

## Overview of the Romanian Legal Framework on Crisis Management. A Debate on the Pandemic Crisis Case

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**Abstract** – The periods affected by a crisis call for changes in the social framework with which we have been used and for new rules of coexistence to emerge. These rules affect both human behavior and the economic sphere of a state. All these rules are designed to overcome the crisis, but also to learn how to live in a time of crisis. Often of crisis and their management require the restriction of human freedom to reach solutions. But for this new way of living to be accepted, democratic states have only one solution: the law. This article presents a summary of the Romanian legislation over the past two years, analyzing the changes it imposed.

**Keywords:** Crisis Management, Human Behavior, Legislation, Romania.

### I. INTRODUCTION

Today, we are witnessing a global crisis that affects the daily lives of each of us. Moreover, the pandemic crisis generated by the Covid-19 virus launches social challenges that modern states have never faced before.

To understand how crisis management and law can protect citizens of a state, this study analyzes the connection between the crisis and the normative acts issued (emergency ordinances) to maintain balance in a period of uncertainty. Thus, this Article outlines the connection between the pandemic crisis and the law at regional level in Romania.

The article contains four parts as follows: Introduction, which presents the context and the reasons why we have addressed the chosen topic. The second part defines the key concepts of the study (law and crisis management) and the third part considers empirical analysis through observation, but also the element of novelty brought into the field. The last part of the Article is the conclusions of the study.

This article considers both the theoretical part that summarizes the views of researchers on crisis management and law in a democratic state, but also brings an element of novelty. The main addition to the field with the help of research is presented in the third

part, under subchapter “C”: The relationship between law and crisis management.

The result of the article outlines that the law and crisis management must be in a strong causal relationship to achieve their goal: Maintaining social balance.

This article links laws with crisis management aimed at resolving a large crisis (offering a scientific approach of the crisis management situation considering the legal framework and power).

The first part of the Article is focused on the definitions of “law” and “crisis management”. Defining these concepts is the starting point that help us to answer the question “*What is the link between law and crisis management?*”.

The third part of the Article focuses on the analysis of the laws that emerged during the pandemic crisis and their connection with the maintenance of social order and public security. With the help of these observations it is concluded, in the last part of the Article, that in the situation of crises with a global avenging, it is necessary that the law be imperative, with precise rules.

The third part of the article consists of three sections presenting:

- (1) Romania’s pandemic crisis legislation;
- (2) The decision-makers in the lawmaking process;

(3) The connection between laws and crisis management.

To understand the topic of the article, we have used mixed research methods: observation of the social context, documentation on literature and analysis of normative acts.

### II. CONCEPT DEFINITION

Of the oldest timings, the law is of particular importance to the humans because “force does not create the right and we are obliged to obey only legitimate powers”. This statement made by Jean

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Jeaques Rousseau in 1762 best reflects today's social reality, which is the premise from which many other specialists have developed their legal theories. Although the law was viewed from the humanist, positivist or naturalistic perspective, its important characters remain unchanged: “general, impersonal and mandatory” [1]. Thus, the law appeared as “a response to the human need to know what is good and what is evil” [2]. Table 1 summarizes the definitions of law made by some experts in the field.

If the law is general and imposes a set of rules dedicated to human behavior, we can see that crisis management also refers to a set of rules that apply to human behavior. The term crisis comes from the Greek word “kwaste”, which refers to “making a decision” or “changing the situation” [3], and crisis management has also come as a response to the need to deal with

“more or less unpredictable situations in a company, organization or department” [4]. Table 2 shows the definitions of crisis management of some specialists. Thus, from Table 1 and Table 2 it can be observed that both the law and the crisis management represent a set of rules aimed at social normality and overcoming events that run counter to this normality.

Table 3 shows similarities between law and crisis management at conceptual level to better understand their interconnection.

The most important similarities between law and crisis management: both create rules, both manage conflicts, and the focus is on human behavior, being generally applicable. In addition, both those who manage the crisis and those who write the law must have expertise in the field.

Tabel 1. Law: main definition synthesis

No.	Literature resource	Law is defined as:
1	Susemihl et al., 1894	Law, simply described, is reason [logos] defined according to the common agreement [homologies] of the city-state, regulating action of every kind
2	Webster, 1898	Nothing else than an ordinance of reason for the common good, made by him who has care of the community, and promulgated
3	Austin, 1822	... law is aggregate of rules set by men politically superior or sovereign to men as politically subject.
4	Dias, 1965	Law is an instrument which regulates human conduct/behavior. Law means Justice, Morality, Reason, Order, and Righteous from the viewpoint of the society ...
5	Cambridge Dictionary, 2019	... a rule, usually made by a government, that is used to order the way in which a society behaves.
6	Mateut, 2020	The law is everything that can be respected and not.
7	Zbarcea et al, 2021	Today the law is not made to be pleasant, but useful.

Tabel 2. Crisis management: main definition synthesis

No.	Literature resource	Crisis management is defined as:
1	Pearson, 1997	... crisis management...is helping avert crises or more effectively managing those that do occur”
2	Fink, 2002	A crisis is defined here as a significant threat to operations that can have negative consequences if not handled properly
3	Mitroff, 2004	Crisis management...is primarily reactive. It addresses crises only after they have happened.
4	Regester et al., 2005	Is about recognizing you have one, taking the appropriate actions to remedy the situation, being seen to take them and being heard to say the right things.
5	Devlin, 2007	...to confirm or minimize any damage”
6	Dilenschneider, 2009	Crisis management is a process designed to prevent or lessen the damage a crisis can inflict on a domain.”
7	Hayes, 2021	... crisis management involves reacting to negative events during and after they have occurred”

Tabel 3. Similarities between law and crisis management

Similarities
1. Rules
2. Conflict management
3. Human behaviour
4. Generally applicable
5. Experts

### III. LAW AND CRISIS MANAGEMENT

In the second part of the article, we outlined the conceptual definitions of the law in general. But when a state is confronted with a crisis, a set of special normative acts are to be promulgated. These laws are meant to solve the crisis as part of crisis management and provide it with the necessary framework to be applied. In Romania, these laws are called emergency ordinances, and they are analyzed in the following lines.

#### A. An overview of the Romanian legislation on the pandemic crisis

The Emergency Ordinance of the Governance (OUG) is stipulated in the Romanian Constitution under Article 115(4) “the Government may adopt emergency ordinances only in extraordinary situations whose Regulation cannot be postponed and must explain the urgency within them” [5]. Thus, the fundamental law in the state does not offer a definition of the emergency ordinance, but only when it can be reproduced. However, in the doctrine of the law emergency order is defined “the provision written by an authority in exceptional circumstances” [6].

Starting with March 2020, the Romanian state, like any other state, was affected by the pandemic crisis caused by Covid-19. Starting with March 2020, the Romanian Government adopted 201 emergency ordinances and 190 of them regulate the crisis caused by Covid-19. Among the most important measures adopted in these normative acts are: Alert state, limitation of fundamental rights, health obligations. According to specialists, “the emergency ordinance does not violate the fundamental human rights, but it does restrict them in order to protect it” [7].

Apart from the Emergency Ordinances, the National Committee for Special Emergencies Situations (CNSSU) holds a major seat in the Romanian state when it is faced with a crisis like the pandemic one. Thus, according to the official site of the Romanian Government [8] between March 2020 and December 2021, Committee for Special emergency issued more than 150 resolutions, this number is double then decisions taken by the institution between 2017 and 2019.

The first resolution issued by Committee for Special Emergency Situations in the Covid-19 crisis is resolution number 6 of 09.03.2020. This decision was the first to change Romania's social context because it had imposed the restrictive measures [9]. Thus, a group of specialists representing the “crisis center” [10] took the first steps to react to the events. But these norms,

which change the lives of people in a state, are respected only if they fulfill 3 conditions “come from a legitimate authority, are legal and there is the force of the coercion” [12].

After this decision, several laws were followed that complemented it, depending on the magnitude of the pandemic crisis. For example, although the alert state was prolonged by numerous decisions (e.g., Decision No. 476 / 16.06.2020, Decision No. 540 / 05.08.2021) the measures taken have changed according to one factor: *incidence rate of infection*. It is noted in the lawmaking process that all decisions taken by the Committee for Special emergency and the Government are the result of a CMP (crisis management plan) [11].

To show how these acts play a major role in crisis management, the emergency ordinance No. 29/2020, contains several measures applicable to the economic sphere. This law is to help companies that have major financial losses due to the pandemic crisis. However, the companies must meet certain conditions to be able to be assisted by the state. Thus, if this law did not regulate the decisions necessary to overcome a crisis, the measures taken at management level could not to be applied.

If the emergency ordinance and Committee for Special emergency judgments are applicable nationally in a crisis, other laws are applicable particularly. These laws are the decisions taken by the prefect at county level whose effects take place on a particular territory. For example, in Romania, depending on the number of infections in a city, it may be placed in quarantine. The decision is taken by the Committee for Special emergency, but its implementation and the assurance that this measure is respected lie with the Prefect. Thus, by law the crisis is “acknowledged, measures are taken on it and we are assured that the measures are respected” [12].

Although a few measures are adopted by law to combat the pandemic crisis, the law does not require vaccination. Although many experts in the field have stated that “vaccine is the only weapon against the virus” [13], in Romania there is 40.3% vaccinated population.[14] This percentage, which is below the European average, is due to the lack of a long-term crisis management plan. All the measures adopted by the government (e.g., ban on circulation, wear the mask) are short-term solutions. Although the Romanian state did not consider the vaccine requirement, many European countries adopted the measure [15].

The lack of a law about vaccine is a real example by which we notice that a large crisis cannot be overcome if certain measures are not imposed by law. Every rule transposed by law is respected by people because “breaking the law means punishment” [16]. At the present time the decision belongs to man and the civic spirit.

#### B. Decision makers

Each crisis requires a plan to be followed, and the factors influencing the management plan for the crisis

differ according to the type of crisis we are facing [17] given that a pandemic crisis is characterized as unpredictable and of a huge scale, it depends on many factors to resolve it. The most important of these factors is the political one.

In Romania, on December 4<sup>th</sup>, 2020, the “vaccination strategy against Covid-19” was adopted, which represents the management plan for pandemic crisis [18]. However, the aim of this plan was not achieved because political institutions did not focus on crisis resolution, but on other related activities. Considering that “the leader is the one who points the direction” [19] the political factor occupies a major place in managing the pandemic crisis by example.

It is important for people that when it comes to unpredictable things have certain models to follow because each crisis affects the individual's needs [19]. According to “*The pyramid of Maslow*” [20] humans have five needs: physiological needs, security needs, the need for esteem, the need for belonging and the need for self-updating. We can see that the pandemic is a crisis that has affected one of the most important needs: *the need for security*.

According to Fowler if the need for stability is not met can create chaos in society because people are not used to living in a mystery, we live in a planning world [21]. Thus, crisis management must ensure both: viable solutions and people's needs.

### C. The relation between law and crisis management

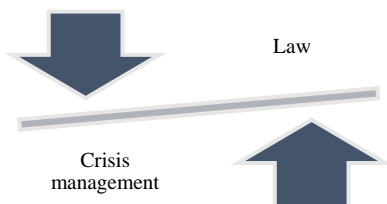


Fig 1. Crisis management vs. Law.

Figure 1 is presented the relationship between crisis management and the law for a better understanding of it. In view of the above, we can say that in a crisis, both the management and the law have decision-making roles. When a crisis is global, such as the pandemic one, the state leaders have the role of carrying out a management plan to establish a set of measures applicable to the given situation. This set of measures can only be complied with if it is given a legal framework by which it is imposed and respected by everyone. Thus, the crisis management and the law (represented by the two arrows) have the force to stabilize the crisis (represented by the rectangular dial) if the two are in a causal relationship.

## IV. CONCLUSIONS AND FINAL REMARKS

First, we note that the law is a tool to apply the measures taken at management level to be generally valid and respected in a crisis such as the health crisis

generated by the Covid-19 pandemic. When we talk about a crisis affecting the whole state, it takes the law enforcement to diminish the negative effects of a crisis on people.

Secondly, in Romania there are special laws meant for crisis situations that strengthen the idea of connection between management and law. As I have shown, emergency ordinances are issued only in special situations because of the unpredictable occurrence.

Thirdly, crisis management and the law aim to change human behavior. By changing behavior, habits are created that help people become adaptable to the situation they are facing until the crisis is overcome.

Lastly, we believe that a pandemic crisis can be overcome if the primary needs of people are being taken up and imposed on decisions. The more the rules will provide certainty, but also a long-term solution, the greater the impact on people.

Furthermore, we expect that the state institutions continue to apply a set of measures indispensable to the situation we are in, and that these measures be linked to the purpose: overcoming the pandemic crisis.

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