

The background of the slide is the flag of the European Union, featuring a circle of twelve gold stars on a blue field.

COMPARATIVE ANTIMAFIA LEGISLATION

UE LAWS

ROMANIA

Romanian Criminal Code (CP) with reference to Art. 416 bis ITALIAN GENERAL ANTIMAFIA RULE

Art. 367 of Romanian Criminal Code (CP) incriminates the initiation of o criminal group, without special provisions for mafia-type association: “Establishment of an organized criminal group. 1) The initiation or establishment of an organized criminal group, the joining or support, in any form, of such a group is punishable by imprisonment from one to 5 years and the prohibition of the exercise of certain rights. 2) When the crime that falls within the scope of the organized criminal group is sanctioned by law with a sentence of life imprisonment or imprisonment for more than 10 years, the punishment shall be imprisonment for 3 to 10 years and the prohibition of the exercise of certain rights. 3) If the acts provided for in para. (1) and para. (2) were followed by the commission of a crime, the rules on concurrent crimes shall apply. 4) Persons who have committed the acts provided for in para. (1) and para. (2) shall not be punished if they denounce the organized criminal group to the authorities before it has been discovered and the commission of any of the crimes that fall within the scope of the group has begun. 5) If the person who has committed one of the acts provided for in para. (1)-(3) facilitates, during the criminal investigation, the discovery of the truth and the criminal prosecution of one or more members of an organized criminal group, the special limits of the penalty shall be reduced by half. 6) An organized criminal group is understood to mean a structured group, consisting of three or more persons, established for a certain period and to act in a coordinated manner for the purpose of committing one or more crimes.

Title IX Electoral Offences Criminal Code of Romania with reference to Art. 416 ter ITALIAN GENERAL ANTIMAFIA RULE

Art. 385 Obstruction of the Exercise of Electoral Rights

- (1) Obstruction, by any means, of the free exercise of the right to vote or to be elected shall be punishable by imprisonment from 6 months to 3 years.
- (2) Attack, by any means, on the premises of the polling station shall be punished by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

Art. 386 Voter Bribery

- (1) Offering or giving money, goods or other benefits for the purpose of determining the voter to vote or not to vote for a certain list of candidates or a certain candidate shall be punished by imprisonment from 6 months to 3 years and the prohibition of the exercise of certain rights.
- (2) Goods with symbolic value, inscribed with the symbols of a political party, shall not fall within the category of goods provided for in paragraph (1).

Art. 387 Voting fraud

- (1) The act of a person who votes:
 - a) without having this right;
 - b) twice or more times;
 - c) by inserting more ballot papers into the ballot box than a voter is entitled to shall be punished by imprisonment from 6 months to 3 years or by a fine and the prohibition of exercising certain rights.
- (2) The same punishment shall be imposed for the use of a voter card or a false or invalid identity document or a false ballot paper.

Title IX Electoral Offences Criminal Code of Romania with reference to Art. 416 ter ITALIAN GENERAL ANTIMAFIA RULE

Art. 388 Electronic voting fraud: printing and using false access data, fraudulently accessing the electronic voting system or falsifying ballot papers in electronic format by any means shall be punished by imprisonment from one to 5 years.

Art. 389 Violation of the confidentiality of the vote:

(1) Violation by any means of the secrecy of the vote shall be punished by a fine.

(2) If the act was committed by a member of the electoral bureau of the polling station, the punishment is imprisonment from 6 months to 3 years or a fine and the prohibition of exercising certain rights.

Art. 390 Failure to comply with the ballot box regime

(1) Opening the ballot boxes before the time set for the closing of voting is punishable by imprisonment from one to 3 years or a fine and the prohibition of exercising certain rights.

(2) Entrusting the special ballot box to persons other than members of the electoral bureau of the polling station or transporting it by other persons or under conditions other than those provided for by law is punishable by imprisonment from 3 months to 2 years or a fine and the prohibition of exercising certain rights.

Art. 391 Falsification of electoral documents and records

(1) Falsification by any means of the documents from the electoral bureaus is punishable by imprisonment from one to 5 years and the prohibition of exercising certain rights.

(2) The same penalty shall also be imposed for the registration in the copy of the permanent electoral list or the complementary electoral list of persons who do not appear on this list.

(3) The introduction into use or use of a computer program with defects that alters the registration or summation of the results obtained in the polling stations or determines the distribution of mandates outside the provisions of the law shall be punished by imprisonment from 2 to 7 years and the prohibition of the exercise of certain rights.

(4) The same penalty shall be imposed for the introduction of data, information or procedures that lead to the alteration of the national information system necessary for establishing the election results.

Title IX Electoral Offences Criminal Code of Romania with reference to Art. 416 ter ITALIAN GENERAL ANTIMAFIA RULE

Art. 392

Acts committed in connection with a referendum. The provisions of Art.s 385-391 shall apply accordingly to acts committed on the occasion of a referendum.

Art. 393

Punishment of attempt. Attempts to commit the crimes provided for in Art.s 385 and 387-391 shall be punished.

With reference to Law No. 175/2010 BAN ON CARRYING OUT ELECTORAL PROPAGANDA FOR PERSONS SUBJECT TO PREVENTIVE MEASURES

No similar measure exists in Romania.

With reference to Law No. 575/1965 ITALIAN GENERAL ANTIMAFIA RULE PERSONAL PREVENTION MEASURES

No similar measure exists in Romania.

With reference to Art. 6 of Legisl. Decree No. 159/2011

No similar measure exists in Romania.

Art 215 comma 2 lit b CRIMINAL PROCEDURAL CODE as a preventive measure with reference to Art. 6, paragr. 2 SPECIAL PS SURVEILLANCE WITH PROHIBITION OF RESIDENCE

Art. 215 Content of judicial control.

(1) While under judicial control, the defendant must comply with the following obligations:

- a) to report to the criminal investigation body, to the preliminary chamber judge or to the court whenever summoned;
- b) to immediately inform the judicial body that ordered the measure or before which the case is pending regarding the change of residence;
- c) to report to the police body designated for his supervision by the judicial body that ordered the measure, according to the supervision program drawn up by the police body or whenever summoned.

(2) The judicial body that ordered the measure may require the defendant, during judicial control, to comply with one or more of the following obligations:

- a) not to exceed a certain territorial limit, set by the judicial body, except with its prior approval;
- b) not to travel to specific places established by the judicial body or to travel only to the places established by it;
- c) to wear an electronic surveillance system at all times;
- d) not to return to the family home, not to approach the injured person or his/her family members, other participants in the commission of the crime, witnesses or experts or other persons specifically designated by the judicial body and not to communicate with them directly or indirectly, in any way;
- e) not to exercise the profession, job or activity in the exercise of which he/she committed the act;
- f) to periodically communicate relevant information about his/her means of livelihood;
- g) to submit to control measures, medical care or treatment, in particular for the purpose of detoxification;
- h) not to participate in sports or cultural events or other public gatherings;
- i) not to drive vehicles specifically established by the judicial body;
- j) not to possess, use or carry weapons;
- k) not to issue checks.

**Art 66 comma 1 lit I CRIMINAL CODE as an accessory and complementary measure with reference to Art. 6 par. 3 of
Legisl. Decree 159/2011 SPECIAL PS SURVEILLANCE WITH OBLIGATION TO STAY**

Art. 66 The complementary punishment of the prohibition of the exercise of certain rights consists of the prohibition of the exercise, for a period of one to 5 years, of one or more of the following rights: I) the right to be in certain localities established by the court

**Art. 50 and 51 of the Law n. 129/2019 and art. 249 and next of CRIMINAL PROCEDURAL CODE with reference to Art. 6
of Legisl. Decree No. 159/2011 ASSET-RELATED PREVENTIVE MEASURES ENTITIES SUBJECT TO THE LAW**

Art. 50 In the event that a money laundering or terrorist financing crime has been committed, the taking of precautionary measures is mandatory, under the terms of Law no. 135/2010 on the Criminal Procedure Code, as subsequently amended and supplemented.

Art. 51 (1) In the case of money laundering and terrorist financing crimes, the provisions on the confiscation of assets in Law no. 286/2009, as subsequently amended and supplemented, shall apply.

(2) If the assets subject to confiscation are not found, their cash equivalent or assets acquired in their place shall be confiscated.

(3) Income or other material benefits obtained from the assets provided for in paragraph (2) shall be confiscated.

(4) If the assets subject to confiscation cannot be individualized from the assets acquired legally, assets shall be confiscated up to the value of the assets subject to confiscation.

(5) The provisions of paragraph (4) shall apply accordingly to income or other material benefits obtained from the assets subject to confiscation, which cannot be individualized from the assets acquired legally.

CRIMINAL PROCEDURAL CODE, CHAPTER III with reference to Art. 6 of Legisl. Decree No. 159/2011 ASSET-RELATED PREVENTIVE MEASURES ENTITIES SUBJECT TO THE LAW

Precautionary measures, restitution of things and restoration of the situation prior to the commission of the crime. Art. 249 General conditions for taking precautionary measures

The prosecutor, during the criminal investigation, the preliminary chamber judge or the court, ex officio or at the request of the prosecutor, in the preliminary chamber procedure or during the trial, may take precautionary measures, by ordinance or, as the case may be, by reasoned conclusion, in order to avoid the concealment, destruction, alienation or evasion from prosecution of goods that may be subject to special confiscation or extended confiscation or that may serve to guarantee the execution of the fine or judicial expenses or the repair of the damage caused by the crime.

With reference to Art. 18 Legisl. Decree 159/2011 DECEASED PERSON

No similar measure exists in Romania.

Art. 112/1 Romanian CRIMINAL CODE, Art. 18 Law n. 115/1996 with reference to Art. 20, Legisl. Decree 159/2011
SEIZURE

Art. 112/1: Extended confiscation

- (1) Other assets than those provided for in art. 112 are subject to confiscation, when a person is convicted of an act likely to provide him with material benefit and for which the penalty provided by law is imprisonment for 4 years or more, the court is convinced that the assets in question originate from criminal activities. The court's conviction may also be based on the disproportion between the licit income and the person's wealth.
- (2) Extended confiscation is ordered on assets acquired by the convicted person in a period of 5 years before and, if applicable, after the moment of committing the crime, until the date of issuing the court notification act. Extended confiscation may also be ordered on assets transferred to third parties, if they knew or should have known that the purpose of the transfer was to avoid confiscation.
- (3) For the application of the provisions of paragraph (2), the value of the assets transferred by the convicted person or by a third party to a family member or a legal entity over which the convicted person has control shall also be taken into account.
- (4) Assets, according to this Art., shall also mean sums of money.
- (5) When establishing the difference between the licit income and the value of the acquired assets, the value of the assets at the date of their acquisition and the expenses incurred by the convicted person and his/her family members shall be taken into account.
- (6) If the assets subject to confiscation are not found, money and assets shall be confiscated in their place up to the amount of their value.

Art. 112/1 Romanian CRIMINAL CODE, Art. 18 Law n. 115/1996 with reference to Art. 20, Legisl. Decree 159/2011 SEIZURE

(7) Assets and money obtained from the exploitation or use of the assets subject to confiscation, as well as the assets produced by them, shall also be confiscated.

(8) The confiscation may not exceed the value of the assets acquired during the period provided for in paragraph (2), which exceeds the level of the licit income of the convicted person.

Art. 18 of Law n. 115 from 1996

(1) If it is found that the acquisition of certain assets or a share in an asset is not justified, the court of appeal shall decide either to confiscate the assets or the unjustified share, or to pay a sum of money equal to the value of the asset, established by the court on the basis of an expert opinion. In the case of an obligation to pay the value of the asset, the court shall also set the payment deadline.

(2) If a crime is committed in connection with the assets whose origin is unjustified, the court shall send the file to the competent prosecutor's office, in order to analyse whether it is necessary to initiate criminal proceedings.

(3) If it is found that the origin of the assets is justified, the court shall decide to close the file.

Art 112/1 CRIMINAL CODE with reference to Art. 24 Legisl. Decree 159/2011 CONFISCATION

Art. 112/1: Extended confiscation

(1) Other assets than those provided for in art. 112 are subject to confiscation, when a person is convicted of an act likely to provide him with material benefit and for which the penalty provided by law is imprisonment for 4 years or more, the court is convinced that the assets in question originate from criminal activities. The court's conviction may also be based on the disproportion between the licit income and the person's wealth.

Art 112/1 CRIMINAL CODE with reference to Art. 24 Legisl. Decree 159/2011 CONFISCATION

(2) Extended confiscation is ordered on assets acquired by the convicted person in a period of 5 years before and, if applicable, after the moment of committing the crime, until the date of issuing the court notification act. Extended confiscation may also be ordered on assets transferred to third parties, if they knew or should have known that the purpose of the transfer was to avoid confiscation.

(3) For the application of the provisions of paragraph (2), the value of the assets transferred by the convicted person or by a third party to a family member or a legal entity over which the convicted person has control shall also be taken into account.

(4) Assets, according to this article, shall also mean sums of money.

(5) When establishing the difference between the licit income and the value of the acquired assets, the value of the assets at the date of their acquisition and the expenses incurred by the convicted person and his/her family members shall be taken into account.

(6) If the assets subject to confiscation are not found, money and assets shall be confiscated in their place up to the amount of their value.

Art 112/1 CRIMINAL CODE with reference to Art. 25, Legisl. Decree 159/2011 SEIZURE AND CONFISCATION OF AN EQUIVALENT VALUE

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(2) Extended confiscation is ordered on assets acquired by the convicted person in a period of 5 years before and, if applicable, after the moment of committing the crime, until the date of issuing the court notification act. Extended confiscation may also be ordered on assets transferred to third parties, if they knew or should have known that the purpose of the transfer was to avoid confiscation.

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(6) If the assets subject to confiscation are not found, money and assets shall be confiscated in their place up to the amount of their value.

(7) Assets and money obtained from the exploitation or use of the assets subject to confiscation, as well as the assets produced by them, shall also be confiscated.

(8) The confiscation may not exceed the value of the assets acquired during the period provided for in paragraph (2), which exceeds the level of the licit income of the convicted person.

National Agency for the Management of Seized Assets (ANABI), with general competences with reference to Art. 110, Legisl. Decree 159/2011 AGENCY FOR ASSETS SEIZED AND CONFISCATED ANTIMAFIA LAWS

By establishing ANABI (<https://anabi.just.ro/en>), Romania proposes an integrated approach to asset recovery by combining the support for the criminal prosecutions bodies with the attributes of international cooperation, management of seized assets and social reuse of confiscated assets. The Agency's Mission: the final purpose of ANABI is to ensure an increase of the execution rate of the confiscation orders issued in criminal matters, through an efficient management of seized assets that are distributed to the Agency by prosecutors and judges. As a consequence, the incomes brought to the state budget will increase, as well as the ones through which the victim compensation is ensured, including the compensation made to the state, in cases when the state was a civil party in the criminal trial. The Agency's tasks: according to the provisions of art. 3 of the Law no. 318/2015, the Agency performs the following tasks: a) facilitate the tracing and identification of proceeds from, and other property related to crime that could be subject to freezing, seizure or confiscation orders issued by a competent judicial authority during criminal proceedings; b) secure management, in the cases specified by this law, of movable assets seized in criminal proceedings; c) sale, in the cases established by law, movable assets subject to seizure in criminal proceedings;

National Agency for the Management of Seized Assets (ANABI), with general competences with reference to Art. 110, Legisl. Decree 159/2011 AGENCY FOR ASSETS SEIZED AND CONFISCATED ANTIMAFIA LAWS

d) manage the national integrated electronic system of criminal assets; e) support, under the law, judicial authorities in making use to the best available practices field of identification and management of assets that may be subject to freezing and confiscation measures in criminal proceedings; f) coordinate, assess and monitor at national level the application and observance of the legal procedures in the field of recovery of proceeds of crime

Elements of context: the Law no. 318/2015 offers a modern solution for the judicial authorities to increase their capabilities to identify the proceeds of crime and to effectively repair the damage caused by the criminal activities.

The essence of this new institution is the inter-agency cooperation – all the agencies with responsibilities in this area will be involved throughout the entire criminal proceedings, in an integrated manner.

European models (FR, BE, NL, IT) and international ones (USA) were taken into consideration as good practice examples.

The final form of the law passed by the Romanian Parliament rounds up the initial project by adding the possibility of social reuse of confiscated assets; Moreover, through this approach, Romania fully transposed art. 10 of EU Directive 2014/42 of the European Parliament and the EU Council on the freezing and confiscation of proceeds of crime in the European Union. The Agency is a result of the National Anticorruption Strategy 2012 -2015 and remains an integrated part of Romania's internal and international commitments in the field of justice and anti-corruption public policy.

With reference to Decree-Law No. 8 OF 1991 converted into Law 82/1991 KIDNAPPINGS FOR THE PURPOSE OF EXTORTION AND PROTECTION OF WITNESSES OF JUSTICE

No similar measure exists in Romania.

With reference to Art. 143 TUEL Consolidated Law for Local Authorities DISSOLUTION OF MUNICIPAL COUNCILS FOR MAFIA INFILTRATION

No similar measure exists in Romania.

With reference to Art. 84, Legisl. Decree 159 of 2011 COMMUNICATION AND INFORMATION OF THE ANTI-MAFIA DOCUMENTATION

No similar measure exists in Romania.

With reference to PROVISIONS OF THE CRIMINAL CODE NOT INCLUDED IN THE ITALIAN CRIMINAL CODE

No similar provision was found.