



THE 7<sup>TH</sup> EDITION OF THE INTERNATIONAL CONFERENCE  
**EUROPEAN INTEGRATION  
REALITIES AND PERSPECTIVES**

## **Report of Donations. General Considerations<sup>1</sup>**

**Ilioara Genoiu<sup>2</sup>**

**Abstract:** Law No. 287/2009 on the Civil Code confers a new configuration to hereditary field in general. Consequently, the analysis of hereditary law institutions is both useful and actual. Under the circumstances mentioned above, the present work aims to analyze the general aspects of the report of donations in the light of the new Civil Code. Thus, there will be analyzed the following aspects: definition of report of donations; scope of application; delimiting report of donations from similar legal institutions; conditions of report of donations; persons who can demand the report of donations; donations which must be reported and donations which are exempted from report; effects of exemption from the report of donation. All these issues shall be approached in a comparative manner, by taking into account the 1864 Civil Code and the new Civil Code. Thus, we will be able to point out in a clear manner the novelties brought in the field subject to our analysis by Law No. 287/2009 and to assess their just and appropriate character. Out of reasons of space, the present work shall not approach the issues relating to the way donations are reported, these being subject to another field.

**Keywords:** surviving spouse; deceased's descendants; donations which must be reported; donations exempted from report

### **1. Introduction**

The new Civil Code<sup>3</sup> regulates the report of donations at Book IV "On inheritance and other liberalities", Title IV "Bequeath and partition of inheritance", Chapter IV "Partition of inheritance and report", Section 2 "Report of donations", articles 1146-115.

As pointed out in the summary, the present work will analyze only the general aspects involved by the report of donations, in order to comply with the number of pages established by organisers. We also mention that all the aspects involved shall be analyzed by taking into account both the Civil Code in force and the 1864 Civil Code<sup>4</sup> so as to underline in a clear manner the novelty elements brought by the former Code mentioned above in this field. We also consider that our initiative is both actual and useful, given that, in the short period of time which passed from the entry in force of Law 287/2009 up to the present, few specialized works were written in the field under discussion.

At the beginning of our analysis we will mention the definition given to report of donations by the Civil Code in force (abbreviated below NCC). Thus, according to provisions of article 1146 paragraph (1) of the NCC, "The report of donations is the mutual obligation of the deceased's surviving spouse and descendants, who come together and effectively to the legal inheritance, to bring again to inheritance the goods which were donated to them without the exemption from report by the person leaving the inheritance".

---

<sup>1</sup> This work was supported by CNCSIS-UEFISCSU, project number PN II-RU, code PD\_139/2010.

<sup>2</sup> Senior Lecturer, PhD, "Valahia" University of Târgoviște, Faculty of Law and Social-Political Sciences, address: 2 Bd. Carol I, Targoviste 130024, Romania, Dambovita, Tel: +40/245/206101 Fax: +40/245/217692, ilioaragenoiu20@yahoo.fr.

<sup>3</sup> We are referring to Law 287/2009 on the Civil Code, republished in Romanian Official Gazette, part I, no. 505 from July 15<sup>th</sup> 2011.

<sup>4</sup> The Civil Code, published in Romanian Official Gazette, no. 271 from December 4<sup>th</sup> 1864, was abrogated (less its provisions regarding the evidence procedure), by Law No. 71/2011 on the enforcement of Law No. 287/2009. Law No. 71/2011 was published in Romanian Official Gazette, Part I, no. 409, from June 10<sup>th</sup> 2011.

Law presupposes that, by means of the donations made on behalf of a close person (such as the surviving spouse and the descendants), the deceased never intended to privilege the donee, by disadvantaging his other legal heirs, for whom has, in fact, the same affection; the deceased only offered an advance to the donee, to which he was entitled by law. Only on the basis of this reasoning, the report of donations is justified.

For instance, law provides for the report of donations to take place in the following hypothesis: after his death, someone leaves behind three children and assets amounting to 40.000 lei. But at the celebration of his elder son's marriage, the deceased gave him assets amounting to 20.000 lei. At the opening of the inheritance, the inheritance patrimony shall not be divided in 3 equal parts, as the value of the donation (of 20.000 lei) received by the elder son will be added to that of the assets amounting to 40.000 lei. Consequently, the inheritance patrimony shall be of 60.000 lei. By dividing the inheritance, according to the rules established by the legislation in the field, the elder son will keep the assets amounting to 20.000 lei, received by donation, whereas his other two brothers shall divide the assets amounting to 40.000 lei in equal shares. As a result of the inheritance division, through the report of donations made by the deceased during his life, it has been insured the full equality between the relatives of the same class and degree.

The duty of certain legal heirs to report the donations received from the deceased is regulated by norms with a suppletive character, so that the deceased can make provisions in favour of such heirs in a definitive manner, by means of donations exempted from report. By benefiting from a donation exempted from report, the donee adds the value of the donation in question to the legal share from the inheritance.

## 2. Application Scope of Report

The applicability of the report of donations must be analyzed not only from the perspective of the persons exempted from such duty (debtors of the report obligation), but also from the perspective of the acts involved (donations and/or legacies).

*a) The report of donations regards only certain legal heirs (the surviving spouse and the deceased's descendants)*

Among legal heirs, only the surviving spouse (when competing with descendants) and descendants<sup>1</sup> have the duty to report donations made by the deceased on their behalf. These liberalities have no definitive character, being only an advance made on the account of inheritance. On the contrary, privileged ascendants, privileged collaterals, ordinary ascendants, ordinary collaterals and third parties can be rewarded for good by the deceased, by means of *inter vivos* liberalities<sup>2</sup>.

The duty of the deceased's surviving spouse and descendants to report donation has, therefore, a legal character. Under the circumstances in which this legal obligation does not concern also the deceased's other legal heirs, specialized literature has debated whether the donor himself can stipulate for the obligation of report to be ascribed to his ascendants and collaterals. According to the most frequent opinion, which we uphold as well, such duty cannot be stipulated by the donor, as the principle regarding the irrevocability of donations would be transgressed (Cantacuzino, 1998; Hamangiu, Rosetti-Bălănescu & Băicoianu, 1929; Chirică, 1996). According to the second opinion, which benefits from a less substantial support in comparison with the first one, the donor could impose the report duty also to his other legal heirs and even to the legatees whom he instituted (Eliescu, 1966). In such case, the report could take the exclusive form of the imputation of donation in relation to that part of the inheritance to which the donor is entitled. (Deak, 2002).

<sup>1</sup> Also in the field of the report of donations, the category of descendants regards both the descendants resulting from and outside marriage, on the condition that filiation is established according to legal provisions, but also the descendants resulting from adoption or human reproduction assisted by a third donor.

<sup>2</sup> Unlike Romanian legislation, the French one provides for the report to be performed by all legal heirs.

*b) The report of donations regards only donations, not also legacies.*

The legal duty of report belongs only to the donee, and not also to the legatee. Consequently, the legatee, whether is universal, by universal or particular title, is not bound, according to the law, to report the donations received from the deceased. Under the circumstances in which the new Civil Code<sup>1</sup> clearly shows that only the surviving spouse and the deceased who come together to the *legal inheritance* have the duty to report the donations received from the deceased, it cannot be upheld the opinion according to which the duty of report can be stipulated by the donor also as the responsibility of the legatee.

Only in the light of the 1864 Civil Code, which contained an inadvertence among its provisions<sup>2</sup>, such an opinion could have been upheld (Cantacuzino, 1998; Eliescu, 1966).

### **3. Delimiting Report of Donations from Similar Legal Institutions**

Report of donations is in great part similar, but without being mistaken with them, with reduction of excessive liberalities and partition of inheritance. Moreover, similarities can be identified also between the report of donations and the operation for establishing the calculation basis (Stănciulescu, 2008).

*a) Delimiting report of donations from reduction of excessive liberalities.*

The similarity between the two institutions of hereditary law discussed is represented by their main effect, namely that of bringing again the asset which made the object of the liberality to the inheritance patrimony. Nonetheless, between the two institutions can be identified major differences. Thus:

- the reduction of excessive liberalities operates exclusively in case the legal forced heirship of forced heirs is transgressed, whereas the report of donations operates even if forced heirship was not transgressed;
- the reduction of excessive liberalities concerns both legal heirs and legatees, whereas the report of donations regards only a part of legal heirs;
- the object of reduction of excessive liberalities is represented both by donations and legacies, whereas the object of the report of donations is represented only by donations;
- the reduction of excessive liberalities has as object both donations and legacies, whereas the report of donations has as object only donations;
- the report of donations is governed by the law in force at the date the donation contract was concluded, and not by the law in force at the date inheritance was opened, as it happens with the reduction of excessive liberalities.

*b) Delimiting report of donations from inheritance partition.*

The two institutions are mainly different in relation to the following aspects:

- the report of donations can be claimed not only within the partition procedure, by means of the action for joint possession termination, but also by means of a separate action – the report action, filed before or after the partition;
- the action for joint possession termination is, according to article 1143 of the NCC, not subject to the statute of limitations, so that it can be filed by heirs at any moment, unlike the report action which, by being a personal patrimonial action, has the general statute of limitations term of 3 years, calculated from the moment inheritance is opened.

*c) Delimiting report of donations from the operation of establishing the calculation basis.*

<sup>1</sup> The new Civil Code refers to legal inheritance at article 1146 paragraph (1) and article 1147 paragraph (1).

<sup>2</sup> Through some of its provisions (articles 752, 754, 756 and 846), the 1864 Civil Code referred to the report of legacies. In such hypothesis, specialized literature recommends that the value of legacy is ascribed to the inheritance quota enjoyed by legatee, and if this quota had a smaller value, the imputation had to be done by equivalent.

The report of donations must not be mistaken either with the operation for establishing the calculation basis, given that the latter is only fictive and does not involve, as the report of donations does, bringing effectively again the donated goods to the calculation basis.

#### 4. Conditions of Report of Donations

In order for the donations made by the deceased to have to be reported, the following conditions must be met altogether:

a) *To the deceased's inheritance must be entitled at least two descendants or one or more descendants, in competition with the surviving spouse.*

According to the provisions of article 1146 paragraph (2) of the NCC, "If there is no contrary stipulation from the donor on that matter, the persons mentioned at article (1)<sup>1</sup> are bound to report only if they would have had a concrete vocation to the deceased's inheritance, in case the latter would have been opened at the moment the donation was made". Consequently, in order to be bound to report the donations received from the deceased, the legal heir must have had, at the moment the donation contract was concluded, a concrete vocation to the donor's inheritance. Thus, if the donor's inheritance had been opened at the moment the donation contract was concluded, the donor should have had a concrete right to his inheritance.

According to provisions of article 753 of the 1864 Civil Code, the surviving spouse or the deceased's descendants were bound to report donations, even if they had no concrete vocation to inheritance at the date the donation contract was being concluded, but met instead this condition at the moment inheritance was opened<sup>2</sup>. It can be consequently noticed the first novelty element brought by Law No. 287/2009 in the field of the report of donations.

Going on with our analysis, it must be mentioned that the deceased's descendants have the duty to report donations, no matter they are entitled to inheritance on their own or by representation. It thus emerges that the report of donations must be carried out by descendants, even when they are relatives of different degrees.

The other legal heirs, such as legatees and third parties, are not bound to report donations, but only to perform the reduction of excessive liberalities of which they benefitted, if these affect legal heirs' forced heirship.

b) *Donees potentially having accepted inheritance.*

The report of donations must be carried out, in principle, only by the heir accepting donations. As a rule, the person potentially giving up to inheritance has no duty to report donations, being allowed to keep them within the limits of the disposable portion.

Thus, according to provisions of article 1147 paragraph (1) of the NCC: "*In case he gives up to his legal inheritance, the deceased or surviving spouse has no longer the duty of report, being allowed to keep the liberality he received between the limits of the disposable portion*".

Yet, in exceptional cases, according to provisions of article 1147 paragraph (2) of the NCC and through clear stipulation made in the donation contract, the donee can be bound to report a donation also if he gives up to inheritance. In such case, the donee will bring again to inheritance only the value of the donated asset which overcomes that part of the deceased's assets to which he would have been entitled as legal heir. It can be therefore identified another novelty element brought by Law No. 287/2009 in the field of the report of donations.

<sup>1</sup> The surviving spouse and the deceased's descendants who come effectively and together to legal inheritance.

<sup>2</sup> Under the influence of the 1864 Civil Code, the deceased's grandson was bound to report the donation, even if at the moment when he received it he did not have the quality of potential heir as his father, by being alive, was removing him from inheritance.

By making this stipulation, the donor has no intention to advantage any of his descendants, as he donates an asset to them or bequeaths their inheritance in advance. It is thus avoided the inequality between descendants' rights. A potential inequity for that matter could be instituted if the donee gave up to his inheritance, keeping within the limits of the disposable portion the donation with a value which overcomes that of the assets inherited by other descendants.

*c) The debtor with the report duty must have a double quality, that of legal heir and donor.*

According to provisions of article 1146 paragraph (2) of the NCC, the obligation to report donations belongs only to the donee who, at the moment when he received the donation, had the quality of donor's presumable heir (but with concrete vocation). Thus, the moment when the two qualities are both met and must be reported is the one when the donation contract is concluded.

In principle, the report must be performed only for the donations received personally by the debtor of the report obligation [art. 1149 paragraph (1) of the NCC]. Consequently, the heir has no duty to report the donations made by the deceased to his son or spouse. The heir in question will report only the donations which the deceased ordered in his favour. Thus, the new Civil Code does not institute a reward presumption by other person's involvement. Article 1149 of the NCC continues to distinguish at its paragraphs (2) and (3) between the donee's descendants who come to inheritance on their own and those who come to inheritance by representation. Thus, according to the provisions of article 1149 paragraph (2) of the NCC, the descendant who is not a close relative of the deceased and who comes to inheritance on his own is not bound to report the donation received from his ascendant, even if he accepted the latter's inheritance.

For instance, if the only son of a family receives a donation from his father, but dies before him, and to inheritance come the donor's surviving wife and grandson, the latter will not report the donation made by his grandfather, to whom inheritance comes on his own, even if he accepted the inheritance of his father.

On the contrary, the descendant who is not a close relative of the deceased and who comes to inheritance by the representation of his ascendant is bound, according to provisions of article 1149 paragraph (3) of the NCC, to report also the donation received by his representative (the person he inherits) from the deceased, even if the representative gave up to the inheritance of the person he represents.

For instance, if the son (donee) receives a donation from his father (donor) and dies before him, and to inheritance come the donor's surviving wife in competition with their daughter and donee's son, the grandson will report the donation made to his father by his dead grandfather, given that the grandson comes to inheritance through the representation of his father-donee and even if he gave up to the latter's inheritance.

It can be therefore noticed that, in what concerns the personal character of the report obligation, Law No. 287/2009 does not bring any innovation in comparison with the former civil regulations, by taking over their precise principles.

*d) The donation ordered in favour of descendants or surviving spouse must not have been exempted from report.*

Through the provisions of article 1150 paragraph (1) letter a) of the NCC, law allows the donor to exempt from report the donations which he orders. Still, this exemption must be provided either by means of the donation act, or of an ulterior act, drafted in one of the forms provided for liberalities. Therefore, the exemption from report must be performed by means of an authentic donation act or in one of the testamentary forms. We consider, just like other authors (Deak, 2002), that the lawmaker's request in relation to the way the exemption from report should take place is justified, since the exemption itself represents a genuine liberality.

Under the influence of the 1864 Civil Code, judicial practice and specialized literature also validated the tacit (indirect) exemption from report, if this one was undoubted (Eliescu, 1966; Chirică, 1996;

Deak, 2002)<sup>1</sup>. Such intention was supposed to result from simulated donations, indirect donations or handed-in gifts. Going on the same line, it was underlined that the mere disguise of a donation was not equivalent to an exemption from reporting it, but generated instead a relative presumption of exemption from report, which could be challenged with the evidence that the disguise had been made for another purpose.

As to us, we consider that the orientation mentioned above can be preserved also under the circumstances in which the new Civil Code entered into force, but only in what indirect donations and handed-in gifts are concerned. Speaking about simulated donations (as it will be pointed out at point 7), the new Civil Code, by taking over the orientation described above, lists them, in principle, at the category of donations exempted from the report obligation, thus instituting a relative presumption of exemption from report, which can be challenged by the evidence that the simulation was performed for other purposes [art. 1150 paragraph. (1) letter b) NCC]. Therefore, in what simulated donations are concerned, it is not necessary anymore to plead for the admissibility of a tacit exemption from report.

In the end, we mention that an excessive donation, even if it is exempted from report, shall be subject to reduction, within the limits of forced heirship replenishment.

## 5. Persons who can Demand the Report of Donations

According to the provisions of article 1184 of the NCC, only the surviving spouse and descendants can demand the report of donations, but also their personal creditors, on a derivative way.

Thus, the novelty element brought by Law No. 287/2009 is that it clearly provides that the report of donations can be demanded also by the personal creditors of the deceased's surviving spouse and descendants. In the light of the former Civil Code, such possibility resulted only indirectly, from the interpretation of derivative action (Hamangiu, Rosetti-Bălănescu & Băicoianu, 1929; Eliescu, 1966; Stătescu, 1967; Cârpenaru, 1983; Chirică, 1996; Deak, 2002; Bacaci & Comăniță, 2006)<sup>2</sup>.

The obligation of report is mutual and constitutes the passive side of the relations established between the deceased's descendants, in case they come alone to inheritance, but also of the relations established between the deceased's descendants and the surviving spouse, if they come together to inheritance.

Thus, any of the heirs mentioned above can demand the report of donations, of which co-heirs benefitted. The creditor of the report obligation cannot waive such right before inheritance is opened, as he would perform a legal act regarding the future inheritance, affected by absolute nullity, but only after inheritance is opened, given that the right to demand report has an *individual character*. In the light of such character, the donation will be reported, in principle, only within the limits of the rights held by the heirs not giving up to it.

Moreover, the right to demand the report of donations has a *patrimonial character*, so that, if it is not exerted by the creditor, during his life, the right in question is passed to creditor's own heirs as it happens with the reduction of excessive liberalities, or to his personal creditors, who can exert it by means of derivative action.

Unlike heirs' personal creditors, who can themselves exert the right to demand the report of donations (not on their own, but on a derivative way), the inheritance creditors (deceased's creditors) cannot exert such right, since their right of general pledge does not concern the goods which constituted the

<sup>1</sup> See for example the Supreme Court, decision No. 805/1953, in „Register of decisions between 1952-1954”, volume I, p. 120.

<sup>2</sup> Under the influence of the 1864 Civil Code, the personal creditors of the heirs entitled to demand the report of donations had unanimously acknowledged by specialized literature their possibility to exert themselves, by means of derivative action, such right.

object of donations<sup>1</sup>. Thus, no category of creditors can exert on its own the right to demand the report of donations.

Similarly, legatees are not entitled either to demand the report of donations, whether they are universal or by universal title, since their succession rights are ascribed only to the assets existing in the deceased's patrimony, at the moment inheritance is opened, and not to the assets which constituted the object of donations. No matter who the owner of the right to demand the report of donations is, he must prove the liberalities which he pretends to be reported, by means of any evidence way, since he has the quality of a third party in relation to such liberalities.

## **6. Donations which must be Reported**

There must be reported the donations performed by authentic act, handed-in gifts and indirect donations. On the contrary, as we will point out at the next point, the donations disguised as alienations by onerous titles or made through interposed persons, must not be reported.

There must also be reported the donations with duties instituted upon them, but the report obligation regards in this case only the effective benefit to which the donee is entitled, resulting from the deduction of the counter-value of the duty from the total amount of the donation.

Also in the context in which the object of the report of donations is analyzed, specialized literature (Deak, 2002)<sup>2</sup> points out that the insurance allowance paid by the insurer is subject neither to report, nor to the reduction of excessive liberalities, if the deceased concluded a death insurance in favour of a heir having the duty of report. The heir in question will be bound to report at most the premiums paid to the insurance firm by the deceased, with title of indirect donation.

## **7. Donations which are not Subject to Report**

The new Civil Code, through the provisions of article 1150, clearly exempts from report:

- a) donations which the deceased made with exemption from report;
- b) donations disguised as alienations by onerous title or performed through interposed persons, excepting the case when it is proven that the person leaving the inheritance pursued another purpose than the exemption from report.

Thus, the presumption regarding disguised donations has only a relative character, such donations being subject to report only if it is proven that, by instituting them, the donor pursued another purpose than the exemption from report. Law No. 287/2009 innovates also in respect to this aspect. Under the influence of the former Civil code, such orientation was being adopted only by specialized literature, the normative act mentioned not containing any provision for that matter.

- c) ordinary gifts, remunerative donations and, if they are not excessive, amounts of money spent for the maintenance or, as the case may be, for the professional training of descendants, parents or spouse, but also wedding expenses, if the person leaving the inheritance left no contrary provision<sup>3</sup>;

Thus, remunerative donations are exempted from report, as novelty element. Then, in order for the amounts of money spent for the professional training of descendants, parents or spouse not to be subject to report, they must not be excessive. It can be noticed that law refers here also to the amounts of money paid in advance by parents for maintenance. Thus, it is being consecrated an exception from

---

<sup>1</sup> The object of the pledge right enjoyed by the creditors of the inheritance can be ascribed only to the assets existing in the deceased's patrimony at the date the inheritance is opened. But the donated goods went for good out of the deceased's patrimony in what inheritance creditors are concerned.

<sup>2</sup> See also the Supreme Court, Civil section, decision No. 427/19712, in „Register of decisions for 1971”, p. 121.

<sup>3</sup> The 1864 Civil Code also contained similar provisions. See, for that matter, article 759.

the general rule provided for by article 1146 of the NCC, according to which have duty of report only the surviving spouse and descendants (National Union of Notaries Public from România, 2011).

- d) benefits obtained, incomes reaching maturity by the day inheritance is opened and the financial equivalent of the use exerted by the donee upon the donated good<sup>1</sup>;

There will be reported only the benefits and interests ulterior to the opening of inheritance<sup>2</sup>, without being necessary to put them on delay. The heir-donee can be nonetheless exempted by the deceased not to report, until partition is done, the benefits obtained and the interests cashed (Hamangiu, Rosetti-Bălănescu & Băicoianu, 1929). The provisions of article 1150 paragraph (1) letter d) also concern the hypothesis in which the object of donation is represented by the benefits or the incomes from an asset which remained in the donor's property, such as the usufruct right. (Hamangiu, Rosetti-Bălănescu & Băicoianu, 1929; Cantacuzino, 1998; Eliescu, 1966; Chirică, 1996; Deak, 2002; Bacaci & Comăniță, 2006).

- e) the asset which perished out of donee's guilt.

Nonetheless, in an exceptional matter, according to provisions of article 1150 paragraph (2) of the NCC, if an asset was reconstituted by using an allowance cashed as a result of its disappearance, the donee is bound to report the asset, if the allowance in question helped to the reconstitution of that asset. If the allowance was not used for that matter, it is itself subject to report. If the allowance results from an insurance contract, then it is reported only if it exceeds the total amount of the premiums paid by the donee. It can be therefore noticed that Law No. 287/2009 also regards the situation mentioned above, pointed by specialized law before the entry into force of this law, and thus not regulated by the former Civil Code.

## 8. Effects of Exemption from Report

The clause stipulated by the donor, namely that exempting the donee from reporting the liberality received, can produce two effects:

- a) exempts the donee from his duty of report, although it leads to the transgression of the equality principle between the heirs of the same class and degree.

The donee will keep the whole value of the donated assets, only if, although exist forced heirs, their forced heirship is not transgressed.

- b) donation is imputed in relation to the available quota.

## 9. Conclusions

At the end of our analysis, we are listing the novelty elements brought by Law No. 287/2009, in comparison with the 1864 Civil Code, in what regards the general aspects involved by the report of donations. Thus, Law No. 287/2009 innovates in the field subject to our analysis in respect to the following aspects:

- The surviving spouse and the deceased's descendants, in order to be bound to report the donations received from the deceased, must have a concrete vocation to his inheritance, if the inheritance was opened at the date of donation.
- Through clear stipulation in the donation contract, the donee can be bound to report the donation he received also in case he gives up to inheritance; in such hypothesis, the donee will

<sup>1</sup> The correspondent of this legal text in the 1864 Civil Code is represented by article 762.

<sup>2</sup> If the donee owed the benefits obtained and the interests reaching maturity before the opening of the inheritance, but also the equivalent of the use of the donated asset, the donation would not produce any advantage in respect to him, but would rather be instead "a burden" for him. This opinion belongs to professors C. Hamangiu, I. Rosetti-Balanescu, Al. Baicoianu, *quoted works*, p. 583.



- bring again to inheritance only the value of the donated asset which overcomes that part of the deceased's assets to which he would have been entitled as legal heir.
- Besides the deceased's surviving spouse and descendants, the deceased's personal creditors also can demand the report of donations.
  - Are exempted from report, as a novelty element, the donations disguised as alienations by onerous title or performed through interposed persons, on the exception that is proven that the person leaving the inheritance pursued another goal than the exemption from report, such as remunerative donations.
  - Law No. 287/2009 regards the situation (pointed out by specialized literature before it entered into force) in which the asset was reconstituted by using an allowance cashed as a result of the asset perishing.

In our opinion, the new Civil code insures a modern, just and coherent regulation to the report of donations, by preserving the unchallenged principles of the former Civil Code, and by innovating, at the proposal of specialized literature and judicial practice, only in relation to the aspects not well regulated before its entry into force.

## 10. References

- Bacaci, Alexandru & Comăniță, Gheorghe (2006). *Drept civil. Succesiunile/Civil law. Inheritances*. 2<sup>nd</sup> edition. Bucharest: C.H. Beck.
- Cantacuzino, Matei (1998). *Elementele dreptului civil/Elements of civil law*. Bucharest: All Educational Publ. House.
- Cărpenaru, Stanciu (1983). *Dreptul de moștenire/The right of inheritance* in Deak, Francisc & Cărpenaru, Stanciu. „Drept civil. Contracte speciale. Dreptul de autor. Dreptul de moștenire”/“Civil law. Special contracts. Copyright. The right of inheritance”. Bucharest: Bucharest University.
- Chirică, Dan (1996). *Drept civil. Succesiuni/Civil law. Inheritances*. Bucharest: Lumina Lex.
- Deak, Francisc (2002). *Tratat de drept succesoral/Treaty of succession law*. II edition, updated and completed. Bucharest: Universul Juridic.
- Eliescu, Mihail (1966). *Moștenirea și devoluțiunea ei în dreptul Republicii Socialiste România/Inheritance and its devolution into Socialist Republic Romania law*, Bucharest: Academiei Publ. House.
- Florescu, Dumitru (2011). *Dreptul succesoral/Inheritance law*. Bucharest: Universul Juridic.
- Genoiu, Iliora (2012). *Dreptul la moștenire în noul Cod civil/The inheritance right in the new civil Code*. Bucharest: C.H. Beck.
- Hamangiu, Constantin, Rosetti-Bălănescu, Ioan & Băicoianu, Alexandru (1929). *Tratat de drept civil român/Romanian civil law treaty*. Bucharest.
- Stănculescu, Liviu (2008). *Drept civil. Contracte și succesiuni/Civil law. Contracts and inheritances*. Bucharest: Hamangiu.
- Stănculescu, Liviu (2012). *Curs de drept civil. Succesiuni/Civil law course. Inheritances*. Bucharest: Hamangiu.
- Stătescu, Constantin (1967). *Drept civil. Contractul de transport. Drepturile de creație intelectuală. Succesiunile/Civil law. The contract of carriage. Rights of intellectual creation. Inheritances*. Bucharest: Didactică și Pedagogică.
- \*\*\* Uniunea Națională a Notarilor Publici din România (2011). *Codul civil al României. Îndrumar notarial/Romanian civil Code. Notary guideline, vol. I*. Bucharest: Monitorul Oficial.