

## NEGLIGENCE AND MISUSE OF AN OFFICIAL POSITION FAULT OR *MENS REA* OF THE CIVIL SERVANT?

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**Abstract:** *The topic of this paper concerns a thorough analysis of two crimes enshrined in the Romanian Criminal Code – negligence and misuse of an official position by a civil servant. Its content lies at the borderline of three areas of law: Criminal, Administrative and European Community Law. Within its first chapter the authors display a series of information regarding the concept of civil servant as perceived in several different legal systems, also comprising the European Union. Furthermore, there is an analysis of the concept of fault as opposed to „mens rea” – the criminal intent that precedes the act. Which are the main elements that differentiate these concepts, in what ways do they influence criminal responsibility and most of all, how difficult is the mission of the party on whom the burden of proof lies?- these are the questions to which the authors are bound to find an eloquent answer. The last chapter entails a practicality of the first two theoretical parts, by the analysis of the relevant national and Community case-law. The final part of the paper is reserved for some observations regarding the current legal state of the matter and stands as a conclusion for the entire framework.*

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