

**Emergency Ordinance no. 28 of 18 March 2020 amending and supplementing
Law no.286/2009 on the Criminal Code**

Considering the evolution of the epidemiological situation at national and international level caused by the spread of the SARS-CoV-2 coronavirus, as well as the declaration of a "Pandemic" by the World Health Organization, on 11 March 2020, which confirms the seriousness and the amplitude of this situation,

Taking into account that failure to take urgent measures, of an exceptional character, to limit the infections with the SARS-CoV-2 coronavirus among the population would have an extremely serious impact, primarily on the right to life, and, in subsidiary, on the right to health of persons,

Noting that, since the beginning of the month of March up to the present time, an increasing number of persons, in respect of which the measure of institutionalized quarantine or the measure of isolation at home, respectively, were taken, do not comply with such measures, which denotes that measures taken by the authorities are not rigorously complied with and that the existing provisions in the Criminal Code do not have a sufficient dissuasive effect, given that within 27 prosecutors' offices a number of 58 files have been already opened, in which such persons are investigated, the number of potential victims being approximately 80,

Recalling that the facts presented above are of extreme seriousness in the context of a pandemic, even more so as, in accordance with scientific studies on the spreading rate of the SARS-CoV-2 coronavirus among the population, this is comprised between 2,5 and 4,

We consider that also an intervention in the criminal law legislation is necessary by increasing, on the one hand, the penalties for acts already criminalized, but also by criminalizing other acts such as noncompliance with hospitalization or quarantine measures and respectively by the separate criminalization and the rigorous punishment of those who, by their acts, cause the infection of other persons, seriously affecting the health and causing the death of one or several persons,

Given that the amplitude of the phenomenon and the negative consequences for the whole population which would be generated by the noncompliance with or by a failure to punish noncompliance with the norms regulating the social relations which concern the protection of the health of the population and the prevention and/or the limitation of the infection with the SARS-CoV-2 coronavirus make necessary also an energetic intervention in the legislative field,

We consider that all these amount to an extraordinary situation the regulation of which cannot be postponed, within the meaning of article 115 paragraph (4) of Romania's Constitution, consolidated. We consider that legislating in another manner than by delegated legislation would not be suitable in order to immediately remove the negative consequences that continue to affect the public general interest which concern both primarily the right to life and in subsidiary the protection of health, respectively the service of justice in a prompt and efficient manner;

On the basis of Article 115 paragraph (4) of Romania's Constitution.

The Government of Romania adopts the following Emergency Ordinance:

Single Article

Law no. 286/2009 on the Criminal Code, published in the Official Journal of Romania, Part I, no. 510 of 24 July 2009, with subsequent amendments and additions, is modified and supplemented as follows:

1. Article 326 is modified and shall have the following content:

“Article 326

False Statements

- (1) The inaccurate statement of the facts, made to a person other than those indicated in article 175 or to an entity in which those persons activate, with a view to producing legal effects, for oneself or for others, done when, in accordance with the law or due to the circumstances, the statement made would produce such effects, is punishable with imprisonment from 6 months to 2 years or with a fine.”
- (2) The act indicated at paragraph (1), committed in order to hide the existence of a risk of infection with an infectious-contagious disease, is punishable with imprisonment from 6 months to 2 years or with a fine.”

2. Article 352 is modified and shall have the following content:

“Article 352

Obstructing the fight against disease

- (1) Noncompliance with quarantine or hospitalization measures taken in order to prevent or fight against infectious-contagious diseases is punishable with imprisonment from 6 months to 3 years or with a fine.
- (2) Non-compliance with measures concerning the prevention of fight against infectious –contagious diseases, if the act leads to spreading such a disease, is punishable with imprisonment from 1 to 5 years.
- (3) Transmission, by any means, of an infectious-contagious disease by a person who is aware of having the illness is punished with imprisonment from 2 to 7 years and prohibition of the exercise of certain rights.
- (4) If the act indicated in paragraph (2) is committed by negligence, the punishment is imprisonment from 6 months to 3 years or a fine.
- (5) If the acts indicated in paragraphs (1) and (2) lead to bodily harm for one or several persons, the punishment is imprisonment from 2 to 7 years and prohibition of the exercise of certain rights, and if they lead to death of one or several persons, the punishment is imprisonment from 5 to 12 years and prohibition of the exercise of certain rights.
- (6) If the act indicated in paragraph (3) leads to bodily harm for one or several persons the punishment is imprisonment from 3 to 10 years and prohibition of the exercise of certain rights, and if it leads to death of one or several persons, the

punishment is prison from 7 to 15 years and prohibition of the exercise of certain rights.

- (7) If the act indicated in paragraph (4) leads to bodily harm for one or several persons the punishment is imprisonment from 1 to 5 years and prohibition of the exercise of certain rights, and if it leads to death of one or several persons, the punishment is imprisonment from 2 to 7 years and prohibition of the exercise of certain rights.
- (8) Attempt to commit the crime provided in paragraph (3) is punishable.
- (9) By quarantine it is understood the limitation of activities and the separation from other persons, in spaces arranged for that purpose, of persons that are ill or suspected to be ill, in such manner as to prevent the possible spread of the infection or contamination.”

3. After article 352 a new article is introduced, article 352¹, with the following content:

“Article 352¹

Omission to provide certain information

The omission of a person to provide to the medical personnel or to other persons indicated in article 175 or to an entity within which they activate certain information that is essential in respect to the possibility of having come into contact with a person infected with an infectious-contagious disease is punishable with imprisonment from 6 months to 3 years or with a fine.”

Prime Minister
Ludovic Orban

Countersigns:
Minister of Justice
Marian Cătălin Predoiu

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