

CONFISCATION, SANCTION ON THE TRANSFER OF STATE OWNERSHIP OF GOODS ON THE BASIS OF A JUDGMENT

Associate Professor, Ph.D., Nicolae GRĂDINARU
“Constantin Brâncoveanu” University of Pitești, Romania
E-mail: nicolaegradinaru@yahoo.com

Abstract: Confiscation is a sanction that consists in the forced and gratuitous transfer of state property, property under a court decision or an administrative decision. According to art. 562 paragraph 4 of the Civil Code, only the goods destined or used for committing a crime or contraventions or those resulting from them may be confiscated. Confiscations ordered by the courts are carried out by the Ministry of Public Finance, the Ministry of Internal Affairs or, as the case may be, by other public authorities empowered by law, through the competent bodies, established by common order of the heads of the institutions concerned. acts by the competent bodies of the Ministry of Public Finance, or by other public authorities empowered by law, in compliance with the legal provisions in force. If the confiscations concern amounts expressed in foreign currency, the amounts are converted into lei at the exchange rate communicated by the National Bank of Romania, valid on the date on which the confiscation measure becomes final. The confiscated sums, as well as those realized from the capitalization of the confiscated goods, less the expenses imposed by the execution and capitalization, are made income to the state budget or the local budgets, as the case may be, according to the law.

Keywords: misdemeanor, crime, fine, confiscated property.

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1. Confiscation

Confiscation is a sanction that consists in the forced and gratuitous transfer of state property, property under a court decision or an administrative decision.

According to the provisions of art. 44 para. 9 of the Romanian Constitution, the goods destined, used or resulting from crimes or contraventions can be confiscated only under the conditions of the law.

According to art. 562 paragraph 4 of the Civil Code, only the goods destined or used for committing a crime or contraventions or those resulting from them may be confiscated.

According to art.108 letters d) and e) of the Criminal Code, the security measures are “special confiscation” and “extended confiscation” (Law no. 286/2009 on the Criminal Code; Law no. 187/2012 for the implementation of Law no. 286/2009 on the Criminal Code)¹.

Special confiscations

According to art.112 of the Criminal Code, the following are subject to special confiscation:

- a) the goods produced by committing the deed provided by the criminal law;
- b) goods that have been used, in any way, or intended to be used for the commission of an act provided by the criminal law, if they belong to the perpetrator or if, belonging to another person, he knew the purpose of their use;
- c) the goods used, immediately after committing the deed, to ensure the escape of the perpetrator or the preservation of the use or the product obtained, if they belong to the perpetrator or if, belonging to another person, he knew the purpose of their use;
- d) the goods that were given to determine the commission of an act provided by the criminal law or to reward the perpetrator;
- e) the goods acquired by committing the deed provided by the criminal law, if they are not returned to;
- f) the goods whose possession is prohibited by the criminal law.

¹ The criminal code entered into force on February 1, 2014.

In the case provided in letter b) and letter c), if the value of the goods subject to confiscation is clearly disproportionate to the nature and gravity of the deed, the confiscation is ordered in part, by monetary equivalent, taking into account the consequence produced or which could have occurred and the contribution of the good to it. If the goods have been produced, modified or adapted for the purpose of committing the act provided by the criminal law, their confiscation in full is ordered.

In the cases provided in letter b) and letter c), if the goods cannot be confiscated, as they do not belong to the offender, and the person to whom they belong did not know the purpose of their use, their cash equivalent will be confiscated.

The provisions of letter b) does not apply in the case of acts committed by the press. If the goods subject to confiscation according to letter b) - e) are not found, in their place money and goods are confiscated until the competition of their value.

Also confiscated are the goods and money obtained from the exploitation of the goods subject to confiscation, as well as the goods produced by them, except for the goods provided in let. b) and letter c).Extended confiscation

According to art. 1121 of the Criminal Code, other goods than those provided in art. 112, when a person is ordered to be convicted of an act likely to provide a material benefit and for which the penalty provided by law is imprisonment of 4 years or more, the court is convinced that the property comes from criminal activities. The court's conviction may also be based on the disproportion between the lawful income and the person's wealth

The extended confiscation is ordered on the goods acquired by the convicted person in a period of 5 years before and, if necessary, after the moment of committing the crime, until the date of issuing the act of notification of the court.the injured person and insofar as they do not serve to compensate him (Decision no.6 / 2016 HCCJ)¹.

Extended confiscation may also be ordered on goods transferred to third parties, if they knew or should have known that the purpose of the transfer was to avoid confiscation.

For the application of these provisions, the value of the goods transferred by the convicted person or by a third party to a family member or a legal person over which the convicted person has control shall also be taken into account.

Goods, according to this article, also mean sums of money.

When establishing the difference between the lawful income and the value of the acquired goods, the value of the goods at the date of their acquisition and the expenses made by the convicted person, his family members, will be taken into account.

If the goods subject to confiscation are not found, money and goods are confiscated in their place up to their value.

Confiscated goods and money obtained from the exploitation or use of confiscated goods, as well as goods produced by them, shall also be confiscated.

¹ Decision no.6 / 2016 HCCJ published in the Official Gazette no.287 / 15 April 2016

2. In the application of art. 112 para. (1) lit. e) of the Criminal Code, the security measure of special confiscation may be ordered in relation to the following situations:

a) to third parties, natural or legal persons who are not parties to the criminal proceedings, with the consequence of applying the precautionary measures provided by art. 249 of the Code of Criminal Procedure;
b) to the civilly responsible person in relation to whom the civil action exercised in the criminal process was rejected;

c) on the sums of money or goods in the material sense;

d) on the damage caused to the injured person, if he became a civil party and did not die or, as the case may be, was not dissolved and liquidated.

3. In the application of art. 112 para. (1) lit. e) of the Criminal Code, the security measure of special confiscation may be ordered in conditions of solidarity or must be individualized. "

Delivered in open court today, March 2, 2016.

The confiscation may not exceed the value of the goods acquired during the period provided above, which exceed the level of lawful income of the convicted person.

For the application of these provisions, the value of the goods transferred by the convicted person or by a third party to a family member or a legal person over which the convicted person has control shall also be taken into account.

Goods also mean sums of money.

When establishing the difference between the lawful income and the value of the acquired goods, the value of the goods at the date of their acquisition and the expenses made by the convicted person, his family members, will be taken into account.

If the goods subject to confiscation are not found, money and goods are confiscated in their place up to their value.

Confiscated goods and money obtained from the exploitation or use of confiscated goods, as well as goods produced by them, shall also be confiscated.

The confiscation may not exceed the value of the goods acquired during the period of 5 years before and, if applicable, after the moment of committing the crime, until the date of issuing the act of notification of the court, clearly exceeds the income obtained by it lawfully, which exceeds the level of income convictions of the convicted person.

According to art. 289 paragraph 3 of the Criminal Code, regarding the crime of bribery, money, valuables or any other goods received are subject to confiscation, and when they are no longer found, the confiscation by equivalent is ordered.

According to the provisions of art.290 paragraph 5 of the Criminal Code, regarding the crime of bribery, money, valuables or any other offered or given goods are subject to confiscation, and when they are no longer found, the confiscation by equivalent is ordered.

According to art.291 paragraph 2 of the Criminal Code regarding trafficking in influence, money, valuables or any other received goods are subject to confiscation, and when they are no longer found, the confiscation by equivalent is ordered.

According to the provisions of art. 292 paragraph 4 of the Criminal Code regarding the purchase of influence, money, values or any other goods given or offered are subject to confiscation, and if they are no longer found, the confiscation by equivalent is ordered.

Contraventions

The contraventional confiscations are provided by GO no. 2/2001 regarding the legal regime of the contraventions¹ which in art.5 paragraph 3 provides that the complementary contravention sanctions are: a) confiscation of goods intended, used or resulting from contraventions. And in art.24 it is ordered that the person empowered to apply the sanction also orders the confiscation of the goods destined, used or resulting from contraventions.

In all cases, the ascertaining agent shall describe in the minutes the goods subject to confiscation and shall take in respect of them the conservation or capitalization measures provided by law, making the appropriate entries in the minutes.

If the goods are not found, the offender is obliged to pay their equivalent value in lei.

¹ Government Ordinance no. 2/2001 regarding the regime of contraventions, published in the Official Gazette no. 410/2001, Law no. 180/2002 published in the Official Gazette no. M.Of.nr.747 / 26.10.2003, Law no.526 / 2004 published in M.Of.nr.1149 / 06.12.2004, Law no.182 / 2006 published in M.Of.nr.443 / 23.05. 2006, Law no. 352/2006 published in the Official Gazette no. 640 / 25.07.2006, Government Ordinance no. 8/2006 published in the Official Gazette no. 78 / 27.01.2006, Law no. 353/2006 published in M.Of.nr.640 / 25.07.2006, Law no.293 / 2009 published in M.Of.nr.645 / 01.10.2009, Law no.202 / 2010 published in M.Of.nr.714 / 26.10. 2010, amended by Law no. 76/2012 published in Official Gazette no. 365 / 30.05.2012, Government Ordinance no. 17/2014 published in Official Gazette no. 629 / 27.08.2014.

The ascertaining agent has the obligation to establish who is the owner of the confiscated goods and, if they belong to a person other than the offender, the minutes will mention, if possible, the identification data of the owner or will specify the reasons why the identification was not possible.

According to art.18 of Law no.115 / 1996, if it is found that the acquisition of certain determined goods or a share of a good is not justified, the court of appeal will decide either the confiscation of the goods or the unjustified share, or the payment of a sum of money, equal to the value of the property, established by the court on the basis of expertise. In case of obligation to pay the value of the good, the court will also establish the payment term (Law no. 115/1996 for the declaration and control of the property of dignitaries, magistrates, persons with management and control functions and civil servants).

If in connection with the goods whose origin is unjustified it results in the commission of a crime, the court sends the file to the competent prosecutor's office, in order to analyze if it is necessary to initiate the criminal action.

According to the provisions of art. 26 of Law no. 115/1996, the confiscated goods will be capitalized by sale at auction, the amounts obtained being made available to the state budget. The starting price of the auction cannot be lower than the value of the good, established by the court on the basis of expertise.

The sale of goods and the collection of debts established under the conditions of this law are carried out by the fiscal bodies, in accordance with the legal provisions regarding the forced execution against natural persons for non-payment of money debts due to the state.

The expenses incurred for the storage, preservation and recovery of the confiscated goods shall be deducted from the amounts obtained from their sale.

And art.27 stipulates that, if the confiscated goods are objects of rare metals or precious stones, securities, foreign means of payment, art objects, valuables and museum objects, they are deposited with the National Bank of Romania or, as the case may be, at the Ministry of Culture, in order to capitalize by auction.

The procedure of researching and judging the origin of the goods, started on a person, continues also against his heirs.

The investigation may also be initiated directly against the heirs, but only within 3 years from the date of the opening of the succession. The heirs are liable only within the value of the estate.

The request for investigation of the property of a person who has held a dignity or a public office may be made within a maximum of 3 years from the date of termination of the term of office or dismissal from office.

Confiscation of property according to Law no. 39/2003 on preventing and combating organized crime (Law no. 39/2003 on preventing and combating organized crime).

Confiscation of property according to Law no. 129/2019 for preventing and combating money laundering and terrorist financing, as well as for amending and supplementing some normative acts (Law no. 129/2019 for preventing and combating money laundering and terrorist financing, as well as for amending and supplementing some normative acts).

According to art. 44 of Law no. 129/2019, for violations of the provisions of this law, in addition to the sanction of a fine, one or more of the following complementary sanctions may be applied to the offender:

- a) confiscation of goods intended, used or resulting from the contravention;

According to art.51 of Law no.129 / 2019, in the case of money laundering and terrorist financing offenses, the provisions regarding the confiscation of property from Law no.286 / 2009 apply.

If the goods subject to confiscation are not found, their cash equivalent or the goods acquired in their place shall be confiscated.

Revenues or other material benefits derived from the goods referred to above shall be forfeited.

If the goods subject to confiscation cannot be individualized compared to the legally acquired goods, the goods are confiscated up to the value of the goods subject to confiscation.

These provisions apply accordingly to income or other material benefits derived from confiscated property, which cannot be individualized from legally acquired property.

In order to guarantee the execution of the confiscation of the goods, it is mandatory to take the precautionary measures provided by the Code of Criminal Procedure¹.

The misdemeanor confiscation of property is also regulated by other special laws, such as:

Confiscation of goods according to Government Ordinance no. 21/1992 on consumer protection (Government Ordinance no. 21/1992 on consumer protection)².
Confiscation of goods according to Law no. 86/2006 Customs Code (Law no. 86/2006)³.
Confiscation of goods according to Law no. 46/2008 Forest Code (Law 46/2008 Forestry Code)⁴.

According to art.348 of Law no.207 / 2015 Fiscal Procedure Code, the confiscations ordered according to the law are carried out by the bodies that ordered the

¹ Art.249 - 256 precautionary measures. Code of Criminal Procedure.
Law no. 135/2010 on the Code of Criminal Procedure, published in the Official Gazette no. 486 / 15.07.2010
Law no. 255/2013 for the implementation of Law no. 135/2010 on the Code of Criminal Procedure, published in the Official Gazette no. 515 / 14.08.2013. The Code of Criminal Procedure entered into force on 01. February 2014.

² Dangerous, counterfeit or counterfeit products are confiscated by law enforcement bodies upon notification of the ascertaining agent, and are destroyed or capitalized, as the case may be, according to the legal provisions.

The incomes illegally collected by the economic operators, as a result of the violation of the provisions of art. 4, art. 7 lit. a) the 2nd, 3rd and 4th indents, art. 7 lit. b) the first and second indents and of art. 7 lit. c) the first and the second indents, are taken over from the state budget by the competent bodies of the Ministry of Public Finance.

³ Art.280. The customs contraventions committed in the customs premises and in the places where operations are carried out under customs supervision shall be ascertained and sanctioned by the persons authorized by the customs authority.

If the customs contraventions are ascertained by the police or by other bodies with control attributions, in other places than those provided in par. (1), they have the obligation to immediately present the ascertaining documents to the nearest customs authority, together with the goods that are the object of the contravention. After verifying the classification of the deed in the customs regulations, the customs authority shall apply the fine and order, as the case may be, the seizure of the goods for confiscation.

Sanctions may also be applied to legal persons.

⁴ Article 70. Wood materials found in circulation without specific transport documents, with specific transport documents whose validity has expired or which have not registered the legal origin are confiscated. Article 71. Wooden materials accompanied by specific transport documents which are not duly completed shall be detained and handed over in custody.

The custody of the wood materials is ensured by the nearest forest district or by natural or legal persons who have appropriate storage spaces, with their consent.

If, within the term established by the authorized personnel who ordered the detention or as a result of the court decision, the legal origin of the wood materials is not confirmed, they shall be confiscated according to the legal provisions.

If the legal provenance has been established, the retained wood materials are returned.

confiscation. Confiscations ordered by the courts are carried out by the Ministry of Public Finance, the Ministry of Internal Affairs or, as the case may be, by other public authorities empowered by law, through the competent bodies, established by common order of the heads of the institutions concerned. acts by the competent bodies of the Ministry of Public Finance, or by other public authorities empowered by law, in compliance with the legal provisions in force.

If the confiscations concern amounts expressed in foreign currency, the amounts are converted into lei at the exchange rate communicated by the National Bank of Romania, valid on the date on which the confiscation measure becomes final.

The confiscated sums, as well as those realized from the capitalization of the confiscated goods, less the expenses imposed by the execution and capitalization, are made income to the state budget or the local budgets, as the case may be, according to the law (Law no. 207/2015 Fiscal procedure code).

According to art.14 of Law no.334 / 2006, the use of financial, human and technical resources belonging to public institutions, autonomous utilities, national companies, commercial companies or credit institutions in which the majority shareholders are the state or administrative-territorial units is prohibited, for supporting the activity of political parties or their electoral campaign, other than under the conditions established by the electoral laws (Law no. 334/2006 on the financing of the activity of political parties and electoral campaigns).

Political parties may not accept donations or services provided free of charge from a public authority or institution, from an autonomous administration, from a national company, a commercial company or a banking company with full or majority state capital.

It is forbidden to accept donations from a trade union or a religious cult, regardless of their nature.

The sums received in violation of the above provisions are confiscated and made available to the state budget.

The above provisions apply accordingly to political alliances, electoral alliances, as well as independent candidates.

The above provisions apply accordingly to the organizations of citizens belonging to national minorities, for the financing of electoral campaigns.

1. Fine

A fine is a civil, administrative or criminal sanction, which consists in obliging the person to pay a sum of money, determined by law, to the state budget.

Civil fine

According to art.163 of the Civil Code, in case of refusal to continue the task of guardianship, in other cases than those provided in art. 120 para. (2), the guardian may be sanctioned with a civil fine, for the benefit of the state, which may not exceed the value of a minimum wage per economy.

May refuse to continue guardianship:

- a) the one who has reached the age of 60;
- b) the pregnant woman or the mother of a child under 8 years of age;
- c) one who raises and educates 2 or more children;
- d) the one who, due to the illness, the disability, the type of activities carried out, the removal of the domicile from the place where the minor's property is located or for other well-founded reasons, could no longer fulfill this task.

The fine can be repeated no more than 3 times, at intervals of 7 days, after which another guardian will be appointed.

Also, if the guardian, through his fault, defects the task of guardianship, he will be obliged to pay a civil fine, for the benefit of the state, which cannot exceed 3 average salaries per economy.

The civil fine is applied by the guardianship court, by executory conclusion.

Judicial fine

According to art.187 of the Code of Civil Procedure, the court may sanction with a judicial fine certain deeds committed in connection with the civil process (Code of Civil Procedure - Law no. 134/2010 Code of Civil Procedure).

Unless otherwise provided by law, the court; according to the provisions of this article, it will be able to sanction the following acts committed in connection with the process, as follows:

1. with a judicial fine from 100 lei to 1,000 lei:

- a) the introduction, in bad faith, of some main, accessory, additional or incidental requests, as well as for the exercise of an appeal, obviously unfounded;
- b) formulating, in bad faith, a request for recusal or relocation;
- c) obtaining, in bad faith, the citation by publicity of any party;
- d) obtaining, in bad faith, by the plaintiff whose request for precautionary measures by which the defendant was harmed was rejected;
- e) the contestation, in bad faith, by its author of the writing or signature of a document or of the authenticity of an audio or video recording;
- f) the refusal of the party to appear at the information meeting regarding the advantages of mediation, in the situations in which it has accepted, according to the law;

2. with a judicial fine from 50 lei to 700 lei:

- a) failure to present the cited legal witness or his refusal to testify when he is present in court, unless he is a minor;
- b) failure to bring, within the term set by the court, the approved witness, by the party which, for imputable reasons, has not fulfilled this obligation;
- c) failure to present the lawyer, who did not ensure his replacement by another lawyer, of the representative or of the one who assists the party or the non-observance by them of the duties established by law or by the court, if in this way the adjournment of the trial was caused process;
- d) the refusal of the expert to receive the work or the non-submission of the work unjustifiably at the fixed term or the refusal to give the required clarifications;
- e) failure by the head of the unit within which an expertise is to be performed of the measures necessary for its performance or for the timely performance of the expertise, as well as the impediment by any person of performing the expertise in accordance with the law;
- f) failure to present a document or an asset by the holder, within the term set for this purpose by the court;
- g) the refusal or omission of an authority or of another person to communicate, for reasons imputable to it, at the request of the court and within the term fixed for this purpose, the data resulting from its acts and records;
- h) causing the postponement of the trial or the forced execution by the person in charge of fulfilling the procedural acts;
- i) impeding in any way the exercise, in connection with the trial, of the attributions incumbent on judges, experts appointed by the court under the conditions of the law, procedural agents, as well as other employees of the court.

The fine will not be applied to the persons referred to in par. (1) point 2, if good reasons prevented them from fulfilling their obligations.

According to the provisions of art. 188 other cases of sanction are regulated.

Failure by any of the parties or by other persons to comply with the measures taken by the court to ensure the order and solemnity of the court hearing shall be sanctioned with a judicial fine from 100 lei to 1,000 lei.

Failure by any person to comply with the provisions regarding the normal conduct of enforcement shall be sanctioned by the president of the enforcement court, at the request of the executor, with a judicial fine from 100 lei to 1,000 lei.

The possibility of applying judicial fines, in case of exercising in bad faith some procedural rights, which corresponds to the requirements of art. 57 of the Constitution, which establishes the fundamental duty of citizens to exercise constitutional rights and freedoms in good faith, without violating the rights and freedoms of others (Decision no. 1497/2001 of the Constitutional Court).

Sanctioning the appellant in bad faith, thus, according to art. 526 of the Code of Civil Procedure, when the appeal or complaint was made in bad faith, its author may be obliged to pay a judicial fine from 500 lei to 2,000 lei, as well as, at the request of the interested party, the payment of compensation for the damage caused by the introduction of the appeal or complaint.

The bad faith results from the manifestly unfounded nature of the appeal or complaint, as well as from any other circumstances which justify the finding that its exercise was made for a purpose other than that for which the law recognizes it.

Contravention fine

Government Ordinance no. 2/2001 is the common law in the field of contraventions, and according to art. 5, the main contravention sanctions are: a) warning; b) the contravention fine; c) performing an activity for the benefit of the community¹.

Complementary sanctions are:

- a) confiscation of goods intended, used or resulting from contraventions;
- b) suspension or cancellation, as the case may be, of the approval, agreement or authorization to exercise an activity;
- c) closing the unit;
- d) blocking the bank account;
- e) suspension of the activity of the economic agent;
- f) withdrawal of the license or approval for certain operations or for foreign trade activities, temporarily or permanently;
- g) demolition of the works and bringing the land in its initial state.

Other main or complementary sanctions may be established by special laws.

According to the provisions of art. 8 of GO no. 2/2001, the contravention fine has an administrative character.

According to art. provided for in art. the offender legal person, in whose territorial area the offender resides will notify the court in whose territorial area the offense was committed, in order to replace the fine with the sanction of obliging the offender to perform an activity for the benefit of the community, taking into account the part of the fine was acquitted.

¹ Government Ordinance no. 2/2001 regarding the regime of contraventions, published in the Official Gazette no. 410/2001, Law no. 180/2002 published in the Official Gazette no. M.Of.nr.747 / 26.10.2003, Law no.526 / 2004 published in M.Of.nr.1149 / 06.12.2004, Law no.182 / 2006 published in M.Of.nr.443 / 23.05. 2006, Law no. 352/2006 published in the Official Gazette no. 640 / 25.07.2006, Government Ordinance no. 8/2006 published in the Official Gazette no. 78 / 27.01.2006, Law no. 353/2006 published in M.Of.nr.640 / 25.07.2006, Law no.293 / 2009 published in M.Of.nr.645 / 01.10.2009, Law no.202 / 2010 published in M.Of.nr.714 / 26.10. 2010 amended by Law no. 76/2012 published in the Official Gazette no. 365 / 30.05.2012, Government Ordinance no. 17/2014 published in the Official Gazette no. 629 / 27.08.2014.

Contraventions are regulated by special law in many areas such as: Law no. 171/2010 on the establishment and sanctioning of forestry contraventions (Law no. 171/2010 on the establishment and sanctioning of forestry contraventions); GEO no. 195/2002 regarding the traffic on public roads (GEO no. 195/2002 regarding the traffic on public roads); Law no. 53/2003 Labor Code (Law no. 53/2003 Labor Code); Law no. 50/1991 on the authorization of the execution of construction works (Law no. 50/1991 regarding the authorization of the execution of construction works); Law no. 31/1990 on companies (Law no. 31/1990 on companies); Law no. 86/2006 Customs Code (Law no. 86/2006 Customs Code); Law no. 207/2015 on the Fiscal Procedure Code. and so on
Criminal fine

According to Article 61 of the Criminal Code, the fine consists of the amount of money that the convict is obliged to pay to the state.

The amount of the fine shall be determined by the system of fine days. The amount corresponding to a fine day, between 10 lei and 500 lei, is multiplied by the number of fine days, which is between 30 days and 400 days.

The court determines the number of fine days according to the general criteria for individualizing the sentence. The amount of the amount corresponding to a fine day shall be determined taking into account the material situation of the convicted person and the legal obligations of the convicted person towards the persons in his maintenance.

The special limits of fine days are between:

- a) 60 and 180 days-fine, when the law provides for the crime committed only the penalty of a fine;
- b) 120 and 240 days-fine, when the law provides for the punishment of the fine alternatively with the punishment of imprisonment of maximum two years;
- c) 180 and 300 days-fine, when the law provides for the punishment of the fine alternatively with the punishment of imprisonment of more than 2 years.

If the crime was aimed at obtaining a patrimonial benefit, and the punishment provided by law is only a fine or the court opts for the application of this punishment, the special limits of the fine days may be increased by one third.

The fractions established by law for the causes of attenuation or aggravation of the punishment apply to the special limits of the fine days.

If the crime was aimed at obtaining a patrimonial benefit, in addition to the prison sentence, the fine can also be applied.

The special limits of the fine days provided in let. b) and letter c) is determined in relation to the duration of the prison sentence established by the court and may not be reduced or increased as a result of the causes of mitigation or aggravation of the sentence.

When establishing the amount of the amount corresponding to a fine day, the value of the patrimonial benefit obtained or pursued will be taken into account.

If the convicted person, in bad faith, does not serve the fine, in whole or in part, the number of unexecuted fine days shall be replaced by an appropriate number of days in prison.

If the unfulfilled fine was accompanied by imprisonment, the number of non-enforced fine days shall be replaced by an appropriate number of days of imprisonment, which shall be added to the imprisonment, resulting in a single sentence.

If the fine is replaced by imprisonment, one day's fine shall be one day's imprisonment.

If the convicted person evades in bad faith the execution of the fine, the court may replace this sentence with the prison sentence within the limits provided for the crime committed, taking into account the part of the fine that was paid (Decision no.1 / 2007 High Court of Cassation and Justice).

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25. Law no. 115/1996 for the declaration and control of the property of dignitaries, magistrates, persons with management and control functions and civil servants, published in the Official Gazette no. 263 / 28.10.1996 amended by Law no. 176/2010 published in the Official Gazette no. 621 / 02.09.2010.

26. Law no. 50/1991 regarding the authorization of the execution of construction works, republished in the Official Gazette no. 933 / 13.10.2004.
27. Law no. 31/1990 on companies, republished in Official Gazette no. 1066 / 17.11.2004, amended by Law no. 71/2011 published in Official Gazette no. 409/2011 and GEO no. 2/2012 published in M.Of.nr.143 / 02.03.2012.