

COMPARATIVE ASPECTS OF THE PROVISIONS OF THE CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF MOLDOVA REGARDING EXTRAORDINARY REVIEW

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Abstract: This study examines the impact of the reform of the institution of extraordinary review in criminal proceedings—implemented through Law No. 246/2023—on judicial practice in the Republic of Moldova, with particular reference to the case law of the Supreme Court of Justice. The amendments to Articles 458–462 of the Criminal Procedure Code have redefined the function of extraordinary review as an essential mechanism for correcting judicial errors and ensuring alignment with the standards of the European Convention on Human Rights. The research underscores the clarification of jurisdictional criteria, the distinction between procedural and substantive examination, and the strengthening of the relationship between domestic procedures and the jurisprudence of the European Court of Human Rights. The findings reveal a doctrinal and jurisprudential shift toward ensuring effective protection of fundamental rights and enhancing the predictability of criminal proceedings.

Keywords: extraordinary review, judicial error, fundamental defect, court jurisdiction, legal certainty, fair trial, ECHR, ECtHR.

1. INTRODUCTION

The transformations undergone by the institution of extraordinary review in criminal proceedings in the Republic of Moldova following the amendments introduced by Law No. 246/2023 mark a decisive stage in the modernization of internal mechanisms designed to correct judicial errors. In a context in which the standards of the European Convention on Human Rights increasingly function as binding benchmarks for the configuration of a fair trial, the legislator sought to redefine the function of extraordinary review by providing it with a clearer structure, more rigorously delimited jurisdiction, and a more direct relationship with the jurisprudence of the European Court of Human Rights. These adjustments are not merely technical; they signal a paradigm shift that reorients extraordinary review toward a judicial model in which the effective protection of fundamental rights takes precedence over procedural formalism.

Recent developments demonstrate that extraordinary review is no longer perceived solely as a remedy for retracting irrevocable judgments, but rather as an instrument for restoring confidence in the administration of justice and realigning domestic decisions with European standards on fairness in criminal proceedings. By clarifying the grounds for review,

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strengthening the functional competence of the courts, and establishing distinct bases concerning the influence of the jurisprudence of the European Court of Human Rights, the reform provides a coherent framework for the critical assessment of irrevocable judgments in situations where they may conceal fundamental defects.

In this light, the present study examines the current architecture of extraordinary review, the manner in which courts interpret the new provisions, and their impact on legal certainty and on the uniformity of judicial practice. Through a comparative and integrative approach, the research identifies the directions in which the reform is producing tangible effects, as well as the limitations that persist in the practical application of the new provisions, thereby confirming the role of extraordinary review as an indispensable mechanism for maintaining the balance between the stability of final judgments and the imperatives of substantive justice.

2. Materials and methods

This research falls within the sphere of scientific-applied studies concerning the reform of the institution of extraordinary review in criminal proceedings. The analysis was carried out by combining the analytical method—used to examine the amendments to the Criminal Procedure Code—with the comparative method, employed to relate the new regulations to the standards established in European jurisprudence. Additionally, the deductive method facilitated the formulation of conclusions regarding the impact on court jurisdiction and the function of extraordinary review, while the methods of systematization and generalization contributed to the coherent structuring and interpretation of recent judicial practice. Together, these methodological tools ensured a concise and consistent evaluation of the transformations affecting the institution of extraordinary review.

3. Discussion and Results

Article 4 of Protocol No. 7 to the European Convention for the Protection of Human Rights does not prevent the reopening of proceedings in accordance with the criminal law and procedure of the respective State. On the contrary, it expressly allows the State to remedy miscarriages of justice in criminal proceedings where new or newly discovered facts, or a fundamental defect in the previous procedure, are capable of affecting the judgment rendered. Consequently, the *non bis in idem* rule does not apply when an extraordinary review of the proceedings is conducted.

„Extraordinary review constitutes the extraordinary remedy through which judicial decisions that fail to reflect the truth are removed from the authority of res judicata, being vitiated—substantively—either by an incomplete understanding of the factual situation, the use of falsified evidence, or the corruption of the officials who conducted the proceedings, or by the existence of two or more irreconcilable judicial decisions. Accordingly, the purpose of extraordinary review consists in eliminating judicial error (Poalelungi, 2013, Pg. 432).”

Thus, extraordinary review is brought against a judgment that has acquired the authority of res judicata, on the basis of facts or circumstances that were unknown to the court at the time the case was adjudicated, subsequently discovered, and which demonstrate that the judgment is founded on a judicial error. To these grounds is added the review of final judgments delivered in cases where the European Court of Human Rights has found a violation of fundamental

rights or freedoms, as well as the review of a judgment based on a legal provision that has been declared unconstitutional (Ghenici, 2022, Pg. 305)."

Final, irrevocable judicial decisions may be subjected to extraordinary review with respect to both the criminal and civil components of the case. When a judgment concerns several offences or several defendants, the review may target either the judgment in its entirety or only a specific part thereof.

Extraordinary review cannot serve as a disguised recours.¹

It must be emphasized that extraordinary review entails a new and autonomous adjudication. Factual errors must arise from circumstances that were unknown to the court that originally resolved the case. Such circumstances must be capable of leading either to a different outcome or to a substantial modification of the challenged solution. Extraordinary review may be requested both in favour of, and to the detriment of, a party. Judgments of conviction, acquittal, or termination of the proceedings may be subjected to review either in their entirety or only with respect to certain acts or particular persons.

„Given that, in extraordinary review, a full reassessment of the evidentiary record does not take place, withdrawal of the accusation is likewise inadmissible (Excerpt from the Decision of the Supreme Court of Justice).”

4. General Aspects Concerning the Extraordinary Review of Criminal Proceedings

On 31 July 2023, the Parliament of the Republic of Moldova adopted Law No. 246 of 31.07.2023 (hereinafter Law No. 246/2023), by which, *inter alia*, the entire institution of extraordinary review in criminal proceedings was amended. Articles 458–462 of the Criminal Procedure Code (here and throughout referring to the Criminal Procedure Code of the Republic of Moldova in force at the date of submission of this article for publication) were revised, while Articles 463–465⁴ of the Code were repealed.

Judgments subject to extraordinary review – irrevocable judicial decisions, both with respect to the criminal and civil components of the case.

5. Holders of the right to request extraordinary review

An application for extraordinary review may be filed by:

- a) any party to the proceedings, within the limits of its procedural standing;
- b) the convicted person's close relatives, spouse or husband, even after his or her death;
- c) the Government Agent, in the cases provided for in Article 458(3)(5) and (6) of the Criminal Procedure Code, namely where:
- the European Court of Human Rights has informed the Government of the Republic of Moldova of an application revealing the existence of a fundamental defect in the

¹ "The grounds for extraordinary review are exhaustively listed in Article 458(3) of the Criminal Procedure Code. In such proceedings, the court examines solely whether the conditions for reopening the case are met. The review court does not have jurisdiction to assess the merits of the appeal or the substantiation of the charges (*mutatis mutandis*, Orders No. 1rh-24/2024, § 71; 1rh-17/24, § 36)." Order of the Supreme Court of Justice of 03 July 2025, Case No. 1rh-41/24, § 37, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26137.

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previous proceedings, raising serious doubts regarding the correctness of the solution delivered in the challenged judgment;

- the European Court of Human Rights has found, through a judgment, or the Government of the Republic of Moldova has acknowledged, by a declaration, a violation of fundamental rights or freedoms which may be remedied, in whole or in part, by the quashing of the challenged judgment.

6. Grounds for Extraordinary Review

Extraordinary review may be requested in the following situations:

- 1) when, by an irrevocable criminal judgment, the commission of an offence during the criminal investigation or in connection with the adjudication of the case has been established (Decision of the Supreme Court of Justice of 21 November 2024, Case No. 1r-16/24);²
- 2) when new or newly discovered circumstances have been established, of which the court was unaware at the time the judgment was issued, and which, independently or together with previously established circumstances, would demonstrate that the convicted person is innocent, or that he or she committed an offence less serious or more serious than the one for which the conviction was pronounced, or would demonstrate that the acquitted person or the person in respect of whom the criminal proceedings were terminated is in fact guilty (Order of the Supreme Court of Justice of the Republic of Moldova of 03.07.2025, Case No. 1rh-6/25).³ Extraordinary review based on Article 458(3)(2) of the Criminal Procedure Code cannot reopen the discussion on the correctness of conclusions regarding arguments already invoked. “Its purpose is to remedy omissions arising from factual circumstances that the court did not know, and which, had they been known, would have led to a different solution in the criminal case (Order of the Supreme Court of Justice of the Republic of Moldova of 16 October 2025, Case No. 1rh-31/2024).”⁴

² The Supreme Court of Justice issued a Decision dismissing the recourse as unfounded, on the ground that the applicant's arguments did not fall within the scope of the invoked ground for extraordinary review—namely, the one provided in Article 458(3)(1) of the Criminal Procedure Code.

³ “*For an application for extraordinary review submitted under Article 458(3)(2) of the Criminal Procedure Code to be admitted, the following conditions must be met cumulatively: a) the evidence invoked confirms circumstances that were not examined through the ordinary remedies of appeal; b) the new circumstances are capable of altering the solution of the irrevocable judicial judgment concerning the merits of the criminal case; c) the failure to examine the new circumstances through the ordinary remedies is not attributable to the action or inaction of the party who submitted the request for extraordinary review.*” Order of the Supreme Court of Justice of the Republic of Moldova of 03.07.2025, Case No. 1rh-6/25, § 21, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26139; see also the Order of the Supreme Court of Justice of the Republic of Moldova of 16.10.2025, Case No. 1rh-31/2024, § 22, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26458. Nevertheless, the Supreme Court of Justice of the Republic of Moldova emphasizes that “*for the purpose of establishing the truth, the defence may, with highly persuasive justification, invoke in support of the application for extraordinary review circumstances that it previously concealed and which confirm that the convicted person is innocent.*” We express the hope that the Supreme Court of Justice will further develop this reasoning in its future jurisprudence. Order of the Supreme Court of Justice of the Republic of Moldova of 06.11.2025, Case No. 1r-31/2025, § 12, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26511.

⁴ Order of the Supreme Court of Justice of the Republic of Moldova of 16 October 2025, Case No. 1rh-31/2024, § 23, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26458.

- 3) two or more irrevocable judicial decisions are irreconcilable. “This situation refers *stricto sensu* to irrevocable judicial decisions delivered in criminal cases and does not encompass the judgment rendered in the civil component of the case (Decision of the Constitutional Court of the Republic of Moldova No. 28 of 12 March 2020).”⁵
- 4) the Constitutional Court has declared unconstitutional the legal provision applied in the respective case.⁶ Although the law does not expressly provide this, the nature of this remedy clearly indicates that extraordinary review may be sought for the purpose of redressing the situation of the affected person.⁷ Only the decisions of the Constitutional Court delivered after the irrevocable judgment in the criminal case may constitute grounds for extraordinary review (Order of the Supreme Court of Justice of the Republic of Moldova of 21 August 2025, Case No. 1rh-4/24).
- 5) the European Court of Human Rights has informed the Government of the Republic of Moldova of an application from which the existence of a fundamental defect in the previous proceedings can be inferred, raising serious doubts as to the correctness of the solution rendered in the challenged judgment;
- 6) the European Court of Human Rights has established, through a judgment, or the Government of the Republic of Moldova has acknowledged, through a declaration, a violation of fundamental rights or freedoms, which may be remedied, in whole or in part, through the quashing of the challenged judgment.

The Supreme Court of Justice issues an Order declaring the recourse inadmissible where it finds that the grounds invoked do not fall within any of the grounds for extraordinary

⁵ Decision of the Constitutional Court of the Republic of Moldova No. 28 of 12 March 2020, declaring inadmissible Application No. 7a/2020 concerning the constitutionality review of Article 458(3)(3) and Article 462(5)–(6) of the Criminal Procedure Code (para. 31): “*In this regard, the Court notes that, by definition and in essence, the object of examination in criminal proceedings differs from that in civil proceedings. In criminal proceedings, evidentiary criteria and standards are applied which, in several significant respects, differ from those applicable in civil adjudication.*” Decision of the Constitutional Court of the Republic of Moldova No. 28 of 12 March 2020, para. 32.

“*The Court notes that, within the meaning of Article 458(3)(2) of the Criminal Procedure Code, it is not the irrevocable judicial decision delivered in the civil case that may in itself constitute a ground for extraordinary review, but rather the facts and evidence established in the civil proceedings may be invoked for seeking extraordinary review of the criminal proceedings, by applying the evidentiary assessment criteria set out in Article 101(1) of the Criminal Procedure Code.*” Decision of the Constitutional Court of the Republic of Moldova No. 28 of 12 March 2020, para. 37.

⁶ “*In cases where a rule of substantive criminal law is declared unconstitutional, it is natural that the principle of the retroactive effect of the more favourable criminal law—guaranteed by Article 22 of the Constitution—should apply to such situations.*” Judgment of the Constitutional Court of the Republic of Moldova No. 21 of 01.10.2018 on the constitutionality review of Article 458(3)(4) of the Criminal Procedure Code (the retroactive effect of Constitutional Court judgments in matters of procedural criminal law), para. 68. In para. 66 of the same Judgment No. 21 of 01.10.2018, the Constitutional Court also held that Article 458(3)(4) of the Criminal Procedure Code is compatible with Article 7 of the Constitution insofar as extraordinary review may be requested—on the basis of a judgment declaring unconstitutional a legal provision applied in the case—only if the judgment of the Constitutional Court expressly contains such a specification.

⁷ “*Following the reopening of the proceedings, the applicant for extraordinary review must obtain a legitimate expectation of a meaningful benefit, such as, in the case of convicted persons, a reduction of the sentence or an acquittal. The principle of legal certainty does not permit the reopening of judicial proceedings where redress is impossible due to the expiry of the limitation period for criminal liability, the execution of the sentence, or for other reasons. This conclusion also follows from the Constitutional Court’s Judgment No. 21/2018, § 60.*” Order of the

review provided in Article 458(3) of the Criminal Procedure Code (Order of the Supreme Court of Justice of the Republic of Moldova of 03 July 2025, Case No. 1rh-41/24).

7. Time Limits

The legislator has established several time limits for submitting an application for extraordinary review, depending on the specific ground invoked and on the holder of this right.

Article 459(1) of the Criminal Procedure Code provides that extraordinary review based on the grounds set forth in Article 458(3)(1)–(4) of a judgment of acquittal, of a judgment terminating the criminal proceedings, as well as of a judgment of conviction on the grounds that the sentence is too lenient or that the person should be convicted for a more serious offence, may be requested within one year from the date on which the grounds or circumstances justifying the application for extraordinary review became known.

In favour of the convicted person, extraordinary review may be requested at any time, even after his or her death, when one of the grounds provided in Article 458(3)(1)–(4) of the Criminal Procedure Code is invoked by the applicants (Order of the Supreme Court of Justice of the Republic of Moldova of 03 July 2025).

“Extraordinary review of a conviction judgment may be requested in favour of the convicted person at any time, even after the execution of the sentence or after the convicted person’s death (Dolea, 2005 Pg. 622–623.).” “The unlimited right to submit an application for extraordinary review, where this operates in favour of the convicted person, finds its explanation and justification in the fundamental principles of criminal law and criminal procedure, according to which the conviction of an innocent person must never occur; and if, nevertheless, such a conviction has taken place, it is imprescriptible and must be set aside at any time, even after the death of the person who was its victim (Dolea, 2005).”

“An application for extraordinary review is considered to be in favour of the convicted person even when it concerns only one of the acts for which the conviction was pronounced.”⁸

From a further perspective, the Constitutional Court notes that “*in the case of extraordinary review of an irrevocable judicial judgment based on the contested norm, the provisions of Article 459 of the Criminal Procedure Code concerning the time limits for extraordinary review of criminal proceedings do not establish a deadline for submitting the application for extraordinary review. At the same time, criminal procedural legislation does not contain provisions concerning the period for which the Court’s judgment has retroactive effect.*”⁹

With respect to applications submitted under Article 458(3)(5) of the Criminal Procedure Code, the legislator has not established a specific time limit—extraordinary review may be requested at any time from the moment the Government is informed until the delivery of the final judgment by the European Court of Human Rights.

⁹ “*In the absence of such a provision, the retroactive effect of the judgment declaring a legal provision unconstitutional may extend to every case in which an irrevocable judicial decision was delivered during the period between the date of adoption of the law and the date of the Court’s judgment.*” Judgment of the Constitutional Court of the Republic of Moldova No. 21 of 01.10.2018 on the constitutionality review of Article 458(3)(4) of the Criminal Procedure Code (the retroactive effect of Constitutional Court judgments in matters of procedural criminal law), § 61.

For submitting an application for extraordinary review under Article 458(3)(6) of the Criminal Procedure Code, the time limit is six months from the date on which the judgment of the European Court of Human Rights becomes final.

8. Jurisdiction

Under Article 460(4) of the Criminal Procedure Code, applications for extraordinary review submitted under Article 458(3)(1)–(4) fall within the jurisdiction of the court that most recently *pronounced* on the merits of the case, whereas applications submitted under Article 458(3)(5) and (6) fall within the jurisdiction of the Supreme Court of Justice.

Depending on the circumstances, courts at all levels may be the last to have pronounced on the merits of the case.

The merits of the case concern the factual and legal issues that must be resolved in order to establish criminal liability.¹⁰

The Supreme Court emphasizes that Article 460(4) of the Criminal Procedure Code refers to the *pronouncement* on the merits, not to the *examination* of the merits. Situations in which the court has not:

- analysed the evidentiary record;
- assessed the defendant's guilt;
- expressed a position on the soundness of the appeal or the recourse do **not**, in themselves, constitute a pronouncement on the merits of the case.¹¹

As a rule, first-instance courts are competent to examine applications for extraordinary review when they previously issued a criminal judgment that was not appealed and thus became final and irrevocable.

The Supreme Court of Justice has clarified which judicial authority is competent to examine applications for extraordinary review in criminal matters in cases where an appeal was lodged, drawing a distinction between situations in which the appellate court *pronounced* on the merits and those in which the second-instance court did *not* pronounce on the merits.

¹⁰ Order of the Supreme Court of Justice of the Republic of Moldova of 25 July 2024, Case No. 1cs-344/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25015.

¹¹ Press release of the Supreme Court of Justice of the Republic of Moldova, Retrieved from: <https://csj.md/index.php/despre-curtea-suprema-de-justitie/mass-media-si-relatiile-cu-publicul/2514-elaborarea-fisierului-tematic-nou-competenta-instantelor-la-examinarea-cererilor-de-revizuire-mentionate-la-art-458-alin-3-pct-1-4-din-codul-de-procedura-penala>.

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If the appeal was admitted and a new judgment was delivered,¹² or if the appeal was dismissed as unfounded,¹³ the application for extraordinary review falls within the jurisdiction of the appellate court, since the appellate court “pronounced on the merits of the case” within the meaning of Article 460(4) of the Criminal Procedure Code.

If the case:

- 1) was remitted for retrial (and the subsequent judgment was not challenged by appeal),¹⁴
- 2) or the appeal was dismissed as inadmissible,¹⁵
- 3) or as out of time,¹⁶ the court competent to examine the application for extraordinary review is the first-instance court.

The Supreme Court of Justice has provided a principled solution in order to clarify the meaning of the phrase “has pronounced on the merits of the case” in the provisions of Article 460(4) of the Criminal Procedure Code, in the context of the existence of the recourse procedure.

“Accordingly, if a recourse has previously been examined, the phrase ‘has pronounced on the merits of the case’ includes:

- a) the admission of the recourse and the delivery of a new judgment concerning the determination of guilt;
- b) the dismissal of the recourse as unfounded, where the recourse examination involved the verification of the soundness of the appellate court’s decision regarding the determination of guilt;¹⁷

¹² “Given that, in the present criminal case, at the stage of adjudication in appeal, the first-instance judgment was partially quashed with respect to the civil component, and, in that part, the appellate court delivered a new judgment resolving the civil claim, while maintaining the remaining provisions of the first-instance judgment, and given that the court of recourse, through the decision of 20 October 2021 of the Criminal Collegium of the Supreme Court of Justice, declared the ordinary recourses lodged against the decision of 22 June 2021 of the Chișinău Court of Appeal inadmissible on the ground that they were submitted out of time, it follows, in light of Article 460(4) of the Criminal Procedure Code, that in this case the Chișinău Court of Appeal, acting in its capacity as appellate court, is indeed the last judicial authority that pronounced on the merits of the case. In this regard, the panel observes that, by declaring the ordinary recourses inadmissible for being lodged out of time, the court of recourse did not proceed to examine the recourse on the merits; accordingly, it is certain that it did not pronounce on the merits of the case.” Order of the Supreme Court of Justice of the Republic of Moldova of 16.04.2024, Case No. 1rh-6/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24723.

¹³ Order of the Supreme Court of Justice of the Republic of Moldova of 16 July 2024, Case No. 1cs-297/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24977.

¹⁴ Order of the Supreme Court of Justice of the Republic of Moldova of 16 July 2024, Case No. 1cs-297/2024, § 14, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24977.

¹⁵ The Supreme Court of Justice of the Republic of Moldova emphasized that the dismissal of an appeal as inadmissible (Article 415(1)(b) of the Criminal Procedure Code) does not constitute a pronouncement on the merits of the case, since, for procedural reasons, the appellate court cannot rule on the soundness and legality of the challenged judgment.

Order of the Supreme Court of Justice of the Republic of Moldova of 16 July 2024, Case No. 1cs-297/2024, § 15, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24977.

¹⁶ Order of the Supreme Court of Justice of the Republic of Moldova of 16 July 2024, Case No. 1cs-262/2024, § 15, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24983.

¹⁷ Order of the Supreme Court of Justice of the Republic of Moldova of 07 October 2024, Case No. 1cs-509/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25378.

c) the declaration of the recourse as inadmissible on the ground of being manifestly ill-founded, where the decision of inadmissibility contains an assessment of the soundness of the appellate court's decision regarding the determination of guilt.”¹⁸

The Supreme Court of Justice, in Case No. 1cs-344/2024¹⁹, retained jurisdiction to adjudicate the application for extraordinary review, since, in the course of examining both the ordinary recourse and the recourse in annulment, it assessed the sufficiency of the evidentiary record for establishing guilt and verified the fulfilment of the constitutive elements of the imputed offence.²⁰

This judicial interpretation serves not only to determine the court competent to adjudicate the application for extraordinary review, but also to prevent situations in which the decision of the court of recourse—where the issue of guilt has been examined—is not quashed, while the judgments of the lower courts could nevertheless be quashed upon the admission of the extraordinary review.

To clarify more precisely the expression “*the last court that pronounced on the merits of the case,*” the Supreme Court of Justice also identified the situations in which the court of recourse **has not** pronounced on the merits:

“a) the recourse raising the issue of guilt was dismissed as inadmissible without examining its soundness (Article 432(2)(1) and (2) of the Criminal Procedure Code) (Order of the Supreme Court of Justice of the Republic of Moldova of 21 October 2024, Case No. 1cs-565/2024);

b) the recourse is admitted and the case is remitted for retrial;

c) the recourse is admitted and a new judgment is delivered solely on grounds of law, such as those provided in Article 427(1)(1) and (2) of the Criminal Procedure Code;

d) the recourse is admitted, but the recourse does not challenge the determination of guilt—for example, when only the individualization of the sentence is contested (Order of the Supreme Court of Justice of the Republic of Moldova of 15 January 2025, Case No. 1rh-10/24).”

A short time later, the Supreme Court of Justice observed that these situations are not exhaustive. “Thus, in circumstances where the Supreme Court of Justice dismisses the recourse without conducting a detailed analysis of the evidence and confines itself solely to verifying the legality of the manner in which the evidence was administered by the first-instance and appellate courts, the court of recourse has not pronounced on the merits of the case (Order of the Supreme Court of Justice of the Republic of Moldova of 15 January 2025, Case No. 1rh-10/24).”

¹⁸ Given that the Supreme Court of Justice examined the sufficiency of the evidentiary record and assessed whether the constitutive elements of the imputed offence were met, it was established that the Supreme Court of Justice is the competent authority to adjudicate the application for extraordinary review. Order of the Supreme Court of Justice of 25 July 2024, Case No. 1cs-344/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25015.

¹⁹ Order of the Supreme Court of Justice of the Republic of Moldova of 25 July 2024 (resolution of the negative conflict of jurisdiction in the examination of the application for extraordinary review), Case No. 1cs-334/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25015 (accessed: 30.07.2024).

²⁰ *Unlike the case referred to above, in the present matter the Supreme Court of Justice, by dismissing the recourses as inadmissible, confined itself to verifying compliance with the conditions laid down in Article 427(1)(6) of the Criminal Procedure Code (as in force until 1 September 2023) (see para. 5 above). See also: Order of the Supreme Court of Justice of the Republic of Moldova of 21 October 2024, Case No. 1rh-45/2024, § 19, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25811.*

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The Supreme Court of Justice held that the examination of an application for extraordinary review falls within the jurisdiction of the first-instance court, noting that the dismissal of the defendant's recourse as out of time, accompanied by the appellate court's upholding of the conviction judgment, does not in itself constitute a pronouncement on the merits of the case, since neither the evidentiary record, nor the defendant's guilt, nor the soundness of the recourse were examined (Order of the Supreme Court of Justice of the Republic of Moldova of 02 October 2024, Case No. 1cs-398/2024).

"It does not constitute a pronouncement on the merits of the case where the court of recourse orders the partial quashing of the lower courts' judgments with respect to the sentence, individualizes the punishment by reducing it, and does not engage in an examination of the factual circumstances through reclassification of the offence, supplementation, or readministration of the evidence (Thematic File of the Supreme Court of Justice of the Republic of Moldova, *Jurisdiction of Courts in Examining Applications for Extraordinary Review under Article 458(3)*)."²¹

The provisions of Article 460(4) of the Criminal Procedure Code, which determine the court competent to examine an application for extraordinary review, must be interpreted extensively, that is, by taking into account situations in which the higher court merely confirms the legal effects of factual circumstances fully established by the first-instance court and upholds, without modification, the judgments challenged through the ordinary remedies.²²

9. Procedure

The application for extraordinary review must be submitted in written form and must indicate the ground on which it is based, after which it must be lodged with the court competent under Article 460(4) of the Criminal Procedure Code.

It is for the party submitting the application for extraordinary review to prove that all the conditions for admitting the review are met (Order of the Supreme Court of Justice of the Republic of Moldova of 03 July 2025, Case No. 1rh-6/25).²³

The provisions of Articles 431–434 of the Criminal Procedure Code apply *mutatis mutandis* to the examination of the application for extraordinary review, that is, by analogy.

Where a public hearing is held, the debates are limited solely to verifying whether the conditions for admitting the application for extraordinary review are fulfilled.

"Preliminarily, an application for extraordinary review may be declared inadmissible only when, applying by analogy the provisions of Article 432(2)(1)–(4), the court concludes that: 1) the application for extraordinary review was not submitted by one of the persons

²¹ Thematic File of the Supreme Court of Justice of the Republic of Moldova, *Jurisdiction of Courts in Examining Applications for Extraordinary Review under Article 458(3)(1)–(4) of the Criminal Procedure Code*, p. 8.

See also the Order of the Supreme Court of Justice of the Republic of Moldova of 15 January 2025, Case No. 1rh-10/24, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25600.

²² Thematic File of the Supreme Court of Justice of the Republic of Moldova, *Jurisdiction of Courts in Examining Applications for Extraordinary Review under Article 458(3)(1)–(4) of the Criminal Procedure Code*, p. 8.

Order of the Supreme Court of Justice of the Republic of Moldova of 03 July 2025, Case No. 1rh-6/25, § 21, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26139.

²³ Order of the Supreme Court of Justice of the Republic of Moldova of 03 July 2025, Case No. 1rh-6/25, § 21, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26139.

mentioned in Article 460(1); 2) it is out of time; 3) it does not fall within the grounds set out in Article 458(3); or 4) it is manifestly ill-founded (Morcov, 2024, Pg. 14).”

An application for extraordinary review may also be rejected if the challenged judgment does not belong to the categories of decisions for which this extraordinary remedy is available, or if the application is not lodged with the competent court.

“From the moment the application for extraordinary review is received, the president of the court must distribute it, pursuant to Article 344 of the Code (i.e., randomly), for examination [see Article 462(1) of the Code] (Decision of the Constitutional Court of the Republic of Moldova No. 106 of 07.10.2019).”²⁴

The Constitutional Court noted that, within the extraordinary review procedure, two distinct stages must be differentiated:

- 1) the admissibility of the application for extraordinary review;
- 2) the examination of the merits of the case.

“At the stage of determining the admissibility of the application for extraordinary review ... the court verifies only whether any of the grounds provided by law exist [see Article 458(3) of the Criminal Procedure Code] and whether the time limits set out in Article 459 of the Criminal Procedure Code have been respected (DCC No. 128 of 15 November 2018, § 26). When examining an application for extraordinary review, the task of the court is not to determine the criminal charge, but to verify whether any statutory ground exists for lodging such an application [see, mutatis mutandis, Kokkonis and Chalilopoulou v. Greece (dec.), 31 October 2017, § 13] (DCC No. 88 of 20 July 2020, § 30).”²⁵

The judge receiving the case materials sets a date for examining the application for extraordinary review with a view to its admission, summoning the interested parties. Where the person in whose favour or to whose detriment the review is requested is in custody, even in a different case, the presiding judge orders his or her appearance before the court and requests the coordinator of the territorial office of the National Council for State-Guaranteed Legal Aid to appoint a lawyer to provide state-guaranteed legal assistance, if the person has no defence counsel.

The absence of the parties does not prevent the examination of the application for extraordinary review.

At the scheduled hearing, the court—after hearing the parties present—examines whether the application for extraordinary review has been submitted in accordance with the

²⁴ Decision of the Constitutional Court of the Republic of Moldova No. 106 of 07.10.2019, declaring inadmissible Application No. 134g/2019 concerning the exception of unconstitutionality of the first sentence of Article 33(3), the second sentence of Article 460(1), and Article 463(1) of the Criminal Procedure Code (judicial incompatibility in the successive adjudication of the same criminal case), § 23.

²⁵ Decision of the Constitutional Court of the Republic of Moldova No. 90 of 15.06.2021, declaring inadmissible Application No. 84g/2021 concerning the exception of unconstitutionality of Articles 70(7)(3) and 458(3) of the Criminal Procedure Code (admission of defence counsel to the proceedings and the grounds for extraordinary review of irrevocable judicial decisions), § 19.

“In its jurisprudence, the European Court has established that Article 6 of the Convention is not applicable to proceedings concerning the reopening of a case, since the person requesting such reopening—once the conviction has become final—is no longer ‘charged with a criminal offence’ within the meaning of that provision (*Fischer v. Austria*, dec., 6 May 2003). Only the new proceedings, after the reopening has been authorised, may be regarded as decisive for determining the merits of a criminal charge (*Löffler v. Austria*, 3 October 2000, §§ 18–19).” Decision of the Constitutional Court of the Republic of Moldova No. 90 of 15.06.2021, § 25.

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legal requirements and whether the evidence administered during the preliminary examination provides sufficient grounds for the admission of the review. The court may verify any of the items of evidence on which the application is based or, when necessary, may administer new evidence at the request of the parties.

Based on its findings, the court orders, by means of an interlocutory decision, the admission of the application for extraordinary review, or, by means of a judgment, its dismissal. The judgment may be challenged by appeal and recourse.

Where the application for extraordinary review is admitted on the ground that several irrevocable judgments are irreconcilable, the cases in which those judgments were delivered shall be joined for retrial.

Regarding the joinder of cases in the retrial process, the Constitutional Court “*notes that, pursuant to Article 462(6) of the Criminal Procedure Code, where an application for extraordinary review is admitted on the ground that several judgments are irreconcilable, the cases in which those judgments were delivered shall be joined for retrial* (Decision of the Constitutional Court of the Republic of Moldova No. 28 of 12.03.2020).”

The legislator did not expressly provide that, following the admission of the extraordinary review, the retrial of the case must be conducted by a judicial panel different from the one that examined the admissibility of the review application.²⁶

Once the application for extraordinary review has been admitted, and throughout the entire retrial proceedings, the court may maintain the suspension of execution or may order, with reasons, the full or partial suspension of the execution of the judgment subjected to extraordinary review.

In accordance with Article 462 of the Criminal Procedure Code, after examining the application for extraordinary review found admissible, the court issues an interlocutory decision under the provisions of Article 462 concerning:

a) the dismissal of the application for extraordinary review;
b) the admission of the application for extraordinary review, the quashing of the judgment subjected to review, and the reopening of the proceedings before the competent court. Upon admitting the application for extraordinary review and reopening the criminal proceedings, the court may order, with reasons, the full or partial suspension of the execution of the sentence, as well as apply preventive measures.

When the Supreme Court of Justice is not properly seised with an application for extraordinary review, the appropriate solution is to remit the application, together with the corresponding criminal case, to the Chișinău Court of Appeal for examination according to jurisdiction.²⁷

According to more recent jurisprudence, when the Supreme Court of Justice finds that it is not the competent court to adjudicate the application for extraordinary review, it

²⁶ Decision of the Constitutional Court of the Republic of Moldova No. 106 of 07.10.2019, § 25.

²⁷ “Having examined the application for extraordinary review in relation to the materials of the criminal case and with reference to the procedural provisions applicable to the present matter, the judicial panel of the Supreme Court of Justice concludes that it must be remitted to the Chișinău Court of Appeal for examination according to jurisdiction, since that court is the last judicial authority that pronounced on the merits of the case.” Order of the Supreme Court of Justice of the Republic of Moldova of 16.04.2024, Case No. 1rh-6/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24723.

additionally orders the removal from the docket of the file created on the basis of the review application, concurrently with its remittal for retrial (Order of the Supreme Court of Justice of the Republic of Moldova of 15 January 2025, Case No. 1rh-10/24).

10. Procedure for Retrial Following the Admission of Extraordinary Review

Retrial of the case after the admission of extraordinary review is conducted in accordance with the procedural rules governing trial at first instance. Where necessary, and at the request of the parties, the court re-examines the evidence administered during the earlier stages of the proceedings or during the examination of the application for extraordinary review.

11. Judicial Decisions After Retrial

If the court finds that the application for extraordinary review is well-founded, it annuls the judgment to the extent for which the review has been admitted or annuls the irreconcilable judgments and delivers a new judgment in accordance with Articles 382–399 and 410 of the Criminal Procedure Code, which apply *mutatis mutandis*. If the court considers the application for extraordinary review to be unfounded, it dismisses it.

At the same time, the court orders, where appropriate, the reimbursement of fines paid and the return of confiscated goods, as well as the reimbursement of judicial expenses which the person in whose favour the review was admitted was not required to bear. The court also orders that the period of imprisonment already served be counted as uninterrupted work seniority.

12. Remedies Against Judgments Delivered in Extraordinary Review Proceedings

The interlocutory decision admitting the application for extraordinary review is subject to appeal together with the decision on the merits, in accordance with the law.²⁸ The interlocutory decision dismissing the application for extraordinary review may be challenged by recourse before the hierarchically superior court,²⁹ with the exception of interlocutory decisions issued by the Supreme Court of Justice.

13. Extraordinary Review of the Case Following a Petition to the European Court of Human Rights (in the situations provided for in Article 458 (3) (5) and (6) of the Criminal Procedure Code)

²⁸ “From Article 462(4) of the Criminal Procedure Code it follows that the interlocutory decision admitting the application for extraordinary review may be challenged by appeal or recourse only if the judgment issued after the admission of the review is subject to challenge through the ordinary remedies. By its interlocutory decision of 06 February 2024, the Bălți Court of Appeal admitted the application for extraordinary review and reopened the examination of the recourse. By its decision of 03 April 2024, the Bălți Court of Appeal adopted a judgment pursuant to Article 449 of the Criminal Procedure Code. Judgments delivered under Article 449 of the Criminal Procedure Code are irrevocable, meaning that they cannot be challenged by recourse. Consequently, the interlocutory decision admitting the application for extraordinary review likewise cannot be challenged by recourse.” Order of the Supreme Court of Justice of the Republic of Moldova of 21.08.2025, Case No. 1rh-15/24, § 12, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26296.

²⁹ Decision of the Supreme Court of Justice of the Republic of Moldova of 21 November 2024, Case No. 1r-16/24, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25429. See also the Order of the Supreme Court of Justice of 30 January 2025, Case No. 1r-14/24, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25626.

A petition lodged with the European Court of Human Rights by the parties to a criminal proceeding may, in certain situations, open the path to extraordinary review of the case. This may occur through two distinct legal grounds: extraordinary review based on the communication of the application to the Government of the Republic of Moldova; extraordinary review based on the Judgment of the European Court of Human Rights.

13. 1. Extraordinary Review Based on the Communication of the Application to the Government of the Republic of Moldova.

Pursuant to Article 458(3)(5) of the Criminal Procedure Code, extraordinary review may be requested where the European Court of Human Rights has informed the Government of the Republic of Moldova of an application from which the existence of a fundamental defect in the previous proceedings can be inferred, such defect raising serious doubts as to the correctness of the solution adopted in the challenged judgment.

The ground for extraordinary review set out in Article 458(3)(5) CPC is taken from the former Article 453 CPC³⁰, which previously constituted one of the two grounds for a recourse in annulment (“*...where the European Court of Human Rights has informed the Government of the Republic of Moldova of an application from which the existence of a fundamental defect in the previous proceedings that affected the challenged judgment may be inferred*”).

In examining the admissibility of a recourse in annulment, the Supreme Court of Justice held that a fundamental defect exists only where the following elements are met cumulatively:

- a) a violation of procedural norms has been established;*
- b) this violation is serious;*
- c) the violation affected the solution of the judgment delivered.*³¹

The mere act through which the European Court of Human Rights informs the Government of the Republic of Moldova of an application was not regarded by the Supreme Court of Justice as constituting, in itself, a fundamental defect (Article 453(1), Article 6(44) CPC).³²

In other words, the communication of the application by the European Court of Human Rights to the respondent Government, as a ground for a recourse in annulment, could not independently and automatically constitute a sufficient basis for the admissibility or admission of the recourse. Invoking the communication as a separate ground for quashing the criminal judgments of lower courts would be unreasoned and sterile, since it had to be accompanied by the identification and finding of fundamental defects that had affected the judgment delivered in the previous proceedings.

“Given the essence of Article 6 of the European Convention on Human Rights, as well as that of Articles 20 and 119 of the Constitution, such recourses in annulment must be

³⁰ Repealed pursuant to Law No. 246/2023.

³¹ Decision of the Supreme Court of Justice of the Republic of Moldova of 25 September 2024, Case No. 1re-110/2023, § 34, Retrieved from:

https://jurisprudenta.csj.md/search_col_penal.php?id=25175.

In this case, the Supreme Court of Justice of the Republic of Moldova also referred to several examples derived from the case law of the European Court of Human Rights regarding the establishment—or absence—of a fundamental defect, as set out in § 33.

³² See the Decision of the Supreme Court of Justice of the Republic of Moldova of 05 November 2020, Case No. 4-1re-172/2020, Retrieved from: http://jurisprudenta.csj.md/search_plen_penal.php?id=2142.

examined separately for the purpose of establishing the existence or absence of any fundamental defect in the previous proceedings. Otherwise, a recourse in annulment based solely on the information communicated by the European Court of Human Rights to the Government of the Republic of Moldova becomes theoretical and illusory.”³³

Following the amendment of the extraordinary review procedure in the Criminal Procedure Code³⁴, the Supreme Court of Justice reiterates that *not every communication from the European Court of Human Rights automatically leads to the admission of an application for extraordinary review.*³⁵

The text of Article 458(3)(5) CPC clearly establishes three cumulative conditions that must be met in order for an application for extraordinary review to be admitted on the basis of the communication of the application to the Government:

- 1) the European Court of Human Rights has informed the Government of the Republic of Moldova of the lodging of an application;
- 2) from the application and the communication of the European Court of Human Rights, the existence of a fundamental defect in the previous proceedings can be inferred;
- 3) the fundamental defect in the previous proceedings raises serious doubts as to the correctness of the solution adopted in the challenged judgment.³⁶

According to Article 6(44) CPC, a “*fundamental defect in the previous proceedings which affected the judgment delivered*” constitutes “*a serious violation of the rights and freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, by other international treaties, by the Constitution of the Republic of Moldova, and by other national laws.*”

“*The concept of ‘fundamental defect’ appears to suggest that only a serious violation of a procedural norm which severely undermines the integrity of the previous proceedings may serve as a basis for reopening them to the detriment of the accused, where he or she has been acquitted or sanctioned.*”³⁷

Where reopening is requested in favour of the convicted person, the requirements for reopening the proceedings may be less stringent, provided that the rights of other persons are not affected.

³³ Judgment of the Constitutional Court of the Republic of Moldova No. 26 of 10 November 2020 on the constitutionality review of certain provisions of Article 453(1) of the Criminal Procedure Code, adopted by Law No. 122 of 14 March 2003 (grounds for the recourse in annulment), § 58.

³⁴ Pursuant to Law No. 246/2023, which entered into force on 1 September 2023.

³⁵ Order of the Supreme Court of Justice of the Republic of Moldova of 18 June 2025, Case No. 1rh-7/2023, § 28, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26457.

³⁶ The Supreme Court of Justice of the Republic of Moldova notes that the failure to hear a witness *in personam* and the absence of any reasoning demonstrating the absolute impossibility of ensuring the witness’s examination before the appellate court, as required by Article 371(1)(2) of the Criminal Procedure Code, as well as the omission to convincingly address the argument concerning entrapment in the commission of the offence in light of the jurisprudence of the European Court of Human Rights, raise serious doubts as to the correctness of the solution adopted both in recourse and in the recourse in annulment.

See the Order of the Supreme Court of Justice of the Republic of Moldova of 18.06.2025, Case No. 1rh-17/24, § 35, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26106.

³⁷ Judgment of the Constitutional Court of the Republic of Moldova No. 19 of 3 November 2022 concerning the exception of unconstitutionality of Article 476(1) of the Contravention Code (extraordinary review of a final decision imposing a contravention sanction), § 60.

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“In the latter case, the nature of the defect will have to be assessed primarily in relation to whether the right to defence was violated and whether the proper administration of justice was thereby impeded. In all cases, the grounds justifying the reopening of the proceedings must be of such a nature as to ‘affect the judgment delivered’ (mutatis mutandis, ECtHR, Mihalache v. Romania, 2019, para. 133).”³⁸

13.1.1. Judgments Subject to Extraordinary Review

Irrevocable judgments delivered in cases in which the European Court of Human Rights has communicated the application to the Government of the Republic of Moldova are subject to extraordinary review.

13.1.2. Holders of the Right to Request Review

- the party to the proceedings designated in the communication of the application to the Government of the Republic of Moldova as the alleged victim of a violation of at least one right guaranteed by the European Convention on Human Rights;
- the convicted person’s relatives, where the convicted person has died and the application is lodged in his or her favour;
- the prosecutor;
- the Government Agent.

13.1.3. Time Limits

For submitting an application for extraordinary review under Article 458(3)(5) CPC, the legislator has not established a specific time limit — it may be submitted **at any time**, from the moment the Government is informed until the final judgment of the European Court of Human Rights is delivered.

13.1.4. Competent Court

The competent authority is the Supreme Court of Justice.

13.1.5. Procedure

The procedure is analogous to that applicable to the classical grounds for extraordinary review provided in the present article (Article 453(3)(1)–(4) CPC).

“Applications for extraordinary review based on the communication of the application by the ECtHR to the Government (Article 458(3)(5) of the Criminal Procedure Code), after irrevocable judgments have been delivered in those cases, do not fall within the categories examined as a priority by the Supreme Court of Justice.”³⁹

13.1.6. Solutions Available to the Review Court

Under Article 462 CPC, once the application for extraordinary review is found admissible, the court issues an interlocutory decision providing for:

³⁸ Decision of the Supreme Court of Justice of the Republic of Moldova of 25 September 2024, Case No. 1re-110/2023, § 32, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25175.

³⁹ Order of the Supreme Court of Justice of the Republic of Moldova of 31 July 2025, Case No. 1rh-7/2023, § 13, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26241.

a) the dismissal of the application for extraordinary review;
b) the admission of the application, the quashing of the judgment subjected to review, and the reopening of the criminal proceedings before the competent court.⁴⁰ Upon admitting the application and reopening the criminal proceedings, the court may, with reasons, suspend in whole or in part the execution of the sentence and may also impose preventive measures.

13.1.7. Judicial Decisions Following Retrial

If the court finds the application for extraordinary review well-founded, it annuls the judgment to the extent for which the review was admitted or annuls the irreconcilable judgments, and delivers a new judgment pursuant to Articles 382–399 and 410 CPC, which apply *mutatis mutandis*.

If the court considers the application unfounded, it dismisses it.

The court also orders, where appropriate, the reimbursement of fines paid and confiscated goods, as well as the reimbursement of judicial expenses which the person in whose favour the review was admitted was not required to bear. The court also orders that any period of imprisonment already served be counted as uninterrupted work seniority.

In such cases, the legislator provides the possibility — and the opportunity — for an anticipatory remedy of a violation of the provisions of the European Convention on Human Rights, that is, before the European Court of Human Rights delivers its judgment.

13. 2. Extraordinary Review Based on a Judgment of the European Court of Human Rights

According to Article 46 of the European Convention on Human Rights, interpreted in light of Recommendation (2000) 2 of the Committee of Ministers of the Council of Europe of 19 January 2000 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights, the Contracting States are encouraged to review their national legal systems in order to ensure the existence of adequate possibilities for re-examining a case, including reopening proceedings, in situations where the European Court of Human Rights has found a violation of the Convention.

Each High Contracting Party to the Convention is obliged, under Article 1 of the Convention, to secure the rights and freedoms enshrined therein to all persons within its jurisdiction, and, under Article 46 § 1, has undertaken to abide by the final judgments of the European Court of Human Rights in cases to which it is a party.⁴¹

The obligation to remedy the harm resulting from violations of human rights constitutes a principle of public international law. This principle requires, to the greatest extent possible, the reparation of all consequences of the act contrary to international norms and the restoration of the situation existing prior to the violation (Poalelungi, 2013, Pg. 424).

⁴⁰ The Supreme Court of Justice of the Republic of Moldova notes that, in order to ensure the fairness of the proceedings, it is necessary to extend the effects of extraordinary review also to the convicted person who did not apply to the European Court of Human Rights and did not file an application for extraordinary review. See the Order of the Supreme Court of Justice of the Republic of Moldova of 18 June 2025, Case No. 1rh-17/24, § 38, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26106.

⁴¹ Decision of the Criminal Collegium of the Supreme Court of Justice of 17 September 2020, Case No. 1rh-4/2020, Retrieved from: http://jurisprudenta.csj.md/search_col_penal.php?id=16729.

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“The effects of ECtHR judgments finding that national courts have violated human rights guaranteed by the European Convention operate upon the irrevocable domestic judgments—after exhaustion of all ordinary remedies—through the extraordinary remedy of extraordinary review, by which the court retracts its own judgment.”⁴²

The European Court of Human Rights has held that the most appropriate form of redress for the violations committed may be the reopening of the domestic proceedings (*mutatis mutandis*, *Lungoci v. Romania*, judgment of 26 January 2006; *Huseyn and Others v. Azerbaijan*, judgment of 26 July 2011; *Ajdarić v. Croatia*, judgment of 13 December 2011).

The European Court of Human Rights further emphasized, in *Moreira Ferreira v. Portugal* (no. 2), judgment of 11 July 2017⁴³, § 99, that “the considerations set out therein are not intended to diminish the importance of ensuring the existence of domestic procedures through which a case may be re-examined in light of a finding that Article 6 of the Convention has been violated. On the contrary, such procedures may be regarded as an important aspect of the execution of its judgments, and their availability demonstrates the respondent State’s commitment to the Convention and to the Court’s case law (see *Lyons and Others v. the United Kingdom* (dec.), no. 15227/03, ECHR 2003-IX.”

The purpose of extraordinary review following a judgment of the European Court of Human Rights is to eliminate the negative consequences produced by a domestic judgment that is incompatible with the European Convention on Human Rights.⁴⁴

“For the Republic of Moldova, as a Contracting State, the most effective method of restoring the person whose rights have been violated to his or her original situation (restitutio in integrum), in accordance with the applicable legal provisions, is the use of the extraordinary remedy—namely, the procedure of extraordinary review at the national level—through which the court retracts its own judgment.”⁴⁵

“In this regard, it must be noted that not every violation of the European Convention or its Protocols committed by the Republic of Moldova and established by the ECtHR constitutes a ground for the extraordinary review of a judicial judgment on the basis of new circumstances.”⁴⁶

⁴² Decision No. 3 of 09 June 2014 of the Plenum of the Supreme Court of Justice of the Republic of Moldova *On the Application by Domestic Courts of Certain Provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms*, § 19.

⁴³ *Moreira Ferreira v. Portugal* (no.2), judgment of 11 July 2017, § 99. Retrieved from: <http://hudoc.echr.coe.int/eng?i=001-175646>.

⁴⁴ Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 11 April 2019, Case No. 1rh-3/2019, Retrieved from: http://jurisprudenta.csj.md/search_col_penal.php?id=13526. See also: Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 21 October 2021, Case No. 1rh-2/2021, available at: http://jurisprudenta.csj.md/search_col_penal.php?id=19673 (accessed: 23.09.2024).

⁴⁵ Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 24 February 2015, Case No. 1rh-1/2015, available at: http://jurisprudenta.csj.md/search_col_penal.php?id=3965 (accessed: 23.09.2024). The Supreme Court of Justice noted that the European Court of Human Rights had found a violation of Article 6 § 1 of the Convention due to the lack of procedural fairness at the national level. The Court identified as a breach the use of evidence obtained through the entrapment of the person into committing the offence.

⁴⁶ Decision No. 3 of 09 June 2014 of the Plenum of the Supreme Court of Justice of the Republic of Moldova, *On the Application by Domestic Courts of Certain Provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms*, § 17.

From the case law of the European Court of Human Rights, it clearly follows that reopening should be available where a criminal conviction was obtained in unfair proceedings (see *Öcalan v. Turkey*, judgment of 12.05.2005, § 210; *Popovici v. Moldova*, judgment of 27.11.2007, § 87; *Levința v. Moldova*, judgment of 16.12.2008, § 113; *Vetrenko v. Moldova*, judgment of 18.05.2010, § 64) (Gribincea, 2015, Pg. 81).

To give effect to Recommendation Rec (2000) 2 of the Committee of Ministers of the Council of Europe, the Moldovan legislator introduced a distinct ground for extraordinary review, namely Article 458(3)(6) CPC. Given the respondent State's discretion to determine the most appropriate measures and conditions for achieving *restitutio in integrum*, taking into account the means available under the national legal system, Article 458(3)(6) CPC establishes three cumulative conditions for this ground:

- Existence of a judgment of the European Court of Human Rights. The finding by the ECtHR — or the recognition by the Government in a unilateral declaration — of a violation of a right guaranteed by the Convention constitutes a *sine qua non* condition for all proceedings initiated under Article 458(3)(6) CPC. The violation must be stated in the operative part of the ECtHR judgment. The violation may concern any article of the Convention or its Additional Protocols.
- The violation found can be remedied, in whole or in part, by quashing the challenged domestic judgment.⁴⁷

According to the case law of the Supreme Court of Justice⁴⁸, there are also three conditions for the admissibility of applications for extraordinary review that fall under Article 458(3)(6) CPC:

- a) the existence of a final judgment of the European Court of Human Rights;
- b) the finding in that judgment of a violation of the fundamental rights or freedoms of the participant in the domestic proceedings;
- c) the violation established by the European Court of Human Rights can be remedied through the extraordinary review of the challenged judgment.

The Supreme Court of Justice dismissed an application for extraordinary review because it concluded that the third condition for the admission of the application was not met, in fact indicating that one of the essential conditions for a different ground for extraordinary review was absent.⁴⁹

⁴⁷ The European Court of Human Rights recalls, in *Spînu v. Romania*, “that where an individual — as in the present case — has been convicted following proceedings that involved violations of the requirements of Article 6 of the Convention, a new trial or the reopening of the proceedings at the request of the interested party is in principle an appropriate means of redressing the violation found (see *Gençel v. Turkey*, no. 53431/99, § 27, 23 October 2003, and *Tahir Duran v. Turkey*, no. 40997/98, § 23, 29 January 2004).” Judgment of the European Court of Human Rights of 29 April 2008, § 82, Retrieved from: <https://hudoc.echr.coe.int/eng?i=001-122759>.

⁴⁸ Order of the Supreme Court of Justice of the Republic of Moldova of 16 December 2024, Case No. 1rh-2/23, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25507.

⁴⁹ Order of the Supreme Court of Justice of the Republic of Moldova of 16 December 2024, Case No. 1rh-2/23, § 48, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25507. It is readily observable that the Supreme Court of Justice of the Republic of Moldova relied on the non-fulfilment of a condition for admitting the application for extraordinary review which is not provided for in Article 458(3)(6) of the Criminal Procedure Code, but is instead taken from a different ground for extraordinary review—Article 458(3)(5) CPC—which is not applicable to the present case and was not invoked by the applicants.

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Previously, the Supreme Court of Justice had not interpreted Article 458(3)(6) CPC — which entered into force on 1 September 2023 — through the lens of the condition imposed by Article 458(3)(5) CPC, namely the requirement concerning “*the existence of a fundamental defect in the previous proceedings raising serious doubts as to the correctness of the solution in the challenged judgment.*”⁵⁰

Subsequently, the Supreme Court of Justice reaffirmed the three conditions expressly provided by Article 458(3)(6) CPC.⁵¹

13.2.1. Judgments Subject to Extraordinary Review

Irrevocable judgments in which the European Court of Human Rights has found that they were delivered in breach of human rights or fundamental freedoms, or in which the case was struck out following a friendly settlement between the State and the applicants, may be subjected to extraordinary review.

The Criminal Collegium of the Supreme Court of Justice concluded that an application for extraordinary review lodged by counsel on behalf of the convicted person must be dismissed as unfounded where the applicant relied not on a judgment of the European Court of Human Rights, but on a Report of the Parliamentary Assembly of the Council of Europe, which is not a statutory ground for review.⁵²

13.2.2. Holders of the Right

- the party to the proceedings who, according to the judgment of the European Court of Human Rights, has been recognised as the victim of a violation of at least one right guaranteed by the European Convention on Human Rights;⁵³

⁵⁰ Order of the Supreme Court of Justice of the Republic of Moldova of 27 February 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24469 (application for extraordinary review admitted); M.N., Order of 27 February 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24467 (application for extraordinary review admitted); C.V., Order of 06 March 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24529 (application for extraordinary review dismissed on the ground that the third condition of Article 458(3)(6) CPC was not met); Order of 11 September 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25124 (application for extraordinary review dismissed on the ground that the third condition of Article 458(3)(6) CPC was not met).

⁵¹ Order of the Supreme Court of Justice of the Republic of Moldova of 30 April 2025, Case No. 1rh-2/2025, §§ 36, 38, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25911.

⁵² *At the same time, counsel for the convicted person argues that the ground for extraordinary review of irrevocable judgments is constituted by the Report of the Parliamentary Assembly of the Council of Europe (PACE) of 27 July 2019, which lists a series of cases allegedly affected by abusive, selective, and politically motivated criminal prosecution. In this context, the Criminal Collegium considers it relevant to note that, although counsel refers in the text of the application for extraordinary review to the provisions of Article 464¹ CPC, he does not indicate the existence of any of the statutory grounds in this respect. In the present case, there is clearly no condition met for opening the extraordinary review procedure, since there exists neither an ECtHR judgment establishing a violation of the individual's fundamental rights or freedoms, nor any decision by the High Court ordering that the case be struck out following a friendly settlement between the State and the applicant. Accordingly, the Criminal Collegium finds that extraordinary review under the procedure provided by Article 464¹(1) CPC is possible only in the situations expressly listed in Article 464¹(1) CPC — conditions which, in fact, are not present in the case at hand.* Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 10.11.2020, Case No. 1rh-8/2020, Retrieved from: http://jurisprudenta.csj.md/search_col_penal.php?id=17546.

⁵³ *This application for extraordinary review may be lodged by the person whose right has been violated (Article 464¹(2)(a) CPC), who held the status of a party both in the case against the Republic of Moldova decided by the European Court of Human Rights and in the case adjudicated by the national (Moldovan) courts. In light of the*

- the convicted person's relatives, even after the latter's death, provided the application is made in favour of the convicted person;
- the prosecutor;
- the Government Agent.

13.2.3. Time Limit

For submitting an application under Article 458(3)(6) CPC, the time limit is six months from the date on which the judgment of the European Court of Human Rights became final.

13.2.4. Procedure

The procedure does not differ in substance from that applicable to the other grounds for extraordinary review. A delay of more than 16 months in examining an application for extraordinary review seeking the reopening of proceedings following an ECtHR judgment led the Supreme Court of Justice to admit a request for expedition, obliging the competent court to resolve the application within four weeks.⁵⁴

13.2.5. Types of Decisions

The court seised with an application for extraordinary review may:

- dismiss the application;
- admit the application, quash the judgment subjected to review, and reopen the proceedings before the competent court.⁵⁵

13.2.5. Before the entry into force of Law No. 246/2023

Article 464¹ (11) CPC allowed the Supreme Court of Justice, upon admitting the application for extraordinary review, either to retain the case for retrial or to remit it for retrial in extraordinary review to the court in which the violation occurred, where the administration of evidence was necessary.

“In the absence of clear current regulations concerning the jurisdictional-functional competence of the retrial court following the admission of an application for extraordinary review on this ground, it must be considered that retrial remains within the competence of the court at the level where the violation was committed, in accordance with Article 33(3) CPC on incompatibilities (Morcov, 2024, Pg. 12).”

above, the Collegium finds that the present application for extraordinary review has been filed by a person with respect to whom the Court has ruled, there being a judgment finding a violation of the right of the individual requesting the review.” Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 24.02.2015, Case No. 1rh-1/2015, Retrieved from: http://jurisprudenta.csj.md/search_col_penal.php?id=3965.

⁵⁴ Order of the Supreme Court of Justice of the Republic of Moldova in Case No. 1rh-2/23 of 07 November 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25377.

⁵⁵ The Supreme Court of Justice notes that, in order to ensure the fairness of the proceedings, it is necessary to extend the effects of extraordinary review also to the convicted person who did not apply to the European Court of Human Rights and did not file an application for extraordinary review, with the result that the court of recourse must also rule on that person's recourse. See the Order of the Supreme Court of Justice of the Republic of Moldova of 15.01.2025, Case No. 1rh-24/2024, § 73, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25603.

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Supporting this view, one may add that it would be logical that, where the violation found by the European Court of Human Rights was tolerated by both lower courts (the first-instance court and the appellate court), the case should be remitted for retrial in extraordinary review to the court that last pronounced on the merits.

13.2.6. Judicial Solutions After Retrial

If the court finds that the application for extraordinary review is well-founded, it annuls the judgment to the extent for which the review has been admitted or annuls the irreconcilable judgments and delivers a new judgment in accordance with Articles 382–399 and 410 CPC, which apply *mutatis mutandis*. If the court considers the application unfounded, it dismisses it.

The court also orders, where appropriate, the reimbursement of fines paid and confiscated property, as well as the reimbursement of judicial expenses which the person in whose favour the review was admitted was not required to bear. It also orders that the period of imprisonment already served be counted as uninterrupted work seniority.

14. CONCLUSIONS AND RECOMMENDATIONS

The reform of the institution of extraordinary review in criminal proceedings, implemented through Law No. 246 of 31 July 2023, has generated a significant impact on national judicial practice, particularly on the jurisprudence of the Supreme Court of Justice. The amendments to Articles 458–462 of the Criminal Procedure Code have reshaped the conceptual framework of extraordinary review, strengthening its role as a safeguard for the protection of fundamental rights.

The analysis of the legal provisions and subsequent judicial interpretations allows the formulation of the following conclusions:

Extraordinary review is affirmed as a mechanism for correcting judicial errors, without substituting the ordinary remedies. Its purpose lies in restoring judicial truth and ensuring effective justice, in accordance with the principles enshrined in the European Convention on Human Rights.

The jurisprudence of the Supreme Court of Justice has contributed to clarifying the notion of “the court that pronounced on the merits,” thereby delineating the competences of first-instance, appellate, and recourse courts, as well as the situations in which the assessment of evidence determines jurisdiction in extraordinary review.

The legislative amendments have established a dual opening toward European jurisprudence by introducing two distinct grounds for extraordinary review linked to the activity of the European Court of Human Rights: the communication of the application to the Government of the Republic of Moldova and the final judgment of the European Court of Human Rights. This development represents an essential step in aligning national legislation with European standards on the reparation of human rights violations.

The extensive interpretation of the jurisdiction of the review court adopted by the Supreme Court of Justice of the Republic of Moldova reflects a modern trend toward flexibility in criminal procedure, aimed at efficiency, avoidance of jurisdictional conflicts, and guaranteeing effective access to justice. The jurisprudence of the Supreme Court favors a teleological rather than formalistic approach in applying the institution of extraordinary review,

prioritizing the effective correction of judicial errors and the genuine protection of individual rights, consistent with Article 6 of the European Convention on Human Rights.

An important development concerns the clarification of the balance between the principle of legal certainty and the right to a fair trial, through the creation of constitutional and supreme court jurisprudence delineating the situations in which reopening of proceedings is justified by overriding interests of justice.

The extraordinary review of criminal cases following judgments of the European Court of Human Rights is not merely an obligation of international compliance, but also a mechanism of internal self-correction, through which the Republic of Moldova strengthens its capacity to prevent and rectify judicial errors without relying exclusively on external mechanisms.

In light of these findings, the following recommendations are warranted:

- Uniformisation of the jurisprudence of the Supreme Court of Justice through the elaboration of a thematic Guide on extraordinary review in criminal proceedings, synthesising the leading decisions and admissibility criteria;
- Completion of the normative framework by: establishing the obligation that retrial under extraordinary review be conducted by a panel distinct from the one that ruled on admissibility, in order to guarantee impartiality and decisional independence, particularly for the grounds set out in Article 458(3)(1)–(4) CPC;
- Creation of a unified database correlating the jurisprudence of the Supreme Court of Justice on extraordinary review with the relevant judgments of the European Court of Human Rights concerning the Republic of Moldova, for the purpose of enhancing transparency, predictability, and consistency of judicial practice.

REFERENCES

1. Decision of the Constitutional Court of the Republic of Moldova No. 28 of 12 March 2020, declaring inadmissible Application No. 7a/2020 concerning the constitutionality review of Article 458(3)(3) and Article 462(5)–(6) of the Criminal Procedure Code.
2. Decision of the Constitutional Court of the Republic of Moldova No. 106 of 07.10.2019, declaring inadmissible Application No. 134g/2019 concerning the exception of unconstitutionality of the first sentence of Article 33(3), the second sentence of Article 460(1), and Article 463(1) of the Criminal Procedure Code (judicial incompatibility in the successive adjudication of the same criminal case), § 23.
3. Decision of the Constitutional Court of the Republic of Moldova No. 90 of 15.06.2021, declaring inadmissible Application No. 84g/2021 concerning the exception of unconstitutionality of Articles 70(7)(3) and 458(3) of the Criminal Procedure Code (admission of defence counsel to the proceedings and the grounds for extraordinary review of irrevocable judicial decisions), § 19.
4. Decision of the Constitutional Court of the Republic of Moldova No. 28 of 12.03.2020, declaring inadmissible Application No. 7a/2020 concerning the constitutionality review of Article 458(3)(3) and Article 462(5)–(6) of the Criminal Procedure Code, § 43.
5. Decision of the Criminal Collegium of the Supreme Court of Justice of 17 September 2020, Case No. 1rh-4/2020, Retrieved from:
http://jurisprudenta.csj.md/search_col_penal.php?id=16729.
6. Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 11 April 2019, Case No. 1rh-3/2019, Retrieved from:

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http://jurisprudenta.csj.md/search_col_penal.php?id=13526.

7. Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 21 October 2021, Case No. 1rh-2/2021, Retrieved from:

http://jurisprudenta.csj.md/search_col_penal.php?id=19673.

8. Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 24 February 2015, Case No. 1rh-1/2015, Retrieved from:

http://jurisprudenta.csj.md/search_col_penal.php?id=3965.

9. Decision of the Criminal Collegium of the Supreme Court of Justice of the Republic of Moldova of 10.11.2020, Case No. 1rh-8/2020, Retrieved from:

http://jurisprudenta.csj.md/search_col_penal.php?id=17546.

10. Decision of the Supreme Court of Justice of the Republic of Moldova of 25 September 2024, Case No. 1re-110/2023, Retrieved from:

https://jurisprudenta.csj.md/search_col_penal.php?id=25175.

11. Decision of the Supreme Court of Justice of the Republic of Moldova of 05 November 2020, Case No. 4-1re-172/2020, Retrieved from:

http://jurisprudenta.csj.md/search_plen_penal.php?id=2142.

12. Decision No. 3 of 09 June 2014 of the Plenum of the Supreme Court of Justice of the Republic of Moldova *On the Application by Domestic Courts of Certain Provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms*.

13. Decision of the Supreme Court of Justice of 21 November 2024, Case No. 1r-16/24, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25429.

14. Dolea Ig. (2005). et al., *Criminal Procedure Code. Commentary*, Chișinău, p. 622–623.

15. Excerpt from the Decision of the Supreme Court of Justice of 30 September 2025, Case No. 1ra-1253/2024, 101, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26405.

16. Gribincea, V. (2015). et al., *Execution of the Judgments of the European Court of Human Rights by the Republic of Moldova, 2013–2014*, Chișinău, p. 81.

17. Ghenici O. (2022). *Extraordinary Remedies of Appeal*, Universul Juridic Publishing House, Bucharest, p. 305.

18. Judgment of the Constitutional Court of the Republic of Moldova No. 21 of 01.10.2018 on the constitutionality review of Article 458(3)(4) of the Criminal Procedure Code (the retroactive effect of Constitutional Court judgments in matters of procedural criminal law).

19. Judgment of the Constitutional Court of the Republic of Moldova No. 26 of 10 November 2020 on the constitutionality review of certain provisions of Article 453(1) of the Criminal Procedure Code, adopted by Law No. 122 of 14 March 2003 (grounds for the recourse in annulment), § 58.

20. Judgment of the Constitutional Court of the Republic of Moldova No. 19 of 3 November 2022 concerning the exception of unconstitutionality of Article 476(1) of the Contravention Code (extraordinary review of a final decision imposing a contravention sanction), § 60.

21. Judgment of the European Court of Human Rights, *Spînu v. Romania*, of 29 April 2008, § 82, Retrieved from: <https://hudoc.echr.coe.int/eng?i=001-122759>.

22. Moreira Ferreira v. Portugal (no. 2), judgment of 11 July 2017, § 99. Retrieved from: <http://hudoc.echr.coe.int/eng?i=001-175646>.

23. Morcov A. Morcov Al. (2024). „Extraordinary Review of Criminal Proceedings in Light of the Amendments Introduced by Law No. 246 of 31.07.2023,” in *National Institute of Justice Journal*, No. 4 (71), Chișinău.

24. Order of the Supreme Court of Justice of the Republic of Moldova of 03.07.2025, Case No. 1rh-6/25, § 21 Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26139.
25. Order of the Supreme Court of Justice of the Republic of Moldova of 16.10.2025, Case No. 1rh-31/2024, § 22, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26458.
26. Order of the Supreme Court of Justice of the Republic of Moldova of 06.11.2025, Case No. 1r-31/2025, § 12, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26511.
27. Order of the Supreme Court of Justice of the Republic of Moldova of 03.07.2025, Case No. 1rh-41/24, § 39, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26137.
28. Order of the Supreme Court of Justice of the Republic of Moldova of 21 August 2025, Case No. 1rh-4/24, § 33, Retrieved from:
https://jurisprudenta.csj.md/search_col_penal.php?id=26298.
29. Order of the Supreme Court of Justice of the Republic of Moldova of 30 January 2025, Case No. 1r-14/24, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25626.
30. Order of the Supreme Court of Justice of the Republic of Moldova of 03 July 2025, Case No. 1rh-41/24, § 36, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26137.
31. Order of the Supreme Court of Justice of the Republic of Moldova of 25 July 2024, Case No. 1cs-344/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25015.
32. Order of the Supreme Court of Justice of the Republic of Moldova of 16.04.2024, Case No. 1rh-6/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24723.
33. Order of the Supreme Court of Justice of the Republic of Moldova of 16 July 2024, Case No. 1cs-297/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24977.
34. Order of the Supreme Court of Justice of the Republic of Moldova of 07 October 2024, Case No. 1cs-509/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25378.
35. Order of the Supreme Court of Justice of the Republic of Moldova of 25 July 2024 (resolution of the negative conflict of jurisdiction in the examination of the application for extraordinary review), Case No. 1cs-334/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25015.
36. Order of the Supreme Court of Justice of the Republic of Moldova of 21 October 2024, Case No. 1rh-45/2024, § 19, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25811.
37. Order of the Supreme Court of Justice of the Republic of Moldova of 21 October 2024, Case No. 1cs-565/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25426.
38. Order of the Supreme Court of Justice of the Republic of Moldova of 25 July 2024, Case No. 1cs-344/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25015.
39. Order of the Supreme Court of Justice of the Republic of Moldova of 15 January 2025, Case No. 1rh-10/24, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25600.
40. Order of the Supreme Court of Justice of the Republic of Moldova of 02 October 2024, Case No. 1cs-398/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25201.
41. Order of the Supreme Court of Justice of the Republic of Moldova of 03 July 2025, Case No. 1rh-6/25, § 21, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26139.
42. Order of the Supreme Court of Justice of the Republic of Moldova of 16.04.2024, Case No. 1rh-6/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24723.
43. Order of the Supreme Court of Justice of the Republic of Moldova of 15 January 2025, Case No. 1rh-10/24, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25600.
44. Order of the Supreme Court of Justice of the Republic of Moldova of 21.08.2025, Case No. 1rh-15/24, § 12, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26296.

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45. Order of the Supreme Court of Justice of the Republic of Moldova of 18 June 2025, Case No. 1rh-7/2023, § 28, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26457.

46. Order of the Supreme Court of Justice of the Republic of Moldova of 18.06.2025, Case No. 1rh-17/24, § 35, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26106.

47. Order of the Supreme Court of Justice of the Republic of Moldova of 31 July 2025, Case No. 1rh-7/2023, § 13, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26241.

48. Order of the Supreme Court of Justice of the Republic of Moldova of 18 June 2025, Case No. 1rh-17/24, § 38, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26106.

49. Order of the Supreme Court of Justice of the Republic of Moldova of 16 December 2024, Case No. 1rh-2/23, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25507.

50. Order of the Supreme Court of Justice of the Republic of Moldova of 27 February 2024, available at: https://jurisprudenta.csj.md/search_col_penal.php?id=24469 (application for extraordinary review admitted) (accessed: 02.05.2025);

51. Order of the Supreme Court of Justice of the Republic of Moldova of 30 April 2025, Case No. 1rh-2/2025, §§ 36, 38, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25911.

52. Order of the Supreme Court of Justice of the Republic of Moldova in Case No. 1rh-2/23 of 07 November 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25377.

53. Order of the Supreme Court of Justice of the Republic of Moldova of 15.01.2025, Case No. 1rh-24/2024, § 73, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25603.

54. Order of 27 February 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24467 (application for extraordinary review admitted).

55. Order of 06 March 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=24529 (application for extraordinary review dismissed on the ground that the third condition of Article 458(3)(6) CPC was not met).

56. Order of the Supreme Court of Justice of 25 July 2024, Case No. 1cs-344/2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25015.

57. Order of 11 September 2024, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=25124 (application for extraordinary review dismissed on the ground that the third condition of Article 458(3)(6) CPC was not met).

58. Order of the Supreme Court of Justice of 03 July 2025, Case No. 1rh-41/24, § 37, Retrieved from: https://jurisprudenta.csj.md/search_col_penal.php?id=26137.

59. Poalelungi M. Dolea Ig. Vîzdoagă T. (2013). et al., *The Judge's Manual for Criminal Cases*, Chișinău, 2013.

60. Press release of the Supreme Court of Justice of the Republic of Moldova, Retrieved from: <https://csj.md/index.php/despre-curtea-suprema-de-justitie/mass-media-si-relatiile-cu-publicul/2514-elaborarea-fisierului-tematic-nou-competenta-instantelor-la-examinarea-cererilor-de-revizuire-mentionate-la-art-458-alin-3-pct-1-4-din-codul-de-procedura-penala>.

61. Thematic File of the Supreme Court of Justice of the Republic of Moldova, *Jurisdiction of Courts in Examining Applications for Extraordinary Review under Article 458(3)(1)–(4) of the Criminal Procedure Code*, p. 7, Retrieved from: https://csj.md/images/Competența_instantelor_la_examin_cererilor_de_revizuire_redactat_V.finală_16.01.25_A.Spătaru.pdf.