

Country File
ROMANIA



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Region	Europe
Legal system	Civil Law
UNCAT Ratification/ Accession (a)/ Succession (d)	18 December 1990 (a)
Relevant Laws	<ul style="list-style-type: none"> • Penal Code of 1 January 1969 • Criminal Procedure Code of 1 January 1969
Relevant Articles	<ul style="list-style-type: none"> • Prohibition of Torture: <ul style="list-style-type: none"> - Article 5 of the Criminal Procedure Code - Article 267(1) of the Penal Code • Definition of Torture: Article 267(1) of the Penal Code • Penalties: Articles 267(1) and 358 of the Penal Code • Others: <ol style="list-style-type: none"> 1. Defences: Articles 81, 86(1), 86(7) and 267(1) of the Penal Code 2. Extradition: Article 117 of the Penal Code 3. Lawful Sanctions: Article 267(1) of the Penal Code 4. Participation in torture: Article 267 (1) of the Penal Code
Languages Available	<ul style="list-style-type: none"> • English
Other Relevant Information	

Relevant Articles – ROMANIA

ENGLISH (Translation)

Penal Code of 1 January 1969

Article 81

The court can request conditioned suspension of the penalty's execution over a certain period if the following conditions are complied with:

- a) the applied penalty is at most 3 year imprisonment or fine;
- b) the criminal has not been convicted to more than 6 month imprisonment, except for when the conviction makes the object of the cases provided in article 38;
- c) the purpose of the penalty can be reached without its execution.

Conditioned suspension of the penalty's execution can be granted also in case of concurrent crimes, if the applied penalty is at most 2 year imprisonment and if the conditioned in paragraph 1 (b) and (c) are complied with.

Conditioned suspension of the penalty's execution cannot be ordered in the case of first degree crimes for which the law provides imprisonment more than 12 years, as well as in case of serious physical injure crimes, rape and torture. In case of a conviction for a crime which resulted into damages, the court can order conditioned suspension of the penalty's execution only if the damages were fully repaired or they were secured by an insurance company up to the passing of the court decision.

The conditioned suspension of the penalty's execution does not yield the suspension of the safe measures and civil obligations provided in the conviction decision.

The conditioned suspension of the penalty's execution must be motivated.

Article 86(1)

The court may request the suspension of the penalty's execution under observation, if the following requirements are complied with:

- a) the applied penalty is at most 4 year imprisonment;
- b) the criminal has not been previously convicted to imprisonment more than one year, except for the cases in which the conviction makes the object of one of the cases provided in article 38;
- c) considering the convicted, his/her behaviour after the perpetration of the crime, the pronouncement of the sentence may constitute a warning and, even without the execution of the penalty, the convicted will never perpetrate a crime.

The suspension of the penalty's execution under observation may be granted also in the case of concurrent crimes, if the applied penalty is imprisonment of

at most 3 years and if the terms provided in paragraph 1 (b) and (c) are complied with.

The suspension of the penalty's execution under observation cannot be requested in the case of first degree crimes for which the law provides imprisonment penalty more than 12 years, as well as in the case of serious physical injure crimes, rape and torture.

The provision of article 81 paragraphs 4 and 5 apply also in the case of the suspension of the penalty's execution under observation.

Article 86(7)

The execution of the penalty at the place of work cannot be ordered in the case of first degree crimes for which the law provides imprisonment penalty longer than 12 years, as well as in the case of serious physical injure crime, rape and torture.

Article 117

Any foreign citizen who perpetrated a crime can be forbidden to remain in the country.

The provision of the preceding paragraph applies also to a person with no citizenship who does not have the residence in Romania.

If expulsion is added to imprisonment penalty, this expulsion is performed after the execution of the penalty.

The persons mentioned in this article will not be expelled if there are serious reasons to believe that they can be tortured in the State where they are to be expelled.

Article 181

Any action which resulted into injures against the health or physical integrity which need up to 60 days of medical care for recovery is punished with imprisonment between 6 months and 5 years.

The criminal action is initiated upon the prior complaint of the injured person.

The parties' reconciliation removes the criminal responsibility.

Article 182

Any action which resulted into injures against the health and physical integrity which need more than 60 days of medical care for recovery, or which produced one of the following consequences: loss of a feeling or organ, cease of functioning of these, a permanent physical or mental infirmity, mutilation, abortion, or endanger of the person's life, is punished with imprisonment between 2 and 7 years.

When the action was perpetrated in order to produce the consequences mentioned in the preceding paragraph, the penalty consists in imprisonment between 3 and 10 years.

The attempt to the action mentioned in paragraph 2 is subject to penalty.

Article 267(1)

Pain or physical or psychic strong sufferance intentionally caused to a person, especially in order to obtain from this person or from a third person information or confessions, to punish her for an act that she or a third person committed or is suspected to have committed, to intimidate or to exert pressure on her or on a third person, or for any other reason based on a form of discrimination, whatever this is, when such pain or sufferance are caused by a public authority agent or by any other person who acts under an official title, instigated by or with the express or tacit consent of such persons, is punished by 2-7 years jail.

If the deed mentioned in paragraph 1 had one of the consequences shown in art. 181 or 182, the punishment is 3-10 years.

The torture that resulted in death of the victim is punished by jail for life or for 15- 25 years.

The attempt is punished.

No exceptional circumstance, whatever that is, be it war or threats of war, internal political instability or any other exceptional situation, can be invoked as justification for torture; the order of the superior or of a public authority cannot be invoked either.

The deeds stipulated in paragraph 1 are not considered torture if the pain or sufferance result exclusively from legal sanctions and are inherent to these sanctions or caused by them.

Article 358

Inhuman treatment of wounded or sick, of the members of the civil sanitary staff, of the Red Cross or the organizations assimilated to it, of the shipwrecked, the war prisoners and, generally, of any person whose power is inferior to that of his enemy, or subjecting them to medical or scientific experiments that are not justified by a medical cure in their interest, are punished by 5-20 years jail and interdiction of certain rights. (...)

Torture, mutilation or extermination of those listed in paragraph 1 is punished by jail for life or 15-25 years jail and interdiction of certain rights.

If the deeds stipulated in the present article are committed during wartime, the punishment is jail for life.

Criminal Procedure Code of 1 January 1969

Article 5(1)

Any person subjected to criminal investigation or to criminal trial must be treated with respect. Torture and cruel, inhuman or degrading treatment are punished under the law.