CZU 343.52 DOI: https://doi.org/10.5281/zenodo.20826209

ASPECTS REGARDING THE DELIMITATION BETWEEN THE OFFENCE OF FALSE IDENTITY AND IDENTITY THEFT

Dumitru TABACARU,
PhD Student,
"Ştefan cel Mare" Academy of the Ministry of Internal Affairs,
Republic of Moldova
ORCID: 0009-0001-9940-1116

Andrei NASTAS,
PhD, Associate Professor,
Cross-Border Faculty, "Dunarea de Jos" University of Galati,
Romania
ORCID: 0000-0001-7317-769X

Abstract

The correct and effective application of the legal rules contained in the Special Part of the Criminal Code constitutes an essential condition for the administration of justice and for ensuring legality in the activity of law-enforcement bodies. The legal classification of antisocial acts presupposes not only a thorough knowledge of statutory provisions, but also a rigorous capacity to interpret and delimit them in relation to concrete situations arising in objective reality. In this context, the offence of false identity raises a series of theoretical and practical difficulties, particularly in light of its apparent similarities with the offence of identity theft.

Although at first sight the two notions appear to designate the same legal reality, a careful analysis reveals essential differences both in terms of their constituent elements and in terms of their regulation. The frequent confusion between these offences, including among legal practitioners, highlights the need for conceptual and normative clarification.

At the same time, it should be noted that, unlike identity theft, which is widely recognised in international practice and legislation, the offence of false identity does not benefit from uniform regulation from a comparative-law perspective. This difference further underscores the importance of doctrinal and legal analysis of the two institutions. Accordingly, the present study aims to draw a clear distinction between the offence of false identity and that of identity theft, by emphasising the particularities of each and contributing to a better understanding and application of the relevant criminal-law rules.

Keywords: false identity, identity, attribution of identity, fictitious identity, personal data, use of identity, identity theft, stolen identity.

ASPECTE PRIVIND DELIMITAREA INFRACȚIUNII DE FALS DE IDENTITATE ȘI A FURTULUI DE IDENTITATE

Abstract

Aplicarea corectă și eficientă a normelor juridice din Partea Specială a Codului penal constituie o condiție esențială pentru realizarea actului de justiție și pentru asigurarea legalității în activitatea organelor de drept. Încadrarea juridică a faptelor antisociale presupune nu doar o cunoaștere temeinică a dispozițiilor legale, ci și o capacitate riguroasă de interpretare și delimitare a acestora în raport cu situațiile concrete din realitatea obiectivă. În acest context, infracțiunea de fals de identitate ridică o serie de dificultăți teoretice și practice, în special prin prisma asemănărilor aparente cu infracțiunea de furt de identitate.

Deși la prima vedere cele două noțiuni par a desemna aceeași realitate juridică, o analiză atentă relevă *existența unor diferențe esențiale atât sub aspectul conținutului constitutiv, cât și al reglementării acestora. Confuzia frecventă între aceste infracțiuni, inclusiv în rândul practicienilor dreptului, evidențiază necesitatea unei clarificări conceptuale și normative.*

Totodată, se remarcă faptul că, spre deosebire de furtul de identitate, consacrat pe scară largă în practica și legislația internațională, infracțiunea de fals de identitate nu beneficiază de o reglementare uniformă în plan comparat. Această diferență accentuează importanța analizei doctrinare și juridice a celor două instituții. Prin urmare, prezentul studiu își propune să realizeze o delimitare clară între infracțiunea de fals de identitate și cea de furt de identitate, evidențiind particularitățile fiecăreia și contribuind la o mai bună înțelegere și aplicare a normelor penale incidente.

Cuvinte-cheie: fals de identitate, identitate, atribuirea identității, identitate falsă, date cu caracter personal, folosirea identității, furt de identitate, identitate furată.

Introduction. The Republic of Moldova, as a State that has progressively aligned its legislation with European standards, has developed a regulatory framework intended to govern offences related to identity. This statement follows from the fact that, on 6 June 2024, the Parliament of the Republic of Moldova adopted Law No.136 on the amendment of certain normative acts (hereinafter Law No.136/2024), by which the Criminal Code was supplemented with two offences specifically concerning the security of personal data: Article 177^{1}, “False identity”, and Article 260^{7}, “Identity theft” [1, Art. 1 items 38) and 102)]. The introduction of these provisions represents a landmark in the evolution of national criminal law, marking the transition from a fragmented and indirect regulation of phenomena concerning false identity and identity theft toward a distinct, clear and autonomous incrimination adapted to contemporary realities.

This legislative orientation reflects not only the need to align with international requirements, but also the increasing importance of protecting identity in the context of technological development and the intensification of risks associated with the use of personal data.

Concurrently, the legislature has demonstrated a firm intention to modernise the regulatory framework in the field of personal data protection. Thus, on 25 July 2024, Law No.195 on the protection of personal data (hereinafter Law No.195/2024) was adopted, transposing into national legislation Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, known as the General Data Protection Regulation (GDPR), published in the Official Journal of the European Union L 119/1 of 4 May 2016. This law is due to enter into force on 23 August 2026, thereby consolidating the legal architecture for the protection of natural persons with regard to the processing of their personal data and ensuring the free movement of such data under conditions of security and transparency.

In this context, a progressive and coherent dynamic may be observed in the Republic of Moldova in the implementation of rules on the security of personal data, including by criminally sanctioning persons who unlawfully obtain and use the personal data of other persons. The legislature’s decision to resort to the instrument of criminal law in order to combat such acts reflects an approach consistent with the fundamental principles of European criminal policy, according to which the applicable sanctions must be effective, proportionate and dissuasive, so as to discourage the commission of such acts and ensure real and effective protection of the fundamental rights of the person.

Discussions and results obtained. A first element distinguishing the offence of false identity from the offence of identity theft lies precisely in their systematic placement within the Special Part of the Criminal Code of the Republic of Moldova (hereinafter the CC RM), a placement which is not accidental, but rather reflects the deliberate choice of the legislature as to the social values that each incriminating norm seeks to protect.

Thus, the offence of false identity, provided for in Article 177[1] CC RM, was inserted by the legislature into Chapter V of the Special Part, entitled «Offences against political, labour and other constitutional rights of citizens» [2, Art. 177[1]]. The title of this chapter unequivocally indicates that the generic legal object of the offences regulated therein consists of social relations concerning the exercise of citizens' constitutional rights.

By contrast, the offence of identity theft, provided for in Article 260[7] CC RM, was placed by the legislature in Chapter XI of the Special Part, devoted to «Computer-related offences and offences in the field of electronic communications» [2, Art. 260[7]]. The title of this chapter accordingly reveals that the generic legal object of the offence of identity theft consists of social relations in the field of information technology and electronic communications, which gives this act a distinct legal nature, circumscribed to the sphere of cybercrime.

At the same time, it should be noted that identity theft belongs to the category of computer-related offences that impair the security of another person's identity, from which it follows that the subgroup legal object of this offence consists of social relations concerning the security of a person's identity in the electronic environment.

At first reading, both the offence of false identity and the offence of identity theft directly concern the identity of another person, which could lead to the conclusion that both offences share the same special legal object. This apparent convergence requires an in-depth analysis intended to clarify the distinct nature and content of the social values protected by each incriminating norm.

In order to elucidate this issue, it is necessary to look back at the arguments underlying the supplementation of the Criminal Code with these two provisions through the adoption of Law No.136/2024. Thus, according to the arguments submitted by the authors of one of the draft laws that formed the basis of this law, in support of the incrimination of false identity under Article 177[1] CC RM, it was stated that: «Through the prism of the incriminating norms under discussion, an attack is made upon the identity of the person, which is complemented by the right to private life provided for in Article 28 of the Constitution. In the same context, it was specified that, in the interpretative literature concerning the International Covenant on Civil and Political Rights, the notion of intimate and private life covers several essential aspects of human existence and autonomy, among which identity is expressly included. The latter is understood as a sphere of individual existence that presupposes the protection of life, physical and mental integrity, freedom of conscience and thought, as well as recognition of legal personality. The protection of private life also includes the safeguarding of the individual qualities of human existence, the manner in which a person manifests himself or herself and his or her identity, embodied, for example, in the name» [3, item 104].

Complementing these arguments, the provisions of Law No.195/2024, namely Article 1 paragraph (2), show that the purpose of this law is to ensure the protection of the fundamental rights and freedoms of natural persons and, in particular, the right to intimate, family and private life in connection with the processing of personal data [4, Art. 1]. At the same time, the definition of personal data laid down in Article 4 of the same law, in full concordance with Article 4 point 1) GDPR, indicates that such data means any information relating to an identified or identifiable natural person, by reference to elements such as a name, an identification number, location data, an online identifier or factors specific to his or her physical, physiological, genetic, mental, economic, cultural or social identity [4, Art. 4; 5, Art. 4].

Consequently, it may be observed that personal data are closely connected with the identity of the person, which makes it possible, on the basis of this correlation, to delimit the special legal object of each of the offences under analysis.

From a constitutional perspective, it should be emphasised that the name, as a fundamental attribute for identifying a person, is not expressly provided for in the Supreme Law of the Republic of Moldova as a self-standing constitutional right. Nevertheless, it is protected within the sphere of the right enshrined in Article 28 of the Constitution of the Republic of Moldova, according to which the State shall respect and protect intimate, family and private life.

Accordingly, the special legal object of the offence provided for in Article 177^1 CC RM consists of social relations concerning the exercise, in accordance with Article 28 of the Constitution, of the right to intimate, family and private life, in terms of the public trust placed in findings concerning the identity of persons.

Thus, the specific social value protected through the incrimination of false identity is public trust in the identification of persons and in their real identity. In other words, the norm in Article 177^1 CC RM sanctions infringements of the credibility and authenticity of person-identification processes, ultimately protecting each individual's right to preserve intact and unaltered the identity attributed to him or her in relation to third parties or public authorities, so that no person may be falsely identified or have an identity other than the real one attributed to him or her.

By analogy, it might be argued, *a pari*, that the special legal object of the offence of identity theft would also be social relations concerning the protection of intimate, family and private life, in terms of the public trust placed in findings regarding the identity of persons, similarly to the offence provided for in Article 177^1 CC RM. Such a conclusion would, however, be erroneous and incompatible with the fundamental principles of criminal law.

A fortiori, it is not possible for two different offences to have the same special legal object, even if they are placed in the same chapter of the criminal law or are provided for in the same article or paragraph. Certain details and particularities, even apparently insignificant ones, will always make it possible to distinguish the special legal object of one offence from that of another offence, precisely because each incriminating norm seeks to protect a distinct social value [6, p.37].

Therefore, starting from the placement of the norm in Chapter XI of the Special Part of the CC RM, as well as from the constituent content of the incriminated act, the special legal object of the offence of identity theft is formed by social relations concerning the security of another person's identity, in terms of ensuring the inaccessibility of that identity in an electronic communication, in the absence of the unvitiated consent of its holder [7, p.37].

This delimitation highlights the computer-related and electronic dimension specific to the offence of identity theft, which differs fundamentally from false identity by the manner in which the protected social value is impaired: whereas false identity concerns public trust in the processes for identifying a person, identity theft concerns the security and inaccessibility of identity data in the electronic environment.

With regard to the immaterial object of the two offences, it is found that, in both cases, it is represented by the identity of the person, which constitutes a genuine similarity between the two antisocial acts, beyond their structural differences.

As regards the category of persons whose identities may form the object of these offences, doctrine has provided important clarifications. The authors S. Brînza and V. Stati, in a study devoted to the offence of false identity, specified that, although in a broad sense one may also speak of the identity of a legal person - as follows, for example, from Article 10 paragraph (2) point 4) of Law No.124 of 19 May 2022 on electronic identification and trust services - only a natural person may be the victim of the offence provided for in Article 177[1] CC RM. This follows from the nature of the provisions in Chapter V of the Special Part of the CC RM, which protect exclusively the constitutional rights of citizens, that is, of natural persons, and not subjective rights in general [8, p.31; 9, Art. 10].

With respect to the offence of identity theft, the same authors have emphasised that, unlike Article 177[1] CC RM, the norm in Article 260[7] CC RM does not form part of a chapter of the criminal law in which acts directed exclusively against natural persons are incriminated. Moreover, according to the definition formulated by the Organisation for Economic Co-operation and Development (OECD), "identity theft occurs when someone obtains, transfers, possesses or uses personal information about a natural or legal person without permission, with the aim of committing fraud or other crimes" [7, p.37].

Nevertheless, from a systematic interpretation of Article 260[7] CC RM it follows that the identity targeted by the incriminating norm is exclusively that of a natural person and does not extend to a legal person. This conclusion is required by the fact that, according to the legal text, the user of the computer system is induced by the perpetrator to provide "personal data within an electronic communication", while the notion of personal data, as presented earlier in this paper, refers exclusively to information relating to an identified or identifiable natural person. Therefore, it does not follow from the normative content of Law No.195/2024 that such a legal regime would also be applicable to a legal person [7, p.37].

In the same vein, the national scholars S. Brinza and V. Stati have noted that a legal person does not hold personal data within the meaning of Article 260[7] CC RM, but only identification data, such as its name, tax code or registered office, which do not benefit from the specific legal regime of personal data and, therefore, are not protected by the norm under analysis [7, p.37].

By corroborating these doctrinal and normative arguments, a second similarity between the offence of false identity and the offence of identity theft becomes apparent: in both cases, a legal person cannot have the status of victim, the circle of injured persons being limited, expressly or implicitly, to natural persons.

The objective element is one of the most important elements of the constituent content of any offence, since it describes the external manifestation of criminal conduct, namely the concrete manner in which the perpetrator infringes the social value protected by the criminal norm. In the case of the offences of false identity and identity theft, the comparative analysis of the objective element reveals both elements of convergence and fundamental structural differences, which allow the two incriminated acts to be clearly delimited.

The objective element of the offence provided for in Article 177[1] CC RM has a complex structure, the central element of which is the prejudicial act, expressed in the action of unlawfully presenting oneself under a fictitious identity or of attributing such an identity to another person. Accordingly, the legislature provided for two alternative normative modalities of the prejudicial action, namely:

1) Unlawfully presenting oneself under a fictitious identity - a situation in which the perpetrator assumes a fictitious identity. Consequently, he or she identifies himself or herself before third parties or authorities under an identity other than the real one;

2) Unlawfully attributing a fictitious identity to another person - a situation in which the perpetrator, without substituting himself or herself, confers a fictitious identity upon a third person [10, p.668].

The alternative character of the two normative modalities means that, for the existence of the offence, it is sufficient for either of them to be carried out, without it being necessary for them to be cumulatively fulfilled. At the same time, the examined modalities presuppose the commission of an unlawful action.

In another respect, a distinctive feature of the objective element of the offence of false identity is the method of commission, which in this norm acquires the value of a mandatory constituent element, thereby conferring typicality upon the act [8, p.33]. The legislature expressly and exhaustively provided for the following alternative methods of commission:

1) Using official documents issued in the name of another person – this method presupposes that the perpetrator uses, as a means of committing the offence, official documents that are registered not in his or her own name, but in the name of another person. This method, in our view, is traditional or classical and specific to the physical environment;

2) Registering user accounts on social media platforms, web portals, e-mail addresses, telephone numbers, access cards or other information-society services;

3) Using user accounts on social media platforms, web portals, e-mail addresses, telephone numbers, access cards or other information-society services [2, Art. 177^1].

The second method concerns the process of generating and storing personal information under a fictitious identity or under the real identity of another person, materialised by creating digital entities within the following categories of information-society services: user accounts on social media platforms; web portals; e-mail addresses; telephone numbers; access cards; other information-society services [8, p.34]. In essence, this method presupposes an act of establishing a false digital presence, whereby the perpetrator creates, under an identity that does not belong to him or her, a virtual existence capable of producing legal effects. The act of registration usually involves providing the identity data of another person to the relevant platforms or service providers, which results in the association of that identity with the account or service thus created. Through this method, the prejudicial act is consummated at the moment when the registration process is completed, irrespective of whether that account or service is subsequently actually used.

The last method provided for by the legislature differs from the second in that it does not concern the creation of a new digital entity, but rather the activity of exploiting the functionalities offered by personal information stored within already existing accounts or services. In other words, this method presupposes the effective exercise of the attributes associated with the fictitious identity or with the identity belonging to another person, the perpetrator acting in the digital environment as if he or she were the legitimate holder of that identity. Such actions may include, by way of example: sending messages in another person's name, posting content under an identity that does not belong to the perpetrator, accessing information available through the account, managing its settings, as well as any other action involving the exploitation of the functionalities offered by the respective service for the purpose pursued by the perpetrator.

Unlike the registration method, in the case of the use of accounts the prejudicial act may be consummated continuously, throughout the period during which the perpetrator benefits from the functionalities of the service under the fictitious identity or under the identity of another person. This gives this modality a potentially more serious character from the perspective of the scope and persistence of the infringement of the protected social value, as the harm caused to the victim may accumulate and progressively worsen as the criminal activity continues.

The two methods described above have one essential common element, namely the means of committing the offence, which are identical in both cases. Thus, regardless of whether the perpetrator registers or uses an account or a digital service, the technical means employed are the same: social media platforms, web portals, e-mail addresses, telephone numbers, access cards or other information-society services. The identity of the means used justifies the unitary legal treatment of the two methods within the same incriminating norm, the legislature opting for a regulation that exhaustively covers the entire cycle of criminal conduct in the digital environment – from the establishment of the false presence to its exploitation.

The objective element of the offence provided for in Article 260^7 CC RM is distinguished by a more elaborate structure compared with that of the offence of false identity, reflecting the complexity specific to offences in the field of electronic communications. The central element of the objective element consists in the action of obtaining another person's identity, understood as the process by which the perpetrator accesses, acquires or comes into total or partial possession of the data or characteristics forming the identity of another person [7, p.39].

It is essential to emphasise that not every obtaining of another person's identity falls within the scope of Article 260^7 CC RM. In order to be classified under this article, the action must have an unlawful character, which is expressly conferred by the secondary signs of the objective element [7, p.39].

Unlike the offence of false identity, the objective element of identity theft is constructed around secondary signs that confer unlawfulness on the action and that are, at the same time, mandatory constituent elements of the offence:

1) *The fraudulent manner of commission*: represents the first and most important secondary sign of the objective element. It presupposes that the identity is obtained by misleading the user of the computer system, by exploiting a state of appearance deliberately created by the perpetrator. The fraudulent character of the action is what confers unlawfulness on the act and distinguishes it from situations in which identity data are accessed legitimately;

2) *The means of commission*: the second secondary sign consists in the use of a computer or telecommunications system as the instrument through which the act is committed. This feature irreversibly anchors the offence of identity theft in the sphere of cybercrime and structurally distinguishes it from false identity, which may also be committed by a traditional method specific to the physical environment.

3) *The method of commission*: consists in misleading the user of the computer system due to the creation of a state of appearance, that is, by simulating false circumstances or entities (counterfeit websites, fraudulent e-mail messages, false interfaces, etc.) capable of inducing the victim to provide, voluntarily but under a vitiated will, his or her identity data.

The comparative analysis of the objective element of the two offences reveals essential structural differences, confirming that the legislature intended to incriminate two distinct criminal phenomena, even if they are apparently related. False identity is built around the idea of substitution or attribution of a fictitious identity, placing emphasis on the act of fraudulent presentation before third parties, irrespective of the environment in which it occurs. Identity theft, by contrast, is centred on the idea of unlawfully obtaining the identity data of a real person by exploiting computer means and the state of appearance created in the electronic environment.

Another significant difference lies in the role that the secondary signs of the objective element play in the structure of each norm: whereas in the offence of false identity the method of commission serves to circumscribe the concrete modalities for carrying out the action, in the offence of identity theft the secondary signs - the fraudulent manner, the computer-related means and the method of deception - are those that confer unlawfulness on the prejudicial action itself, in the absence of which the act cannot be classified under Article 260^7 CC RM.

These findings are relevant not only from the perspective of the theory of criminal law, but also from a practical standpoint, since the correct delimitation of the objective element of the two offences constitutes the indispensable premise for an exact legal classification in judicial practice.

As regards the legal classification of the offences under analysis, in national doctrine the authors S. Brînza and V. Stati [7, p.42], [8, p.35] expressed the view, in the works mentioned in the present research, which we support, concerning the manner of classifying the offence in the case of concurrence between a part and a whole.

Thus, the two authors opined that, where the offence of false identity is committed in the context of another offence, it loses its individuality, being absorbed by the more serious offence. In such cases, in accordance with the rule laid down in Article 118 CC RM concerning concurrence between a part and a whole, criminal liability will be incurred not for the offence provided for in Article 177^1 CC RM, but for one of the acts specified in letter f) paragraph (1) Article 165, Articles 167, 168, 190, 196, 238, 248, 248^1 or others of the Criminal Code, as applicable. Conversely, in situations where an act is committed which by its nature cannot absorb false identity – such as, for example, murder, driving a means of transport while exceeding the permitted alcohol limit or while intoxicated by other substances, illegal circulation of drugs, ethnobotanicals or their analogues for the purpose of alienation, or other offences - there will be a concurrence of offences between the respective act and the offence provided for in Article 177^1 CC RM [8, p.35].

The same rule of classification applies, by analogy, to the offence of identity theft provided for in Article 260^7 CC RM. In this respect, the same authors, in another work, identified two distinct options for classifying the act, namely: 1) concurrence between the offence provided for in Article 260^7 CC RM and one of the offences provided for in letter f) paragraph (1) Article 165, Articles 167, 168, 190, 196, 238, 248, 248^1 or others of the Criminal Code; and 2) retaining exclusively one of the offences listed above, with the clarification that, in this case, identity theft constitutes the preparatory act for the subsequent offence, thereby losing its criminal autonomy [7, p.42].

With regard to the legal relationship between the offences provided for in Articles 177^1 and 260^7 CC RM, the authors mentioned above are of the opinion that the classification solution differs depending on the chronological sequence and the teleological link between the two acts. Thus, where the intention to commit false identity arose after the consummation of identity theft, the two offences each retain their own individuality and are to be retained in concurrence of offences, according to the general rules applicable to this institution [8, p.35].

By contrast, a different solution is required when, in order to carry out the intention to commit false identity, the perpetrator first obtains the identity of another person fraudulently, through computer or telecommunications systems, misleading the user by creating a state of appearance designed to induce him or her to provide personal data within an electronic communication. In such a hypothesis, identity theft loses its criminal individuality, not being a self-standing offence, but representing exclusively the preparatory act for the offence of false identity provided for in Article 177^1 CC RM; accordingly, only Article 177^1 CC RM is to be applied [7, p.42].

A significant element of similarity between the offence of false identity and the offence of identity theft lies in their formal nature, both offences being deemed consummated from the moment the prejudicial act is committed.

As regards the subjective element, both offences under analysis may be committed exclusively with direct intent, the perpetrator foreseeing the prejudicial character of his or her act and deliberately pursuing the production of its consequences. This common feature excludes the possibility of committing either offence through negligence or with indirect intent, reflecting the legislature's intention to sanction exclusively criminal conduct characterised by a high degree of determination and awareness in relation to the act committed.

Although both offences presuppose direct intent, the special purpose of each constitutes an essential criterion of delimitation, highlighting the distinct aim pursued by the perpetrator in each case.

In the case of the offence provided for in Article 177^1 CC RM, the legislature provided for a special purpose with a dual structure, composed of two components in a relationship of teleological subordination: the primary purpose - to mislead or maintain a person in error as to the identity of the perpetrator or of a third person; the secondary purpose – to produce a legal consequence, that is, to obtain an effect of a legal nature through the error created. The two components of the special purpose are cumulative and indispensable for the application of the norm in Article 177^1 CC RM. In the absence of either of them, the act cannot be classified under this article, because the absence of one of the purposes removes the subjective typicality of the offence [8, p.35].

In the case of the offence provided for in Article 260^7 CC RM, the special purpose consists in inducing the user of the computer system to provide personal data within an electronic communication [7, p.43]. Unlike the dual structure of the purpose provided for in Article 177^1 CC RM, in the case of identity theft the special purpose has a unitary character, directed exclusively toward obtaining the victim's identity data through electronic means.

An aspect of particular importance that deserves emphasis is that the purpose provided for in Article 260^7 CC RM must be achieved prior to the consummation of the offence. This requirement flows from the very constituent content of the act: insofar as the user of the computer system, although misled by the perpetrator, does not provide the latter with personal data within an electronic communication, the perpetrator will not be able to obtain the victim's identity, and the offence will not be consummated in the typical form provided by law [7, p.43]. Therefore, the achievement of the special purpose does not represent a consequence of the consummated offence, but a sine qua non condition of its very consummation.

With regard to the subject of the offence, we observe that the legislature opted for a differentiated regulation of the two incriminating norms, establishing a distinct framework for the persons who may have the status of subject. In the case of the offence provided for in Article 177^1 CC RM, the subject is circumscribed, being exclusively a responsible natural person who, at the time of committing the offence, has reached the age of 16 years [10, p.674].

A significant difference from the offence of false identity is found in the case of the offence provided for in Article 260^7 CC RM, whose subject has a broader scope. Thus, in the case of identity theft, the status of active subject may be held both by a responsible natural person who, at the time of committing the offence, has reached the age of 16 years, and by a legal person, with the exception of public authorities [7, p.43].

Conclusions. The research undertaken in the present study has shown that the offences of false identity and identity theft, introduced into the Criminal Code of the Republic of Moldova by Law No.136/2024, constitute two distinct incriminating norms which, although they directly concern the identity of a natural person, differ essentially in terms of the protected social values, the structure of the objective and subjective elements, and the status of the subjects who may commit these offences.

The main similarities between the two offences lie in the fact that the immaterial object of both acts is represented by the identity of a natural person; a legal person cannot have the status of victim in these offences; both offences are formal and may be committed exclusively with direct intent.

Nevertheless, the two offences differ fundamentally in multiple respects. From the perspective of their normative placement, false identity is an offence against the constitutional rights of citizens, whereas identity theft belongs to the category of computer-related offences. The special legal object of false identity concerns public trust in the authenticity of identification processes, while that of identity theft protects the security of identity in the electronic environment. The objective element of the two offences differs in that false identity may be committed both in the physical and in the digital environment, whereas identity theft is committed exclusively through computer systems. The special purpose of false identity has a dual structure, presupposing deception and the production of a legal consequence, while the purpose of identity theft is unitary, directed toward obtaining the victim's personal data. At the same time, the subject of the offence of identity theft has a broader scope, including legal persons as well, unlike false identity, which may be committed exclusively by a natural person.

Bibliographical references

1. Law No.136 of 6 June 2024 on the amendment of certain normative acts (amendment of the Criminal Code and the Contravention Code). In: Official Gazette of the Republic of Moldova, 2024, No.245-246, 353.
2. Criminal Code of the Republic of Moldova, No.985-XV of 18 April 2002. In: Official Gazette of the Republic of Moldova, 2002, No.128-129. In force since 12 June 2003.
3. Synthesis of objections and proposals to the draft Law on the amendment of certain normative acts (amendment of the Criminal Code and the Contravention Code). Available: https://particip.gov.md/ro/download_attachment/19386 (accessed 06.04.2026).
4. Law No.195 of 25 July 2024 on the protection of personal data. In: Official Gazette of the Republic of Moldova, 2024, No.367-369, 574.
5. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). Available: https://eur-lex.europa.eu/legal-content/ro/TXT/?uri=CELEX%3A32016R0679 (accessed 06.04.2026).
6. Brînza S. The object of the offences provided for in Article 1851 of the Criminal Code. In: Intellectus Journal 2/2023. Available: https://agepi.gov.md/sites/default/files/intellectus/intellectus_02-2013_36.pdf (accessed 06.04.2026).
7. Brînza S., Stati V. Identity theft: Anatomy of an offence in the digital era. In: Studia Universitatis Moldaviae (Social Sciences Series), 2025, No.8(188), ISSN 1814-3199.
8. Brînza S., Stati V. False identity: What is it and when does it trigger criminal liability? In: Studia Universitatis Moldaviae (Social Sciences Series), 2025, No.3(183), ISSN 1814-3199.
9. Law No.124 of 19 May 2022 on electronic identification and trust services. In: Official Gazette of the Republic of Moldova, 2022, No.170-176, 317.
10. Tabacaru D., Nastas A. *Legal-criminal analysis of the crime of false identity*. In: Law and Life Journal, Special edition, 2025.