
THE RELIGIOUS OATH IN JUDICIAL PROCEEDINGS FROM ROMANIA TOWARDS REPLACING WITH A SECULAR FORMULA

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Abstract

Starting from the idea of the need to respect the freedom of religion, as it is currently enshrined, among the fundamental rights and freedoms of the person, this study addresses the issue of taking an oath during the hearing procedure of the witness in the Romanian criminal trial. In the criminal procedure codes in Romania, which were applied since 1864 until now, the legal provisions started with the provision of a secular oath (the code adopted in 1864) and continued with the regulation of the religious oath alternatively with a secular oath (the code adopted in 1936). Later, it was introduced a version of a formula that did not involve taking an oath (the code adopted in 1968), and the code in force (adopted in 2010) provides for the religious oath alternatively with the solemn declaration. Through a comparative analysis of several European legislations, it is found that, in most of them, the witness's oath or commitment to tell the truth before the judicial authorities has a secular character. Also, the present work brings to attention the fact that, as a result of several decisions of the European Court of Human Rights, which found a violation of the right to freedom of religion when applying the judicial procedure of hearing witnesses in the criminal trial, there is a state (Greece) that has made legislative changes at the domestic level, even replacing the religious oath taken before judicial bodies with a secular oath. In order to simplify the procedures, but also to guarantee respect for the right to freedom of thought, conscience and religion, the paper ends with a proposal to amend the current Romanian Criminal Procedure Code, consisting in replacing the religious oath with a secular formula whereby the witness takes responsibility for the truthfulness of his statement.

Keywords: criminal, trial, witness hearing, oath, legislative changes

1. Introduction - consecration of freedom of religion at European and national level

At the European level, freedom of religion is enshrined, among the fundamental rights and freedoms of the person, in art. 9 ('Freedom of thought,

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conscience and religion’) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (adopted on November 4, 1950): “(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. (2) Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

The importance of the freedoms guaranteed in art. 9 of the European Convention, subsumed under the concept of freedom of opinion in general [1], was revealed by the European Court of Human Rights (ECtHR), as the competent court in the application of the conventional provisions, which considered (in the ECtHR Guide regarding art. 9 of Convention, updated in 2022, <https://www.echr.coe.int/>) that these freedoms represents “one of the foundations of a ‘democratic society’ within the meaning of the Convention”.

In the doctrine it was appreciated that the three freedoms present both an internal aspect (an individual dimension) and an external one (a social dimension); while, internally, freedom is absolute, since the opinions and convictions found in the inner forum of the person cannot influence public order, in its external (social) dimension, freedom is relative, because, through the manifestation of convictions, public order can be affected [2]. Therefore, paragraph 2 of art. 9 of the Convention allows the restriction of freedom of expression of religion or beliefs, but only through measures provided for by law and necessary in a democratic society, justified by the legitimate aims listed in an exhaustive manner: guaranteeing public safety, protection of public order, health or morals, as well as protecting the rights and freedoms of others.

The right to freedom of religion is also recognized (along with the right to freedom of thought and conscience) in art. 10 paragraph 1 of the Charter of Fundamental Rights of the European Union (proclaimed on 7 December 2000): “Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change one’s religion or belief, as well as freedom to manifest one’s religion or belief individually or collectively, in public or in private, through worship, education, practice and observance.”

Some European states, through the Constitution, recognize only one national religion or consecrated, as predominant, only one religion (for example, Malta, Liechtenstein, Greece).

Thus, in the Constitution of Malta (adopted in 1964 and subsequently revised, <https://codex.just.ro/Tari/Download/MT>) it is expressly provided (in art. 2 para. (1)), as the state religion, the Roman Catholic Apostolic religion, the teaching of religion in the spirit of this faith being ensured in all state schools through compulsory education. At the same time, however, the Maltese Constitution guarantees (in art. 40) freedom of conscience and free exercise of religious worship.

In Liechtenstein (art. 37 of the Constitution of the Principality of Liechtenstein, adopted in 1921 and subsequently revised, <https://constitutii.files.wordpress.com/2013/01/verfassung-e-01-02-09-doc.pdf>) the Roman Catholic religion is recognized as the national religion, but at the same time freedom of religion is guaranteed, in the sense that other confessions can be practiced within the limits of morality and public order.

The Constitution of Greece (adopted in 1975 and subsequently revised, <https://codex.just.ro/Tari/EL>), whose preamble contains the formula “in the name of the Holy, Consubstantial and Indivisible Trinity”, stipulates (in art. 3) that “the predominant religion in Greece is that of the Eastern Orthodox Church of Christ”. However, although the Greek Basic Law enshrines the existence of a dominant religion in the state, the same law guarantees (in art. 13) the freedom of religious conscience, as well as the freedom to practice, under the protection of the law, any known religious cult, if it does not harm public order and good morals.

Unlike these states, Romania, although it has a Constitution that “consecrates Christian values” [V.Z. Puskás, *Valorile creștine consacrate în Constituția României*, 2021, 7-10, <https://www.ccr.ro/wp-content/uploads/2021/01/puskas.pdf>], as well as a majority Christian-Orthodox population, is a secular state. The Romanian Constitution (adopted in 1991, republished in the Official Gazette of Romania no. 767 of October 31, 2003) does not proclaim, at the state level, a specific religion, but guarantees freedom of religion (through the provisions of art. 29 para. (1) and (2)), this freedom being included in the concept of ‘freedom of conscience’: “(1) Freedom of thought and opinion, as well as freedom of religious beliefs cannot be restricted in any way. No one can be forced to adopt an opinion or adhere to a religious belief, contrary to his convictions. (2) Freedom of conscience is guaranteed; it must manifest itself in a spirit of tolerance and mutual respect.”

Also, the provisions regarding the guarantee of the fundamental right to freedom of thought, conscience and religion are taken over, in terms of national (domestic) legislation, and in Law no. 489/2006 regarding religious freedom and the general regime of cults (republished in the Official Gazette of Romania no. 201 of March 21, 2014). It should be emphasized that, although in Law no. 489/2006 is stipulated (in art. 7 para. (2)) that “the Romanian state recognizes the important role of the Romanian Orthodox Church and other recognized churches and cults in the national history of Romania and in the life of Romanian society”, the same law [in art. 9 para. (1)] expressly provides that “in Romania there is no state religion” and that “the state is neutral towards any religious belief or atheistic ideology”.

2. The jurisprudence of the European Court of Human Rights in the matter of taking a religious oath in judicial proceedings

As mentioned in the ECtHR Guide on art. 9 of the Convention (updated in 2022, <https://www.echr.coe.int/>), “the Court raised freedom of religion to the

rank of a substantive right under the Convention, at first indirectly and, later on, more directly”.

In this context, since in the national legislations of some European states, in the application of judicial procedures involving the hearing of some persons, the taking of a religious oath is or has been regulated, before the European Court of Human Rights was raised the issue of violation of art. 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, by obliging the disclosure of a person’s religious beliefs when taking the oath in the criminal process.

Thus, in the *Case of Dimitras and others against Greece* (No. 3 - ECtHR Judgment of January 8, 2013, <https://www.echr.coe.int/>), the plaintiffs addressed the Strasbourg Court, noting the fact that, between January 2009 and June 2010, they were heard by a judicial authority (investigating judge, prosecutor or court), which requested them to take the oath in accordance with the provisions of art. 218 of the Criminal Procedure Code of Greece (in force at that time). The applicants pointed out that, in this context, the judicial authority that heard them invited them to take a religious oath with their right hand on the Bible, and they declared that they were not Orthodox Christians or that they did not wish to reveal their religious beliefs and that they preferred to make a solemn declaration under art. 220 of the Code of Criminal Procedure of Greece (in force at that time), a request which was granted to them. However, the plaintiffs showed that, by the fact that, pursuant to art. 220 of the Criminal Procedure Code of Greece (in force at the time), were forced to disclose their religious beliefs in order to make a solemn declaration, without taking a religious oath, their right to freedom of religion enshrined in art. 9 of the Convention was violated.

Examining the plaintiffs’ complaint, the European Court found that art. 220 of the Code of Criminal Procedure of Greece did not allow, at that time, the persons interviewed to opt for a solemn declaration, without taking a religious oath, by the mere manifestation of will, but involved the provision of precise information regarding religious beliefs in order to be excepted from the presumption established in art. 218 of the same code (namely, that of being Orthodox Christians).

Also, the Strasbourg Court found that, according to art. 217 of the Greek Code of Criminal Procedure (in force at the time), on the occasion of verifying the identity of the person who was to be heard as a witness, he/she was invited to declare his/her religious affiliation, in addition to other personal data.

Given these considerations, the Court recalled that “freedom of thought, conscience and religion, which is closely related to pluralism, is one of the foundations of a ‘democratic society’ and that, in its religious dimension, that freedom is an essential part of a believer’s identity, but also a precious asset for atheists, agnostics, sceptics and the unconcerned”.

At the same time, the European Court showed that, also in other cases (*Case of Dimitras and others against Greece* - ECtHR Judgment of 3 June 2010 and *Case of Dimitras and others against Greece, No. 2* - ECtHR Judgment of 3

November 2011), ruling on identical issues, decided that the freedom of expression of a person's religious beliefs also includes his right not to reveal his religious faith or beliefs and not to be obliged to act or refrain from acting in a way that can lead to the conclusion that he has such beliefs or not.

Therefore, in this case, the Court found a violation of art. 9 of the Convention, stating that the obligation imposed on the applicants to disclose their religious beliefs in order to allow them to make a solemn declaration, without taking a religious oath, constituted an interference with the exercise of freedom of religion, an interference which was not justified and proportionate to the aim pursued.

By the way, as the Court found, it must be emphasized that, in 2012 (through Law no. 4055/2012), the Greek state amended art. 217 and art. 218 of the Criminal Procedure Code and repealed art. 220, so that, according to the provisions subsequent to the amendment, the witness was no longer obliged to provide the judicial authority, before the hearing, with information regarding his religious affiliation and had the possibility, through a simple manifestation of will, to choose between taking a religious oath and giving a solemn declaration.

Moreover, we note that, in the new Criminal Procedure Code of Greece (Law no. 4620/2019, <https://www.lawspot.gr/>), the religious oath was replaced by a secular one, in the following wording: "I declare, invoking my honour and my conscience, that I will tell the whole truth and only the truth, without adding or hiding anything" (art. 219).

3. The evolution of the regulations, in the procedural-criminal legislation in Romania, regarding the taking of the oath in judicial proceedings

Seen from the perspective of finding out the truth, the criminal process represents not only a set of judicial procedures, but also a genuine "knowledge process" [3], which involves establishing the reality of the factual situation in order to solve the criminal case.

The importance of establishing the reality of the factual situation and all the circumstances necessary to resolve criminal cases, including through witness statements as evidence, has been revealed in legal literature since the 19th century, through a very suggestive expression, witnesses being considered "eyes and ears of justice" [4].

In this context, the most important procedural obligation of the witness in legal proceedings is to tell the truth, i.e. to give truthful statements.

By the way, being more than a procedural obligation, the duty of sincerity is both a moral and a religious precept; the ninth commandment of the Orthodox Decalogue is: "You shall not bear false witness against your neighbour!" (Deuteronomy 5.20).

The duty of the individual to be honest, that is to say the truth in any circumstance, as a rule of social life and as a religious precept, was also preached by Saint John Chrysostom, who left us as 'useful words and stories' next: "Don't put peace and understanding above truth" [5] and "Nothing is

weaker than a lie, however veiled it may be. As fast as it goes up, it also comes down.” [5, p. 442]

Closely related to the procedural obligation to tell the truth in the criminal trial, the legal norms also establish an obligation of the witness, namely that of taking an oath or solemn declaration, with the role of accountability and warning of the person who follows to be heard on the importance of his statements, in order to prevent the distortion of reality [6].

Regarding the evolution of the regulation, in the procedural-criminal legislation in Romania, of taking an oath in the procedure of hearing people by the judicial authorities, we note that in the first Romanian Criminal Procedure Code, adopted in 1864 (the Criminal Procedure Code of the United Romanian Principalities, published in the Official Gazette of December 2, 1864). There were provisions in this regard, both before the investigating judge (art. 72: “witnesses will swear to tell the whole truth (...)”), as well as before the police courts (art. 153: “witnesses will swear, at the hearing, under penalty of nullity, to tell the whole truth (...)”) and before the jury (art. 342: “before their deposition, they (witnesses) will take, before the court, an oath to speak without hatred, without fear and without bias, to tell the whole truth (...)”).

Provisions regarding the taking of the oath, this time also of a religious nature, also existed in the Code of Criminal Procedure adopted in 1936 (Code of Criminal Procedure Charles II, published in the Official Gazette no. 66 of March 19, 1936), in which it was stipulated (art. 153) that: “The witness, before being heard, takes the oath under penalty of nullity according to the following formula: ‘I swear on the holy cross and before God, that I will tell the whole truth, only the truth and that I will not hide anything of what I know’”.

The witness pronounces the above formula with the hand on the cross following the judge’s instructions. After taking the oath, the judge draws the attention of the witness that he is obliged to testify the clean and whole truth, according to his knowledge and conscience, and that if he did not declare the truth, he would be guilty of the crime of perjury.

Witnesses belonging to recognized religious denominations take the oath in the form prescribed above, but modified in the religious part, according to their faith. Those without confession declare on honour and conscience that they will tell the truth. Taking the oath in any of the previous forms has all the legal consequences of the oath.

Also, according to art. 167 of the Code of Criminal Procedure from 1936, the provisions regarding the oath of witnesses also applied to experts, in their procedural quality as participants in the trial.

Later, in the Code of Criminal Procedure from 1968 (republished in the Official Gazette no. 78 of April 30, 1997, with subsequent amendments and additions), the provisions regarding the taking of a religious oath were maintained, but variants of a sacred oath, respectively of a formula that did not require the taking of an oath, were also introduced. Thus, according to art. 85 of the Criminal Procedure Code of 1968, before the actual hearing, the witness had to take the oath in the following form: ‘I swear that I will tell the truth and that I

will not hide anything that I know. So help me God!'; during the taking of this oath, the witness, except one of a religion other than the Christian one, had to keep his hand on the cross or the Bible. Also, the possibility of changing the reference to divinity in the formula of the religious oath was foreseen, according to the religious faith of the witness.

For the witness who affirmed that he had no confession, the oath was as follows: 'I swear on my honour and conscience that I will tell the truth and that I will not hide anything of what I know'.

For witnesses who, for reasons of conscience or confession, did not take an oath, the formula they uttered or assumed was: 'I oblige myself that I will tell the truth and that I will not hide anything of what I know'.

In terms of legal consequences, the value of the oath (whether religious or secular) or the formula prescribed by law was the same, in the sense that, regardless of the formula spoken or assumed, if the witness did not tell the truth, he committed the crime of perjury.

At the same time, in the cases in which expertise was used as an evidentiary procedure, and the judicial body considered it necessary to listen to the expert in order to give explanations on the expertise report, according to art. 124 para. (2) of the Criminal Procedure Code of 1968, the provisions concerning the hearing of witnesses (including those concerning the taking of oaths) also applied.

At the moment, according to the current Code of Criminal Procedure (Law no. 135/2010, entered into force on February 1, 2014, published in the Official Gazette no. 486 of July 15, 2010, with subsequent amendments and additions), the witness is required to submit the oath (only the formula of a religious oath is provided) or the solemn declaration. Thus, as it appears from the content of art. 121 of the Code of Criminal Procedure ('Oath and solemn declaration of the witness'), the judicial body asks the witness if he wishes to take a religious oath or solemn declaration.

If the witness opts to take the religious oath, the text of the oath will be: 'I swear that I will tell the truth and I will not hide anything that I know. So help me God!'; depending on the religious faith of the witness, the reference to the divinity changes. Also, during the recitation of the formula of the religious oath, with the exceptions imposed by faith, the witness must keep his hand on the cross or the Bible.

If the witness chooses to make a solemn declaration, he will say or assume the following text: 'I oblige myself that I will tell the truth and I will not hide anything that I know'.

Regardless of the formula spoken or assumed (religious oath or solemn declaration), the legal consequences of the violation of the obligation to give truthful statements are the same, the attention of the witness being drawn (according to art. 120 para. (2) lit. d) of the Criminal Procedure Code) that the law punishes the crime of perjury.

At the same time, pursuant to art. 179 of the Code of Criminal Procedure, if the judicial body considers that, in order to clarify the expert's findings or conclusions, it is necessary to hear him, the provisions regarding the hearing of witnesses shall apply (therefore, including those regarding the taking of the oath or the solemn declaration).

4. Comparative aspects regarding the oath in the witness hearing procedure, according to the legislation of other European states

Analysing the procedural-criminal legislation of other European states regarding the witness hearing procedure, we find different regulations, from a simple information, attracting attention or warning of the person about his obligation to tell the truth (for example, in Switzerland, Croatia, Slovenia), until taking an oath (for example, in France, Belgium, Portugal, Ukraine, Germany).

Thus, in the Swiss Code of Criminal Procedure (Criminal Procedure Code of the Swiss Confederation of 2007, with subsequent amendments, <https://legislationline.org/>) the taking of an oath is not regulated, there are only provisions (art. 177) according to which, at the beginning of the hearing, the authority hearing the witness informs him of the obligation to answer in accordance with the truth and warns him of the sanction applicable in case of false testimony.

Also, according to the Code of Criminal Procedure of the Republic of Croatia (entered into force in 2009, <https://legislationline.org/>), the witness is informed, before taking the statement, that he is obliged to tell the truth and that perjury constitutes crime (art. 288).

Similar provisions can also be found in Slovenian legislation (Criminal Procedure Code of the Republic of Slovenia from 1994, with subsequent amendments, <https://legislationline.org/>), which refers (in art. 240) to a cautioning of the witness on the obligation to tell the truth and a warning that perjury is a crime.

In the Criminal Procedure Code of the Republic of Bulgaria (entered into force in 2006, with subsequent amendments, <https://legislationline.org/>) it is stipulated (in art. 139) that the witness is warned that he will be held liable if he provides false information or hides some circumstances. At the same time, the witness must promise to make a statement in good faith and state everything he knows about the case.

According to the Italian Code of Criminal Procedure (Criminal Procedure Code of the Italian Republic of 1989, with subsequent amendments, <https://legislationline.org/>), after being warned of the obligation to tell the truth, the witness is required to give a commitment, in the formula expressly provided in art. 497: "(...) I undertake to tell the whole truth and not to hide anything of what is known to me".

And in the criminal procedural legislation in Poland (Criminal Procedure Code of the Republic of Poland of 1997, with subsequent amendments, <https://legislationline.org/>) a commitment of the witness is regulated, in a solemn

formula expressly provided for in art. 188: “Being fully aware of the meaning of my words and my responsibility before the law, I solemnly promise to tell the truth and not to hide anything known to me”.

The French Code of Criminal Procedure (Code of Criminal Procedure of the French Republic of 1958, with subsequent amendments, <https://legislationline.org/>) contains several provisions regarding the taking of a lay oath by the witness; for example, in art. 331, it stipulates that, before beginning their testimony, the witnesses take an oath “to speak without hatred and without fear, to tell the whole truth, nothing but the truth”. There are also other provisions in the French Code of Criminal Procedure that refer to the hearing of witnesses under oath. Thus, art. 335 and art. 336 provides that the depositions of certain categories of witnesses (such as relatives of the accused, his spouse or concubine) “cannot be received under oath”, being however possible to hear them under oath, without the nullity interfering, “when neither the prosecutor nor any between the parties did not object to taking the oath” [7].

According to the Code of Criminal Procedure of the Kingdom of Belgium (since 1808, with subsequent amendments, <https://legislationline.org/>), witnesses take a non-religious oath to tell the whole truth and nothing but the truth (art. 75).

Moreover, in the Criminal Procedure Code of Portugal (from 1987, with subsequent amendments, <https://legislationline.org/>), the obligation of the witness to take an oath, with a lay character, is regulated in the formula expressly provided for in art. 91: “I swear, on my honour, to tell the whole truth and nothing but the truth”.

Similarly, in the Criminal Procedure Code of Ukraine (from 2012, with subsequent amendments, <https://legislationline.org/>), the content of the oath that the witness must take before his hearing is expressly provided (in art. 352): “I, (last name, name, patronymic), take my oath to tell the truth and nothing but the truth”.

On the other hand, in German legislation (Criminal Procedure Code of the Federal Republic of Germany of 1950, with subsequent amendments, <https://legislationline.org/>), both the option of taking a religious oath is regulated (in Section 64), with reference to the divinity, as well as the variant of taking a lay oath, depending on the witness’ option, in both variants the witness raising his right hand during the oath taking. For witnesses who declare that they do not wish to take an oath, for reasons of faith or conscience, the option of assuming the truthfulness of the statement through a formula equivalent to an oath is provided (in Section 65).

Moreover, in accordance with Spanish criminal procedure law (Criminal Procedure Act/Ley de Enjuiciamiento Criminal of 2010, with subsequent amendments, <https://www.mjusticia.gob.es/en>), the witness who has reached the age of majority must take an oath or promise to tell everything he knows about the questions asked (art. 433). As it appears from the content of art. 434, the oath has a religious character (it will be taken “in the name of God”), and the witnesses will take it in accordance with their religion.

So, by comparing the witness hearing procedure in several European states that, like Romania, apply the continental judicial system, i.e. the Romano-Germanic system (different from the Anglo-Saxon one, of common law), summarizing, we can identify the following situations:

- the existence of provisions regarding informing the witness, at the beginning of the hearing, of his obligation to tell the truth under the penalty applicable for committing the crime of false testimony; in this situation, taking an oath is not regulated (Switzerland, Croatia, Slovenia);
- providing the need to warn the witness, prior to taking the statement, about the engagement of criminal liability in case of providing false information, as well as providing for the need to obtain a promise from the witness to give a statement in good faith; in this situation, the witness is not required to take an oath (Bulgaria);
- the existence of regulations regarding informing/warning the witness about his obligation to tell the truth, simultaneously with the witness's assumption of the declaration of the truth; even in this situation the witness is not required to take an oath, but a commitment in a formula expressly provided by law (Italy, Poland);
- regulating the obligation of the witness to take an oath without reference to divinity (France, Belgium, Portugal, Ukraine);
- the existence of provisions regarding the possibility of the witness to choose between taking a religious oath and taking a secular oath (Germany) or to choose between taking a religious oath and promising to tell the truth (Spain).

Consequently, we note that, in most of the analysed legislations, the oath or commitment of the witness to tell the truth before the judicial bodies has a secular character, without reference to divinity.

5. Conclusions

Recognizing the indisputable role of the Church and Romanian Christianity, in the wider context of European Christianity, both in preserving and respecting the moral norms that were the basis of Romanian and European society, as well as in the development of culture and social life [8], as well as the role of faith, as an essential element in the formation of psychosocial resilience against critical situations caused by an atheistic political regime [9], we still ask ourselves the question to what extent is it justified, in contemporary society, to maintain some legal regulations regarding the taking of a religious oath with the role of ensuring the discovery of the truth for the realization of the act of justice.

We believe that, in today's democratic society, under the conditions of enshrining the right to freedom of religion, the witness should not be asked to tell the truth before the judicial authorities for fear of divine punishment. The phrase 'So help me God!' from the formula of the religious oath induces a feeling of fear (even only through the possibility of a lack of divine help), a feeling that should not be associated with faith. The basic feeling of faith (at

least in the case of Christianity) is love, not fear; ‘*And now these three remain: faith, hope and love. And the greatest of these is love*’ (1 Corinthians 13.13).

At the same time, guaranteeing the right to freedom of religion also implies ensuring a certain confidentiality, both of the religious act of invoking the divinity and of the person’s religious beliefs.

On the other hand, for reasons related to simplifying the procedure and ensuring the celerity of the procedural activities, most of the time, in practice, the judicial bodies in Romania omit to ask the witness if he wants to take a religious oath or a solemn declaration, directly asking him to say the typical formula of the religious oath provided for in art. 121 of the Code of Criminal Procedure, which may even lead to a violation of freedom of religion.

In conclusion, given the current provisions of most criminal procedure codes of the European states, but also the imminence of the amendment of the Romanian Criminal Procedure Code (see the draft law approved by the Government on December 28, 2022, <https://sgg.gov.ro/1/>), we propose to amend art. 121 of the code, both regarding the marginal name and the content, thus: “Art. 121. Assuming responsibility for the witness statement. (1) During the criminal investigation and trial, after fulfilling the provisions of art. 119 and before the communication of the rights and obligations of the person subpoenaed as a witness, the criminal prosecution body and the president of the panel require the witness to assume the responsibility of what they are about to declare, by the formula: ‘I oblige myself that I will tell the truth and I will not hide anything of what I know’. (2) The provisions of para. (1) is properly applied in the preliminary hearing procedure, before the judge of rights and liberties.”

Also, to correlate the provisions of art. 121 with those of art. 120, we propose to amend art. 120 para. (1), in the version proposed in the draft law approved by the Government, by replacing the phrase “after taking the oath or the solemn declaration” with the phrase “after assuming responsibility for the declaration”.

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