Good Faith or Abuse of Procedural Law

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Abstract: Good faith (*bona fide*) is a legal concept, established by the roman lawyer Marcus Tullius Cicero through two fundamental elements: sincerity in words and fidelity in commitments. Thus, good faith will take place when a double when a double condition is respected: conformity between what is thought and what is said, and conformity between what is said and what a person commits to; both conditions need to be regarded via the manner of acting for the attainment of a goal based on a rightful and honest intention, which dictates the strict respect for legal and moral duties. Undoubtedly, the duty of good faith is a central institution of company law, part of the triad of fiduciary duties of the common law system, as well as of the civil law system of French origin. This institution has been ascertained at the beginning of the twentieth century through the formulation of the Business judgment rule, initially in Delaware, USA, and afterwards in most of the European states, the continental perception of the obligation of good faith derives mostly from its conceptualization as a principle of the law of obligations or from the specifics of the agency contract, whereas the common law system regards good faith as a fiduciary duty, fundamental in company law.

Keywords: rules; good faith; procedural law; cases; bad faith

1. Introduction

In the current social context, the regulation of the good faith exercise of procedural rights in the civil process is particularly important. To follow the fulfillment of this procedural obligation, it is necessary to define and establish the scope of the abuse of law.

According to the theory of the abuse of rights, "any right must be exercised only in accordance with its natural purpose and within its normal limits, i.e., in harmony with the contemporary state of relations and social customs". The use of the right within the mentioned limits protects the holder against any responsibility for the damages it could cause, while the exercise in an abnormal manner, by diverting the right from its "normal" and usual purpose, constitutes an abuse of right, with the consequence of the obligation to repair the damage thus caused (Hamangiu, Rosetti-Balanescu & Baicoianu, 1998).

The overwhelming influence of custom was emphasized, in terms of qualifying the abuse of rights, by establishing the limit at which the exercised right ceases to represent a right, becoming abuse (Hamangiu, Rosetti-Balanescu & Baicoianu, 1998).

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2. Body of Paper

It was argued that the method of exercising a right does not equate to its existence (or its non-existence), because by the abuse of the right the external, material or legal limits of the used right are not exceeded (in this hypothesis we would be facing an illegal act, carried out in violation of the right) but disregarding the internal limits of the right (Viorel Mihai Ciobanu, Gabriel Boroi, Trian Cornel Briciu, 2011) .

If the purpose of the recognition of procedural rights for the parties is to "help" the court to ensure a just resolution of the trial, in the hypothesis that one of the parties no longer subscribes to this framework, performing procedural acts not for the purpose of facilitating the trial but, on the contrary, for to delay the resolution of the case or to harass the opposite party, it is considered that an abuse of procedural law has been committed.

It falls within the scope of procedural abuse, therefore, the party that pursues, through the exercise of its procedural rights, the fulfillment of objectives that are at odds with the purpose of the process, namely the just and expeditious resolution of the cases (Stoenescu & Zilberstein, 1977).

The specialized literature found the coexistence of two elements, specific to the abuse of procedural law:

- The subjective element, materialized in the mala fides exercise of the procedural right, without being able to justify a special and legitimate interest but with the intention of harming the rights of the opposing party, either by limiting or delaying it in the process of capitalizing the rights or the means of defense, either by exerting pressure, to give up support or to lead to compromises and
- The objective element characterized using procedural law in a manner contrary to the purpose, the purpose for which it was regulated by law, the abusive act not finding a legitimate motivation (Stoenescu & Zilberstein, 1977).

It was noted that the provisions of art. 723 C. proc. civil law 1865 (like those of art. 12 NCPC) "conjugates the subjective criterion with the objective one, in sanctioning the abusive exercise of subjective rights" (Deleanu, 2000).

The doctrine identified the conditions that must be fulfilled cumulatively, to determine the abusive character of any procedural act:

1. the party that commits the abusive act is the owner of the procedural right and has the procedural capacity to exercise it.

2. the procedural right is exercised within its external limits, as defined by law. If the external limits were exceeded, the act would be illegal. The distinction between the illegal act and the abusive one is precisely the purpose for which it is drawn up, if the use is in accordance with the spirit of the law, as was shown above.

3. the purpose of procedural law is altered, so that the latter serves the purpose of the one who abuses the right and not the interest for which it was regulated by law.

4. the procedural right is exercised in bad faith, its holder having as its objective by exercising/drafting the act (respectively, having the representation and pursuing) precisely the production of a result harmful to the opposing party.

5. finally, because of the abusive exercise of the right, the procedural rights of another party have been violated (for example, failure to submit the expert report within the deadline, without valid reasons for the delay, determines the violation of the rights of the parties, upon resolution the process within a reasonable time frame (Ciobanu, Boroi & Briciu, 2011).

Among the actions and omissions qualified as materializations of procedural abuse, we mention:

- the formulation in bad faith of a request (main, accessory, additional, incidental, regarding the exercise of a right of appeal) obviously unfounded, with the aim of harassing the opposing party or discrediting it. It was argued that the provisions of art. 275 C. proc. Civil Code 1865 (also taken over by art. 454 New Criminal Procedural Code) have as their objective precisely the discouraging of actions for the sole purpose of harassing the defendant (Stoenescu & Zilberstein, 1977);
- the formulation in bad faith of a request for recusal or relocation;
- obtaining, in bad faith, the subpoena by publicity of any party;
- disputing, in bad faith, by its author, the writing or signature of an entry or the authenticity of an audio or video recording;
- obtaining, in bad faith, insurance measures (which damaged the opposite party) by the claimant, whose claim was subsequently rejected;
- failure by the party (from imputable notices) to bring the approved witness, by the deadline fixed for this purpose by the court;
- invoking, in bad faith, the exception of unconstitutionality, for the sole purpose of delaying the trial (which will lead to the rejection of the referral request to the Constitutional Court) (Tabarca, 2013);
- the unjustified refusal of the designated expert to receive the work or the failure to submit the work within the set deadline, or the refusal to give the requested clarifications;
- the refusal of the party to appear at the information session regarding the advantages of mediation, in the circumstances in which he accepted, according to the law;
- the refusal or omission of an authority or another person to communicate, for reasons imputable to it, at the request of the court and at the deadline fixed for this purpose, the data resulting from the documents and records of the former.

All this, together with the specific sanction (minimum and maximum limits of the fine), applicable in concrete, are provided in art. 187 and 188 New Criminal Procedural Code.

According to art. 12, para. (1) New Criminal Procedural Code, procedural rights must be exercised in good faith, according to the purposes for which they were recognized by law and without violating the procedural rights of another party.

Ordering art. 12 New Criminal Procedural Code takes over and develops that of art. 723 C. proc. Civil Code 1965, additionally regulating the execution of procedural obligations.

In addition, the obligation to fulfill obligations and exercise civil rights in good faith and according to public order and good morals is also governed by the rules of material civil law, this is incumbent on both individuals and legal entities (according to art. 14, para. 1 New Criminal Code).

The provisions above correlate with those of art. 57 of the Romanian Constitution, according to which Romanian citizens, foreign citizens and stateless persons must exercise their constitutional rights and freedoms in good faith, without violating the rights and freedoms of others.

The same procedural rule also establishes the burden of proof, stating that good faith is presumed until the contrary is proven. Therefore, the person invoking bad faith also bears the burden of proof. (Hersch Lauterpacht, 1970).

Sanctioning the exercise of procedural rights in an abusive manner, as well as for non-fulfilment of (procedural) obligations with bona fides, is regulated by para. (2) and (3) of art. 12 of the Romanian New Code of Civil Procedure, the following may be ordered against the party that committed the abuse of law:

a) taking responsibility for the material and moral damages caused.

b) the obligation to pay some judicial fines.

It was appreciated that the legal nature of the above-mentioned sanctions is distinct, since the compensation fulfills a reparative function, while the judicial fine has a purely punitive role, a reality compared to which, the obligation of the person who committed an abuse of law to repair the damages caused (moral or materials) does not exclude the possibility of applying the fine, the two sanctions being cumulative (Boroi, 2013) .

Attracting responsibility for material and moral damages is debated only at the request of the opposing party, these compensations cannot be granted ex officio, to respect the principle of availability. The settlement of the claim for compensation rests with the court invested with the settlement of the process in which the abuse was found (Boroi, 2013).

The party damaged by the effect of the abusive exercise of the right or the fulfillment of the obligations in bad faith has two ways to request compensation for the damage:

- or request compensation for delaying the process, in accordance with the provisions of art. 189 New Criminal Procedure Code or

- in the circumstance in which the abusive procedural act does not fit into any of the hypotheses described by art. 187 and 188 NCCP, has an open path to an action for damages according to common law, being required to prove the existence and extent of the damage (Tabarca, 2013).

It was reasoned that the task of qualifying the exercise of the right as abusive rests with the court, because the mere rejection of a request is not, by itself, capable of confirming an abuse (Ciobanu, Briciu & Dinu, 2013).

In the same way, good faith is considered in the civil procedure of the French courts.

In the context of an action for revocation following a declaration of bankruptcy of a joint-stock company, the defendants obtain from the investigating judge of the Civil Court of the Cantonal Court of Vaud the suspension of the civil proceedings until the right to criminal proceedings is known. parallel. The incidental decision was notified to the parties on May 22, 2014. In the section dedicated to appeals, the decision indicated that the parties could file an appeal within 30 days of the communication of the decision.

Through an appeal filed on June 19, 2014, at the Civil Appeals Chamber of the Vaud Cantonal Court, the plaintiff requests the annulment of the suspended decision. The Appeals Chamber declares the appeal

inadmissible since it was not filed within 10 days from the notification of the incident decision in accordance with art. 321 para. 2 CPCs.

Against this decision, the applicant appealed in civil matters to the Federal Court. Requests the annulment of the decision of the Appeals Chamber and that the latter enter the matter in its appeal, under the principle of the protection of good faith.

Therefore, the Federal Court must rule on the question whether the good faith of the claimant about the erroneous mention of the appeal period appearing in a judgment should be protected.

The Federal Court begins by reminding that a decision to suspend the proceedings is a provisional decision (art. 93 LTF) with a provisional character (art. 98 LTF). In principle, an appeal against an incidental judgment is open only under the alternative conditions of art. 93 LTF. Exceptionally, the appeal to the Federal Court against a provisional decision is always open and therefore independent of the conditions of art. 93 LTF, when the appeal refers to a decision to suspend the judgment and the appellant invokes the violation of the principle of promptness art. 29 para. 1 Cst. This is the case here, since the appeal - declared inadmissible - to the Civil Appeals Chamber referred to the violation of the principle of promptness. The appeal to the Federal Court against the interlocutory decision of the Chamber is, therefore, open regardless of the question whether one of the two conditions of art. 93 LTF is met.

On the merits, the Federal Court recalls that based on the principle of protection of good faith anchored in art. 5 para. 3 and 9 CPCs., the litigant who relies on an erroneous indication from an authority must not suffer any damage. However, the litigant is not protected if he noticed the error or should have noticed it by exercising the care required by the circumstances. Verification requirements are more stringent when the litigant is represented by a lawyer. In all cases, a lawyer is expected to conduct a summary check of the directions for appeals.

In general, the Federal Court holds that when the party was able to ascertain the error in the mention of the remedies and the period of appeal by reading the law, it cannot invoke the protection of its good faith. Only when consultation of case law or doctrine is necessary to realize the erroneous indication of authority is the litigant who relies on it in good faith protected. Therefore, the decisive criterion for being able to invoke the protection of good faith is exclusively that of the conformity of the indications with the legal text (Shaw, 2008).

In this case, we are dealing with a decision to suspend the procedure. The Federal Court reminds that this type of decision falls under the category of investigative orders within the meaning of art. 321 para. 2 CPCs. This results from the fact that art. 126 para. 2 of the CPP, which refers to the judge's possibility to issue a suspension order, is found in chapter 1 of title 9 of the CPP on "the conduct of the trial" which deals with "investigative decisions". Therefore, the appellant, who was represented by a lawyer, could deduce from a systematic interpretation of art. 126 para. 2 and 321 par. 2 CPP that the legal term for contesting an order suspending the procedure is 10 days. Given the fact that the authority's error could be detected when reading the legal text, the appellant cannot invoke the protection of good faith.

The appeal was rejected.

Regarding the approach of good faith in Spanish civil procedural legislation, currently, it is art. 24 of the Spanish Constitution which, by proclaiming the right to effective judicial protection and to a trial without undue delay, requires de facto litigants to act in a way that does not interfere with those rights by disloyalty that bends the rules, maliciously conceals the facts. , distorts the process, in short, requires procedural good faith (Crawford, 2012).

It is true, without prejudice to the above, that this provision of the Constitution does not expressly include the principle of good faith in its articles, thus raising it to a constitutional principle, but rather the rules of ordinary legality regulate this principle, with although it can be appreciated as such.

In a case from Romania, through the application registered with the court on 03.10.2014 under no. .../200/2014 the plaintiffs ... Alina and .. Elena requested the obligation of the defendant ... Vasile, so that by the court decision that will be pronounced, he is obliged to withdraw the roof of the building inside his property at the limit of the dividing line between the properties, established on the boundary line, by civil sentence no.../28.03.2001 of the Buzau Court, drawn between points 13-14, 15-15, 14, 24-25-B-32, according to the expert report drawn up by the expert Badicu Olimpia, with expenses of judgment.

In fact, by the civil judgment mentioned above, the dividing line between the properties was established, but the roof of the defendant's building exceeds the dividing line, projecting along the entire length of the fence on the plaintiffs' property.

The current configuration of the roof was of such a nature as to give rise to serious misunderstandings, which culminated in litigation registered before the court at the initiative of the defendant.

The plaintiffs showed that they do not agree with the perpetuation in time of the projection of the guard of the roof of the defendant's building on the property of the plaintiffs, as this situation would in fact have the consequence of acquiring a real right over their land over the entire area of this projection.

The defendant filed an appeal, by which he requested the rejection of the action.

By filing, he invoked the exception of the statute of limitations of the plaintiffs' right to request that he be forced to withdraw the eaves of his house, so that the rainwater drains on his land, and not on his neighbor's land.

According to art 615 of the old Civil Code, the owner is obliged to make the eaves of his house, so that the rainwater drains on his land, and not on his neighbor's land. According to art 611 of the New Civil Code, the owner is obliged to make the eaves his house so that the waters coming from the rains do not drain onto the property of the neighboring owner.

According to art 755(1) Servitude is the burden that encumbers a building, for the use or utility of the building of another owner.

According to art 770(1) Easements are extinguished in the main way or by erasing them from the land register for one of the following reasons: consolidation, when both funds come to have the same owner, renunciation of the owner of the dominant fund, reaching the deadline, redemption, definitive impossibility of exercise, deafness for 10 years, the disappearance of any of their usefulness.

(2) The servitude is also extinguished by the expropriation of the enslaved fund, if the servitude is contrary to the public utility, which will be affected by the expropriated asset.

The defendant testified that he acquired the neighboring building by inheritance from his parents, who in turn acquired it in 1967.

The property, the house, was built by his parents in the 1960s-1970s.

In the period 1997-2001, between the parents of the defendant and the authors of the plaintiffs, there were several neighborhood disputes regarding the border between the properties, disputes finalized by forcing the parents to leave a 35 square meter plot of land to the plaintiffs' parents.

The consequence was that the house, the property of the defendant's parents, currently his property, reached the boundary line. During all this time, the location of the building has not changed, nor has the size of the eaves; in continuation of the building inherited from his parents, in 1991 the defendant built another room, but not on the boundary line, but towards the interior of his property, precisely to leave a distance to the boundary with the plaintiffs.

The defendant showed that it is obvious that there is no need to remove the eaves, but instead to change the downspouts and gutters.

On 17.11.2014, the plaintiffs filed a response to the summons requesting the rejection of the exception to the limitation of the right to action.

The plaintiffs stated that the defendant did not acquire a right of servitude as he claims by receiving, because compared to the nature of the servitude in question, continuous and apparent servitude, it can only be acquired by title or by possession for 30 years in the sense of the provisions of art 623 Civil Code.

From the moment of building the building (1991) until the date of registration of the request for summons, the period imposed by the text of the law shown to acquire this right is not fulfilled.

The defendant's defenses are unfounded due to the fact that the current configuration of the roof concerns a portion of the plaintiffs' property on which it is designed and in relation to the provisions of art 615 CC, the defendant, as the owner of this construction, is obliged to "make the eaves of his house, so that the rainwater drains on his land and not on the land owned by the plaintiffs.

The request was legally stamped with the amount of 20 lei, judicial stamp fee. The court administered the evidence with inscriptions: copy of the civil sentence no ../28.03.2001 of the Buzau Court, pages 7-11, copy of the civil sentence no .../04.10.2001 of the Buzau Court, pages 12-13, expert report by expert Badicu Olimpia, f-14-15, delimitation sketch, f.16, copy of Decision no... of the Ploiesti Court of Appeal, f.17-18, copy of Decision no... of the Buzau Court-Civil Section, f.37- 39, copy of the Decision no... of the Buzau Court, Civil Section, f.41-46, copy of the civil sentence no.../16.10.2013 of the Buzau Court, f.48-49, copy of the civil sentence no. ..../28.03.2001 of the Buzau Court, f.50-54, Badicu Olimpia technical expertise report, f.55-57, supplement to the expertise report, f.58-59, report supplement, f-6061, copy of civil sentence no. 9885/1998 of the Buzau Court, f.63-, copy of Civil Decision no. 852, f.64-69, expert report Mihalcea C., f.70-73, report supplement, f.74-79.

Analyzing the documents and works of the file, the court notes the following:

The plaintiffs .. Alina and ... Elena and the defendant ... Vasile are neighbors, the plaintiffs living in Buzău, and the defendant in Buzău.

By Civil Sentence no. .../28.03.2001 of the Buzău Court, the demarcation of the parties' properties was ordered, the boundary line being established on the following locations 13-14′-15-15-14"-24-25B-32, according to the delimitations in the sketch attached to the supplement to the report of expert opinion tab 90 of the substantive file drawn up by expert Badicu Olimpia. As a result of the establishment of the border line, the residential building owned by the defendant was located right on the border line, so the border between the properties was the very wall of the house owned by the defendant.

The plaintiff requests, through the summons, that the defendant be forced to withdraw the roof of the building inside his property at the limit of the dividing line between the properties drawn by Civil Sentence no. .../28.03.2001 of the Buzău Court, drawn between points 13-14, 15-15, 14"-24-25- B-32, according to the expert report drawn up by expert Badicu Olimpia. During the on-site investigation, the

court found that the boundary line between the parties' properties is the very wall of the house owned by the defendant, that the defendant's house is in a straight line except for the room facing the street, the living room, this relative to the plaintiffs' property, which is built with approximately 40 cm more inside the defendant's property, compared to the rest of the house. The defendant has built a gutter along the entire length of the roof of the house, the gutter is in good condition, having been built last fall, and is in a straight line along the entire length of the house, including next to the living room, which is built approximately 40 cm (centimeters) further inside the defendant's property , a guardhouse, approximately 40 cm, was built next to the living room, which is projected onto the plaintiffs' property. Also, the gutter that is glued to the wall of the house, except for the area where the living room is located, being built approximately 40 cm from the wall that projects onto the property of the plaintiffs.

During the on-site investigation, the court found that in front of the defendant's house, the plaintiffs built two warehouses approximately ½ m from the defendant's house, one of the warehouses has a damaged roof (Stancu, 2014).

The witnesses heard in the case showed that the defendant built the house after 1990, on the foundation of the house built by his parents, except for the living room, for which a new foundation was built. The witnesses showed that at that time there was a wooden fence between the parties' properties and the construction built by the defendant's parents was approximately 50 cm from the fence.

Therefore, on the date when the defendant built the house, there was a distance between the fence that separated the property of the parties and the defendant's house, so that at that time the gutters of the defendant's house did not project onto the plaintiff's property, the defendant's house became on the boundary line only as a result of establishing border line by Civil Sentence no. .../28.03.2001 of the Buzău Court.

Therefore, the parties agreeing with the establishment of the boundary line in this way, they admitted that the gutter from the defendant's house and the fence from the living room are to be projected onto the property of the plaintiffs. Moreover, the court finds that the gutter at the defendant's house and the guard in front of the living room do not bother the plaintiffs very much, they would not even be able to plant anything on the land on which they are projected, because it is very close to the defendant's house. The gutter and guardrail are in good condition, so the water that falls on the roof of the defendant's house does not flow onto the plaintiffs' property, being collected in the collecting gutter. However, the court cannot retain the defendant's defense that the usufruct of the easement of the drop of water intervened, that is, the defendant acquired the right for the drop of water from his house to flow onto the property of the plaintiffs, since the house was built by the defendant, including the roof, after 1991, and up to this date the 30-year term stipulated by art. 623 of the civil code.

It is true that the plaintiffs have the right to respect for their property, according to art. 480 of the civil code have the right to enjoy their property, to possess it and to use it, but this right recognized by the law must be exercised in good faith for the purpose provided by the law, i.e. the protection of the plaintiffs' property, and not for the purpose of harassing the defendant.

Thus, according to art. 12 of the Civil Procedure Code, procedural rights must be exercised in good faith, according to the purpose for which they are recognized by law and without violating the procedural rights of another party (Stancu, 2012).

The court considers that the plaintiffs' right to sue the defendant is abused, deviates from the purpose for which it is recognized by law and is exercised only to harass the defendant, which is why the court considers that the request to sue is exercised in bad faith, based on art. 12 civil procedure code will reject

it. The plaintiffs being in the procedural fault will bear according to art. 453 of the civil procedure code, the court costs incurred by the defendant, consisting of attorney's fees.

3. Conclusions

Although good faith is a legal concept, it is nevertheless based on a sociological or even ethical concept: common sense. What is common sense for the common man, unfamiliar with legal concepts, must also be common sense for the jurist. He who acts according to common sense is in good faith. And good faith is the normal state of man, which must not be proven, but only affirmed. The one who intends to contradict the assertion of good faith must prove the opposite, of bad faith.

The economic crisis has determined the emergence of a special type of lawsuits, those in which several plaintiffs join in litigation consortia to increase their chances of success in the lawsuit. It was a true judicial revolt against economic or political power, to which the judges responded positively. Collective lawsuits are difficult and tend to demolish some customs of the courts or disturb the convenience of the judges. The refusal to judge them under various pretexts (inadmissibility, lack of time, lack of financial, logistical and human resources, high complexity, lack of object on the grounds of repeal or revocation of the contested administrative act, replaced in the meantime by a another administrative act or with an emergency ordinance, unassailable in litigation, "non-provision" in the law, etc.) is the most dangerous risk for the rule of law, especially in this period of crisis, when the powerful become even more powerful, on the grounds that they are too strong to fail. Perhaps it would be time to ask ourselves whether courts and juries should not have been organized for a certain kind of trials, courts that would rule simply and comprehensibly to all, based on the reality of the facts, equity, and common sense, leaving to the judges the "care" or "fun" of procedural forms and exceptions, inadmissibility, and other uninteresting, even detestable technical artifices for the common man. And maybe it would be good to ask ourselves if some of the judges, at least those at the top of the judicial system, should be subject to the vote of the voters - impure, as has been happening for hundreds of years in the USA. People wanted to believe in our justice and that's why they created procedural consortia triggering collective lawsuits. By involving many people, the legal and judicial costs are bearable, the number of cases is reduced, and the solutions given in files with thousands of plaintiffs are more difficult to refuse by judges based on judicial precedent. If justice will become simple, logical, understandable to everyone and predictable, people will regain their trust in justice. Knowing what to expect, people will no longer go to court so often to claim their rights but will respect their conventions and obligations with common sense. And the ECDO will finally breathe a sigh of relief, being able to turn off the faucet with the thousands of Romanian cases with which it is currently flooded.

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5. References

Boroi, Gabriel (coord.), Delia Narcisa Teohari, Marius Eftimie si altii (2013). *Noul cod de procedura civila – comentariu pe articole/ The new code of civil procedure - comment on the articles.* Vol. I, Bucharest: Hamangiu, 2013, pag. 42-43

Ciobanu, Viorel Mihai; Boroi, Gabriel & Briciu, Trian Cornel (2011). *Drept procesual civil/Civil procedural law*. Bucharest: C.H. Beck, pp. 50-51.

Ciobanu, Viorel Mihai; Briciu, Traian Cornel; Dinu, Claudiu Constantin (2013). *Drept procesual civil, drept executional civil, arbitraj, drept notarial/ Civil procedural law, civil executive law, arbitration, notarial law*. Bucharest: Ed. Nationala, p. 106.

Crawford, James (2012). *Brownlie's Principles of Public International Law*, 8th ed. OUP 2012, p. 134.

Deleanu, Ion (2000). *Tratat de procedura civila/Treaty on civil procedure*. Vol. 2, pp. 83-84.

Hamangiu, C.; Rosetti-Balanescu, I. & Baicoianu, Al. (1998). *Tratat de Drept Civil Roman/ Treaty of Romanian civil law*, Vol. II, pp. 12, 35.

Lauterpacht, Hersch (1970). *International Law Vol. 1*, ed Elihu Lauterpacht, p. 68.

Negruț, Gina & Stancu, Adriana Iuliana (2012). Negotiated Justice from the perspective of the Criminal Procedure Code. *Agora International Journal of Juridical Sciences*, no 2, ISSN: 1843 570X; E-ISSN: 2067-7677, https://univagora.ro/jour/index.php/aijjs/issue/download/78/96

Shaw, Malcolm N (2008). *International Law*, 6th edn, CUP, p. 98.

Stancu, Adriana (2014). Protection of the Right to Life of the Person by Internal and International Legal Instruments. *The 8th Edition of the International Conference Education and Creativity for a Knowledge based Society*, Bucharest, 20-22 Nov 2014, ISBN 978-3-9503145, ISSN 2248-0064.

Stoenescu, Ilie & Zilberstein, Savelly (1977). *Drept procesual civil – Teoria generala/ Civil procedural law - General theory.* Bucharest: Editura Didactica si pedagogica, pp. 274, 276.

Tabarca, Mihaela (2013). *Drept procesual civil/ Civil procedural law*, Vol. I. Bucharest: Universul Juridic, p. 93.