

**EMERGENCY ORDINANCE N^o. 31/2002 PROHIBITING
ORGANIZATIONS AND SYMBOLS OF FASCIST, RACIST OR
XENOPHOBIC CHARACTER AND PROMOTING THE CULT OF
PERSONS GUILTY OF CRIMES AGAINST PEACE AND HUMANITY
APPROVED BY LAW N^o. 107/2006 - "THE LEGAL DAMAGE"**

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Summary

In this article is analyzed, in a reflection form, the Government Emergency Ordinance no. 31/2002 regarding prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of guilty persons of crimes against peace and humanity (Official Gazette no. 214 of March 28, 2002), approved by Law no. 107/2006 (Official Gazette no. 377 of May 3, 2006). Also is presented a motion regarding the ferenda law that bring special legal outstanding points of view, but also very important details in terms of historical and social reality, all together creating a legal framework with new elements, complete and able to meet the law rigors at the highest standards.

By using the word "legal fault" from the title of the article, it comes to reveal that Law no.107/2006 which approved the Emergency Ordinance no. 31/2002 on prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity (Official Gazette no. 214 of 28 March 2002) was not made in accordance with Law no .278/2006 (Official Gazette no. 601 of July 12, 2006), within was introduced in the Romanian Criminal Code the institution of criminal liability of legal entities.

Keywords: *fascist organizations, racist or xenophobic, anti-Semitism, Holocaust denial, fascist symbols, racist or xenophobic, crimes against peace and humanity, the Holocaust.*

I. Introduction. Given the growing number of acts with fascist, racist or xenophobic character, I felt the need to develop a detailed study of the legal framework in terms, existing in Romania at this moment, and related case law. I hoped to find those effective means to prevent and combat the phenomenon, meaning instruments and organizations for implementing them. We also held discussions with representatives of organizations, so-called "primary beneficiaries of protection of the law in question ", stopping me to deepen the problem to the one of the minority often attacked in Romania and accused of pursuing its legal interests, but also otherwise, with extraordinary tenacity ... the Hebrew minority.

General expectation was, however, canceled by the existing reality in the legal framework with the two components: the authorities' position on regulation regarding the strict application of the law.

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It was not very difficult to see, going through the Government Emergency Ordinance no. 31/2002 on prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity (Official Gazette no. 214 of 28 March 2002) approved by Law no. 107/2006 (Official Gazette no. 377 of May 3, 2006), that this is "in damage" and the direct consequence of this fact consists in the practical and objective impossibility to prosecute those who violate criminal laws in this field.

Specifically, the provisions of Law no. 107/2006 were not in accordance with Law no. 278/2006, within was introduced in the Romanian Penal Code the institution of criminal liability of legal entities, an institution which would produce full legal effects in three months (90 days) after its publication in the Official Gazette.

Maintenance laws on the legal framework presented above has not been made so far, even though six years have passed from legal incident.

If common sense of the Hebrew minority representatives made that no voice claims were heard, this does not mean that it can be continued and tolerated indefinitely, before a legal company outside the state system, which should not confuse patients with lack of response.

I have the real impression that someone has left Hebrew minority representatives, which has taken all care dues and made every possible effort to implement this law, since its publication in the Official Gazette, to shoot chimeras with blanks. Certainly, rhetorically speaking, its legitimate the following question: Did Jews pursue their interests "dictating laws" in countries of citizenship (where they exist as a minority) which would support them in this cause? If the results are as great as that obtained on the Law no. 107/2006, it is serious and it must react accordingly.

II. Issues of legality. Analyzing how it was adopted the Law no. 107/2006 whit in it was approved O.U.G no. 31/2002 on prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity, we can easily see that this is following the procedure for adoption an organic law, and consequently, the entire character of emergency ordinance in question is that of an organic law.

After the adoption of Law no. 107/2006, enters the Law no. 278/2006 amending and supplementing the Romanian Criminal Code, which brings the novelty institution of criminal liability of legal entities, an institution that began to produce its legal effects within 90 days after its appearance in the Official Gazette.

Since Law no. 278/2006 is also an organic law, it stands to reason that if there is any inconsistency between the provisions of the two organic laws, they should be immediately brought into harmony and legality. Disadvantage in terms of legality is that in the Law no. 107/2006 the acts considered as crimes, when the holder is a individual, is punishable as offenses, when committed by a legal person. Through the subsequent regulations occurred in the Criminal Code (Article 53¹ Kinds¹ of sentences applicable to legal entity and art. 53²). The implementation and execution of alternative sanctions for legal entities), but also Ch. IV.² Penalties applicable to legal entities (Article 71¹ and up to art. 71⁷) and from the Criminal Procedure Code Cap. I¹ Procedure for criminal liability of legal entities³) (Article 479¹ to 479¹⁵) is regulated this single issue, as so the acts committed by the individual and considered to be crimes are also considered as crimes when committed by a legal entity.

It arise the dilemma of priority laws, but without slip aside the legality of their content. We believe that, being two laws with the same rank, the dilemma emerges only regarding the legality of the content, and this is solved by the legal provisions analyze introduced in the Criminal Code of Law. 278/2006, which correspond to all the issues and principles of law that can be discussed in this area, namely:

¹) Marginal denomination of art. 53 is reproduced as amended by art. I, section 13 of Law no. 278/2006.

²) Ch IV was introduced by Article 1 Section 23 of Law no. 278/2006.

³) Ch. I was introduced by art. I, section 222 of Law no. 356/2006.

equivalence and individual criminal liability of individuals and legal entities, the right to free speech, purpose of punishment, etc.

From another point of view, besides the fact that for six years we had two different organic laws of legal provisions for the same regulatory purpose, authorities with responsibilities in application of the Law no.107/2006 were repeatedly informed, given solutions being unacceptable from the legally point of view.

The immediately repair solution to the "legal fault" is that also through an emergency ordinance, Law no. 107/2006 approving Government Emergency Ordinance no. 31/2002 on prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity, to align currently existing provisions in the Criminal Code and Criminal Procedure Code, relating to liability of legal entities.

Another alternative could be a legislative initiative with emergency character, in Romanian Parliament, but it carries the drawback speeding adoption.

We advocate for alternative emergency ordinance because in a state which creates law and is limited by law, this situation must be rectified immediately, taking in consideration the sensitivity and importance of the regulatory domain.

We can develop here many shortcomings of the Law no.107/2006, which can demonstrate the impotence of criminal responsibility of perpetrators, themselves arguing for the urgency to adopt an ordinance, but we reserve the right to explain them in the following chapters.

III. Short comments and explanations of articles of Government Emergency Ordinance no. 31/2002 nr.107/2006 confirmed by law, and the ferenda law. In the following we will try to comment in a brief, but not concise and devoid of substance, each article of the Government Emergency Ordinance no. 31/2002 on prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity, approved by Law no. 107/2006, indicating, where appropriate, why we introduced some specified aspects, apparently unimportant, and why we criminalized certain acts.

Of course, after cover the Section IV. Proposal for *ferenda* law, from this material, you will build in terms our effort to create a framework close to European standards.

Chapter. I. General provisions. In Article 1 the legislator describes the purpose of the Government Emergency Ordinance no. 31/2002 on prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity, as amended and supplemented by Law no. 107/2006, showing that the organizations and symbols with fascist, racist or xenophobic characters and promoting personalities found guilty of committing crimes against peace and humanity are prohibited. However, inciting to national, racial or religious hate, to discrimination and to commit crimes against peace and humanity must be prevented and combated.

To the original text, I introduced, in the phrase "the present emergency law is regulates the prohibition of organizations and symbols with fascist, racist and xenophobic character", also the notion of facts, to give full regulatory object, taking into account the *ferenda* law⁴⁾.

Art. 2 contains four letters and explains, in the Chapter I - General Provisions, the meaning of terms used in its order that, in view of the Romanian legislature, correspond to historical truth, to the prevents and combats of criminal phenomenon and also to social reaction.

To *letter a) of art. 2* it is explained what is understand by the organization of fascist, racist or xenophobic character, specifying that it takes at least 3 people for its composition, temporary or permanent nature of its business being without importance, alike the fact of having or not legal personality. The condition of prohibiting such organizations is that they aim to promote ideas, fascist concepts or doctrines, racist or xenophobic and also violent or hate based on ethnical, racial or religious motives, superiority and

⁴⁾ See Section IV.Proposal of *ferenda* Law, references to art.1 of the Ordinance.

inferiority of other races, anti-Semitism, incitement to xenophobia, recourse to violent for changing the constitutional order or democratic institutions, extreme nationalism. It is shown that in this category it can be included organizations such parties and political movements, associations, foundations, businesses, etc.

It was not intervened on the text at letter. a) of art. 2, through the proposal of *ferenda* law.

To letter. b) of art. 2 are described the fascist, racist or xenophobic symbols, consisting on: flags, emblems, badges, uniforms, slogans, greetings that promote ideas, concepts or doctrines laid down in point. a). The text presents symbols in an exhaustive manner, as so the words "and such other signs" are giving the possibility to take into account also other signs of the same character.

It was not intervened on the text at letter. b) of art. 2, through the proposal of *ferenda* law.

To letter c) of art. 2 is explained what is meant by the person guilty of crimes against peace and humanity, stating that is a person finally convicted by a Romanian or foreign court, by a judgment under the law known for one or more offenses against peace and humanity.

We observe a sine qua non condition that the decision is recognized by Romanian law by an executor procedure. Person guilty of crimes against peace and humanity can also be any person convicted by an international criminal court for war crimes or crimes against humanity.

Do not to make confusion between crimes against peace and humanity and war crimes or crimes against humanity, because they have major differences in terms of both content and procedure of handling and liability.

It was not intervened on the text at letter. c) of art. 2, through the proposal of *ferenda* law.

Letter d) of art. 2 shows a definition of the Holocaust in Romanian legislature vision, that is "systematic persecution and annihilation of state-supported European Jewry by Nazi Germany and also its allies and collaborators from the period 1933-1945". It also shows that during the Second World War, part of the Roma population was subjected of deportation and annihilation.

The drawback of the text above is that, although from the historical point of view, things are clear, today's deniers find flaws in that current territory of Romania no longer correspond to those given at the time of historical governments. Thus, making statements like "there was no been Holocaust in Romania", the perpetrators can not be held responsible after giving statements to criminal courts, by motivating that they did not intend Holocaust denial, they only specify that in Romania today's borders was not Holocaust. Namely, they know that the Holocaust existed in the Romanian historical territories and recognize this fact.

The fact is that deniers capitalizes the lack of strict legal-history and methodology, which, redoubled by the lack of legal maintenance that I was talking a priori, leads to not solid legal solutions and creates bizarre phenomena.

From above, we considered that, by *ferenda* law, text from letter. d) of Article 2 should be amended and supplemented in the form of "systematic persecution and state supported" in "systematic persecution supported by the governments of Romania in the territories administered by them in the period 1940-1945 ..." ⁵⁾. We believe that this statement fully removes the drawback of judicial, expressed previously, and moves the historical truth consisting in the fact that only governments at that time are guilty of participation in the Holocaust in the territories administered by them in that historical period (1940-1945) and should not be thrown stigma over time, nor over the Romanian state, or the generations that followed that period. It is well that Romania recognized that historical governments attended Holocaust, because so, the guilty people of it will remain in memory of the Romanian people just for not ever repeat such atrocities.

Chapter 2. Crimes and contraventions. Article 3 contains three paragraphs which provides the imprisonment limits of an organization with fascist, racist or xenophobic character (from 3 to 15 years, in paragraph 1).

⁵⁾ See Section IV Proposal of *ferenda* Law, art. 2 letter d)

In the paragraph. (2) it is shown that the punishment limits remains the same both by joining the organization or supporting by any form an organization of the kind referred to paragraph (1).

Paragraph. (3) provides that the attempt is punishable. It hasn't been any interference in the text art. 3 within the proposal of *ferenda* law.

Article 4. paragraph (1) discloses the actions prohibited on individual in connection with fascist symbols, racist or xenophobic, stating that: sale, distribution, manufacturing and possession for spreading shall be punished with imprisonment from 3 months to 3 years and the prohibition of some rights. Paragraph (2) of Article 4 provides that public use of the symbols presented in the above paragraph shall be punished with the same punishment.

Paragraph (3) of Article 4 provides again, as formulated, the possibility that the perpetrators can not be held for criminally liable because it states that, if the acts committed in par.(1) and (2) are committed for art or science, research or education, it is not considered being an offence.

For example, the perpetrators said to the criminal investigation bodies that they were in a fashion show and wanted to present "hard lines of the Nazi uniform in comparison with presented lines collections", which is in the interest of art. Or, if it was published in a newspaper an Semitic article, author explanation is that, "in fact, this article forms part of a scientific research that he has just started", but in reality, scientific research does not begin or end in newspapers and also their intent regarding to science is not real. Or, they teach preschool or school children in various subjects such as drawing, mathematics, history, etc., xenophobic or racist, fascist or anti-Semitic things, but it is covered by the interest for education for not being criminally responsible etc..

Here are some situations in law case, which lead us to react, in order to amend and supplement this paragraph, bringing extra conditions which needs to be accomplished additive with interest in art or science, research or education.

So, the text retains the full form of paragraph (3), as supplemented by *ferenda* law, as follows: ... *and interest is expressed in terms of protection of human rights and of protected fundamental values and also in respecting generally recognized historical truth, with the purpose that it will be not repeated perpetration of other crimes against peace and humanity, war crimes or crimes against humanity*⁶⁾.

We believe that by introducing the above conditions it will restrict the opportunity to claim a false interest that hides the true criminal intentions.

Article 5, in current wording, criminalize another offense that can be accomplished in two ways. Apparently, we can be misled, believing, incorrectly, that two offenses are punishable, but in reality, we have only one offense with an alternative material element, that being based on the use of the adverb "or" with disjunctive role the legislature by the legislator. The first way is to promote the cult of persons guilty of committing a crime against peace and humanity and in the second form, promoting fascist ideology, racist or xenophobic propaganda, perpetrated by any means, in public.

Regarding the first form of the offense, I didn't felt that we should occurred and by not having substantial changes, the situation does not involve discussion. Regarding the second form of committing the crime, we felt that should be amended the phrase from the current text "promoting fascist, racist or xenophobic ideology, by propaganda, perpetrated by any means, in public ..." for several reasons: the first would be that fascist ideology, racist or xenophobic is not defined in terms of art. 2, so it is preferable to use established terms- ideas, concepts and doctrines-, they being closer to fascist, racist or xenophobic character. Who can define what a complete and correct what an ideology means, containing the three characters together? Being hard to define is more difficult to promote and perpetrators could complain that propaganda can not be made UNO ICTU, but requires more material acts committed under the same criminal resolution. We would be in the represents of a continued type offense and prosecutions could not occur, even after a "strong conference" that would cover ideas, concepts, doctrines, exposed in public.

⁶⁾ See Section IV proposal of *ferenda* Law, Article 4. letter (3)

A second consideration is that through the phrase "committed by any means, in public" we are in presence of a legal redundancy, according to art. 152 letter e) from Penal Code⁷.

The intervention on the text which enshrines the second form of the offense provided in Article 5 from the Government Emergency Ordinance no. 31/2002, as amended and supplemented, I followed as result the *introduction of a new offense which covers* another great legal vacuum of the present law, namely, lack of act conviction of individual entities to promote in public, ideas, concepts or doctrines fascist, racist or xenophobic, in the sense of Article 2 letter a)⁸.

This law penalizes only the establishment of organizations with fascist, racist or xenophobic character, also joining such organizations, while individuals that promote ideas, concepts, doctrine of the same character can not be held accountable, their actions being not provided for criminal law, which is an essential feature for the existence of crime, along with the other two, social danger and guilt. For example, given the law as it stands, the individual can freely commit such acts, given that the legislature criminalizes only the organization and membership and also the support for any form of organization with this character, which we consider that it is a great escape of the legislature.

Punishment for two offenses, both *ferenda* law and the offense in its present form is that of imprisonment from 3 months to 3 years and interdiction of certain rights.

Article 6 criminalize the offense of negation, an offense with a high concrete danger to public order, because spreads to future generations the educational heritage that it was learnt from the steps of a nation tragedy, namely the Holocaust. Criminalization consists in publicly denying the Holocaust and its consequences, of course using the term "public" is one that helps to effective criminal nature of the offense, causing it. The offense is punishable with imprisonment from 6 months to 5 years and interdiction of certain rights.

I didn't considered that it should intervene in article 6 on the *ferenda* law, because it is perfect complemented with Art. 2 letter d) from the Emergency Ordinance in discussion, on which we don't return, comments being already submitted.

Article 7, by the specificity and sensitivity range of the present law, including specifying that criminal offenses referred to in art. 3-6 should be done, necessarily, by the prosecutor. No interference on the text in art. 7 with *ferenda* law.

Regarding to *Article 8*, we wont resume what we have already explained in Section II. Issues of legality, we will only mention that in the *ferenda* law we removed "legal damage", with consistent provisions of Article 8 of Chapter 2 Crimes and contraventions from the Government Emergency Ordinance no. 31/2002 on prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity with the Law no. 278/2006 within it was introduced in the Criminal Code the institution of criminal liability of legal entities.

Under the proposed *ferenda* law, all the offenses stipulated in art. 8 turns to crime, as so it is obtained an equivalence of criminal responsibility of individual with the legal entity. Clarification made on individual crimes through the proposal of *ferenda* law is already discussed in this study, being found in art. 3-6, which is why we will not return to them.

Note that under the proposed *ferenda* law, in article 8 was been introduced letter c¹) taking into account the same principle of equivalence of individual criminal responsibility with the legal and par. (3) of Article 8 states the prosecutor as criminal investigation body.

Paragraph. (4) Art. 8 is repealed, because facts are not considered offenses.

Types of penalties applicable to legal entities (principal and complementary), and also application and enforcement of alternative sanctions for legal entities will be considered under Art.53¹ and art. 53 in Penal Code.

⁷ Article 152 lit. e) Penal Code: An act is considered committed "in public" when it was committed: by any means on which the offender had realized that the act could reach the consciousness of the public.

⁸ See Section IV Proposal of *ferenda* Law, art. 5

As so, it will also be considered, along with the proposal for *ferenda* law, those already presented in previous sections⁹ and the contents of Chapter IV¹ of the Criminal Code, marginal named- Penalties applicable to legal entities (from Art 71¹. Content of penalty fine and up to art.71⁷, where is provided the content of all additional penalties).

Chapter 3 . Dissolution of legal entity. For the same reasons stated above in Article 8 of Chapter. 2, with changes of the proposal of *ferenda* law, we appreciate that the dissolution of legal entities as additional penalty finds its material base in the current Criminal Code, Cap. IV¹ Penalties applicable to legal entities, thus imposing to repeal provisions from Chapter. 3, respectively Article 9, 10 and 11.

Chapter 4. Obligations of public authorities. Trough the proposal of *ferenda* law, Chapter. 4 would become Capitolul.3 (because it would be repealed), so the art. 12 and 13 would become Article 9, respectively Article 10 of Chapter 3.

Article 9 of the proposal of *ferenda* law describes the interdiction of raising or maintaining, in public places, other than museums, of some statues or statuary, commemorative plaques regarding persons guilty of crimes against peace and humanity. We think that it is easy to see why it shouldn't be perpetuated image or memory of people who have committed such crimes.

Article 10 from the proposal of *ferenda* law establishes in paragraph (1) that is prohibited naming, as those responsible for crimes against peace and humanity, streets, avenues, squares, squares, parks or other public places, and in par. (2) is also prohibited, naming as those responsible for crimes against peace and humanity, organizations with or without legal personality.

Both the paragraph (1), and in par. (2) is intended passing into oblivion of names which, expressed in writing or orally, in different places, on different occasions, brings back in memories of those present, affected by the deeds of the persons found guilty of crimes against peace and humanity, the pain and anxiety.

Prohibitions are not followed by any penalty, nor administrative, or criminal, which is legally very interesting, as so we ask whether and how the authority responds to violate?

One answer could be given only from administrative and civil law, where, under applicable law, any person injured in his right from a public authority may appeal to the legal administrative department, demanding the abolition of harmful act, with the repair of the caused damage. The foregoing is supported by the Romanian Constitution itself, which states in Chapter II. Rights and Fundamental Freedoms, art. 52, the responsibility of authorities.

It is inserted, in the proposal of *ferenda* law, *Chapter. 4 Final Disposals.*

Article 11 is not susceptible by comments. It will go through the content as it was written in the proposal of *ferenda* law¹⁰.

IV. The proposal of ferenda Law . Changes and additions to Government Emergency Ordinance no. 31/2002 on prohibiting organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity, approved by Law no. 107/2006.

With the proposal for the following name: Law no.... regarding combating crime and prohibition of organizations and symbols with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity.

Chapter I. General Provisions

Article 1 is amended and supplemented as follows: "To prevent and combat incitement to national hatred, racial or religious, to discrimination and to commit crimes against peace and humanity, this law

⁹) See Section IV Proposal of *ferenda* Law, art. 8

¹⁰) See Section IV Proposal of *ferenda* Law, art. 11.

regulates the prohibition of organizations, symbols and facts with fascist, racist or xenophobic character and promoting the cult of persons guilty of crimes against peace and humanity".

Article 2 is amended and supplemented as follows – par. d) is amended and supplemented having the content as follows: "d) the Holocaust means the systematic persecution supported by the *governments of Romania in the territories administered by them during 1940-1945* and annihilation of European Jewry by Nazi Germany and the allies and collaborators from the period 1933-1945. Also, during the Second World War, part of the Roma population was subjected to deportation and annihilation. "

Chapter II. Offences

Article 4 is amended and supplemented as follows -par. (3) is amended and supplemented having the content as follows: "It is not considered being an offense the act provided in paragraph (1) or (2), if it's committed for the benefit of art or science, research or education *and the interest is expressed in terms of protection of human rights and protected fundamental values and also in respect for generally recognized historical truth in order not to be repeated commission of other crimes against peace and humanity, war crimes or crimes against humanity*".

Article 5 is amended as follows: "*The act of any person that promotes the public cult of persons guilty of crimes against peace and humanity, as also the act to promote public, ideas, concepts and fascist, racist or xenophobic doctrines, in the sense given by art. 2 letter. a) from this Law, shall be punished with imprisonment from 3 months to 3 years and interdiction of certain rights*".

Article 8 is amended and supplemented as follows:

Paragraph. (1) is amended as follows: "It is criminal and is punishable, under Art. 53¹ and 53 Penal Code conjunct with the provisions of Chapter IV¹ (art 71¹-71⁷ Penal Cod) the following acts committed by a legal entity ":

Letter a) is amended and supplemented as follows: "a) the distribution, sale or manufacturing of fascist symbols, racist or xenophobic, and also possession, in order to spread, such symbols".

Letter b) is amended and supplemented as follows: "b) public use of fascist symbols, racist or xenophobic".

Letter c) is amended as follows: "c) promotion on public of the cult of persons guilty of crimes against peace and humanity, or conducting public activities, temporary or permanent, with the purpose to promote ideas, concepts or fascist, racist or xenophobic doctrines ".

It is inserted the letter. c¹), which shall read as follows: "c¹) *denying in public the Holocaust or its consequences*".

Paragraph (2) is amended and supplemented as follows: "There are not criminal offenses the acts referred to in par. (1). Letter a) and b) if are committed for art or science, research or education *and the interest is expressed in terms of protection of human rights and fundamental protected values and in respect the generally recognized historical truth, in order not to be repeated commission of other crimes against peace and humanity, war crimes or crimes against humanity*".

Paragraph (3) is amended and supplemented as follows: "in the case that offenses are committed by legal entities, the prosecution is carried out, necessarily, by the prosecutor."

Paragraph (4) is repealed.

Chapter III. The dissolution of legal entity is repealed.

Chapter IV become Chapter III - Obligations of administrative public authorities, as follows:

Article 12 of the current Chapter IV becomes art. 9 of Chapter III from the proposal of *ferenda* law, as follows: "*It is forbidden to raise or maintain in public places, except in museums, of statues, statuary, commemorative plaques relating to persons guilty of crime against peace and humanity*".

Article 13 of the current Chapter IV becomes art. 10 of Chapter III from the proposal of *ferenda* law, as follows: (1) *It is forbidden giving the names of persons guilty of crimes against peace and humanity to*

streets, avenues, squares, squares, parks or other public places. (2) It is also forbidden, giving the names of those responsible for crimes against peace and humanity to organizations with or without legal personality.

Insert *Chapter IV - Final disposals*

It is inserted art. 11 which will have the content as follows: The provisions of current law shall be supplemented, where appropriate, with disposals of Criminal Code and Criminal Procedure Code, with Law no. 31 of 1990 regarding commercial companies, republished, with subsequent amendments, with the Government Ordinance no. 26 of 2000 regarding associations and foundations and political parties Law no. 27 of 1996 with the subsequent amends and supplements.

V. Conclusions

Instead of conclusions, we see fit to do a proposal, this time not about *ferenda* law, but one with practical application, direct, including the establishment of interdisciplinary courses for magistrates called to apply the statutory provisions.

Specifically, material courses specializing, so necessary today when dilettantism is found everywhere.

These should include subjects like: history, constitutional litigation, legal methodology, legal protection of human rights, administrative law, especially criminal law, maybe others.

Finally, an approached kind to magistrate's courses should be also followed by a large part of civil society, which also should make efforts to publicize a healthy law in this area, so that, the ignorant people would tie the criminals and could not be manipulated.

References:

- 1) M. Constantinescu, A. Iorgovan, I. Muraru, E.S. Tanasescu, *Revised Romanian Constitution. Comments and explanations*, All Beck Publishing House, Bucharest, 2007.
- 2) S. Deaconu, *Constitutional Law*, C.H. Beck Publishing House, Bucharest, 2011;
- 3) N. Popa, *The general theory of law*- C.H. Beck Publishing House, Bucharest, 2008;