemma contributed largely to the poor rhythm of economic development, to the extension of the condition of insecurity of the social and material statute of certain categories of persons and to the low standard of living of the popular masses, despite the optimist and exaggeratedly appreciative statements of the party propaganda.

The discrepancy between the official statements and statistics and the reality could not be hidden a long while, so that the working classes gradually abandoned the ideas asserted at one time and started to feel the new order as a burden.

The fact occurred in our country, as well as in other socialist countries together with the Soviet Union, is eloquent. The new generations rejected the socialist ideas, and a minimum occasion was sufficient (not a civil war, as one believed that it would burst if returning to the capitalist society) that the entire frame of the socialist structure be crashed. The classes of workers, peasants, intellectuals, offered no resistance to the forces which overthrew the communist governments, and the realities of the capitalist countries seemed closer to their vital interests than those of the socialist society. The example of our country is eloquent, as well. A series of regulations which amended the Criminal Code and the Code of criminal procedure, such as the Law no. 104/1992, the Law no. 45/1993; including the Law no. 141/1996, comprised large amendments of the regulations worked out in their appropriate time by the previous governments. This time, the legislative amendments tended to eliminate a series of provisions

which were not efficient and satisfactory and, consequently, they did not benefit from the support of the new generations. It is to be noticed that among the discontent persons, there were hundreds of persons who, becoming aware of the West realities, abandoned the socialist ideas and the beliefs of their parents regarding a superior socialist order which would eliminate the hunger, the coldness or the standard of living behind the times forever and for all people.

24. The new realities appeared after overthrowing the past regime in our country, like in the other former socialist countries, did not acknowledge the hope that the return to the capitalist society would mean at the same time and automatically a higher standard of living for the popular masses and that "Roses and bread would be for everyone". On the contrary, the new post-socialist regimes were put in the situation to aggravate the punishments in order to face certain new phenomena, such as the organized crime, fighting drug trafficking and consumption, human trafficking, family violence, breaches of sexual life and other forms of manifestations which were adverse to the order and to the essential rules of life of the citizens. The crimes committed by minors had a special intensity as well, as the level of crimes of this category reached unimaginable levels.

Likewise, the economic crimes, as well as the crimes committed by civil servants reached an alarming level.

In the field of the criminal procedure it was necessary to introduce any new provisions, intended to create an efficient environment for the actions of criminal prosecution, of the judgment on the merits, appeal and second appeal of the cases, and the legal system was permanently broadened and improved, in order to correspond to the new forms and to the increasing level of criminality. Under this aspect, also the efforts of the prosecution and defence to reach a compromise have to be disclosed, setting forth a softer treatment for the criminals who cooperated with the authorities in order to discover and punish certain illegal deeds immediately. Likewise, the newer provisions of criminal procedure have to be disclosed, which might accelerate the criminal trial and provide it with efficiency and elasticity, in order to arrive at the adequate sanction of the deeds of an increased gravity.

25. The massive rise of criminality, in its volume and forms of achievement, have caused the state bodies in the latest years to reflect upon new stricter, more severe measures against criminals, parallel to the broadening and improvement of the legal system, in order to be able to fight these new phenomena.

At the same time, the authorities are interested in the improvement of the ways to prevent the committing of crimes, the intensification of the means of educational influence of those who execute punishments, as well as of those with felonious tendencies.

On the occasion of the 60th anniversary of the Institute for Legal Research, we have to recognize that those expected results have not been yet

produced in the entire country in relation to the rise of the standard of living and to the reduction of the criminality rate, despite the special efforts made in relation to the identification of the most efficient solutions of fighting and preventing the committing of crimes, of increasing the contribution of the institute for the scientific organization of the fight against crimes and of the strict enforcement of the criminal law.

We hope that, in the new political, social and economic configuration of our country, a rise of the standard of living of all citizens shall occur together with an improvement of the economic condition of the country, which shall lead in a decisive way to the decrease of the volume of criminality, to the consolidation of the legal order and to the improvement of operating of the institutions which provide the order and discipline in the social relationships.