

Justifying Causes in Criminal Law – Doctrinal Analysis of the Conditions for Applicability and the Exonerating Effects on Criminal Liability

Dinu IROFTEI¹

Abstract

The present study examines the legal regime of justifying causes in criminal law, with an emphasis on both their theoretical and normative foundations, as well as their application in case law. It analyses the classical justifying causes – such as self-defence, necessity, and the victim's consent – as forms of excluding the unlawfulness of the act, thereby resulting in the removal of criminal liability. Their objective nature is highlighted, which entails the extension of legal effects to all participants in the commission of the act, regardless of their procedural role, provided they were aware of the justifying circumstances.

Furthermore, the study addresses the necessary distinction between justifying causes and grounds of non-imputability, with special reference to error regarding the existence of a justifying cause. This distinction has direct implications for the legal classification of the act and the possibility of engaging criminal liability. The analysis is complemented by considerations regarding possible tortious civil liability in situations where the act is not criminally punishable but has caused damage.

The final part of the paper is devoted to atypical or controversial situations in which legal doctrine and judicial practice have reconsidered the boundaries of justification. Cases are examined such as the conflict between two equally binding legal duties, the invocation of freedom of expression in the context of otherwise typical offences, or disproportionate reactions caused by psychological provocation or prolonged abuse. Such scenarios illustrate the need for a nuanced interpretation of the institution, allowing for adaptation to the complexity of real-life situations, with full respect for the principle of legality.

¹ Graduate of the Faculty of Law and Administrative Sciences, “Ștefan cel Mare” University of Suceava.

Through this approach, the study underscores the importance of a prudent and balanced application of justifying causes, one that takes into account not only the legal norms but also constitutional values and the concrete circumstances of each case.

Keywords: *Justifying causes; Self-defence; Non-imputability; Objectivity; Case law.*

Introduction

Justifying causes hold a fundamental place within the structure of criminal law, as they reflect the legislator's constant concern for the fairness of criminal justice and for the protection of individual rights in exceptional circumstances. They define those situations in which an act, although apparently fulfilling the constitutive elements of a criminal offence, is nevertheless devoid of unlawfulness by virtue of a superior legal interest or an objective circumstance that renders it permissible or even necessary. Consequently, justifying causes exclude criminal liability not by reference to the perpetrator's personal attributes, but by reference to the objective character of the conduct (Boroi & Rusu, 2021).

Conceptually, these causes represent a normative justification of the act, in the sense that the legal order itself authorises or tolerates the conduct under certain conditions. Among the best-known causes expressly regulated by the Romanian Criminal Code are: self-defence (Art. 19), necessity (Art. 20), the exercise of a right or the fulfilment of a legal duty (Art. 21), as well as the victim's consent, within certain limits (Hotca, 2017). These are not merely formal exceptions, but legal institutions with profound effects, resulting in the absence of the offence itself and, consequently, the inapplicability of any form of criminal sanction (Streteanu & Nițu, 2014).

The practical relevance of justifying causes is matched by the complexity of the conditions governing their applicability. Both doctrine and case law pay close attention to requirements such as the immediacy of the danger, the proportionality of the response, the existence of a legally protected interest, the nature of the danger, or the identity of the active subject. The strict fulfilment of these conditions is not a mere formal matter but is essential for the legal validation of the conduct (Duvac, 2016). Furthermore, in the analysis of these causes, it is imperative to maintain a clear distinction between justifying causes and grounds of non-imputability, which operate on a subjective

level and concern the perpetrator's discernment or perception of the situation.

Justifying causes also produce effects not only with regard to the principal offender but also with respect to participants – instigators or accomplices – who benefit from the same exoneration from liability, provided they acted within the framework of the same justifying circumstance (Boroi & Rusu, 2021). This extension of the justifying effect highlights the role of these causes in safeguarding the fundamental values of the criminal justice system, without undermining normative coherence.

In the current context of Romanian criminal law, marked by efforts to consolidate a coherent and predictable legal system, a structured analysis of justifying causes is necessary in order to understand the mechanisms that balance social defence with the protection of individual rights. The present study aims to explore these institutions from an integrated perspective, focusing on the conditions of applicability for each cause, on doctrinal distinctions, and on jurisprudential implications, with the purpose of emphasising their role in the functioning of criminal justice within a rule-of-law-based state.

Conceptual Framework and Classification of Justifying Causes in Criminal Law Doctrine

Justifying causes occupy a distinct place within the theoretical framework of criminal law institutions, being defined as those circumstances expressly regulated by law which eliminate the illicit nature of an act that, in their absence, would constitute a criminal offence. These causes do not affect the material existence of the typical act, but only its legal evaluation, granting it a lawful character in the context in which it is committed. Therefore, although the conduct meets all the elements of a criminal offence – typicality, unlawfulness, and culpability – the presence of a justifying cause removes the element of unlawfulness, thereby eliminating criminal liability (Boroi & Rusu, 2021).

Doctrinal classification places justifying causes within the broader category of causes that eliminate the criminal nature of the act. This category also includes, alongside justifying causes (which are objective in nature), causes of non-imputability (subjective in nature), causes that prevent the exercise of criminal action (such as prescription, amnesty, etc.), and those that affect the enforcement of the sentence. Fundamentally, the distinction between justifying causes and causes of non-imputability is essential: the former deny the

unlawfulness of the act, while the latter acknowledge the illicit nature but eliminate the perpetrator's guilt (Streteanu & Nițu, 2014).

The current Romanian criminal legislation expressly regulates four main justifying causes:

- Self-defence, governed by Article 19 of Law no. 286/2009 on the Criminal Code;
- Necessity, governed by Article 20 of Law no. 286/2009 on the Criminal Code;
- Exercise of a right or fulfilment of an obligation, provided for in Article 21 of Law no. 286/2009 on the Criminal Code;
- The victim's consent, inferred from the systematic interpretation of the provisions of Law no. 286/2009 on the Criminal Code, especially in cases where the criminal norm presupposes the absence of consent as a constitutive element of the offence (e.g. offences against bodily or sexual integrity).

All these require the fulfillment of cumulative conditions in order to operate validly, and their detailed analysis is essential for determining the legal framework applicable to the act.

From a doctrinal perspective, two major schools of thought have emerged regarding the foundation of justifying causes: the objective theory and the subjective theory.

The objective theory of justifying causes asserts that an act is deemed justified exclusively based on external, concrete circumstances that remove its unlawful character. Within this framework, the decisive factor is not the perpetrator's perception or intention, but rather the legal and social reality of the context in which the act was committed (Boroi & Rusu, 2021). Accordingly, if the act serves a higher social necessity or protects a legitimate legal interest in a proportional and necessary manner, it is not considered unlawful, irrespective of whether the perpetrator believed they were acting under a justifying cause (Streteanu & Nițu, 2014).

Under this theory, the assessment of the situation is conducted from a normative, objective standpoint: the existence of an unjust attack, the imminence of the danger, the absence of other reasonable means of defense, or the exercise of a right provided by law are sufficient to exclude the unlawfulness of the act (Hotca, 2017). It is not required that the perpetrator fully understood the circumstances in which they acted or that they intended to invoke a justifying cause. Consequently, the mental element does not condition the legal validity of the justification (Udroiu, 2021).

This perspective supports the notion that incrimination norms cannot be applied automatically in situations where the legal order

authorizes exceptional conduct undertaken in defense of fundamental values. For instance, defense against an immediate physical attack, intervention in a situation of grave danger to life, or the exercise of legal duties by a public official are assessed from an objective standpoint, through the lens of the socially permissible nature of the act, rather than through the internal perception of the perpetrator (Duvac, 2016).

In practice, this approach leads to an analysis centered on verifiable circumstances, thereby eliminating evidentiary difficulties related to the perpetrator's subjective beliefs. Consequently, the objective theory is frequently favored in the interpretation of the legal provisions concerning self-defense, necessity, and the performance of a legal duty, as it provides clear and predictable criteria for the application of these legal institutions (Boroi & Rusu, 2021).

The subjective theory of justifying causes places emphasis on the perpetrator's psychological perception at the time the act is committed. Unlike the objective theory, which examines only external circumstances, this perspective maintains that justification cannot exist in the absence of a corresponding subjective representation. In other words, for an act to be considered justified, it is not sufficient that it occurred within a framework which, from a normative point of view, would allow the exclusion of its unlawful character; it is necessary that the perpetrator acted with the belief that they were in a situation which permitted or required that conduct (Duvac, 2016).

This theory rests on the idea that justification is a complex legal phenomenon, involving not only the act itself but also the internal motivation of the perpetrator, in accordance with the values protected by law. In the absence of such belief, even a formally correct reaction may become legally unacceptable, either because it may be the result of coincidence or because it may conceal a culpable intent. For example, if a person strikes an aggressor at a time when the attack is no longer imminent, but later claims to have acted in self-defense, the analysis under the subjective theory requires an examination of the perpetrator's representation of the factual situation, and not merely the objective timeline.

The subjective theory has important implications in the matter of mistake concerning the justifying cause. It asserts that a mistake of fact or law regarding the existence of a justifying situation, if sincere and reasonable, may lead to the exclusion of criminal liability, even when the act is not objectively justified. Thus, the focus shifts from "what actually happened" to "what the perpetrator believed was happening."

In practical application, this theory requires a more detailed assessment of the intentional element, of the perpetrator's state of perception, and of the psychological context in which the act took place. For this reason, some authors criticize the subjective theory as being difficult to apply, due to the evidentiary challenges involved in evaluating the sincerity of the perpetrator's belief. Nevertheless, it has the merit of reinforcing the principle of personal moral responsibility, in line with modern conceptions of culpability and criminal liability.

The mixed theory of justifying causes proposes an integrative approach situated between the two classical perspectives – objective and subjective – and maintains that the justification of a criminal act requires the cumulative fulfillment of two categories of conditions: on the one hand, the existence of external, objectively verifiable circumstances that exclude the unlawful character of the act, and on the other hand, the perpetrator's corresponding internal representation regarding the situation in which they are acting (Boroi & Rusu, 2021).

This theory acknowledges that criminal law performs a dual function – the protection of social values and the imposition of personal accountability. Consequently, it is not sufficient for the act to formally fall within a legally permitted framework; it is essential that the perpetrator acts with awareness of the justified nature of their conduct. Thus, self-defense, necessity, or the exercise of a legal right require not only an analysis of external facts, but also an assessment of the legitimate intention of the person committing the act (Duvac, 2016).

This perspective is particularly useful in borderline situations, where the line between justification and excess is thin. For example, in the case of a defensive reaction, it is not sufficient that the aggression objectively occurred – it must also be verified whether the perpetrator perceived the aggression as imminent and responded proportionally, with the intention to defend themselves. In the absence of such representation, the situation may amount to an unjustified excess, even if appearances suggest the existence of a justifying circumstance.

The mixed theory also fulfills a protective function with respect to the rights of the accused, in that it allows for the exclusion of criminal liability in cases of excusable mistake of fact, where the individual acted sincerely and reasonably under the belief that they were in a justifying situation, even though such a situation did not exist in reality (Udroiu, 2021).

In contemporary Romanian criminal doctrine, this conception is predominant, being preferred for the normative balance it offers between legal certainty and the proper assessment of individual conduct. Moreover, the case law of the High Court of Cassation and

Justice has consistently confirmed the necessity of the coexistence of both elements – objective and subjective – for the applicability of justifying causes. The courts frequently examine both the factual context in which the act occurred and the psychological behavior of the perpetrator, as reflected in their statements, reactions, and conduct prior to or following the act.

Thus, the mixed theory provides a coherent and functional interpretative framework, allowing for the application of justifying causes in accordance with the fundamental principles of criminal law: legality, culpability, proportionality, and individualization.

It must also be emphasized that the justificatory effect extends to participants in the act, provided that they act within the limits of the justification. This is a natural consequence of the objective character of justifying causes – if the act of the principal perpetrator is not unlawful, the criminal liability of those who participated in its commission cannot be engaged either.

Justifying causes are analyzed in legal doctrine as autonomous institutions of criminal law, falling within the broader category of grounds that exclude the criminal character of the act. By their nature, they regulate situations in which a typical act is permitted by law, being determined by a superior legal interest or by an exceptional circumstance recognized by the norm. Depending on the theoretical orientation adopted – objective, subjective, or mixed – the interpretation of the conditions for applicability may vary, and the distinction from other legal categories (such as grounds for non-imputability) becomes essential for the correct application of the norms in practice.

Conditions for the Applicability of Each Justifying Cause Provided by the Romanian Criminal Code

Justifying causes are expressly regulated by Law No. 286/2009 on the Criminal Code and represent situations in which, although a typical act has been committed, it is not deemed unlawful because it is permitted by law under clearly defined circumstances. These circumstances must be present cumulatively, and the analysis of each justifying cause requires a detailed examination of the conditions for applicability as established by legal provisions. Since these causes exclude the criminal nature of the act, their interpretation must be strict and in accordance with the principle of legality (Boroi & Rusu, 2021).

We hereby propose an analysis of each justifying cause, in particular:

- Self-defense – Article 19 of Law No. 286/2009 on the Criminal Code – for self-defense to be applicable, the act must have been committed in order to repel a material, direct, unlawful, and imminent attack directed against a person, one of their rights, or a public interest. In addition, the response must be proportionate to the severity of the attack. The attack must be material, meaning it must take the form of a physical (not merely verbal) act, direct, meaning it must immediately threaten a protected interest, and unlawful, meaning it is not justified by any legal provision. The imminence of the attack implies that it is about to occur or is in progress, with no reasonable alternative to avoid it. The proportionality of the response involves a necessary and adequate reaction in relation to the danger, without excess (Udroiu, 2021). The absence of any of these elements leads to the inapplicability of self-defense or, where appropriate, to the application of the provisions concerning excusable excess [Art. 19 para. (2)] or unjustified excess [Art. 19 para. (3)].
- State of necessity – Article 20 of Law No. 286/2009 on the Criminal Code – this justifying cause applies when the act is committed in order to save a person, one of their rights, or a public interest from imminent danger, if the danger could not be removed otherwise. Unlike self-defense, the state of necessity does not require the existence of an unlawful attack, but rather a natural, accidental, or involuntarily caused danger that threatens legally protected values. It is essential that the danger be real, imminent, and unavoidable, and that the act represents the only means of preventing harm (Streteanu & Nițu, 2014). Another key element is the reasonableness of the choice made: a higher value must not be sacrificed to save a lower one. Therefore, the assessment of proportionality between the protected interest and the one sacrificed is essential.
- Exercise of a right or fulfillment of an obligation – Article 21 of Law No. 286/2009 on the Criminal Code – this justifying cause covers situations in which the act was committed in the exercise of a right recognized by law or in the fulfillment of an obligation imposed by a legal or professional norm. For this justification to be valid, the right must be expressly granted by a legal provision and exercised within the limits and for the purpose established by law. As for obligations, it is essential that their fulfillment be

required by law or by a competent authority and that it does not exceed the legal framework. Exceeding one's duties or abusively exercising a right may exclude the applicability of the justifying cause and entail criminal liability (Hotca, 2017).

- Consent of the injured person (atypical justifying cause) – although not expressly regulated as an autonomous justifying cause in Law No. 286/2009 on the Criminal Code, valid consent of the injured person may exclude the unlawful nature of the act in certain offenses where the absence of such consent constitutes an essential element (for example, in some offenses against bodily integrity). In order to produce legal effects, the consent must be freely given, express, granted prior to or at the latest at the time of the act, by a person with full legal capacity, and its object must not contravene public order, good morals, or mandatory legal provisions (Duvac, 2016). The applicability of this justifying cause is strictly limited and must be assessed in light of the nature of the injured interest – whether individual or social – and the legal status of the protected value.

The conditions for the applicability of justifying causes are expressly established by legal provisions and may not be supplemented or extended by analogy. Their application requires a strict interpretation, in relation to each specific case, taking into account the factual circumstances and the balance between the protected social interest and the conduct of the perpetrator, as also reflected in national case law.

The Effects of Justifying Causes on Participants and Correlative Institutions

Justifying causes, once established, produce essential legal effects that are not limited to the principal perpetrator but extend to all individuals involved in the commission of the act. These effects are characterized by the removal of the unlawful nature of the conduct and, consequently, by the exclusion of any possibility of engaging criminal liability. Unlike grounds of non-imputability, which affect only the individual culpability of the offender, justifying causes operate on the objective structure of the offense, eliminating the unlawfulness of the act. In this context, Romanian criminal law enshrines an objective approach, in the sense that justification operates independently of the participants' legal status or their specific intent, being based solely on the existence of circumstances that legitimize the conduct (Boroi & Rusu, 2021). Accordingly, if an act is justified, it no longer constitutes

a criminal offense, regardless of who participated in its commission or in what capacity, and this effect applies equally to the principal, the instigator, and the accomplice.

For the principal perpetrator, the applicability of a justifying cause implies that the act was committed under conditions that exclude its unlawfulness. This situation presupposes the cumulative fulfillment of the statutory conditions legitimizing the conduct, such as the existence of an unlawful attack or imminent danger, the proportionality of the response, or the mandatory nature of the act performed. When these conditions are met, the act can no longer be considered a typical criminal offense, as one of its essential constitutive elements – unlawfulness – is lacking (Streteanu & Nițu, 2014). On this basis, the perpetrator cannot be subject to criminal sanctions, nor to educational or safety measures, since state intervention lacks a legal foundation. It is irrelevant whether the act would have otherwise constituted a typical and serious offense – once justification is recognized, any criminal prosecution must cease, as the act does not fall within the scope of the incriminating provision.

The extension of the justificatory effect to instigators and accomplices derives from the same objective conception. If the principal act does not constitute a criminal offense, no valid criminal participation can exist. However, this presupposes that the instigator and the accomplice were aware of the existence of the justifying cause and aligned their actions accordingly. A conscious contribution to a justified act cannot be regarded as culpable. The absence of unlawfulness in the principal act automatically removes the criminal nature of the support provided, in the absence of any normative basis for attributing culpability to the participants involved (Udroiu, 2021). Nevertheless, if the participants were unaware of the justifying context or intended the commission of a different act than that actually carried out, their liability may be assessed separately, based on their individual intent and understanding. In this regard, legal doctrine emphasizes the importance of distinguishing between conduct that is aligned with the justified act and autonomous contributions, which may constitute separate offenses if they fall outside the scope of the same justification.

In civil law, however, the effects of justifying causes do not always follow the same logic. Although the act is deemed lawful under criminal law, it may give rise to tortious civil liability if it caused damage to a third party. Civil courts are not bound to adopt the criminal law qualification automatically but may assess the act from the standpoint of the interests affected and the legal relationships between the parties. A typical example is the state of necessity, in which damage is caused

to a third party in order to preserve a higher legal value. Although the perpetrator is exonerated from criminal liability, they may be held civilly liable for reparation, under the principle that damage must be borne by the person who caused it, even in the absence of fault. This creates a distinction between the criminal legitimacy of the act and the existence of an obligation to compensate, which is assessed based on the criteria specific to civil liability (Boroi & Rusu, 2021). This separation between the two forms of liability reflects the autonomy of the respective legal domains and the necessity of protecting all affected legitimate interests.

A complex element in the application of justifying causes is the error regarding their existence. A mistake of fact arises when the perpetrator sincerely believes they are in a justifying situation, although the actual circumstances do not support this perception. For example, a person who acts against another, believing they are under attack, when in fact the danger does not exist or is not imminent, commits a typical act but may be in a situation of non-imputability. Similarly, a mistake of law occurs when the perpetrator misinterprets the legal limits of their right, acting under the belief that the law authorizes their intervention. In both cases, if the error is sincere and reasonable, criminal liability may be excluded - not because the act is justified, but because culpability is lacking (Hotca, 2017). Thus, the error excludes liability on a legal ground distinct from the actual justifying cause, falling within the scope of grounds for non-imputability. The assessment of such a situation requires a careful analysis of the specific circumstances and the perpetrator's level of diligence. If the error is manifestly unfounded or results from an abusive interpretation, criminal liability remains applicable, since the act was committed with the required mental element.

In practical application, all these effects must be examined with caution, and courts are obliged to assess both the objective conditions of the justifying cause and the subjective perception of each participant. The distinction between justification and non-imputability, between participation and autonomous criminal conduct, and between lawful and unlawful conduct in civil law must be drawn rigorously, so as not to undermine either the principle of legality or the effective protection of social values.

Atypical or Controversial Justifying Causes – Analysis of Legal Doctrine and Judicial Practice

In addition to the classical justifying causes expressly provided by law, criminal legal doctrine and judicial practice have, over time, analyzed a number of atypical or controversial situations in which an act, although typical under criminal law, was deemed not to be unlawful in light of higher values or competing constitutional rights. These situations do not formally constitute justifying causes in the strict sense of the criminal norm, yet have sometimes been treated as such, either by analogy or through an extensive or systemic interpretation of fundamental principles of law (Streteanu & Nițu, 2014).

A primary example is the exercise of freedom of expression in the public sphere, particularly in the context of journalistic activity. The issue has been raised as to whether acts such as publishing personal information or disclosing confidential documents can be justified when the pursued aim is of public interest. For instance, a journalist who publishes an investigative report based on information obtained without the consent of the person concerned may face criminal charges for violation of privacy or breach of professional secrecy. However, in cases where the subject concerns corruption in public administration, threats to the proper functioning of institutions, or the violation of fundamental rights, the courts have considered that the journalistic endeavor may be excusable or even justified, in view of the value protected by press freedom (Boroi & Rusu, 2021). In such cases, one cannot speak of a legally recognized justifying cause, but the right to information may remove the unlawfulness indirectly, through systemic interpretation.

Another example concerns situations involving a conflict between two legal obligations of equal normative standing. Thus, when a person is placed in a position where they must choose between complying with one legal provision and breaching another, without being able to avoid the infringement of at least one of them, the question arises whether the resulting act may be justified. Legal doctrine has argued that such a choice may be justifiable when the person acted with due diligence and opted to fulfill the obligation whose breach would have led to more serious consequences (Udroiu, 2021). For example, a physician who discloses confidential information in order to prevent the commission of a serious offense may be held criminally liable for breach of professional secrecy, but judicial practice

has, in some cases, acknowledged the ineligibility of alternative conduct, given the legitimate aim pursued.

Within the context of family relationships, case law has also highlighted instances in which the violent reactions of victims of repeated abuse have been treated with legal leniency, even though they did not meet the strict criteria for self-defense. These are situations where a person subjected to long-term physical or psychological abuse, in the absence of an imminent danger, reacts disproportionately and apparently outside the legal conditions of defense. In cases involving domestic violence, the idea of a justifiable excess has been accepted insofar as the perpetrator reacts to a situation of continuous oppression with severe psychological effects (Hotca, 2017). For example, a woman who has been systematically abused by her partner, without receiving effective institutional support, and who causes him serious injuries at a time when no actual physical aggression is taking place, may invoke the existence of a climate of fear and coercion that impaired her self-control. Courts have analyzed such cases not as instances of self-defense, but rather as forms of ineligibility or reduced culpability, taking into account the particular circumstances of the case (Streteanu & Nițu, 2014).

Another hypothesis that has generated controversy concerns the actions carried out by environmental activists who enter private property or obstruct commercial activities in order to draw attention to collective dangers. Although, from a criminal law perspective, such acts may constitute trespassing or disturbing the public order, courts have been required to assess whether these actions may be excused by reference to the freedom of assembly and the overriding public interest at stake - for example, the prevention of an ecological disaster. Certain judicial decisions have held that peaceful activist conduct, non-violent in nature and aimed at protecting a collective right, may exclude the criminal character of the act, provided that the action is proven to be reasonable and proportionate (Boroi & Rusu, 2021).

Legal doctrine has also examined situations in which a public official formally violates a legal provision in order to prevent a major injustice or a manifest illegality. For instance, a judge who orders measures not expressly provided for by law but necessary for the protection of human dignity or the best interests of the child may be subject to disciplinary or criminal proceedings. In such cases, it has been argued that a strict application of the law, without any degree of flexibility, would lead to unjust outcomes, and the official's conduct, although formally unlawful, may be regarded as justified by the need to uphold equity and safeguard fundamental legal values (Udroiu, 2021).

These atypical scenarios underscore the difficulties involved in adapting criminal law to changing social realities. They demonstrate the necessity of a case-by-case analysis that takes into account the factual context, the objective pursued, and the interaction between criminal provisions and other legal norms of equal or higher rank. The extension of justificatory effects or the application of analogy cannot be made arbitrarily but only where a sound legal basis and a clearly defined legitimate interest are present (Boroi & Rusu, 2021; Streteanu & Nițu, 2014).

Conclusions

The analysis of justifying causes in criminal law highlights the complexity of this legal mechanism, both in theoretical terms and in practical application. The express regulation of causes such as self-defense or the state of necessity reflects the legislator's effort to provide a clear framework in which certain acts, although typical under criminal law, are not unlawful due to the circumstances in which they were committed. At the same time, the objective nature of these causes produces significant effects on the entire conduct involved, excluding criminal liability not only for the principal offender but also for instigators and accomplices who acted with knowledge of the justifying situation.

This justificatory function is based on the recognition of higher legal values that prevail in the conflict between norms, thus excluding both unlawfulness and culpability. In this regard, justifying causes should not be confused with mere grounds of non-imputability, although in practice the boundaries between them may become blurred, particularly in the presence of perceptual or evaluative errors concerning the factual situation.

A fundamental aspect lies in the fact that the existence of a justifying cause excludes the offense in its entirety. This effect has direct legal consequences for the criminal proceedings but may leave open the possibility of tortious civil liability, especially when the justified act causes harm to a non-involved third party. Therefore, the distinction between criminal lawfulness and civil liability requires a separate analysis, carried out in accordance with the purposes and logic of each branch of law.

It has also been emphasized that the application of justifying causes is not limited to the classical cases expressly provided by the Criminal Code. Both legal doctrine and case law have examined a series of situations in which acts were treated as justified based on competing values or principles of constitutional law. Examples such as the invocation of freedom of expression, the conflict of equal

obligations, or disproportionate reactions in the context of systematic abuse illustrate the flexibility of legal interpretation when essential interests of social order are at stake. Although there is no explicit regulation recognizing these situations as genuine justifying causes, a contextual and integrative approach allows for equitable resolution of complex cases.

At the same time, such extensions raise serious concerns regarding the principle of legality in criminalization. Any extensive or analogical interpretation must be approached with caution, in order to avoid the risk of arbitrariness or the erosion of legal certainty. In the absence of clear criteria for application, these atypical hypotheses must be treated with increased care, requiring a solid argumentative basis to justify the exclusion of criminal liability.

In addition, the analysis of cases involving error regarding the existence of a justifying cause highlights the importance of assessing the subjective dimension of the conduct. The differentiation between excusable mistake of fact, which may exclude culpability, and manifestly unfounded error, which produces no favorable legal effects, reflects the criminal system's concern for fairness, as well as for the protection of legal order. It is essential that courts rigorously examine the circumstances under which a person misperceived the situation, in order to distinguish between a sincere error and an abuse of rights.

This dimension of criminal analysis underscores the intersection of norms, principles, and values, demonstrating that criminal liability is not a normative automatism but the result of rigorous argumentative construction. The aim of the correct application of justifying causes is not merely the exclusion of punishment, but the preservation of the legitimacy of the criminal justice system as a whole.

References

- Boroi, A., & Rusu, I. (2021). *Drept penal. Partea generală* [Criminal law. General part]. C.H. Beck.
- Duvac, C. (2016). *Cauzele justificative și neimputabilitatea în dreptul penal român* [Justifying causes and non-imputability in Romanian criminal law]. *Dreptul*, 7.
- Hotca, M. A. (2017). *Drept penal. Partea generală* [Criminal law. General part]. Universul Juridic.
- Parlamentul României. (2009). *Legea nr. 286/2009 privind Codul penal, republicată* [Law No. 286/2009 on the Criminal Code, republished].
<https://legislatie.just.ro/Public/DetaliiDocument/109855>

- Streteanu, F., & Nițu, M. (2014). *Drept penal. Partea generală (Vol. I–II)* [Criminal law. General part (Vol. I–II)]. Rosetti.
- Udroiu, M. (2021). *Drept penal. Partea generală. Note de curs* [Criminal law. General part. Course notes]. C.H. Beck.