Non Loyal Representation and Assistance – a New Incrimination in the Romanian Law

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Abstract: This study examines one of the new incriminations recently introduced in the Romanian law, incrimination with a qualified active subject, its qualification consisting in his special quality, more precisely, the quality of lawyer or representative of one of the parties in a criminal or civil trial. The introduction of this incrimination was determined by the attitude and behavior of some lawyers that, crossing the line of their specific duties as defenders brought severe prejudices to the party they were defending or representing. The novelty elements consist in the analysis of this new offense, with a focus on the elements that are part of its constitutive content, emphasizing the objective aspect. The work can be useful for researchers in the field, for academics, as well as for the legal practice in the field.

Keywords: Offense; constitutive content; lawyer

1. Introduction

According to the recitals, the unfair assistance and representation "constitutes, also, a new regulation and aims to sanction judicial offenses that have been committed with intent by the persons called to represent or to defend the interests of a person in the framework of a judiciary procedure, committed either through hidden agreements with the adversaries of those they represent in the framework of a judicial procedure. In such cases the interests of the represented persons are often severely affected and, sometimes, irreparable (for example, the lawyer assisting a person in a civil case misleads that person by communicating that he cannot appeal a decision although the law mentions this right, or advises the opponent in the case what steps to take in order to win the case against his client)" (Cioclei, 2009, p. 58).

Concretely, the offense to be examined consists in the deed of the lawyer or of the representative of a person who, in fraudulent agreement with a person with opposed interests in the same case, in a judicial or notarized procedure, damages the interest of the client or of the represented person.

In the case of par. (2) the offense consists in the fraudulent agreement between the lawyer or the representative of a person and a third party interested in the solution to be given in that case, to the purpose of damaging the interests of the client or of the represented person.

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Regarding the reason for incrimination and the protected social value, recent doctrine claims that "the new offense of unfair assistance and representation has the main objective of protecting the interests of the litigants of potential unfair/abusive conducts of lawyers, who, in non-compliance with their professional and deontological obligations, compromise the interests of the persons they should fairly represent.

In previous regulations, the deed of the lawyer that damaged through unfair representation or assistance the interests of his client was not criminally sanctioned. First of all, such a deed could not be assimilated to a potential work offense or even corruption, because in an explicit provision of the Law no. 51/1995, it is forbidden to assimilate lawyers to the category of public servants. Thus, through art. 39 par. (1) of the Law no. 51/1995 it is mentioned/it was mentioned that, in the practice of their profession, lawyers are protected by the law, without being assimilated to public servants, except for the cases in which the identity of the parties is certified, of the content or of the date of a document. The only thing left was the disciplinarian sanctioning of the lawyer or becoming liable based on professional misconduct (malpraxis).

If we compare to other offensive conducts "more classical", the text is comparable in essence, with the offense of abuse of office or, sometimes, even with bribery, both having in common a faulty performance of "duties" by the person charged by another to exercise them honestly and legally. Thus, it would have been at least unfair that the prosecutor and the judge may be criminally charged (for example, for bribery or, more rarely, for the offense of abuse of office), but the lawyer or the legal representative, that compromises the proper execution of the justice process (and, implicitly, the interests of the person assisted/representative), to be "immune" to criminal charges" (Bogdan, Șerban & Zlati, 2014, p. 384).

For our part, we consider that the incrimination of such deeds commited by lawyers or representatives of a natural or legal person is fully justified, since the incriminated deeds may lead both to compromising the justice process as well as to damaging the interests of a natural or legal person (material or immaterial).

Even if they agree with the necessity of incriminating deeds of such nature, some authors criticize the approach of the Romanian law maker regarding the actions that should be included in the typical sphere of the deed, since the expression used in the content of the norm may generate controversies regarding the sphere of the deeds to which the text is applied (Bogdan, Șerban & Zlati, 2014, p. 384).

Those authors appreciate that "This time too, the law maker proceeded to adapting the texts that have been the inspiration source of the law maker, "adaptation" that generated more confusion than rigor in regulation.

For example, we notice that the national text presents essential differences compared to some of the incrimination texts from other European states that have been the

"model". Thus, in German criminal law (art. 356 German Criminal Code), the "corresponding" incriminating text incriminates, as basic form of the offense of *treason of the party (ger. Parteiverrat),* the deed of the lawyer or of the legal representative of another person (For example, *legal counselor)* that offers the party with opposed interests advice or legal assistance in relation to aspects that constitute the object of the legal assistance contract (or mandate) concluded with the first party. Only at paragraph (2) of art. 356 of the German Criminal Code there is a punishment mentioned for that person who, in fraudulent agreement with the party with opposed interests, acts to the damage of the party he represents.

So we notice that the German Criminal Code is much larger, sanctioning as abstract danger offenses the breach of the lawyer's obligation or of another legal representative of offering legal assistance *lato sensu* to the parties between which there is a conflict of interests [art. 356 par. (2) German Criminal Code]. The text does not limit, though, its application to the condition of this unfair conduct taking place in the framework of a judiciary or notarized procedure and does not require that the opposed interests of the parties appear "formally" in the same case. Only at par. (2) do we have a text that is more similar to that of art. 284 NCP, with the difference that the typical aspect of the deed is more clearly defined in the case of the German norm. In this sense, we notice that the unfair actions of the agent can be performed in any judicial context in which there can be parties with opposed interests (so not only in a judicial or notarized procedure, but also in the case of some extrajudicial negotiations), but that this conduct must not cause an actual damage [problematic requirement of typical aspect at art. 284 par. (1) NCP], but it is sufficient that it is contrary to the interests of the client" (Bogdan, Șerban & Zlati, 2014, p. 385).

As we mentioned previously and as the title of this research shows, the examined offense was not included in the 1969 Criminal Code. As claimed in the doctrine (Trandafir, Rotaru & Cioclei, 2016, p. 168), the incrimination text is inspired by similar regulations from some European Union member states, as it is the case of art. 380 and 381 from the Italian Criminal Code, art. 467 of the Spanish Criminal Code, art. 370 of the Portuguese Criminal Code, and §356 of the German Criminal Code.

2. Pre-existing Elements

2.1. Legal Matter

The legal object consists in the social relations that regard the activity of performance of justice, relations that also involve the fair assistance and representation of natural or legal persons.

In *subsidiary* the rights and interests of natural or legal persons involved in a judicial or notarized procedure are defended.

2.2. Material Object

The examined offense does not have a *material object.*

2.3. Offense Subjects

The active subject of the offense is contextualized as only the person with the quality of lawyer or legal representative of a natural or legal person that he assists or represents in a judicial or notarized procedure.

The lawyer is a natural person that obtained this quality based on the provisions of rhe Law no. 51/1995 regarding the organization and the performance of the profession of lawyer[1], with all including subsequent amendments and additions and that is registered in the table of one of the country's bars, bar part of the National Union of Romanians Bars.

We also appreciate, like other authors (Oprea, 2015, p. 507), that the quality of active subject of this offense can also be the member of a bar from another country, that practices the lawyer profession in the terms of art. 13 of the Law no. 51/1995, after passing an exam of knowledge assessment of the Romanian law and Romanian language, organized by U.N.B.R.

Also, we appreciate that the quality of active subject of this offense will be the lawyer that comes from a European Union member country or the European Economic Area that practices, in Romania, the profession of lawyer in accordance with the provisions of Chapter VIII (The practice in Romania of the profession by the lawyers that obtained a professional qualification in one of the European Union member states and of the European Economic Area) of the special law.

Concerning the quality of active subject of this offense of the person that does not comply with the conditions mentioned by the special law to have the quality of lawyer, as it is the case of the suspended lawyer or of the person that is part of another professional organization than U.N.B.R., the recent doctrine expressed two contrary opinions.

One of the opinions claims that the person that does not have the quality of lawyer in the sense of the provisions of the Law no. 51/1995, cannot be an active subject of this offense, and another opinion claims the opposite.

Thus, it is appreciated that "to the extent to which such a person creates the appearance of the legal practice of the profession of lawyer for everybody, the deed generating a human error concerning the quality of the person who committed the offense, we consider that such a person can be the active subject of the offense of unfair assistance and representation, the fact that he practices the profession without having the right to do so not being an obstacle for committing an offense by exercising that particular profession (more precisely, the fact that he does not

[1] Republished in the Official Monitor of Romania, Part I, no. 98 of 7th of February 2011.

actually have the quality of lawyer not protecting him from criminal responsibility that, in agreement with the opposed party or with a third party, damages or jeopardizes the interests of the person that it represents)" (Neagu, Dobrinoiu, Pascu, Hotca, Chiș, Gorunescu, Păun, Dobrinoiu, Neagu & Sinescu, 2016, pp. 478-479).

Furthermore, another author appreciates that, in such a case, "the claimed lawyer will be responsible for two offenses in real conjuncture of offenses, the offense of practicing a profession or an activity without the right to do so (art. 348 C. pen.) and the offense of unfair assistance and representation" (Oprea, 2015, p. 507).

In another opinion, it is claimed that "If a person claims that he is a lawyer and, upon this occasion, damages the interests of the person that he assists or represents in a judicial procedure, other offenses will be retained (for example, practicing a profession or an activity without the right to do so– art. 348 C. pen. corroborated with art. 26 of the Law no. 51/1995; fraud – art. 244 C. pen.), and not unfair assistance and representation" (Trandafir, Rotaru & Cioclei, 2016, p. 169).

Other authors show that "In principle, legal assistance or representation must be performed in accordance with legal provisions, because only in that case can there damage to the interests of the person assisted/represented. If not, any action of the claimed lawyer or representative, even damaging, will be paralysed, this being performed in non-compliance with legal provisions. Thus, from this perspective, the provisions of the Law no. 51/1995 will be mostly relevant, related to the quality of lawyer, the provisions of art. 80-89 NCPC and the provisions of art. 88-96 NCPP concerning the possibilities of representing the party or other similar provisions in special laws" (Bogdan, Șerban & Zlati, 2014, p. 385).

In our opinion, the person that does not the quality of lawyer gained in accordance with the provisions of the special law, being the active subject of other offenses such as the practice without right of a profession or of an activity, in conjucture with the offense of fraud.

The second category of active subjects of the examined offense is the representative of the natural or legal person in the framework of a judicial or notarized procedure.

Acording to Romanian law, "representation may be legal, conventional or judiciary" (Oprea, 2015, p. 508).

Acording to Romanian law, "The quality of representative is detained by the *principal* who gained this quality based on a mandate contract concluded with the person he represents.[1].

The quality of *legal representatives* of the persons lacking legal competence (minors under 14 years of age and those placed under legal interdiction), as well as the

[1] Art. 85, art. 86 and art. 87 C. proc. civ. regulates the form of the mandate, the general mandate and the content of the mandate.

persons with limited legal competence belongs to the *parents, tutor, curator or specila curator"*. (Oprea, 2015, p. 509).

Taking into consideration the provisions of art. 84 par. (1) C. proc. civ., legal persons can be conventionally represented in the courts of law only by a *legal counselor* or lawyer, in the provisions of the law.

Since, in accordance with the provisions of art. 1 of the Law no. 514/2003 regarding the organization and the practice of the profession of legal counselor[1], the *legal counselor* has attributions that regard the legitimate rights and interests of the state, of central and local authorities, of public institutions or of public interest institutions, of other public law legal entities, as well as of private law legal entities whose employees they are, he may also be the active subject of the examined offense.

As it was claimed in recent doctrine, "A special situation is that of the *mediator,* designated by the parties according to the Law no. 192/2006 regarding mediation and the organization of the profession of mediator[2].

Taking into account the current provisions of art. 284 C. pen., we also believe that the mediator cannot be the active subject of the offense.

Recent doctrine emphasized a few aspects that converge towards the necessity of criminal sanctions for the mediator, such as:

„ – the mediation procedure can be finalized with an agreement of the parties in conflict, in which case a written agreement can be drafted, that will include all the provisions agreed upon by the parties and that has the value of a document under private signature [art. 58 par. (1) of the law];

- the mediator knows all the aspects of the litigation between parties, has access to confidential information;

- the mediator cannot assist or represent the parties in a judicial or an arbitration procedure but, in case the prejudice is produced during the mediation procedure that is finalized with the end of the litigation between the parties, the rights of one of the persons can be affected permanently;

- the lawyer or his representative may intervene in the mediation procedure, according to art. 52 of the Law no. 192/2006, even if there is no judicial procedure in course, so that the premises of the offense of unfair assistance or representation could be created" (Oprea, 2015, p. 511).

Based on the arguments presented above, the author appreciates that *de lege ferenda* is imposed to "complete the provision of incrimination at art. 284 C. pen., with par.

[1] Published in the Official Monitor of Romania, Part I, no. 867 of 5 December 2003, with all subsequent amendments and additions.
[2] Published in the Official Monitor of Romania, Part I, no. 441 of 22nd of May 2006, with all subsequent amendments and additions.

(3), that has the following content: *"The same sanction will be applied to the mediator that damages the interests of a person in the mediation procedure, in agreement with a person with opposed interests"*(Oprea, 2015, p. 511).

Criminal participation as co-authorship may exist only if all participants have the quality required by the law. Instigation and complicity are possible.

The main passive subject is the state in its quality of holder of defended social value, and the *secondary passive subject* is the natural or legal person that was assisted or represented in the case of a judicial or notarized procedure.

The place where the offense was committed has no judicial relevance concerning the existence of the offense.

Regarding the time, we mention that the incriminated action must be performed during the performance of a judicial or notarized procedure.

3. Judicial Structure and Content of the Offense

3.1. Prerequisite

The prerequisite consists in the pre-existence of a judicial or notarized procedure in course, as well as of a representation mandate or of a legal assistance contract.

3.2. Constitutive Content

3.2.1. Objective Aspect

In the case of the typical normative modality mentioned at par. (1) *the material element* of the objective aspect is accomplished through an action or an omission that consists in the *damage of the interests of the client or of the represented person.*

Damaging interests "involves any breach, any deterioration, physical, moral or material, brought to the interests protected by the Constitution and the laws in force, according to the Universal Declaration of Human Rights. Therefore, the array of interests (the desire to satisfy certain needs, the preoccoupation to obtain an advantage etc.) to which the text makes reference is very broad, it includes all possibilities of manifestation of a person in accordance with the general interests of society that the law recognizes and guarantees" (Neagu, Dobrinoiu, Pascu, Hotca, Chiș, Gorunescu, Păun, Dobrinoiu, Neagu & Sinescu, 2016, p. 479).

To complete the material element of the offense it is necessary to comply with some *essential requirements.*

The first essential requirement refers to the existence of a *fraudulent agreement with a person with opposed interests, in the same judicial or notarized case.*

The fraudulent agreement with a person with opposed interests consists in "a hidden agreement between the lawyer/representative of the damaged person (having the quality of plaintiff, respondent, civil party, co-respondent etc. in the procedure performed before the court, the criminal investigation institution or the notary) and the person with opposed interests in the same case. If the assisted/represented person knows the content of this agreement or if the agreement, although hidden, is not to the detriment of the assisted/represented person, the requirement concerning the fraudulent character of the agreement will not be met and the deed will not constitute an offense. Also, the opposability of the interests must be examined in its substance, because the mere adverse "positioning" is not equivalent to an opposability of interests (for example, there is no opposability of interests if one of the respondents claims that the deed was committed at a certain hour and the other one claims that it happened at another hour, as long as they both admit that they participated in committing it). In case law it was decided that "The offense of unfair assistance and representation claimed by the aggrieved party G.I. cannot be sustained because, on one hand, as it results from the minutes and even from the statement of the aggrieved party, the fact that the lawyerul I.D. gave up representing his client was due to the tense relations that the lawyer had with the judge in the case and, on the other hand, there is no evidence of a fraudulent agreement between the lawyer and a person with opposed interests. The fact that the lawyer I.D. gave up representing his client is a matter related to the execution of the legal assistance contract and, under no circumstances, a deed that would be circumscribed to the provisions of art. 284 C. pen. [Refer to. *A. Craiova, Criminal section for minors, criminal minute no. 298 of September 11 2015, final (www.rolii.ro)]"* (Bodoroncea, Bodoroncea, Cioclei, Kuglay, Lefterache, Manea, Nedelcu & Vasile, 2016, pp. 852-853).

Another opinion claims that "The requirement of a fraudulent agreement between the person with opposed interests and the lawyer/representative of the other party involved the signing of an agreement (formal or not) through which the latter agrees to "undermine" his client's interests in favour of the former. The fraudulent character of the agreement comes from its hidden character in relation to the agrrieved party and then the behavior of the lawyer/representative.

Such a mention (fraudulent agreement) was necessary to suggest that the text does not cover *de plano* any breach of the obligations of the principal not to assist/represent persons with opposed interests in the same case, but it refers only of the behaviors performed without the knowledge of the persons whose interests should be protected by the author.

Thus, in the case of the lawyer, if the two parties admit that the lawyer assists/represents them both in a judiciary procedure, the lawyer will only breach his professional obligation provided at art. 46 par. (1) of the Law no. 51/1995[1].

The other party of a fraudulent agreement must be a person with opposed interests in the same case.

Most of the times, *the contrariety of interests* will implicitly result in the opposite positions that the two persons (the one damaged through the unfair behavior and the one that is in fraudulent agreement with the lawyer or with the representative of the former) occupy in the judiciary or notarized procedure. Therefore, the respondent and the civil party, the civil party and the party that is responsible from a civil point of view, the respondent and the plaintiff will obviously be persons with opposed interests. But even the persons that occupy the same position in the trial may have opposed interests: respondents between them (one's conviction excludes the conviction of the other), plaintiffs between them. (…)

According to legal provisions, the contrariety of interests must exist in the same case. The expression "in the same case" will receive the common significance of the term, the same trial framework *lato sensu.* The interpretation is also supported by the additional mention of the law maker that the unfair exercise of assistance/representation must intervene in the context of a (and, implicitely, the same) judiciary or notarized procedure. As such, the condition is one of formal nature, the contrary interests of the two parties must manifest in the same trial or in the same notarized procedure" (Bogdan, Șerban & Zlati, 2014, p. 386).

The second essential requirement involves that the fraudulent agreement that affects the interests of the client or of the represented person should intervene during *a judiciary or notarized procedure in the same case.*

This requirement involves the existence of a conflict "between at least two parties with contrary interests (for example, spouses in a divorce procedure, the damaged party and the civil respondent in a criminal trial, the plaintiff and the defendant in a civil trial etc.).

Thus, not any assistance or representation activity of a person is susceptible of leading to the offense of unfair assistance or representation, but only an activity that involves a judiciary or notarized procedure. The activity performed in the field of consultancy or the activity of assistance or representation that do not involve a contrariety procedure (judiciary or notarized) does not constitute the offense of unfair assistance and representation since such deeds, although dangerous for the represented person, do not involve impeaching the achievement of justice. Such

[1] The lawyer cannot assist or represent parties with opposed interests in the same case or in connected cases and cannot plead against the party that it assisted before in relation to the concrete aspects of the litigation.

deeds could constitute general jurisdiction offenses or official misconduct, but not the offense of unfair assistance and representation" (Neagu, Dobrinoiu, Pascu, Hotca, Chiș, Gorunescu, Păun, Dobrinoiu, Neagu & Sinescu, 2016, pp. 479-480).

Another essential requirement involves that the fraudulent agreement is made with a *person with contrary interests.*

The last requirement we mention involves that the incriminated action or inaction produces damage *to the interests of the client or of the represented person.*

The issue of the existence or non-existence of the "damage cannot be put under debate when the unfair conduct has the effect of losing a right (the right to file an action, the right to appeal), the rejection of the action in the civil court, the conviction of the person etc.

Discussions related to the existence of the damage may come up, though, in relation to those unfair conducts that refer to intermediate moments in the judiciary or notarized procedure, unable to produce direct effects on the final solution. For example, will there be damage if the author, in fraudulent agreement with the opposite party, will not invoke, in due time, an exception related to territorial incompetence? In our opinion, of this "unfair" conduct of the lawyer or of the legal representative has not affected the solution in that judiciary procedure, we can only talk about damage in exceptional circumstances. Usually, it would not be credible to claim damage, if the "damaged party" won that particular judiciary procedure" (Bogdan. Șerban & Zlati, 2014, p. 387).

In the case in which, although all essential requirements are fulfilled (fraudulent agreement with a person with opposed interests, a judiciary or notarized procedure in the same case, the agreement is made with a person with opposed interests), the damage to the interests of the person did not happen, we will be faced with an attempt that is not yet punished.

We mention that, for the existence of the typical aspects of the examined offense it is necessary to acknowledge the cumulative fulfillment of the essential requirements mentioned above.

The failure to fulfil one single essential requirement (as presented in the example above), will lead to the inexistence of the offense.

The text in this case is objectionable, as it uses the expression "in the same case" although, in our opinion, the expression "in the same case or in connected cases" should be used, covering a broader range of situations, especially concerning criminal cases.

In the case of the assimilated normative modality mentioned at par. (2) *the material element* of the objective aspect is achieved by the *fraudulent agreement* of the lawyer or of the representative of a natural or legal person with a third party interested in the

solution to be given in the case, with the purpose of damaging the interests of the client or of the represented person.

To complete the objective aspect it is necessary to fulfil an essential requirement that involves that the fraudulent agreement is made with *a third party interested in the case, with the purpose of damaging the interests of the client or of the represented person.*

In recent doctrine, the text was criticized, showing that the "intention of the lawmaker seems to be that of differentiating between the two deeds, by relation to the identity of the lawyer's counter party or of the representative in a fraudulent agreement. Thus, we notice that, in this second form, we are not dealing with a person with opposed interests, but with a third party, exterior to the judiciary or notarized procedure that, however, has certain interests towards the solution to be given in the case.

In our opinion, this intention was poorly achieved, as long as the formulation asymmetries between the two forms lead to other major typical differences.

Thus, if the first paragraph sanctions the effective damage of the interests of the party due to a fraudulent agreement with a party with contrary interests in the same case, the second one mentions that, for the consummation of the deed, *it is sufficient to have a simple fraudulent agreement with a third party with the purpose of damaging the assisted or represented person.* Such a transfer difference is at least unjustified. Thus, we cannot understand why, if the lawyer agrees with a party with opposed interests in the trial, the offense is consummated only if there is an actual damage to the represented party, while, if the fraudulent agreement is made with a third party, it is no longer necessary to have an actual damage, the offense is consummated right from the moment of the fraudulent agreement concluded to that purpose.

Considering these differences, in this case, the execution act will no longer damaging the interests through unfair conduct, but the *conclusion, by the lawyer or the legal representative of a fraudulent agreement with a third party interested in the solution to be given in the case,* with the purpose of damaging the interests of the client or of the damaged person. For this reason, the deed will be commited in this action only through action.

Another major deficiency of the text that may raise interpretation issues is that in the case of art. 284 par. (2) NCP it is no longer mentioned that the unfair assistance or representation activity must intervene in a notarized or judiciary procedure. The text only makes an indirect mention to the notion of cause (*third party interested in the solution to be given in the case).* From our perspective, the fact that the third party does not mention the nature of the procedure cannot be classified as a new involuntary omission of the law maker. So, interpreting the text in a systematic manner, we appreciate that, in this case too, the conduct must take place in a judiciary or notarized procedure" (Bogdan, Șerban & Zlati, 2014, p. 388).

The immediate consequence in the case of both modalities consists in the creation of a state of danger for the performance of justice.

In the case of the typical normative modality mentioned at par. (1) we also have an adjacent immediate consequence that consists in the damage of the interests of the client or of the represented person.

The causal connection in the case of the typical normative modality mentioned at par. (1) must be proven by the competent judiciary institutions, the fact that the incriminated action or inaction caused damage to the client or the represented person must be proved.

In the case of the assimilated normative modality mentioned at par. (2) the causal connection results from the materiality of the deed (*ex re).*

3.2.2. Subjective Aspect

The guilt form with which the active subject acts in the case of the typical normative modality is *intent* that can be *direct* or *indirect.*

In the case of the assimilated normative modality, the guilt form is *direct* intent qualified through purpose.

4. Conclusions

The research of this offense had the intention of emphasizing the importance given by the Romanian law maker to the protection of the interests of the parties in the Romanian criminal trial.

We notice that this incrimination, although new in Romanian legislation, is not singular in European legislation; there are similar incriminations in most legislation of European Union member states.

As emphasized in recent doctrine, we also appreciate that the purpose of this incrimination is to protect the interests of the litigants from potential abusive attitudes and actions (unfair) of some lawyers, who, by blatant breach of their professional obligations, compromise the interests of some persons and, implicitely, the interests of Romanian justice.

The incrimination of such deeds is justified even more since prior legislation did not mention them, and such a deed commited by a lawyer remained criminally unsanctioned.

When trying to find other similar incriminations, we notice that in the current Romanian Criminal Code, this offense presents similar elements (of course, in the limits imposed by the law), with abuse of office or even bribery by a public servant

offenses. It is important to remember that in the case of this offense, criminal investigation starts upon preliminary complaint by the damaged party.

As a general conclusion, we appreciate the utility of incriminating such deeds in the context of defending the interests of the litigants in Romanian criminal trials.

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