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## COMPLAINT, GENERAL WAY OF NOTIFYING CRIMINAL PROSECUTION BODIES

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**Abstract:** *ACCORDING TO ART. 289 PARAGRAPH (1) OF THE CRIMINAL PROCEDURE CODE, A COMPLAINT IS A NOTIFICATION MADE BY A NATURAL OR LEGAL PERSON REGARDING AN INJURY CAUSED TO HIM BY A CRIME.*

**Keywords:** *COMPLAINT, CRIMINAL PROCEDURE CODE, NOTIFICATION WAY, CRIMINAL PROSECUTION BODY*

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The way of notifying the criminal prosecution body is understood as the means by which it becomes aware, under the law, of the commission of a crime, determining its obligation to decide on the initiation of criminal prosecution relating to that crime (Neagu et al., 2019, p. 31).

The ways of notification can be (Paraschiv et al., 2025, p. 7):

- *general*: the complaint (Art. 289 C. proc. pen), the denunciation (Art. 290 C. proc. pen), notifications made by persons in leadership positions and by other persons (Art. 291 C. proc. pen), acts drafted by certain finding bodies provided by law (Art. 61 C. proc. pen), acts drafted by commanders of ships and aircraft (Art. 62 C. proc. pen), ex officio notification (Art. 292 C. proc. pen);

- *special*: prior complaint of the injured person (art. 295-298 C. Proc. pen.), notification of the commander of the military unit in the case of crimes committed by soldiers provided for in art. 413-417 C. pen., notification formulated by the person provided for by law, notification formulated with the authorization of the body provided for by law.

### *The complaint, a general way of notification*

According to art. 289 para. (1) of the C. proc. pen, a complaint is the notification made by a natural or legal person regarding an injury caused to him by a crime.

The complaint is therefore an act of notification through which the natural or legal person injured by a crime brings to the attention of the judicial bodies the criminal fact for which they complain



and for which they request criminal prosecution and possibly compensation for the damage caused by the crime (Apetrei, 1996, apud Pinteau et al., 2020, p. 88).

The complaint, a purely optional procedural act, must not be confused with the prior complaint, which is not only a way of notifying the criminal investigation bodies, but also a condition for prosecution (without which the proceedings cannot take place) and for punishability (without which criminal liability cannot be incurred) (Paraschiv et al., 2025, p. 9).

In terms of content, the complaint must include, according to art. 289 para. (2) of the C. proc. pen., the following:

- in the case of natural persons: the surname, first name, personal numerical code (CNP), capacity, and domicile of the petitioner;
- in the case of legal persons: the name, registered office, unique registration code, tax identification number, registration number in the trade register or in the register of legal persons, and the bank account;
- indication of the legal or conventional representative;
- description of the act that is the subject of the complaint;

It is not necessary for the injured person to also specify the legal classification of the act, as this is the prerogative of the judicial authorities. If, however, the legal classification has been mentioned in the complaint, the criminal investigation bodies are not obliged to take it into account and may initiate the criminal investigation under the legal classification they deem appropriate under the law (Micu et al., 2022, p. 448).

- indication of the perpetrator, if known;
- the indication of the means of evidence, if they are known.

Unlike the previous regulation [art. 222 para. (2) C. proc. pen. of 1968], the means of evidence must be indicated in the complaint only if they are known, an element that is consistent with art. 99 and art. 100 C. proc. pen., from whose interpretation it follows that the task of collecting and administering evidence during the criminal investigation falls to the criminal investigation body. Thus, the failure to indicate the means of evidence (in the event that they are not known) cannot constitute a reason for returning the complaint administratively to the petitioner, according to art. 294 para. (2) C. proc. pen. (Văduva, 2017, p. 832).

A complaint that also includes references to civil claims also serves as the formal act of becoming a civil party (Paraschiv et al., 2025, p. 9).

From the perspective of form, the complaint may be submitted [Art. 289 para. (4), (5), (6), C. proc. pen. as follows]:

- in writing, it must be signed by the injured person or by an attorney-in-fact

In the absence of a signature, the complaint shall be returned through administrative channels for the purpose of correcting this irregularity. In the event of non-compliance by the injured party, the complaint will be considered an anonymous complaint and a basis for an ex officio notification (Volonciu & Țuculeanu, 2007, apud Văduva, 2017, p. 833).

- orally, in which case it is recorded in a transcript by the body receiving it;
- in electronic form, in which case it must be certified by an electronic signature, in accordance with the legal provisions\*.

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\* According to art. 2 par. (2) letter b) of Law no. 214/2024 Law no. 214/2024 on the use of electronic signatures, time stamps and the provision of trust services based on them (Official Gazette no. 647 of 8 July 2024), simple electronic signature – an electronic signature whose elements do not meet at least one of the conditions that an advanced electronic signature must meet according to art. 26 of Regulation (EU) no. 910/2014.

According to art. 3 par. (2) and (3) of Law no. 214/2024, the legal act in electronic format, signed with the type of electronic signature provided for by law or with a qualified electronic signature, produces the same legal effects as the same legal act in paper format [par. (2)]. The electronic signature validity is verified in relation to the conditions it must meet at the time of signing the electronic document,



From the corroboration of paragraphs (3), (7), and (8) of Art. 289 C. proc. pen, it follows that the complaint can be made personally by the injured person or (Lorincz, 2016, p. 17):

- by an attorney-in-fact (the mandate must be special, and the power of attorney remains attached to the complaint);

- by the legal representative (when the injured person is a natural person lacking the capacity to act or is a legal person). A person with limited capacity to act may file a complaint with the consent of the persons provided by civil law. In the event that the perpetrator is the person who legally represents or consents to the acts of the injured person, the notification of the criminal investigation bodies is made *ex officio*.

- by one of the spouses for the other spouse or by an adult child for the parents, acting as *procedural substitutes*. In these cases, the injured person may declare that they do not endorse the complaint.

The explanation why the law allows the complaint to be filed through procedural substitutes is related to family ties with the injured person (for example, if the parent, victim of the crime of theft, is elderly, it is easier for his or her adult child to notify the judicial authorities) (Micu et al., 2022, p. 448).

In the event that the complaint does not meet the formal requirements provided by law, or the description of the act is incomplete or unclear, according to Art. 294 para. (2) C. proc. pen, it shall be returned through administrative channels to the petitioner, with an indication of the missing elements.

According to Art. 289 para. (9) C. proc. pen, a complaint wrongly addressed to the criminal investigation body or to the court of law shall be sent, through administrative channels, to the competent judicial body.

The regulation of the complaint does not include express limitations regarding the notification of an offense based on the place of its commission (Crișu, 2025, p. 43).

Thus, in paragraph (10) of art. 289 of the C. proc. pen, it is provided that, if the complaint is drawn up by a person residing on the territory of Romania – a Romanian citizen, a foreign citizen or a person without citizenship – and thereby notifies the commission of an offense on the territory of another Member State of the European Union, the judicial body is obliged to receive the complaint and transmit it to the competent body of the country on whose territory the offense was committed, in which case the rules on judicial cooperation in criminal matters are applied accordingly.

The injured party who does not speak or understand Romanian may file the complaint in the language he or she understands and, upon filing the complaint, may request that, when summoned, he or she also receives a translation of the summons, in accordance with art. 289 para. (11) of the C. proc. pen.

The complaint must have truthful content, because filing false complaints constitutes the crime of misleading judicial bodies, provided for by art. 268 of the Criminal Code (Micu et al., 2022, p. 449).

The law does not establish any deadline for filing a complaint, as a general way of notifying judicial bodies, but, in order to be effective, it must be filed before the statute of limitations for criminal liability expires.

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and the expiration of the validity of the certificate on the basis of which the signature was applied does not affect the validity or effects of the signed document. The provisions of this paragraph are also valid in the case of advanced electronic signatures that are not based on an electronic signature certificate, but use other technologies [paragraph (3)].



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