

## MORE INNOCENT THAN OTHERS?

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### Abstract

*In the field of criminal law and criminal procedure, the presumption of innocence is frequently discussed, as it is regarded as a fundamental principle of criminal justice. However, what becomes of the presumption of innocence outside the framework of criminal proceedings? This study aims to highlight the effects produced beyond the confines of the criminal process by analyzing the professional implications of this principle. Moreover, this research examines the limitations of the presumption of innocence as applied to several professional categories—specifically public officials, magistrates, police officers, members of political parties, and other relevant cases. A comparative analysis is also undertaken between the consequences of criminal indictment for various socio-professional groups and the effects of such indictments on political figures. The findings of this research reveal that the stage of formal indictment—when an individual is sent to trial—constitutes the common threshold at which the presumption of innocence is effectively suspended in the case of public officials, magistrates, and police officers. In contrast, with respect to members of political parties, a significant discrepancy can be observed, since they are guided by the internal regulations of their respective parties, which typically consider the issuance of a first-instance court judgment as the relevant point of reference. It should also be noted that one political party deviates from this general rule applied by the others. Consequently, a rather biased dissonance emerges between the political class and all other socio-professional categories regarding the application of this fundamental principle of criminal procedure—the presumption of innocence. This imbalance may, in turn, contribute to a considerable increase in criminal proceedings involving politicians, as this group benefits from an extensively permissive and interpretative approach to the law, purportedly applied “in the spirit” of the legislation.*

**Keywords:** *presumption of innocence, Romanian criminal procedure, status of magistrates in Romania, status of police officers in Romania, status of political parties in Romania*

### 1. Introduction.

*Tout homme étant présumé innocent jusqu'à ce qu'il ait été déclaré coupable* – every person is presumed innocent until proven guilty. The above principle, seemingly as old as time itself, was first codified on August 26, 1789, in Article 9 of the Declaration of the Rights of Man and of

the Citizen. Of course, today we also add the detail that culpability must be established by a final judicial decision. The famous French document, credited as the first normative act to enshrine the presumption of innocence, was, however, preceded by numerous approaches to this fundamental rule on which criminal justice operates.

For example, in France during the same era, there is a solemn declaration by

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King Louis XVI, given at Versailles on May 1, 1788, according to which: *Le premier de tous les principes en matière criminelle ... veut qu'un accusé, fût-il condamné en première instance, soit toujours réputé innocent aux yeux de la loi jusqu'à ce que la sentence soit confirmée en dernier ressort*<sup>1</sup>.

In translation: "the accused person, even if convicted in the first instance, will always be considered innocent until the judicial decision becomes final." As a judicial detail, Louis XVI did not merely state this principle; he himself benefited from the application of the presumption of innocence in his own criminal trial: thus, having become a simple citizen, Louis Capet, the former king, was sentenced to death for high treason, and the guillotine fell only after the decision of the National Convention became final, in January 1793...

A few years earlier, in 1764, in the same Romano-Germanic legal space, Cesare Beccaria wrote: *un uomo non può chiamarsi reo prima della sentenza del giudice* (a man cannot be called guilty before the judge's sentence is pronounced)<sup>2</sup>. Or, going further back in time, in the 14th century, we find the thinking of the French cardinal Jean Lemoine (Johannes Monachus), who supposed that God could not find Adam guilty without a trial having taken place, because, after all, even God must be obliged to presume Adam's innocence until his guilt is established<sup>3</sup>.

To conclude this brief and illustrative incursion into the history of the presumption of innocence, let us also mention Justinian's Digests from the year 533, where the legal rule "*ei incumbit probatio qui dicit, non qui negat*" is present – the burden of proof lies

with the one who asserts (accuses), not with the one who denies, a procedural rule subsumed under the principle of the presumption of innocence.

Today, the presumption of innocence is enshrined in Romanian criminal procedure as a fundamental principle of the application of criminal procedural law, its legal basis being found in Article 4 of the Code of Criminal Procedure (we also recall the year 2003, when this legal rule was recognized as a fundamental principle of criminal procedure, by Law no. 281). The effects of this great legal rule in criminal proceedings are, apparently, beyond any debate: the person against whom a criminal accusation is made has the right to be presumed innocent throughout the judicial procedure, until the moment when the presumption is overturned and replaced by a presumption of guilt, resulting from the administration of evidence for the prosecution and materialized in a final criminal court decision. Taking into account other procedural rules enacted to supplement and support the presumption of innocence (such as the rule *in dubio pro reo* – any doubt benefits the accused person, the judge's obligation to order a conviction only when convinced that the accusation has been proven beyond any reasonable doubt, or the procedural right recognized to the accused not to be obliged to prove their innocence and not to contribute to their own accusation), we can conclude that a criminal sanction can be applied to the one who has broken the criminal law only at the moment of certain establishment of criminal guilt, at which point the analyzed presumption ceases to exist.

<sup>1</sup> Jean Pradel, *Procédure pénale*, 18<sup>e</sup> édition, Éditions Cujas, Paris, 2015, p. 335.

<sup>2</sup> Cesare Beccaria, *On Crimes and Punishments*, Humanitas Publishing, Bucharest, 2007, pp. 114–115.

<sup>3</sup> Kenneth Pennington, *Innocent Until Proven Guilty: The Origins of a Legal Maxim*, conform <https://web.archive.org/web/20100610045718/http://faculty.cua.edu/pennington/Law508/InnocentGuilty.htm#Let%20me%20give%20a%20few%20examples>, accessed on October 20, 2025

However, the object of these lines is not the presumption of innocence in criminal matters and its effects in judicial procedures for criminal liability. The specialized literature contains numerous analyses of this legal principle and, especially, of its legal effects. Through this text, we aim to highlight the effects of the presumption of innocence produced *outside the criminal trial*. In other words, if within the criminal trial, before the judicial authorities, the defendant has the right to assert their innocence until the finality of the criminal decision, regardless of the duration of the judicial procedures (and, as we know, even the simplest criminal trials unfold over a significant period, ranging from 1–2 years to many, many years in complex cases...), and, above all, has the right to have this presumed innocence recognized, what would be the consequences of the presumption of innocence in the professional sphere? Does the accused have the possibility to claim innocence and to demand that any possible consequences be borne only at the conclusion of the criminal trial? What happens if the judicial authorities of the Romanian State bring criminal charges against public officials? What happens professionally to a magistrate accused of committing an offense? Or to a police officer, public official, or judge at the Constitutional Court? Can the presumption of innocence be invoked by a mayor accused of embezzling public funds, and if so, are there limitations in exercising these rights? What about a politician accused of acts of corruption? Will they continue their political mandate of representing citizens? Or, if not an “elected” official, can they seek citizens’ votes in electoral campaigns? All these aspects, considering legal norms organizing certain professions, as well as declarations of intent without legal value from the political environment, will be discussed below.

With the following preliminary observation: it is natural that the applicability of the presumption of innocence outside the criminal trial is much more limited compared to the presumption of innocence in criminal procedural terms. For the simple reason that, at the end of the criminal trial, the most severe legal sanction, the criminal sanction, may be applied. To which, if applicable, civil sanctions may be added, for the reparation of material damage or moral damages caused by the commission of the offense.

Therefore, we will agree from the outset that the person accused of committing an offense will be able to maintain their innocence throughout the criminal trial, with any criminal sanction to be enforced only when the court decision becomes final, while, in the extrajudicial sphere, criminal problems can cause consequences much earlier, occurring at different moments, as we shall see below.

## **2. Limitations of the Presumption of Innocence for Public Officials.**

Initially, in the first version of Law no. 188/1999 regarding the Status of Public Officials, a criminal accusation brought against a public official had drastic effects. In this sense, the mere decision to initiate criminal prosecution against a public official for offenses committed during service, or in connection with the duties of the public office held, or for other offenses that would render the official incompatible with their public function, resulted in *the suspension of the official from their position*. In plain terms for non-specialists, if the criminal investigation body considered that there was evidence indicating the possibility that the public official had committed an offense, the official would be suspended from office as a result of the initiation of criminal prosecution. This extrajudicial consequence

of starting a criminal process was very harsh, as the accused public official would temporarily lose (“temporarily” potentially meaning several years) the rights deriving from the exercise of the public function—primarily, salary rights.

After successive legislative amendments in this area, the situation “improved,” and the effects of a criminal process became less constraining for the public official. The current regulation identifies several scenarios, as follows: a) The public official may be *temporarily transferred* from the moment the criminal action is initiated (a prosecutor’s order specific to the first phase of the process, the criminal investigation, which signifies the formulation of a criminal accusation against the public official), if it is determined that they could influence the conduct of the criminal process [art. 501 para. (3) of the Status of Public Officials]; b) *Automatic suspension of employment relations* if the public official has been placed in pre-trial detention, house arrest, or under judicial control (for the latter, additional obligations must be imposed that prevent the exercise of the public function), or has been sent to trial (but only for certain offenses, such as corruption or service-related offenses).

It can be observed that the umbrella of the presumption of innocence becomes insufficient in certain cases, and the public official accused of a crime, still legally presumed innocent, may be transferred or suspended from office. This always applies for offenses committed in the exercise of their function, at the latest by the start of the second phase of the criminal process, namely the trial. For later comparisons, we can note that *the indictment* of a public official for committing a corruption offense represents the “red line” set by the legislator, beyond which the presumption of innocence can no longer be invoked professionally.

### 3. Limitations of the Presumption of Innocence for Magistrates (Judges or Prosecutors).

Also public officials, but with a specific professional status, magistrates have “benefited” from some of the most restrictive legal provisions applicable when criminal accusations are brought against them. In the first law organizing the profession after 1989, namely Law no. 92/1992 on the organization of the judiciary, it was stipulated that the initiation of criminal proceedings *for any type of offense* would result in the suspension from office of the magistrate, until the finality of the criminal court decision. Thus, any criminal issues faced by a magistrate generated severe extrajudicial effects, such as the cessation of salary rights or the loss of seniority in the judiciary. This regulation remained in force until 2013.

The status of magistrates has changed over time, following the trend of “softening” the extrajudicial effects of a criminal process. For this reason, currently, *suspension from office* applies to magistrates who have been sent to trial, placed in pre-trial detention, house arrest, or under judicial control (if the preventive measure also includes the obligation not to exercise the magistrate’s profession in which the act was committed). Other consequences of criminal accusation must also be highlighted, namely *the mandatory suspension of the resolution of service pension applications or the suspension of service pension payments* in the case of the initiation of criminal proceedings for a corruption offense, an offense assimilated to corruption, a service-

related offense, or an offense against the administration of justice<sup>4</sup>.

For example, in the case of corruption offenses, a magistrate accused of taking bribes will be suspended from office at the latest at the time of *being sent to trial* (with the clarification that suspension may be ordered even earlier if preventive measures are taken against the indicted magistrate).

#### **4. Limitations of the Presumption of Innocence for Police Officers.**

For the socio-professional category of police officers, the legislation has also evolved from very restrictive initial regulations to less damaging current regulations. Thus, in the initial version of the Police Officer Status (2002), “during the criminal investigation and trial,” the police officer *was placed at the disposal of the unit*, a measure that involved a partial suspension of service duties (and, consequently, a reduction in salary). Notably, in 2003, the measure *of suspension from office* was introduced for the case where a police officer was indicted for certain offenses (which, in principle, resulted in the incompatibility of the police officer with the exercise of the public function), in which case the officer no longer benefited from any of the rights provided by the professional status.

The legal framework has also evolved in this area; currently, the main effect of indicting a police officer is their placement at *the disposal of the unit*, except in cases where the criminal action was initiated for an offense committed out of negligence and not related to service. There are also provisions for suspension from office when

the police officer is placed in pre-trial detention, house arrest, or under judicial control (with imposed obligations that make it impossible to exercise the function).

Under these conditions, a police officer indicted for committing a corruption offense (against whom no preventive measures have been taken) will be professionally sanctioned by *being placed at the disposal of the unit*, and will perform tasks and duties assigned in writing by the unit chief, which are not of a nature to impede the proper conduct of the criminal process. Thus, professionally, the initiation of criminal proceedings (an order prior to being sent to trial, sometimes occurring at the very beginning of the criminal investigation) constitutes the “red line” that attenuates the possibility of invoking the presumption of innocence in the professional sphere.

#### **5. Limitations of the Presumption of Innocence in Other Cases.**

In a manner similar to the legal regime applicable to police officers, a prison officer against whom a criminal accusation is brought will be placed at the disposal of the institution (a measure that entails a partial suspension of their duties). In the scenario where preventive measures are taken, the prison officer is suspended from office. A member of the Competition Council who is subject to criminal charges (against whom criminal proceedings have been initiated) *may be suspended from office* by Parliament [art. 15 para. (10) of Law no. 21/1996]. Meanwhile, a judge of the Constitutional Court *may be suspended from office* by a two-thirds vote of the Court’s members in

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<sup>4</sup>The regulation was also incorporated into the Statute of court clerks and other categories of personnel holding specialized positions within the courts, the prosecutors’ offices attached to them, and the National Institute of Forensic Expertise (Law no. 11/2024, published in the Official Gazette of Romania, No. 26 of January 12, 2024).

the event of being sent to trial on criminal charges.

With regard to members of the Government, a request to initiate criminal proceedings for offenses committed in the exercise of their office may result in *suspension from office*, while being sent to trial for such an offense leads to *mandatory suspension from office*, both measures being at the discretion of the President of Romania [according to art. 109 para. (2) of the Constitution, and arts. 20 and 21 of Law no. 115/1999 on ministerial responsibility].

Finally, the President of Romania *is automatically suspended* from the date of being charged with high treason, according to art. 96 of the Constitution. For this case, which fortunately has remained only at the regulatory stage without application in criminal practice, the request by the Public Prosecutor's Office to initiate criminal proceedings for high treason, confirmed by the Chamber of Deputies and the Senate in a joint session with a vote of at least two-thirds of the parliamentarians, annuls the presumption of innocence outside the framework of criminal proceedings.

## 6. The Presumption of Criminal Innocence in the Life of Political Parties.

The public exposure of politicians, society's justified interest in their activities, and the legitimate expectations that they act in the letter and spirit of the law (especially criminal law!) are reasonable causes for the public appetite for following criminal cases involving politicians. This appetite for details about such criminal cases leads to their media coverage. As a common denominator, most partisan interventions—more or less—regarding these criminal proceedings invoke the presumption of innocence. “Let us not rush to condemn him, as long as Justice has not had the final say” (note: the “final say” of Justice means years,

in many criminal cases...), or “let us wait for the judges to do their job” are statements made in such circumstances. At other times, the political environment suggests we reduce our interest in the “tactical field” of justice: “I think we have talked too much about justice. Enough, it works, let's leave it alone.” This is the advice of Prime Minister Marcel Ciolacu, given on Tuesday, October 22, 2024, during a radio show on Rock FM. Although much has been said about justice, perhaps too little has actually been said about justice. Justice, which has obvious operational problems. Just consider the intervention of the statute of limitations in thousands of criminal cases that have been closed and in thousands of others still waiting their turn. Not to mention that this liberating prescription does not choose the cases in which it applies, erasing criminal liability in both major and minor corruption cases, as well as in criminal cases where the state was harmed, and in cases where individuals were harmed, deceived, trafficked, abused, or raped...

Like any citizen accused of committing an offense, the politician also has the right to benefit from the presumption of innocence during a criminal trial. But can their political activity suffer as a result of acquiring the status of suspect or defendant in a criminal case? And, using the “red lines” reference often found in public discourse, are there such “red lines” for indicted politicians, prior to the finality of the criminal judgment, whose crossing requires changes in political activity? Once criminally charged, are politicians “placed at the disposal,” “provisionally transferred,” or “suspended”? And if so, what are these “red lines”?

As a first observation, by “politician” we mean a person who is a member of a political party and, as a result, is designated to participate in various electoral competitions, is elected to political office, is

elected or appointed to administrative public office, or is nominated to various autonomous national or local agencies. This enumeration is not intended to be exhaustive (simply because there are party members who are not elected or appointed to public office, “soldiers” in whose knapsack lies the virtual marshal’s baton). As a second observation, it should be noted that Law no. 14/2003 on political parties does not refer to the consequences of possible criminal problems that party members might have while exercising political duties. Thus, Article 6 enshrines the possibility for all citizens who, according to the Constitution, have the right to vote, to engage in politics, while Article 7 establishes the prohibition of party membership for persons who are legally prohibited from political association. And that’s about it... This allows for a final observation: any problems a politician has with criminal law are (or should be) provided for in the internal rules of political parties, whether in the party’s statute or in codes of ethics and conduct that may exist.

Next, we will attempt to analyze the current relationship with the presumption of innocence in the main Romanian political parties of the moment: PSD, PNL, USR, and AUR. We will consider the internal regulations of these parties (especially each party’s Statute), public documents posted on their websites, as well as statements by party representatives or press releases.

### **Social Democratic Party (PSD).**

Over time, PSD, under its various previous names, the largest political party since 1989, has faced numerous image problems caused by criminal cases involving prominent members of the party. Periodically, with a recurrence worthy of a better cause, the party has been associated

with major criminal cases, managing the dubious achievement of “providing” society with the most numerous examples of leaders convicted for offenses committed in connection with their official duties (listing these names would be a waste of time, given the national notoriety of these cases).

The party’s Statute<sup>5</sup> contains provisions that vaguely specify PSD’s position regarding the situation in which a party member is criminally charged. Thus, according to art. 29 para. (11), a PSD member has the right to “self-suspend from the party or from the position held within it, or from political or administrative positions obtained through political support, if they are under investigation for committing an offense for which criminal proceedings have been initiated against them.”

First, let us note... the generosity of the regulation. There are no references to actions by the party in this case, to concrete positions taken. The party member who becomes a defendant has the right to self-suspend—a right which, theoretically, they may choose not to exercise. And there is no legal basis to sanction someone for not exercising a right. If we speak of sanctions, these may be applied to a party member if they do not demonstrate “integrity and morality” or if they “damage the image and prestige of the party” [art. 30 para. (9) of the Statute], but these provisions are extremely general and may be applied (or not) in any case, regardless of the legal liability incurred by a party member. Secondly, analyzing the right to self-suspension, we observe that the text refers, procedurally, to a moment during the criminal investigation phase, namely the initiation of criminal proceedings, at which point the party member becomes a defendant, regardless of the nature of the alleged offense.

<sup>5</sup> According to <https://www.psd.ro/structura-si-organizatii/statut/>, accessed on 17 October 2025.

Otherwise, the PSD Statute does not contain regulations establishing the “red lines” invoked in public discourse. However, through political discourse, such “thresholds” are proposed to society, procedural moments that cannot be ignored and at which reactions and measures are required to avoid “damaging the image and prestige of the party.” In this sense, in a press release from October 15, 2024, PSD announced that its electoral lists for the parliamentary elections of December 1, 2024, would not include persons who have been sent to trial for corruption offenses or offenses assimilated to corruption<sup>6</sup>. A concrete consequence of this decision: Senator Florian Bodog, former Minister of Health, sent to trial at the High Court for corruption offenses, namely abuse of office, and Deputy Adrian-Ionuț Chesnoiu, former Minister of Agriculture, sent to trial for abuse of office, were not included on PSD’s electoral lists for the latest parliamentary elections.

This allows us to note that the moment of being sent to trial represents, in PSD’s public message, confirmed by the above examples but without statutory coverage, the “red line” that the political party can no longer ignore. The public sanction consists of removal from the list, with the person in question continuing to be active in the party or, possibly, exercising the right to self-suspension... There are no provisions prohibiting the appointment of a party member with criminal problems (against

whom criminal proceedings have been initiated or who has been sent to trial) to various other public offices with political support<sup>7</sup>.

### **Save Romania Union (USR).**

Since its founding in 2016, USR has made the anti-corruption message a central theme of its political activity. In 2018, it launched the national campaign “No Convicts in Public Office.” In 2024, it denounced the disregard of over one million people who signed in favor of this initiative<sup>8</sup>. Under these circumstances, consulting the party’s Statute, we did not identify regulations referring to the indictment of a party member. Expectations were high... In public statements, USR representatives refer to exclusion from the party as a result of a final criminal conviction<sup>9</sup>, but such regulations do not exist in the party’s Statute...

Starting from the absence of rules applicable in the case of a party member’s criminal accusation, we note the existence in the media of positions by USR leadership outlining certain “red lines” (for now, verbal, declarative). Thus, on October 15, 2024, the party’s president at that time, Elena Lasconi, stated: “I believe that in a normal Romania, when criminal prosecution is initiated by a prosecutor, we would also need the opinion of a judge, and the decision of the National Bureau, which was unanimous, was that if anyone, not just

<sup>6</sup> According to <https://www.psd.ro/psd-nu-va-avea-pe-listele-de-candidati-persoane-trimise-in-judecata-pentru-fapte-de-coruptie/>, accessed on 20 October 2025.

<sup>7</sup> For example, Mr. Adrian-Ionuț Chesnoiu, whose case was mentioned above, was appointed Director of the Agency for the Financing of Rural Investments, an institution subordinated to the Ministry of Agriculture and Rural Development, according to [https://portal.afir.info/informatii\\_institutionale\\_despre\\_afir\\_conducerea\\_afir](https://portal.afir.info/informatii_institutionale_despre_afir_conducerea_afir), accessed on October 20, 2025.

<sup>8</sup> According to <https://usr.ro/2024/10/28/psd-si-pnl-blocheaza-organizarea-referendumului-fara-penali-odata-cu-alegerile/>, accessed on 20 October 2025.

<sup>9</sup> According to <https://www.libertatea.ro/stiri/membrii-usr-condamnati-penal-prima-instanta-exclusi-partid-elena-lasconi-clotilde-armand-trimisa-judecata-5044896>, accessed on 20 October 2025.



Clotilde Armand, any USR member, is found guilty in the first instance, they must resign from all public offices and will be excluded, in the first instance. I do not think everything should be left in the hands of the prosecutor, until it reaches the court, where we want to hear the opinion of a judge.” Asked why USR did not remove from the lists all those under criminal suspicion, Lasconi said: “Because these people are innocent, for now, and as the law says (which law??), until there is a sentence—and we have gone further, we said we do not wait for a final and irrevocable sentence, but we want that when there is a sentence in the first instance, but we must also have the opinion of a judge, then we will act. Until then, we start from the premise that the person is innocent”<sup>10</sup>.

This is the scenario that allowed USR Bucharest to place Clotilde Armand, former mayor of Bucharest’s Sector 1, at the top of the Senate list for the December 1 elections, even though she was sent to trial in April 2024 by the Prosecutor’s Office attached to the Sector 1 Court for possible conflict of interest. Similarly, invoking the presumption of innocence, Vlad Voiculescu, a suspect in a DNA criminal case for abuse of office as Minister of Health, was validated as a USR candidate for an eligible seat in the European Parliament.

Thus, the “red line” for USR, established by National Bureau<sup>11</sup> decision and applied in the cases presented above, is marked by conviction in the first instance of

the party member. The party’s attachment to the principle (and especially the application) of the presumption of innocence appears to be evident.

### **National Liberal Party (PNL).**

The PNL Statute, approved at the Congress of September 25, 2021<sup>12</sup>, contains provisions addressing situations in which party members are subject to criminal charges. Compared to other parties, PNL has established the most statutory regulations regarding the consequences for its members facing criminal prosecution.

Following the chronology of judicial decisions, the following sanctions can be distinguished in such cases: withdrawal of political support, automatic suspension of PNL membership in the event of a first-instance conviction, automatic and immediate loss of PNL membership in the event of a final conviction, and suspension from leadership positions within the PNL.

*Withdrawal of political support* occurs when criminal prosecution is initiated against PNL members holding certain appointed positions in local or central public administration [art. 26 para. (1) letter d) of the Statute]. In this scenario, translated into criminal procedural language, the acquisition of suspect status by these party members, as a result of the continuation of criminal prosecution by the police or prosecutor, entails the withdrawal of political support. Note that this sanction

<sup>10</sup> According to <https://www.g4media.ro/elena-lasconi-despre-prezenta-pe-lista-usr-a-unor-candidati-cu-probleme-in-justitie-oamenii-acesta-sunt-nevinovati-pana-cand-nu-exista-o-sentinta.html>, accessed on October 20, 2025.

<sup>11</sup> It is interesting that, despite the Uniunea Salvați România (USR) press-release of October 11, 2024 claiming: “In the session of the USR National Bureau, the party president, Elena Lasconi, proposed a resolution (unanimously voted) establishing that any USR member who is criminally convicted for an intentional felony in the first instance will be excluded from the party unless they resign from USR and from any public office”, the USR Statute remained unmodified in this respect ...

<sup>12</sup> According to <https://pnl.ro/wp-content/uploads/2021/12/Statut-PNL-2021.pdf>, accessed on October 20, 2025.

applies only to those holding *appointed* positions in local or central public administration (minister, state secretary, prefect, etc.), which excludes the withdrawal of political support for suspects or defendants who have been elected to positions in local or central public administration (parliamentarians, mayors, county council presidents, etc.). In practice, recent examples include politicians indicted and sent to trial for corruption offenses, for whom PNL decided to continue providing political support. For instance, Iulian Dumitrescu ran for president of the Prahova County Council, although he was under judicial control by DNA prosecutors for corruption charges. His participation in the June 9, 2024, local elections is an expression of the presumption of innocence, with the PNL candidate stating that, despite his legal issues, he decided to run “so that Prahova residents can have a better life.” Ultimately, the voters chose another candidate for the position. Similarly, the elections for the same position in Iași County led to the validation of another PNL member’s candidacy, Costel Alexe, who was also facing criminal charges. Common points? The motivation to “continue making Iași strong and developed” and the need for “continuity<sup>13</sup>.” Another common aspect: corruption charges. As differences, we note two criminal cases (corruption and abuse of office), different procedural stages (Costel Alexe has been on trial in the first instance since 2022 for both cases), and the fact that the voters chose continuity. As a personal observation, in this case, political support was not only undiminished but seemed even stronger, as evidenced by the presence (and display) of the Iași County Council president

alongside the Minister of Justice at the PNL government program launch event on November 2, 2024<sup>14</sup>. Undoubtedly, this circumstance can be interpreted as an indisputable victory for the presumption of innocence. To mention another similar case: in the same county, with the same developments and accusations (including organized crime), Mihai Chirica was validated to run for mayor of Iași, a position he won. Another example where continuity and the presumption of innocence prevailed.

*Automatic suspension of PNL membership* in the event of a first-instance conviction [art. 22 para. (4), art. 26 para. (1) letter f) of the Statute]. For PNL as well, the “red line” appears to be the pronouncement of a first-instance conviction. This time, the suspension applies to all party members, regardless of whether they hold any position or are ordinary members.

*Automatic and immediate loss of PNL membership* in the event of a final criminal conviction [it is not entirely clear whether the sanction applies to any intentional offense or only to corruption offenses, as art. 22 para. (2) letters f) and g) and art. 22 para. (5) are redundant]. The disappearance of the presumption of innocence upon the finality of a conviction is also felt politically, as the convicted defendant loses PNL membership. It should also be noted that the PNL Statute, although adopted in 2021, does not refer to cases where the court pronounces a final decision to waive or postpone the application of the sentence—solutions that, like a conviction, involve a finding beyond reasonable doubt of the defendant’s commission of an offense.

Also worth mentioning is *the suspension from leadership positions within*

<sup>13</sup> According to <https://media.pnl.ro/costel-alexe-si-a-anuntat-candidatura-pentru-un-nou-mandat-de-presedinte-al-consiliului-judetean-iasi/>, accessed on October 20, 2025.

<sup>14</sup> According to <https://www.g4media.ro/costel-alexe-trimis-in-judecata-in-dosarul-tabla-a-stat-in-dreapta-ministrului-justitiei-alina-gorghiu-la-lansarea-programului-de-guvernare-pnl.html>, accessed on November 13, 2024.

PNL for party members who have been placed in pre-trial detention, house arrest, or convicted in the first instance.

### **Alliance for the Union of Romanians (AUR).**

AUR's programmatic documents promote values and principles such as Christian faith, family, the unionist principle, recourse to tradition, and the spirit of sacrifice<sup>15</sup>. Issues with criminal law among party members are addressed in the Statute, art. 21, which provides for the following sanctions: *withdrawal of political support* in the event of the initiation of criminal prosecution against an AUR member; *suspension from leadership positions within the party* in the case of pre-trial detention; suspension of membership in the event of a first-instance conviction; and *exclusion from the party* in the event of a final conviction "to deprivation of liberty" (a provision that allowed Mircea Chelaru, definitively convicted in 2016 for abuse of office, to remain a party member, deputy in 2020–2024, and senator in 2024–2028).

The Code of Ethics and Integrity<sup>16</sup> specifies the effect of withdrawing political support, consisting in the refusal to support persons seeking elected or appointed public or administrative office if party members are in any of the following situations: a) have the status of suspect in a criminal investigation for corruption, related offenses, or other intentional offenses (the sanction applies even more if the prosecutor has initiated

criminal proceedings against the AUR member); b) have the status of defendant sent to trial for the same offenses; c) have the status of defendant definitively convicted for the same types of offenses.

Applying these statutory provisions, the initiation of criminal prosecution against an AUR member results in the impossibility of running for any type of election or being appointed to public office with political support. Nevertheless, the media has reported cases where AUR's political support was granted to party members with criminal issues<sup>17</sup>. This is explained by the lack of national notoriety of these candidates, on the one hand, and the non-application of the party's internal rules, on the other. This is also seen in the case of AUR deputy Dumitru-Viorel Focșa, charged with domestic violence, whose parliamentary affiliation with AUR changed several times: period 1 – parliamentary affiliation (2020–February 2023), period 2 – no parliamentary affiliation (February–November 2023), period 3 – again parliamentary affiliation (November 2023–March 2024), period 4 – again, no parliamentary affiliation (from March 2024 until the end of the parliamentary term), as shown in his parliamentary record<sup>18</sup>.

In theory, under these conditions, AUR's "red line" is represented by the initiation of criminal prosecution against the party member, with the prosecutor's order leading to the withdrawal of political support.

<sup>15</sup> Statute of the AUR Party, available at <https://partidulaur.ro/statut/>, accessed on October 20, 2025.

<sup>16</sup> Code of Ethics and Integrity of the AUR Party, available at <https://partidulaur.ro/cod-de-etica-si-integritate-aur/>, accessed on October 20, 2025.

<sup>17</sup> Allegations of Serious Criminal Issues Involving AUR Candidates in Sibiu, available at <https://www.ziarulprofit.ro/candidati-aur-la-alegerile-locale-cu-probleme-penale-serioase-la-sibiu-politia-sibiu-e-vizata-de-2-sandaluri-de-coruptie-in-care-sunt-implicati-fosti-politisti/>, accessed on November 14, 2024.

<sup>18</sup> Structure of the Romanian Parliament (2020–2024), available at <https://www.cdep.ro/pls/parlam/structura2015.mp?idm=113&leg=2020&cam=2>, accessed on October 20, 2025. Since the initial access date, additional criminal allegations have emerged, all pertaining to domestic violence.

## 7. Conclusions.

We will not compare the internal regulations of the parties. Nor will we rank the role of the integrity of party members in each of the political formations presented. However, we will compare the consequences of criminal prosecution for various socio-professional categories, on the one hand, with the effects of prosecution for politicians, on the other. We can note, by way of example, in a hypothetical scenario, the following: a) a public official accused of a corruption offense will be suspended from office at the time of being sent to trial; b) the same applies to a magistrate accused of corruption; c) while a police officer accused of bribery will be placed at the disposal of the unit (by partial suspension of functional duties) earlier, during the criminal investigation, upon indictment; d) a judge of the Constitutional Court accused of corruption and sent to trial may be suspended by a vote of the other eight judges; e) for a minister accused of influence peddling, suspension from office may be optional at the time of immunity being lifted or criminal charges being brought, or mandatory at the time of being sent to trial. For all these professional categories, the effects of the presumption of innocence in the professional sphere cease as a result of a decision by the Public Prosecutor's Office, the institution holding the monopoly on criminal prosecution (as a procedural rule applied in the vast majority of criminal cases). Thus, *the common denominator for removing the presumption of innocence is the moment of being sent to trial.*

Political parties, however, have decided otherwise. The recognition (and

especially the application) of the major rules specific to criminal proceedings is evident. Because, in most cases, the internal regulations of political parties refer to *the pronouncement of a first-instance court decision*. With the exception of the sanction of withdrawing political support for an AUR member prosecuted for an intentional offense (a rule not respected in political practice, as we have seen), all political formations consider that the suspension of political duties is linked to the pronouncement of a conviction. In other words, "we give up invoking the presumption of innocence only when a judge finds the party member criminally guilty." Or, in the exact words of Prime Minister Ciolacu, when asked by the press about the validation of a candidacy by a colleague with legal problems: "Has he been convicted by any magistrate? Has he been convicted by anyone? (...) No judge has ruled in his case, which is very important<sup>19</sup>." Nevertheless, given the content of this article and observing the different legal regime for applying the presumption of innocence, I must finally highlight the erroneous reasoning of the above political statement: the politician accused of corruption "has civil rights, just like me (*here we agree*), just like you." Here, we no longer agree! Because a magistrate sent to trial no longer has rights deriving from the profession from which he was suspended. While a party member in the same situation has the right to appear on political lists for legislative elections. We also disagree because a police officer accused of corruption and indicted (often, the act of indictment occurs at the very beginning of the criminal case) is

<sup>19</sup> According to <https://www.news.ro/politic-intern/ciolacu-intrebat-candidatura-vasile-rimbu-primaria-suceava-conditiile-rimbu-e-inculpat-intr-dosar-dna-condamnat-catre-cineva-drepturi-cetatenesti-fel-mine-fel-dumneavoastra-1922401912332024041921557072>, accessed on October 20, 2025. It is noteworthy that the criminal case brought against Vasile Rimbu was concluded at the Suceava Court of Appeal with an acquittal in 2025, following an initial conviction handed down by the Suceava Tribunal.

placed at the disposal of the unit (i.e., partially suspended, moved to another, lower-paid position), while a party member under indictment is validated by their political group to seek citizens' votes and become mayor. And we disagree because the consequences of ignoring established legal rules differ: for example, violation by the Superior Council of Magistracy of the rules providing for the suspension of a magistrate entails criminal liability. Violation of their own rules by political parties and the leniency with which their members with criminal problems are treated may entail only political liability—if at all, and only when “citizens go to the polls.” That is why, in the above statement, the politician does not have the same rights as the journalist

who asked the question. He has more...

And if, for most of the examples analyzed, the “red line” is represented by *being sent to trial*, perhaps society would not object to aligning the political class with the restrictions imposed on other citizens in exercising the presumption of innocence. This would make the political environment show respect and trust toward the Public Prosecutor's Office, values that are legally enshrined in the relationship between the judiciary and all other citizens. For this proposal, however, the politician might have an amendment: *What if the prosecutor orders a partisan indictment? What if it is a political case...?* It seems that only Louis XVI could get us out of this possible dilemma.

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