

SOURCES OF CRIMINAL LAW IN THE CONTEXT OF THE DIGITAL SOCIETY

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ABSTRACT: *In the legal doctrine, the term “source of law” has several meanings, distinguishing between material and formal sources, between domestic and foreign sources, between direct and indirect sources. In this matter, which is studied by “The General Theory of Law” discipline, we will only discuss a few particular aspects of criminal law.*

In criminal law, the normative acts issued by the legislatures are considered to be the formal and direct sources which, through their form and content, provide a clear and precise expression of the obligations of conduct specific to this branch of law.

The courts’ case-law in the Romano-Germanic system is not legally imposed as a true source of law, but the reasons for a unitary case-law must ensure a uniform judgment of certain case categories, namely court case-law, such as a certain amount of the sanctions applied by any court in the country for similar offenses.

The judge gets the role of bridging the legislative shortcomings, the inconsistencies in the legislator’s phrasing, not also the capacity to change the legal system or to establish new rules of law. The judge’s contribution will not consist of completing or amending the legal framework, the very principle of separation of powers in state contradicts such a situation. The digital society, provokes the legislators and the case-law systems, which one can adapt better?

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