

The Criminal Code of Romania (excerpt)

## **Title X**

### **Crimes against the country's defense capacity**

#### **Chapter I**

#### **Crimes committed by military personnel**

#### **Section I Crimes against military discipline and order**

##### ***Unjustified absence***

Art.331 – (1) Unjustified absence from the unit or from duty, that exceeded 24 hours but no more than 3 days, of an active member of the military or of a called-up member of the armed forces, up to the rank of sergeant, shall be punished by imprisonment from 3 months to one year.

(2) The punishment applied to active members of the military shall be executed in a military prison.

(3) During wartime, the unjustified absence from the unit or from duty of any member of the armed forces, which exceeded 4 hours but no more than 24 hours, shall be punished by imprisonment from one to 5 years.

##### ***Desertion***

Art.332 – (1) Unjustified absence of any member of the armed forces from the unit or from duty, exceeding 3 days, shall be punished by imprisonment from one to 7 years.

(2) During wartime, the unjustified absence of any member of the armed forces from the unit or from duty, exceeding 24 hours, shall be punished by imprisonment from 3 to 12 years.

##### ***Violation of orders***

Art.333 – (1) The violation of rules pertaining to the guard, watch, escort or security service, shall be punished by imprisonment from 3 months to one year.

(2) The same penalty shall apply for abandoning the command or any other post by the member of the armed forces.

(3) The act of violating orders committed by the sentinel during guard or watch service near storage facilities containing weapons, ammunition or other explosive materials, at the border or in other posts of special military or State interest, or if the act could have had serious consequences, shall be punished by imprisonment from one to 5 years.

(4) The above-mentioned actions committed during wartime shall be punished by imprisonment from 3 to 12 years.

##### ***Insubordination***

Art.334 – (1) Refusal to carry out an order related to the duty service shall be punished by imprisonment from 6 months to 2 years.

(2) If the act is committed by an officer, by a military master or by a non-commissioned officer, by a hired member of the military, by one or more members of the military together or before the called-up troops or if the act has serious consequences, the penalty shall be imprisonment from one to 5 years.

(3) During wartime, the penalty for the act in para.(1) shall be imprisonment from 2 to 7 years, and for the act in para.(2), from 3 to 12 years.

##### ***Striking a superior***

Art.335 – (1) The act of striking a superior committed by a lower-ranked person or of striking the officer in command by a lower-ranked person shall be punished by imprisonment from 3 months to one year.

(2) If the act in para.(1) was committed during wartime, the maximum of the penalty shall be increased by 2 years.

### ***Striking an inferior***

Art.336 – (1) The act of striking a lower-ranked or a subordinated person committed by a superior or officer in command shall be punished by imprisonment from one month to one year.

(2) The provisions of para.(1) shall not apply during wartime, if the acts were determined by a military necessity.

### ***Initiation of criminal action***

Art.337 – Criminal action for the crimes in Art.331– 334 shall be initiated only upon notification by the commanding officer.

## **Section II Crimes on the battlefield**

### ***Surrender***

Art.338 – (1) The act committed by the commanding officer of surrendering to the enemy the armed forces under his/her command, of leaving into the enemy's hands, destroying or making unfit to use the means of combat or other means necessary for waging a war, while this was not determined by combat conditions, shall be punished by life detention or by imprisonment from 15 to 25 years and the prohibition of certain rights.

(2) The attempt shall be punished.

### ***Leaving the battlefield***

Art.339 – (1) The act of leaving the battlefield or of refusing to act, committed during combat, or of surrender in captivity, or of committing other such acts likely to benefit the enemy, shall be punished by life detention or by imprisonment from 15 to 25 years and the prohibition of certain rights.

(2) The attempt shall be punished.

## **Section III Crimes related to military aviation and marine**

### ***Unauthorised flight***

Art.340 – (1) The act of flying an aircraft belonging to the Romanian armed forces, without prior authorization, as well as of not complying with flight regulations, if this jeopardizes flight security in the aerial space or the aircraft security, shall be punished by imprisonment from three months to 2 years.

(2) If the act provided in the previous paragraph has caused serious consequences, the penalty shall be imprisonment from one to 5 years, and if it has caused disaster, the penalty shall be imprisonment from 5 to 15 years and the prohibition of certain rights.

### ***Abandoning ship***

Art.341 – (1) The act of abandoning a military ship in case of wreck, committed by the commanding officer before having fully exercised his/her duties, as well as by any other crew member, without the commanding officer's order, shall be punished by imprisonment from 6 months to 5 years.

(2) The same act committed during wartime shall be punished by life detention or by imprisonment from 15 to 25 years and the prohibition of certain rights.

### ***Leaving command***

Art.342 – (1) The act of leaving command by the commanding officer of a ship or of a group of military ships, in situations that could have jeopardised the military ship/ships or the crew, shall be punished by imprisonment from 2 to 7 years.

(2) If the act of leaving command was committed during combat, by the commander of a military ship or of a group of ships, the penalty shall be life detention or imprisonment from 15 to 25 years and the prohibition of certain rights.

### ***Failure to take necessary measures in naval operations***

Art.343 – The act committed by a commanding officer of a military ship or group of ships who, without having been blocked by an order or without having been prevented by his/her special mission, did not take the necessary measures to attack, fight the enemy, help a ship belonging to the Romanian state or to an allied country, that is being followed by the enemy or that is engaged in combat, or did not take the necessary measures to destroy an enemy convoy, or did not follow the enemy's war or commercial ships, shall be punished by life detention or imprisonment from 15 to 25 years and the prohibition of certain rights.

### ***Lowering the flag***

Art.344 – The act of lowering the flag during combat, in order to benefit the enemy's cause, committed by the commanding officer of a military ship or of a group of ships, as well as by any other person on board, shall be punished by life detention or by imprisonment from 15 to 25 years and the prohibition of certain rights.

### ***Collision***

Art.345 – (1) The act of a commanding officer of a military ship or of any other person on board, which caused, by negligence, collision or brought the ship on land, if the act resulted in serious damage to the ship or in other serious consequences, shall be punished by imprisonment from 6 months to 3 years.

(2) If the act in para.(1) was committed deliberately, the punishment shall be imprisonment from 5 to 20 years and the prohibition of certain rights.

(3) During wartime, the act in para.(2) shall be punished by life detention or by imprisonment from 15 to 25 years and the prohibition of certain rights.

### ***Punishment for attempt***

Art.346 – The attempt to crimes mentioned in Art.340, 341, 342, 344 and 345 (2) and (5) shall be punished.

### ***Crimes concerning aircrafts***

Art.347 – Art.341-346 shall apply accordingly also with regard to military aircraft.

## **Chapter II**

### **Crimes committed by military personnel or civilians**

#### **Eluding military service**

Art.348 (1) The act of a person who self-inflicts injury to corporal integrity or health, simulates an illness or disability, uses false documents or any other means, in order to elude military service, shall be punished by imprisonment from 6 months to 5 years, and, during wartime, by imprisonment from 3 to 10 years.

(2) Criminal action is initiated only upon notification by the commanding officer.

#### **Defeatism**

Art.349 The dissemination or publication during wartime of rumours or false, exaggerated or biased information relating to the country's economic and political status, to the moral status of the population in connection to the initiation of war and to the developments of the war, as well as other such acts likely to weaken the population's moral resilience, shall be punished by imprisonment from 5 to 15 years and the prohibition of certain rights.

#### **Robbing persons fallen on the battlefield**

Art.350 – (1) The act of robbing the dead or injured of the objects they have upon them on the battlefield, shall be punished by imprisonment from 3 to 10 years and the prohibition of certain rights.

(2) The same punishment shall apply to the act mentioned in para.(1), which, while not committed on the battlefield, is the consequence of a war operation.

### ***Use of the Red Cross emblem during military operations***

Art.351 – The use, without permission, during wartime and in connection to military operations, of the emblem or name of the “Red Cross” or other equated symbols, shall be punished by imprisonment from 3 to 7 years.

### ***Eluding military requisitions***

Art.352 – (1) Unjustified refusal to make available to the armed forces the goods legally requisitioned, the act of eluding the execution of these obligations, or of not declaring in a census the goods subject to requisitioning, shall be punished by imprisonment from 3 months to 2 years.

(2) If the act is committed during wartime, the punishment shall be imprisonment from 6 months to 5 years.

## **Chapter III**

### **Crimes committed by civilians**

#### ***Eluding recruitment***

Art.353 – The act of eluding recruitment during wartime shall be punished by imprisonment from one to 5 years.

#### ***Failure to present oneself for conscription or concentration***

Art.354 – (1) Failure to present oneself for conscription or concentration, as well as failure to show up by those drafted at their respective units, during mobilisation or wartime, within the deadline specified in the conscription/concentration order shall be punished by imprisonment from 3 to 10 years.

(2) The deadline mentioned in para.(1) shall be extended by 10 days if the persons called up are abroad.

#### ***Initiation of criminal action***

Art.355 – Criminal action for the crimes mentioned under this chapter is initiated only upon notification by the commanding officer.