E-ISSN 3008-6299

THE CRIMINAL SCIENCES JOURNAL
TCSJ
"AL.I. CUZA" POLICE ACADEMY

THE REGULATION OF FEMICIDE – BETWEEN SOCIAL NECESSITY AND THE RESPONSE OF CRIMINAL LAW

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Abstract: *The indivisible values of human dignity, freedom, equality, and solidarity have been at the heart of the European project since the European Union was founded. Despite the promotion and protection of the interests of the citizens of the member countries through the affirmation of these solemn principles, femicide—a violent and systemic phenomenon—continues to spread, requiring firm responses from all states. The commission of such an act cannot be considered in isolation or viewed as a mere personal tragedy, but is the extreme and brutal form of gender discrimination, the end point of a spectrum characterized by violence that is deeply rooted in the structural inequalities between men and women in all societies. At the European level, the data, although fragmented and underreported due to a lack of harmonization of definitions and collection methods, paint an alarming picture. Statistics from European agencies and non-governmental organizations illustrate a public security crisis of pandemic proportions. In countries such as Germany and France, official figures show that dozens of women lose their lives at the hands of their partners or former partners every year. In Romania, news stories about women killed by their partners have unfortunately become a common refrain in the daily press, highlighting an alarming gap between social reality and the system's effective response.*

Keywords: *femicide; legislative approaches; reactive instrument; autonomous crime of femicide*

1. Introductory Aspects

The concept of femicide, which is currently at the forefront of debates on European criminal law reform, first appeared in academic and activist discourse not ten or twenty years ago, but almost five decades ago. The term was conceptualized and promoted in 1976 by feminist theorist Diana E. H. Russell[2], who defined it as "*the killing of women by men because they are women.*" This definition marked a paradigm shift, moving the focus from the individual guilt

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[2] Radford J., Russell D. *Femicide: The Politics of Woman Killing. New York: Twayne Publishers, 1992*, p. 34.

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of the perpetrator to an understanding of the crime as an act of male domination rooted in unequal power structures.

Subsequently popularized through various works and adapted in the Latin American context as "*feminicidio*[1]" by Marcela Lagarde, the term has evolved to emphasize the state's responsibility in preventing and punishing these crimes. Lagarde posits that *feminicidio* is borne from the social oppression of patriarchy.

At European level, crime reports issued by the police or national statistics agencies count annual cases of homicide or manslaughter. In many cases, but not all, they differentiate the gender of the victim and perpetrator. In some countries the statistics provide information on the victim–offender relationship and for the others, femicide is undetectable using the statistics. In countries where femicide or, at least, intimate partner homicide numbers or rates are available, many incidents lack complete information and data collection is discontinuous. The differences in national legal and reporting systems severely limit comparability across space and time. They also hinder appreciation of increases and decrease in femicide rates over time.

The landscape of femicide research across Europe reveals a diverse range of ongoing initiatives operating at both small and large scales. Although these efforts remain fragmented and occasionally lack coordination, they represent a highly productive foundation for establishing a European Observatory on Femicide. Indeed, Europe demonstrates ample interest, commitment, motivation, and expertise to support such a centralized initiative.

The academic discourse on femicide in Romania was initiated around 2014[2]. Subsequent studies have explored various facets of the phenomenon, including femicide-suicide, cases within immigrant communities, and young intimate partner femicide. In this context, the term is strictly used in scholarly work and is typically defined as the killing of a woman by an intimate partner, a category encompassing current and former husbands, cohabiting partners, and lovers.

Thus, the proposal to introduce it into the Romanian Criminal Code is not simply a lexical novelty, but the incorporation into legislation of a theoretical and social construct with a rich history, which recognizes the misogynistic specificity of these murders.

Therefore, the current debate on the introduction of the autonomous crime of femicide into the Romanian Criminal Code, similar to efforts in other European countries, is not just a simple technical adjustment. It represents a fundamental challenge to the criminal justice system and a test of the state's commitment to the effective protection of women's fundamental rights. This article aims to analyze this legislative proposal in light of a dual necessity: on the one hand, the social and moral need to recognize and condemn the specificity of femicide, and on the other hand, the legal need to create an effective procedural instrument

[1] Lagarde y de los Ríos M., "*From Femicide to Femicide", From Freud's Garden 6 (2006)* p. 216–225.
[2] Balica E., "*Femicide in Romania: trends, characteristics, and risk factors*".

that avoids dogmatic pitfalls and withstands constitutional scrutiny. The purpose of this analysis is to debate whether the autonomous criminalization of femicide can be that "threshold" beyond which European criminal law, and Romanian criminal law in particular, moves from being a simple reactive instrument of punishment to becoming a proactive actor in the deconstruction of structural violence that undermines the very foundations of our democratic society.

2. Conceptual Framework: From Domestic Violence to Femicide

The current Romanian criminal laws lack specific definitions for femicide, which means these crimes receive general murder or domestic violence classifications. The Criminal Code establishes severe penalties for murder, but fails to identify gender-related aspects of criminal offenses. The Criminal Code contains a single specific provision at art. 199, which establishes domestic violence as an enhanced version of murder, caning, and bodily harm offenses, through increased maximum penalties by one-fourth, when the victim belongs to the family.

The legal system needs a thorough evaluation to decide if femicide should become its own criminal offense, which defends particular legal entities. The new framework for homicide law requires dual protection because femicide creates two separate types of injuries[1]. The fundamental legal protection under Art. 188 of the New Criminal Code protects human existence from murder. The absolute basis of this law continues because every femicide case involves the illegal, intentional killing of a human being. The new proposals for the amendment of Criminal Code take their foundation from scientific criminological evidence, together with international best practices in criminal law. The first proposed change adds gender-based murder qualifications to qualified murder offenses, through new aggravating factors[2]. The law proposes to increase murder penalties for killing wives, ex-wives, or concubines to 25 years or life imprisonment. The fundamental nature of femicide as a distinct social and criminal phenomenon becomes invisible when we focus only on the primary object of the crime. The core of this legal reform introduces gender equality protection as a secondary legal object, which recognizes women's collective dignity and their right to live without gender-based violence. The specific social damage from femicide emerges through this secondary legal object, which distinguishes it from standard homicides. Murder breaks an individual's right to live, but femicide involves killing members of a specific social group[3]. Through lethal violence, patriarchal systems use femicide to punish women who break social norms and to enforce gender-based oppression. Through this violent act, perpetrators communicate to all women that their freedom and personal decisions, and their survival, depend on male permission. The double perspective of femicide law proves its validity for establishing independent criminalization. The fundamental murder law system lacks the

[1] The Lancet, Volume 382, 7–13 September 2013, p. 836-883
[2] According to art. 189 of the Criminal Code
[3] Pilger D., Charlotte W., *The Lancet*, Volume 382, 16–22 November 2013, p 1625

ability to identify gender-related murder motives and their social system connections. The law treats deaths of women by possessive former partners at the same level as deaths that result from random robberies. Through the addition of a secondary legal object, the law establishes official recognition that the attack targets both the biological existence of one woman and the constitutional equality principle, and women's collective safety. The legal system allows states to protect equal rights and establish protected zones for all citizens, while they execute their duties under international agreements[1].

The fundamental element of femicide consists of purposeful female victimization, which forms an unambiguous criminal act. The distinction between femicide and homicide emerges from the specific circumstances, which surround the criminal act[2]. The legal classification system functions through its fundamental core elements. The law establishes that women represent the sole group which becomes victims of this criminal offense. The law defines an active perpetrator through "any person" to follow constitutional requirements, while the explanatory notes will clarify the gendered aspects of this offense.

The material aspect requires two essential elements, which consist of the context clause that must remain integral to the legal definition. The proposed contexts for the crime include:

a) The crime takes place within existing or previous family relationships or intimate partnerships.

b) The perpetrator uses power to dominate, or engages in gender-based harassment against the victim.

c) The victim faces murder because of their female gender identity.

The definition of the crime needs to include these contexts directly, instead of using them as punishment enhancement factors. The legal definition includes these contexts to create a stronger symbolic impact and demonstrate that the crime emerges from social structures and motives, instead of random events. The establishment of femicide as a distinct offense, or as an aggravating factor in the Criminal Code, would produce various advantages. The recognition of this violence through legal designation would create two effects. The law demonstrates its commitment to protect women from violence, through its public display of determination to end this practice. The method allows scientists to obtain more precise statistical data about this occurrence. The police and prosecutors would receive better guidance for their work because of this approach. The new approach to punishment would lead to more suitable penalties because it bases its decisions on individual circumstances. The proposed legal framework would establish severe punishment systems, which correspond to crime severity, while maintaining individual judge discretion. The analysis of femicide

[1] Council of Europe Convention on preventing and combating violence against women and domestic violence *(Istanbul Convention)*

[2] Nicastro A. *Addressing Femicide Through International Criminal Law: The Need for a Binding Legal Framework* https://yjil.yale.edu/posts/2025-01-26-addressing-femicide-through-international-criminal-law-the-need-for-a-binding (accessed on 4 December, 2025).

through aggravated murder shows that it needs special legal provisions because it demands particular laws to protect women's basic right to survive. All homicides violate the right to life, but the law demands harsher penalties for specific circumstances that occur during murders. The legal basis for aggravated murder exists in this legal framework. The legal system uses three elements to determine murder aggravation, through victim-perpetrator relations, and killing methods, and criminal intentions.

The analysis of femicide elements shows that this crime contains all characteristics, which legal systems use to identify the most severe murder cases. The typical circumstances of femicide match all established factors, which increase murder severity. The main reason behind femicide deaths involves women who choose to become independent from their relationships. The perpetrator's failure to accept women's independence from him leads to a base motive, which stems from his belief of owning women and their life choices. The perpetrator uses violence to punish women because they challenge his authority. The violent nature of femicide exceeds what is required to end a life, because it involves extreme brutality. The perpetrators use excessive violence to kill their victims because they want to express their deep hatred, execute a punishment, and destroy their victims completely. The violent nature of femicide reveals extreme gender-based hatred, which motivates perpetrators to perform these violent acts. Research shows femicides happen independently from one another, but studies demonstrate these incidents develop from earlier abuse patterns. The murder marks the end of a prolonged period during which the victim experienced domestic abuse and stalking and received threatening messages and psychological mistreatment[1]. The majority of cases involve sexual attacks occurring alongside murder. The murder follows a specific pattern because it leads to additional criminal offenses, which satisfy the aggravation requirements.

3. The Limits of the Current Criminal Framework and Arguments for Amending the Criminal Code

The absence of the legal category of "femicide" in Romanian criminal legislation has statistical and preventive consequences. The authorities do not systematically collect data on these crimes as distinct phenomena, they are integrated into the general statistics of murder or domestic violence. According to the data of the 2022 GREVIO report, Romania does not yet have an integrated system for collecting data on violence against women, and the various institutions (police, prosecutor's office, courts, government agencies) operate with unsynchronized partial records[2].

[1] https://www.femicidecensus.org/wp-content/uploads/2020/11/Femicide-Census-10-year-report.pdf (accessed on December 2, 2025).

[2] Trandafir A. R., "*Let's call to fight. Femicide, femicide, legicid in Romania of the year 2025*", *Legal Forum* no. 2/2025, p. 217

The term femicide does not even appear in the official national statistics – unlike the practice in France or Portugal – which means that the Romanian authorities do not follow the extent of the phenomenon in a dedicated way and do not adopt appropriate specific measures. This creates a vacuum of knowledge: for example, in 2018 Romania ranked 11th out of 24 European states in the rate of intentional homicides with female victims (but the data were not broken down by the victim-aggressor relationship or the reason for the act, which prevents clear identification of femicides. In turn, national data indicate that lethal violence against women often takes place in a domestic context: in 2022 almost two-thirds (64%) of victims of domestic killings in Romania were women. However, the phenomenon is often minimized in public discourse under the phrase "crime of passion", an expression that trivializes the seriousness of the situation and hides the structurally discriminatory nature of the violence[1].

This cultural approach, corroborated with the lack of a specific legal framework, represents a serious limit to the current criminal response, which risks treating femicide as a simple murder among others, without considering its etiological and victimological peculiarities. In the year 2025, according to the publication Snoop[2], among the situations in which the women were killed, there were kinship/cohabitation relationships with the aggressor in 37 cases: 15 were wives killed by husbands; 11 cohabiting with the criminal; 5 mothers killed by sons; 4 ex-wives/cohabitants; 2 grandparents killed by grandchildren, the average age of the criminals being 43 years, and of the victims – 48 years.

The analysis of legal doctrine also reveals conceptual difficulties in the absence of precise femicide regulation. The complexity of the notion of – originally developed in sociology and criminology to denote the killing of women based on gender, often accompanied by the inaction or structural complicity of the authorities – makes it difficult to translate it into a criminalization with clear outlines. The experience of other jurisdictions shows the risks of using vague terms such as "contempt for the sex of the woman" in the legal definition, which may jeopardize the principle of legality by lack of precision.

Also, imposing the obligation to explicitly prove motivation based on hatred or misogyny in each murder case can make it difficult to prosecute – some legislation that attempted this found that the evidentiary standard becomes too high, although certain circumstances (such as sexual violence concurrent with murder) should prima facie involve a gender-based mobile. In addition, by treating exclusively through criminal norms the isolation of the phenomenon, without an integrated framework of prevention and protection, the recommendations of international instruments such as the Istanbul Convention, which requires states to comprehensively address violence against women (prevention, protection of the victim, punishment of the aggressor, are ignored and coordinated policies)[3]. Until the

[1] https://www.euronews.ro/articole/tari-din-ue-care-recunosc-femicidul-pasii-facuti-de-romania-insuficienti-pentru-a (accessed on 12 November 2025)
[2] https://snoop.ro/harta-femicid/ (accessed on December 3, 2025)
[3] https://snoop.ro/harta-femicidului-2025-in-medie-la-fiecare-trei-zile-un-barbat-a-incercat-sa-omoare-o-femeie-in-romania-46-femei-ucise-43-de-tentative/ (accessed 2 December 2025).

proposed changes are approved, the legal reaction in Romania to these murders focuses almost exclusively on the general punitive side, without specific measures to prevent or monitor the femicide.

The new regulation brings Romania in line with countries such as Italy (which in 2025 introduced the autonomous crime of "femminicidio", punishable by life imprisonment) and France (which already provides for special aggravating circumstances if the victim is the intimate partner of the perpetrator).[1] At the same time, the project takes over in the qualification of murder the gender-discriminatory reason provided as a general aggravation in art. 77 lit. h) Criminal Code ., explicitly enshrining the commission of the act "out of hatred against women" as an aggravating element of qualified murder[2].

This change has a strong symbolic and preventive role: it affirms society's intolerance of misogyny as the motive of violence and provides a criminal response commensurate with the extreme dangerousness of acts motivated by gender bias[3]. Last but not least, a new provision concerns the situations of so-called "murder out of honor" or out of revenge for the victim's autonomy: the project proposes to aggravate the murder committed as reprisals against a woman who refused or terminated a relationship (for example, refusing forced marriage, filing divorce or separation from a concubine)[4]. Explicitly introducing this circumstantial context, the law recognizes a tragic reality of femicide – numerous women are killed by former partners for daring to exercise their right to end the relationship – and aligns the legislation with criminal policy recommendations aimed at preventing separation femicide (in the spirit of the Spanish model, where murder of the wife/partner who left the relationship attracts increased penalties)[5].

4. Conclusions

In conclusion, three essential directions are outlined that justify the modification of the current criminal framework in the matter of femicide. The first concerns the discriminatory dimension of these crimes: femicide is not a simple murder, but represents the extreme expression of gender-based violence, thus a pattern of systemic discrimination against women. The Istanbul Convention explicitly recognizes that violence against women derives from historical

[1] https://eur-lex.europa.eu/legal-content/EN/SUMMARY/eu-accession-to-the-istanbul-convention.html (accessed 2 December 2025).

[2] https://rm.coe.int/168046253e (accessed 1 December 2025).

[3] https://eur-lex.europa.eu/RO/legal-content/summary/eu-accession-to-the-istanbul-convention.html (accessed 1 December 2025).

[4] Explanatory memorandum - Draft law on preventing and combating gender-based violence, Romanian Senate, 2025, available at https://www.senat.ro/Legis/PDF/2025/25b541EM.pdf (accessed on 17 November 2025).

[5] https://www.unica.ro/stiri/robert-lupu-a-vrut-sa-i-omoare-si-in-2021-pe-alex-si-teodora-marcu-dezvaluiri-terifiante-din-cartea-criminalului-744779 (accessed 12 November , 2025).

relations of unequal power and constitutes a social mechanism whereby women are kept in a subordinate position[1].

Ignoring the gender context in the sanctioning of murders is ultimately tantamount to institutional indifference to discrimination, while the distinct criminalization (or special aggravation) of femicide affirms the state's commitment to protecting women's equality and dignity. In other words, the recognition of femicide as a legal reality sends the message that women's lives have the same social value as men's and that gender-hate violence will not be tolerated. My second point concerns the former partner's role as an active subject in the overwhelming majority of these crimes. Studies show that over half of femicides are committed by intimate partners – spouses, lovers or former partners of victims[2].

In Romania, recent data indicate dozens of cases annually: for example, 51 women were killed by partners or former partners during 2025 alone[3]. In Romania, recent data indicate dozens of cases annually: for example, 51 women were killed by the partners. This reality requires that the criminal law treat the aggressor-victim relationship with special attention: the qualification of the murder committed by the ex-husband or lover as an aggravated femicide is not only justified, but also necessary to cover the legal vacuum that until now allowed a jealous or vengeful former partner to be sanctioned as for ordinary murder.

At the same time, adjacent measures – such as protection orders, electronic surveillance bracelets and prompt police intervention at the first signs of danger – must be integrated into the institutional reaction, as almost every femicide is preceded by a history of escalating violence and threats or former partners only during 2025[4]. The predominantly relational character of femicide, therefore, calls for a firm criminal response to intimate aggressors and a preventive strategy focused on this type of risk, including changing mentalities that still excuse such facts as "passionate dramas".

Thirdly, it is imperative to establish and support a National Observatory of Femicide – key tool for substantiating public policies in the field. Without a centralized record of cases and without in-depth analysis of each femicide (including the authorities' errors or hesitations in handling the case), prevention efforts risk being targetless. A well-funded and cooperative inter-institutional observatory would ensure the unified collection of data from the police, prosecutor's office, courts and social services, providing an overview and identifying system vulnerabilities.

The experience of other states demonstrates the value of such a structure: Canada, for example, has created a femicide observatory that not only monitors statistics, but also proposes legal reforms appropriate to the context (under the motto "Call it Femicide", the

[1] https://rm.coe.int/168046253e (accessed on December 1, 2025).
[2] https://www.senat.ro/Legis/PDF/2025/25b541EM.pdf?nocache=true (accessed on December 2, 2025).
[3] https://www.euronews.ro/articole/tari-din-ue-care-recunosc-femicidul-pasii-facuti-de-romania-insuficienti-pentru-a (accessed on November 17, 2025)
[4] https://www.senat.ro/Legis/PDF/2025/25b541EM.pdf?nocache=true (accessed on December 2, 2025).

authors reporting that explicit recognition of femicide would increase awareness and improve access to justice for victims). Romania already has the necessary scientific expertise through ORAPO, and its transformation into an official national Observatory would include our country among the states that approach the phenomenon proactively and informedly.

Therefore, the arguments for amending the Criminal Code revolve around the need to go beyond the current – legal, practical and conceptual – limits in the treatment of femicide. The adoption of explicit anti-femicide legislation, accompanied by appropriate aggravants and procedural and institutional support mechanisms, would represent not only a more just criminal response to a separate form of crime, but also a step forward towards aligning with international standards and assuming the proactive role of the state in protecting women's lives. Basically, femicide is not a private fatality, but a social fact that calls for a commensurate legal response – one that reflects the social need to protect the vulnerable and, at the same time, constitutes the expression of the commitment of criminal law in firmly combating any form of violence based on gender.

5. References

Balica E. 2018. *Femicide within the Romanian immigrant communities. Romanian Journal of Sociology*

Cioclei, V-D. 2020. *Domestic violence – a new target of populist criminal policy*?. *Universul Juridic*.

Lagarde y de los Ríos, M. 2006. From Femicide to Feminicide. *From Freud's Garden 6*

Nicastro A. 2025. *Addressing Femicide Through International Criminal Law: The Need for a Binding Legal Framework*

Pilger D., Charlotte W. 16–22 November 2013. *The Lancet*, Volume 382, Issue 9905, Pages 1609-1678.

Radford J., Russell D. 1992. *Femicide: The Politics of Woman Killing*, New York

Trandafir, A-R. 2025. Let's call to fight. Femicide, femicide, legicid in Romania of the year 2025. *Legal Forum* nr. 2/2025

Romanian Constitution;

Criminal Code of Romania – Law no. 286/2009

Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), ratified by Romania through Law no. 30/2016

Explanatory memorandum (2025) - Draft law on preventing and combating gender-based violence, Romanian Senate

Online Sources

https://rm.coe.int/168046253e

https://www.universuljuridic.ro/violenta-in-familie-o-noua-tinta-a-politicii-penale-populiste/

https://eur-lex.europa.eu/legal-content/EN/SUMMARY/eu-accession-to-the-istanbul-convention.html

https://eur-lex.europa.eu/RO/legal-content/summary/eu-accession-to-the-istanbul-convention.html

https://www.euronews.ro/articole/tari-din-ue-care-recunosc-femicidul-pasii-facuti-de-romania-insuficienti-pentru-a

https://www.femicidecensus.org/wp-content/uploads/2020/11/Femicide-Census-10-year-report.pdf

https://snoop.ro/harta-femicidului-2025-in-medie-la-fiecare-trei-zile-un-barbat-a-incercat-sa-omoare-o-femeie-in-romania-46-femei-ucise-43-de-tentative/

https://www.senat.ro/Legis/PDF/2025/25b541EM.pdf

https://www.unica.ro/stiri/robert-lupu-a-vrut-sa-i-omoare-si-in-2021-pe-alex-si-teodora-marcu-dezvaluiri-terifiante-din-cartea-criminalului-744779

https://yjil.yale.edu/posts/2025-01-26-addressing-femicide-through-international-criminal-law-the-need-for-a-bindin

https://snoop.ro/harta-femicid/