

# ROMANIA

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## RULES/GENERAL LAWS

<p><b>General</b></p>	<p><b>Romanian Penal Code</b>  <b>Criminal Procedure Code</b>  <b>Law No. 218/2002 on the organisation and functioning of Romanian Police</b>  <b>Law No. 304/2004 on judicial organisation (loi n° 304/2004)</b>  <b>Law No. 550/2004 on the organisation and functioning of Romanian Gendarmerie</b></p> <p>The Romanian criminal law applies to crimes committed outside the territory of the country if the perpetrator is a Romanian citizen or if, having no citizenship, is domiciled in the country.</p> <p>Law no. 286/2009 on the <b>Criminal Code of Romania</b>, Law no. 135 / 2010 on the <b>Criminal Procedure Code</b> and <b>Law no. 364/2004</b> regarding the organization and functioning of the judicial police specify that according to the manner of referral and the moment of the referral, referring to the stage of the mission, the local law may be applied by the authorities of the State in whose territory the mission is carried out. For police officers, prosecution is carried out by prosecutors. For the trial, there is no special jurisdiction.</p> <p>En ce qui concerne les militaires, conformément à l'article 100, paragraphe 2, de la <b>loi n° 304/2004</b>, les parquets militaires effectuent la mise en examen pour les actes pénaux (sans distinction quant à l'acte) commis par des militaires roumains déployés sur le territoire d'autres États, au sein de forces multinationales, dans les conditions où, conformément à une convention internationale, la juridiction roumaine peut être exercée sur le territoire de l'État d'accueil. Les procureurs militaires assistent aux audiences judiciaires conformément à l'article 57 du même acte normatif.</p> <p>On the national territory, policemen work on a 8-hour program, 5 days a week, or in 3 shifts as well as in 24-hour shifts, depending on the line of work. Within the framework of the operations in the peacekeeping missions, the work schedule is determined according to the specific requirements of the mission.</p>
<p><b>SEA: police offence?</b></p>	<p>Article 299 of the <b>Romanian Penal Code</b>: Abusive Use of the Function for Sexual Purposes</p> <p>(1) The act of a civil servant who, in order to fulfill, not fulfill, facilitate or delay the fulfillment of an act regarding his / her duties or for the purpose to act contrary to these duties, claims or obtain sexual favors from a person directly or indirectly concerned by the effects of that act shall be punished by imprisonment from 6 months to 3 years and the prohibition of the exercise of the right to take up a public position or to exercise the profession or activity in the execution of which he committed the deed.</p> <p>(2) Claiming or obtaining sexual favors by a civil servant who relies or takes advantage of a situation of authority or superiority over the victim, arising from his / her office shall be punished by imprisonment from 3 months to 2 years or with a fine and the prohibition of the exercise of the right to take up a public position or to exercise the profession or the activity in whose execution the deed was committed.</p>
<p><b>Powers of the Commanding Officer (CO)</b></p>	<p>Not for the staff of the Romanian Police on the national territory. Disciplinary sanctions are strictly regulated by Law no. 360-2002 on, regarding the Police's status as follows: a) written reprimand; b) decrease of basic salary by 5-20% over 1-3 months; c) the postponement of promotion to professional ranks or higher positions for a period of 1-3 years; d) transition to a lower position up to the basic level of the professional rank he/she held; e) removal from the police.</p> <p>Depending on the level of the management function that the CO holds and with compliance with the procedures concerning the investigation procedure of the disciplinary deviations, certain CO may apply disciplinary sanctions (as stated previously according to Law no. 360 of 2002). The CO is bound to report about a crime committed by a subordinate</p>
<h2>INVESTIGATION</h2>	
<p><b>Who can investigate?</b></p>	<p>Conformément à l'article 9 du <b>Code pénal</b>, avec les modifications et les compléments ultérieurs, le droit pénal roumain s'applique aux infractions commises hors du pays par un citoyen roumain ou une personne morale roumaine, si la peine prévue par la loi roumaine est la réclusion à perpétuité. emprisonnement de plus de 10 ans (alinéa 1). Dans d'autres cas, le droit pénal roumain s'applique aux infractions commises hors du pays par un citoyen roumain ou une personne morale roumaine, si l'acte est constitutif du délit pénal et du droit pénal du pays où il a été commis. un lieu qui n'est soumis à la juridiction d'aucun État (paragraphe 2).</p>
<p><b>National Investigation Officer (NIO)</b></p>	<p>For crimes reported by UN Peace Operations, competence lies with criminal investigation bodies and the prosecutor. The prosecutor, in the exercise of his authority to lead and supervise the activity of the criminal investigating bodies, shall ensure that the criminal prosecution is carried out in compliance with the legal provisions. The prosecutor may order certain acts of criminal investigation to be carried out by the criminal investigation officers of the judicial police or the special criminal investigation bodies, as the case may be.</p>

## PROSECUTION

<b>Referral</b>	<p>Les poursuites pénales sont effectuées avec l'autorisation préalable du procureur général du parquet auprès de la cour d'appel dont relève le procureur qui est saisi initialement ou, selon le cas, le procureur général du parquet auprès de la Haute Cour de cassation et justice (paragraphe 3).</p> <p>Concernant la catégorie des militaires (gendarmes), conformément à l'article 57, paragraphe 2 de la loi n° 304/2004, les tribunaux militaires peuvent également juger sur le territoire d'autres États, les militaires roumains, les membres d'une force multinationale, dans les conditions où, en vertu d'une convention internationale, le territoire de l'État de résidence peut être exercé par la juridiction roumaine.</p>
<b>Who can charge?</b>	<p>The criminal investigative officers or the prosecutor can start the criminal prosecution.</p> <p>The act of commencement of the criminal prosecution issued by the criminal investigation officers shall be subject to the motivated confirmation of the prosecutor who exercises the supervision of the criminal investigation activity. Only the prosecutor can send the suspect to trial.</p>

## JUSTICE

<b>Police justice system</b>	<p><b>Law no. 360/2002</b> regulating the Status of the Police Officer , <b>Law no. 218/2002</b> on the organization and functioning of the Romanian Police , <b>Law no. 550-2004</b> on the organization and functioning of the Romanian Gendarmerie , and <b>Law no. 384/2006</b> on the status of professional soldiers .</p> <p>En ce qui concerne les policiers [fonctionnaires à statut spécial, conformément à l'art. 1, alinéa (1), de la <b>loi n° 360/2002</b>], ils sont soumis aux règles et à la juridiction générale, car il n'y a pas de système de traitement des affaires par des tribunaux différents. Mais dans le cas du personnel militaire (conformément à l'article 1 alinéa (1) de la <b>loi n° 550/2004</b>, la Gendarmerie Roumaine est une institution de l'État spécialisée à statut militaire), les affaires sont gérées par les parquets / tribunaux militaires, conformément à la <b>loi n° 304/2004</b>.</p>
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