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THE QUALITY REQUIREMENTS OF THE CRIMINAL LAW AS AN EXPRESSION OF THE PRINCIPLE OF LEGALITY

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Abstract

Within the legal framework of the rule of law, the principle of legality in criminal law serves as a fundamental safeguard, as it makes the legitimacy of criminal intervention contingent upon the existence of a pre-established, clear, and predictable legal provision, thereby ensuring the effective protection of the individual against arbitrary punishment. This principle is not limited to the mere formal existence of a written criminal law, but necessarily presupposes compliance with certain quality standards of the law, without which its correct application becomes, without a doubt, impossible. In this sense, the quality of criminal law provisions constitutes „a sine qua non" condition for the effective realization of the legality of criminalization and for guaranteeing legal certainty for those subject to the law.

In this study, we aim to examine, from both a doctrinal and jurisprudential perspective, the quality standards of criminal law provisions through the lens of the principle of legality of criminalization, with an emphasis on their importance in the process of the legal-criminal classification of acts.

This approach aims to highlight the risks posed by unclear criminal law provisions, as well as to emphasize the obligation to interpret the law strictly and restrictively, as a fundamental guarantee of respect for criminal legality in a state governed by the rule of law.

Keywords: criminal legality, quality standards of norms, accessibility, clarity, predictability, strictness of the law.

EXIGENȚELE DE CALITATE ALE NORMEI DE INCRIMINARE CA EXPRESIE A PRINCIPIULUI LEGALITĂȚII PENALE

Abstract

În arhitectura normativă a statului de drept, principiul legalității incriminării dobândește valoarea unei garanții fundamentale, întrucât condiționează legitimarea intervenției penale de existența unei norme prestabilite, clare și previzibile, asigurând astfel protecția efectivă a individului împotriva arbitrariului sancționator. Acest principiu nu se reduce doar la simpla existență formală a unei norme penale scrise, ci presupune, în mod necesar, respectarea unor standarde de calitate ale legii, fără de care aplicarea sa corectă devine fără dar și poate imposibilă. În acest sens, calitatea normelor penale constituie o condiție "sine qua non" pentru realizarea efectivă a legalității incriminării și pentru garantarea securității juridice a destinatarilor legii.

Ne propunem în prezentul studiu examinarea, din perspectivă doctrinară cât și jurisprudențială, a

standardelor de calitate ale normelor penale prin prisma principiului legalității incriminării, cu accent pe importanța acestora în procesul de calificare juridico-penală a faptelor.

Demersul urmărește evidențierea riscurilor pe care le generează normele penale lipsite de claritate, precum și reliefarea obligației de interpretare strictă și restrictivă a legii, ca garanție fundamentală a respectării legalității penale într-un stat de drept.

Cuvinte-cheie: legalitate penală, standarde de calitate ale normei, accesibilitatea, claritatea, previzibilitatea, strictețea legii.

Introduction. The concept of legal certainty in criminal law was developed by the distinguished Italian criminologist and criminal law scholar Cesare Beccaria in his seminal work „Dei delitti e delle pene". In the author's view: „If the interpretation of laws constitutes an evil, it is evident that another evil is their obscurity, which necessarily entails interpretation; and this evil will be all the greater if the laws are written in a language foreign to the people, thus placing them at the mercy of a few individuals, since they cannot judge for themselves what will be the fate of their freedom or that of their fellow citizens, in a language that transforms a solemn and public document into one that is almost private and domestic. What are we to think of people, considering that this was the long-standing custom of a large part of cultured and enlightened Europe? The greater the number of those who will understand and hold in their hands the sacred code of laws, the rarer crimes will become, for there is no doubt that ignorance and uncertainty regarding punishments increase the power of passions" [1, p.19].

In this context, the renowned criminal law scholar F. Carrara states: „No one can be attributed with the intent to violate a law that either does not exist or is unknown to them. Therefore, an act cannot constitute a crime if the law prohibiting it has not been enacted and promulgated" [3, p. 36].

The principle of legality of criminalization is enshrined in the first part of Article 22 of the Constitution of the Republic of Moldova: „No one shall be convicted for acts or omissions that, at the time of their commission, did not constitute a criminal offense. "The Criminal Code enshrines the principle of legality in Article 3 para. (1): "No one may be found guilty of committing a crime or subjected to criminal punishment except on the basis of a court decision and in strict accordance with criminal law".

In fact, the accessibility, clarity, and predictability of criminal law provisions are not merely requirements of legislative technique, but genuine safeguards of individual liberty, since only a comprehensible and predictable law enables individuals to adjust their conduct and anticipate the criminal legal consequences of their actions. In the absence of sufficiently precise, unambiguous rules, the application of criminal law risks becoming arbitrary, affecting both the fairness of the legal classification of the act and the legitimacy of the state's punitive response [17, p.141].

Legal classification is inextricably linked to the nature of the criminal law provisions that describe the constituent elements and characteristics of the offense. The precise subsumption of the harmful act under the provisions of criminal law within the legal classification, regardless of whether it is official or unofficial, is possible only to the extent that the criminalization provisions are drafted in full accordance with the quality criteria arising from *the principle of legality of criminalization.*

Methods and materials applied. The scientific nature of this paper is characterized by the use of a methodology that combines interdisciplinary approaches and critical analysis, ensuring a rigorous examination of the quality standards of criminal law.

The logical method plays a central role in this research, serving to systematize and rationalize the analysis of key concepts such as the clarity of criminalization, accessibility, and the predictability of criminal law. Through this method, the interdependencies and causal relationships between the quality standards of criminal law and its enforcement mechanisms have been highlighted, facilitating the formulation of coherent and rigorously argued conclusions regarding the fairness and conceptual consistency of criminal regulations.

The *critical analysis method* was extensively applied to evaluate criminal law provisions, related legislation, and relevant case law. This critical analysis made it possible to identify vulnerabilities, gaps, and inconsistencies in the regulation and application of quality standards for criminal legality, as well as to assess their impact on judicial practice.

The comparative method was employed by examining Moldova's criminal legal framework in light of the standards established in the case law of the European Court of Human Rights, thereby enabling a comparison of national legislative provisions with the treaty requirements derived from the Court's judgments.

Discussions and results obtained. Based on the provisions of the Universal Declaration of Human Rights (hereinafter UDHR)[1], the principle of legality in criminal law is enshrined in Article 7(1), first sentence of the ECHR: "No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense under national or international law at the time it was committed". In interpreting these provisions, the ECtHR, based on the principle of the evolving interpretation of the European Convention, has identified three criteria for the quality of criminal laws: *accessibility, clarity, and predictability*.

A ruling by the Constitutional Court stated: "To meet the three quality criteria- accessibility, predictability, and clarity – a legal norm must be formulated with sufficient precision to enable a person to determine their conduct and to reasonably foresee, based on the circumstances of the case, the consequences of that conduct. Otherwise, even though the law contains a legal rule that apparently describes the person's conduct in the given situation, the person may claim that they are unaware of their rights and obligations. Under such an interpretation, a rule that does not meet the criteria of clarity is contrary to Article 23 of the Constitution, which establishes the state's obligation to guarantee every person the right to know their rights" [11].

In the same vein, another decision of the Constitutional Court stated: "...any legislative act must comply with constitutional principles and norms, as well as with the requirements of legislative drafting, which are intended to ensure the clarity, foreseeability, predictability, and accessibility of the act. The law must regulate in a unified manner, ensure a logical-legal connection between the provisions it contains, and, in the case of legal institutions with a complex structure, provide for the elements that distinguish their particularities" [12].

The quality standards of the law, as established in the consistent case law of the European Court of Human Rights, constitute fundamental legal requirements of the rule of law, designed to guarantee legal certainty and the effectiveness of the principle of legality by imposing essential requirements.

In this context, ***the accessibility*** of the law refers to the effective public dissemina-

[1] In accordance with Article 11 of the UDHR: „Everyone charged with a criminal offense has the right to be presumed innocent until proven guilty according to law in a public trial in which all the guarantees necessary for his defense have been provided", and pursuant to paragraph (2): „No one shall be held guilty of any criminal offense for any act or omission that did not constitute a criminal offense under international or national law at the time it was committed. Furthermore, no heavier penalty shall be imposed than that which was applicable at the time the criminal offense was committed".

tion of legislative acts. Under the constitutional order, this requirement is fulfilled through the procedure for publishing the law, as regulated by Article 76 of the Constitution; publication in the Official Gazette constitutes the legal means by which the normative act is incorporated into the legal order and becomes enforceable against all legal subjects. Only from this moment on can it be legitimately presumed that the addressees of the norm have a real opportunity to become aware of its content. This allows for the invocation of the general presumption of knowledge of the law and confers upon the norm the character of an accessible law.

With regard to the requirement of accessibility, the Constitutional Court ruled "... that there is no doubt that the contested provisions meet the condition of accessibility. The Criminal Code is published in the Official Gazette, and the general public has access to it. So, the presumption of knowledge of the law applies, which stems from the general legal principle "*Nemo censetur ignorare legem*".

Consequently, the requirement of ***accessibility*** of a criminal law provision is met upon its publication in the Official Gazette, as publication constitutes the formal legal condition by which the provision becomes enforceable against all those to whom it is addressed. In this context, accessibility is presumed, and knowledge of the law is imputed to all legal subjects pursuant to the principle "*Nemo censetur ignorare legem*", such that the lack of effective information cannot be invoked to call into question the validity of the provision in terms of accessibility.

In the case of *Silver v. the United Kingdom*, the ECHR held that "...the law must be made available in an appropriate manner: the citizen must, in the specific circumstances, have sufficient guidance as to the legal rules applicable in a given situation. It is clear that the Prisons Act and the Regulations met this requirement, but the administrative orders and instructions were not published" [13].

It follows from this interpretation that the accessibility of criminal law is not limited to the publication of the Criminal Code, but necessarily entails the accessibility of all normative acts to which criminal law refers and which contribute to defining the legal content of a crime (elements of a crime). This finding is particularly relevant for offenses described by blanket criminal provisions, in which the content of the criminalization is determined by reference to other normative regulations. In these cases, the accessibility of the criminal provision is contingent upon the subject's actual ability to know the body of law that completes the „criminal significance of the offense". Therefore, in the case of these offenses, it must be verified whether the requirement of accessibility is also met by the legal provisions set forth in other normative acts, to which the legislature refers for a complete description of the elements of the offense.

The second criterion is ***the clarity*** of the criminal law provision. Legal scholarship indicates that the quality of criminal law depends on the fulfillment of certain criteria regarding content and form, as outlined in the principles of legislative drafting; adherence to the rules of legislative drafting is the primary condition for ensuring the quality of criminal law [2, p. 155]. In another approach, the quality of the law presupposes that "its text sets forth the rules of law in a logical and coherent sequence, grammatically correct, in accordance with the requirements of the language..., in a clear and precise manner" [18, p.7].

Building on this idea, it is argued that strict adherence to the rules of legislative drafting constitutes an indispensable condition for maintaining the legislation in force in a proper "working order". Underestimating and oversimplifying this technique leads to numerous legislative and law enforcement errors, which result in a misinterpretation of the law and violations of legality [18].

Therefore, ***the clarity*** of a criminal law provision refers to the intrinsic quality of the legislative text and depends on how the provision is formulated. A criminal law provision is clear when:

• The terms used are intelligible, unambiguous, and correctly formulated in terms of the grammar, spelling, and semantics of the Romanian language;

• The wording of the provision allows for an understanding of the constituent elements of the offense, as well as the criminal penalties that may be imposed;

• The text is not contradictory, obscure, or excessively technical without normative explanation;

• There are no contradictions between general criminal provisions and special criminal provisions.

The third criterion of quality for a criminal law provision is ***predictability***. In general, the predictability of a criminal law provision is determined by the clarity of its wording. Legal doctrine clearly states that the quality of the law is an indispensable condition for the predictability and certainty of its application. A person's ability to anticipate the consequences of their conduct is (or, at least, should be) a determining factor in their choice of behavior [6, p. 3].

According to the Venice Commission, predictability does not merely require that the law be, as far as possible, adopted and made public before it enters into force and that its effects are foreseeable; it also implies that the rule must be formulated with sufficient precision and clarity to enable legal subjects to conform their conduct in accordance with its provisions. The necessary degree of predictability, however, depends on the nature of the law. In particular, this requirement is essential in the field of criminal law. The need to adopt precautionary measures before concrete dangers arise has become increasingly important; this development is legitimate, given the proliferation of risks, generated in particular by technological developments. Nevertheless, in areas where a preventive approach to regulation applies, such as risk law, the grounds for state intervention are formulated in considerably broader and more imprecise terms; however, the principle of the rule of law requires that the requirement of predictability not be set aside even in these areas [15].

Although inextricably linked to the quality of criminal laws, predictability refers to the ability of a legal norm to enable its addressee to reasonably anticipate the legal consequences of their conduct, based on the normative content of the law, supplemented, if necessary, by the consistent judicial interpretation of the courts.

A criminal law provision is ***predictable*** when:

• It allows the individual to identify the conduct relevant under criminal law, that is, the unlawful conduct described by the provision. The person can reasonably anticipate whether a certain act or omission entails criminal liability;

• A person can, if necessary, rely on the interpretation of the courts, in order to understand the content of the provision consistent (uniform) case law, and legal counsel. Predictability is not contingent upon absolute certainty in the wording of the criminal law provision, but also upon reasonable foreseeability, which may be ensured through legal guidance (interpretations or explanations). Therefore, predictability may result not only from the text of the criminal law provision, but also from the consistent and accessible case law existing regarding the provision.

With regard to the relationship between the clarity and predictability of criminal law provisions, we conclude that clarity is, first and foremost, an intrinsic requirement of the legislative text. It concerns the manner in which the criminal provision is formulated, the degree of precision of the terms used, the internal coherence of the provision, and the absence of semantic or logical ambiguities. The assessment of clarity can be carried out ***ex ante***, that is, before the act is committed, through an abstract analysis of the statutory text, independent of specific situations of application.

It can be observed that foreseeability is linked to the actual ability of the person subject to criminal law to anticipate the criminal legal consequences of their conduct, in light not only of the text of the law, but also of judicial interpretation and established practice. The analysis of predictability is conducted ***ex post*** and ***in concreto***, taking into account the specific circumstances of the case, the normative context, and the degree of accessibility of relevant case law. Predictability concerns the ability to anticipate the state's punitive response, and not exclusively the abstract formulation of the legal norm.

Case Study: **58.** The Court accepts the view according to which a potential litigant is deprived of the possibility of reasonably foreseeing the conditions under which he or she would be held liable under Article 361 para. (1) of the Criminal Code when manufacturing, possessing, selling or using a forged official document that confers rights or releases from obligations and, respectively, the conditions under which he or she would be held liable under Article 361 para. (2) letter c) of the Criminal Code, where the same actions are committed in relation to a document of particular importance [...].

59. Due to the lack of clarity of the provision set out in Article 361 para. (2) letter c) of the Criminal Code of the Republic of Moldova, the choice between this provision and that contained in Article 361 para. (1) of the Criminal Code cannot be made by those competent to apply criminal law other than approximately, based on assessments devoid of objectivity.

60. The contested norm grants the courts a wide margin of discretion, which leads to the existence of judicial decisions containing diametrically opposed interpretations [...].

61. So, the Court observes that the relevant case-law has not developed, with regard to the impugned notion, a meaning capable of constituting an objective benchmark by reference to which its content may be assessed. The judge himself or herself is placed in difficulty, being required to choose between several possible alternatives, in the absence of a clear formulation of the norm and, implicitly, of the applicable sanctioning regime.

62. Consequently, Article 361 para. (2) letter c) of the Criminal Code is susceptible to an extensive interpretation to the detriment of the offender [...].

63. Therefore, in the absence of objective benchmarks, including normative ones, the attribution of particular importance to a document is left to the discretion of those applying criminal law, the litigant thus finding himself or herself in a state of legal uncertainty.

64. In conclusion, summarizing the *above*, the Court finds that the provisions of Article 361 para. (2) letter c) of the Criminal Code are drafted in an imprecise and unclear manner and confer upon the authorities applying them a wide margin of discretion. Consequently, they do not meet the standard of quality required of criminal law and are contrary to Articles 1 para. (3) and 22, read in conjunction with Article 23 para. (2) of the Constitution [7].

Clarity is a necessary but not sufficient condition for predictability. A rule may be clearly worded but applied in an unpredictable manner through expansive, creative, or inconsistent interpretations; conversely, a rule drafted in general terms may achieve a reasonable degree of predictability through consistent and accessible case law. Therefore, the quality of criminal law stems from the interaction between the clarity of the normative text and the predictability of its application, both of which are indispensable for fulfilling the function of guiding conduct and for upholding the principle of legality in criminalization.

Case Study: **26.** The applicant complained of a violation of article 7 of the Convention [...]. He argued that the definition of the notion of a „medicinal product", as set out in article L. 511 of the Public Health Code, was extremely imprecise and left the courts a wide margin of appreciation [...].

27. The Commission, in essence, endorsed the applicant's point of view. It observed that, although the criteria developed by the Convention institutions in relation to other provisions may be transposed to the field of application of Article 7, that provision nonetheless requires a stricter application of those criteria [...].

31. The Court reiterates that it is a logical consequence of the principle of the general applicability of laws that their wording is not always precise. One of the standard legislative techniques is the use of general categories rather than exhaustive lists. The need to avoid excessive rigidity and to adapt to changing circumstances means that many laws are inevitably couched in terms which are, to a greater or lesser extent, vague. The interpretation and application of such provisions depend on practice.

35. [...] the scope of the notion of foreseeability depends to a considerable degree on the content of the text in question, the field it is intended to cover, and the number and status of those to whom it is addressed. A law may satisfy the requirement of foreseeability even where the person concerned must seek legal advice in order to assess, to a reasonable degree, the consequences of a given action. This is particularly true in the case of persons engaged in a professional activity, who are accustomed to exercising a higher degree of caution. With the benefit of appropriate legal advice, Mr Cantoni, who was moreover the manager of a supermarket, ought to have assessed, at the relevant time, that, having regard to the established case-law of the Court of Cassation and of certain lower courts, there existed a real risk of prosecution for the unlawful sale of medicinal products [...].

36. Consequently, there has been no violation of article 7 of the Convention [8].

In the above case, the Court reaffirmed that the principle of legality in criminal law, as enshrined in Article 7 of the Convention, requires that offences be defined with sufficient clarity and foreseeability, without, however, excluding the use of general terms or the legislative technique of categorisation. The requirement of foreseeability is satisfied where the norm, interpreted in the light of the relevant case-law and, if necessary, with the assistance of legal advice, enables the individual to foresee, to a reasonable degree, the criminal consequences of his or her conduct. The existence of areas of uncertainty at the margins of the application of a provision is not, in itself, incompatible with article 7, provided that the legal framework offers sufficient guidance for the regulation of conduct and the avoidance of arbitrariness.

Case Study: **38.** Mr Kokkinakis challenged the wording of Article 4 of Law No.1363/1938. He criticised the absence of any description of the "objective content" of the offence of proselytism. He considered that this omission was deliberate, as it would allow any form of conversation or communication of a religious nature to be subsumed under that provision. The applicant pointed to the risk of an "extensibility" of the vague notions employed by the legal text, both on the part of the police and, often, on the part of the courts, such as the expressions "in particular" and "indirect attempt" to interfere with the religious beliefs of others [...].

40. The Court has already emphasised that the wording of many statutory provisions is not absolutely precise. The need to avoid excessive rigidity and to keep pace with evolving circumstances means that many laws are inevitably couched in terms which, to a greater or lesser extent, are vague (see, for example, mutatis mutandis, the judgment in *Müller and Others v. Switzerland* of 24 May 1988, Series A No.133, p.20, § 29). Criminal law provisions relating to proselytism fall within this category. The interpretation and application of such norms depend on practice.

In the present case, there existed a body of consistent domestic case-law (see paragraphs 17-20 above). This case-law, which had been published and was accessible, supplemented the wording of Article 4 and was such as to enable Mr Kokkinakis to regulate his conduct in this field [9].

In a manner similar to the *Cantoni* case, in *Kokkinakis* the Court held that, although criminal norms may be formulated in general and even vague terms, the requirement of foreseeability is satisfied where their interpretation and application are stabilised through consistent, published, and accessible case-law. Thus, clarifying judicial practice may complement the normative text, providing individuals with sufficient guidance to regulate their conduct and to foresee, to a reasonable degree, the criminal consequences of their behaviour.

Case Study: **42.** The Court observes that, in the present case, the Government was not in a position to submit decisions of the domestic courts, whether of the Supreme Court of Justice or of lower courts, establishing that, prior to the judgment delivered in the present case, it had been explicitly held that acts of bribery committed by employees of companies with private capital constituted a criminal offence (see, mutatis mutandis, *Pessino v. France*, No.40403/02, § 34, 10 October 2006).

43. From the extensive application of criminal law it follows that, at least due to the absence of accessible and reasonably foreseeable case-law interpretation, the requirements of Article 7 cannot be regarded as having been satisfied in respect of an accused person. In the present case, the lack of prior case-law concerning the assimilation of acts of bribery committed by employees of a bank to those of "officials" and "other employees" of the institutions provided for in Article 145 of the Criminal Code results from the fact that the Government did not provide precedents in this regard. The action of legal doctrine in freely interpreting a legal provision cannot substitute for the existence of case-law. To reason otherwise would amount to disregarding the object and purpose of this provision, which is to ensure that no one is convicted arbitrarily. Moreover, the Court observes that the Government did not provide any example of doctrinal interpretation establishing the criminal liability of bank employees for acts of bribery.

44. Consequently, even as professionals who could have sought legal advice, it was difficult, if not impossible, for the applicants to foresee the reversal in the case-law of the Supreme Court of Justice and, therefore, to know that, at the time they committed their acts, these could entail a criminal sanction (*a contrario*, *Cantoni*, cited above, § 35, and *Coëme and Others*, cited above, § 150).

45. Furthermore, the Court notes that the appellate court expressly proceeded to an extensive application of criminal law (see above, § 11). The court of cassation did not intend to quash this part of the judgment. It merely found that the applicants fulfilled the conditions required to be recognised as perpetrators of the offence, thereby confirming the interpretation adopted by the appellate court.

48. In these circumstances, the Court considers that, in the present case, there has been a violation of article 7 § 1 of the Convention [14].

In the above case, the European Court found that the criminal provisions in question were applied through a broad interpretation of the criminal provision, in the absence of consistent and accessible prior case law that would have predictably established the scope of the active perpetrators of the offense of accepting bribes. The lack of relevant judicial precedents capable of clarifying the meaning and scope of the criminal provision deprived the applicants of the possibility of reasonably anticipating the criminal consequences of their conduct, even if they had sought specialized legal advice. Under these circumstances, the Court held that the requirements of foreseeability and strict interpretation of criminal law, inherent in Article 7 § 1 of the Convention, had not been met, concluding that the criminal interference was incompatible with the principle of legality of criminal offenses.

With regard to the limits of assessing the quality criteria of criminal law provisions, it should be emphasized that the investigating officer, the prosecutor, and the court do not have the authority to rule on the lack of quality standards in a criminal law provision, or on its unclear, unpredictable, or inaccessible nature, for the purposes of constitutional review. Such an assessment falls within the exclusive jurisdiction of the Constitutional Court, by virtue of its role as the guarantor of the supremacy of the Constitution and of the conformity of the law with constitutional provisions. According to Article 134 (1) of the Constitution of the Republic of Moldova: "The Constitutional Court is the sole authority of constitutional jurisdiction in the Republic of Moldova", and according to Article 135(1) (a), it "...exercises, upon referral, constitutional review of laws and resolutions of Parliament, decrees of the President of the Republic of Moldova, resolutions and ordinances of the Government, as well as international treaties to which the Republic of Moldova is a party".

In the event that, during criminal proceedings, serious doubts arise regarding the clarity, predictability, or accessibility of the applicable criminal provision, the only admissible legal mechanism is to refer the matter to the Constitutional Court, in accordance with the law, for a review of constitutionality. This also follows indirectly from the provisions of Article 7(31) of the Code of Criminal Procedure: "Upon the raising of an exception of unconstitutionality and the referral to the Constitutional Court, the court is not entitled to rule on the merits of the referral or on the conformity of the contested provisions with the Constitution, but is limited to verifying that the following conditions are met: a) the subject matter of the exception falls within the category of acts provided for in Article 135 (1) (a) of the Constitution; b) the exception is raised by one of the parties or its representative, or by the court on its own motion; c) the contested provisions are to be applied in the adjudication of the case; d) there is no prior decision of the Constitutional Court concerning the contested provisions".

So, we conclude that failure to meet the quality standards of a criminal law provision cannot be directly established by criminal investigation authorities or courts, but can only be declared, with *erga omnes* effect, by the Constitutional Court. Until such a decision is rendered, the criminal law provision produces its legal effects, and criminal investigation authorities and courts are obligated to give it effect through a strict and restrictive interpretation, in full compliance with the principle of legality in criminal law.

Consequently, the courts and complementary authorities (the investigative body and the prosecutor) are required to apply the criminal law in force, which is presumed to be constitutional, and to interpret it in accordance with the principle of legality, *without being able to determine on their own that the law is unconstitutional or that it lacks quality standards.*

At the same time, in our view, within the process of legally classifying crimes, *compliance with the principle of legality in criminal law imposes a „positive duty of interpretive* *diligence*" on criminal investigation authorities, the prosecutor, and the court. This obligation manifests itself in the need for a rigorous assessment *of the quality of the applicable criminal provision*, in light of the requirements of clarity and predictability, which allow for the unequivocal identification of the constituent elements of the offense. In situations where the criminal provision is formulated in vague, unclear terms or imprecise expressions, susceptible to broad interpretations, judicial authorities must adopt a restrictive interpretation, in accordance with the requirements of criminal legality. Any unfavorable broad interpretation or application by analogy of criminal law is inadmissible, as it would lead to a violation of the provisions of Article 3(2) of the Criminal Code, which states: "*Unfavorable broad interpretation and application by analogy of criminal law are prohibited*".

In this regard, it may be asserted that the role of the authorities entrusted with the application of the law is not confined to the mechanical enforcement of statutory provisions, but rather entails a genuine function as guarantors of criminal legality, called upon to prevent normative imperfections from becoming a source of legal uncertainty and of interference with the fundamental rights of persons subject to criminal liability.

Conclusions. In light of the above, we conclude that the principle of legality in criminal law cannot be understood solely as a formal requirement for the existence of a written criminal law provision, but necessarily entails compliance with substantive standards of legal quality, without which criminal intervention loses its legitimacy in a state governed by the rule of law. Criminal legality is thus established as a principle with a complex content, encompassing accessibility, clarity, predictability, as well as the strict interpretation of the criminal provision.

The case law analyzed demonstrates that imprecisely formulated criminal provisions grant judicial authorities an excessive margin of discretion, favoring broad and unfavorable interpretations and the application of legal provisions by analogy, both of which are strictly prohibited in criminal law. Above all, the quality of the criminal law provision emerges as a sine qua non condition for the correct legal classification of offenses, for the predictability of the state's criminal response, and for the effective protection of the individual's fundamental rights. Compliance with the quality standards of the law is not an abstract ideal, but a concrete and permanent requirement of the rule of law, without which criminal law risks transforming from an instrument of social protection into a mechanism of legal uncertainty.

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