

Causes of Non-Imputability in Romanian Criminal Law

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ABSTRACT: This study focuses on the causes of non-imputability provided in the Romanian Criminal Code from 2009, as it entered into force in 2014. It presents eight causes of non-imputability: physical constraint, moral constraint, non-accountable excessiveness, underage perpetrator, mental incompetence, intoxication, error, fortuitous case. In the Romanian criminal legislation, the causes of non-imputability are a new element, replacing the notion of causes that remove the criminal character of the act used in the Criminal Code from 1968. When it is established that an act provided for by the criminal law was committed under the conditions of one of the causes of non-imputability, that deed will not constitute a crime from the perspective of removing the imputable character that leads to the impossibility of applying a punishment or an educational measure. The effect of the causes of non-imputability does not extend to the participants, except in the fortuitous case.

KEYWORDS: physical constraint, moral constraint, non-accountable excessiveness, underage perpetrator, mental incompetence, intoxication, error, fortuitous case

Introduction

Chapter III of Title II of the general part of the Romanian Penal Code (title dedicated to the crime) is entitled “Causes of non-imputability” and devoted to them, causes that remove the fourth essential feature of the crime, namely imputability. The causes of non-imputability are personal causes, which do not fall on the participants, they will only benefit the person who acted under their empire, except in the fortuitous case. These causes of imputability can be general, respectively those provided in art. 24-31 of the Romanian Criminal Code, with incidence on any act provided by the criminal and special law, with applicability only in the case of the offenses to which they are provided.

Physical constraint

Art. 24 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed as a result of physical constraint which the perpetrator was unable to withstand”. Physical constraint is the pressure that an irresistible force exerts on the physical energy of another person in such a way that he commits an act prescribed by criminal law, being physically unable to act otherwise. In judicial practice, most acts provided by the criminal law committed under the influence of physical constraint are acts of inaction. The perpetrator is prevented from fulfilling his legal obligations (Mitrache and Mitrache 2016, 193-194). The conditions of physical constraint are as follows:

- There must be a constraint on a person’s physical body;
- The constraint to which the person was subjected could not have been resisted;
- Under the influence of physical constraint, the person commits an act provided by the criminal law.

As a result, the deed committed under physical constraint is not a crime, it does not have a criminal character because it is not imputable to the perpetrator. The act, not being a crime, consequently does not attract criminal liability. Civil liability is also removed in principle (Mitrache and Mitrache 2016, 195).

Moral constraint

Art. 25 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed as a result of moral constraint, exercised by threatening grave danger of the person of the perpetrator or another person and which cannot be removed in any other way”. Moral constraint consists in the pressure exerted by the threat of serious danger to the person of the perpetrator or to another person and under whose influence the threatened commits an act provided for by the criminal law.

In order for there to be moral constraint under the authority of which an act provided for by criminal law is committed, the following conditions must be met (Mitrache and Mitrache 2016, 195-196):

- To commit the act provided for by the criminal law under the influence of a constraint exercised by threat;
- There must be an action of constraint exercised by the threat of serious danger;
- The serious danger with which it is threatened cannot be removed otherwise than by committing the alleged act.

The act committed under the influence of a moral constraint is not a crime because it is not imputable to the person who committed it. Not being a crime, the deed committed under the influence of moral constraint does not attract the perpetrator’s criminal liability either. If the perpetrator could act in a different way than by committing the act provided by the criminal law, moral constraint is excluded.

Although the legal text seems clear, in practice situations may arise in which it is difficult to assess the incidence of this cause of non-imputability. For example, in one case, it was held that although “qualified instigation involves the use of some forms of constraint, in this case, the constraint exercised by the defendant is circumscribed to the causes that remove the criminal nature of the act, and consequently, the two operatives committed the act without guilt, on the grounds that according to the legal provision, the act provided for by the criminal law committed due to a moral constraint carried out by the threat of a serious danger to the person of the perpetrator or another and which could not be removed in another way, does not constitute a crime. In this case, the fear of losing one’s job, given the increase in unemployment in Romanian society, was enough for the two to commit the act, as the only alternative to evil” (Franguloiu 2004, 77). In that case, the payment was ordered against the two operations, on the grounds that at the order of the defendant, who owned the commercial company, the two operations engaged to modify the payment provisions, switching to the heading “payment purpose” – “advance for settlement” in the place of the initial and real mention “advance dividends” by which dividends of a large value were raised and collected in relation to the contribution of the associates to the company’s social capital, the bad faith being manifested by the defendant who owned the company, who used the respective amounts in interest personally, not at all for the proper functioning of the company, circumstances that were not communicated to the civil party neither before the withdrawal from the company, nor afterwards, a situation in which the civil party was damaged with a large amount of money due to it as dividends.

Non-accountable Excessiveness

Art. 26 of the Romanian Criminal Code provides: “(1) An act stipulated by criminal law does not carry imputability when committed by a person in legitimate defense who exceeded, because of psychological turmoil or fear, the limits of defense proportional with the seriousness of the attack. (2) An act stipulated by criminal law does not carry imputability when committed by a person in a state of necessity, who at the moment of committing the act did not realize they were causing consequences that were clearly more serious than those that would have occurred had the threat not been removed”.

Under this name, in the provisions of the Romanian Criminal Code, two causes of non-imputability are provided which are closely related to two justifying causes: self-defense and state of necessity. The non-accountable excessiveness knows two ways that arise from exceeding the limits of legitimate defense and from exceeding the limits of the state of necessity. The conditions of the non-accountable excessiveness of self-defense (Duvac, Neagu, Gamenț and Băiculescu 2019, 371):

- The pre-existence of the conditions of legitimate defense itself, with the exception of proportionality;
- Exceeding the limits of a defense proportional to the severity of the attack;
- Exceeding the limits of a defense proportional to the seriousness of the attack to be due to the disturbance or fear of the perpetrator;
- The act committed must be prescribed by the criminal law.

The deed committed by exceeding the limits of legitimate defense is not imputable to the person who committed it, because he committed the deed due to the disorder or fear he was in at the time. The act, being committed without the feature of immutability, is not a crime and, consequently, also removes the criminal liability of the perpetrator.

The conditions of the non-accountable excessiveness in the rescue action (Duvac, Neagu, Gamenț and Băiculescu 2019, 372):

- The pre-existence of the conditions of the state of necessity, with the exception of the non-existence of a clear disproportion between the consequences produced and those that could have occurred if the danger was not removed;
- Exceeding the limits of the state of necessity;
- The perpetrator did not realize, at the time of committing the act, that he was causing clearly worse consequences than those that could have occurred if the danger had not been removed;
- The concrete fact must be provided by the criminal law.

The deed committed by the person in a state of necessity, which produced clearly more serious consequences than those that could have occurred if the danger was not removed, is not imputable, because he did not realize at the time of committing the deed these follow the act, being committed without the feature of immutability, is not a crime and, consequently, also removes the criminal liability of the perpetrator.

The non-accountable excessiveness differs from the justifying cause of the legitimate defense, but also from the legal mitigating circumstance of the challenge by the very conditions of their existence, as provided by the legal norm. Thus, in the hypothesis of legitimate defense, the agent is in a position to defend himself or another person or their rights or a general interest, from a direct, immediate, material and unfair attack, as provided by the provisions of art. 19 para. 2 from Romanian Criminal Code. In the case of non-accountable excessiveness, due to the disturbance or fear in which he was at the time, the agent exceeds the limits of a defense proportional to the seriousness of the attack.

Judicial practice offers numerous examples of the delimitation of the justifying cause from that of non-imputability, but also of the mitigating circumstance I mentioned earlier. For example, the circumstance that the defendant caught his concubine having sexual relations with the victim, whom he repeatedly hit, causing her death, represents a state of strong disturbance, caused by the victim's attitude, in the sense of the mitigating circumstance and not the cause of imputability or justification. For example, the fact that the defendant followed his concubine and saw, through the window of the house, how she was having sexual relations for money with another man, opened the window with a piece of iron and entered the house. The woman ran out the kitchen door, and the defendant pounced on the victim, whom he punched and kicked, and the victim died as a result of the injuries caused by these blows. The court held that the defendant's act does not fall under the scope of legitimate defense or non-accountable excessiveness, but of the legal mitigating circumstance of

provocation, determined by the fact that “it is difficult to ask a normal person to react calmly and normally in the conditions in which he surprises his partner life leaving the shared bedroom to another man’s home to have sex with him in exchange for sums of money. As such, the victim’s act of having sexual relations with the defendant’s life partner represents a provocative act, likely to create a strong emotion or disturbance for the defendant and reduce the possibilities of self-control for the latter and determine for him reactions which, in under normal conditions, it would not have happened” (Franguloiu 2002, 23).

The fact that the victim entered the defendant’s home with the purpose of having intimate relations with his wife, being stabbed by the defendant, was also considered a provocation, as representing a state of strong disturbance determined by the victim’s behavior, in the sense of art. 26 of Romanian Criminal Code (Franguloiu 2002, 24).

On the contrary, the existence of this cause of non-imputability (the legitimate defense in the previous form provided for by art. 44 par. 3 Romanian Criminal Code, the regulation being identical) was retained in the case of “the act of the defendant who, after being assaulted by the victim in his own home, on several occasions and being taken by surprise, punched it, is considered to have been committed in a state of disturbance and fear, due to which he exceeded the limits of a defense proportional to the severity of the attack” (Franguloiu 2006, 19). In this case, the court of judicial review found that *“the first instance truncatedly analyzed the administered evidence and made an assessment of the proportionality of the forces of the parties separated from the context in which the act was committed. Thus, it turned out that the parties were mere acquaintances, neither friends nor enemies, rarely visiting each other. On that day, on the name day of the defendant, the victim came uninvited, the two consumed alcohol and after an hour, the defendant excused himself for not drinking anymore and intended to make tea, proposing this to the victim and while he was on his back he was hit hard on the back, in the head area. After falling between the stove and the charcoal burner, the defendant was further hit by the victim in the face, with his fist or foot. As a result of these blows, the defendant’s glasses were broken and he lost consciousness for the moment. When he managed to get up, he reproached the victim for his behavior and asked him to leave, but the victim continued to attack him, threatening to “finish him”. Under these conditions, the defendant panicked, punched the victim and pushed her, causing her to fall and hit her head on the mosaic cement. (...) Being transported to the hospital, the victim fell into a coma and died immediately. The cause of death was traumatic and hemorrhagic shock, the consequence of polytraumatism with multiple facial wounds and hematomas, extensive cervico-thoracic hematoma, multiple rib fractures and lung ruptures; death was favored by multiple pre-existing chronic conditions, namely: myo-cardio-sclerosis, advanced aortocoronosclerosis, renal sclerosis, liver dystrophic lesions. (...) It is beyond any doubt that the defendant reacted to the untimely attack of the victim, the injuries inflicted on her not being very serious in themselves, as long as the first medical-legal assessment assessed that it required 14-16 days of medical care for healing. Only the pre-existing conditions described were likely to favor death. Under the conditions of the described factual situation, it is difficult to claim that the defendant remains passive in the face of the victim’s aggression or that he measures the force of his blows according to her resistance. The fact that he played sports and was obviously stronger than the victim should not be evaluated in the abstract, without considering the circumstances in which the assault took place. Being taken by surprise in his own house by a person who came to congratulate him on his birthday, being hit and threatened with death for no reason, there are just as many causes that created a state of disturbance and fear for the defendant, on the background whose reaction to punch the victim appears legitimate, his excess being fully justified. In the process of assessing the state of disturbance and fear, the age of the defendant must also be taken into account - 66 years old at the time of the act - age likely to accentuate the emotions of the person in such borderline situations”* (Franguloiu 2006, 19).

Underage Perpetrator

Art. 27 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed by an underage person, who at the date of commission of the act did not meet the legal requirements for criminal liability”. Minority is the state in which the minor perpetrator finds himself who, at the time of the commission of the act provided for by the criminal law, had not reached the age of criminal responsibility.

According to criminal law, a minor who has not reached the age of 14 has no criminal capacity, and in the case of one between the ages of 14-16, the presumption of discernment is relative (Buzatu 2012c, 226). Underage perpetrator removes the criminal character of the act if the conditions are met (Mitrache and Mitrache 2016, 200):

- To commit an act provided for by the criminal law;
- The perpetrator, at the time of committing the act, does not meet the legal conditions to be criminally liable;

The deed provided by the criminal law committed by a minor who, at the time of its commission, did not meet the legal conditions to be criminally liable is not a crime, because it is not imputable to him. The perpetrator did not meet the conditions of biopsychological development that would allow him to understand the character of his actions or inactions and to direct them consciously. Minority status removes the criminal nature of the act and, by way of consequence, also criminal liability (Mitrache and Mitrache 200-201).

Safety measures can be taken against minors aged 14-16, if they acted indiscriminately (Buzatu 2012b, 88). Practically, this cause of non-imputability has incidence strictly in the situation where the minor was under 14 years old at the time of committing the act, or if he was between 14 and 16 years old, he did not have discernment proven by medico-legal expertise; at the same time, the minor between 16 and 18 years of age is responsible according to the law, but the condition of the existence of discernment is mandatory not only in the case of minors, but also in the case of adults, as an essential condition of imputability as an essential feature of the crime.

In the event that the minor had discernment, a non-custodial educational measure may be applied to him or, in the case of committing serious crimes, a custodial educational measure. In any of these scenarios, when choosing the educational measure, the court will take into account that *“primarily, education must prevail before the sanction, and the authorities’ responses to the actions and personality of the delinquent must be proportionate and show a certain degree of tolerance towards of the committed act”* (Franguloiu 2004, 90). In this case, the court noted that *“this degree of tolerance was imposed by the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules which were adopted by Resolution no. 40/33 of November 29, 1985 of the General Assembly of the United Nations Organization and represents a guideline for states in the matter of protecting the rights of children and respecting their needs in the development of juvenile justice systems; these rules constitute the first international document that details the rules for the administration of justice in relation to minors, with an emphasis on the rights of the child, they have the character of rules of recommendation, which means that from the point of view of public international law they are not binding as such, but , these principles were taken over in the Strasbourg Convention on the Rights of the Child, a convention to which Romania acceded and which thus became internal law. This convention provides in art. 27 that minors can only be deprived of their liberty in exceptional situations and for a minimum period, and the deprivation of liberty must be carried out according to legal principles and procedures, a provision also taken over in the Riyadh Principles and the United Nations Rules for the Protection of Private Minors of freedom adopted as a result of the debates of the 8th Congress of the United Nations on the prevention of crime and the treatment of criminals in Havana since 1990 and by Resolution no. 45/112 and 45/113 of 14 November 1990.*

The most important document, however, is the International Convention on Civil and Political Rights, which contains multiple protective measures applicable to all persons before the courts and under arrest and which stipulates that “in the case of young people, the judicial procedure will be carried out in such a way that their age and desire to rehabilitate is taken into account - art. 14.4. – regulation that has mandatory character”.

The Convention reaffirms, with regard to children, already recognized human rights, specifies the need to take into account the special needs and vulnerability of the child, and sets standards in areas that are pertinent or specific to the child.

Article 37 of the Convention includes the principle that deprivation of liberty should be regarded as a method of last resort and provides that detention should be ordered for the shortest possible period of time. (...) In the case brought to trial, the minor who committed the crime was not yet 18 years old, he is in his first encounter with the criminal law, he showed sincerity, remorse for the committed act, he stated that he understood that he was wrong and that he will not commit such acts again, all of which form the court’s conviction that the minor’s deprivation of liberty is not required” (excerpt from the cited decision).

Analyzing these case decisions, we can rightly affirm that the courts demonstrated a creative activity, a completely different approach from a modern perspective and adapted to the transforming society and prepared the ground for the new approach of the Criminal Code in force, the aforementioned decisions being pronounced under the rule of the criminal law prior to the criminal law reform.

Mental Incompetence

Art. 28 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed by a person who, at the time of commission of the act, was unable to understand their actions or inactions or to control them, either because of a mental condition or because of other reasons”. Mental incompetence is the state of psychophysical incapacity of a person who cannot realize the social significance of his actions or inactions or cannot control them. Mental incompetence refers to the mental incapacity of the person both intellectually, when he cannot realize the social significance of his actions or inactions, and from a volitional aspect, when he cannot determine and direct his will normally (Mitrache and Mitrache 201-202).

The mental incompetence of the perpetrator removes the criminal character of the act if the following conditions are met (Duvac, Neagu, Gamente and Băiculescu 2019, 374):

- The perpetrator, at the time of committing it, could not realize his actions or inactions or could not control them;
- The state of mental incompetence must exist during the commission of the act;
- The state of mental incompetence was caused by a mental illness or other causes;
- The deed committed in a state of mental incompetence must be provided for by the criminal law.

The deed committed in a state of mental incompetence is not a crime because it cannot be imputed to the person who committed it. The the mental incompetence perpetrator lacks intellectual and volitional mental capacity regarding his actions or inactions. Mental incompetence removes the criminal character of the act and, by way of consequence, removes the criminal liability. Against the irresponsible perpetrator, safety measures of a medical nature can be taken.

Intoxication

Art. 29 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed by a person who, at the time of commission of the act, was unable to understand their actions or inactions or to control them, because of involuntary intoxication with alcohol or other psychoactive substances”.

Intoxication represents an abnormal psychophysical state of the person due to the effects they have on the body and the person's mental faculties, certain psychoactive substances introduced into his body.

Alcoholic or psychoactive substances (for details see Buzatu 2012a, Buzatu 2015 and Franguloiu, Hegheş and Costescu 2023) introduced into the person's body cause deviations from the person's normal psychophysical state, from the diminution to the complete annihilation of the intellectual and volitional psychophysical capacity in determining the attitude towards the acts he commits in this condition.

For the existence of this cause of non-imputability, the following conditions must be met (Duvac, Neagu, Gament and Băiculescu 2019, 375):

- The state of intoxication must be accidental and be due to involuntary intoxication with alcohol or other psychoactive substances;
- The state of intoxication determines the impossibility of the perpetrator to realize his actions or inactions or to control them;
- The state of intoxication must exist at the time of committing the act;
- The concrete fact must be provided by the criminal law.

The act committed in a state of involuntary and complete intoxication is not a crime, because it lacks imputable character. When the state of voluntary intoxication was caused in order to commit the crime, it constitutes a legal aggravating circumstance. In practice, accused persons often plead intoxication to escape criminal liability, but to be incidental, this state must be pre-existing to the commission of the act and complete, so that the person is deprived of the ability to realize or to control his actions. For example, in one case, the defendant invoked alcohol intoxication as having the value of a justifiable cause, but the court rejected his defense: in fact, *“the defendant, after consuming alcohol, around 10:00 p.m. went to his home to the injured persons, knowing their household, because in the past he was employed as a day laborer by them, he broke into a warehouse behind the house by destroying the insurance system. The injured person X. moved to the warehouse, hearing noise, surprised the defendant and he hit him twice with the blunt edge of an ax over his hands when he parried the blows aimed at the head. Hearing screams, the injured person's wife also came out, whom the defendant hit in the head, once, with the blunt part of the axe. Then, the defendant brought the two injured people into the kitchen and, taking advantage of their advanced age, immobilized them by tying their hands and feet with string found in the home. Then, with the threat of death, brandishing a knife, physically assaulting them, he demanded that they give him the money in the house and robbed them of a larger amount of money and other property. Later, he requested a person to come and transport him with the luggage to the city and while waiting for her arrival, he continued to consume alcohol. Before leaving, he set fire to some items of clothing, but the fire remained smoldering and did not spread to the kitchen where the injured persons were. Towards morning, they managed to untie themselves, called a neighbor and notified the police. On the same day, when the defendant was identified by the police, he tried to hang himself, but was saved by the police”*. (Franguloiu 2005, 31-33).

Although the defendant claimed that he has an ethanol addiction, a circumstance that affects his discernment, the court rejected his defense, on the grounds that the medico-legal expertise showed that *“the defendant has borderline intelligence, introverted, egocentric personality, adaptive rigidity, insecurity, apathy, has an impulsive-aggressive-excitabile personality disorder, does not have ethanol addiction and has discernment of the committed acts. (...) the particular dangerousness of the defendant is also proven by the fact that upon leaving, leaving the kitchen, he placed a small hut and a piece of wood near the door, after which he set fire to several items of clothing in the storeroom, a danger that is not mitigated by the suicide attempt that took place the next day, in his home, when he was identified by*

police workers - this attempt had as its cause the regret for the crimes committed, but the fact that he was detected and identified.”

Error

Art. 30 of the Romanian Criminal Code provides: “(1) An act stipulated by criminal law does not constitute an offense when committed by a person who, at the time of commission of the act, was unaware of the existence of a state, situation or circumstance that determines the criminal nature of the act.

(2) The stipulations of par. (1) also apply to acts committed with basic intent that are punishable under criminal law, but only if ignorance of the state, situation or circumstance is not itself the result of basic intent.

(3) The state, situation or circumstance the perpetrator was unaware of at the moment of commission of the act shall not constitute an aggravating circumstance or aggravating circumstantial element.

(4) The stipulations of par. (1) - (3) shall apply accordingly to the case of ignorance of a legal stipulation outside the scope of criminal law.

(5) An act stipulated by criminal law does not carry imputability when committed as a result of ignorance or erroneous knowledge of its illegal character owing to a circumstance that could not have been avoided in any way.”

If, at the time of committing the act, the perpetrator did not know or knew wrongly certain facts of reality that are likely to give the act a socially dangerous character, the error he is in deprives him of the possibility to foresee the result of his act and implicitly to consciously determine the will (Bulai and Bulai 2007, 274).

Conditions (Duvac, Neagu, Gament and Băiculescu 2019, 377-378):

- The perpetrator did not know the existence of a rule of extra-criminal law, of a state, situation or circumstances on which the criminal nature of the act depends or an aggravating circumstantial element;
- The false representation of reality or of the extra-penal legal norm must exist at the time of committing the act;
- The element on which the error bears must be a constitutive or aggravating element;
- The act committed in a state of error must be provided for by the criminal law.

Error on a constitutive element excludes imputability. In the case of acts committed out of fault, error excludes imputability, only if the ignorance of the respective state, situation or circumstance is not itself the result of fault. Error on an aggravating circumstance or an aggravating circumstantial element, removes their application in the given case. In all these situations, certain safety measures can sometimes be taken.

Fortuitous Case

Art. 31 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when its result is a consequence of a circumstance that could not have been foreseen”. The fortuitous case denotes the situation, the circumstance in which the action or inaction of a person has produced a result which that person did not conceive or pursue and which is due to an energy whose intervention could not be foreseen.

An act is considered to have been committed accidentally when the following conditions are met (Mitrache and Mitrache 2016, 215):

- The socially dangerous result of the deed must be the consequence of the intervention of a circumstance outside the will and conscience of the perpetrator;
- The perpetrator was unable to foresee the intervention of the circumstance (foreign force) that produced the result;
- The act that produced a socially dangerous result due to the unpredictable intervention of a foreign energy should be provided for by the criminal law.

The deed committed in a fortuitous case is not imputable and thus its criminal nature is removed, criminal liability is also removed as a consequence. For example, in one case, the defendant was acquitted for committing the crime of culpable bodily harm, as a result of the accidental incident, in the situation where an improvisation was carried out on the brake system of his car, which he did not know about and he didn't even have the opportunity to notice it (unless he checked the car lifted on the lift, which can only be done in a car workshop and by a person with specialized knowledge), the car being under warranty, so at a sudden brake, the rod connected with a wire was removed, which caused the uneven locking of the rear wheels and the impossibility of controlling the car, the evidence from the file confirming that the defendant did not know about the improvisation and that it was carried out at the service unit, without his consent and that this improvisation was approved by the mechanics (Franguloiu 2011, 288).

The defendant was charged through the court notification, that he did not fulfill his obligation to ensure, before leaving for the race, that the technical condition of the car allowed him to do so, the obligation referring to the transmission, braking, rolling, lights and signaling. It is necessary to specify that this obligation has a limited character, being reported at the level of the driver who does not have specialized knowledge and does not possess a brake test stand, respectively an elevator or an inspection channel and that, in no case, does it cover the obligation of each driver (male or female), as before starting the race, to put the car on the lift, so as to check under the car everything related to the braking system.

The technical expertise carried out in the case found that noting the removal of the pressure limiter actuation rod and tying the lever with a wire was not possible either on the brake test stand or visually, if the car was in motion. It was held that relative to the specific moment of the accident, the sudden change in the direction of travel of the car driven by the defendant was not due to his intention, because it was not carried out by the driver's command, but was determined by the braking of this car, as a result of removing the pressure limiter actuating rod and fixing the valve control lever in the permanently open position, which led to uneven locking of the rear wheels and the impossibility of being able to control the direction of travel of the vehicle, so that the improvisation from the system braking caused the sudden change of direction.

Another essential aspect, which eliminates any fault on the part of the defendant, is that the car was under warranty, the mandatory technical inspection had been carried out and the defendant insisted that special attention be given to the braking system during the inspections, because suspicious noises were heard, but at the service unit, he was told that everything is fine, the conclusion of the court being that that improvisation was carried out at the service, all the more since the mechanics approved this improvisation system. Therefore, the defendant did not know the existence of these external factors, nor did he have the real and concrete possibility to know these factors, so that he cannot be held criminally liable.

In conclusion, by examining physical and moral constraints, non-accountable excessiveness, underage perpetrators, mental incompetence, intoxication, error, and fortuitous cases, this study emphasizes the complex issue of establishing criminal responsibility. It is essential to review and improve these frameworks as legal principles evolve in order to safeguard the rights of people involved in the criminal justice system.

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