THE CONTRAVENTIONAL LIABILITY UNDER LAW NO. 8/1996 ON COPYRIGHT AND RELATED RIGHTS, REPUBLISHED, WITH SUBSEQUENT AMENDMENTS AND ADDITIONS

Iacob-Cătălin MARCU*

Abstract

The present study addresses the issue of the contraventional liability as a consequence of committing any of the acts provided for in art. 190 and 191 of Law no. 8/1996 on copyright and related rights, republished, with subsequent amendments and additions, from the perspective of analyzing certain aspects of the respective contraventions, such as, in particular the active subject of these contraventions and the material element of the objective side of the same contraventions, including the special requirement of that element, as well as from the perspective of the general procedural aspects of the respective contraventions, taking into account the relevant specialized literature.

At the same time, the present study contains elements of the Romanian jurisprudence and the CJEU jurisprudence on the matter examined, including some aspects that have been settled differently by Romanian courts.

This study also includes some critical observations by the author on the flawed manner in which the contraventions analyzed were regulated, including with regard to compliance with the requirements of clarity and predictability of the rules governing them, which may lead to inconsistent practices, both in the administrative and judicial phases of the contraventional procedure, aspects in consideration of which appropriate de lege ferenda proposals have been formulated.

Keywords: *liability, contravention, copyright, related rights, de lege ferenda proposals.*

1. Introductory aspects

Initially mentioned in principle in art. 139 para. (1) thesis I of Law no. 8/1996 on copyright and related rights[1], alongside the civil liability and the criminal liability, the latter also containing certain offenses, the contraventional liability under that legislative act subsequently underwent gradual development.

Currently, Law no. 8/1996 provides for a total of 15 contraventions, established by the provisions of art. 190 (14 contraventions) and art. 191(one contravention), classified according to the abstract social danger of the respective acts, evaluated by the special minimum and the special maximum of the main sanction of the related fine [from 3,000 lei to 30,000 lei in the case of committing any of the contraventions provided for in art. 190 of the aforementioned law, respectively from 10,000 lei to 50,000 lei in the case of committing the contravention established in art. 191 para. (1) of the same normative act][2], as well as by providing for an

* PhD Candidate, Faculty of Law, „Nicolae Titulescu" University of Bucharest (e-mail: catalinm1973@yahoo.com).

[1] Published in the Official Gazette of Romania no. 60/26.03.1996. The respective provision was then included in art. 138^7 para. (1) of the same legislative act, introduced by the provisions of point 61 of art. I of GEO no. 123/2005 amending and supplementing Law no. 8/1996 on copyright and related rights, published in the Official Gazette of Romania no. 843/19.09.2005, and is currently found in art. 187 para. (1) thesis I of the same law, following its republication in the Official Gazette of Romania no. 489/14.06.2018.

[2] Art. 192 para. (1) of Law no. 8/1996, republished, with subsequent amendments and additions, states: „The contraventions provided for in art. 190 shall also apply to legal persons. Where the contravenant, a legal person, carries out activities which, according to its object, involve the public communication of works or products subject to copyright or related rights, the limits of the contraventional fines shall be doubled.". Even if the same law does not provide for the main contraventional sanction of a warning for any contravention contained therein, but does not prohibit its application either, the respective sanction may nevertheless be imposed on both natural and legal persons, pursuant to the provisions of art. 6 para. (1) and art. 7 para. (3) of GO no. 2/2001 on the legal regime of contraventions (published in the Official Gazette of Romania no. 410/25.07.2001), with subsequent amendments and additions. We also consider that the provisions of art. 192 para. (1) thesis I of Law no. 8/1996, republished, with subsequent amendments and additions - according to which the contraventional sanctions provided for in art. 190 of the same law also apply to legal persons - beyond their redundant wording in relation to the legal content of some of the respective contraventions, do nothing more than implicitly specify, for the contraventions provided for in art. 190 of the same normative act, in whose legal content the active subject status of the legal person is not expressly or implicitly provided for, that a legal person may also have this status, and this clarification cannot be interpreted as excluding legal persons who commit any act provided for in art. 191 of the same law from the contraventional liability. See, in the same sense, T. Bodoaşcă, T.-V. Sfârlog, *The contraventional liability*

additional sanction, as is the case of the contravention established by the provisions of art. 191 of the aforementioned law, which establish the obligation to order the confiscation of pirated goods or pirated access control devices [in para. (1)], respectively allow for the suspension of the activity or one of the activities of the legal person for a period of up to 6 months [in para. (2)].

Regarding to the manner of establishing the contraventions provided for in Law no. 8/1996, republished, with subsequent amendments and additions, should be noted the fact that some of these are included in rules that refer to provisions of the same legislative act, the violation of which constitutes a contravention [those from art. 190 letters a)-e) and h)], unlike the others, which are included in rules that directly describe their legal content [those from art. 190 letters f) and g) and art. 191]. As pointed out in the specialized literature[3], the first normative drafting method above, through the use of referral rules, is flawed, because it does not meet the requirements of clarity and predictability specific to a rule that provides for and sanctions a certain antisocial act, creating the risk of arbitrary interpretations and applications and, therefore, of inconsistent practice, all the more so as some of the provisions referred to refer, in turn, to other legal provisions.

Contrary to an opinion expressed in doctrine, according to which art. 190 points a)-g) of Law no. 8/1996, republished, with subsequent amendments and additions, contain 6 categories of contraventions, some of which include two or more contraventions, the typical example being that provided for in letter d), which, by referring only to the violation of the provisions of art. 149 para. (8) of the same law, in reality, refers to 8 contraventions[4], we appreciate, based on elements such as the unity of the passive subject, the compatibility of alternative aspects and the rationale behind the regulation, that the provisions of art. 190 of the same normative act contain a total of 14 contraventions, of which 10 contraventions [those from points a), c) and d) first hypothesis, e) - referred to in art. 169 para. (7), art. 170 para. (2^1) and art. 172 para. (1) letters f), g) and h)] have a simple content, a contravention [the one from letter e) - referred to in art. 160 para. (5)] has an alternative content, by providing alternative modalities of committing, which are equivalent in terms of their contraventional significance, and 3 contraventions [those from letters b), d) second hypothesis and e) - referred to in art. 162 letters b), e), g), i), k), l), p) and q)] have alternative contents, the legislator combining two or more separate contraventions within the same provision, the importance of this distinction consisting of the different legal effects that appear in the event that the constituent elements of the contravention are fulfilled, so that, in the case of a contravention with alternative content, the fulfilment of several alternative normative modalities of its committing does not affect the unity of the contravention; on the other hand, in the case of a contravention with alternative contents, if more than one of these contents is produced, there will be as many contraventions as there are contents[5].

---

under Law no. 8/1996 on copyright and related rights, in T. Bodoașcă, *Studies on intellectual property law*, 2nd ed., revised and supplemented by A. Bogdan and T. Drăghici, Universul Juridic Publishing House, Bucharest, 2024, p. 326.

[3] A. Pap, *The contraventions regulated by Law no. 8/1996 on copyright and related* rights, article available at *https://universuljuridic.ro/contraventiile-reglementate-de-legea-nr-8-1996-privind-dreptul-de-autor-si-drepturile-conexe/*, last consulted on 24.03.2025; T. Bodoașcă,T.-V. Sfârlog, *op. cit.*, *loc. cit.,* p. 317.

[4] T. Bodoașcă, T.-V. Sfârlog, *op. cit., loc. cit.*

[5] See: N. Giurgiu, *The criminal law and the criminal offense*. *Legislation, doctrine, judicial practice*, Gama Publishing House, Iași, 1994, p. 217 and 218; M. Basarab, *Criminal law*. *The general part*, vol. I, Lumina Lex Publishing House, Bucharest, 1999, p. 205, 206; A. Călin, in A. Călin, D. Crețu, L. D. Stanciu, G. Cudrițescu, *General criminal law*, vol. I, 2nd ed. revised, Pax Aura Mundi Publishing House, Galați, 2004, p. 72; T. Dima, *Criminal law*. *The general part*, vol. I, *The criminal offense*, Lumina Lex Publishing House, Bucharest, 2004, p. 202, 203; A. Boroi, *Criminal law*. *The general part*, according to the new Criminal Code, C.H. Beck Publishing House, Bucharest, 2010, p. 149, 201; W. Brînză, *Criminal law*. *The general part*, according to the new Criminal Code, university course, Universul Juridic Publishing House, Bucharest, 2012, p. 131; M.A. Hotca, *The legal regime of contraventions*. *Comments and explanations*, 5th ed., C.H. Beck Publishing House, Bucharest, 2012, p. 57; V. Mirișan, *Criminal law*. *The general part*. *Comparative presentation of the provisions of the Criminal Code in force and of the new Criminal Code*, 4th ed., Universul Juridic Publishing House, Bucharest, 2012, p. 92; F. Streteanu, D. Nițu, *Criminal law*. *The general part*, vol. I, university course, Universul Juridic Publishing House, Bucharest, 2014, p. 262-264; C. Mitrache, in C. Mitrache, Cr. Mitrache, *Romanian criminal law*. *The general part*, 3rd ed., revised and expanded, Universul Juridic Publishing House, Bucharest, 2019, p. 165, 166; L. V. Lefterache, *Criminal law*. *The general part*, course for second-year students, 3rd ed., Hamangiu Publishing House, Bucharest, 2021, p. 197, 426, 427; M. Udroiu, *Syntheses of Criminal law*. *The general part*, vol. I, 2nd ed., revised and supplemented, C.H. Beck Publishing House, Bucharest, 2021, p. 199, 339, 340.

2. Material aspects regarding the contraventions established and sanctioned in Law no. 8/1996, republished, with subsequent amendments and additions

2.1. The contravention provided for in art. 190 letter a)

According to the provisions of art. 190 letter a) of Law no. 8/1996, republished, with subsequent amendments and additions, it is a contravention to violate the provisions of art. 24 para. (5) of the same law, which state: „The seller must communicate to the author the information provided for in para. (1), within two months of the date of sale, being responsible for withholding the percentages or shares of the sale price, without adding any other taxes, and for paying them to the author the amount due in accordance with the provisions of para. (4)."

In turn, the provisions of para. (1) of art. 24 of the same normative act stipulate: „The author of an original work of graphic or plastic art or of a photographic work shall enjoy a resale right, which is the right to receive a share of the net sale price obtained on any resale of the work after the first transfer by the author, as well as the right to be informed of the location of the work."

Art. 4 of Law no. 8/1996, republished, with subsequent amendments and additions, states: „(1) The person under whose name the work was first brought to the public's attention is presumed to be the author until proven otherwise. / (2) When the work has been made public anonymously or under a pseudonym that does not allow the author to be identified, copyright shall be exercised by the natural or the legal person who makes it public with the author's consent, as long as the author does not reveal his identity."

According to the provisions of art. 7 letter g) of the same law, works of graphic or plastic art may be, for example, „works of sculpture, painting, engraving, lithography, monumental art, scenography, tapestry, ceramics, glass and metal art, drawings, design, as well as other works of applied art on products intended for practical use".

The active subject of the contravention analyzed is qualified as the seller - a natural person or a legal person - of an original work of graphic or plastic art or a photographic work, subsequent to the first transfer of ownership by its author.

According to the provisions of art. 3 para. (1) of Law no. 8/1996, republished, with subsequent amendments and additions, the author is „the natural person or natural persons who created the work".

The material element of the objective side consists of an omission, respectively the failure by the seller of an original work of graphic or plastic art or a photographic work to inform the author of that work of the location of the work following its sale after its first transfer of ownership by its author.

The law imposes the essential requirement that such non-communication must not take place within two months of the sale of an original work of graphic or plastic art or of a photographic work subsequent to its first disposal by its author.

Although the provisions of art. 24 para. (5) of Law no. 8/1996, republished, with subsequent amendments and additions, refer to „the information provided for in para. (1)" of the same article, as correctly noted in the specialized literature[6], in our opinion, only in the case of the last right provided for in art. 24 para. (1) of the aforementioned law is the seller of an original work of graphic or plastic art or of a photographic work obliged to inform the author thereof, of the aforementioned law does the seller of an original work of graphic or plastic art or a photographic work have the obligation to inform the author thereof, because art. 24 para. (6) of Law no. 8/1996, republished, with subsequent amendments and additions, states: „The beneficiaries of the right of suite or their representatives may request, for a period of three years from the date of resale, from the persons referred to in para. (2) the information necessary to ensure payment of the amounts due in accordance with the provisions of para. (4)."[7] Therefore, if the seller of an original work of graphic or plastic art or of a photographic work does not communicate to the author of that work the information relating to the amounts due by way of resale right, the provisions of art. 190 letter a) of the same law are not applicable, since those provisions are not applicable to other beneficiaries of the resale right.

[6] T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 317; see, in the same sense, V. Roş, *The intellectual property law*, vol. I, *Copyright, related rights and sui generis rights*, C.H. Beck Publishing House, Bucharest, 2016, p. 660.

[7] In turn, the provisions of art. 24 para. (2) of the same legislative act stipulate: „The right referred to in para. (1) shall apply to all acts of resale of an original work of graphic or plastic art or a photographic work involving, as sellers, buyers or intermediaries, salons, art galleries, as well as any dealer in works of art."

A particular feature of the contravention analyzed is its sanctioning regime, which requires that, if the contravention is found to have been committed, the main sanction of a warning shall be imposed as a matter of priority, accompanied, where appropriate, by the drawing up of a remedial plan by the investigating officer, and followed, in the event of failure by the contravenant to comply with the legal obligation under the remedial measure established, within the time limit granted, or if, within 3 years of the date of the report on the finding of the contravention and the application of the sanction, the contravenant commits the same contravention again, the main contraventional sanction provided for in Law no. 8/1996, republished, with subsequent amendments and additions, shall be applied, taking into account the provisions of art. 4 para. (1), (2) and (3), art. 8 para. (2) and art. 9 para. (1) of Prevention Law no. 270/2017[8], respectively no. 11 of Annex no. 1 to GD no. 33/2018 on establishing the contraventions falling under the scope of Prevention Law no. 270/2017, as well as the model remediation plan[9].

2.2. The contravention provided for in art. 190 letter b)

According to the provisions of art. 190 letter b) of Law no. 8/1996, republished, with subsequent amendments and additions, the violation of the provisions of art. 89 and 90 of the same legislative act constitutes a contravention.

Art. 89 of the same law states: „(1) The use of a work containing a portrait requires the consent of the person depicted in that portrait, under the conditions set out in art. 73, 74 and 79 CC. Furthermore, the author, the owner or the possessor of the work may not reproduce or use it without the consent of the successors of the person depicted for a period of 20 years after their death, in accordance with the provisions of art. 79 CC. / (2) Unless otherwise specified, consent is not required if the person depicted in the portrait is a professional model or has received remuneration for posing for that portrait. Furthermore, consent is presumed to exist under the conditions set out in art. 76 CC."

In turn, the provisions of art. 90 of Law no. 8/1996, republished, with subsequent amendments and additions, stipulate: „The use of correspondence addressed to a person requires the consent of the addressee and, after his death, for a period of 20 years, of his successors, unless the addressee has wished otherwise. In all cases, the provisions of art. 71 para. (1) and (2), art. 72, 74 and 79 CC shall apply equally."

Art. 73 CC[10] states: „(1) Everyone has the right to their own image. / (2) In exercising their right to their own image, they may prohibit or prevent the reproduction, in any manner, of their physical appearance or voice or, where applicable, the use of such a reproduction. The provisions of art. 75 remain applicable."

Furthermore, art. 74 CC stipulates: „Subject to the provisions of art. 75, the following may be considered infringements of privacy:

a) entering or remaining without right in a dwelling or taking any object from it without the consent of the person who lawfully occupies it;

b) unlawfully intercepting a private conversation by any technical means, or knowingly using such an interception;

c) capturing or using the image or voice of a person in a private space without their consent;

d) dissemination of images showing the interior of a private space without the consent of the person who legally occupies it;

e) keeping private life under observation, by any means, except in cases expressly provided for by law;

f) broadcasting news, debates, investigations or written or audiovisual reports on the intimate, personal or family life of individuals, without their consent;

g) dissemination of materials containing images of a person undergoing treatment in healthcare facilities, as well as personal data concerning their state of health, diagnosis, prognosis, treatment, circumstances related

[8] Law no. 287/2009 on the Civil Code, published in the Official Gazette of Romania no. 1037/28.12.2017.

[9] Published in the Official Gazette of Romania no. 107/05.02.2018. At no. 11 of Annex no. 1 to GD no. 33/2018, reference is made, *inter alia*, to art. 139^2 letter a) of Law no. 8/1996, with subsequent amendments and additions, which provided that the violation of the provisions of art. 21 para. (5) of the same law - the content of which is now found in its entirety in art. 24 para. (5) of the same normative act - constitutes a contravention.

[10] Republished in the Official Gazette of Romania no. 409/10.06.2011.

to the illness and other various facts, including the results of an autopsy, without the consent of the person concerned, and in the event of their death, without the consent of the family or entitled persons;

h) using someone else's name, image, voice or looking like them in a bad way;

i) disseminating or using correspondence, manuscripts or other personal documents, including data concerning the domicile, residence and telephone numbers of a person or members of his family, without the consent of the person to whom they belong or who, as the case may be, has the right to dispose of them."

In turn, the provisions of art. 75 CC state: „(1) The rights set forth in this section shall not be violated by measures that are permitted by law or by international human rights conventions and agreements to which Romania is a party. / (2) The exercise of constitutional rights and freedoms in good faith and in accordance with international agreements and conventions to which Romania is a party shall not constitute a violation of the rights provided for in this section."

According to the provisions of art. 76 CC, „When the person to whom information or material refers makes it available to a natural or a legal person who is known to be engaged in the field of public information, consent to its use is presumed, and no written agreement is required".

According to the provisions of art. 79 CC, the memory of such a person „is protected under the same conditions as the image and reputation of a living person".

Para. (1) and (2) of art. 71 CC stipulate: „(1) Everyone has the right to respect for his or her private life. / (2) No one may be subjected to interference in his or her private, personal or family life or in his or her home, residence or correspondence, without his or her consent or without respect for the limits provided for in art. 75."

In turn, the provisions of art. 72 of the aforementioned code state: „(1) Everyone has the right to respect for their dignity. / (2) Any attack on a person's honor and reputation without their consent or without observing the limits set out in art. 75 is prohibited."

Contrary to the view that, for the existence of the contravention provided for in art. 190 letter b) of Law no. 8/1996, republished, with subsequent amendments and additions, both the provisions of art. 89 of the same normative act and the provisions of art. 90 of the aforementioned law must be disregarded by committing the same act[11], we appreciate that, beyond the inappropriate use of the word „and" in the legal content of the contravention examined, the legislator has established, through the wording of the provisions of art. 190 letter b) of the aforementioned normative act, as shown above[12], a contravention with alternative contents, thus being sufficient for the existence of the contravention analyzed the violation of either the provisions of art. 89 of the aforementioned law or the provisions of art. 90 of the same normative act. Therefore, in our opinion, in the event of a simultaneous violation of both the provisions of art. 89 of Law no. 8/1996, republished, with subsequent amendments and additions, and the provisions of art. 90 of the same normative act, a non-homogeneous concurrence of contraventions is committed.

Furthermore, we disagree with the opinion - expressed by the same co-authors[13] - according to which, since the provisions of art. 89 and 90 of Law no. 8/1996, republished, with subsequent amendments and additions, refer to the provisions of art. 73, 74, 76 and 79 CC, respectively to the provisions of art. 71 para. (1) and (2), art. 72, art. 74 and art. 79 CC, for the committing of the contravention examined, it is necessary that the above provisions be violated cumulatively. In reality, the previous provisions of the Civil Code, taking into account their content, do not regulate elements without which the contravention analyzed cannot exist, but either certain rights are established, or examples are given of infringements that may be brought against the exercise of one of these rights, or the limits permitted for the exercise of these rights are provided for, or the existence of consent for the use of information or material is presumed, or infringements that may be committed against the exercise of some of those rights are prohibited.

In the first normative variant, the active subject is qualified as a natural person or, where applicable, a legal person, respectively the author, the owner or the possessor of the work containing a portrait of another person, and, in the second normative variant, also a natural person or a legal person other than the addressee of correspondence.

[11] T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 318.

[12] See *supra*, footnotes 3, 4.

[13] T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 318.

The material element of the objective side consists of the act of using or reproducing a work containing a portrait of a person other than the active subject thereof (in the first normative variant of the contravention examined) or the act of using correspondence addressed to a person other than the active subject (in the second normative variant of the same contravention).

According to the provisions of art. 14 of Law no. 8/1996, republished, with subsequent amendments and additions, reproduction means „the making, in whole or in part, of one or more copies of a work, directly or indirectly, temporarily or permanently, by any means and in any form, including the making of any sound or audiovisual recording of a work, as well as its permanent or temporary storage by electronic means".

The essential requirement attached to the material element of the objective side is, in the first normative variant, that this element be realized without the consent of the person depicted in the portrait or of their successors in the first 20 years after the death of the person concerned, while, in the second normative variant, it is that this element be carried out without the consent of the addressee of the correspondence or of their successors in the first 20 years after the addressee's death.

According to the provisions of art. 89 of Law no. 8/1996, republished, with subsequent amendments and additions, the contraventional nature of the act analyzed is removed:

- in the absence of a clause to the contrary, „if the person depicted in the portrait is a professional model or has received remuneration for posing for that portrait";
- in the case of the provisions of art. 75 or art. 76 CC.

Furthermore, pursuant to the provisions of art. 90 of Law no. 8/1996, republished, with subsequent amendments and additions, the contraventional nature of the act examined is removed in the event that the provisions of art. 75 CC apply.

The particularity mentioned at the end of the analysis of the contravention established at letter a) of art. 190 of Law no. 8/1996, republished, with subsequent amendments and additions, is also found in the case of the contravention provided for in letter b) of the same article, taking into account the provisions of art. 4 para. (1), (2) and (3), art. 8 para. (2) and art. 9 para. (1) of Prevention Law no. 270/2017, respectively no. 11 of Annex no. 1 to GD no. 33/2018[14].

2.3. The contravention provided in art. 190 letter c)

According to the provisions of art. 190 letter c) of Law no. 8/1996, republished, with subsequent amendments and additions, it is a contravention to violate the provisions of art. 114 para. (3) of the same law, which state: „The importers and the manufacturers of media and devices, as provided for in art. 36 para. (2), are required to register with The Romanian Copyright Office in The National Register of Private Copies and may only carry out the respective import or production activities after obtaining a registration certificate from The Romanian Copyright Office. This certificate is issued by The Romanian Copyright Office, based on evidence of the legally declared object of activity and the unique certificate of registration in the trade register, within 5 days of their submission."

The provisions of art. 36 para. (2) of the same regulation refer to „media on which sound or audiovisual recordings can be made or on which reproductions of graphically expressed works can be made", as well as „devices designed for making copies".

The active subject of this contravention is the importer or the manufacturer of media or devices referred to in art. 36 para. (2) of Law no. 8/1996, republished, with subsequent amendments and additions.

According to the provisions of art. 16 of the same legislative act, import means „the introduction onto the domestic market, for the purpose of commercialization, of the original or legally made copies of a work fixed on any medium".

As shown in doctrine[15], regarding to the material element of the objective side, it is relevant that the importer or, where applicable, the manufacturer of media and/or devices referred to in art. 36 para. (2) of Law no. 8/1996, republished, with subsequent amendments and additions, carries out an import or production

[14] At no. 11 of Annex no. 1 to GD no. 33/2018, reference is made, *inter alia*, to art. 139^2 letter b) of Law no. 8/1996, with subsequent amendments and additions, which provided that the violation of the provisions of art. 88 and 89 of the same law - the content of which is now found in its entirety in art. 89 and 90 of the same normative act - constitutes a contravention.

[15] T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 319.

activity, subject to the essential requirement of not holding a registration certificate issued by The Romanian Copyright Office.

Furthermore, the particularity mentioned at the end of the analysis of the contravention established at letter a) of art. 190 of Law no. 8/1996, republished, with subsequent amendments and additions, is also found in the case of the contravention provided for in letter c) of the same article, taking into account the provisions of art. 4 para. (1), (2) and (3), art. 8 para. (2) and art. 9 para. (1) of Prevention Law no. 270/2017, respectively no. 11 of Annex no. 1 to GD no. 33/2018[16].

2.4. The contraventions provided for in art. 190 letter d)

According to the provisions of art. 190 letter d) of Law no. 8/1996, republished, with subsequent amendments and additions, violation of the provisions of art. 149 para. (4) or (8) of the same law constitutes a contravention.

According to the provisions of para. (4) of art. 149 of the same normative act, independent management entities „are required to inform The Romanian Copyright Office of this within 15 days of their establishment, for the purpose of registration".

Para. (8) of the same article states: „Independent management entities shall have the following obligations:

a) to collect the amounts owed by users and pay them to authors or rights holders in accordance with the contractual provisions;

b) to provide information to authors or rights holders regarding the management of their rights;

c) to provide information to the collective management organizations and other collective management entities, upon their request, regarding the repertoire managed;

d) to grant licenses for the use of online rights to musical works, within the limits of the repertoire managed;

e) to submit to The Romanian Copyright Office an annual report in the format established by decision of the chief executive officer of The Romanian Copyright Office;

f) to draw up an annual report on the number, manner and deadline for resolving complaints, which it shall publish on its website;

g) to ensure that authors or rights holders and the authorities with control and supervisory powers have access to information on any aspect of the activity of collecting the amounts due from users and paying them to authors or rights holders;

h) to provide specialized assistance to authors or rights holders and to represent them in legal proceedings, within the scope of its activities, at their request;

i) to issue tax invoices to users, which shall also be transmitted via the national electronic invoicing system RO e-Factura to users."

Both the contravention provided for in art. 190 letter d) first hypothesis of Law no. 8/1996, republished, with subsequent amendments and additions, and the contravention provided for in art. 190 letter d) second hypothesis of the same law, which is presented in 9 normative variants, have a qualified active subject, respectively an independent management entity, defined in art. 149 para. (2) of the same normative act as a legal person established for profit, „operating in accordance with the legal regulations on companies" and whose „sole or main object of activity or one of its main objects of activity is the management of copyright or related rights".

The material element of the objective side consists of inactions in the case of both contraventions examined, respectively:

- failing to inform The Romanian Copyright Office within 15 days of the establishment of the independent management entity (for the first contravention above); for the existence of this contravention, it is irrelevant whether the information was not provided at all or was provided after the expiry of the aforementioned legal deadline[17];

[16] At no. 11 of Annex no. 1 to GD no. 33/2018, reference is made, *inter alia*, to art. 139^2 letter c) of Law no. 8/1996, with subsequent amendments and additions, which provided that the violation of the provisions of art. 107 para. (3) of the same law - the content of which is now found in its entirety in art. 114 para. (3) of the same normative act - constitutes a contravention.

[17] See, in the same sense, T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 320.

- non-collecting of the amounts owed by users or in the non-payment of the respective amounts „to authors or rights holders, in accordance with the contractual provisions" (in the first normative variant of the second contravention above);
- failing to provide information „to authors or rights holders regarding the management of their rights" (in the second normative variant of the second contravention above);
- failing to provide information „to the collective management organizations" or „other collective management entities, upon their request, regarding the repertoire managed" (in the third normative variant of the second contravention above);
- failing to grant licenses „for the use of online rights to musical works, within the limits of the repertoire managed" (in the fourth normative variant of the second contravention above);
- failing to submit to The Romanian Copyright Office an annual report „in the format established by decision of the chief executive officer of The Romanian Copyright Office" (in the fifth normative variant of the second contravention above);
- failing to draw up an „annual report on the number, manner and deadline for resolving complaints" or failing to publish the report on its website (in the sixth normative variant of the second contravention above);
- failing to ensure that „authors or rights holders and authorities with control and supervisory powers" „have access to information on any aspect of the activity of collecting the amounts due from users and paying them to authors or rights holders" (in the seventh normative variant of the second contravention above);
- failing to provide „specialized assistance to authors or rights holders" and/or in failing to represent them „in legal proceedings, within the scope of their activity, at their request" (in the eighth normative variant of the second contravention above);
- failing to issue tax invoices to users (in the ninth version of the second contravention above).

According to the provisions of art. 3 para. (5) of Law no. 8/1996, republished, with subsequent amendments and additions, „any natural or legal person who undertakes actions subject to authorization by authors or rights holders, to their remuneration or to the payment of compensation to them and who does not act as a consumer" is considered a user.

As shown above[18], since the second contravention above has alternative contents, creating more such contents leads to the committing of as many contraventions.

2.5. The contraventions provided for in art. 190 letter e)

According to the provisions of art. 190 letter e) of Law no. 8/1996, republished, with subsequent amendments and additions, violation of the provisions of art. 160 para. (5), art. 162 letters b), e), g), i), k), l), p) and q), art. 169 para. (7), art. 170 para. (2^1) and art. 172 para. (1) of the same law constitutes a contravention[19].

According to the provisions of para. (5) of art. 160 of Law no. 8/1996, republished, with subsequent amendments and additions, „The statement referred to in para. (3) shall be submitted to the general meeting and published on its own website".

The provisions of para. (3) of the same article refer to the obligation of the chief executive officer and the members of the board of directors of the collective management organization for copyright and related rights to complete and submit to the general meeting „an annual individual statement, in compliance with the legal provisions on the protection of personal data, containing the following information:

a) any interests they have in the collective management organization;

b) any amount received from the collective management organization during the previous financial year, including in the form of salaries, compensation payments or other pecuniary and non-pecuniary benefits;

c) any amount received from the collective management organization during the previous financial year, as author or rights holder;

---

[18] See *supra*, **1.** (final considerations) and **2.1.**

[19] As noted in the specialized literature (T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 321, 322), the legislator did not provide for the contraventional liability for the infringement by a collective management organization of copyright and related rights for all other obligations established in art. 162 of the same normative act.

d) any existing or potential conflict between personal interests and those of the collective management organization or between obligations towards the collective management organization and duties towards another natural or legal person".

Point b) of art. 162 of Law no. 8/1996, republished, with subsequent amendments and additions, states that the collective management organizations for copyright and related rights have the right and obligation „to grant non-exclusive licenses to users, at their request, formulated before to the use of the protected repertoire, in exchange for remuneration", that the same organizations „shall respond within a maximum of 10 days to users' requests, indicating any other information necessary for the granting of the license", and that, where such an organization „does not intend to grant a non-exclusive license for a particular service, it shall give reasons for its refusal in writing".

According to the provisions of letter e) of the same article, the aforementioned organizations have the right and obligation „to collect the amounts owed by users and to take all necessary steps to distribute and pay them, as soon as possible, to their members or to other collective management organizations, including on the basis of representation agreements, in accordance with the provisions of the statutes".

According to the provisions of letter g) of the same article, the aforementioned organizations have the right and obligation „to ensure equal treatment of members, authors or rights holders whose rights they manage pursuant to art. 145 and 145^1 or a representation agreement, in particular regarding to management fees, rules on the collection, distribution and payment of remuneration and the conditions for granting licenses".

Letter i) of art. 162 of Law no. 8/1996, republished, with subsequent amendments and additions, states that the aforementioned organizations have the right and obligation „to ensure access for their members, without discrimination, to information on any aspect of the activity of collecting the amounts owed by users and distributing them".

According to the provisions of letter k) of the same article, the above-mentioned organizations have the right and obligation „to provide the authorities with control and supervisory powers with access to information on the collection and distribution of remuneration".

According to the provisions of letter l) of the same article, the aforementioned organizations have the right and obligation „to ensure transparency in the collective management activity in their relations with their members, public authorities and users".

Letter p) of Law no. 8/1996, republished, with subsequent amendments and additions, states that the aforementioned organizations have the right and obligation to „submit to the computer system they maintain current, accurate and complete data and information for the purpose of organizing the records and simplifying the payment of the remuneration coming from copyright and related rights by users, as well as the distribution of the remuneration collected" and that the information contained in the computer system of the respective organizations „shall be determined by decision of the chief executive officer of The Romanian Copyright Office".

According to the provisions of letter q) of the same article, the aforementioned organizations have the right and obligation „to respond in writing, as soon as possible, to complaints, in particular regarding the management of rights, the revocation of the mandate or the withdrawal of rights, the conditions of membership, the collection of the amounts due to authors or rights holders, deductions and their distribution".

Art. 169 para. (7) of Law no. 8/1996, republished, with subsequent amendments and additions, states: „The users shall provide the collective management organizations, within the agreed or pre-established time limit and in the agreed or pre-established format, with the relevant information at their disposal concerning the use of the rights represented by the collective management organization, which is necessary for the collection of the revenue derived from the rights and for the distribution and payment to authors or rights holders of the amounts due. The collective management organizations and users shall take into account, to the extent possible, voluntary sector-wide standards on the format in which this information is to be made available."

According to the provisions of art. 170 para. (2^1) of the same law, the above-mentioned organizations, „starting January 1, are required to publish quarterly, by the last day of the first month following the reference quarter, by displaying at their headquarters and in electronic format on their website, for the previous quarter, the amounts collected by user categories or other payers, the amounts withheld, the management costs and the amounts allocated by rights holder categories, their origin, the method of calculating the rights, as well as the deductions applied".

According to the provisions of art. 172 para. (1) of the same legislative act, the aforementioned organizations „are required to submit to The Romanian Copyright Office, within 15 days of the general meeting:

a) their annual report;

b) their updated repertoire;

c) their representation agreements with similar organizations abroad".

The active subject is qualified, respectively:

- the chief executive officer of a collective management organization for copyright and related rights or in a member of the board of directors of the same organization [for the contravention provided for in art. 190 letter e) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 160 para. (5) of the same law)];
- the aforementioned organization [for the contravention provided for in art. 190 letter e) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 162 letters b), e), g), i), k), l), p) and q) of the same legislative act, a contravention which is presented in 9 normative variants];
- one user [for the contravention provided for in art. 190 letter e) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 169 para. (7) of the same law];
- the above-mentioned organization [for the contravention provided for in art. 190 letter e) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 170 para. (2^1) of the same legislative act];
- the aforementioned organization [for the contravention provided for in art. 190 letter e) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 172 para. (1) of the same law].

Regardless of which of the aforementioned contraventions was committed, the material element of the objective side consists of an omission, respectively:

- failing to submit to the general meeting of the members of a collective management organization for copyright and related rights the individual annual statement provided for in art. 160 para. (3) of Law no. 8/1996, republished, with subsequent amendments and additions, or failing to publish the aforementioned statement on the website of the organization concerned (for the first contravention referred to above); the act constitutes a contravention if the submission of the statement regulated in art. 160 para. (3) of the same legislative act was made at the respective meeting, but with incomplete content from the perspective of the same normative provisions; as noted in doctrine[20], the submission of the statement after the general meeting of the members of the collective management organization for copyright and related rights is irrelevant to the existence of this contravention; however, the law does not provide for a deadline for the publication of the statement in question on the website of the same organization, as this requirement does not meet the requirement of predictability, given that the addressee has no time frame for compliance, the exceeding of which would lead to the contraventional liability;
- failing to respond within a maximum of 10 days to a user's request for a non-exclusive license, in which response any other information necessary for the granting of the license must be indicated, or failing to give written reasons for the refusal to grant a non-exclusive license to a user within the same time limit; it is therefore irrelevant, for the purposes of this contravention, that the response was given after the expiry of the aforementioned legal time limit (in the first normative variant of the second contravention above);
- failing to collect the amounts owed by users or in failing to take all necessary steps „to distribute and pay them, as soon as possible, to the members of a collective management organization for copyright and related rights" in question or „to other collective management organizations, including on the basis of representation agreements, in accordance with the provisions of the statutes" (in the second normative variant of the second contravention above);
- failing to ensure equal treatment of the members of a collective management organization for copyright and related rights in question, authors or rights holders whose rights they manage under the law or under a representation agreement, „in particular regarding to management fees, rules on the collection,

[20] A. Bogdan, The legal regime of rights related to copyright regulated by Law no. 8/1996 on copyright and related rights, Pro Universitaria Publishing House, Bucharest, 2024, p. 255.

distribution and payment of remuneration and the conditions for granting licenses" (in the third normative variant of the second contravention above);

- failing to ensure access for its own members of a collective management organization for copyright and related rights, „without discrimination, to information on any aspect of the activity of collecting the amounts owed by users and distributing them" (in the fourth normative variant of the second contravention above);
- failing „to provide the authorities with powers to control and supervise access to information on the collection and distribution of remuneration" by a collective management organization for copyright and related rights (in the fifth normative variant of the second contravention above);
- failing to ensure transparency in the collective management activity in relations with the members of a collective management organization for copyright and related rights, public authorities and users (in the sixth normative variant of the second contravention above);
- failing to submit to the computer system of a collective management organization for copyright and related rights current, accurate and complete data and information for the purpose of organizing the records and simplifying the payment of remuneration derived from copyright and related rights by users, as well as the distribution of the remuneration collected (in the seventh normative variant of the second contravention above);
- omitting to respond „in writing, as soon as possible, to complaints, in particular regarding the management of rights, the revocation of the mandate or the withdrawal of rights, the conditions of membership, the collection of the amounts due to authors or rights holders, deductions and their distribution" (in the eighth normative variant of the second contravention above); it should be noted that the law does not provide for a specific maximum time limit for responding to such complaints, so that the provision in question does not meet the requirement of predictability, and therefore the existence of the contravention in question cannot be established;
- failing to provide, within the agreed or pre-established time limit and in the agreed or pre-established format, relevant information at its disposal concerning the use of rights represented by a collective management organization for copyright and related rights, „which is necessary for the collection of the revenue derived from the rights and for the distribution and payment to authors or rights holders of the amounts due" (for the third contravention above); for the existence of this contravention, it does not matter whether the information was not provided at all or was provided after the agreed deadline; as revealed in the specialized literature[21], given that the provision of the information referred to in this contravention requires prior negotiation between a user and a collective management organization for copyright and related rights regarding the agreed deadline and format in which the user will provide the information, failing by the user and the aforementioned organization to agree on the time limit and format in which the user will provide that information causes damage to authors or rights holders, but, *de lege lata*, is not sanctionable as such by a contravention;
- failing to publish, starting January 1, quarterly, by the last day of the first month following the reference quarter, by posting at the headquarters of a collective management organization for copyright and related rights, as well as in electronic format on the organization's website, for the previous quarter, of the amounts collected by user categories or other payers, the amounts withheld, the management costs, the amounts distributed by rights holder categories, their origin, the method of calculating the rights, as well as the deductions applied or only some of this information (for the fourth contravention above);for the existence of this contravention, it is irrelevant whether the display of the aforementioned information at the headquarters of the collective management organization for copyright and related rights, as well as in electronic format on the organizations website, does not take place at all or takes place after the expiry of the aforementioned legal deadline[22]; furthermore, for the same contravention to exist, it is sufficient that the notice is not displayed within the aforementioned legal deadline, either at the headquarters of the collective management organization for copyright and related rights or in electronic format on the respective organization's website;
- failing to submit to The Romanian Copyright Office, within 15 days of the general meeting of the members of a collective management organization for copyright and related rights, the annual report, the updated repertoire and the representation agreements with similar organizations abroad (for the fifth

[21] *Idem*, p. 256.
[22] *Ibidem*.

contravention above); in this case, it is also irrelevant for the existence of the contravention in question that the obligation to submit the report by the collective management organization for copyright and related rights, the updated repertoire and the representation agreements with similar organization abroad took place after the expiry of the aforementioned legal deadline.

2.6. The contravention provided for in art. 190 letter f)

According to the provisions of art. 190 letter f) of Law no. 8/1996, republished, with subsequent amendments and additions, it is a contravention to fix, without the authorization or the consent of the holder of the rights recognized by this law, artistic interpretations or performances or radio or television programs.

The active subject of this contravention may be a natural person or a legal person.

The material element of the objective side is realized through the act of fixing artistic interpretations or performances or radio or television programs.

According to the provisions of art. 98 para. (2) of the same legislative act, the incorporation of sounds, images or sounds and images or their digital representation on a medium that allows their perception, reproduction or public communication with the aid of a device is considered fixation.

The rule says that the material part of the objective side has to be done without the permission or consent of the person who has the rights under Law no. 8/1996, republished, with subsequent amendments and additions.

Regarding to the provisions of art. 98 para. (1) letter a) of Law no. 8/1996, republished, with subsequent amendments and additions (according to which the performing artist or performer[23], „has the exclusive patrimonial right to authorize or prohibit" „the fixing of its interpretation or performance"), and the provisions of art. 129 letter a) of the same legislative act (according to which broadcasting and television organizations „have the exclusive economic right to authorize or prohibit, with the obligation for the authorized person to mention the names of the organizations", „the fixing their own broadcasts and radio or television program services"), it can be seen that both in the case of the legal fixation of artistic interpretations or performances and in the case of the legal fixation of radio or television programs, only the authorization given by the rights holders is required - authorization which, according to The explanatory dictionary of the Romanian language[24], is synonymous with consent - so that, in reality, the essential requirement attached to the material element of the objective side is that of the absence of authorization given by the rights holders[25].

On the other hand, it should be noted that there is a discrepancy between the wording of art. 190 letter f) of Law no. 8/1996, republished, with subsequent amendments and additions, and that of art. 129 letter a) of the same law, in the sense that the legal content of the contravention analyzed does not include radio or television broadcasts, and the radio or television program services in the second provision above are replaced in the first provision above with radio or television programs[26].

2.7. The contravention provided for in art. 190 letter g)

According to the provisions of art. 190 letter g) of Law no. 8/1996, republished, with subsequent amendments and additions, it is a contravention to publicly communicate, without the authorization or the consent of the holder of the rights recognized by the same law, works or products bearing rights related to copyright.

The contravention examined may involve a natural person or a legal person.

In the case of this contravention, the material element of the objective side consists of the act of public communication.

Art. 20 para. (1) of the same legislative act states: „Public communication is considered to be any communication of a work, carried out directly or by any technical means, in a place open to the public or in any

[23] Art. 95 of the same law states that „performing artists or performers means: actors, singers, musicians, dancers, and other persons who present, sing, dance, recite, declaim, play, interpret, direct, conduct, or perform in any other way a literary or artistic work, a performance of any kind, including folk, variety, circus or puppet shows".

[24] Available at *https://dexonline.ro/*, last consulted on 25.03.2025.

[25] See, in the same sense, T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 322-323.

[26] *Idem*, p. 323.

place where a number of people gather that exceeds the normal circle of family members and acquaintances, including stage performance, recitation or any other public performance or direct presentation of the work, public display of works of fine art, applied art, photography, and architecture, public projection of cinematographic works and other audiovisual works, including works of digital art, presentation in a public place, by means of sound or audiovisual recordings, as well as presentation in a public place, by any means, of a broadcast work. Any communication of a work, by wire or wireless means, made available to the public, including by means of the Internet or other computer networks, in such a way that members of the public may access it from a place and at a time individually chosen by them, shall also be considered public." Therefore, for this contravention to exist, it is irrelevant that the object of the active subject's activity does not involve the dissemination of works or products bearing rights related to copyright[27] nor the fact that at the time of the committing of the material element of the objective side, no members of the public were present, but the place where the act was committed was open to the public[28].

Also, in the Romanian judicial practice[29], based on the CJEU jurisprudence, installing TV sets in hotel rooms that can get certain TV channels and are accessible to hotel guests is public communication under art. 3 para. (1) of Directive 2001/29/EC of The European Parliament and of The Council on the harmonization of certain aspects of copyright and related rights in the information society[30], regardless of the signal transmission technique used [*Case C-306/05*, *Sociedad General de Autores y Editores de España v. Rafael Hoteles S.A.*, decision of December 7, 2006[31], and *Case C-162/10*, *Phonographic Performance (Ireland) Limited v. Ireland*, decision of March 15, 2012[32]], the fact that users „did not actually listen to phonograms" being irrelevant, The Court of Justice of the European Union considering relevant „the making available of the devices to them", their existence and their ability to communicate phonograms to the public, it was held that the act provided for in art. 190 letter g) of Law no. 8/1996, republished, with subsequent amendments and additions, constitutes a contravention, even if, at the time of the inspection, the public communication referred to in the provision in question was not actually found to have taken place, the existence of televisions capable of receiving television channels in the accommodation facility being sufficient.

In the Romanian judicial practice[33] it was also noted that it is not important that the public communication is made exclusively in hotel rooms, and not in the hotel's common areas, taking into account the jurisprudence of The Court of Justice of the European Union, according to which the private nature of hotel rooms does not preclude the transmission of a work via TV sets installed in those rooms from being considered an act of public communication within the meaning of art. 3 para. (1) of Directive 2001/29/EC of The European Parliament and of The Council, as both the letter and the spirit of that directive indicate that the provisions of art. 3 para. (1) thereof require the author of a work to obtain authorization not for the retransmission of the right in a place accessible to the public or in a place open to the public, but for acts of communication by which the work is made available to the public, so that the public or private nature of the place where the communication takes place is irrelevant[*Case C-306/05*, *Sociedad General de Autores y Editores de España v. Rafael Hoteles S.A.*, decision of December 7, 2006].

Regarding to the authorization of the rights holder, in the Romanian jurisprudence, in some cases[34] it was considered that, since there are several organizations at national level approved by The Romanian Copyright Office (ORDA) which are responsible for granting licenses in the field of music broadcasting, respectively The Romanian Center for the Administration of Performers' Rights (CREDIDAM) - an organization representing the rights of music performers, The Union of Phonogram Producers in Romania (UPFR) - an organization representing music producers and The Copyright Association of The Union of Composers and Musicologists of

[27] See Court of First Instance of Sector 5 of Bucharest, civ. s. II, sent. no. 4371/18.05.2023, available at the database address *https://rejust.ro/*, last consulted on 25.03.2025.

[28] See Câmpulung Moldovenesc Court of First Instance, civ. sent. no. 1279/21.12.2023, available at the database address *https://rejust.ro/*, last consulted on 25.03.2025.

[29] See Gurahonț Court of First Instance, civ. sent. no. 35/12.02.2020, available at the database address *https://rejust.ro/*, last consulted on 25.03.2025.

[30] Available at *https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=celex:32001L0029*, last consulted on 25.03.2025.

[31] Available at *https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=CELEX:62005CJ0306*, last consulted on 25.03.2025.

[32] Available at *https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:62010CJ0162*, last consulted on 25.03.2025.

[33] See Court of First Instance of Sector 2 of Bucharest, civ. s., sent. no. 13461/24.11.2023, available at the database address *https://rejust.ro/*, last consulted on 25.03.2025.

[34] See Satu Mare Court of First Instance, civ. s., sent. no. 1009/10.04.2020, and Court of First Instance of Sector 2 of Bucharest, civ. s., sent. no. 2521/08.03.2023, available at the database address *https://rejust.ro/*, last consulted on 25.03.2025.

Romania (UCMR - ADA) - an organization representing copyright of composers, for the purpose of broadcasting music in public, the user is required to obtain a license from each of the 3 organizations mentioned above, as possession of only one or two of the 3 licenses is not sufficient within the meaning of art. 190 letter g) of Law no. 8/1996, republished, with subsequent amendments and additions, because the consent of the holders of all rights recognized by the same law (performers, producers and composers) is required. In contrast, in another case[35] it was noted that, since at the time of the inspection, the legal person subject to the contraventional liability had concluded a contract with an association accredited as a collective management organization for copyright in the field of music, it had not committed the contravention provided for in art. 190 letter g) of Law no. 8/1996, republished, with subsequent amendments and additions, the fact that it had not concluded contracts for obtaining licenses with other associations accredited as collective management organizations was not relevant, as long as it had not been proven that the legal person in question had exploited copyrights managed exclusively by the latter associations.

As in the case of the contravention provided for in art. 190 letter f) of Law no. 8/1996, republished, with subsequent amendments and additions, the rule imposes as an essential requirement that the material element of the objective side be carried out without the authorization or consent of the holder of the rights recognized by the same law, although, according to the provisions of art. 13 letter f) of the same normative act, the use of a work „gives rise to distinct and exclusive patrimonial rights of the author to authorize or prohibit" „the public communication, directly or indirectly, of the work, by any means, including by making the work available to the public in such a way that it can be accessed from any place and at any time chosen individually, by the public", which is why, as shown above, in reality, the essential requirement attached to the material element of the objective side is that of the lack of authorization given by the rights holders[36].

According to the provisions of art. 196 para. (2) of Law no. 8/1996, republished, with subsequent amendments and additions, the products bearing rights to related copyright means „fixed artistic performances or interpretations, phonograms, videograms and the broadcasts or program services of radio and television organizations".

2.8. The contraventions provided for in art. 190 letter h)

According to the provisions of art. 190 letter h) of Law no. 8/1996, republished, with subsequent amendments and additions, it is a contravention to violate the provisions of art. 35^2 para. (2) of the same law and, by users, the provisions of art. 162 letter f) of the same law.

According to the provisions of art. 35^2 para. (2) of Law no. 8/1996, republished, with subsequent amendments and additions, „Any beneficiary person or authorized entity, from Romania or another member state of The European Union, has the right to obtain, from an authorized entity carrying out the activity provided for in art. 35^1 para. (1) letter b) and which has its registered office in Romania, an accessible copy of a work or other protected object, if available".

According to the provisions of art. 35^1 para. (1) letter b) of the same legislative act, the following are permitted „without the consent of the holder of any copyright or related right and without payment of any remuneration: the reproduction, distribution, communication to the public, making available to the public, broadcasting, renting and lending of a work or other protected subject matter, provided that this does not conflict with the normal exploitation of the work and does not cause any harm to the author or the rights holders", for the purpose of „the production by an authorized entity of an accessible copy of a work or other subject matter protected by copyright or related rights, to which the beneficiary has legal access, or the public communication, making available, distribution or lending, without profit, of an accessible copy to a beneficiary or another authorized entity for the exclusive use of a beneficiary".

According to the provisions of art. 15 para. (1) of the same law, distribution means „the sale or any other form of transfer, whether for consideration or free of charge, of the original or copies of a work, as well as the public offering thereof".

Art. 21 of the same legislative act states: „For the purposes of this law, broadcasting means:

---

[35] See Miercurea-Ciuc Court of First Instance, civ. s., sent. no. 1938/08.11.2024, available at the database address *https://rejust.ro/*, last consulted on 25.03.2025.

[36] See *supra*, **2.6.** (final considerations).

a) the broadcasting of a work by a radio or television broadcasting organization, by any means that serves to propagate signs, sounds or images or their representation, including public communication via satellite, for the purpose of reception by the public;

b) the transmission of a work or its representation, by wire, cable, fiber optics or any other similar means, including direct introduction, except for computer networks, for the purpose of reception by the public."

According to the provisions of art. 17 of Law no. 8/1996, republished, with subsequent amendments and additions, rental means „making available for use, for a limited period of time and for a direct or indirect economic or commercial advantage, of a work".

According to the provisions of art. 18 para. (1) of the same legislative act, loan means „making available for use, for a limited period of time and without direct or indirect economic or commercial advantage, a work through an institution that allows public access for this purpose".

Art. 162 letter f) of the same legislative act states that collective management organizations have the right and obligation „to request users or their intermediaries to provide, in writing and electronically, within 30 days of the request, the information and documents required to determine the amount of remuneration, as well as information on the works used, stamped and signed by the legal representative".

Both in the case of the contravention provided for in art. 190 letter h) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 35^2 para. (2) of the same law, and in the case of the contravention provided for in art 190 letter h) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 162 letter f) of the same normative act, the active subject is qualified, respectively:

- a legal person, namely an authorized entity carrying out the activity provided for in art. 35^1 para. (1) letter b) of the same law and having its registered office in Romania (for the first contravention mentioned above);
- a natural person or a legal person acting as a user within the meaning of art. 3 para. (5) of the same legislative act (for the second contravention mentioned above).

Furthermore, in the event of any of the above contraventions being committed, the material element of the objective side is represented by an omission, which consists of:

- failing to communicate to any beneficiary person or authorized entity, in Romania or in another EU member state, upon request, an accessible copy of a work or other protected subject matter, the essential requirement being the availability of the copy (for the first contravention mentioned above);
- failing to provide, in writing and electronically, within 30 days of the request, the information and/or documents requested by a collective management organization for copyright and related rights for the determination of the amount of remuneration, as well as information on the works used, stamped and signed by the user's legal representative (for the second contravention mentioned above); it should be noted that, *de lege lata*, on the one hand, the rule only sanctions the user's omission, not that of the intermediary, and, on the other hand, that, for this contravention to exist, it is irrelevant whether the user failed to provide any of the requested information and/or documents or provided them incompletely or only in written form or only in electronic form, just as it is irrelevant whether the provision took place after the expiry of the above-mentioned legal deadline[37].

2.9. The contraventions provided for in art. 191

According to the provisions of para. (1) of art. 191 of Law no. 8/1996, republished, with subsequent amendments and additions, it is a contravention, unless it constitutes a criminal offence, for legal persons or authorized individuals to allow access to their premises, equipment, means of transport, goods or services for the purpose of enabling another person to commit a contravention provided for in the same law.

In para. (2) of art. 191 of Law no. 8/1996, republished, with subsequent amendments and additions, there is an aggravated version of the same contravention, which consists of repeating the act provided for in para. (1) of the same article, which resulted in the committing of the criminal offences provided for in art. 193 of Law no. 8/1996, republished, with subsequent amendments and additions, within one year.

[37] See, in the same sense, A. Bogdan, *op. cit.*, p. 257, 258.

Art. 193 para. (1)-(5) of the same legislative act state: „(1) The following acts constitute offenses and are punishable by imprisonment of six months to three years or a fine:

a) making pirated goods for distribution;

b) placing pirated goods under a definitive import or export customs procedure, under a suspensive customs procedure or in free zones;

c) any other means of introducing pirated goods into the domestic market.

(2) The penalty provided for in para. (1) shall also apply to the offering, distribution, possession, storage or transport of pirated goods for the purpose of distribution.

(3) If the acts referred to in para. (1) and (2) are committed for commercial purposes, they shall be punished by imprisonment of between two and seven years.

(4) The penalty provided for in para. (3) shall also apply to the rental or offering for rental of pirated goods.

(5) Promoting pirated goods through public announcements or electronic means of communication, by displaying or presenting to the public lists or catalogs of products or by any other similar means, constitutes a criminal offense and is punishable by imprisonment of 3 months to 2 years or a fine".[38]

The contravention provided for in art. 191 of Law no. 8/1996, republished, with subsequent amendments and additions, has a qualified active subject, respectively a legal person or an authorized natural person.

The material element of the objective side of the contravention analyzed is realized by allowing access to premises, equipment, means of transport, goods or services owned by the contravenant, with the intention of enabling another person to commit a contravention provided for in art. 190 of Law no. 8/1996, republished, with subsequent amendments and additions, thus being sanctioned, as established in doctrine[39], the complicity in committing any of the contraventions provided for in the latter article, respectively by repeating the act provided for in para. (1) of the same article, which resulted in the committing of at least one of the criminal offenses provided for in art. 193 of Law no. 8/1996, republished, with subsequent amendments and additions, within one year.

At the same time, the provisions of art. 191 para. (1) of Law no. 8/1996, republished, with subsequent amendments and additions, stipulate that the act of allowing the aforementioned access constitutes a contravention if it does not constitute a criminal offence, which does not mean, as indicated in the specialized literature, that the act of allowing access to the premises is always a contravention, but only if it is committed with the intention of committing a criminal offence[40], that the investigating officer „has absolute discretion over how to sanction the act previously analyzed, in the sense that he will choose at his discretion whether to sanction it as a contravention or as a criminal offense", but „must be extremely cautious and correctly assess from the outset whether the unlawful act found, by the manner in which it was committed and its socially dangerous consequences, appears to be a criminal offence and therefore to be sanctioned under the criminal law by the competent authorities or whether it is merely a contravention and will be sanctioned as such". In the event that the investigating officer considers, even incorrectly, that the act committed is a contravention and the contravenant is sanctioned and accepts the responsibility by paying the fine imposed, „but following a subsequent assessment, it is concluded that the act nevertheless had the characteristics of a criminal offense", we also agree with the opinion expressed in doctrine[41] according to which it is inadmissible for the same act, already definitively sanctioned as a contravention, to be subsequently prosecuted as a criminal offense, respectively sanctioned under the criminal law, „because in such a case the issue of double sanctioning for the same actin its materiality (but which was incorrectly classified) would arise", which is prohibited by the provisions of art. 4 of Protocol no. 7 to The convention for the protection of human rights and fundamental

[38] Art. 193 para. (6)-(8) of the same law stipulate: „(6) For the purposes of this law, pirated goods mean all copies, regardless of the medium, including covers, made without the consent of the rights holder or the person legally authorized by him and which are made, directly or indirectly, in whole or in part, from a product bearing copyright or related rights or from their packaging or covers. / (7) For the purposes of this law, commercial purpose means the pursuit of a direct or indirect economic or material advantage. / (8) The commercial purpose shall be presumed if the pirated goods are identified at the premises, at the places of business, in the annexes thereof or in the means of transport used by economic operators whose business is the reproduction, distribution, rental, storage or transport of products bearing copyright or related rights."

[39] T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 324.

[40] A. Pap, *op. cit*.

[41] *Ibidem*.

freedoms[42], considering that, in relation to the limits of fines that may be imposed for committing any of the contraventions provided for in Law no. 8/1996, republished, with subsequent amendments and additions, and the active subject of such a contravention, according to the ECtHR case-law, the contraventions in question are of a criminal nature.

As revealed in the specialized literature[43], the examination of the criminal offences provided for in art. 193 of Law no. 8/1996, republished, with subsequent amendments and additions, does not suggest that any of these would result from the repetition of the contravention provided for in art. 191 para. (1) of the same law. In any case, the committing of such a criminal offense, even if it were the result of the repetition within one year of the contravention provided for in art. 191 para. (1) of Law no. 8/1996, republished, with subsequent amendments and additions, must be established by a final criminal decision[44].

It should also be noted that, in the case of the contravention analyzed, the form of guilt with which it can be committed is only intent, qualified by the purpose of committing one of the contraventions provided for in art. 190 of Law no. 8/1996, republished, with subsequent amendments and additions, which is why, if the material element of the objective side of the contravention examined is committed through negligence, the act in question does not constitute a contravention[45].

3. General procedural aspects regarding the contraventions established and sanctioned in Law no. 8/1996, republished, with subsequent amendments and additions

According to the provisions of para. (2) of art. 192 of the same law, the contraventions provided for in this normative act shall be established, and the corresponding sanction/sanctions shall be applied by the persons authorized by the chief executive officer of The Romanian Copyright Office[46]or by police officers or agents from the local police or The Ministry of Internal Affairs with competence in the field.

Regarding to the possibility for the contravenant to pay half of the minimum fine provided for in Law no. 8/1996, republished, with subsequent amendments and additions, it should be noted that, under the conditions of art. 192 para. (3) of the same normative act, this possibility was granted by reference to a period of 48 hours from the date of receipt of the report on the finding of the contravention, but, as a result of the entry into force of the provisions of art. 25 para. (1) of Law no. 203/2018 on measures to streamline the payment of contraventional fines[47], on August 24, 2018[48], as of this date, the provisions of art. 192 para. (3) of Law no. 8/1996, republished, with subsequent amendments and additions, have been repealed and replaced by the provisions of art. 28 para. (1) of GO no. 2/2001, with subsequent amendments and additions, according to which the contravenant „may pay, within a maximum of 15 days from the date of delivery or communication of the report, half of the minimum fine provided for in the normative act, the investigating officer making a note of this possibility in the report".

According to the provisions of art. 187 para. (1) second thesis of Law no. 8/1996, republished, with subsequent amendments and additions, the procedural rules are those provided for in the same law, supplemented by those of common law, so that all other aspects relating to the contraventional procedure other than those provided for in art. 192 para. (2) of the same normative act are, in the absence of regulation in the same law, subject to the provisions of GO no. 2/2001, with subsequent amendments and additions.

---

[42] Available at *https://echr.coe.int/documents/d/echr/convention_ron*, last consulted on 25.03.2025.

[43] T. Bodoaşcă, T.-V. Sfârlog, *op. cit., loc. cit.*, p. 325.

[44] *Ibidem*.

[45] *Idem*, p. 324, 325.

[46] In applying these regulatory provisions, Decision no. 150/2020 on the appointment of persons empowered to establish and enforce the contraventions provided for in art. 190 and 191 of Law no. 8/1996 on copyright and related rights, issued by the chief executive officer of The Romanian Copyright Office, published in the Official Gazette of Romania no. 1330/31.12.2020, is currently applicable.

[47] Published in the Official Gazette of Romania no. 647/25.07.2018. Art. 25 para. (1) of Law no. 203/2018 states: „On the date of entry into force of this law, the provisions of the normative acts in force establishing the payment of half of the minimum contraventional fine, within a period shorter than that provided for in art. 28 para. (1) of GO no. 2/2001 on the legal regime of contraventions, approved with amendments and additions by Law no. 180/2002, with subsequent amendments and additions, shall be repealed."

[48] Date calculated in accordance with the provisions of art. 24 of Law no. 203/2018 and art. 12 para. (1) of Law no. 24/2000 on legislative technique rules for drafting normative acts, republished (in the Official Gazette of Romania no. 260/21.04.2010), with subsequent amendments and additions.

4. Conclusions and *de lege ferenda* proposals

As we have shown, during the nearly 3 decades since Law no. 8/1996 came into force, the regulation of contraventions within its scope has undergone continuous evolution. Thus, while initially no contraventions were established in the respective normative act, there are now a total of 15 contraventions, which shows the increasing involvement of the legislator in providing adequate protection, through the contraventional law, to natural or legal persons whose rights recognized and protected by the aforementioned law have been violated by committing of unlawful acts less serious than criminal offences.

Among the positive aspects of this concern on the part of the legislator, it is worth mentioning the special attention paid to establishing contraventions relating to the functioning of the collective management organizations for copyright and related rights, as well as to the infringement of rights recognized in favor of persons with disabilities.

However, as we have highlighted in this study, the legislator's concern regarding the establishment of contraventions in Law no. 8/1996 is not immune to criticism.

Thus, by establishing the contraventions provided for in art. 190 letters a)-e) and h) of Law no. 8/1996, republished, with subsequent amendments and additions, using referral rules to determine their legal content, the requirements clarity and predictability of the law were not met, creating the conditions for arbitrariness and, obviously, inconsistent practice in contraventional proceedings. Under these circumstances, an urgent legislative action is required to ensure that those subjects to the contraventional law established in the legislative act in question are able to ascertain their content beyond any doubt, the only desirable legislative solution being to specify the content of the contraventions directly.

From this perspective, we formulate the following *de lege ferenda* proposals:

- expressly providing as a contravention, instead of the provision of art. 190 letter a) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to art. 24 para. (5) of the same legislative act, the failing by the seller of an original work of graphic or plastic art or of a photographic work to inform the author of that work of the place where it is located after its sale subsequent to its first transfer by its author;
- replacing the provisions of art. 190 letter b) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 89 and 90 of the same law, with two articles to provide separately and completely the respective contraventions;
- reformulating of the provision on the contravention provided for in art. 190 letter c) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to art. 114 para. (3) of the same normative act, in the sense of providing as a contravention the carrying out of an import or production activity by the importer or, as the case may be, the manufacturer of media on which sound or audiovisual recordings can be made or on which reproductions of graphically expressed works can be made or of devices designed for making copies, without holding a registration certificate issued by The Romanian Copyright Office;
- replacing the provisions of art. 190 letter d) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 149 para. (4) or (8) of the same law, with two articles to provide separately and completely the respective contraventions;
- replacing the provisions of art. 190 letter e) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 160 para. (5), art. 162 letters b), e), g), i), k), l), p) and q), art. 169 para. (7), art. 170 para. (2^1) and art. 172 para. (1) of the same legislative act, with 12 articles to provide separately and completely the respective contraventions; in this context, it is necessary to expressly provide for a deadline for the publication on the website of a for copyright and related rights of the individual annual statement provided for in art. 160 para. (3) of the same legislative act, failure to comply with which constitutes a contravention; at the same time, it is necessary to indicate the deadline by which failure to respond in writing to complaints, in particular regarding the management of rights, the revocation of the mandate or the withdrawal of rights, the conditions of membership, the collection of the amounts due to authors or rights holders, deductions and their distribution, constitutes a contravention; it is also necessary to introduce an article to sanction non-compliance by a user and a collective management organization of copyright and related rights with the deadline and format in which the user shall provide the relevant information available to it regarding the use of the rights represented by that organization, „which is necessary for the collection of the revenue derived from the rights and for the distribution and payment" to authors or rights holders of the amounts due;

- replacing the provisions of art. 190 letter h) of Law no. 8/1996, republished, with subsequent amendments and additions, in relation to the provisions of art. 352 para. (2) and art. 162 letter f) of the same law, with two articles to provide separately and completely the respective contraventions; in this context, it is necessary to impose a contraventional sanction for the failure of the user's intermediary to provide, in writing and electronically, within 30 days of the request, the information and/or documents requested by a collective management organization for copyright and related rights for the determination of the amount of remuneration, as well as information on the works used, stamped and signed by the user's legal representative.

We also propose to the legislator:

- eliminating the redundant term „consent" from the provisions of art. 190 letter f) of Law no. 8/1996, republished, with subsequent amendments and additions, and the replacement the reference to artistic interpretations or performances or radio or television programs in the same provisions with the reference to artistic interpretations or performances or radio or television broadcasts or radio or television program services;
- reformulating the provisions of art. 191 of Law no. 8/1996, republished, with subsequent amendments and additions, so as to ensure the clarity and predictability requirements of the provision in question;
- reformulating the provisions of art. 192 para. (1) thesis I of Law no. 8/1996, republished, with subsequent amendments and additions, so as to eliminate the confusion they may create regarding their applicability to the contravention provided for in art. 191 of the same normative act.

Beyond these aspects, which demonstrate that the regulation of contraventions in Law no. 8/1996 currently has sufficient shortcomings, there is a growing interest on the part of the legislator in protecting the rights provided for in this normative act by including in the sphere of the contraventional law as many cases of violation of the rules to which the respective rights refer as possible, which can only be beneficial to society in principle, given the specific nature of this form of the legal liability, which may constitute an appropriate modality of ensuring legality in such an important area of social relations as that regulated by the law in question.

References

PRIMARY BIBLIOGRAPHY

- Bodoaşcă, T., Sfârlog, T.-V., *Contraventional liability under Law no. 8/1996 on copyright and related rights*, in T. Bodoaşcă, *Studies of Intellectual Property Law*, 2nd ed., revised and added by A. Bogdan and T. Drăghici, Universul Juridic Publishing House, Bucharest, 2024;
- Bogdan, A., *The legal regime of rights related to copyright regulated by Law no. 8/1996 on copyright and related rights*, Pro Universitaria Publishing House, Bucharest, 2024;
- Roş, V., *Intellectual Property Law, vol. I, Copyright, Related Rights and sui-generis Rights*, C.H. Beck Publishing House, Bucharest, 2016.

SECONDARY BIBLIOGRAPHY

- Basarab, M., *Criminal law. The general part*, vol. I, Lumina Lex Publishing House, Bucharest, 1999;
- Boroi, Al., *Criminal law. The general part, according to the new Criminal Code*, C.H. Beck Publishing House, Bucharest, 2010;
- Brînză, W., *Criminal law. The general part, according to the new Criminal Code*, University Course, Universul Juridic Publishing House, Bucharest, 2012;
- Călin, A., Creţu, D., Stanciu, L.D., Cudriţescu, G., *General criminal law*, vol. I, 2nd ed. revised, Pax Aura Mundi Publishing House, Galaţi, 2004;
- Dima, T., *Criminal law. The general part, vol. I, The criminal offense*, Lumina Lex Publishing House, Bucharest, 2004;
- Giurgiu, N., *The criminal law and the criminal offense. Legislation, doctrine, judicial practice*, Gama Publishing House, Iaşi, 1994;
- Hotca, M.A., *The legal regime of contraventions. Commentaries and explanations*, 5th ed., C.H. Beck Publishing House, Bucharest, 2012;
- Lefterache, L.V., *Criminal Law. General Part*, Course for second year students, 3rd ed., Hamangiu Publishing House, Bucharest, 2021;
- Mirişan, V., *Criminal law. The general part. Comparative presentation of the provisions of the Criminal Code in force and of the new Criminal Code*, 4th ed., Universul Juridic Publishing House, Bucharest, 2012;
- Mitrache, C-tin, Mitrache, C., *Romanian criminal law. The general part*, 3rd ed., revised and added, Universul Juridic Publishing House, Bucharest, 2019;
- Streteanu, F., Niţu, D., *Criminal law. The general part*, vol. I, University Course, Universul Juridic Publishing House, Bucharest, 2014;

- Udroiu, M., *Syntheses of Criminal law. The general part*, vol. I, 2nd ed., revised and added, C.H. Beck Publishing House, Bucharest, 2021.

ONLINE BIBLIOGRAPHY

- Pap, A., The contraventions regulated by Law no. 8/1996 on copyright and related rights, article available at *https://*universuljuridic*.ro/contraventiile-reglementate-de-legea-nr-8-1996-privind-dreptul-de-autor-si-drepturile-conexe/*.

DICTIONARIES

- Explanatory Dictionary of the Romanian Language, available at *https://dexonline.ro https://dexonline.ro*.

EUROPEAN LEGISLATION

- Protocol no. 7 of ECHR, available at *https://echr.coe.int/documents/d/echr/convention_ron*;
- Directive 2001/29/EC of the European Parliament and of the Council on the harmonization of certain aspects of copyright and related rights in the information society, available at *https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex:3200:L0029*.

ROMANIAN LEGISLATION

- Law no. 8/1996 on copyright and related rights, published in the Official Gazette of Romania no. 60/26.03.1996 and republished in the Official Gazette of Romania no. 489/14.06.2018, with subsequent amendments and additions;
- Law no. 24/2000 on the rules of legislative technique for the drafting of normative acts, republished in the Official Gazette of Romania no. 260/21.04.2010, with subsequent amendments and additions;
- GO no. 2/2001 on the legal regime of contraventions, published in the Official Gazette of Romania no. 410/25.07.2001, with subsequent amendments and additions;
- GEO no. 123/2005 amending and supplementing Law no. 8/1996 on copyright and related rights, published in the Official Gazette of Romania no. 843/19.09.2005;
- Law no. 287/2009 on the Civil Code, republished in the Official Gazette of Romania no. 409/10.06.2011;
- Prevention Law no. 270/2017, published in the Official Gazette of Romania no. 1037/28.12.2017;
- GD no. 33/2018 on the establishment of contraventions falling under the scope of Prevention Law no. 270/2017, as well the model of the remedial plan, published in the Official Gazette of Romania no. 107/05.02.2018;
- Law no. 203/2018 on measures to streamline the payment of fines, published in the Official Gazette of Romania no. 647/25.07.2018;
- Decision no. 150/2020 on the appointment of persons empowered to establish and enforce the contraventions provided for in art. 190 and 191 of Law no. 8/1996 on copyright and related rights, issued by the chief executive officer of the Romanian Copyright Office, published in the Official Gazette of Romania no. 1330/31.12.2020.

CJEU JURISPRUDENCE

- CJEU, *Case Sociedad General de Autores y Editores de España v. Rafael Hoteles S.A.* (Case C-306/05), judgment from 07.12.2006, available at *https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=CELEX:62005CJ0306/*;
- CJEU, *Case Phonographic Performance (Ireland) Limited v. Ireland* (Case C-162/10), judgment from 15.03.2012, available at *https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:62010CJ0162*.

ROMANIAN JURISPRUDENCE

- Gurahonț District Court, civ. dec. no. 35/2020, available at *https://rejust.ro/*;
- Satu Mare Court, civ. s., dec. no. 1009/2020, available at *https://rejust.ro/*;
- District Court of Bucharest, 2nd Sector, civ. s., dec. no. 2521/2023, available at *https://rejust.ro/*;
- District Court of Bucharest, 5th Sector, 2nd civ. s., dec. no. 4371/2023, available at *https://rejust.ro/*;
- District Court of Bucharest, 2nd Sector, civ. s., dec. no. 13461/2023, available at *https://rejust.ro/*;
- Court of Câmpulung Moldovenesc, dec. civ. no. 1279/2023, available at *https://rejust.ro/*;
- Miercurea-Ciuc Court, civ. s., dec. no. 1938/2024, available at *https://rejust.ro/*.