

UNIVERSITY OF BUCHAREST  
FACULTY OF LAW  
DOCTORAL SCHOOL OF LAW

**PhD THESIS**

**SUMMARY**

Discipline: Forensic sciences

Title: *Special investigation techniques from the perspective of forensic  
investigation*

PhD Coordinator:

**Doctoral Professor Emilian Stancu**

PhD Candidate: Alexandru Roman

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## **SUMMARY**

The PhD thesis was developed over the years 2014-2018, taking into consideration the new criminal legislative regulations, which brought new possibilities to the criminal investigation bodies in the prevention, prosecution and sanctioning of criminal offenses. This research has evolved over a sinuous and difficult road, due to the assumption of a multi-disciplinary, thus complex route. This is not an exhaustive approach of the subject, but it has conceived to address special surveillance methods from a three-fold perspective, namely (i) their effective, tactical and technical forensic implementation; (ii) addressing the related areas of the special investigative science, and (iii) the handling of special surveillance methods as compared to other approaches to other systems of law. Although it addresses lawyers and other law professionals, due to the approach, it can be understood to a large extent by non-jurists alike for example.

With the rise of organized crime, terrorism as well as criminality in general, both forensic tactics and technique have, of course, been developed. The new technological advances, along with free trade, cross-border transport and the phenomenon of globalization have posed serious problems to criminal prosecution bodies in keeping the criminal phenomenon under control.

Special surveillance methods are an exceptional tool for prevention and criminal pursuit of those responsible for committing offenses.

The thesis portrays, in addition to forensic elements, significant aspects of criminal procedural law, in the absence of which, forensics would not have a legal basis; so the thesis is an interdisciplinary one that aims to transcend different disciplines in order to bring the relevant information of real value and applicability to the professionals due to the way it was developed.

Sinalagmatism of criminology and criminal procedural law materializes its links on the ground of the fight against the criminal phenomenon. Criminal investigation cannot proceed without forensics. The latter blends multiple sciences and the theme combines precious scientific and doctrinal teachings alike with their materialization through effective application.

We are witnessing the constant modernization of all areas, and the criminal phenomenon has not missed the opportunity to use these circumstances; it is natural for criminal law, together with the means it uses to prevent and sanction criminal behavior, to change and adapt to the new context. Under these circumstances, the Romanian legislation introduced a new criminal code and a new code of criminal procedure code in February 2014.

The need to know the private life and the personal activities of individuals with a degree of criminal risk results from reasons of protection of public order and safety. Public order has been invoked many times throughout history in order to justify the violation of private life of individuals of entire groups, starting from the idea that the interests of the collective are above those of the individual, thus privacy can be denied for the greater good of society,

In contrast to holistic perception, in addition to evidence analysis, forensic sciences also deals with the prevention of crime. This preventive side, corroborated, for example, with the degree of miniaturization and great technical progress achieved by current technologies, is an effective mean of combating the criminal phenomenon by discouraging those who have such intentions or preventing the result of such crime. Thus, the surveillance of the criminals provides the criminal investigative bodies with a special tactical advantage.

The forensic perspective of the topic offers an unusual point of view, as it concerns both the practical point of view and the application of the special surveillance methods, not considering the legal and theoretical part of the issue. Thus, as opposed to the seductive and sumptuousness with which such processes are performed in books or films, they often have no connection with the real way in which they are put into practice by specialists.

The thesis presents a real interest both for theoreticians and especially for practitioners as it combines the legal provisions adopted in February 2014 with their effective applicability and their implementation in forensic tactics and techniques. The topic was not been dealt with by any other PhD thesis in the light of the new Code of Criminal Procedure at the time the present thesis research was commenced. Over the years, in the light of the old legislation (Pre-February 2014), there have been other PhD thesis which have treated the subject, but the new criminal legislation context has tripled special surveillance measures to those expressly covered by the old code of criminal procedure. The peculiarities of the theme make it unique in its entirety, thus, it highlights state-of-the-art information, updating existing ones.

The evolution of the means by which the surveillance is carried out as well as the way of their transformation over time is of social and criminological importance, as they have adapted to the criminal phenomenon existing in Romania.

The thesis also aims to justify the magnitude of the particularities of the new legislative regulations in the field of special methods of surveillance through a thorough analysis. The present study is of real use to both practitioners and theoreticians, including issues of interest to both sides.

Special surveillance methods have never been sheltered from criticism, as sometimes the phenomena of confusion, stupidity, imprecision, blur or nebulosity have occurred, resulting in judicial errors or even the impossibility of criminal prosecution. Finding the truth is the ultimate goal pursued by any criminal investigation procedure, but it should not be forced in bad faith by bending the law to the liking of the investigators. Thus, there must be a balance between the aim pursued and the measure taken, as well as the maximum prudence in their pursuit. Finding the truth is one of the most tedious processes.

Since the traditional legal means - have proven to be ineffective for discovering and proving offenses, special surveillance methods have proved to be extremely useful in countering the criminal phenomenon. The simple notion, abstract or not, of special surveillance methods is not sufficient, they need means of implementation. Forensic techniques and tactics, as well as other forensic procedures, provide practical solutions and take care of transforming

special surveillance methods, from the abstract notion - the law - into actual implementation, thus putting valuable information at the service of justice, and finding the truth. Also, well-trained officers and staff is a particularly relevant factor in the work of those who carry out the criminal pursuit.

Authorities must be present in the criminal reality extremely well because, as we have shown in the thesis, the offenders do not lack inventiveness or technological means to circumvent devices used by investigators. Organized crime representatives, respectively the crime lords are willing pay dazzling amounts to acquire technology to be able to safely and quietly carry out illicit activity. The only solution is the periodic updating of knowledge and technical means for the implementation of special surveillance methods.

Special surveillance methods have gained a high degree of notoriety. In present times, almost all civilized states provide some special surveillance means in one way or another, or under different forms. Their need is indisputable in the current context, especially since the types of crime tend to migrate from physically quantifiable violence, to abstract, non-physical, online or fraud, tax evasion, corruption, etc.

An offense is almost every time committed with the belief, or at least the hope of the perpetrator, that the deed will not be discovered, or his identity will remain a mystery to the criminal pursuit bodies. All of the above lead to the conclusion that special surveillance methods are indispensable in the surrounding reality.