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**DOCTORAL SCHOOL OF LAW**



**DOCTORAL THESIS**  
**THE EVOLUTION OF FORESTRY CRIMES: FROM THE**  
**PAST TO FUTURE CHALLENGES**  
**ABSTRACT**

**Doctoral Supervisor**

**Professor PhD Alexandru Boroi**

**PhD Candidate**

**Surel (married name Dumitrache) Costela**

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Forest crime constitutes a distinct manifestation of the criminal phenomenon, with profound implications for the national forest heritage, ecological balance, and legal order. In a context marked by an alarming increase in the illegal exploitation of forest resources and persistent dysfunctions in the enforcement of legal norms, this thesis aims to conduct a rigorous analysis of forestry offenses, structured according to the classical methodology established in criminal law doctrine. Through a systematic and interdisciplinary approach, the study seeks not only to clarify and standardize the interpretation of these offenses in judicial practice but also to identify legislative gaps and challenges in enforcement, thus contributing to the optimization of forestry regulations and the strengthening of mechanisms for combating forest-related criminality.

Unlike other categories of offenses regulated under criminal law, forestry offenses have benefited from limited doctrinal analysis, despite their significant relevance in the context of environmental protection. Although judicial practice records a substantial number of cases involving offenses such as illegal tree felling or timber theft, the specialized literature has addressed this domain sporadically, without offering a systematic and coherent analysis. In this respect, the present thesis seeks to fill this research gap by providing a detailed evaluation of the applicable legal framework, correlated with an analysis of relevant case law and international trends in the field.

The original contribution of this research lies in identifying the drafting and enforcement issues concerning criminal law provisions related to forest crime, offering interpretative and legislative solutions designed to assist both legal theorists and practitioners. Furthermore, the study aligns with the international trend of strengthening criminal protection of the environment, emphasizing the necessity of effective and proportional sanctions for combating environmentally impactful offenses. The adopted approach integrates perspectives from criminology, criminal law, and public policy, offering a comprehensive vision of the criminal phenomenon in the forestry sector.

The choice of this topic was motivated by the current relevance and severity of forest crime, which is expanding at an alarming rate, as well as its devastating impact on the national forest heritage. Beyond the significant economic damages it causes, the phenomenon generates irreversible ecological consequences, affecting biodiversity, soil stability, hydrological resources, and, implicitly, human quality of life. The subject's significance is further amplified by the entry into force, on January 12, 2025, of a new Forestry Code, which introduces substantial

modifications to the legal regime of forest assets and the sanctioning system applicable to offenses in this field. Additionally, the growing international focus on environmental protection through criminal law underscores the need for a coherent and effective legislative approach at the national level.

The scientific endeavor undertaken in this study aims to assess the extent to which the current legal framework provides the necessary tools for the effective combating of forest crime and to identify the difficulties encountered by legal professionals in interpreting and applying the relevant norms.

The central hypothesis of this research is based on the premise that, although forestry offenses are widespread and recognized as a major threat to the national forest fund, the current legal framework fails to ensure an efficient and coherent mechanism for their prevention and sanctioning. Despite multiple amendments to forestry legislation over time, these interventions have not fully resolved the system's dysfunctions, leaving room for inconsistent interpretations and legislative gaps that compromise the practical applicability of criminalization norms.

The in-depth analysis of regulations, corroborated with the examination of relevant case law, has highlighted a series of systemic issues, including inconsistencies in the definition and sanctioning of forestry offenses, difficulties in establishing criminal liability, and provisions susceptible to constitutional challenges. Consequently, the study proposes solutions for improving the legislative framework, considering not only the imperatives of environmental criminal protection but also the necessity of effective and coherent applicability in practice.

The objectives of the thesis have been structured to ensure an integrated, multidimensional, and applied approach to the issue of forestry offenses, combining historical and comparative analysis with a critical evaluation of existing legislation and the formulation of well-founded proposals for improving the legal framework.

Firstly, the research aims to analyze the evolution of regulations on forestry offenses through a detailed examination of the transition from old forestry regulations to the provisions enshrined in the new Forestry Code, in order to identify elements of continuity, essential modifications, and potential legislative gaps. This analysis was conducted through a chronological reconstruction of successive legislative interventions, assessing their impact on the applicability and effectiveness of criminal norms in the forestry sector. In this context, special attention was given to comparing successive regulations over the past three decades, with the objective of

investigating how legislative changes have influenced the interpretation and enforcement of criminal provisions.

Another fundamental objective of the research was the study of relevant case law, by analyzing decisions issued by national and supranational courts, including the Constitutional Court of Romania, the High Court of Cassation and Justice, the European Court of Human Rights, the Court of Justice of the European Union, and courts of appeal, to identify difficulties in interpreting and applying forestry legislation. This investigation allowed for the identification of jurisprudential contradictions, enforcement challenges, and potential legislative inconsistencies, contributing to the clarification of essential aspects for judicial practice.

To provide a comparative dimension to the study, the research also included an analysis of regulations from other European and international jurisdictions, with the aim of identifying best practices and effective models for combating forestry crime.

A central aspect of the research was the identification of legislative vulnerabilities and enforcement difficulties in the application of criminal law provisions, through a critical evaluation of the dysfunctions present in current regulations. In this regard, inconsistencies in the existing legislation, legislative gaps, and provisions susceptible to constitutional challenges were analyzed, with the goal of assessing the effectiveness of the legal framework in combating forestry offenses. Special attention was paid to evaluating the effectiveness of existing sanctions and their impact on deterring criminal behavior, analyzing the proportionality of penalties in relation to the gravity of the offenses, as well as the deterrent effect they exert.

Another objective of the research was to assess the feasibility of harmonizing Romanian legislation with international standards on forest protection and the fight against environmental crime. This endeavor aimed not only at ensuring the compliance of domestic regulations with relevant international treaties and conventions but also at identifying reform directions that would enable a more effective alignment with European Union directives and regulations on environmental protection and sustainable forest management.

Based on the identified issues, the research aimed to develop concrete legislative proposals to address the gaps in national legislation, with the objective of optimizing the legal framework and enhancing the effectiveness of mechanisms for combating forest crime. These proposals do not merely focus on amending specific provisions but emphasize the necessity of a paradigm shift

in forest protection, integrating a strategic vision that treats this issue as a national and European priority.

The completion of this research required the integrated use of multiple research methods, each playing a crucial role in addressing the proposed topic.

For an in-depth investigation of the legal and doctrinal framework, the analytical method was employed, facilitating the deconstruction and detailed examination of relevant legal concepts. By applying this method, fundamental works in general and special criminal law, as well as recent studies on forestry offenses, were critically assessed. Particular attention was paid to highlighting existing gaps in specialized literature and evaluating the timeliness of doctrinal opinions. Additionally, the analytical method was applied in the evaluation of case law, enabling the systematic examination of decisions issued by national courts, as well as rulings of the Constitutional Court of Romania and the European Court of Human Rights in cases relevant to forest protection.

To clarify the constitutive elements of forestry offenses and to conduct a logical analysis of normative structures, the logical method was used, allowing for a coherent interpretation of criminal regulations and their correlation with the general principles of criminal law. This method facilitated both the extension of the applicability of ECHR standards to domestic cases—by referencing the European Court of Human Rights’ case law on environmental protection—and the formulation of well-grounded legal conclusions.

To contextualize the evolution of forestry regulations, the historical method was employed, enabling the investigation of normative transformations from early forestry regulations to the current Forestry Code.

To support the legal analysis with empirical data, the quantitative method was applied, allowing for the examination of official statistics on forestry offenses.

To place the analysis in a broader comparative context, the comparative method was employed, facilitating the examination of differences and similarities between Romanian forestry regulations and those of other European and international jurisdictions.

The study is structured into six chapters, each playing a fundamental role in substantiating conclusions and legislative proposals.

Chapter I provides the conceptual framework necessary for understanding the legal regime of the national forest fund, analyzing both its definition and structure, as well as its strategic

importance in maintaining ecological, economic, and social balance. The study begins by distinguishing the forest fund from other categories of land, emphasizing its fundamental role in ensuring biodiversity, climate stabilization, and sustainable development. Additionally, it examines the main categories of land included in the forest fund, such as strictly protected forests, areas designated for regeneration and forestry production, land allocated to forestry infrastructure, and areas with special functions.

Another central aspect of this chapter is the governance of the forestry sector, which operates through a complex institutional system comprising central authorities, control bodies, and administrative structures responsible for managing forest resources. In this context, the study analyzes the responsibilities of specialized institutions such as the Ministry of Environment, Waters and Forests, the National Forestry Guard, and the National Forest Administration – Romsilva, as well as the role of forestry districts—both public and private—in implementing forestry policies and monitoring logging operations. This decentralized system ensures the enforcement of forestry regulations, the implementation of timber traceability measures, and the prevention of illegal logging.

A key element analyzed in this chapter is the forestry regime, defined as the set of technical and legal norms governing forest management and exploitation. It establishes strict obligations for forest landowners, imposing clear rules regarding the sustainable exploitation of natural resources and instituting rigorous control mechanisms aimed at ensuring forest protection and regeneration. In this regard, forestry management plans are presented as the primary strategic planning instruments, balancing economic needs with environmental protection imperatives, thus contributing to the conservation of the forest fund and the prevention of abusive exploitation.

Chapter II addresses the phenomenon of forest criminality, highlighting its complexity and the negative impact it has on the forest fund, the economy, and the environment. Forest crime is defined as the totality of illicit acts of a criminal nature that affect the legal regime of the national forest fund and forest vegetation outside it, encompassing both offenses specific to the forestry sector and related crimes, such as corruption within forestry administration, falsification of timber provenance documents, or tax evasion in the timber trade.

A crucial element of the analysis is the identification of criminogenic factors that facilitate forest crime, including both economic causes and systemic deficiencies in law enforcement. From an economic perspective, the high profitability of the illegal timber trade and the increasing

demand on both domestic and international markets are the primary drivers of forestry crime. On the other hand, the insufficient administrative and financial resources allocated for forest monitoring, combined with the use of ineffective surveillance methods, facilitate the proliferation of offenses in the sector. Added to these are institutional corruption, excessive fragmentation of forest ownership, and the lack of effective sanctions, all of which reduce the state's ability to combat the phenomenon effectively.

The chapter also emphasizes the impact of forest criminality on the environment, the economy, and society. Ecologically, illegal logging and uncontrolled deforestation contribute to the degradation of forest ecosystems, loss of biodiversity, soil erosion, and an increased risk of floods and landslides. Moreover, the reduction of forested areas accelerates climate change, diminishing forests' ability to act as natural carbon reservoirs.

From an economic standpoint, illicit forest exploitation causes significant financial losses, affecting both the legal timber processing industry and public budgets through decreased tax revenues. The illegal timber trade undermines the competitiveness of operators who comply with legal norms and contributes to the persistence of a sector dominated by illicit practices.

On a social level, forest criminality erodes public trust in state institutions, fueling perceptions of impunity and systemic corruption. This phenomenon generates conflicts between local communities and authorities, affecting social cohesion and public perception of environmental protection measures. In this context, the study highlights the necessity for more effective legislative measures and strong strategies to combat forestry crime, based on strengthening surveillance mechanisms, imposing stricter sanctions, and developing coherent public policies for the protection of the national forest fund.

Chapter III presents a comparative analysis of forestry offenses established in the old Forestry Code and their counterparts in the new regulatory framework, following the classical structure of Romanian criminal law doctrine. The relevance of this analysis lies in the fact that the provisions of the old Forestry Code will continue to apply in pending cases, in accordance with the principle of applying the more favorable criminal law. Thus, maintaining a perspective on previous regulations not only facilitates the identification of practical deficiencies but also allows for an assessment of the extent to which the new Forestry Code succeeds in correcting these issues. Moreover, comparing the two sets of regulations provides an essential reference point for interpreting and applying the new provisions.

This chapter examines in detail offenses such as destruction of vegetation within the National Forest Fund (NFF), unauthorized tree felling, illicit reduction of NFF surface area, falsification and illegal use of the special marking device, tree theft, and illegal transportation of timber. The analysis of each offense involves an evaluation of its legislative evolution, the difficulties encountered in practical enforcement, and associated doctrinal and jurisprudential controversies. The comparative study highlights relevant legislative changes, persistent gaps, and the impact these adjustments may have on the prevention and sanctioning of forestry crimes.

A key component of the research is the analysis of case law, given that forestry crime raises significant challenges both in legal interpretation and practical application of the law. In this regard, relevant rulings of the Constitutional Court of Romania were examined to identify potential constitutional issues within forestry regulations, as well as decisions of the High Court of Cassation and Justice, focusing on legal clarifications that have influenced the application of forestry laws. Additionally, the study includes an analysis of jurisprudence from appellate courts and lower courts, capturing how these offenses are interpreted and enforced in practice and highlighting possible inconsistencies in judicial approaches nationwide. Furthermore, decisions of the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU) are investigated, as they have the potential to influence national regulations and the enforcement of forestry laws in Romania.

Given that the regulation of forestry offenses cannot be analyzed in isolation, the research was extended through a comparative law approach, examining legislative models from other European states and identifying best practices that could be adapted to the Romanian legal system. This comparative perspective made it possible to highlight innovative legal solutions implemented in other jurisdictions, providing a reference framework for potential reforms in national legislation. At the same time, to ensure a solid argumentation of related criminal law aspects, the analysis was also based on doctrinal works from the general field of offenses, allowing forestry offenses to be integrated into a broader legal framework.

Chapter IV provides an in-depth legal analysis of the new offenses introduced in the Forestry Code, including: Destruction of forest vegetation in green spaces, Violation of the exploitation and forest care regime in Ilfov, Unauthorized modification, introduction, or deletion of data in the Integrated Forest Information System, Fraudulent management of timber stockpiles.

These new criminal offenses are examined within a challenging legislative context, marked by the recent entry into force of the new regulatory framework, which has resulted in a lack of doctrine and case law at the time of writing. Despite this constraint, the study conducts a rigorous assessment of the new incriminations, highlighting normative deficiencies, enforcement issues, and proposing legislative amendments aimed at remedying potential gaps.

The innovative character of this chapter lies in the early identification of legislative problems and the formulation of well-founded proposals for legislative reform (*lege ferenda*) aimed at strengthening the protection of the forest fund. However, temporal constraints have limited the possibility of conducting a detailed comparative analysis of regulations in other legal systems, and the absence of case law has made it difficult to assess the practical impact of these new provisions. Nevertheless, this research serves as a fundamental starting point for future doctrinal developments and for the refinement of the legislative framework concerning the protection of forest resources.

The study evaluates the extent to which these new incriminations effectively address the need for robust forest fund protection and identifies potential legislative gaps that may affect their practical applicability.

Chapter V focuses on offenses that have been removed from the current legislation and the legal consequences of their repeal. Among the analyzed offenses are the failure to fulfill reforestation obligations and illegal grazing in forests, which, under the previous regulations, played a crucial role in protecting forested areas from degradation and unauthorized uses. The study seeks to determine whether the elimination of these offenses has led to legislative gaps that could jeopardize the protection of the forest fund or whether their repeal was justified by the need to align legislation with the principles of modern criminal law, particularly by restricting the scope of offenses to acts with a high degree of social danger.

The final chapter of the research examines the procedural particularities specific to forestry offenses, addressing the role of forestry personnel in detecting offenses, the investigative process, and the confiscation regime in this field. The interaction between judicial and administrative authorities is analyzed, highlighting the practical challenges encountered in criminal prosecution and trial, particularly regarding evidence collection, identification of offenders, and the application of complementary sanctions, such as the confiscation of timber obtained from illegal logging operations.

The research concludes with a synthesis of the main findings and a series of *lege ferenda* proposals aimed at clarifying and improving forestry regulations.

This study highlights a paradoxical legal reality: although illegal logging is one of the most serious threats to Romania's natural heritage and is frequently cited as a legislative priority, successive amendments to the Forestry Code have failed to address the structural deficiencies of the regulatory framework. Despite the political and institutional rhetoric surrounding the fight against illegal logging, legislative interventions over the past three decades have been fragmented and inconsistent, leading to normative inconsistencies, legislative contradictions, and major enforcement difficulties.

This reactive approach, characterized by isolated and short-term reforms, has resulted in an unstable legal environment, marked by ambiguities and divergent interpretations.

One of the fundamental issues identified in the study is the excessive reliance on secondary legislation, which has severely impacted the predictability of legal norms and has violated the principle of legislative clarity, a fundamental requirement for a key regulatory act such as the Forestry Code. Moreover, the frequent redefinition of the constitutive elements of forestry offenses has created a climate of legal uncertainty, in which the application of criminal sanctions has become unpredictable and inconsistent, undermining the deterrent effect of criminal law.

As a result, both legal practitioners and forestry control authorities face significant difficulties in interpreting and applying the law, which has facilitated the persistence of forestry crimes.

Although the new regulation, Law No. 331/2024, attempted to address some of the previous vulnerabilities, it perpetuates many of the structural issues of forestry legislation, maintaining legal gaps that have already been flagged by Constitutional Court jurisprudence and national courts.

An analysis of recent case law confirms that, despite certain technical adjustments, the new provisions fail to ensure effective protection of the forest fund, while persistent ambiguities continue to generate enforcement difficulties.

Alarmingly, a statistical analysis of judicial rulings reveals that, despite the widespread occurrence of illegal logging and abusive forest exploitation, the number of final convictions remains extremely low. A significant portion of forestry crime cases are dismissed or resolved

with minimal penalties, drastically reducing the preventive effect of the legislation and reinforcing the perception of impunity.

This reality indicates a major discrepancy between the strict rhetoric surrounding forest protection and the actual effectiveness of criminal law norms in combating forestry crime.

The dysfunctions of the system are further exacerbated by the chronic underfunding of institutions responsible for the protection and monitoring of the forest fund, which has severely limited their capacity to prevent and combat illegal logging. A lack of financial and human resources has weakened control structures, facilitating illegal activities and contributing to the continued degradation of the national forest fund.

Another critical issue highlighted by the research is the lack of specialized expertise among judicial bodies in investigating and prosecuting forestry offenses.

This shortfall in legal and technical knowledge has led to a lenient approach toward these offenses, which has delayed final rulings and allowed offenders to exploit the loopholes of the judicial system. Moreover, the slow pace of judicial proceedings and the complexity of evidence administration in forestry crime cases have fostered a climate of impunity, undermining efforts to protect the national forest heritage.

The findings of this research underscore the urgent need for a profound and coherent reform of forestry legislation—one that goes beyond superficial and fragmented amendments and provides a clear, stable, and effective legal framework.

Such a reform must include: the alignment of legislation with international standards, strengthening enforcement mechanisms, specializing judicial and administrative bodies in combating forestry crime, allocating adequate resources for effective forest surveillance and protection.

Only through a coherent legislative approach, based on legal clarity, practical enforceability, and effective sanctioning mechanisms, can genuine protection of the national forest fund be ensured. This protection is essential for Romania's ecological, economic, and social balance.

To address the identified shortcomings, a series of *de lege ferenda* proposals have been formulated, among which I highlight, by way of example, some of the most significant:

1. Reconceptualization of the legal regime of the offense under Article 140 of the Forestry Code by transferring it to the regulatory framework of Law no. 24/2007

on the Regulation and administration of green spaces in urban areas, ensuring that the legal provisions more accurately reflect the specific nature of urban vegetation protection.

2. Expanding the scope of Article 140 of the Forestry Code to include any act of destruction of urban vegetation, regardless of its surface area, width, or density, thereby eliminating restrictions that may create legal loopholes in environmental protection.
3. Establishing the volume of timber as an essential element of the material object of the offenses under Articles 142 and 143 of the Forestry Code, in accordance with the ruling of the Romanian Constitutional Court no. 57/2003, instead of the current criterion based on the commercial value per cubic meter. This adjustment ensures a clearer, more objective, and predictable standard, avoiding uncertainties arising from price fluctuations and inconsistent judicial interpretations.
4. Repealing the provision under Article 142 (1) (b) of the Forestry Code to prevent potential violations of the ne bis in idem principle.
5. Harmonizing the sanctioning regime applicable to the offenses under Articles 142 and 143 of the Forestry Code with those related to the destruction of assets within the national cultural heritage, ensuring that forestry resources receive the same level of legal protection as cultural heritage, recognizing their public and ecological importance.
6. Extending criminal protection to juniper ecosystems by criminalizing any form of damage or destruction, without imposing a minimum threshold for affected surface area, thereby ensuring effective protection of this vulnerable ecosystem.
7. Clarifying the wording of Article 144 of the Forestry Code by reformulating the legal provision in simpler and more accessible language, reducing excessive legal technicality to prevent arbitrary interpretations and enforcement difficulties.
8. Reintroducing the criminalization of the assimilated form of the offense of reducing the forest fund, to prevent the arbitrary reclassification of land use after the completion of forestry operations and to strengthen the legal protection of forest areas.

9. Urgently adopting the methodology for implementing Article 146 (2) of the Forestry Code, to prevent legislative gaps and ensure the effective enforcement of legal norms.
10. Explicitly listing all types of special marking devices within Article 104 of the Forestry Code, to clarify regulations and eliminate any interpretative ambiguities.
11. Introducing distinct regulation and stricter penalties for the use of falsified or counterfeit marking devices, to combat fraud in the forestry sector.
12. Criminalizing the modification, alteration, or destruction of legally applied markings on trees, to preserve traceability in forestry operations and prevent attempts to bypass regulations on authorized logging.
13. Repealing Article 149 (2) of the Forestry Code, which establishes exceptions to criminal liability for discrepancies falling within permissible tolerance limits, as computer fraud cannot be justified by technical margins.
14. Establishing a unified and coherent legal framework for the criminal offense of tree theft, including seedlings and saplings, by eliminating fragmented legal provisions and ensuring a consistent approach to the protection of forestry resources.
15. Determining penalties based on the volume of stolen timber rather than its commercial value, ensuring a more objective and consistent standard in legal enforcement.
16. Clarifying the definition of “lacking legal provenance” in the context of unauthorized timber transport, by modifying relevant provisions in the Forestry Code to eliminate uncertainties regarding situations where the timber originates from legal sources but lacks proper documentation, complicating verification of its legality.
17. Removing the minimum threshold of 5 m<sup>3</sup> for classifying an act as a criminal offense, to prevent the creation of "impunity zones" that could be exploited to circumvent forestry legislation.
18. Reformulating the offense of fraudulent stock management, ensuring that the consummation of the crime is not exclusively dependent on the intervention of authorities, but is defined based on an objective analysis of the illicit act.

19. Establishing a unified or progressive threshold for stock discrepancies, correlated with the size of the economic operator, to ensure fair and proportionate enforcement of sanctions.
20. Distinctly regulating and criminalizing illegal grazing in forests, considering not only the economic damage but also the significant ecological impact on forest ecosystems.
21. Reintroducing the offense of failure to fulfill reforestation obligations, by instituting progressive penalties, determined based on the affected surface area and the duration of non-compliance, to encourage adherence to forest regeneration obligations.
22. Harmonizing criminal and administrative penalties, to ensure a unified, predictable, and coherent sanctioning regime, avoiding regulatory overlaps and inconsistencies.

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