

Elena-Ana Mihuț¹: Aspects of Penal Law and Investigation of the Criminal Offence of Theft as Stipulated by the Romanian Criminal Code

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Abstract

Theft represents one of the oldest ways of embezzling goods from the public or private patrimony. As a typical form of criminal offences concerning the patrimony which are committed by stealing, it represents a great social danger in any given historic age. Thus, it is necessary that the judiciary bodies be aware of the main issues concerning the methodology of investigation of this kind of criminal offences, as well as of the nature of the causes and conditions that trigger or favorize the committing of such deeds.

The Romanian Criminal Code stipulates in article 208 theft in its simple form and in article 209 aggravated theft. Simple theft has the following forms: theft of movable material goods, theft of energies or documents; theft of a good that belongs entirely or partly to the doer; theft of a vehicle for the purpose of using it; theft from one's spouse; theft committed by the person who lives with the injured party or is housed by the latter; theft committed by a minor to damage his/herguardian. According to the Romanian legal provision theft consists in "taking a movable good from the possession or custody of another, without the consent of the latter, for the purpose of unjustly appropriating it", certain circumstances being necessary to consider it as an aggravated theft. Activities performed in accordance with the forensic regulations and with the provisions of the Romanian Code of Criminal Procedure must clarify the following general aspects: what is the area of the crime scene, what category do the stolen goods belong to, the circumstances in which the deed was committed with reference to the number of persons that participated together in committing the theft, conditions of place and time, the way of getting on the crime scene. Also, dispositions can be given to perform searches, reconstructions, to present persons and objects in order to have them recognized, as well as tactical activities of hearing persons.

Key words: criminal offence, theft, investigation.

I. General Considerations

The notion of "patrimony" has a larger meaning than the notion of "property",² as it includes not only the property but also all the rights and obligations that have an economic value.

Larceny represents one of the oldest³ ways of embezzling goods from the public or private patrimony. As a typical form of criminal offences concerning the patrimony which are committed by stealing, it represents a significant social danger in any given historical age.

In order to prevent such deeds it is necessary to know the nature of the causes and conditions that trigger or favorize the committing of such deeds and the judiciary bodies must be aware of the main issues regarding the methodology of investigation of this kind of criminal offences.

Taking into account the nature of the goods, the way of operating, the conditions of place and time, theft comes up in various forms, that will cause specific features in the way research is done on the crime scene.

II. Juridic qualification of deeds.

I. The Theft. According to the legal provision, theft consists in "taking a movable good from the possession or custody of another without the consent of the latter, for the purpose of unjustly appropriating it".⁴ It is also a theft the taking in the conditions of alignment 1 of a vehicle for the purpose of unjustly using it.

The possession of movable goods is generally exercised by the owner. By protecting possession, the ownership rights on these goods are also implicitly protected.

The Juridic Object. The generic juridic object of criminal offences against the patrimony, which is also common for the criminal offence of theft, is represented by the social value that the patrimony constitutes and by all the social relationships that are generated, proceed and develop in connection with the respective social value.⁵

The theft has as a special juridic object social relationships regarding the possession and custody on movable goods.⁶ The deed constitutes a theft even if the good belongs entirely or partly to the doer, but at the moment of committing that good was in possession or legitimate custody of another person.

The material object of the theft has the following features:

1. The material object of a theft can only be a movable bodily good. A "movable good" is a good that can be carried, moved from one place to another, without changing its value⁷. Any kind of energy that has an economic value, as well as documents are considered as movable goods.
2. The movable good should be at the moment of the committing of the criminal offence in the possession or custody of another person than the doer⁸. If at the moment of its embezzlement, the good was in the possession or custody of the doer, the deed is not considered as the criminal offence of theft. Such a good constitutes the material object of the breach of trust, if the doer appropriated it, unjustly disposed of it or refused to return it.⁹

The former Supreme Court of Justice of Romania specified through a decision that the deed of one of the spouses of taking from the possession or legitimate custody of the other spouse, without the latter's consent, one or several common goods, for the doubtless purpose of unrightly appropriating them, constitutes the criminal offence of theft as specified by art. 208 alignment 1 of the Romanian Criminal Code.¹⁰

The objective side of the criminal offence of theft consists in taking another person's good without his/her consent, by which damage is caused to the personal estate.

In order for the objective side of the theft to exist, the following three conditions must be met:

1. the deed should consist in the act of taking. "Taking" is the act of getting the good out of the possession or custody of another person and its illicit passing in the actual possession of the wrongdoer. This means that the act of taking has two components: one is the act of getting the good out of the possession or custody of another (dispossession), and the second is the act of placing the good in the actual illicit possession of the wrongdoer (impossession). In the literature of the legal field, there is an emphasis on the necessity of distinguishing between the

two acts in any case, because this is the criterion according to which the deed will qualify as an attempt or as an accomplished act¹¹.

2. the taking should be done without the consent of the possessor or of the custodian of the good. The deed is thus considered as committed both in the case when consent was not given, or when the consent given was not valid. The consent for the legitimate taking of the good must come up before or during the committing of the deed. But if the consent was given after the taking of the good or came from an incapable person, the request concerning the lack of consent is fulfilled and the deed constitutes the criminal offence of theft.

3. the taking of the good should produce as a result damage or a prejudice to the personal estate. The production of the material prejudice is a part of the very nature of the criminal offence of theft, as a material, damaging criminal offence.

The subjective side of the criminal offence of theft is characterized by the intention of stealing, that is of taking another person's good for the purpose of unrightly appropriating it.

The criminal offence of theft is committed with a direct intention, i.e. the wrongdoer foresees the consequence of his/her action and wishes it to produce (pursues its production). In certain cases, besides direct intention there may exist, in the case of theft, also an indirect intention when the stolen good contains another good, the possible presence of which the wrongdoer could have predicted, accepting the possible result of his/her action¹².

As a component of the subjective side, the motive of the criminal offence is very important in determining the individual's criminal liability.

The active subject of the criminal offence of theft can be any person, and the *passive subject* can be a natural person, as well as a juridical person.

The attempted theft is punished by the law through the provisions of article 222 of the Romanian Criminal Code and it exists when the performance of the action of taking a good was initiated, but it was interrupted and not accomplished; the wilful desisting of the doer removes criminal liability.

The criminal offence of theft is accomplished when the action of taking the good and producing the damage¹³ has been completed, i.e. the passing of the good from the actual ownership of the possessor or custodian to that of the doer.

The specification of the moment when the criminal offence of theft was completed is important in distinguishing accomplished criminal offences from attempts and preparatory acts. Thus, acts preceding the criminal offence can constitute only preparatory acts when the action of taking a good was not initiated.

The theft committed against the spouse or against a close relative, or by a minor against his/her guardian, or by the person who lives together with the injured party or is housed by the injured party, is only taken action against if the injured party makes a preliminary complaint. In such cases the reconciliation between the two parties removes criminal liability.

B .Aggravated Theft.

The theft is aggravated when it's committed in the following circumstances¹⁴:

- a) By two or more persons acting together.

This circumstance is considered as aggravating, because it increases the social danger represented by the deed. The working together of several persons contributes to the reinforcement of their decision of committing the criminal offence, it increases the force of action of the wrongdoers, makes them bolder and creates the conditions that allow them to hide more easily the stolen good, or which can reduce or sometimes even annihilate the possessor's possibilities of defence against this criminal activity directed against his/her goods.¹⁵

The request is fulfilled, firstly, when two or more authors commit together the criminal offence of theft, that is they act simultaneously for its execution, having the capacity of authors.

In the case when one or several of the participants have acted as accomplices, the conditions for the existence of this request are also fulfilled, if they have performed an activity simultaneous with that of the author or authors, by which they have facilitated or helped the author/authors to commit the theft.¹⁶

- b) By a person carrying a weapon or having a narcotic substance on him.

This circumstance is liable to increase the degree of social danger of the deed, because the doer that is armed or has a narcotic substance on him feels safer, performs his criminal activity more boldly, knowing that by using the means at his disposal he can immobilise or intimidate the victim or any other person that might interfere, thus ensuring the carrying out of his activity and the removal of the risk of being caught.

- c) By a person that is masked, disguised as their own sex or as the opposite sex.

The aggravating circumstance consists in the use by the doer of a certain means so that he won't be recognized. This means may include: using a mask – the doer covers his face with a mask, leaving only the eyes uncovered; when using disguise – the doer makes himself look or dresses in such a way that he can't be recognized.

By using masks or disguise (as his-her own sex or as the opposite sex), the wrongdoer turns out to be more dangerous, he/she thinks more about the way he/she will fulfil his criminal decision and takes measures so that he won't be identified. Moreover, the procedure used can also have an intimidating effect.¹⁷

- d) Theft against a person incapable of expressing his/her will or of defending himself/herself.

The person incapable of expressing his/her will in the sense of the criminal law is the person who, because of his/her age, of a disease or of certain other circumstances (sleeping, lipothymy, intoxication, etc.) cannot express consciously his/her will and does not have the aptitude of understanding.

If because of a physical infirmity, excessive fatigue, age or other circumstances, the person does not resist the wrongdoer, we are dealing with a person incapable of defending himself/herself.

It is necessary that the doer should have known, at the moment of committing the theft, that he had been committing the deed on a person incapable of expressing his/her will or of defending himself/herself. If the doer did not know about this incapacity of the victim, this aggravating circumstance is not applicable.

It is also necessary that the state of the person should not have been caused by the wrongdoer, because in extreme cases, the deed represents the criminal offence of robbery.

The theft committed on a person incapable of expressing his/her will or of defending himself/herself is aggravated because, on one hand, the deed is more easily committed on such a person, and, on the other hand, the wrongdoer turns out to constitute an increased social danger¹⁸.

e) Theft committed in a public place.

A "public place", in the sense of the provisions of article 209 letter e) of the Romanian Criminal Code is considered to be, according to the explanations contained in article 152 of the Romanian Criminal Code, any place that by its nature or destination is always accessible to the public (for instance: streets, roads, parks, squares), as well as any other place where the public has access but only in certain intervals of time or only in certain occasions (for instance: shops, halls, restaurants, museums, exhibitions, memorial houses).

When the place is accessible to the public only in certain intervals of time or only in certain occasions, in order to consider the deed as committed under the conditions of this aggravating circumstance, it is necessary for it to have been committed while the public had access to that place. The aggravating circumstance specified in article 209 letter e) of the Criminal Code, operates in all these situations, even if during the committing of the theft there were no other persons in that place, because we believe the notion of "public place" to have another content than the one specified in article 152 of the Criminal Code which explains the term of "deed committed in a public place" used also in certain texts in the special part of the Criminal Code.

There is also an opinion that maintains that, in the case of places where the access of the public is allowed only between certain time limits, it is necessary, in order to apply the aggravating circumstance, to have at least two other persons present, besides the wrongdoer.

f) Theft committed in a public means of transport

Public means of transport, as specified by the provisions of article 209 alignment 1 letter d) of the Criminal Code, are those distinct means used to transport several persons together (buses, trolleybuses, tramways, trains, ships, airplanes, etc.).

g) Theft committed at night.

”Night“ represents the interval of time between the fall of darkness and its disappearance, taking into account the concrete circumstances of place, season, etc. in which the deed is committed.

h) Theft committed during a calamity.

The term ”calamity“ designates a disastrous, unexpected or unavoidable event that affects a human collectivity, such as an earthquake, a flood, being snowed up, an extended fire, a serious epidemic, a plane or train catastrophe, drought, etc.

i) The theft committed by breaking in, scaling, or by unrightly using a real key or a master key.

Breaking in consists in violently removing any object or device meant to hinder penetration in a certain space.

Scaling, just like breaking in, aggravates the theft only if it constituted the way of penetrating from outside to the inside, not if it allowed the wrongdoer to get away from the place where the good he stole was.

The theft is aggravated, according to article 209 letter i) of the Criminal Code, also when the deed was committed by unrightly using a real key or a master key.

Thus, an aggravated theft is committed by the person who, in order to take a good from the possession of another, for the purpose of unrightly appropriating it, uses a real key left in the lock of the door.

”The use of a master key“ involves the use of a key that is forged, counterfeited or of another tool by means of which the mechanism of a device of locking can be set in action without being destroyed or degraded.

The Sanction.

In accordance with article 209 alignment 1 of the Criminal Code, the punishment is imprisonment from 3 to 15 years.

The same punishment is applied to:

a) theft committed on a good that is part of the cultural patrimony (article 209 alignment 2, letter a) of the Criminal code)

b) theft committed on a document which is meant to prove the civil status, for legitimation or identification (article 209 alignment 2 letter b) of the Criminal Code).

Stealing documents that serve to legitimate or identify, etc., constitutes a high social danger because such documents are used to determine the identity of the persons and can prejudice the victims from whom they were stolen. Also, the possibility of fraudulently using them denotes the high social danger of the deed.

The theft is further aggravated if its material object is represented by the following goods¹⁹:

- a) crude oil, oil products, gasoline, condensed oil, liquid ethane or natural gases from pipes, reservoirs, tanks or tank waggon;
- b) components of the irrigation systems;
- c) components of the electric networks;
- d) a device or a system of signalisation, alarming or alerting in case of fire or other situations of public emergency;
- e) a means of transport or any other means of intervention in a fire, railway accidents, car accidents, shipwrecks or plane crashes, or in case of a disaster;
- f) equipment for the safety and directing of the traffic on railroads, roads, naval and air traffic and the components of that equipment, as well as components of the corresponding means of transport;
- g) goods by the appropriation of which the safety of the traffic and of the persons on public roads is endangered;
- h) cables, wires, equipment and installations of telecommunications, radiocommunications, as well as components of communications.

The sanction is imprisonment between 4 and 18 years.

In accordance with the provisions of article 208 alignment 4 of the Criminal Code, theft that produced particularly serious consequences is punished by imprisonment between 10 and 20 years.

Particularly serious consequences²⁰ represent a material damage of over 200.000 lei or a particularly serious disturbance of the activity²¹ caused on a public authority or on any of the units specified in article 145 of the Romanian Criminal Code or on other natural or juridic persons.

It is considered as an attempt in the case specified by article 209 alignment 3 the performance of excavations on the land which is in the proximity of the pipe for the transport of crude oil, oil products, gasoline, condensed oil, liquid ethane or natural gases, as well as the owning in those places or in the proximity of reservoirs, tanks or wagon-tanks, of connecting pieces, installations or any other devices of attachment or punching (article 209 alignment 5 of the Criminal Code).

III. The Specific Character of the Investigation of the Criminal Offence of Theft

The research on the crime scene starts as soon as the body of penal action has been informed about the committing of a criminal deed, in accordance with article 221 of the Code of Criminal Procedure, i.e. by means of a complaint or a denunciation, or it must notify itself ex officio when it learns by any other way that a criminal offence was committed.

Thus, the body of criminal action must get the identity data of the person that made the complaint²², the denunciation²³ or the notification. When receiving a notification on the phone, the person is asked, besides his/her identity data, to give information about the deed, as well as about the place from which he/she is phoning. Also, there will be a checking of the phone number to see whether it is the one from which the call was made and whether the person is at the respective place or not.

If the call is made from a telephone box, either a confirmation is asked from the economic or public units that are in the immediate proximity of the place where the criminal offence was committed, or the nearest police crew is directed to the place in question²⁴.

Activities performed by the rules of forensics and in accordance with the provisions of the Code of Criminal Procedure must clarify the following general elements:

- the area of the crime scene, whether it is a public or private property;
- what category do the stolen goods belong to²⁵, the categories being : crude oil, oil products, gasoline, liquid ethane or natural gases from pipes, reservoirs, tanks or wagon-tanks, components of the electric networks, a vehicle, a means of transport or any other means of intervening in a fire, railroad or road accidents, shipwrecks or plane crashes, or in case of disaster, equipments for the safety and directing of the traffic on railroads, roads, naval and air traffic and their components, as well as components of the corresponding means of transport, goods by the appropriation of which the safety of traffic and persons on public roads is endangered, cables, wires, equipments and installations of telecommunication or other movable goods, as well as the fact that the good is part of the cultural patrimony or it is a document that is used to prove the civil status by showing an identity card or by being identified;
- the circumstances in which the deed was committed with reference to the number of persons that co-participated in committing the theft, whether they were armed or not, whether they were masked, disguised as their own sex or as the opposite sex, whether they had a narcotic substance on them, whether it was committed on a person who was incapable of manifesting his/her will or of defending himself/herself, or whether violence or threat were used, as well as the fact that the victim was brought to the state of unconsciousness or incapacity of defending himself/herself;
- the conditions of place and time, for instance: if it was committed in a public place, in a vehicle or public means of transport, during nighttime or daytime or during a calamity;
- the way of penetrating into the respective dwelling or unit, i.e. by breaking in, scaling or unrightly using a real key or a master key²⁶.

With a view to clarifying the problems that the deed poses, there will be hearings of the persons involved in the case, the damaged party, the accused or the defendant and witnesses. Of course, there will be gathered data about the criminal event from schoolmates or colleagues at the workplace, from relatives, friends or persons belonging to the managing staff of the unit, the owner of the dwelling or of the vehicle, or from persons that had to guard the respective buildings, installations or spaces. In this sense we may distinguish the following situations with their characteristics:

1. In the case of theft from dwellings data will be gathered from the victim, relatives, neighbours or other persons that might have knowledge about the deed, such as: where the goods were, whether measures were taken to increase their safety, whether the dwelling was inhabited or not, who had the key or who visited the house regularly or from time to time, what was the programme of those who inhabited the house, if they had seen doubtful persons in the area lately, if they had heard noises, voices or unusual sounds at the time when the theft was committed, what changes are there on the area of the crime scene as compared to the ordinary state, if changes had taken place since the moment of penetrating into the dwelling until the absence of the goods was discovered, what foreign objects were discovered on the crime scene, if he/she suspects someone in particular, if he/she has recognized the wrongdoer, in which case the person that is heard is asked to give the personal description of the doer, as far as he/she knows it.

There will also be established the ways of access into the dwelling, the distance covered by the doer if it can be estimated, the traces discovered, the professional skills of the persons that operated. Of a great importance are also the interpretation of controversial circumstances, such as the absence of signs of using force to open the doors, the presence of certain categories of traces and absence of others that might explain their report of causality, etc.

2. In the case of car thefts and thefts from cars what matters is the nature of goods, where they were left, their quantity, size and characteristics, type of the vehicle, colour and specific features, where it was parked, if the parking place was being guarded or not, if it was endowed with a safety device or not, what transformations did the vehicle undergo or what foreign objects are discovered on the crime scene, if it was seen somewhere in traffic.

On the crime scene one can find traces left by tyres, traces of footwear and clothing, traces of fuels and lubricants, biological traces, and in the case when the stolen vehicle was discovered, traces of substances used for its painting or repainting, traces resulted from the change of the registration number, engine series, abandoned objects or documents, papillary traces, etc²⁷.

The car will be thoroughly described in the record of proceeding, by taking photographs of orientation, sketches of the main objects and of details. If the car is discovered abandoned, its position will be determined, as well as the state of it and the categories of traces found on it and in its immediate proximity.

A special attention is paid to thefts committed on cars waiting at traffic lights or in the columns formed in the traffic, as well as those committed on loaded lorries moving in the traffic.

3. In the case of pickpockets, taking into account the fact that most often these thefts are committed in crowded places, with a lot of fret around, most information can be obtained, for instance, from persons in the immediate proximity of the deed, if it was committed in public means of transport.

In such circumstances action can be taken by groups of people or individuals, using disguised means of cutting materials, so that they won't attract the attention of the people around.

The investigation begins when the doer is caught in the act or after the notification of the victim, starting with the hearing of the victim and continuing by the investigation of the crime scene in detail in order to find out if the stolen goods were not thrown away, so that the doer should not be caught having them on him.

Witnesses will present their identity data to the police officer and the wrongdoer will be taken to the police headquarters where he/she will be heard according to the rules of forensic tactics and by observing the provisions of the Code of Criminal Procedure.

After his/her personal data have been written down, the following stage will be that of preliminary discussions and free accounts; then there follows the stage of questions and answers when the doer is asked who he/she worked with, what was the way of committing the deed, what they were going to do about the stolen goods, where these goods were hidden, if they were sold, who bought them and what was their price.

4. In the case of theft of crude oil, oil products, gasoline, liquid ethane, natural gases from pipes, reservoirs, tanks or wagon-tanks, components of the electric networks, by the appropriation of which the safety of the traffic and of persons on public roads is endangered, cables, wires, equipments and installations of telecommunications or other movable goods, the specific elements of the deed are taken into account. Thus, what matters is how the deed was committed, under what circumstances, how many participants are there, the time interval in which the criminal activity was performed, who is responsible for the guard and safety of these goods and what measures have been taken to prevent the committing of such deeds by those who are responsible.

Regardless of the way of operating and of the nature of the goods that were taken away, usually a wide range of breaking in instruments, tools, machines, devices or other objects specially made for this purpose or adapted to serve the performance of activities of this kind are used.

Enumerating all the housebreaking tools is impossible, because in practice a wide range of instruments are used, from a simple hairpin, a nail, tongs, a hammer, a crowbar, a lorry used to break through a wall, etc. to more accomplished instruments.

As a result, the modifications left by such tools used while committing a criminal offence are various. On the crime scene, besides the traces of reproduction, the instruments that created such traces can also be found. In these situations the traces of hitting, rubbing, pressing, etc. will be retained, as well as the breaking in tools which were discovered. Thus, the record of proceeding drawn up while investigating the crime scene will include the place where the instrument was discovered, the name of the instrument, its colour, its shape and size, the material it is made of and its properties, as well as other specific features or other categories of traces discovered on these instruments.

In the literature of the juridical field, according to the way of operating, the traces of the instruments for breaking in can be created by: hitting, pressing, rubbing, cutting, cutting and stinging, etc.

Besides these categories of traces, on the crime scene there may be spotted traces of reproduction (of hands, feet, etc.), biological traces (blood stains, threads of hair, saliva, spittle, etc.), ropes, objects and remainders of objects, coating of paint, etc.

In the case of the criminal offence of theft, forensic expertises of documents from the point of view of finger-print identification, ballistics, etc. are submitted to technical-scientific tests.

The technical-scientific results and the forensic expertise can clarify different aspects, such as: whether the traces discovered were created by the respective person or instrument, the way the breaking in was performed, the way the traces were formed, the succession of activities in time, whether the traces discovered in different criminal offences are left by the same instrument or by the same person, whether on the instrument there are other categories of traces and what their nature is. In the case when on the crime scene were found fragments of instruments, it can be established whether these are part of a certain object sent to an expert's examination.

In each case, the performance of searches, reconstructions and presentation for the recognition of persons and objects can be ordered.

A lopás büntetőjogi és kriminalisztikai megközelítésének aspektusai a román Büntető Törvénykönyv alapján - Összefoglaló

A lopás a köz- vagy magánjavak eltulajdonításának egyik legrégebbi változata. Mint a vagyoni elleni bűncselekmények tipikus megjelenési formája, valamennyi történelmi korban jelentős veszélyt jelentett a társadalom számára. Ebből következik, hogy a büntetőeljárásban részt vevő hatóságoknak, ismerniük kell az ilyen bűncselekmények kivizsgálásának alapkérdéseit, illetve az elkövetés természetét és körülményeit, továbbá azokat az okokat, melyek szerepet játszanak a bűncselekmény elkövetésében.

A román Büntetőtörvénykönyv 208. §- a tartalmazza a lopás alapesetét, míg a 209. § szabályozza a minősített eseteket. A lopás alapesetei a gyakorlatban a következők: ingó javak, energiák vagy iratok ellopása; olyan tárgy ellopása, amely egészben vagy részben az elkövető tulajdonát képezi; jármű használati célból történő ellopása; házastársak közötti lopás; a sértettel együttlakó vagy tartása alatt álló személy által elkövetett lopás; kiskorú által gyámja sérelmére elkövetett lopás. A román büntető törvény rendelkezése alapján, lopást az követ el „aki idegen ingó dolgot, más tulajdonából vagy birtokából, annak beleegyezése nélkül, abból a célból vesz el, hogy azt jogtalanul eltulajdonítsa”, ezeken túl bizonyos körülmények bekövetkezése szükséges ahhoz, hogy a lopás minősített esetéről lehessen beszélni.

A nyomozástan és a román Büntető eljárási kódex által előírt nyomozási cselekményeknek az alábbi körülményeket kell tisztázniuk: a tett színhelyének vizsgálata, az eltulajdonított javak mibenléte, a bűncselekmény elkövetésének körülményei, a lopás elkövetésében résztvevő személyek száma, helyi és időbeli feltételek, a színhely megközelítési módja. Az ügyben nyomozati cselekményeket, bizonyítási kísérletet, személyek és tárgyak felismerésre bemutatását, illetve kihallgatásokat lehet elrendelni. Tanulmányomban tehát, büntetőjogi és kriminalisztikai aspektusait a román szabályozáson keresztül mutatom be.

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⁴In accordance with article 208 alignment 1 of the Romanian Criminal Code.

⁵A. Boroi, *Criminal Law. The Special Part*, C. H. Beck Publishing House, 2006, p. 182.

⁶V. Dongoroz and contributors, *in the work cited*, p. 458; M. Basarab, I. Moldovan, V. Suian, "*Criminal Law, the Special Part*", University of Cluj-Napoca, 1985, vol. I, p. 181.

⁷See Gh. Beleiu, *Romanian Civil Law. Introduction to Civil Law. Subjects of Civil Law*, The Publishing and Press House "Șansa" Ltd., Bucharest, 1992, p. 89; A. Boroi, *in the work cited*, p.186.

⁸The goods left in the care or under the watch of the wrongdoer do not pass in his/her custody

⁹According to article 213 of the Romanian Criminal Code.

¹⁰The decision of guidance no. 7 of December 7th 1974 of the Former Supreme Court of Justice of Romania.

¹¹A. Boroi, *in the work cited*, p. 188

¹²V. Dongoroz and contributors, *in the work cited*, p. 465

¹³The theft is in principle a momentary or instantaneous criminal offence. It can also be committed as a continuous action (for instance, the theft of electric power, of methane gas – this criminal offence is characterized by a sole criminal resolution, a sole action or inaction, a sole dangerous consequence, a sole active subject, a sole passive subject and a single object).

¹⁴According to article 209, alignment 1 of the Romanian Criminal Code.

¹⁵T. Vasiliu and contributors, *The Criminal Code of Romania. Commented and annotated. The special part, vol.II*, The Scientific and Encyclopedic Publishing House, Bucharest, 1975, p. 268.

¹⁶G. Antoniu, V. Papadopol, M. Popovici, M. Ștefănescu, "*Directions Given by the Supreme Court of Justice and the new Criminal Legislation*", Bucharest, 1971, pp. 106-108;

¹⁷O. Loghin, T. Toader, *Romanian Criminal Law. The Special Part*, The Publishing and Press House "Șansa" Ltd., Bucharest, 2001, p. 242.

¹⁸O. Loghin, T. Toader, *in the work cited*, p.243.

¹⁹Alignment 3 of article 209 of the Criminal Code was introduced through the Emergency Ordinance no. 207 of 2000; letter a) of alignment 3 was modified by the Emergency Ordinance no. 10 of 2001.

²⁰In accordance with the provisions of article 146 of the Romanian Criminal Code.

²¹It involves jeopardizing the activity of a natural or juridical person that threatens their very existence or can lead to the cessation of any activity of these persons.

²²Article 222 alignments 1 and 2 of the Code of Criminal Procedure specifies that: the complaint is the notification made by a physical or a juridical person with regard to a harm that it was subject of as a result of the criminal offence. It must include: surname, first name, position and domicile of the petitioner, description of the deed that constitutes the object of the complaint, specifying the doer if he/she is known and the means of evidence.

²³Article 223 alignments 1-3 of the Code of Criminal Procedure establishes that : the denunciation is the notification made by a natural or a juridical person about the committing of a criminal offence. It must include the same data as a complaint. If it is written, it must be signed by the denouncer, and if it is spoken, it is registered in a record of proceeding by the body in front of which it was made.

²⁴V. Utiță, *Investigation of the crime scene in the case of murder committed by using objects that sting,, cut, split and are hurtful*, in *The Forensic Investigation of the crime scene*, Bucharest, 2004, p. 257.

²⁵Taking a good away includes two components: one of getting the good out of the possession or custody of another person, and the second is the act by which the good is actually and illicitly appropriated by the wrongdoer.

²⁶See Elena-Ana Mișuț, *Investigation of Criminal Offences Methodology*, Publishing House of the University of AGORA, 2007, p. 111-116.

²⁷See I. Mircea, *Forensics*, Publishing House Lumina Lex, Bucharest, 2004; Elena-Ana Mișuț, *Forensics. Forensic Technique and Tactics*, Publishing House of the University in Oradea, 2006, p. 75-90.