

## **ROBBERY PREEXISTING CONDITIONS**

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### **ABSTRACT**

*According to the Romanian Criminal Code, robbery, as described in art. 211, is settled in both simple and aggravating form.*

*The juridical object of this offence is a special complex one, that consists of a special main juridical object and a secondary juridical object.*

*The material object of robbery offence is represented, first of all, by the goods found in the possession of others, goods that have been stolen by the offender using violence or threat.*

*Key words: romanian Criminal Code, robbery, aggravating form, the juridical object, secondary juridical object, the material object, threat.*

Under the current Criminal Code, the robbery offence is both ascertained and sentenced by the Article. 211, consisting of a simple form and two aggravating forms.

The simple form of robbery is defined as „*theft committed by the use of violence or threats or by putting the victim in an unconscious state or unable to defend his/herself, as well as theft followed by the use of such means for keeping stolen goods or in order to remove traces of the crime or to secure his/her escape*”

The first aggravating form of robbery exists when the crime is committed under the following circumstances:

- a masked, disguised, or transvestited person
- at night
- in a public place, or a means of transport
- by two or more people together
- by a person with a weapon on him, a narcotic or a paralyzing substance
- in a dwelling or its dependencies
- during a disaster
- it had one of the consequences shown in art. 182 Criminal Code.

The second aggravating form of robbery is when it has produced very serious consequences or resulted in the victim's death.

It should be noticed that by “very serious consequences” under Article. 146 Criminal Code, one should understand a material damage of more than 2. 000. 000. 000. lei, or a very serious disruption of business caused to a public authority, or to any of the establishments to which relates art. 154 Criminal Code or to any other legal or natural entity.

The object of the offence consists of a particular complex legal purpose, consisting of a main principal legal object and a secondary legal object .

The main legal object concerns the defense of legal situation of property within the patrimonial individual or public or private that are entitled to keep those assets.

The secondary legal object concerns the way in which the act is committed (violence, threats and social value protected (personal liberty, physical integrity thereof, health, life and honor the person)).

It is noted that the achievement of theft is carried out through violence or other means specified above.

Material object of the crime of robbery is primarily a movable possessed or detained by another, the object of which was performed the taking action.

Secondly when included in the scope of theft using violence, threats and other means of annihilation, or restraining the person, the secondary material object consists in the body of the person against whom the offender is moving his secondary activity. The annihilation of the person as legislated can be done by the author using a weapon, or narcotic substance, without naming those substances. I believe that the use of „narcotic substances”, the legislature has considered all substances by which a person can be annihilated, in this category being the toxic substances, which by their toxic effect can annihilate a person, or more.

It is natural that the legislature should not enumerate all narcotic substances, whereas the list of these substances is very high. In fact for the determination of these substances can call on the Ministry of Health where there is such a list.

In judicial practice there are several points of view whether or not robbery, when a person's purse was snatched from his hand, or a chain was pulled from the person's neck, or we are in the presence of a crime of theft.

I believe that by simply pulling a handbag, or the chain without the person to exercise any violence or threat of violence we are in the presence of a crime of theft and not a robbery.

Active subject of the crime of robbery can be any person who meets the conditions to criminal liability.

The judicial practice show that the active subject of the crime of robbery could be the property owner, who may commit the taking action in any of the following: type or aggravating variants, if at the time when the taking action is committed, the asset was in the legitimate possession of another person.

I believe that criminal participation in this offense is possible both in type and the aggravating variants.

The passive subject of this offence can be any person who was the victim of these actions, namely the person whose goods have been stolen by committing the offense, or those persons who were the victims of the action only (violence, threats).

If for thwarting the crime involved a victim support person and that person is bullied, or threatened, in this case we have two passive subjects of the offense of robbery, respectively, the person whose goods were stolen and the one on which the acts of violence or threat were performed.

It must be said that if acts of violence or threat can be committed only against a person, theft can be committed against a legal person too.

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