

CERTAIN CONSIDERATIONS ON THE “DESTINY” OF THE PRELIMINARY CHAMBER INSTITUTION IN THE CURRENT LEGAL FRAMEWORK

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ABSTRACT

The preliminary chamber is a stage preceding the ruling on the merits of the case. By regulating this institution, the purpose of the Romanian legislator was to eliminate the possibility to raise certain causes of unlawfulness of the criminal prosecution acts carried out during the trial phase. The aim of this scientific research is to highlight certain aspects concerning the purpose of the preliminary chamber procedure, while also militating for its maintenance in the Romanian Criminal Procedure Code.

KEYWORDS: *preliminary chamber, preparatory session, principle of lawfulness, indictment, celerity.*

INTRODUCTION

Regarding the need to regulate the preliminary chamber procedure, the initiator of the current Romanian Criminal Procedure code has shown that¹ the purpose of this new trial stage is to respond to the lawfulness, celerity and equity requirements in the criminal trial in our country. In the light of the content of the provisions regulating the preliminary chamber institution, through the solutions that the competent judge may order, the purpose was to ensure the celerity of the ruling on the merits of the case, subject to the observance of the lawfulness of the criminal prosecution.

The preliminary chamber procedure is not, however, completely new in the Romanian criminal trial architecture, considering that the general criminal trial law included such a regulation in the past, referred to as the “preparatory meeting”, introduced in the 1936 Criminal Procedure Code through the Decree no. 506/1953.

I. PRELIMINARY CONSIDERATIONS

The enforcement of the current Romanian Criminal Procedure Code brought quite some novelties in the field of the Romanian criminal trial, the preliminary chamber being one

¹ The substantiation note to the New Criminal Procedure Code, according to the Ministry of Justice webpage <http://www.just.ro>, visited on 23.09.2018.

of the criminal trial institutions that triggered numerous discussions on the correct interpretation and implementation of the law.

This new trial phase is of capital relevance in the economy of the criminal trial as a whole, considering that it rests with the preliminary chamber judge to review and appreciate the whole criminal prosecution case file with regards to the lawfulness, a fact that obviously also directly influences the ruling on the merits of the criminal case, respectively the disclosure of the truth.

According to the considerations in the Substantiation Note to the New Romanian Criminal Procedure Code², the need to regulate the preliminary chamber phase in the architecture of the criminal trial in our country was justified by the realities of the contemporary legal environment, characterized by the absence of celerity in the performance of the criminal trials in general, the citizen's low level of trust in the act of justice and the significant social and human costs of the current criminal trial, due to the significant financial and time resources involved.

Hence, in the opinion of the Romanian legislator, the essential issues that the criminal system faced concerned the overloading of the prosecutor's offices and of the law courts, the excessively slow procedures, the unjustified procrastination of the criminal cases and the failure to close the cases because for procedural reasons. Under the circumstances, the legislator intended to respond to the exigencies of lawfulness, celerity and equity of the criminal trial, by regulating the preliminary chamber as an innovating institution, able to create a modern legal framework, susceptible of eliminating the excessive duration of the procedures in the trial stage and to ensure the lawfulness of the summons, as well as of the evidence, so as to remove gaps pursuant to which Romania was convicted by the European Courts of Human Rights for the infringement of the reasonable criminal trial term.

In the light of the Romanian Criminal Procedure Code in force, the preliminary chamber procedure is a new legal institution, regulated by the legislator with the declared purpose of reducing the duration of the criminal trials, through the inclusion under the law of a simplified criminal prosecution lawfulness review procedure³.

De legelata, the preliminary chamber procedure functions as a filter exclusively focusing on aspects that are related to the lawfulness of the case solved by the prosecutor through the initiation of the court proceedings, a filter that is exerted subsequently to the order on the initiation of the court proceedings and prior to the commencement of the judgement phase. As part of this new trial phase, the preliminary chamber judge operating within the competent court does not proceed to the analysis of the soundness of the criminal charges or the substance of the evidence; thus, the preliminary chamber is distinguished from other institutions previously regulated under the criminal trial law in our country (in this regard, we refer to the "*preparatory session*" stipulated, between 1953 and 1957, in the 1936 Romanian Criminal Procedure Code).

Hence, during the preliminary chamber procedure, the lawfulness of the submitted evidence, of the notification of the law court under the indictment and of the acts undertaken by the criminal prosecution bodies are reviewed. The activity of the competent judge does not concern the merits of the case, because the trial act passed by him does not impact upon the

²*Ibidem*

³ N. Volonciu, A. Vasiliu, R. Gheorghe, *Noul Cod de procedură penală adnotat. Parte specială*, "Universul Juridic" Publishing House, Bucharest, 2016, p. 123.

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essential elements of the conflict relation: deed, person and guilt; thus, the following trial stage is prepared, i.e., the judgement stage.

The trial activity specific to the preliminary chamber phase falls under the scope of the notion of “review”, the use of this term showing that the review is not an instruction (criminal prosecution), but it is not a judgement as such, either⁴. Thus, the preliminary chamber judge observes from outside the criminal case and analyzes the appearances, without focusing on the elements that represent the merits of the case.

The preliminary chamber procedure is a distinct phase of the criminal trial⁵, not a trial stage corresponding to the judgement phase⁶, during which the preliminary chamber judge has an objective that is exactly determined by the criminal trial law. This opinion, which predominates in the criminal trial doctrine, is also present in the case law of the Constitutional Court⁷ and in the one developed at the level of the High Court of Cassation and Justice⁸.

To support our opinion, we highlight the fact that the preliminary chamber procedure is separately regulated in Title II of the Special part of the current Criminal Procedure Code, similarly to the systematization of the criminal prosecution phase (Title I), of the judgement phase (Title III) and of the final decision enforcement phase (Title V). Thus, the preliminary chamber is stipulated in the Criminal Procedure Code under art. 342-348, including elements regarding the subject and duration, the preliminary measures, the procedure, the solutions that may be passed by the judge and the means of appeal against the same.

Even if the competent judge cannot proceed to the review of the soundness of the evidence or of the summons or of the integrity of the criminal prosecution, just as he does not rule on the opportunity or sufficiency of the submitted evidence or on the lawfulness and soundness of the legal category associated to the specific charges, it should, however, be noted that his role in the criminal trial is not less important than that of the law court; in this respect, the preliminary chamber judge’s orders have a significant impact on the settlement of the criminal trial actions, considering that the evidence is at the heart of any criminal trial⁹.

However, even though in addition to the preliminary chamber procedures, the criminal trial law has granted some derivative competencies to the preliminary chamber judge¹⁰, this aspect does not void the preliminary chamber of its trial phase features. In this respect, we highlight that with regards to the derivative proceedings, the legislator has understood to set

⁴ I. Narița, *Camera preliminară – sub spectrulneconstituționalității?*, in “Dreptul” issue 5/2014, p. 173.

⁵In this regard, see: Corina Voicu, Andreea Simona Uzlău, Georgiana Tudor, V. Văduva, *Noul Cod de procedurăpenală. Ghid de aplicarepentrupracticieni*, “Hamangiu” Publishing House, Bucharest, 2014, p. 395; M. Udrouiu, *Procedurăpenală.Parteaspecială*, 3rd issue, “C.H. Beck” Publishing House, Bucharest, 2016, p. 148; Anca-Lelia Lorincz, *Dreptprocesual penal*, vol.II, “Universul Juridic” Publishing House, Bucharest, 2016, p. 53

⁶ The specialized literature also includes the opinion according to which the preliminary chamber procedure is a trial stage that belongs to the judgement phase, not an autonomous trial phase. In this regard, see: I. Neagu, M. Damaschin, *Tratat de procedurăpenală. Parteaspecială*, “Universul Juridic” Publishing House, Bucharest, 2015, p. 198.

⁷ Constitutional Court, Decision no. 641 of 11 November 2014, published with the Official Gazette of Romania no. 887 of 5 December 2014.

⁸ Decision no. 18/2014 of the Management College of the High Court of Cassation and Justice, notifying the supreme court with an appeal in the interest of the law (case file no. 6/2014), in M. Udrouiu, *op. cit.*, p. 148.

⁹ M. Udrouiu, *op. cit.*, p. 149.

¹⁰ In this respect, the derivative competencies in the field of the ordering of the special seizure or the full or partial cancellation of a document subsequent to the prosecutor’s order as to the non-commencement of the court proceedings, the acknowledgement or denial of the re-opening of the criminal prosecution or the settlement of the complaint against the classification solutions, respectively the verification of the lawfulness and grounded nature of the criminal prosecution waiver order.

own procedural rules, which is why the provisions in art. 342-348 of the Romanian Criminal Code represent the common law with regards to the same.

Another element favoring the retaining of the thesis according to which the preliminary chamber is a distinct trial phase may be encountered in art. 344(3) and in art. 90 of the Romanian Criminal Procedure Code. Thus, the cases in which the legal assistance of the suspect or defendant is mandatory fall under the following categories: (i) the cases stipulated under art. 90(a) and (b) of the Criminal Procedure Code, applicable throughout the criminal trial; (ii) the case stipulated in art. 90(c) of the Criminal Procedure Code, which only applied during the preliminary chamber and the judgement phases. Hence, the interpretation of these provisions also shows that the preliminary chamber institution was not assimilated by the legislator to the judgement stage.

II. LEGAL PRECEDENTS – BRIEF OVERVIEW

The preliminary chamber institution is not entirely new in the architecture of the Romanian criminal trial, considering that the criminal trial law in our country previously included a similar regulation known as “*preparatory session*”, regulated by the 1936 Criminal Procedure Code pursuant to the Decree no. 506/1953; this regulation was subsequently amended by the Law no. 3/1956 and repealed shortly after by the Decree no. 473/1957.

The purpose of the “*preparatory session*” follows from the review of the art. 269 in the text entered in the 1936 Criminal Procedure Code by Decree no. 506/1953: “*The cases submitted by the prosecutor are reviewed as part of a preparatory session, so that only the cases where the evidence is required, sufficient and legally produced reaches the court on the merits, thus allowing the court, while ruling on the merits of the case, to decide whether the deeds are demonstrated and whether the charged party has perpetrated them and can be declared guilty*”.

Thus, it may be noticed that the philosophy of the preliminary chamber procedure stipulated in art. 342-348 of the Romanian Criminal Procedure Code in force is different from the preparatory session, regulated by art. 269-279 of the 1936 Criminal Procedure Code. In this respect, as part of this latter procedure, the competent legal body (the law court) was bound to proceed to a review of the grounded nature of the commencement of the court proceedings, of the lawfulness of the criminal prosecution and of the completion thereof. Thus, a full filter was regulated with regards to the criminal prosecution, the court being bound to review not only the lawfulness, but also the grounded nature of the commencement of the court proceedings.

At the same time, according to the provisions in the 1953-1957 Romanian Criminal Procedure Code, the preparatory session procedure was not public, and the both the prosecutor and the charged party could participate in this session (if regarded as necessary by the court). Pursuant to the preparatory session, the court could also order on the return of the case to the prosecutor’s office, in order to complete or resume the criminal prosecution or to have the case classified and close the criminal trial (if a cause preventing the initiation or enforcement of the criminal action was retained).

With regards to the competency of the law court as part of the preparatory session, it was quite extended. Thus, the court could rule on all the substantial criminal law and criminal trial law matters, as long as it did not touch the merits of the case, as the judge was not entitled to rule on the guilt or innocence of the charged party.

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The preparatory session¹¹ was appreciated as justified in the criminal trial law, also considering the fact that the legal class could be changed during this procedure; moreover, a classification solution could be ordered, for instance, following the lack of a prior complaint or the intervention of the amnesty.

While it was in force, the “preparatory session” institution raised quite a number of controversies¹². For example, in the legal practice of the time, the matter of the incompatibility of the participation in the judgement on the merits of the case of the judge who also took part in the preparatory session was raised. In this respect, it should be noted that the former Supreme Tribunal has shown¹³ that the participation of the judge in the preparatory session does not trigger a situation of incompatibility with regards to his participation in the session on the merits, considering that upon the conclusion of the preparatory session, the judge does not order on the merits of the case and it cannot be stated that, through the order to commence the court proceedings, the legal body “ruled on the merits of the case”, either. Most certainly, this case law solution is not protected from all criticism, since it affects the right to an equitable trial; hence, the judge cannot objectively simply erase from his memory the opinion he made with regards to the charged party’s guilt as part of the preparatory session, so as not to affect the innocence presumption.

Please note that the 1968 Criminal Procedure Code also stipulated that the competent legal body (the law court) was also supposed to carry out, subsequent to the commencement of the court proceedings, verifications regarding the competency of the court, the lawfulness of the evidence and of the criminal prosecution acts. However, the preliminary chamber procedure is different from the previous criminal trial regulation in that the new law stipulates a new individual legal body, holding the required competency to proceed to the performance of these activities, of uttermost importance in the economy of the criminal trial. At the same time, the historical review also reveals the establishment, by the legislator, of a trial term for the performance of the performance of the reviews, with legal consequences in case the unlawfulness aspects are not invoked within the legal term.

III. A FEW ASPECTS REGARDING THE PRELIMINARY CHAMBER PROCEDURE

3.1. Competency of the court

During the preliminary chamber procedure, the judge checks, as a priority, its own competency, in the light of the content of the indictment. This first verification implicitly concerns the identification of the court competent to rule on the case in first instance.

Please note that the judge does not analyze whether the charges brought by the prosecutor are real or whether there is sufficient evidence to rule on the guilt, but merely whether the deed stipulated in the court notice act falls under the jurisdiction of the respective court¹⁴.

¹¹ D. Roman, *Sesiunea Științifică a Univ. Babeș-Bolyai*, Cluj, in “Justiția Nouă”, issue 2/1956, p. 262.

¹² Versavia Brutaru, *Camera preliminară. O nouă instituție de drept procesual penal. Precedente legislative. Drept comparat*, in “*Dreptul românesc în contextul exigențelor Uniunii Europene*”, Romanian Academy, “Andrei Rădulescu” Legal Research Institute, Hamangiu Publishing House, Bucharest, 2009, p. 599.

¹³ Supreme Tribunal, criminal decision no. 324/30.03.1954, in Versavia Brutaru, *op. cit.*, p. 599.

¹⁴ High Court of Cassation and justice, criminal decision, resolution JCP/C no. 138 of 20.05.2015, in C. Ghigheci, *Cereri și excepții de cameră preliminară. Procedura, regularitatea actului de sesizare, legalitatea actelor de urmărire penală*, Hamangiu Publishing House, Bucharest, 2017, p. 3.

Hence, considering that the preliminary chamber procedure is initiated after the case is sent to trial pursuant to the notification of the court, the preliminary chamber judge (who is part of the competent court, according to the law, to rule on the case in first instance) will first have to check whether the notified court holds the required jurisdiction¹⁵. In other words, the preliminary chamber judge must check his own competency (material, territorial and personal); should the judge conclude that he does not hold the required jurisdiction for the performance of the preliminary chamber proceedings, the judge will order the rejection of the case, so that the preliminary chamber procedure is performed by the preliminary chamber judge within the competent court, according to the law¹⁶.

In case there are several defendants, the personal competency does not involve the fulfilment of the terms regarding the capacity of the person for each of them, it being sufficient that only one defendant holds the capacity required under the law, independently of the form of participation that triggers the initiation of the court proceedings.

Subsequently to the point when it set that the court was notified on a deed that triggers its competency, the preliminary chamber judge shall proceed to the review of the material, personal and functional jurisdiction of the criminal prosecution bodies.

3.2. Lawfulness of the notification act

The review of the lawfulness of the court notification involves both the existence of a correct notification (i.e., the notification through the prosecutor's indictment), and the lawfulness of the court notification act (in terms of the observance of the indictment form and substance rules)¹⁷.

According to the law (art. 328 of the Criminal Procedure Code), the indictment, as a court notification act, must be limited to the deed and person envisaged by the criminal prosecution and must adequately comprise the mentions in art. 286(2) of the Criminal Procedure Code. (i.e., all the mentions that an ordinance must comprise), the data on the deed retained against the defendant and its legal classification, the evidence and means of evidence, the legal expenses, the mentions stipulated in art. 330 and art. 331 of the Criminal Procedure Code. (i.e., provisions regarding the preventive measures, the precautionary and, if required, safety measures), the order to commence court proceedings, as well as other mentions required in order to solve the criminal case.

The verification of the lawfulness of the court notification by the preliminary chamber judge is a distinct criminal prosecution act lawfulness review¹⁸. The validity of the notification act is independent from the lawfulness or the sanctions applied to the criminal prosecution acts, and the unlawfulness of the criminal prosecution acts does not trigger, as such, the unlawfulness of the notification of the court¹⁹.

Thus, the review of the indictment concerns the notification act as such²⁰, the legal conditions concerning the content of the notification act and the compliance with the

¹⁵Anca-Lelia Lorincz, *op. cit.*, p. 54

¹⁶M. Udrouiu, *op. cit.*, p. 150.

¹⁷Anca-Lelia Lorincz, *op. cit.*, p. 54

¹⁸M. Udrouiu, *op. cit.*, p. 151.

¹⁹M. Udrouiu, Amalia Andone-Bontaș, Georgina Bodoroncea, S. Bogdan, M. Bulancea, D.S. Cherteș, I.P. Chiș, V. Constantinescu, D. Grădinaru, Claudia Jderu, Irina Kuglay, C. Meceanu, I. Nedelcu, Lucreția Postelnicu, S. Rădulețu, Alexandra Șinc, R. Slăvoiu, Isabelle Tocan, Andra Roxana Trandafir, Mihaela Vasiescu, G. Zlati, *Codul de procedură penală. Comentariu pe articole*, C.H. Beck Publishing House, Bucharest, 2015, p. 905.

²⁰C. Ghigheci, *op. cit.*, p. 6.

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provisions in art. 328 of the Criminal Procedure Code being analyzed, not the compliance with the legal norms regulating the criminal prosecution, which is subsequently analyzed.

As part of his review, the preliminary chamber judge is bound to also check the clarity of the criminal charge, the prosecutor being requested to describe the deed in sufficient details, attesting the compliance with the criminal law norm, and allowing for the establishment of the subject of the judgement. In this regard, the supreme court has shown²¹ that it is mandatory for the Public Ministry's charges to be lodged in a sufficiently clear manner, so that the defendant is able to understand, even with the support of legal specialists what it is that the criminal prosecution bodies hold against him/her and what the consequences of his/her conduct are from a criminal point of view.

The preliminary chamber judge shall acknowledge the unlawfulness of the notification act that makes it impossible to set the subject and limits of the judgement in case the prosecutor describes the facts in the indictment in an equivocal manner, and the concrete deed held against the defendant cannot be set²². Moreover, the competent judge shall also acknowledge the irregularity of the notification act in case it is not possible to identify each of the parties charged for each of the facts presented in the indictment.

At the same time, the preliminary chamber judge must check whether the defendant was sent to trial for the same deeds for which the criminal proceedings were initiated. In this respect, if a criminal charge is lodged subsequently to the criminal prosecution regarding another deed, there is a clear infringement of the defendant's fundamental rights, as he was not granted the possibility to defend himself and submit evidence with regards to the imputed deed after the completion of the criminal prosecution.

Moreover, the competent legal body shall acknowledge the unlawfulness of the notification act if the criminal proceedings were initiated pursuant to the indictment, as well as in case the prosecutor fails to initiate the criminal proceedings for the all crimes for which the initiation of the trial was ordered.

In the situation, frequently encountered in the legal practice, where, pursuant to the indictment, the prosecutor orders both the initiation of the trial and the non-commencement of the court proceedings (we are considering the classification and criminal prosecution waiver solutions), the indictment lawfulness review only concerns the commencement of the court proceedings²³.

3.3. Lawful and faithful submission of evidence

In the light of the provisions in art. 342 of the Criminal Procedure Code, the preliminary chamber judge operating within the competent court, according to the law, proceeds to the review of the lawful and faithful submission of the evidence during the

²¹ High Court of Cassation and justice, criminal decision, resolution JCP no. 138/C of 20 May 2015, in C. Ghigheci, *op. cit.*, p. 6.

²² In this regard, the irregularity of the indictment can also be acknowledged if the prosecutor fails to mention the date of the alleged perpetration of the criminal act.

²³ In this regard, according to an opinion encountered in the legal practice it is believed that if, upon the notification of the court under the indictment, the prosecutor also notifies the chamber judge to acknowledge the waiver of the criminal prosecution, he is to submit distinct notifications for the initiation of the court proceedings, respectively in order to acknowledge the waiver of the criminal prosecution, each such notification being separately registered and randomly distributed amongst the preliminary chamber judges of the court – Anca-Lelia Lorincz, M. Popa, *Despreposibilitateacontinuuăriiurmăririi penale la cerereasuspectuluisau a inculpatului*, in Pro Patria Lex issue 2(29)/2016, p. 14

criminal prosecution stage, in order to check the incidence of the sanction of the exclusion of the unlawfully obtained evidence²⁴.

The elucidation of the aspects concerning the existence of the criminal deed, the identity and guilt of the perpetrators is achieved based on the evidence. As part of the criminal trial, the reality of these facts or circumstances is demonstrated based on the means of evidence.

Even though the notion of “evidence” is frequently used both as evidence, and as means of evidence, these are two different notions²⁵. Hence, evidence, the factual elements contributing to the disclosure of the truth during the criminal trial, are submitted with the criminal law bodies through the means of evidence; the means of evidence are the legal routes through which the existence or inexistence of the evidence may be acknowledged or, in other words, they are the source of the evidence²⁶.

Considering all these aspects, the sanction of the exclusion of the evidence unlawfully obtained stipulated under art. 102 of the Criminal Procedure Code actually concerns the means of evidence. In this respect, it is highlighted that in the preliminary chamber phase the realities or circumstances, as factual elements, cannot be excluded, but, instead, only the unlawful means through which they were acknowledged²⁷; at the same time, the exclusion of a means of evidence, which in the criminal prosecution stage, acknowledged a certain circumstance does not prevent the possibility to acknowledge the same through a different means of evidence, administered in compliance with the fundamental principle of lawfulness.

As part of this review, the judge must analyze whether the fundamental law to defense of the person held liable for the perpetration of a crime was observed in the criminal prosecution stage as part of the submission of evidence, or if any of the cases of absolute nullity expressly stipulated under the criminal or criminal trial law applies, or if another infringement of the legal provisions triggering the incidence of the relative nullity sanction can be identified.

As part of the review of the lawfulness of the submission of evidence by the criminal prosecution bodies, he is not entitled to review whether the evidence may lead to the passing of a conviction court order or lack of clarity of the evidence. Thus, the competent judge simply acknowledges whether the evidence is legal or not and whether it has been submitted in compliance with the law²⁸.

As properly shown in the specialized literature,²⁹ the judge “sees” the evidence or the act, reviews it from the outside, as materialized in the documents submitted with the case file and determines the identity or, as applicable, the difference between the steps taken by the criminal prosecution bodies to lodge the evidence or draft the document and the ones stipulated under the law.

²⁴ In the light of the provision in art. 102(3) of the Criminal Procedure Code, the exclusion sanction derives from the sanction of nullity.

²⁵ A. Crișu, *Dreptprocesual penal. Parteagenrală*, 2nd rev., Hamangiu Publishing House, Bucharest, 2017, p. 279.

²⁶ Anca-Lelia Lorincz, *Dreptprocesual penal*, vol. I, “Universul Juridic” Publishing House, Bucharest, 2015, p. 157

²⁷ C. Ghigheci, *Cererișiexcepții de camerăpreliminară. Legalitateashioloialitateadministrăriiprobelor*, Hamangiu Publishing House, Bucharest, 2017, p. 1.

²⁸ C. Ghigheci, *op. cit.*, pp. 1-2.

²⁹ I. Narița, *op. cit.*, p. 2.

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It should be noted that the competent has the important task to analyze both the lawfulness of the submission of evidence by the criminal prosecution bodies, and the lawfulness of the court resolutions pursuant to which the judge of rights and freedoms has consented to, authorized or confirmed various evidence submission procedures, respectively the means of evidence obtained pursuant to the approved evidence submission procedure³⁰.

3.4. Lawfulness of the trial and procedural acts

Last but not least, the preliminary chamber judge is also bound to check the lawfulness of the trial and procedural acts performed by the criminal prosecution bodies, in order to check the possible incidence of the nullity sanction.

In this respect, the task of the judge is to check whether the trial and procedural acts were carried out in compliance with the law and according to the order of precedence established by the Criminal Prosecution Code, as well as if the mandatory stages of the first trial phase were covered³¹.

At the same time, it must be established whether any of the grounds for absolute nullity stipulated under the criminal trial law applies in the case or if there is another infringement of the law with regards to the trial and procedural acts performed in the criminal prosecution stage, triggering the incidence of the relative nullity.

IV. Conclusions

Currently, the “destiny” of the preliminary chamber is deeply uncertain, considering that the Romanian legislator intends to proceed to the repealing of the provisions in art. 342-348 of the Criminal Procedure Code, the duties of the preliminary chamber judge being taken over by the law court as part of a prior review upon the first instance judgement. In this regard, we believe that the preliminary chamber institution should be maintained in the architecture of the criminal trial system in our country, because a criminal prosecution filter is required considering that in many of the criminal cases, the control exerted within the prosecutor’s offices by the higher ranking prosecutor has been found to be inefficient.

Moreover, as compared to the provisions in the 1968 Criminal Procedure Code, the current regulation reduces the duration of the criminal trials, the possibility to invoke certain reasons for unlawfulness of the criminal prosecution acts during the judgement phase (as allowed under the previous law) being removed. *De legeferenda*, in order to reduce the duration of the criminal trials, we believe that the legislator should also regulate the possibility of lodging a complaint in the preliminary chamber stage, considering that, following the declaration of the non-constitutionality of certain legal texts regulating the written and non-contradictory nature, the period of time during which the criminal trial is in the preliminary chamber phase has considerably increased.

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³⁰ M. Udrioiu, *op. cit.*, p. 155.

³¹ *Ibidem*, p. 159.

C. Ghigheci, *Cereri și excepții de cameră preliminară. Legalitatea și loialitatea administrării probelor*, “Hamangiu” Publishing House, Bucharest, 2017;

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