



UNIVERSITATEA DIN BUCURESTI
FACULTATEA DE DREPT
FONDATA IN MDCCCLIX

Victimological Research in Romania

Assoc. Prof. Dr. Andra-Roxana Trandafir
Vice-dean, Faculty of Law, University of Bucharest





1. Romania – important dates

- December 1989: end of communism
- 1991: adoption of Constitution
- 1996: major modification of the criminal legislation
- 2003: major modification of Constitution
- 2004: Romania joined NATO
- January 1st, 2007: Romania became member of EU
- **February 1st, 2014: new Criminal Code and Criminal Procedure Code**



2. Evolution of Criminal Codes





2. Evolution of Criminal Codes

First Criminal Code – 1865:

- inspired from the French and Prussian codes
- provided for the separation between crimes, delicts and misdemeanors





2. Evolution of Criminal Codes

Second Criminal Code – 1939:

- introduced safety measures, educational measures and additional penalties
- renounced in 1954 to misdemeanors (transferred into administrative law)





2. Evolution of Criminal Codes

Third Criminal Code – 1969:

- shows the Marxist inspiration
- waived the separation into crimes and delicts
- amended several times, especially after 1989





2. Evolution of Criminal Codes

„New Old” Criminal Code – 2004:

- adopted and published in the Official Journal in 2004
- reinstated the separation between crimes and delicts
- it never came into force



2. Evolution of Criminal Codes

Fourth Criminal Code –2009/2014:

- sources of inspiration: legislations from France, Germany, Portugal, Switzerland, Spain, Belgium, northern European countries, keeping however the particularities of the Romanian criminal law (according to the preamble of the code)
- does not provide for separation between crimes and misdemeanors
- divided into a General Part and a Special Part





3. Who is a „victim” of a criminal offence?

- European Union's Directive 2012/29/EU - definition of the victim: *a 'victim' is a **natural person who has suffered harm**, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence **or a family member** (the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim) of a person **whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.***



3. Who is a „victim” of a criminal offence?

- Criminal law perspective: victim of the criminal offence - „passive subject” of the criminal offence (as opposed to the „active subject”)
- Criminal procedure law perspective: the victim („injured person”) is a person who suffered a loss, either material or moral, from the perpetration of a criminal offence and takes part in the criminal trial in this quality
 - if not - witness



3. Who is a „victim” of a criminal offence?

- Family members?
 - civil party: the victim who demands the reparation of the loss by the author of the criminal offence + **their successors**
 - family members of a victim enjoy similar protection measures to threatened witness (CPC art. 113 para. 1 referred to art. 125).
- Same sex couples?
 - family member – art. 177 CC



4. Romania's Criminal Justice System - overview

- Continental system
- Mixed system (Inquisitorial and accusatorial elements)
- Principle of officiality
- Some offences – victims' choice – prior criminal complaint as a condition



5. The victim's rights during the criminal investigation

■ Inquisitorial system during the criminal investigation

Rights of victims – **art. 81 Criminal Procedure Code**

In criminal proceedings, a victim has the following rights:

a) *to be informed of its rights;*

a1) *right to informed rapidly about the release or the escape of the person remanded in custody, prosecuted or sentenced for criminal offences concerning them, as well as about any other relevant measures taken for its protection in case of release or escape of the **author** of the criminal offence;*

b) *to propose production of evidence by the judicial bodies, to raise objections and to make submissions;*

c) *to file any other applications related to the settlement of the criminal part of the case;*

d) *to be informed, within a reasonable term, on the status of the criminal investigation, upon explicit request, provided that they indicate an address on the territory of Romania, an e-mail address or a electronic messaging address, to which such information can be communicated;*

e) *to consult the case file, under the law;*

f) *to be heard;*

g) *to ask questions to the defendant, **witnesses and experts**;*

g1) *the right to an interpreter free of charge when they do not understand, do not express themselves well or cannot communicate in Romanian. In urgent cases, technical means of communication may be used if it is deemed necessary and if it does not hinder the exercise of the rights of the injured person;*

g2) *the right to be provided with a translation into a language he understands of any decision not to prosecute, when he does not understand Romanian;*

h) *the right to be assisted by a lawyer or represented;*

i) *the right to appeal to a mediator, in cases allowed by law;*

j) *other rights provided by law.*



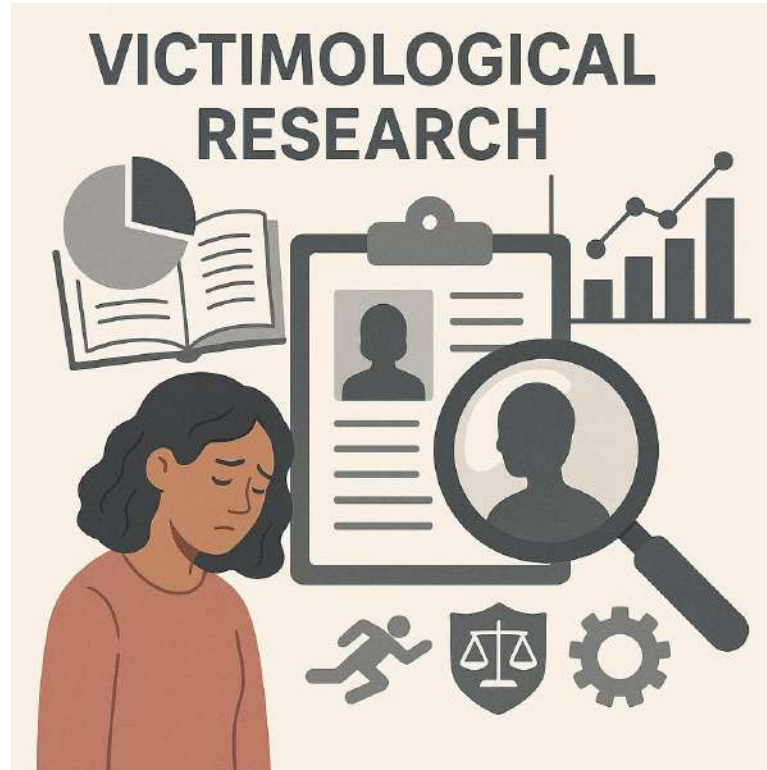
6. The victim's situation during the preliminary chamber and the court trial

- Accusatorial system during the preliminary chamber and the court trial
- The preliminary chamber is a filter of legality
- Exclusion of procedural acts from the case files will always benefit the perpetrator more than the victim, so the victim might need to waive their rights so the trial is able to go on
- The victim has mainly the same procedural rights as the defendant
- The victim has the right to participate in court, to be assisted or represented by an attorney



UNIVERSITATEA DIN BUCUREȘTI
FACULTATEA DE DREPT
FONDATĂ ÎN 1860

Victimological Research





BeneVict - Acting for victims, benefitting everyone

- aimed to help with the understanding of what type of future action is needed to improve implementation of victims' rights – be it an amendment to the Victims' Rights Directive, a new legislative instrument at the EU or the MS level, a policy initiative, or other appropriate type of action



The perceptions of professionals of the victim's status in the criminal trial

- Rural vs. Urban
- Victims are not treated with responsibility by the investigation bodies
- The first contact of the victim with the authorities is usually difficult for them
- Lack of trained professionals to deal with the victims



The defendant and the victim – two very different actors in the criminal trial

- The victims are clearly not the focus of the criminal trial
- Everything is focused on protecting the defendant's rights
- The defendant speaks last
- Many times, the defendants victimize themselves and blame the victim
- Sometimes the victims are looked at as unreasonable



A different perspective – court hearings only with case files with victims

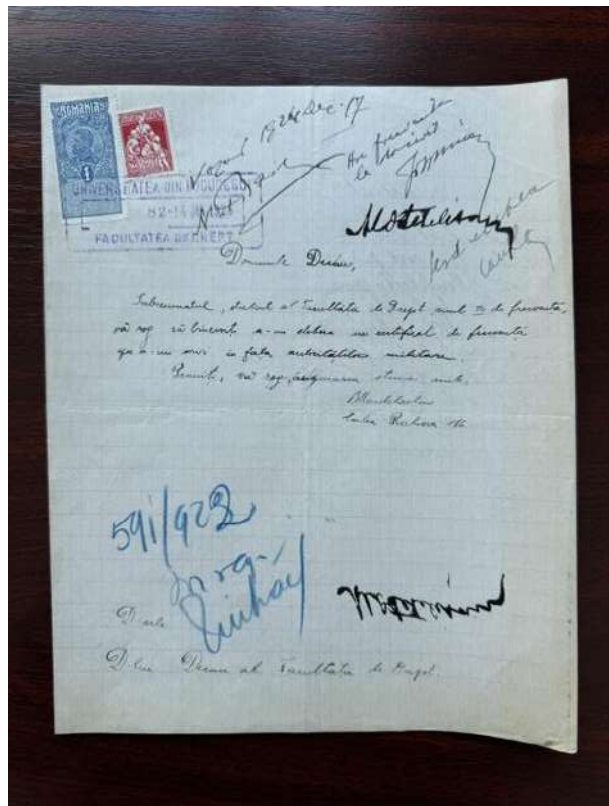
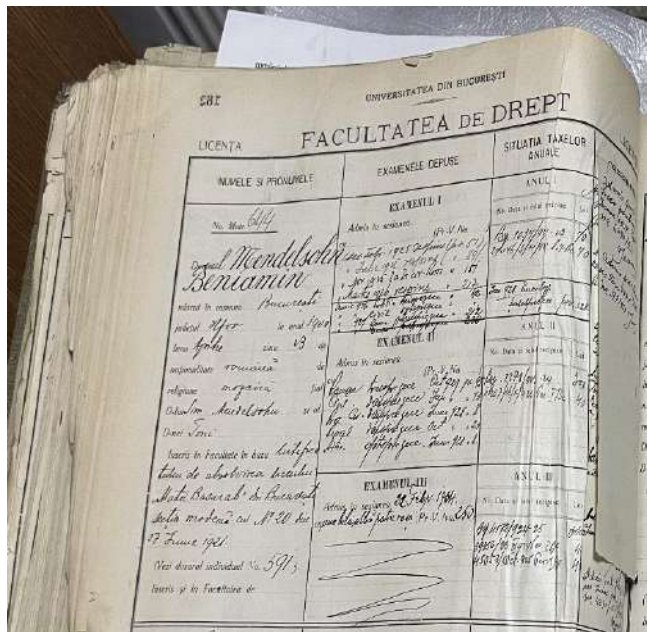
- In the same court hearing, now the judges (for example at the Court of Appeals) have a large variety of offences they judge: starting from murders to battery, going to tax evasion and money laundering, drug trafficking and driving under the influence and arriving to corruption or involuntary manslaughter, they are all mixed together
- Should the cases be split into victim cases and non-victim cases? State vs. defendant is one thing, but state vs. victim vs. defendant is another thing
- The defendant needs protection against the state, but the victim also needs protection against the defendant and the state



Preserving the Legacy of Benjamin Mendelsohn: Archiving Victimology for the Future



- Benjamin Mendelsohn – born in 1900 in Bucharest, died in 1998 in Jerusalem
- Student of the Faculty of Law, University of Bucharest between 1922-1934
- Lawyer, he coined the term "victimology"





UNIVERSITATEA DIN BUCUREȘTI
FACULTATEA DE DREPT

FONDATĂ ÎN 1858

V
2002
1/09

Mendelsohn, B.:

Le viol en criminologie.

Roma, Tip. «Leonardo da Vinci», 1940, 47 p., in 12°.

(Estratto dalla Giustizia penale...).

343.541.2

343.577

340.611.3

30.680.

0680

Mendelsohn,
Le viol en criminologie

I) Les difficultés de probation du délit de viol. — II) Les phases de la lutte pour la possession entre agresseur et victime. La mesure dans laquelle la femme peut s'opposer au viol. — III) Moyens scientifiques de probation dans le délit de viol. — IV) Le degré de crédibilité spécifique de la femme dans les plaintes en attentat à la pudeur. — V) L'importance de la femme-magistrat. Réformes.

11874

I.

Les difficultés de probation du délit de viol.

« Un viol est aussi difficile à prouver qu'à faire ».
VOLTAIN.

La présente étude traite — au point de vue criminologique — de la perpétration du délit de viol. Notre but est de discerner dans quelle mesure une femme inférieure à l'homme comme force physique peut résister avec succès à l'acte sexuel tenté par la force. allons donc suggérer quelques moyens simples, concernant une meilleure administration de la justice, les infractions ont caractère sexuel.

La manque de preuve testimoniale — dans le



4

Victimology and the Technical and Social Sciences: A Call for the Establishment of Victimological Clinics
Beniamin Mendelsohn

Victimology in Relation to Criminology.
the notion of "victimity"

fty-five years of the development of victimology, it is clear that its purpose should be to decrease the extent which interests society. At present, a certain amount of confusion exists between victimology and criminology. In any case there is no doubt that victimology deals only with murderers and criminals. This would certainly be the case of a victimology which is concerned only with cancer and the like.

It was introduced by the needs of victimology, the most original as well as the most important phenomenon according to which it produces us into an immense "territory" perhaps for science in general. It is a statement that could justify the victimology (without denying, of course, the other branches of science), on the following details:

THE ORIGIN OF THE DOCTRINE OF VICTIMOLOGY

by
B. MENDELSON, Lawyer
Jerusalem - Israel

The idea of Victimology occurred to my mind in the following manner:
A) As the natural corollary of the conception set forth in my first study *Method in the Law and for counsel for the defence in the researches made into the personality of the criminal* (Revue de Droit Pénal et de Criminologie, Bruxelles, août-sept.-oct. 1937, page 877). Convinced that a well conducted defence cannot be based on "untruth" (page 883), I once more took the trouble that I had previously taken at the outset of my profession as a barrister, in drawing up for my own use, a scientific method of study of a criminal case. In general this method consists of the following measures (which explains my gradual evolution towards the conception of Victimology). a) A questionnaire containing more than 300 questions, concerning the branches of criminology and associated sciences (pages 882-883) couched, as far as possible, in simple language. b) The same questionnaire is given to the accused and to some of those around him, with the object of being able to complete and compare the material collected and to go through the reports. c) To the sources of information in the material collected, of course, the replies given in the questionnaire, and what the accused testifies (independently of the replies given in the questionnaire), the opinion of the expert witnesses, and the results of a social enquiry — when such is necessary and is possible in practice. (I have presented this method here only in rough outline for the purposes of demonstration.) Thus the defence comes to be the result of the best documented facts and the application of well established law. By this method I have in detail gone into: The personality of the accused from the bio-psycho-social point of view and, parallelly, into the 'data' concerning the personality of the victims and even of their social relations (page 883). This method has been applied by me throughout my practice of the profession of a criminologist.

UNE NOUVELLE BRANCHE DE LA SCIENCE BIO-PSYCHO-SOCIALE LA VICTIMOLOGIE

par B. MENDELSON,
avocat, à Jérusalem*

On avance toujours
On n'arrive jamais
VONOVEN

nelle, dans le domaine
vers un facteur
présent

I. UN LAPSUS ESSENTIEL DANS LA CRIMINOLOGIE

Préoccupé par l'idée de trouver de nouveaux moyens efficaces, en premier lieu, dans la thérapeutique et la prophylaxie de la criminalité, nous essayons d'ouvrir une voie nouvelle.

* Nous présentons ici quelques chapitres de notre étude, intitulée encore : « Horizons nouveaux Bio-Psycho-Sociaux — la Victimologie. »
* Pour éviter toute confusion, nous précisons que le terme « science de la criminologie » comprend ici toutes les branches de la science qui a pour objet la criminalité.

DIX-SEPTIÈME ANNÉE. — N° 8-9-10
Revue de Droit Pénal et de Criminologie et
Archives Internationales de Médecine légale

AOÛT-SEPT.-OCT.

MÉMOIRES

Méthode à utiliser par le défenseur
pour les recherches
concernant la personnalité du criminel

Dans la seconde moitié du siècle dernier, l'anthropologie, la sociologie criminelle et la criminologie, s'aidant d'autres sciences, telles que la médecine légale, la psychologie expérimentale, la psychiatrie, ont imposé dans le droit pénal, le primat du délinquant sur le délit.
Ces sciences s'efforcent d'approfondir les problèmes de la personnalité du délinquant, ainsi que de son milieu, par l'emploi de méthodes scientifiques d'investigation (tests, fiches, observations cliniques, enquêtes, statistiques), qui s'assignent pour but d'établir cliniquement le diagnostic psycho-médico social, spécifique au caractère constitutionnel et aux conditions de vie du délinquant. En conformité avec cette conception nouvelle, d'application encore restreinte dans la pratique actuelle,



COLLECTIONS

Benjamin Mendelsohn (1900-1998) Digital Archive

Benjamin Mendelsohn (1900-1998) Digital Archive: In 1945 he has elaborated the new doctrine of victimology. Mendelsohn's Archive includes thousands of files (letters, memoirs, sketches, photos, diplomas and ephemera) chiefly in Romanian and French, with some Hebrew, German, Italian, Spanish

Je suis heureux d'apprendre, par votre lettre du 9 mars 1955, que votre article sur le génocide hitlérien a paru dans la Revue de Droit International. A propos de génocide, mon collègue, le Dr. Bruno Cormier, s'intéresse beaucoup à ce problème et a fait là-dessus une communication au Congrès International de Criminologie. Vous pourriez lui écrire à ce sujet, son adresse est: 509 Avenue des Pins, Montréal.

Merci aussi pour le tiré à part de votre article.

Excusez-moi de ne pouvoir vous écrire davantage pour le

Sort items by Date-oldest ▼

Search within the collection 🔍

(64)

View  



ARCHIVAL MATERIAL
Archival material, Benjamin Mendelsohn [part 10 of 13 in Box 1].



ARCHIVAL MATERIAL
Archival material, Benjamin Mendelsohn [part 1 of 13 in Box 1].



ARCHIVAL MATERIAL
Archival material, Benjamin Mendelsohn [part 11 of 13 in Box 1].



ARCHIVAL MATERIAL
Archival material, Benjamin Mendelsohn [part 13 of 13 in Box 1].



ARCHIVAL MATERIAL
Archival material, Benjamin Mendelsohn [part 19 of 24 in Box 2].





UNIVERSITATEA DIN BUCURESTI
FACULTATEA DE DREPT
FONDATIA IN MEMORIAM





23. 1. 1898
Wien 18. AUGUST 18

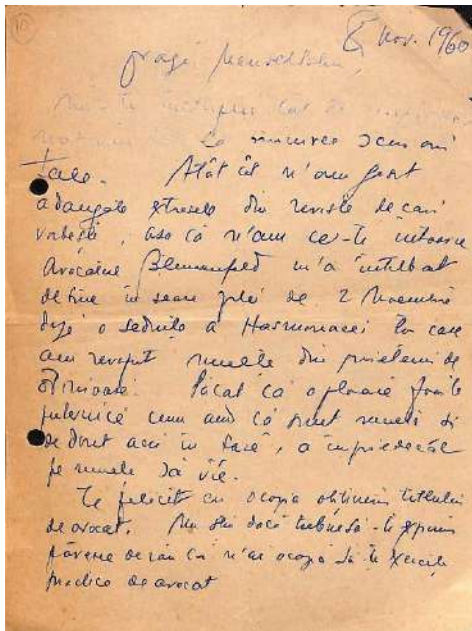
PROF. DR. FREUD

Graspar von Vollen

Ich habe mich von Ihnen, so gut es
von der Sache geht zu verabschieden.
D) Mitbestimmung von Kasperbauer
a) für die erste Befragung in der ersten
Sitzung, also den Nachfall haben
für die zweite und dritte Sitzung
eine Komposition. Diese wird
b) für die dritte Sitzung, in der der
Fall eine Komposition für die
vierte und fünfte Sitzung
II. Folge von Kompositionen
für die erste Sitzung, also
Kompositionen für die zweite
Komposition für die dritte
Komposition für die vierte
Komposition für die fünfte
Komposition für die sechste
Komposition für die siebte
Komposition für die achte
Komposition für die neunte
Komposition für die zehnte
Komposition für die elfte
Komposition für die zwölfte
Komposition für die dreizehnte
Komposition für die vierzehnte
Komposition für die fünfzehnte
Komposition für die sechzehnte
Komposition für die siebenzehnte
Komposition für die achtzehnte
Komposition für die neunzehnte
Komposition für die zwanzigste
Komposition für die einundzwanzigste
Komposition für die zweiundzwanzigste
Komposition für die dreiundzwanzigste
Komposition für die vierundzwanzigste
Komposition für die fünfundzwanzigste
Komposition für die sechsundzwanzigste
Komposition für die siebenundzwanzigste
Komposition für die achtundzwanzigste
Komposition für die neunundzwanzigste
Komposition für die hundertste



Translation



- Budget – no budget
- First phase (2024)
 - 25 students involved in the translations
 - 10 PhD/PhD Candidates/Postgraduates involved in checking the translations
 - Almost 400 documents translated (some having tenths of pages)
- Second phase (2025)
 - 25 more students involved in the translations
 - 400+ more documents translated



Insights

"Undoubtedly, I am on the road that leads much more quickly to significant progress, at least since 1973: in September 1973, the International Symposium on Victimology in Jerusalem with successes that exceeded the organizer's expectations in many ways, the Americans have recognized the perspectives of victimology and are organizing in Boston, the second International Symposium on Victimology and finally, NATO has also noticed victimology and is examining the organization of two institutions of Higher Victimological Studies - one an 8 day course in Europe and a permanent course. Certainly, NATO is not dealing with "mere miniatures". These are three conclusive facts. And even the Axel Springer media concern got involved a few years ago and promised to engage even more."



UNIVERSITATEA DIN BUCUREȘTI
FACULTATEA DE DREPT
FONDATĂ ÎN 1858

Insights

"Following the recommendation of the University of Washington delegate to the Symposium, Prof. Dr. Emilio Viano, NATO has been studying the organization of a course of advanced studies of Victimology for eight days (in an European country), as well as studying the founding of a permanent institute of higher learning, my opinion on the matter was of course requested, as well as concrete suggestions. Moreover, by the time the institute was established, I would be invited to work there."



Insights

"My scientific viewpoint was accepted by the symposium: (1) victimology must deal with all victims, no matter who causes a person to be or become a victim and must meet this measure as long as the society is interested that a person does not fall victim, (2) Victimology is a branch of science independent from Criminology."



Insights

"We must not forget that the purpose of victimology aims at fewer victims, less suffering (when this cannot be annihilated), less severe victimization, and fewer cases of recidivism among victims. I knew how profound echo had my words when at the end of the reports of the section where a day early I presented my paper, at Symposium, I pointed out the humanitarian nature of Victimology and I managed to arouse the enthusiasm among those representatives of science and of tomorrow's victimology."



UNIVERSITATEA DIN BUCUREȘTI
FACULTATEA DE DREPT
FUNDATA ÎN 1859

Insights

**Preserving the Legacy of Benjamin Mendelsohn:
Archiving Victimology for the Future**



Aims of the Archive Project

- Chronicles the development of victimology
- Supports contemporary and future research
- Establishes a database of the archives
- Ensures Mendelsohn's contributions remain accessible

Leslie Sebba's Initiative

- Archive contains Mendelsohn's personal papers, correspondence, and unpublished manuscripts
- Includes copies of Mendelsohn's published works on victimology
- Materials in Romanian, French, Spanish, and German

Project Participants

Beatrice Coscas Williams, Irit Ein-Tal, Simha Landau, Jan Van Dijk, Tali Gal, Michal Kilchling, Stephan Parmentier, Polina Smirgine-Ingelström, Josep Tamarit, Andra-Roxana Trandafir, Victoria Wozniak-Cole, Gema Varona-Martinez, Olga Udovichenko, Francesco Zanetor, Andreea Zota

Access and Usage

- Complete organization by 2026-2027
- Global access for researchers and students
- Facilitates understanding of victimology's evolution

Current Status & Future Directions

80% of Mendelsohn's work digitized

Future Directions:

- Collection of Mendelsohn's personal documents, research material and publications
- Categorization and translation
- Collaboration with various institutions and experts for preservation
- Publication of articles and comprehensive book on Mendelsohn's contributions to the field
- Hosting events and presenting the Mendelsohn Archive Project at conferences
- Creation of the Mendelsohn Institute for research in victimology

Scan for Digital Archive



Recognizing the contribution and efforts of:

- Late Professor Leslie Sebba
- The Institute of Criminology – Faculty of Law of the Hebrew University
- The Law Library of the Hebrew University
- The ESC Victimology Working Group
- The Students of the Faculty of Law, University of Bucharest

- further translations
- categorization of documents
- exhibition of documents and roundtables – ESC 2024&2025
- a room was named Benjamin Mendelsohn at the Faculty of Law, University of Bucharest
- discussions, publications



Culpable victims and victims of sexual abuse

Until January 1st, 2024:

- rape:

(1) Sexual intercourse, oral or anal sexual intercourse with a person, committed by coercion, by making him/her unable to defend him/herself or to express his/her will, or by taking advantage of this state, shall be punishable by imprisonment for a term of 5 to 10 years and banning of certain rights.

(2) Any other acts of vaginal or anal penetration committed under the terms of paragraph 1 shall be punishable by the same penalty. (1).



Victims of sexual abuse

Until January 1st, 2024:

- sexual intercourse with a minor:

(1) Sexual intercourse, oral or anal intercourse and any other act of vaginal or anal penetration committed with a minor between 14 and 16 years of age shall be punishable by imprisonment from one to five years.

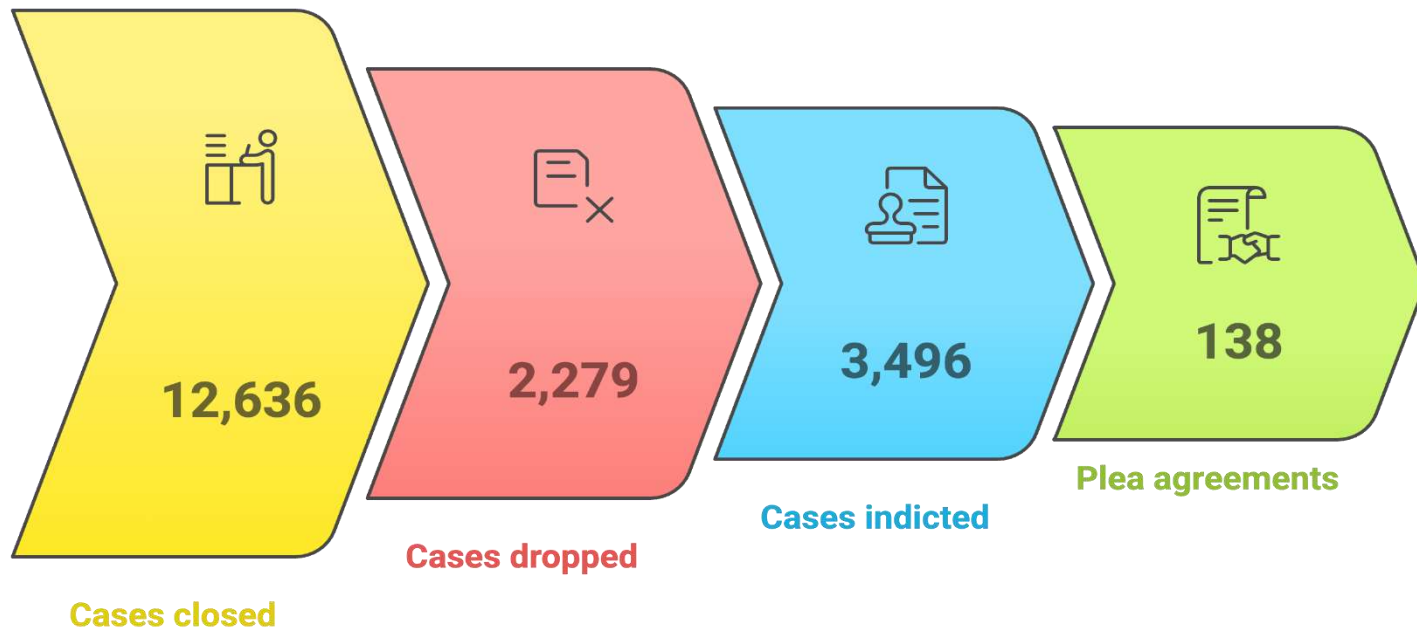
(2) The offence referred to in paragraph 1 shall be punishable by (1), committed against a minor who has not attained the age of 14 years, shall be punishable by imprisonment for a term of 2 to 9 years and banning of certain rights.

(3) The offence referred to in paragraph 1 shall be punishable by (1), committed by an adult with a minor between 16 and 18 years of age, shall be punishable by imprisonment for a term of 2 to 9 years and banning of certain rights if: (...)



Report of the Judicial Inspection on sexual abuse

Between 2014-2020 there were 18,549 complaints regarding sexual abuse against minors:





Report of the Judicial Inspection on sexual abuse

- In a 2015 case of the Baia de Aramă Public Prosecutor's Office, the 12-year-old victim who reported that she had been raped was initially interviewed in the presence of her mother, then re-audited 5 times in the presence of her mother and lawyer, the minor presenting different versions at each of the hearings.
- In a 2019 case of the Buftea Prosecutor's Office, in which the crime of rape was alleged, the victim was heard 4 times.



Report of the Judicial Inspection on sexual abuse

Evaluation of consent of minors:

- Piatra Neamt Court - magistrates considered as valid the consent given by an 11-year-old victim because the girl was not a virgin at the time she slept with the defendant;
- Alba Iulia Court of Appeal – the victim consented because she dressed scantily, failing to protect herself and not immediately telling her family what had happened
- The Tecuci Court also assessed the validity of the consent of a 10-year-old victim. In the following terms:

*“If the defendant had had sexual intercourse with the victim only once, it was possible to consider that the victim was unable to express her will due to her young age of 10, but **given that the sexual relations lasted for a long period of time**, it was considered that the correct legal classification would be that of sexual intercourse with a minor.”*



Report of the Judicial Inspection on sexual abuse

- The report also notes situations where some courts have ruled that valid consent can be assessed simply because the victim looks older than she is. The victim's age was 12, but she had early somatic development, weighing 68 kg and standing 1.60 m tall at the time of the medical examination, a 2019 decision by Topoloveni Court said.



Victims of sexual abuse

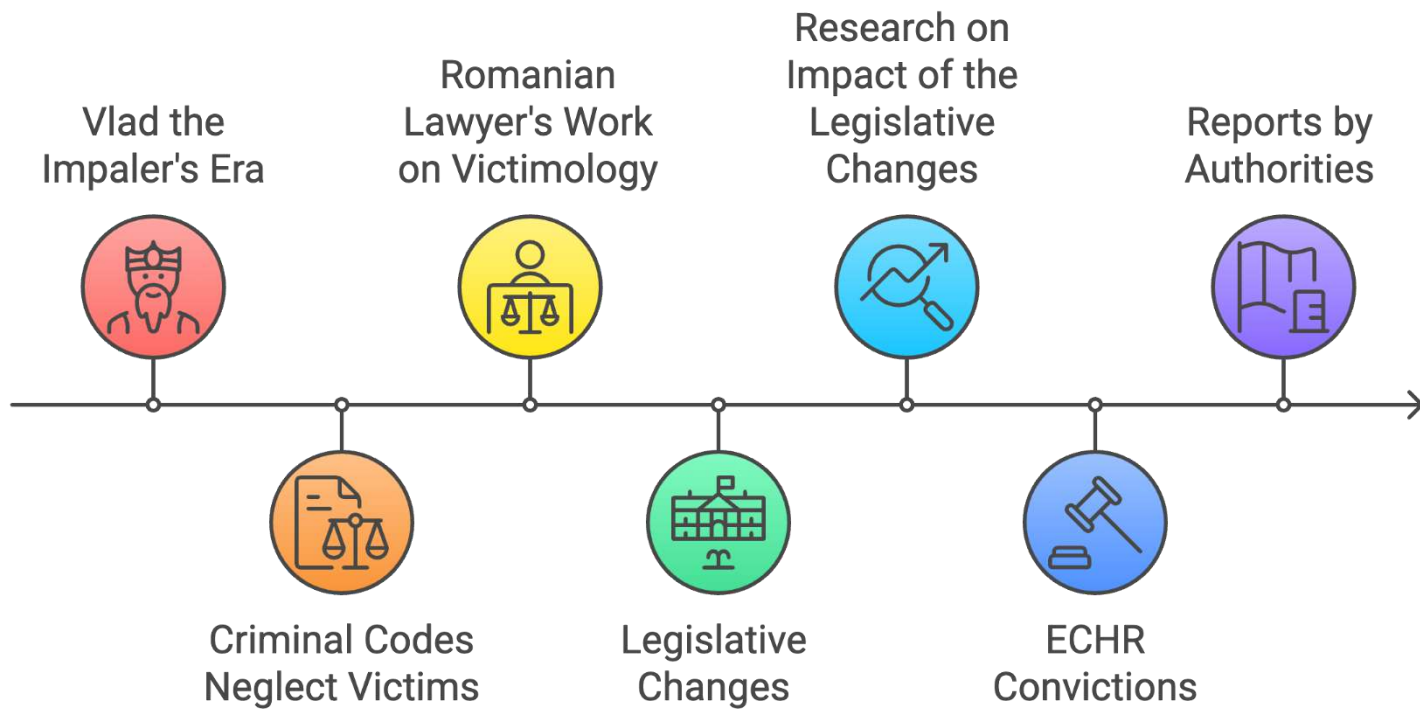
After January 1st, 2024:

- rape – same wording
- rape against a minor – *new* criminal offence

*(1) Sexual intercourse, oral or anal sexual intercourse and any other act of vaginal or anal penetration committed by an adult with a **minor under 16 years** shall be punishable by imprisonment for a term of 7 to 12 years and banning of certain rights.*

*(1¹) Sexual intercourse, oral or anal sexual intercourse, as well as any other acts of vaginal or anal penetration committed by a minor with another minor **under the age of 14** shall be punishable in accordance with the provisions of Article 114.*

Do such modifications ensure a better protection of victims?





UNIVERSITATEA DIN BUCUREȘTI
FACULTATEA DE DREPT

FONDATA IN MDCCCLIX

THANK YOU FOR YOUR ATTENTION!