

A New Approach Regarding the Legal Contract Lesion

Sache Neculaescu¹, Liviu Vasilescu²

¹Valahia University of Targoviste, Faculty of Social and Political Legal Sciences,
sache_neculaescu@yahoo.com

²Valahia University of Targoviste, Faculty of Social and Political Legal Sciences,
lvvasilescu@yahoo.com

Abstract: Why not agreeing upon a contract based on misbalanced services: because the party benefiting from an excessive service unlawfully exploited the precarious situation of the other party as a result of whom came to accept an unfair contract, or because contractual balance must be an essential feature of which and every contract with clearly established services? Which of the two reasons mentioned above is more important in terms of current contractual discipline? These are two questions which, no matter what answers will get, will involve an important matter of choice, in relation to which it will be possible to assess correctly the solutions proposed by the new Romanian Civil Code, as well as by the main bills on European codification of contract law. The present study upholds the idea of misbalanced services only if it constitutes rather a remedy for a contractual problem, if it is oriented towards the legitimate interests of the most vulnerable party of that contract and less interested in sanctioning the guilty conduct of the person who took advantage from an excessive service. As a consequence, we support the objective perspective in what misbalanced services are concerned, a reason for which we shall be making a few comments on some of the new legal provisions, by referring to the main bills on the European codification of contract law, and stating later on a few *de lege ferenda* proposals, in terms of contracts based on misbalanced services.

Keywords: misbalanced services; contractual balance; disproportioned contractual services; rescission of the contract based on misbalanced services; adapting the contract based on misbalanced services.

1. Definition and Regulation

Etymologically, the term “lesion” of Latin origin (*laesio*), means physical or moral harm. However, in the field of law the concept has a technical meaning that occurs both in relation to the contract, in which the parties conclude disproportionate benefits in an agreement and in civil offenses designating the alteration of property and person.¹

¹ Referring to the second area, we noted that, paradoxically, civil law proved to have focused more on personal property matters and less on those related to the moral aspects, that is why, for economic injuries there have been devoted more legal terms such as damage, loss, prejudice, whereas for the moral aspects, the expressions are not sufficiently nuanced. Thus the term “moral damage” refers to both the effects of harmful act, produced on the level of individual subjectivity and to the financial reward for the damages to the victim, the meaning of each being clearly understood only in the context. In the case of property alteration, French civil law property doctrine of recent years has proposed a distinction between “damage” and “prejudice,” in relation to moral damages terminology has remained unchanged. Therefore, without issuing the claim for the development of new legal terms, we prefer to describe the moral harm in the term of “moral lesion” instead of “moral damage”. In fact, the term “lesion” may be used to describe both the economic and moral damage; consequently, the view to

Of the many definitions given to the term *lesion*, one of the latest can be highlighted, that is “prejudice suffered or about to be suffered by the contractors because of the disproportion between the value of their benefits and their contractual partner, existing at the time of concluding a mutually binding contract, for consideration and of commutative nature”. (Pop, 2009, p. 310) Two observations are to be made in connection to this statement of reference in the field of the topic. The former envisages the new element introduced in the advanced definition of *lesion*, the one that relates not only to the prejudice suffered but also to the prejudice “about to be suffered” by the party.

According to this definition, the lesion is not subject to the damage actually occurred but it is also present even when the prejudice – without being actually produced - is predictable. The accuracy of the defining terms is to be noted because what is the most important in the case of lesion is not the actual damage occurrence but the party agreement on disproportionate benefits or labor conscription, the prejudice being on the way of being produced only when the contract has been executed –the fact that the contract can be sued for invalidity cannot be excluded.

The latter observation concerns the fact that not any disparity in value between the benefits of the parties may be a case of *lesion*, as one might think by reading only the definition advanced above. Referring to the imbalance of the contract, the distinguished author quoted above states that it “must be significant” (Pop, 2009, p. 317) – a feature which, being essential for the term *lesion*, should be referred to in the definition; it is indeed the case of most of the Romanian authors who consider that the lesion is the damage created by a “manifest disproportion between the two services’ (Beleiu, 2007, p. 160) (Dogaru & Cercel, 2007, p. 127) (Dogaru, Popa, Dănișor, & Cercel, p. 456) (Boroi, 2008, p. 229), different from other disparities tolerated by civil law, those that are not considered to put into question the morality of the contract.

To a point, each party is concerned to get as much as they can from their partner, so that the confrontation between the bid and acceptance does not lead to equal benefits. Law intervenes only when the difference in the value of benefits is strident, requiring the intervention of a judge, either to terminate the contract or to adjust the benefit by completing what appears to be undervalued in the labor conscription. If we took into consideration only the autonomy of the will - as it was designed by the French thinkers of codes - we would consider that there is not a fairer price than that agreed by the sovereign parties, according to the liberal principle “qui dit contractual, dit fair” issued by Fouillée.

The current view is consistent with contractual law; the parties are free to quantify their benefits/labor conscription without compromising the agreement by an evident imbalance, questioning the nature of a minimum moral of the contract. Benefits between the parties must be of a fair proportion and even if the new Romanian Civil Code sanctions in art. 1221 the contract lesion but only when the benefit stipulated in the contract is “of a considerably higher value, we believe that such a condition must be disclosed in any doctrinal definition of the lesion.

According to article 1221, (1) of the new Romanian Civil Code (NCC) „there exists a lesion when one party taking advantage of the state of need, lack of experience or lack of knowledge of the other party, states in their favor or in another person’s favor a benefit „of significantly greater value” than their personal benefits at the time of the agreement conclusion. The first published version of the Project of the new Civil Code, the statement in article 938 (1) was a negative structure that is “except as provided by law, lesion does not vitiate consent but for minors and persons under judicial interdiction. The declared intention of the editors of this text was to highlight the restrictive character of the lesion

the property should make use of the terms "damage" and "prejudice" as the distinction mentioned above, whereas “moral lesion” would be the second species of the same genre, avoiding the confusion between damage and damages.

which would have been applied only to minors and persons under ban. Global movement for consumer protection of the last decades has determined dramatic changes that resulted in the hierarchy of the two fundamental principles applicable to contracts, one that increasingly legitimized the intervention of the judge in the space of the will of the parties, considered to be intangible so far. The theory of unfair terms have increasingly permitted censorship of the will of the discretionary contractual parties on behalf of justice, requiring more vigorous sanctions to the contracts resulting from the dominant position of one party at the date of the agreement of will. The void left by the refusal of the lesion, traditionally seen as restrictive, caused the assimilation of the economic violence by the classical violence considered as a defect of consent, representing the exploitation of the dependence state of one of the contracting party and its determination to conclude an unfavorable contract - a legal means meant to ensure the freedom of will of the weaker contracting party, thus giving the judge the opportunity to sanction the dominant economic power. This process of assimilation of economic violence has influenced the French doctrine which, since 1987, has defined economic compulsive violence as “the abusive exploitation by a dominant contracting party in a state of intellectual superiority during a negotiation characterized by material or psychological pressure affecting freedom of consent in a manner that is strong enough to justify cancellation of the contract resulting in unbalanced, unfair advantages for the generating dominant contracting party”. (Rovinski, 1987, pp. 225, 387) That is why it was argued that economic violence is a “Trojan horse” that introduces English legal concepts in French law.¹ But this assimilation would be accepted (Mazeaud, 2001, p. 1140) and welcomed in a typical manner for the French despite the secular adversity. (Mazeaud, 1999)

Simultaneously, at the European level *lesion* in contracts has become a more and more discussed subject due to the growing concern for sanctioning contracts concluded as a consequence of the dominance of a contracting party, being regarded as a technique that guarantees contractual justice. The doctrine of civil law refers to the *lesion* in a specific framework of the contract, the requirement of a fair contract price (Starck, Roland, & Boyer, 1998, p. 322) or, more recently, the content of the contract, seen as a “social justice requirement”. (Malinvaud, 2009, p. 207)

2. Lesion in the Draft of European Contract Law Codification

2.1. Unidroit principles applicable to international commercial contracts include *lesion* among the vices of consent in article 3.10, paving the way to the cancellation of the contract or the clause by which a contracting party has an unfair benefit, taking an excessive advantage in the detriment of the other party. It is envisaged on the one hand the fact that the favored party took advantage of the other side’s dependence, economic disadvantage or urgent needs and on the other hand the fact that the party is cautiousness, ignorant, inexperienced or lacks negotiation skills. The nature and purpose of the contract are also taken into consideration... Paragraph 2 of this text provides that the court may adapt the contract by making provisions in accordance to reasonable standards of fair negotiation in the business field and in par. 3 there is the provision of adjusting the contract due to the request of the party that receives the notification of contract cancellation.

2.2. Without referring specifically to the *lesion*, Principles of European Contract Law punish “the excessive profits or unfair advantage” as a reason to cancel the contract along with error, fraud,

¹ P. Kinder-Gest, *La réception de la violence économique en droit comparé*, <http://www.freewebs.com/mja/paris2/MEMOIRES%202008/Violence%20.pdf>

coercion, abuse clauses. According to article 4:109 par. 1 “one side may cause invalidity of the contract if, according to their view, at the moment of concluding the agreement, they were in a state of dependence on the other side or in a relationship of trust in this, in a state of economic distress or with urgent needs, they were cautiousness, ignorant, inexperienced or unable to negotiate, while the other party knew or should have known that given the circumstances and purpose of the contract, they took advantage of the situation and had an excessive benefit by evident disloyalty. This regulation avoids the word “lesion”, referring only by the rule, to the “aggrieved party”, the one that may require the adaptation of the contract, bringing it into accord to what the sides could have agreed upon as requirements of good faith. Paragraph 3 provides that the contract adjustment can be made at the request of the side receiving notification for cancellation.

As drafted, the texts of the article. 4:109 PECL discuss the state of necessity rather than lesion, and another reason for cancellation in the article 4:110, although related to significant imbalances between rights and obligations of the parties arising from the contract, constitutes a separate plea of annulment called “unfair terms which were not individually negotiated”.

2.3. The European Contract Code, the project advanced by Pavia group led by Professor Gandolfi, avoids qualifying *lesion* as a ground for annulment of the contract referred to in Art. 30 of this draft; the rule relates to the contents of the contract that must be legal and non-abusive, stating that “there can be broken any agreement whereby one party exploiting the situation of danger, of necessity, the inability to understand and want, the lack of experience, economic or moral coercion of the other party, pledged or provided a benefit or other material benefits manifestly disproportionate to the consideration given or promised.”

2.4. Civil Code of Quebec, influenced by the legal protection of consumers, provides in article 1406 that “lesion results from the exploitation of one party by the other party, which causes a large discrepancy between the benefits of the parties; the existence of a very significant disproportion leads to the assumption of exploitation”. Although the lesion qualifies as a defect of consent, the fact that it presumes exploitation brings this regulation closer to the objective conception on lesion. Paragraph 2 of this legislative text states that “It (*lesion*, n) can also result from the fact that a minor or a protected witness is obliged to over-estimate the financial situation of the person to the benefits obtained from the contract and other circumstances.”

2.5. The Italian Civil Code differently regulates the causes of annulment of the contract for vitiated consent which includes error, fraud, violence (art. 1427-1440) and the causes for the adjustment of the contract concluded in a state of danger (art. 1447) consisting of a present danger or serious personal damage, which evokes the state of emergency and lesion (art. 1448) concerning the situation in which there is a disparity between the parties’ benefits created by the state of need of one part and of which the other party took advantage obtaining benefits. The text of the following paragraph provides that “action is not admissible if the lesion does not exceed half the value of services provided or promised by the aggrieved party when the contract is concluded.”

2.6. Another important milestone is the Preliminary European regulatory reform of the law of obligations and limitation. Concerned with preserving the Napoleon Code, yet sensitive to the modern solutions imposed by the consumer protection, the promoters of the new proposals in spite of preserving the restrictive statement of article 1118 C. civ. Fr. which paves the way to adjusting the contract on the grounds of lesion for only un-emancipated minors and protected witnesses in cases provided by law, include it in the capacity of the parties, without further characterize it as fault of consent., However, when violence is defined as a vice of consent, article 1114-3 provides that

“violence exists when one party agrees being subject to a state of need or dependence, if the other party exploits this weakness by gaining a convention with a manifestly excessive advantage.” Although the French doctrine that assesses the jurisprudence in relation to economic violence has decided that it is attached to classic violence as fault of consent and not to lesion (Chazal, 2000, p. 827), in practice this ground for annulment is lesion disguised in violence.

3. Sanction of Lesion

3.1. According to art. 1222, 1 of the new Civil Code “the side whose consent was vitiated by lesion may request, at its discretion, cancellation of the contract...”.

The new regulation seems to try to be integrated to the trend of simplifying legal terminology, eliminating the term „*rescindere*”¹, derived from the Latin word *rescindere*, meaning abolition – the traditional sanction for lesion and replacing it with the contract annulment for lesion according to the model of UNIDROIT Principles (art. 3.10 par. 1), Principles of European contract law (4: 109, par. 1) and the Quebec Civil Code (Art. 1407). But the terminology is far from being common. Simultaneously, another important project of codification of contract law is the European code of contracts proposed by the group of Pavia led by Professor Gandolfi. Focusing on the contract in which one party, exploiting the situation of danger, necessity, inability to understand and to want, lack of experience, economic status or moral coercion of the other party, promises to provide on its behalf or on the third party’s behalf a labor conscription or other patrimonial advantage manifestly disproportionate compared with the provided or promised conscription, it describes the contract as “rescindable” and not annulable. The same term for the action in „re-splitting”/ annulment is found in the Italian Civil Code art. 1448.

Another important project, the preliminary draft of law reform of obligations and prescription, proves inconsistency in our opinion as art. 1111 mentions the vices of consent, without including lesion among them, subjecting them in art. 1115 to relative nullity sanction, but art. 1114-3 qualifies as violent the situation in which one party agrees to the contract in a state of need or dependence, whereas the other party exploits this weakness by gaining a manifestly excessive advantage in the convention. According to article 1118 of the preliminary draft “the simple lesion, when it is not the result of a fortuitous and unforeseeable event brings about re-splitting of any contracts in favor of the un-emancipated minor or the adult under the provisions of article 491-2 and 510-3 of the Code”. If the lesion is treated as violence, fault of consent sanctioned with relative nullity, we wonder which is the other case of lesion that can attract *rescindere*”.

Our strong opinion is that the action *in rescindere* should be preserved. Beyond the fact that legal solutions, as we have seen, are not uniform, we believe that in support of preserving it there are several arguments, of which the most important are:

- even in the provisions of the new Civil Code, the sanction of the lesion contract is under a legal regime different from that of the annulment. In the new texts the claim that “in addition to name and its specific cause (*lesion*) has the same legal regime as any action foregoing to annulment” is not convincing, given that we have a legal requirement specific to lesion regarding the amount of disproportion value of the parties’ benefits, a contract that can be

¹ The term (annulment) comes from the Latin verb *rescindere* that means “to dismantle”

drained through by adjusting, whereas for a series of contracts, the sanction is inadmissible, not to mention the limitation period of 2 years for prescription term, other than the one specific to the action for annulment of 3 years provided in art. NCC 2514;

- the need for common contract terminology in European law must not be made by suppressing certain terms of technical and legal language that designate some delicate aspects that are approached and required in atypical situations in legal field. The action for annulment *rescindere* might be abandoned only if it would prove useless, what we believe is not the case.

3.2. Provisions of Art. 1222 of the new Civil Code are likely to be discussed with the following observations:

- under par. 1 of this rule, “the side whose consent was vitiated by lesion may, at its discretion, annul the contract or reduce the obligations with the value of damages that would have been fair.” Literally interpreting this text, it is clear that only the party whose consent was vitiated may take the initiative of adapting the contract, which is incorrect. This statement is supported by the text of paragraph. 3 of the same article “in all cases, the court may retain the contract if the other party offers a fair reduction of their claims or, where appropriate, an increase of their obligations”, which means that both parties may propose to adapt the contract. An express provision to that effect is found in Art. KIC 1450 that is “the contracting party against whom *rescindere* was required can avoid it by offering a modification to the contract...”¹ A similar provision is found in art. 4:109 par. 2 PECL: “so, the court may, upon the application of the party receiving a notice of cancellation for excessive profits or unfair advantage, to adapt the contract...”²
- standard-wording of article 1222, 3 would gain more clarity if, instead of a text that might be twisted , it had a simple statement “the court may adapt the contract by re-balanced benefits”, avoiding expressions like” if the other party gives you a fair...”, actually “fair “ may be nothing more than equitable benefits;
- it is difficult to understand why the new editors avoid using the only legal term as appropriate in the circumstances that would be defined as adaptation of the contract. There can be no “continuing contract” in circumstances where the judge, by definition, either reduces or increases benefits, restoring the contractual balance. Originators of these texts could have taken into consideration both the provision of art. 4:109 par. 2 of Lando principles “at the aggrieved party's request, the court may adjust the contract so that it can be agreed upon in accordance with the requirements of good faith” and that of the art. 3.10 paragraph 2 of the UNIDROIT Principles, which states that the “at the request of the party that can invoke the application invalid, a court may adapt the contract or clause to make it consistent with reasonable standards of fair negotiation in the commercial field”. Indeed, the new Civil Code refers to adapting the contract in the matter of unpredictability in art. 1271, paragraph 2: “however, parties are obliged to negotiate in order to adapt the contract...” We might be inclined to believe that the two operations are different and that in case of lesion, the contract is maintained and in case of unpredictability, it is revised, which cannot be true;

¹ Art. 1450 Offerta di modificazione del contratto. Il contraente contro il quale è domandata la rescissione può evitarla offrendo una modificazione del contratto sufficiente per ricondurlo ad equità.

² Art. 4:109. Profit excessif ou avantage déloyal. (3) Le tribunal peut également, à la requête de la partie qui a reçu une notification d'annulation pour profit excessif ou avantage déloyal, adapter le contrat, pourvu que cette partie, dès qu'elle a reçu la notification en informe l'expéditeur avant que celui-ci n'ait agi en conséquence.

3.3. It should be added that the adaptation of the contract is a penalty to lesion. This operation performs both the function of a sanction - faced with the abolition of the contract; the advantaged party will be compelled to accept diminished benefits and that of a remedy for the contract fault by ensuring continuity.

3.4. According to art. 1224 NCC, "random contracts, transactions and other agreements specifically provided by law cannot be attacked for lesion."

Some comments are inevitable:

- first, in a good legislative technique it is preferable an affirmative rule to tell us in the first place which are the contracts subject to penalty and secondly to provide the exceptions to the rule. Otherwise, you could say that only commutative contracts are subject to such a sanction, resulting from these either *per a contrario* or expressly, that random ones are not subject to the penalties and finally that the transaction can be mentioned among all the exceptions:
- the solution of transaction exempt from the penalty lesion is, in our view, questionable. The classic reason (*ratio legis*) for which such contracts were exempt from penalty for cases of lesion is that, by definition, they involve mutual concessions and even the withdrawal of claims for their right by either party would be proper, that is the price agreed on to settle litigation brought or about to be initiated. Such an exemption was part of the legal regime strictly reserved for lesion. That is why in the classical conception of Napoleon Code, concerned especially with the freedom of the will of the parties, the transaction was the object of consideration, according to art. 2052. 1, for the power of the judge, being exempted *in terminis* from penalty for lesion in the provision of paragraph. 2 of the same text. According to art. 2053 C. civ. fr., the transaction can be challenged for errors, both on the person and the object. The Romanian Civil Code regulation is slightly different. Firstly, with a more moderate expression, art. 1711 states that "transactions between the contracting parties have the power of unappealing sentence" and as far as sanctions are concerned, in the art. 1712 C. civ. only the cases of "error on the person or object in the process" are considered, without reference to fraud and violence as in the French Civil Code art. 2053 paragraph 2.

Meanwhile, further development of the conception of *lesion* directed at protecting the weaker party in contract makes the traditional solution more questionable. If according to article 2053, 2 Fr. civ. C., the transaction can be challenged in cases of fraud and violence, today, when the lesion is getting closer to economic violence, its exempting from canceling on grounds of lesion is no longer justified. The Catala preliminary project for French conceptual reform of law obligations and limitation specifies in article 1114-3 that "there is also violence when the party is committed to the agreement under a state of need or dependence, if the other party exploits this weakness, taking a manifestly excessive advantage". The same provision is found in the new Romanian Civil Code, which, although does not assimilate the state of necessity to violence as it ought to, retains a separate ground for annulment in article 1218 that "the contract concluded by a party in a state of necessity cannot be cancelled unless the other party took advantage of that fact." However, if under the new Civil Code, the transaction can be challenged on the ground that it was closed under a state of emergency and not exempted from the analyzed requirement, what will there be the reason to exempt the transaction from the annulment for lesion?

4. Proposals of *Lege Ferenda* Regulating Lesion in the New Romanian Civil Code

4.1. In light of the above stated and in line with a more relevant doctrine of civil law dealing with lesion as a contractual imbalance rather than vice of consent, we can considerate that lesion is oriented to be a remedy for an unfair contract rather than a sanction of the conduct of the party who has exploited the ignorance or need status of the other contracting party. For them there should be sufficient only substantial disparity between the benefits quantified in more than half the amount that was promised at the time of conclusion or performance made by the aggrieved party. Thus, the lesion regulation should be in harmony with the provisions of art. 79 of the Consumption Code Act, Law no. 296/2004, that is “a contractual provision that was not negotiated directly with the consumer will be considered unfair if, by itself or together with other provisions of the contract, created at the expense of consumers and contrary to the requirements of good faith, a significant imbalance between rights and obligations of the parties.” And if, according to other reasons related to the integration of new rules in the subjective concept which is surprisingly present in the European codification draft contracts, the regulation imposed the maintaining of the lesion among the vices of consent, we could adopt the idea promoted by the Civil Code of Quebec, which provides in article 1406 that “the lesion is the result of the exploitation of a contracting party by the other, which causes a large discrepancy between the benefits of the parties; the important disproportion presumes disproportion by itself”. The same solution was advanced by the preliminary project of the New Civil Code in art. 938 par. 3; but, unfortunately, it was eventually suppressed.

4.2. The provision of Art. 1222 par 2 NCC stating that “the action for annulment is admissible only if the lesion exceeds half the value it had at the time of conclusion, the performance promised or made by the aggrieved party is a constitutive condition of the lesion- as viewed in the new legislative text- and not just a condition of admissibility in court, so that it should have been included in the provision of paragraph 1. That provision mentioned only in the final part of article 1222 par 2 stating that the “disproportion must subsist until the application for annulment” is related indeed to the legal status of the action for annulment.

4.3. Art. 1222 par. 1 could be rephrased as: “as a result of fault consent, the aggrieved party, may request the cancellation of their contract or the reduction of the obligations directly proportional to the amount of damages that they would be entitled to”, and could be followed by a subsequent text that should have this rule: “the advantaged party may also have the initiative of adaptation of the contract only if they make offer approved by the court which changes the contract terms in a fair manner.”

4.4. We propose that the rule in Art. 1224 should have the following text: “commutative contracts only may be contested on grounds of lesion. Random contracts and other agreements specifically provided by law are exempt from the application of sanctions”.

5. Conclusions

The regulation of lesion as a reason for the rescinding of the contract is a sensitive area of civil law, more and more besieged by the law of consumer protection in search for new solutions designed to avoid imbalance between the contractual commitments and to ensure justice. Far from providing models that fall outside any criticism, the draft of European contract law codification can only be an

opportunity for analysis and reflection, signs of progress in this area that can be used as arguments by both sides in seeking rational solutions.

Conditioning lesion by the attitude of the party that took advantage of the state of need, lack of experience, lack of knowledge of the other party, just like the new Civil Code does, we will favor the strong side, presumed to be acting in good faith and we will put to a disadvantage the poor, imposing a burden of proof and often impossible to do as it concerns subjective aspects. However, under such circumstances, we might ask: which is more important in the case of lesion, to give a sanction to the strong party or to protect the weak one? An elementary sense of justice urges that we should not hesitate in protecting the weak side. Moreover, the semantics of the word “lesion” refers to the harm done to the disadvantaged part and not to the cunning of the party who had a profit as a result of the contract. This is an approach to the concept of lesion, but not the only one. Therefore, we hope that further doctrinal and case-oriented efforts will be made towards a clarifying concept of contract lesion without the questionable matters under discussion in our analysis.

Bibliography

Beleiu, G. (2007). *Romanian Civil Law. Introduction to civil law. Subjects of civil law. Eleventh edition revised and reviewed by M. Nicholas, P. Trusca.* Bucharest: Universul Juridic.

Boroi, G. (2008). *Civil Law. General part. People.* Bucharest: Hamangiu.

Chazal (2000). La contrainte économique se rattache à la violence et non à la lésion/The economic constraint is related to violence and not to injury, *RTD civ.*

Dogaru, I. & Cercel, S. (2007). *Civil. General part.* Bucharest: C.H. Beck.

Dogaru, I.; Popa, N.; Dănișor, D. & Cercel, S. *Bases of civil law. Vol I. General Theory.* Bucharest: C.H. Beck.

Malinvaud, P. (2009). *Droit des obligations/Law of obligation.* Litec.

Mazeaud, D. (1999). Loyauté, solidarité, fraternité, la nouvelle devise contractuelle?/ Loyalty, solidarity, fraternity, the new contract motto? In *L'avenir du droit, Mélanges en hommage à F. Terré/ The future of Law, Mixed considerations as a tribute to F. Terré.* Paris: Dalloz.

Mazeaud, D. (2001). Vers l'émancipation du vice de violence/ Towards the Emancipation of violence vice. In *Recueil Dalloz, sommaires commentés.*

Pop, L. (2009). *Civil Law Treaty. Obligation. Volume II.* Bucharest: Universul Juridic.

Rovinski, J. (1987). *Le vice contractuel de violence dans le droit moderne des contrats, thèse./ Vice violence contract in the contracts' modern law,* Thesis. Aix no. 133, 180.

Starck, B.; Roland, H. & Boyer, L. (1998). *Droit civil. Les obligations. Contrat/Civil Law. Obligations. Contracts. Seventh edition.* Litec.