

1. the facts under Art. 2 para. (1) of ICSANT are incriminated as criminal offences by the following articles of the Law no. 535/2004:

- **Article 32 para. (1) item (o)**

*“Any of the acts listed below, perpetrated for any of the purposes referred to in Article 1, shall constitute acts of terrorism and shall be punished by the penalty provided for by the law for the criminal offence perpetrated, of which special limits shall be increased by half, but may not exceed the maximum punishment, as well as by denial of certain rights:*

*(...) failure to comply with the arms and ammunition regime, failure to comply with the regime on nuclear and other radioactive materials, failure to comply with the regime on explosive materials, failure to comply with regime on restricted explosive precursors, and the unlawful use of a weapon”*

- **Article 32 (3) items a) and d)**

*“Any of the acts listed below, perpetrated for any of the purposes referred to in Article 1, shall constitute acts of terrorism and shall be punished by prison sentence of 7 to 15 years and by denial of certain rights:*

*(...) manufacture, acquisition, possession, transportation, supply or use of chemical or biological weapons or of explosive devices of any kind or the transfer thereof, directly or indirectly, to other individuals and the research or development activities concerned with such weapons, including radiological or nuclear weapons;*

*(...) destruction or degradation of a nuclear or radiological installation containing radioactive materials or rendering such installation into an inoperable condition, irrespective of whether that installation belongs to the perpetrator or to another individual, or hindering the implementation of conservation or nuclear safety measures in regard to such nuclear or radiological installation;”*

- **Article 33 (1) (a)**

*“Any of the acts listed below, perpetrated for any of the purposes referred to in Article 1, shall constitute criminal offence and shall be punished by prison sentence of 5 to 12 years and by denial of certain rights:*

*(...) acquisition, possession, manufacture, fabrication, transportation or supply of dual-use products or technologies, military equipment or explosive or flammable materials for the purpose of manufacturing means of destruction or explosive devices of any kind and of chemical, biological or radiological substances that may endanger human and animal health or the environment.”*

The scope to which the introductory articles mentioned are referred to is provided under Art. 1, which states the definition of ”terrorism”:

*“Terrorism consists of actions or lack of action and threats related thereto, which present a danger to the public, impact the human life, bodily integrity or health, affect the material factors, the international relations among states, the national or international security, are politically, religiously or ideologically motivated and are perpetrated for one of the purposes listed below:*

*a) to intimidate the population or a segment thereof, by creating an intense psychological impact;*

*b) to unlawfully coerce a public authority or an international organisation into performing an action, into the non-performance of an action or into refraining from the performance of a certain action;*

*c) to severely destabilize or destroy the fundamental political, constitutional, economic or social structures of a state or of an international organisation.”*

2. the facts under art. 2 para. (2) of ICSANT are incriminated as criminal offences by the following article of the Law no. 535/2004:

**-Article 32 (4)**

*“The threat to perpetrate any of the acts among those referred to in paragraph (1) items a) to q) and in paragraph (3) items a) to e), for the attainment of any of the purposes referred to in Article 1, shall constitute criminal offence and shall be punished by prison sentence of 2 to 7 years, while the imposed punishment may not exceed the sanction established by law for the criminal offence that was the subject of the threat.”*

As for the acts that are not under the incidence of Art 32 para. 4 of Law no 535/2004, the interpretation is that it remains applicable the offence of threatening provided in the Penal Code of Romania, mainly art. 206 para. 1 which provides:

*“The act of threatening an individual with the perpetration of an offense or of a prejudicial act against him/her or other individual, if it is likely to cause a state of fear, shall be punishable by prison sentence of 3 months to one year or by a fine, while the applied punishment may not exceed the sanction established by law for the criminal offence that was the subject of the threat”.*

3. the facts under art. 2 para. (3) of ICSANT are incriminated as criminal offences by the following article of the Law no. 535/2004

**- Art 37<sup>1</sup>:**

*“1) The attempt to perpetrate the acts referred to in Articles 32, 33, 33<sup>1</sup>, 35<sup>1</sup> and in Article 36 (1) shall be punished.*

*2) The manufacture or acquisition of means or instruments, the taking of action and the understanding between no less than two individuals for the purpose of perpetrating an act of terrorism, namely the unequivocal expression of the intent to perpetrate an act of terrorism, irrespective of method or context, shall constitute attempt.*

*3) The purpose of an action or lack of action that is specific to acts of terrorism may be inferred from objective factual circumstances.”*

4. the facts under Art. 2 para. (4) of ICSANT which are referring to the forms of participation are corresponding with the provisions of the following articles in the Penal Code:

**- Art. 46 (2)**

*“Co-authors are the individuals who directly perpetrate the same act as that stipulated by the criminal law”*

**- Art 47**

*“An instigator is the individual who deliberately determines another individual to perpetrate an act that is stipulated by the criminal law”*

**- Art. 48**

*“1) The accomplice is the individual who deliberately facilitates or helps in any way with the perpetration of an act that is stipulated by the criminal law.*

*2) An individual who promises, before or after the perpetration of the act, that he/she will conceal the goods derived from the act or that he/she will favour the perpetrator, irrespective of whether such promise is fulfilled after the perpetration of the act, shall also be an accomplice.”*

**- Art. 49**

*“The co-author, the instigator and the accomplice to a deliberately perpetrated criminal offence shall be punished with the penalty established by law for the author of the act (...)”.*

5. the facts under art. 2 para. T(4) letter b) and c) of ICSANT are corresponding with the following article of the Law no.535/2004:

**- Art. 35:**

*“(1) The act of association or of initiating the establishment of an association to perpetrate acts of terrorism or the adhesion or support, in any form, to such association, shall be punished by prison sentence of 5 to 12 years and by denial of certain rights, while the maximum punishment provided for by law for the criminal offence pursued by the association may not be exceeded.*

*(2) The act of leading a terrorist entity shall be punished by prison sentence of 7 to 15 years and by denial of certain rights.”*

6. Art. 17 of ICSANT is implemented by the following article of the Law no.302/2004:

**- Art. 4**

*“Pre-emption of international law*

*(1) This law shall be applied based on, and for the fulfilment of, the rules concerning judicial co-operation in criminal matters, as comprised in the international judicial instruments to which Romania is a Party, which it supplements in situations that are not regulated therein.*

*(2) The co-operation with an international criminal court or a public international organization, according to the relevant provisions of special international instruments, such as the statutes of international criminal courts, shall be examined under a distinct legal procedure; however, the provisions of this law may be applied accordingly, for supplementation, if necessary”.*