

Supreme Court: CCR decision on limitation period applies retroactively, thousands of corruption cases could be closed

The full bench of the High Court of Cassation and Justice (Supreme Court, ed. n.) decided on Tuesday that the decision of the Constitutional Court of Romania (CCR) on the limitation period applies retroactively.

Several courts in the country have called on the High Court to establish whether the decisions of the CCR on the limitation period are retroactively applicable on the most favorable criminal law principle.

The Supreme Court ruled on Tuesday that the CCR's decision on the limitation period applies retroactively:

* "The rules related to the interruption of the prescription period are rules of substantive criminal law subject from the perspective of their enforcement in time to the principle of criminal law activity provided by art. 3 of the Criminal Code, with the exception of more favorable provisions, according to the "mitior lex" principle provided for in Article 15 paragraph (2) of the Constitution and Article 5 of the Criminal Code.

* The court that resolves the appeal for annulment, based on the effects of the decisions of the Constitutional Court no. 297/26.04.2018 and no. 358/26.05.2022, cannot reanalyse the criminal liability limitation period, if the court of appeal debated and analysed the incidence of this cause of termination of the criminal case during the case prior to this last decision".

Judicial sources told AGERPRES that this decision will affect thousands of case files pending before the courts or under investigation by prosecutors, and the defendants will escape conviction or accusations, as a result of the limitation of liability for their offenses.

On May 26, the Constitutional Court declared unconstitutional an article in the Criminal Code that allowed prosecutors to interrupt the limitation period by submitting new evidence. The CCR found that, in the period 2018 - May 2022, there was no case of interruption of the criminal statute of limitations.

Some courts suspended the trials pending a clarification from the Supreme Court, but others proceeded directly to the application of the CCR decision and ordered the termination of some corruption trials.

The Bucharest Court of Appeal was the first court to refer this matter to the Supreme Court, followed by other courts.