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THEORETICAL AND PRACTICAL ASPECTS OF TERMINATING CRIMINAL PROCEEDINGS IN THE TRIAL OF THE MERITS OF THE CRIMINAL CASES

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CONCEPTUAL LANDMARKS OF THE RESEARCH

***The relevance and importance of the research topic*.** Criminal procedural law, as a legal science, a distinct branch of law, and a subject of university study, is constantly evolving and changing. Legislative developments influence both the specific rules of criminal procedural law and the content of its institutions.

The purpose of criminal proceedings is expressly provided for in Article 1 of the CCP, according to which "the purpose of criminal proceedings is to protect individuals, society, and the state from crime, as well as to protect individuals and society from the illegal acts of persons with responsibilities in their work related to the investigation of alleged or committed crimes, so that any person who has committed a crime is punished according to their guilt and no innocent person is held criminally liable and convicted."

In this sense, criminal proceedings do not seek exclusively to punish criminal acts, but to ensure respect for the law and fundamental human rights throughout the proceedings.

Thus, criminal proceedings are a legal mechanism through which, in a balanced manner, both the criminal liability of guilty persons is enforced and innocent persons are protected against any illegal or unfounded convictions.

The termination of criminal proceedings is one of the central issues of criminal procedural law, generating a wide range of causes and conditions for application. To date, theoretical controversies and differences of opinion between scholars and practitioners persist around this institution. Issues relating to the termination of criminal proceedings are constantly being reconfigured, reflecting the evolving dynamics of the regulatory system and the need to adapt it to new legal and social realities.

In this context, the Criminal Procedure Code of the Republic of Moldova, adopted in 2003, has undergone a significant number of legislative amendments and additions over time, which have directly influenced the regulation and application of the institution of termination of criminal proceedings.

Thus, in accordance with the legal norms in force, the legislator has made a clear distinction between the termination of criminal proceedings and the termination of criminal prosecution, establishing the competence of the criminal prosecution body and the court, as well as the rules regarding the challenge and examination by the judge of complaints against termination orders. At the same time, essential innovations have been introduced into the procedure for terminating criminal proceedings.

In this regard, national criminal procedural law regulates separately the institution of termination of criminal investigation and that of termination of criminal proceedings at the trial stage.

During the course of criminal proceedings in a specific case, circumstances frequently arise that justify the decision to terminate criminal proceedings. Some of these grounds can be identified at an early stage of the criminal proceedings, namely when the case is registered, mainly circumstances that exclude criminal liability, such as the absence of an act provided for by criminal law, the intervention of the statute of limitations for criminal liability, or the application of amnesty.

In such cases, criminal proceedings either cannot be initiated or, if they have already been initiated, must be terminated immediately, as there would be no legal basis for continuing them.

In other situations, the criminal investigation body finds grounds for terminating the criminal investigation during the course of the investigation, as a result of the examination of evidence and clarification of the factual and legal context of the case. In both cases, prompt and lawful intervention by the criminal investigation body is essential to prevent abuse and ensure the effectiveness of the administration of justice.

At the same time, during the trial phase, the court has the power to order the termination of criminal proceedings if the grounds expressly provided for by law are met. These may concern both procedural aspects (such as the withdrawal of the preliminary complaint or the reconciliation of the parties in the case of offences for which the law provides for reconciliation) and substantive aspects (such as the death of the defendant or the existence of a final judgment for the same offence).

Thus, in the current system of grounds for termination of criminal proceedings, in certain cases there are situations of competition between grounds, and the rules for resolving this competition are not sufficiently clear to legal practitioners.

In this context, the relevance and importance of the topic stems from the urgent need to conduct an in-depth and systematic analysis of the legal and practical grounds for terminating criminal proceedings at the trial stage. This issue is not only of theoretical relevance, but also has major practical applicability, as such situations occur frequently and the solutions adopted by the courts are often divergent. In the absence of a coherent and well-founded approach, arbitrary interpretations of legal provisions may arise, with a negative impact on the efficiency of the administration of justice.

Last but not least, from a doctrinal perspective, the institution of the termination of criminal proceedings in court remains relatively unexplored in national legal literature, especially in terms of its correlation with new trends in criminal policy, international standards on the protection of human rights, and modern trends towards the humanization of criminal justice.

The framing of the topic within international, national, and regional concerns, as well as in the context of the research community and inter- and transdisciplinary perspectives, is particularly relevant. Since July 13, 1995, the Republic of Moldova has made important commitments by becoming a member state of the Council of Europe. Subsequently, by Parliament Decision No. 1298 of July 24, 1997, the Convention for the Protection of Human Rights and Fundamental Freedoms, concluded in Rome on November 4, 1950, as well as some additional protocols, were ratified.

The European Convention for the Protection of Human Rights and Fundamental Freedoms is a fundamental legal instrument in the architecture of international human rights protection. With its ratification, the provisions of the Convention were integrated into the domestic law of the Republic of Moldova, contributing significantly to the alignment of the national system with European standards on fundamental rights and freedoms. The innovative nature of the Convention, as well as the effective judicial review mechanism established by the European Court of Human Rights, have made the ECHR an essential pillar of the international human rights protection system.

In this context, the issue of the rights and freedoms enshrined in the Convention has become, in recent decades, a subject of intense reflection and analysis, being addressed both in national legal literature and in academic research and specialist debates at international level.

Furthermore, the Association Agreement[1] signed between the Republic of Moldova, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, expressly enshrines the parties' commitment to respecting and promoting the fundamental values of democracy, the rule of law and human rights. According to Article 2(1) of the Agreement, respect for democratic principles, human rights, and fundamental freedoms, as enshrined in the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the Helsinki Final Act (1975) and the Charter of Paris for a New Europe (1990), is an essential element of the association framework. Furthermore, Article 12(3) emphasizes that respect for human rights and fundamental freedoms is a guiding principle for all cooperation activities in the areas of freedom, security, and justice. By signing this Agreement, the Republic of Moldova has firmly reaffirmed its strategic choice to pursue European integration. By signing this Agreement, the Republic of Moldova has firmly reaffirmed its strategic choice to follow the path of European integration. These provisions reflect the deep integration of international and European standards into the normative architecture of the relationship between the Republic of

[1] Association Agreement between the Republic of Moldova, on the one hand, and the European Union and the European Atomic Energy Community
Atomic Energy and their Member States, on the other hand. [online] [cited: 01.04.2024]. Available:

Moldova and the European Union, providing a consolidated framework for the promotion and protection of fundamental rights at the national level.

Taking as a reference point the commitments made under the Association Agreement, on June 17, 2022, the European Commission issued an official opinion[2] on the Republic of Moldova's application for membership of the European Union. This step marked a decisive stage in the evolution of relations between the Republic of Moldova and the European Union, which entered a new strategic phase with the European Council's recognition of the European perspective of the Republic of Moldova and the granting of candidate country status on June 23, 2022.

In this context, the European Commission formulated a set of nine essential conditions for advancing the accession process, aimed at strengthening the rule of law and the institutional capacity of the state. These recommendations include: implementing comprehensive justice reform, stepping up efforts to fight corruption, increasing efficiency in recovering assets derived from crime, and modernizing public administration. Completing these steps is essential for the Republic of Moldova to align itself with the political and institutional criteria necessary for integration into the European Union and reflects its firm commitment to European values.

The Republic of Moldova is in a period of transition, namely the harmonization of national legislation with the acquis communautaire, which is an essential step towards strengthening a fair, efficient, and high-quality justice system, while also contributing to guaranteeing the independence and impartiality of the judiciary—fundamental principles of the rule of law.

In this context, reform of the justice sector remains a strategic national priority, which is of major importance not only from the perspective of European integration, but also for ensuring the democratic functioning of institutions and the effective protection of fundamental human rights and freedoms. An independent and credible judiciary is an indispensable condition for building a genuine democratic society in which the rule of law and respect for the values of the rule of law are fully guaranteed.

The purpose of this paper is to conduct a multifaceted and complex study of the institution of termination of criminal proceedings in the trial of criminal cases on the merits, focusing primarily on criminal procedural law and national and international case law, as well as on issues related to the application of this institution by the courts.

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[2] Opinion of the European Commission on the Republic of Moldova's application for membership of the European Union. [online] [cited: 01.04.2025]. Available: https://neighbourhood-enlargement.ec.europa.eu/system/files/202206/Republic%20of%20Moldova%20Opinion%20and%20Annex.pdf

The objectives of ***the thesis*** are:

- analyzing the doctrinal situation in the field of termination of proceedings in criminal cases in the Republic of Moldova, Romania, and other states;
- the study of criminal procedural legislation and its application in the termination of criminal proceedings;
- identifying and studying general aspects of the termination of criminal proceedings in the trial of the case on its merits;
- analyzing national and international instruments on the termination of criminal proceedings by the court;
- determining and researching procedural guarantees that ensure the achievement of the purpose of criminal proceedings and the rights of participants in criminal proceedings;
- conducting a conceptual analysis of the grounds and conditions for the termination of criminal proceedings, as well as identifying gaps in legal regulation and problems in the application of the law arising from them;
- analyzing and evaluating legal regulations on the termination of criminal proceedings in the legislation of other states;
- researching national judicial practice and the decisions of the Constitutional Court of the Republic of Moldova and Romania on the termination of criminal proceedings;
- formulating proposals *for lex ferenda* and recommendations aimed at streamlining judicial practice and optimizing the termination of criminal proceedings.

***Research hypothesis*.** If the legal grounds and procedural conditions for terminating criminal proceedings at the trial stage are identified and clarified, and a theoretical and practical basis will be developed to ensure the correct application of the solution to terminate criminal proceedings in court, then the application of these rules will contribute to the standardization of judicial practice and guarantee respect for the fundamental rights and freedoms of the parties involved in criminal proceedings.

***Synthesis and justification of research methods*.** The paper was developed by applying a complex of scientific methods and procedures, which allowed for a comprehensive and rigorous approach to the issue of termination of criminal proceedings at the trial stage. In this regard, the historical method was used to examine the evolution of the institution of termination of criminal proceedings in different periods on the territory of the Republic of Moldova, and the systematic method allowed for the investigation of correlations and interdependencies between criminal procedural rules and the fundamental principles of criminal law and criminal procedure. The

comparative method was used to analyze the normative provisions of the legislation of other states in relation to the legislative framework of the Republic of Moldova, in order to highlight the particularities and trends in the field of termination of criminal proceedings. The logical method facilitated the construction of coherent and rigorous reasoning based on deductive and inductive analysis, while the textual method ensured the accurate and appropriate interpretation of legal norms through the grammatical and semantic analysis of legal terms. In addition, the document analysis method was used to collect and evaluate relevant qualitative and quantitative data, including normative acts and court rulings, and the case study method allowed for a detailed examination of specific cases concerning the application of the institution of termination of criminal proceedings by the courts, thus providing a descriptive and explanatory perspective on judicial practice. This combination of methods ensured an integrated and well-founded approach to the topic, ensuring both the theoretical rigor and practical relevance of the conclusions drawn.

The empirical basis of the research is represented by the relevant case law of the European Court of Human Rights (ECHR), the Constitutional Court of the Republic of Moldova, and the Constitutional Court of Romania, as well as cases taken from the practice of national courts.

Description of the situation in the field of research. The subject of the termination of criminal proceedings in court has been addressed by several theorists who have researched this institution in its general context. These include renowned scholars from the Republic of Moldova, such as D. Roman, I. Dolea, T. Vizdoaga, Iu. Sedlețchi, T. Osoianu, and others. Various aspects of this topic have also been analyzed by other renowned authors from other countries, such as M. Udroiu, A. Crișu, T. Toader, Gh. Mateuț, A. Zarafiu, Gr. Theodoru, I. Neagu, and others from Romania, as well as from the Russian Federation, such as M. Strogovici, V. Daev, N. Bucsha, O. Vinogradova, and others.

Although the contributions of numerous researchers to the analysis of issues related to the termination of criminal proceedings during the trial are undeniable, the specialized studies devoted to this subject deal with the general aspects of the institution, but do not address in depth the particularities of applying the grounds for terminating criminal proceedings at the trial stage. Moreover, the topic has not been sufficiently explored in the light of international standards on the right to a fair trial, and the comparative analysis in the context of the criminal procedural law of other states remains incomplete.

The novelty and scientific originality of the results obtained. The novelty and scientific originality of the research derive from the fact that, although the institution of termination of criminal proceedings at the trial stage is frequently applied by national courts, there are few studies that offer a broad and in-depth perspective on its essence and legal characteristics. Research into this institution

is necessary from a theoretical point of view, as it analyses both the legal grounds and conditions for the application of the termination of criminal proceedings and its practical implications in relation to the fundamental rights and freedoms of the parties, as well as the specific judicial procedures involved in criminal proceedings.

The thesis also represents an in-depth and innovative research, carried out through the prism of the legislation of the Republic of Moldova, Romania, as well as other relevant jurisdictions, supported by the analysis of national and international case law, in particular that of the European Court of Human Rights. The research aims to identify existing problems in the application of the rules relating to this institution and also proposes scientific and practical solutions, including recommendations de lege ferenda, designed to contribute to the improvement of the criminal procedural framework and the strengthening of mechanisms for the protection of fundamental rights and freedoms in criminal proceedings.

The important scientific problem solved in this research concerns the theoretical and legal analysis of the institution of termination of criminal proceedings at the trial stage, as well as the evaluation of the procedural rules establishing the circumstances and grounds for applying this solution. The research also examines the correlations between this institution and other procedural and criminal mechanisms, with the aim of facilitating the correct and uniform application of criminal procedural legislation, protecting the fundamental rights of the person involved, and improving the existing regulatory framework in this area.

***The theoretical importance and practical value of the work*.** The contribution of this study consists in conducting a comprehensive and multidimensional investigation into the institution of criminal procedural law regarding the termination of criminal proceedings in court, whose syntheses and conclusions can be a valuable tool for both academia and professionals in the field of criminal justice. The theoretical value of the approach is highlighted by the topicality of the issues addressed, the objectives formulated, and the research directions established, all integrated into a rigorous analysis of the role, nature, and particularities of this procedural institution within the criminal procedure as a whole.

The paper can serve as methodological and practical support for students in legal science training programs. Also, the recommendations formulated in the practical part are particularly useful for practitioners—judges, lawyers, and other professionals in the criminal field—providing concrete guidelines for the correct interpretation and application of criminal procedural rules relating to the termination of criminal proceedings.

***Approval of results*.** The scientific results and basic theses of this work were discussed at meetings of the Department of Public Law. The scientific research has been reflected in nine publications in specialized journals in Romania and abroad, in the abstracts of papers presented at national and international scientific conferences.

CONTENTS OF THE THESIS

Chapter 1, entitled ***Analysis of the situation in the field of termination of criminal proceedings at the trial stage of criminal cases*****,** is devoted to analyzing the current state of scientific research in the field of termination of criminal proceedings at the trial stage of criminal cases, with the main objective of identifying the main doctrinal trends, conceptual developments, and existing theoretical and practical problems. To this end, specialist works and studies developed in the Republic of Moldova and Romania, as well as in other countries with relevant legal traditions, were examined.

The doctrinal analysis highlights the fact that the institution of termination of criminal proceedings has attracted constant interest in the specialized literature, being approached from various perspectives: legal nature, grounds for application, procedural effects, and its relationship with the fundamental principles of criminal proceedings. In Moldovan doctrine, significant contributions to the study of this institution have been made by authors such as D. Roman, I. Dolea, T. Vizdoaga, A. Airapetean, T. Osoianu, Iu. Sedlețchi, S. Țoncu, and others, whose works have established and developed the basic concepts regarding the termination of criminal proceedings, including in the context of the trial of the case on its merits.

At the same time, in Romanian doctrine, the issue analysed has been dealt with extensively by scholars such as A. Crișu, A. Zarafiu, T. Toader, Gh. Mateuț, M. Udroiu, Gr. Theodoru, I. Neagu, and others, who have approached the institution of termination of criminal proceedings in close connection with the principles of legality, finding the truth, the active role of the court, and guaranteeing the right to a fair trial. Their contributions are relevant both theoretically and practically, offering interpretative solutions and proposals for lex ferenda.

Likewise, the specialized literature in the Russian Federation offers a valuable comparative analytical framework through the works of authors such as G. Agheeva, S. Alekseev, M. Baglai, M. Bajanov, N. Bucsha, O. Vinogradova, and others, who examine the termination of criminal proceedings from the perspective of the particularities of the Russian criminal procedural system, but also in correlation with international standards on the protection of human rights and the efficiency of criminal justice.

The analysis of the existing situation in the field under investigation has made it possible to assess the level of research on the subject in specialist doctrine, revealing both doctrinal achievements and the persistence of conceptual gaps and normative shortcomings. In particular, there is a fragmented approach to the termination of criminal proceedings at the trial stage, as well as a lack of a systemic vision regarding its delimitation from other procedural solutions, such as acquittal or conviction.

In this context, the specific objectives of the research were clarified and the scientific problem solved was formulated, which constitutes the basis of the theoretical and applied approach of this thesis. The approach adopted allows for the formulation of reasoned conclusions and relevant recommendations, aimed at improving the regulatory framework and judicial practice, thus contributing to the development of the theory and applicability of the institution of termination of criminal proceedings in contemporary criminal procedural law.

Chapter 2 is devoted ***to the socio-legal dimension of the institution of termination of criminal proceedings***, focusing on highlighting its role in achieving the purpose of criminal proceedings, ensuring a balance between individual and societal interests, and guaranteeing respect for the fundamental rights of participants in the proceedings.

It has been found that the termination of criminal proceedings at the trial stage is a distinct legal institution with particular socio-legal significance, as it reflects the ability of the criminal justice system to respond flexibly and proportionately to situations where the continuation of the trial is no longer justified from a legal or social point of view. Unlike the criminal investigation phase, where the termination of criminal proceedings is mainly determined by the lack of legal grounds for continuing the proceedings, in the trial phase it occurs in the context of a procedural framework through which the court has been seized.

The doctrinal analysis reveals the existence of different approaches to the legal nature and functions of the termination of criminal proceedings at this stage. Some scholars qualify it as an autonomous procedural solution[3] , distinct from acquittal and conviction, while others[4] perceive it as an atypical form of termination of criminal proceedings, justified by the intervention of objective or subjective causes that remove criminal liability or deprive the proceedings of their legitimate purpose. These doctrinal differences can be found both in the specialized literature of the Republic of Moldova and in that of Romania and the Russian Federation, where the classification of the grounds for termination of criminal proceedings and their delimitation from other procedural solutions is a subject of constant debate.

In this context, the research highlights the need for a rigorous and coherent classification of the grounds for termination of criminal proceedings, based on clear criteria, such as the legal nature of the cause of termination, the procedural moment of its intervention, and the effects produced on the

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[3] UDROIU, M. *Criminal Procedure, Special Part*, *6th ed*. Bucharest: C. H. Beck Publishing House, 2019, pp. 504–509; NEAGU, I., DAMASCHIN, M. *Treatise on Criminal Procedure – Special Part, in light of the new Code of Criminal Procedure, vol. 2.* Bucharest: Ed. Universul Juridic, 2015, p. 257.

[4] ZARAFIU, A. *Criminal Procedure, General Part. Special Part*, 2nd ed. Bucharest: C. H. Beck Publishing House, 2015, p. 446.

procedural-criminal legal relations. Such a classification is indispensable in order to avoid conceptual confusion between the grounds applicable in the criminal investigation phase and those specific to the trial phase, as well as to ensure uniform and predictable application of criminal procedural rules by the courts.

Some proceduralists[5] , consider that the grounds for termination of criminal proceedings should be delimited according to the criteria of substantive law and procedural law. The grounds of substantive law include all those "circumstances that exclude the criminal and punishable nature of the act and are based on the rules of criminal law." Whereas, the grounds of procedural law represent "conditions under which criminal proceedings cannot be initiated or continued, even if all the elements indicating the commission of a crime are present and allow for the application of a penalty." The same position is shared by the author N. Bucsa.[6] .

The doctrine identifies other criteria for classifying grounds for terminating criminal proceedings, namely: grounds that mandatorily require the termination of criminal proceedings; grounds that give the competent authorities the right to order such a solution; and a third category of grounds that exclude the guilt of the defendant, in the sense that the lack of evidence of his guilt leads to the termination of criminal proceedings. [7]

We do not share this position, for the simple reason that the lack of evidence of guilt, viewed as grounds for terminating criminal proceedings, contravenes the principle of the presumption of innocence, which requires the adoption of an acquittal.

Criminal proceedings may only be terminated on grounds strictly determined by law. The existence of an exhaustive list of these grounds, as well as their clear and precise formulation, is an essential prerequisite for ensuring the legality and soundness of the criminal proceedings conducted by the prosecutor and the court when adopting the decision to terminate the criminal proceedings.

In Romanian judicial practice, it has been established that "in the event that impediments exist in the same case that lead to both acquittal and termination of criminal proceedings, the court must consider the acquittal solution, excluding the termination of criminal proceedings." [8]

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[5] DAVYDOV, P.M., MIRSKY, D.Y. *Termination of Criminal Cases in Soviet Criminal Procedure.* Moscow: Gosurizdat Publishing House, 1963, pp. 10-11. ZHOGIN, H.B., FATKULLIN, F.N. *Preliminary Investigation*. Op.cit., pp. 305–306. БОБРОВ, В.К. *et. al., Criminal Procedure.* Moscow: Издательство Спарк, 1998, p. 306. ВАНДЫШЕВ, В.В. *Criminal Procedure: Lecture Course*. St. Petersburg, 2002, pp. 222–223.

[6] BUKSHA, N. Yu. *The Purpose of the Institution of Termination of Criminal Proceedings and Criminal Prosecution in Russian Criminal Procedure.* Dissertation for the degree of Candidate of Legal Sciences. Krasnodar, 2005, p. 60.

[7] NESVIT, V.V. *Procedural order for exemption from criminal liability*. Abstract of dissertation for the degree of Candidate of Legal Sciences, Moscow, 2002, p. 14.

[8] NEAGU, I., DAMASCHIN, M. *Treatise on Criminal Procedure. Special Part, 3rd ed.* Bucharest: Ed. Universul Juridic, 2021, p. 294.

The socio-legal dimension of the termination of criminal proceedings is clearly evident in the procedural guarantees that accompany the application of this institution. The fundamental purpose of criminal proceedings is not only to hold the guilty person criminally liable, but also to protect the fundamental rights and freedoms of the individual, as well as to defend the legitimate interests of society and the state's against crime. In this sense, the termination of criminal proceedings cannot be seen as a deviation from the purpose of criminal proceedings, but as a legal mechanism designed to prevent the arbitrary or disproportionate exercise of the punitive power of the state.

The application of the institution of termination of criminal proceedings must be compatible with the requirements of the right to a fair trial, as enshrined in international human rights instruments and relevant case law. In this regard, it is particularly important to respect the right to defense, the right of access to justice, and the right of the injured party to obtain compensation for the damage caused by the offense.

Thus, "the termination of criminal proceedings is a decision of the competent authority, i.e., the judge, regarding the impossibility of continuing the case due to the presence of one of the circumstances provided for by law, excluding the criminalization and punishment of the act, or allowing the suspect or accused to be released from criminal liability. With the termination of criminal proceedings, the procedural activity against the person ceases completely, with different effects depending on the application of one ground or another." [9]

The research highlights the fact that the termination of criminal proceedings can have significant legal and social effects on all participants in the proceedings, including the defendant, the injured party, and society as a whole. Therefore, the application of this institution must be the result of a rigorous assessment of the specific circumstances of the case, so as to ensure a fair balance between the public interest in punishing crimes and the need to protect individual rights.

Chapter 3, entitled ***"Termination on grounds that preclude the continuation of criminal proceedings,"*** examines the main legal situations in which the law requires the termination of criminal proceedings, highlighting the legal nature of each ground, the conditions for its application, the procedural effects produced, and the issues that have arisen in judicial practice. The analysis is carried out with reference to both the domestic regulatory framework and the requirements of relevant international standards, including the case law of European courts on human rights.

The first ground analyzed is the expiry of the statute of limitations for criminal liability, an institution of substantive criminal law with direct procedural consequences. The statute of limitations

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[9] **PAUN, P.** General Concepts Regarding the Termination of Criminal Proceedings. In: *Promotion of Social and Economic Values in the Context of European Integration*, 6th ed., December 1-2, 2023, p. 116.

for criminal liability expresses the legislator's desire to limit the state's right to punish criminal acts over time, considering the decline in social interest in punishing the crime and the evidentiary difficulties generated by the passage of time. At the trial stage, the finding that the statute of limitations has expired requires the termination of criminal proceedings.

Author I. Dolea points out that "when the statute of limitations or amnesty is found to have expired, the termination can only take place with the consent of the defendant. With regard to appeals against the termination ruling, it should be noted that these are conditional on the stage of the trial."[10]

With regard to the defendant's consent, it is argued that, in the case of the termination of criminal proceedings on the grounds stipulated in Article 332 of the CPC, "the defendant's consent is imperative, since the grounds for terminating the criminal proceedings are non-rehabilitative, and if the defendant maintains his innocence, the case is to be tried on its merits."[11]

We share the position expressed by the Plenary Session of the Criminal College, according to which "the phrase 'or the expiry of the limitation period' in the content of Article 389(4)(3) of the Code of Criminal Procedure must be correlated with the provisions of Article 60(1) of the Criminal Code, which establish that a person is released from criminal liability if, from the date of the commission of the offense, the limitation periods provided for in Article 389(1) have expired." (1) of the Criminal Code, which establish that a person is exempt from criminal liability if, from the date of the commission of the offense, the limitation periods provided for in letters a) to e) of the same paragraph have expired. Under these circumstances, the application of a rule of procedural law cannot prevail over a rule of substantive law, even if it appears to be in contradiction with it, since the rule of substantive law produces, through its effects, more favorable consequences for the defendant, which is why its priority in application is reasonably required.[12]

It was concluded that, in the event of the expiry of the limitation period for criminal liability, the court may either terminate the criminal proceedings or deliver a conviction with exemption from criminal liability.

The adoption of the judgment to terminate the criminal proceedings will depend on the cumulative fulfillment of four conditions, namely: the statute of limitations for criminal liability, provided for in Article 60 of the Criminal Code, has expired; no circumstances have arisen that would

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[10] DOLEA, I. *Criminal Procedure Code of the Republic of Moldova, Applied Commentary, 2nd edition. Op.cit.,* p. 932.
[11] Decision of the Plenary Session of the Criminal Division of the Supreme Court of Justice of 03.11.2022. Case No. 4-1ril/2021, ruling on the appeal in the interest of the law filed by the Prosecutor General, p. 12. [online] [cited: 25.06.2025]. Available at: https://jurisprudenta.csj.md/search_interes_lege.php?id=20 .
[12] Conclusion of the Plenary Session of the Criminal College of the Supreme Court of Justice of 03.02.2022. Case no. 4-1ril-2/21.

cause the interruption or suspension of the statute of limitations; the request for termination must be made no later than the start of the judicial investigation; the defendant must expressly agree to this.

If the defendant has requested the administration of evidence during the judicial investigation, depending on the results thereof, if the person's guilt is established, a conviction shall be pronounced, in accordance with Article 389(4)(3) of the CPC. Conversely, if the defendant's guilt is not proven, the court shall deliver an acquittal, in accordance with Article 390 of the CPC.

Therefore, the decision to terminate criminal proceedings based on the same grounds of the statute of limitations is exceptional and applicable only if the merits of the criminal case have not been fully resolved.

Another ground for excluding the continuation of criminal proceedings is the death of the defendant, in which case criminal liability, being strictly personal, can no longer be enforced. Analysis of this ground highlights the fact that the termination of criminal proceedings in such cases does not represent an assessment of the guilt or innocence of the deceased person, but an inevitable legal consequence of the impossibility of continuing the criminal legal relationship.

The analysis highlights the importance of correctly establishing the age and discernment of the person, as well as the need to clearly distinguish between the termination of criminal proceedings and the application of other measures provided for by law.

A section of the chapter is dedicated to the application of the principle *of non bis in idem*, according to which no one can be prosecuted or tried twice for the same offense. In this sense, criminal proceedings are terminated when there is a final court decision or a final decision by the criminal investigation authorities concerning the same person and the same offense.

From the combination of Articles 350, 332, and 275(7) 8) of the CPC, it follows that the court shall adopt a decision to terminate the criminal proceedings at the preliminary hearing, including in cases where "there is a final court decision in relation to the same charge or finding that criminal prosecution is impossible on the same grounds; there is an unannulled decision not to initiate criminal proceedings, to remove the person from criminal proceedings, to terminate criminal proceedings, or to dismiss the criminal case on the same charges."

With regard to the termination of criminal proceedings, in light of the principle *of non bis in idem*, the courts shall order, if they find that:

1) there is a final court decision in relation to a person concerning the same charge or finding that it is impossible to prosecute on the same grounds (Articles 350, 332, and 275(7) of the CPC);

2) there is a non-annulled decision not to initiate criminal proceedings, to remove the person from criminal proceedings, to terminate criminal proceedings, or to dismiss the criminal case on the same charges (Articles 350, 332, and 275(8) of the CPC);

3) there is a final court decision on the same person for the same offense (Art. 391 para. (1) point 4) CPP);

4) there is a decision by the criminal investigation body on the same person for the same offense to terminate the criminal investigation, to remove the person from criminal investigation, or to dismiss the criminal case. 391 para. (1) point 5) CPP).

Essentially, the grounds resulting from the combination of Art. 350, Art. 332, Art. 275 points 7) and 8) of the CPC and Art. 391 para. (1) points 4) and 5) of the CPC have similar content.

Below, we analyze other circumstances provided for by law that exclude or condition the initiation of criminal proceedings.

The legislator has specifically regulated the cases of termination of criminal proceedings, and only in point 6) is reference made to other circumstances of the criminal case that totally exclude or condition the action of the competent authorities – to initiate criminal proceedings and hold the person criminally liable or, as the case may be, to refuse to adopt this solution.

Such a circumstance, which excludes the initiation of criminal proceedings and the holding of the person criminally liable, will exist when it is established in court that, according to Article 165(4) (4) of the Criminal Code, Art. 206 para. (4) of the Criminal Code, is a victim of human trafficking, or the crime is committed by representatives of the diplomatic corps of foreign states or other persons who, according to Art. 11 para. (4) of the Criminal Code, are not subject to the criminal jurisdiction of the Republic of Moldova. The existence of other circumstances that exclude or condition the initiation of criminal proceedings and criminal liability shall also take into account the cases provided for in Articles 57-58, Article 217(5), and Article 325(4) of the Criminal Code, which expressly provide for the release of the person from criminal liability in the presence of certain circumstances. (4) of the Criminal Code, which expressly provide for the release of a person from criminal liability in the presence of certain circumstances. From the provisions of Articles 391 and 275 of the CPC, we conclude that a violation of the competence to conduct criminal proceedings by a body other than those provided for in Articles 266-270 of the CPC does not constitute grounds for terminating criminal proceedings. This is all the more so given that neither the provisions referred to in their content nor Article 271 of the CPC, concerning the obligation of the respective bodies to verify their jurisdiction, contain any indication that any criminal investigation conducted by a body other than that provided for by law must result in the adoption of a decision to terminate the criminal proceedings. Thus, the

decisions of the courts to terminate criminal proceedings on the basis of Article 391(1)(6) of the CPC, as a result of non-compliance with the rules of jurisdiction in the conduct of criminal proceedings, are unjustified. Chapter 4, entitled "Decision to terminate on grounds allowing for the termination of criminal proceedings," is devoted to an in-depth examination of the decision to terminate criminal proceedings.

Chapter 4, entitled ***"Decision to terminate on grounds allowing for the termination of criminal proceedings***," is devoted to an in-depth examination of the decision to terminate criminal proceedings in situations where the law does not imperatively require the termination of the proceedings, but gives the judicial authorities the possibility to order this solution, depending on the specific circumstances of the case. These permissive grounds reflect the flexibility of the criminal response, the individualization of liability, and the use of alternative mechanisms for resolving criminal conflicts.

The analysis focuses on the main legal mechanisms that allow for the termination of criminal proceedings, such as the application of amnesty, reconciliation between the parties, a change in circumstances that reduces the social danger of the act, voluntary renunciation of the crime and active repentance, as well as special situations relating to the exemption of minors from criminal liability and the state of irresponsibility of the perpetrator. Each of these grounds is analysed in terms of its legal nature, conditions of application and effects on the criminal legal relationship and criminal procedure.

Amnesty is an act of clemency by the state, of a general and impersonal nature, which removes criminal liability for certain categories of crimes committed during a specified period. At the trial stage, the intervention of an act of amnesty justifies the termination of criminal proceedings, as there is no legitimate interest on the part of the state to continue prosecuting and punishing the acts in question.

It has been noted that making criminal liability for certain crimes conditional on the existence of a prior complaint by the injured party is based on "certain socio-political and criminal policy considerations. (...) from the point of view of achieving the purpose of criminal law and restoring law and order and social peace, recourse ex officio to legal coercion by means of criminal law is the most appropriate course of action."[13]

[13] GURSCHI, C. Issues regarding the application of Article 109 of the Criminal Code and Article 276 of the Criminal Procedure Code to the reconciliation of the parties. In: *Journal of the National Institute of Justice*, 2013, no. 3, pp. 32-33.

The absence of a prior complaint constitutes "a cause for the non-punishability of the act and, from a formal point of view, constitutes an impediment to the prosecution and, in general, to the admissibility of the case."[14]

Reconciliation, in the authors' opinion, can be seen as an "important means of restoring social equity following the commission of a crime."[15]

At the same time, reconciliation between the parties involves "a bilateral act of will, concluded between the victim and the perpetrator, aimed at terminating the criminal proceedings."[16]

Currently, Article 109 of the Criminal Code stipulates that reconciliation is an act that "removes criminal liability for minor or less serious offenses provided for in Chapters II-III (offenses against life and health, offenses against liberty, honor, and dignity), V-VI (offenses against political, labor, and other constitutional rights of citizens; offenses against the patrimony) and in Article 264(1) In the case of minors, reconciliation between the parties may also be applied for "minor or less serious offenses, as provided for in Chapter IV (offenses against sexual life) of the Criminal Code of the Republic of Moldova."

In the case of minors, reconciliation of the parties may also be applied for "minor or less serious crimes provided for in Chapter IV (crimes against sexual life) of the Special Part, as well as for serious crimes provided for in Chapters II-III (crimes against life and health, crimes against liberty, honor, and dignity) and V–VI (crimes against political, labor, and other constitutional rights of citizens; crimes against property) of the Special Part."

The institution of reconciliation is personal and has legal effect from the moment the criminal investigation is initiated until the court withdraws for deliberation. According to Article 109(4) of the Criminal Code, "in the case of persons who have committed the offenses against minors provided for in Articles 171–175[1], with the exception of minor or less serious offenses, if they were committed by minors, or in the case of offenses committed against minors referred to in Articles 201, 206, 208, 208[1] and 208[2]."

According to Article 276(5) of the Criminal Code, "reconciliation is personal and only takes effect if it occurs before the court decision becomes final."

There is a discrepancy between the regulatory provisions in substantive and procedural law regarding the moment when reconciliation takes place, or in other words, the period during which the

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[14] VOLONCIU, N., UZLĂU, A.-S., ATASIEI, D. *et.al. The New Criminal Procedure Code with commentary, 2nd revised edition*. Bucharest: Ed. Hamangiu, 2015, p. 774.
[15] UNGUREANU, A. *Romanian Criminal Law. General Part.* Bucharest: Ed. Lumina Lex, 1995, p. 133.
[16] PONTA, V. *Criminal Law. General Part. Lecture notes.* Bucharest: Ed. Lumina Lex, 2004, p.125.

parties can plead for reconciliation. Thus, according to Article 109(4) of the Criminal Code, reconciliation has legal effect from the moment the criminal investigation is initiated until the court retires to deliberate, a contrario, according to Article 276(5) of the Criminal Code, reconciliation has legal effect from the moment the criminal investigation is initiated until the court retires to deliberate. (4) of the Criminal Code, reconciliation has legal effect from the moment the criminal investigation is initiated until the court withdraws for deliberation, *whereas*, according to Art. 276 para. (5) of the Criminal Procedure Code, reconciliation only takes effect if it occurs before the final court decision.

In our opinion, reconciliation should be admissible until the final court decision, according to criminal procedural law. This approach not only respects the principles of restorative justice, but also serves the social function of criminal law, promoting reconciliation between the parties, reducing conflict, and protecting the interests of the victim, without diminishing the authority of the state in enforcing the law.

Thus, reconciliation between the parties is a mechanism for the consensual resolution of criminal conflicts, with a pronounced social and restorative dimension, applicable in the case of offences expressly provided for by law. Reconciliation reflects the recognition of the parties' autonomy of will and their ability to restore the social order damaged by dialogue.

Another permissive ground for terminating criminal proceedings is "in connection with a change in circumstances." In this regard, it is necessary to highlight the normative content of Article 58 of the Criminal Code, which provides that "a person who has committed a minor or less serious offense for the first time may be released from criminal liability if, as a result of a change in circumstances, it is found that either the person or the act committed no longer poses a social danger."

A systematic analysis of the aforementioned provisions reveals the existence of cumulative conditions necessary for the application of the institution in question, namely: committing the offense for the first time; committing a minor or less serious offense; the loss of the social danger of the act committed or of the person who committed it due to the change in circumstances.

This solution reflects the dynamics of social relations and the need to adapt the criminal response to the specific realities of each case.

The Code of Criminal Procedure, in Article 391(1)(7), expressly provides that a termination sentence shall be adopted in the cases provided for in Articles 54-56 of the Criminal Code, including voluntary renunciation of the commission of the crime. The legislator has provided the legal concept of voluntary renunciation of the commission of the crime, which is defined, according to Article 56(1)(a), as the voluntary abandonment of the commission of the crime, and according to Article 56(1)(b), as the voluntary abandonment of the commission of the crime, which is not completed.

The legislator has provided the legal concept of voluntary renunciation of the commission of the offense, which is defined, according to Article 56(1) of the Criminal Code, as "the cessation by the person of the preparation of the offense or the cessation of actions (inactions) directly aimed at committing the offense." A special rule which, in the authors' opinion, "stipulates a situation specific to the legal regime of minors in criminal law, can be found in the provisions of Article 54 of the Criminal Code, which establishes the conditions for the application of the special regime of criminal liability for minors."

A special rule which, in the authors' opinion, "stipulates a situation specific to the legal regime of minors in criminal law can be found in the provisions of Article 54 of the Criminal Code, which establishes the conditions for the exemption of minors from criminal liability." [17]

If Article 54 of the Criminal Code (exemption from criminal liability) is found to apply during the trial of a criminal case, in accordance with Article 332(1) of the Criminal Procedure Code, the court shall, by reasoned judgment, terminate the criminal proceedings in that case. In conjunction with this, Article 53(a) of the Criminal Code provides that the minor perpetrator's minority is a ground for exemption from criminal liability, and Article 54 of the Criminal Code describes the conditions for exemption from criminal liability.

In conjunction, Article 53(a) of the Criminal Code provides that the minor age of the perpetrator is grounds for exemption from criminal liability, and Article 54 of the Criminal Code describes the conditions for exempting minors from criminal liability.

Furthermore, Article 391(1)(7) of the CPC stipulates that a judgment terminating criminal proceedings shall be adopted "in the cases provided for in Articles 54-56 of the Criminal Code." If the person who committed the offense is not of criminal responsibility age, according to Article 21 of the CPC (16 years of age, or 14 years of age in certain cases), then, in accordance with Article 332(1) of the CPC, the court shall terminate the criminal proceedings in the case in question by means of a reasoned judgment.

If the person who committed the offense is not of criminal responsibility age, according to Article 21 of the Criminal Code (16 years old, or 14 years old in some cases), then, according to Article 391(1)(3) of the Criminal Procedure Code, the criminal proceedings shall be terminated on the grounds that "the person has not reached the age of criminal responsibility." 3) of the CPC, the termination of criminal proceedings shall be ordered on the grounds that "the person has not reached the age of criminal responsibility."

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[17] GRAMA, M., ȘAVGA, A., BOTNARU, S., *et. al. Criminal Law, General Part, vol. II.* Chișinău: Ed. Tipografia Centrală, 2016, p. 121.

This ground is also provided for in Article 332(1) of the CPC, which establishes that, during the trial of a criminal case, the court shall terminate the criminal proceedings if one of the grounds provided for in Article 285(2) of the CPC exists. In turn, Article 285(2)(2) of the CPC provides the ground that "the person has not reached the age at which he or she can be held criminally liable." If, during the trial of the criminal case, the court finds that the person committed the offense while being criminally irresponsible and it is not necessary to apply the grounds for criminal liability, the court shall terminate the criminal proceedings.

If, during the trial of the criminal case, the court finds that the person committed a crime while in a state of irresponsibility and that it is not necessary to apply medical coercive measures, it shall order the termination of the criminal proceedings, even during the preliminary hearing, in accordance with Article 350 of the CPC.

If it is proven that the person in question committed a harmful act while in a state of irresponsibility or that this person, after committing the crime, has developed a chronic mental illness that makes them unaware of their actions or unable to control them, the court may adopt (1) a sentence acquitting (releasing) this person from punishment; or, as the case may be, (2) from criminal liability; (3) either release from punishment and the application of medical coercive measures, indicating which ones should be applied, or (4) a judgment to terminate the proceedings and not to apply such measures in cases where, due to the nature of the act committed and the state of his health, the person does not pose a danger to society and does not need forced treatment, i.e., it is not necessary to apply medical coercive measures in his regard.

Thus, the grounds for terminating criminal proceedings are an expression of a modern and flexible approach to criminal justice, oriented towards fairness, individualisation and efficiency. The correct and balanced application of these grounds contributes to the achievement of the purpose of criminal proceedings and to relieving the courts of cases that no longer justify the continuation of proceedings.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The results obtained in the doctoral thesis are reflected in the following aspects: a) research into the historical evolution of criminal procedural legislation, so that, based on historical experience, we can improve the legal framework for the termination of criminal proceedings; b) investigation, from a comparative law perspective, of the institution of termination of criminal proceedings; c) justification of the importance and necessity of the existence and normative improvement of the institution of termination of criminal proceedings, its relevance and value; d) analyzing criminal procedural regulations in the field of termination of criminal proceedings, identifying inconsistencies in the practical activity of this institution; e) developing recommendations for improving activity in the field of termination of criminal proceedings; f) developing proposals for improving the criminal procedural mechanism for termination of criminal proceedings in all its diversity and forms.

Analysis of specialist doctrine, national criminal procedural regulations, the case law of the European Court of Human Rights, and the procedural legislation of other states has led to the following general conclusions:

1. The court judgment in criminal proceedings is the final act and culmination of judicial activity. It expresses the application of criminal law, and through it the judge pronounces the law, establishing the solution to the case. The judgment summarises the entire proceedings, reflecting the legality, soundness and reasoning of the decision. In terms of their content and legal effects, court judgments are classified into three categories: a) conviction; b) acquittal; c) termination of criminal proceedings (Chapter 2, Subchapter 2.1.).

2. In the Republic of Moldova, in accordance with the provisions of the Code of Criminal Procedure (Articles 332, 320(5) and 391 of the CCP), the court may order the termination of criminal proceedings in various situations determined by law. This occurs in the event of the death of the perpetrator, the absence or withdrawal of the preliminary complaint in established cases, the existence of a previous court decision on the same charge, or other circumstances provided for by the Criminal Code that exclude or condition criminal prosecution. Criminal proceedings may also be terminated when the person has not reached the age of criminal responsibility, committed the act in a state of irresponsibility, the statute of limitations or amnesty has expired, the act constitutes a misdemeanor, or the prosecutor has dropped the charges. In addition, the law provides for special cases of exemption from criminal liability, such as situations involving minors, active repentance, voluntary renunciation of the commission of the offense, change of circumstances, conditional release, or the statute of limitations for criminal liability. Overall, these provisions reflect the role of the institution of

termination of criminal proceedings as a mechanism for adapting criminal liability to the particular circumstances of each case (Chapter 2, Subchapter 2.1.).

3. In the context of criminal proceedings, strict compliance with the procedural rights and guarantees of the defendant is a fundamental requirement of a fair trial and a determining criterion of the legality and legitimacy of judicial decisions. These guarantees involve effectively ensuring the right to defense, informing the defendant of the charges against them, and having the case heard by an independent and impartial court established in accordance with the law, elements that become increasingly relevant in the context of pronouncing a judgment to terminate criminal proceedings. (Chapter 2, Subsection 2.2.).

4. The termination of criminal proceedings is possible: a) only with the consent of the defendant - in the event of the statute of limitations and amnesty; b) with the consent of the injured party - withdrawal of the preliminary complaint; c) with the consent of both parties (the defendant and the injured party) - in the event of reconciliation; d) acknowledgment of the defendant's guilt - release from criminal liability of minors, release from criminal liability in connection with active repentance and in the case of administrative liability (Chapter 2, Subchapter 2.2.).

5. The grounds for termination of criminal proceedings allow for a complex doctrinal systematization, based on theoretical and practical criteria relevant to understanding the nature and function of this procedural-criminal institution. Thus, they can be classified according to their legal nature and the effects they produce, the normative source of the regulations establishing the conditions and circumstances for the termination of criminal proceedings, the purpose pursued in the criminal proceedings, and the mandatory or optional nature of the grounds for termination. Another important classification criterion is the procedural stage at which the criminal proceedings are terminated before the court of first instance, as well as the existence or absence of a finding of guilt of the defendant, these distinctions contributing to a clear delimitation of the legal effects of the judgment terminating the criminal proceedings and to the definition of its role in the criminal proceedings system. (Chapter 2, Subsection 2.1.)

6. The defendant's consent to the termination of criminal proceedings on the grounds provided for in Article 332 of the CPC is mandatory, as these grounds are non-reversible. Consequently, if the defendant does not admit guilt and pleads not guilty, the court is obliged to proceed with the examination of the criminal case on its merits. At the same time, ordering the termination of criminal proceedings due to the expiry of the statute of limitations for criminal liability is a solution that can only be adopted if the criminal case has not been resolved on its merits, i.e., no

court judgment has been adopted establishing the defendant's guilt or innocence. (Chapter 3, Subsection 3.1.).

7. The conditions for terminating criminal proceedings in the event of the statute of limitations expiring are: the statute of limitations for criminal liability provided for in Article 60 of the Criminal Code has expired; no circumstances have arisen that would lead to either the interruption or suspension of the statute of limitations; the request for termination must be made during the preliminary hearing or the preparatory part of the trial; the defendant must express his agreement in this regard (Chapter 3, Subsection 3.1.).

8. For the *non bis in idem* principle to be applicable in criminal proceedings, three essential conditions must be cumulatively met: the existence of criminal proceedings concluded by a final conviction or acquittal; the formulation of a new criminal charge against the same person (the *bis* element); and the identity of the offense between the two proceedings (the *idem* element). Under these conditions, if the authorities initiate a second criminal proceeding for the same offense and against the same person, either at the investigation stage or at the trial stage, the defendant is entitled to invoke the res judicata exception. As a result, the criminal investigation body or the court is obliged to order the termination of the criminal proceedings. (Chapter 3, Subchapter 3.4.).

9. In the event of amnesty, the termination of criminal proceedings may be ordered pursuant to Art. 332 para. (1) of the CPC, in relation to Art. 275 point 4) and Art. 285 para. (2) of the CPC, which provide for the termination of criminal proceedings in cases where the person has not been rehabilitated. Amnesty, as a circumstance expressly provided for by law, excludes criminal prosecution, and Article 391(1)(6) of the CPC confirms that the decision to terminate criminal proceedings is adopted when there are circumstances that exclude or condition criminal liability, thus constituting a clear legal basis for the termination of criminal proceedings. (Chapter 4, Subchapter 4.1.).

10. When the defendant expresses his express consent to the application of the amnesty, the court shall issue a judgment terminating the criminal proceedings based on the intervention of the amnesty. If the defendant refuses or does not express his express consent to the application of the amnesty, the court is obliged to examine the evidence and, depending on the circumstances, either acquit the defendant, issue a judgment terminating the proceedings on legal grounds other than amnesty, or convict the defendant and determine the sentence and, where appropriate, release the defendant from serving it. (Chapter 4, Subsection 4.1.).

11. If the court finds that the person in question has committed a harmful act but is in a state of irresponsibility or has subsequently developed a chronic mental illness that limits their ability

to understand or control their actions, the court may, as appropriate, pronounce one of the following solutions: (1) acquittal of the person, by releasing them from criminal liability or criminal punishment; (2) combining the exemption from punishment with the application of medical coercive measures, specifying their nature and method of application; or (3) terminating the criminal proceedings without applying medical coercive measures , when, due to the nature of the act and the person's state of health, they do not pose a danger to society and do not require forced treatment. (Chapter 4, Subsection 4.5.)

The important scientific problem solved in this research concerns the theoretical and legal analysis of the institution of termination of criminal proceedings at the trial stage, as well as the evaluation of the procedural rules that establish the circumstances and reasons for applying this solution. The research also examines the correlations between this institution and other procedural and criminal mechanisms, with the aim of facilitating the correct and uniform application of criminal procedural law, protecting the fundamental rights of the person involved, and improving the existing regulatory framework in this area.

***Indication of the limits of the results obtained, with the identification of unresolved issues*.** The results obtained in the research process carried out in this paper are limited to: analyzing the applicability of the institution of termination of criminal proceedings in the trial of criminal cases in the Republic of Moldova and in comparative law; identifying and classifying the grounds for termination of criminal proceedings, highlighting the procedural guarantees involved; examining the legal and procedural effects of applying these grounds, as well as the practical implications for participants in the proceedings.

The remaining unresolved issues concern the empirical evaluation of the application of the institution in practice; the analysis of the frequency and impact of the various grounds for termination; the investigation of the socio-legal effects on the participants in the proceedings and on society; and the deepening of the perspectives of professionals in the judicial system on how to implement the institution.

***Recommendations*:**

1. Amend Article 350 of the CPC by introducing a new paragraph, (1^1), which will read as follows:

"If, prior to the commencement of the judicial investigation, it is found that the statute of limitations for criminal liability has expired, the court shall:

a) clarify the defendant's position regarding the acknowledgment of the alleged offense;

b) explain to the defendant the legal consequences of such admission, including the effects on the right to rehabilitation;

c) expressly record the defendant's position in the minutes of the hearing.

In this situation, the termination of criminal proceedings cannot be ordered on the basis of Article 391.

2. In Article 350(1), after the words "Article 332," the words *"including in the case of the expiry of the statute of limitations for criminal liability*" shall be inserted, and the text shall be completed accordingly.

The proposed law aims to expressly transpose the established judicial practice of the Supreme Court of Justice into criminal procedure law in order to ensure uniform application of the provisions on the statute of limitations for criminal liability. At the same time, it seeks to eliminate inconsistent interpretations regarding the possibility of terminating criminal proceedings due to the statute of limitations at the preliminary hearing stage by clearly regulating the actions of the court at this stage of the proceedings. At the same time, the proposal aims to guarantee the defendant's right to be effectively and fully informed, as well as to express their position on the admission of guilt and its legal consequences. Last but not least, the aim is to clearly delimit the scope of application of Article 391 of the CPC in relation to the provisions of Article 350 of the CPC, in order to strengthen the security of the legal relationship and ensure the predictability of the criminal procedure rule.

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ABSTRACT

PĂUN Petru. Theoretical and practical aspects of the termination of criminal proceedings upon trial on the merits of the criminal case. Doctoral Thesis in Law, Specialty 554.03 – Criminal Procedure Law. Chișinău, 2026.

Structure of the thesis: Introduction, four chapters, general conclusions and recommendations, bibliography comprising 263 titles, 206 pages of main text. A total of 9 scientific papers have been published on the topic of the dissertation.

Keywords: criminal proceedings, trial on the merits, legal grounds, termination of criminal proceedings.

Purpose of the research – to conduct a comprehensive study of the institution of termination of criminal proceedings at the trial stage, with an emphasis on analyzing the legal provisions, relevant judicial practice, the manner in which courts apply the grounds for termination, as well as the legal implications for participants in criminal proceedings.

The research objectives include: analysis of the doctrinal situation regarding the trial of criminal cases on the merits in the Republic of Moldova, Romania, and other countries; study of criminal procedural legislation, its practical application, as well as analysis of general legal and scientific literature related to the termination of criminal proceedings; identification and examination of general aspects related to termination of criminal proceedings during the trial phase; analysis of national and international instruments governing the termination of criminal proceedings by the court; identification and study of procedural safeguards that ensure the realization of the purpose of the criminal process and the rights of the participants; conceptual analysis of the grounds and conditions for the termination of criminal proceedings, identification of gaps in legal regulation and problems in law enforcement arising from these gaps; analysis and evaluation of legal provisions on termination of criminal proceedings in the legislation of other countries; research into national judicial practice and decisions of the Constitutional Court of the Republic of Moldova and Romania regarding the termination of criminal proceedings; formulation of proposals de lege ferenda and recommendations aimed at improving judicial practice and optimizing the termination process in criminal cases.

Scientific novelty and originality of the thesis are reflected in the multifaceted study of the institution of termination of criminal proceedings during trial, particularly regarding legal grounds and the decisions issued by courts based on them, with the aim of identifying ways to improve national judicial practice in this field.

The major scientific problem solved consists in the investigation and analysis of the particularities of court decisions to terminate criminal proceedings during the trial phase. This has led to a clearer understanding - both for theorists and practitioners - of the legal grounds for termination, the distinction between a judgment and a termination decision, and other types of court rulings, with the purpose of optimizing criminal procedural doctrine in this area through the formulation and justification of de lege ferenda proposals.

Theoretical significance. This work aims to contribute to the development of criminal procedural doctrine by offering a complex analysis of the institution of termination of criminal proceedings during the trial stage. It stands out through a systematic approach to the normative framework, relevant case law, and controversial theoretical issues regarding the grounds, conditions, and effects of termination, offering an up-to-date interpretation in light of recent legislative developments in the Republic of Moldova.

Practical value of the thesis. The proposals formulated in this thesis contribute to the improvement of criminal procedural legislation by identifying legal gaps and offering concrete solutions to enhance the provisions concerning termination during trial. The practical recommendations and arguments, supported by case law and doctrine, are addressed to legal practitioners - lawyers, prosecutors, judges - to support the correct, consistent, and uniform application of legal provisions. At the same time, the thesis provides a valuable resource for academia and legal education, being useful both for initial and continuous professional training of legal professionals.

Implementation of scientific results. The scientific results of the doctoral thesis have been implemented in the process of direct application of legal norms, as the PhD candidate serves as a judge at the Chișinău Court, Buiucani office.

ADNOTARE

PĂUN Petru. Aspecte teoretice și practice ale încetării procesului penal la judecarea în fond a cauzei penale. Teză de doctor în drept la specialitatea 554.03 – Drept procesual penal. Chișinău, 2026.

Structura tezei: Introducere, patru capitole, concluzii generale și recomandări, bibliografia din 263 titluri, 206 pagini text de bază. La tema tezei au fost publicate 9 lucrări științifice.

Cuvinte-cheie: proces penal, judecarea cauzei în fond, temei juridic, încetarea procesului penal.

Scopul lucrării constă în cercetarea complexă a instituției încetării procesului penal în etapa judecății în fond, cu accent pe analiza prevederilor legale, a practicii judiciare relevante și a modului în care instanțele aplică motivele de încetare, precum și asupra implicațiilor juridice pentru participanții procesului penal.

Obiectivele studiului vizează: - analiza situației doctrinare în domeniul încetării procesului la judecarea cauzei penale în fond, în Republica Moldova, România, și alte state; - Studiul legislației procesual-penale, al practicii aplicării acesteia, precum și analiza literaturii juridice și științifice generale referitoare la aspectele legate de încetarea procesului penal; - Identificarea și studierea aspectelor generale privind încetarea procesului penal la judecarea cauzei în fond; - Analiza instrumentelor naționale, internaționale în materie de încetare a procesului penal de către instanța de judecată; - Determinarea și cercetarea garanțiilor procesuale care asigură realizarea scopului procesului penal și a drepturilor participanților la procesul penal; - Realizarea unei analize conceptual a temeiurilor și condițiilor încetării procesului penal, și identificarea lacunelor în reglementarea juridică din acest domeniu și a problemelor de aplicare a legii care decurg din acestea; - Analiza și evaluarea reglementărilor legale privind încetarea procesului penal din legislația altor state; - Cercetarea practicii judiciare naționale, a hotărârilor Curții Constituționale a RM, a României, privind soluția încetării procesului penal; - Formularea propunerilor de lege ferenda, și a recomandărilor, menită să eficientizeze practica judiciară și să optimizeze soluția încetării procesului penal.

Noutatea și originalitatea științifică se manifestă în cercetarea multiaspectuală a instituției încetării procesului penal la judecarea cauzelor penale în fond, în special a temeiurilor legale și a soluțiilor dispuse de instanțele de judecată în baza lor fiind trasate căile de perfecționare a practicii judiciare autohtone din acest domeniu.

Problema științifică importantă soluționată vizează analiza teoretică și juridică a instituției încetării procesului penal în faza de judecare a cauzei, precum și evaluarea normelor procedurale care stabilesc circumstanțele și motivele aplicării acestei soluții. Cercetarea examinează, totodată, corelațiile acestei instituții cu alte mecanisme procesuale și penale, având ca scop facilitarea aplicării corecte și uniforme a legislației procesual-penale, protejarea drepturilor fundamentale ale persoanei implicate și perfecționarea cadrului normativ existent în domeniu.

Semnificația teoretică. Prezenta lucrare își propune să contribuie la dezvoltarea doctrinei procesual-penale printr-o analiză complexă a instituției încetării procesului penal în faza judecății în fond. Ea se distinge prin faptul că abordează în mod sistematic cadrul normativ, jurisprudența relevantă și aspectele teoretice controversate legate de temeiurile, condițiile și efectele încetării procesului penal, oferind o interpretare actualizată în contextul evoluțiilor legislative recente din Republica Moldova.

Valoarea aplicativă a lucrării. Propunerile formulate în cadrul prezentei teze contribuie la perfecționarea legislației procesual penale prin identificarea lacunelor și oferirea unor soluții concrete de îmbunătățire a normelor privind încetarea procesului penal în etapa judecății în fond. Recomandările practice și argumentele susținute prin jurisprudență și doctrină se adresează practicienilor – avocați, procurori, judecători – sprijinind aplicarea corectă, coerentă și unitară a dispozițiilor legale. Totodată, lucrarea oferă un suport valoros pentru mediul academic și procesul de instruire juridică, fiind utilă în formarea profesională inițială și continuă a specialiștilor din domeniul dreptului.

Implementarea rezultatelor științifice. Rezultatele științifice ale tezei de doctorat au fost implementate în procesul aplicării directe a normelor de drept, doctorandul fiind judecător în cadrul Judecătoriei Chișinău, sediul Buiucani.

АННОТАЦИЯ

ПЭУН Петру. Теоретические и практические аспекты прекращения уголовного производства при рассмотрении уголовного дела по существу. Диссертация на соискание ученой степени доктора права по специальности 554.03 – Уголовный процесс. Кишинэу, 2026.

Структура диссертации: Введение, четыре главы, общие выводы и рекомендации, библиография из 263 наименований, 206 страниц основного текста. По теме диссертации опубликовано 9 научных работ.

Ключевые слова: уголовный процесс, рассмотрение дела по существу, юридическое основание, прекращение уголовного процесса.

Цель работы - всестороннее исследование института прекращения уголовного процесса на стадии судебного разбирательства по существу, с акцентом на анализ законодательных положений, соответствующей судебной практики и способов применения судами оснований для прекращения, а также юридических последствий для участников уголовного процесса.

Задачи исследования включают: анализ доктринальной ситуации в области прекращения уголовного дела по существу в РМ, Румынии и других странах; изучение уголовно-процессуального законодательства, практики его применения, а также анализ общей юридической и научной литературы, касающейся прекращения уголовного процесса; выявление и изучение общих аспектов прекращения уголовного процесса при рассмотрении дела по существу; анализ национальных и международных инструментов, регулирующих прекращение уголовного процесса судом; определение и исследование процессуальных гарантий, обеспечивающих достижение целей уголовного процесса и соблюдение прав его участников; концептуальный анализ оснований и условий прекращения уголовного процесса, выявление пробелов в правовом регулировании и проблем правоприменения, вытекающих из этих пробелов; анализ и оценка правовых норм о прекращении уголовного процесса в законодательствах других государств; исследование национальной судебной практики, решений КС РМ, Румынии по вопросам прекращения уголовного процесса; формулирование предложений по совершенствованию законодательства и рекомендаций, направленных на повышение эффективности судебной практики и оптимизацию решений о прекращении уголовного процесса.

Научная новизна и оригинальность диссертации проявляются в многоаспектном исследовании института прекращения уголовного процесса при рассмотрении дел по существу, особенно в отношении законных оснований и решений, принимаемых судами на их основе, с определением путей совершенствования отечественной судебной практики в данной области.

Важная решённая научная проблема заключается в исследовании и анализе особенностей принятия решения о прекращении уголовного процесса судом при рассмотрении дела по существу, что позволило прояснить - как для теоретиков, так и для практиков - правовые основания прекращения, разграничение приговора и прекращения уголовного процесса от других видов судебных решений, с целью оптимизации уголовно-процессуальной доктрины в данной сфере путём формулирования и обоснования предложений по совершенствованию законодательства.

Теоретическая значимость. Настоящая работа направлена на развитие уголовно-процессуальной доктрины посредством комплексного анализа института прекращения уголовного процесса на стадии рассмотрения дела по существу. Работа отличается системным подходом к нормативной базе, релевантной судебной практике и теоретическим спорам, связанным с основаниями, условиями и последствиями прекращения уголовного процесса, предлагая актуальную интерпретацию в контексте недавних законодательных изменений в РМ.

Практическая ценность работы. Предложения, сформулированные в диссертации, способствуют совершенствованию уголовно-процессуального законодательства путём выявления пробелов и представления конкретных решений по улучшению норм, касающихся прекращения уголовного процесса на стадии судебного разбирательства. Практические рекомендации и аргументы, подкреплённые судебной практикой и доктриной, адресованы практикующим юристам - адвокатам, прокурорам, судьям, работа представляет собой ценный ресурс для академической среды и юридического образования, полезна как в начальной, так и в последующей профессиональной подготовке специалистов в области права.

Внедрение научных результатов. Научные результаты диссертационной работы были внедрены в процесс прямого применения правовых норм, поскольку соискатель ученой степени работает судьёй в Кишинёвском суде.

PĂUN PETRU

THEORETICAL AND PRACTICAL ASPECTS OF TERMINATING CRIMINAL PROCEEDINGS IN THE TRIAL OF CRIMINAL CASES

SPECIALTY 554.03 – CRIMINAL PROCEDURAL LAW

Abstract of the doctoral thesis in law

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