MINISTRY OF NATIONAL EDUCATION AND RESEARCH

„ALEXANDRU IOAN CUZA" UNIVERSITY OF IAȘI

LAW FACULTY

THE DIVISION OF INHERITANCE IN COMPARATIVE LAW

Abstract of the doctoral thesis

Scientific Coordinator:

Professor Dr. Valeriu M. CIUCĂ

PhD candidate:

Oana-Cristina MUNTEANU

Iaşi

2024

SUMMARY

***Librum aperi ut discas, qui alii cogitaverunt; librum claude ut ipse cogites*[1]**

INTRODUCTION

The PhD thesis entitled "*Division of inheritance in comparative* law" aims, as the title suggests, to analyse in a comparative manner the institution of the division of inheritance with reference to three systems of law representative of the two families of European law, namely the French and Romanian systems for the continental-European family of law and the English system for the *common law*. Thus, like the Yggdrasil tree, the roots of the thesis will have as their source: the French system of law, seen as a central pillar and first reference, the common-law system, a system with notable particularities and a fruitful and novel jurisprudence and, finally, the domestic system of law, the latter being treated alongside the French one in order to highlight only the particular aspects or novelties brought to the institution treated in the following pages.

The approach to the thesis will necessarily be multidisciplinary, which is why the institution of inheritance division will pass, successively and in a first phase, by observing it from sociological, political, historical-legal, anthropological, theological and, of course, philosophical angles. Thus, the interdisciplinarity of our study will be analysed in the chapter dedicated to the *Prolegomena*, a chapter which, in the good tradition of the Iasi doctoral school of comparative private law, is a must in any doctoral study, starting from the irrefutable presumption that no subject can be fully understood unless it is treated on multiple levels of analysis.

The second part of the thesis is focused on the comparative study itself and is divided into two main chapters, the first being devoted to the division of inheritance in French and Romanian law, while the second is devoted to the devolution of inheritance and division in English *common law*.

In view of the abundance of works by established as well as emerging jurists, by great scholars as well as by those who are now at the beginning of their career in terms of works focused on inheritance law in general and on the subject of partition of estates in particular, the present work does not aim at synthesising, encompassing or compiling past and present regulations on the institution of division. The aim of this work is, by bringing together and then filtering the formal sources from the systems of law studied, to refine what might be called an "ideal law" on division.

---

[1] *„ Open the book to learn what others have thought, close the book to think for yourself",* Heyde, *Technik*, 82 *apud* O. Felecan, N. Felecan, *Dicta memorabilia, Annotated Dictionary of Latin Phrases, Expressions, and Quotations*, Pub. Vox, București, 2007, p. 52.

We will try to find out if and in what form the inequalities created by some legal institutions can be removed, if people's apprehension about the amicable division of inheritance - through the notary public - and the resolution of disputes related to the division of inheritance in a judicious manner could be reduced, and finally we will come up with proposals *de lege ferenda* where the Romanian legal system is deficient or has some shortcomings.

With a jurisprudence in continuous development, driven by legislative evolution, but also by socio-economic progress that has led to the emergence of new and unprecedented legal relationships, the institution of division of inheritance (with particular reference to the Romanian legal system) impresses by the volume and weight of the cases that weigh on the judge's table, which are in a perennial and close competition with actions on land claims.

Our legal journey on the subject of inheritance division has as its starting point Roman law (as the source of civil law) and will continue with French law and, by extension, Romanian law, having as its compass the work of Professor Dr. Valerius M. Ciucă, materialized under the title "*Procedure of inheritance division*"[2] together with another remarkable work by the distinguished professor entitled "*Roman Law. Lessons. Vol. II*"[3]. In addition to these works, belonging to the reputed professor, an important role will also be played by the books written by the well-known French legal minds, Jean Carbonnier[4] and Philippe Malaurie[5], which will be a real *vademecum* for my thesis.

Actio familiae herciscundae, part of the *actiones divisories* category together with *actio communi dividundo* and *actio finium regundorum*, considered as a mixture between *actio in rem* and *actio in personam*[6], was created through *Lex duodecim Tabularum* in order to allow heirs *ex abrupto* in an *antiquum consortium* to get out of the indivision, for which reason it will have a separate section in the thesis. The creation of jurisprudence and the subject of reflection for the codifiers of Napoleon, it is imperative to analyze the institution both on the vertical of history (being, as I said, the vertical of history, the fruit of a long judicial practice) as well as horizontally.

---

[2] V. M. Ciucă, *Procedure of inheritance division*, Pub. Polirom, Iași, 1997.
[3] V. M. Ciucă, *Roman Law. Lessons. Vol. II*, Second Edition, Addenda, corrigenda et augmenta, University of „Alexandru Ioan Cuza" Publishing House, Iași, 2014.
[4] J. Carbonnier, *Droit civil*, Presses Universitaires de France, Paris, 1995.
[5] P. Malaurie, *Droit des successions et des libéralités*, 8e édition, L.G.D.J, 2018.
[6] F.-L. de Keller, *De la procédure civile et des actions chez les Romains*, traduit de l'allemand et précédé d'une introd. par Charles Capmas, Editura Thorin, Paris, 1870, p. 423.

Following the model drawn up by works of immeasurable value mentioned *supra*, a first step to be taken in our analysis consists in identifying the reason for which, today, it has come to the necessity of sharing the remaining assets of *de cuius* by leaving and marginalizing the concept of collective property in favor of individual property. Without going into the depths of the subject, as this will be done *in extenso* in Chapter II of this thesis, we will limit ourselves to stating only that, most probably, *Napoleon's Code* - the matrix of *modern continental civil codes* and not only - conferred the spirit of exclusivism with regard to property rights.

The second step will aim to identify, at the level of each legal system studied, by consulting the relevant case law and relevant doctrine, the reasons why co-heirs are forced to resort to the judicial division procedure and, at the same time, we will try to capture the possible reasons considered when choosing between an amicable division and a judicial one.

Another objective of the work is to discover the possible implications of a testamentary or, conversely, *ab intestat* inheritance on the division of the estate. At this point, our research will leave, for the time being, the theoretical field of a doctoral thesis in law and will step into a field of practice in an attempt to capture the extent to which the sharing of a testamentary inheritance is easier to achieve than an *ab intestat* inheritance.

As is well known, in English, the word ,,*intestate*" derives from the Roman law *intestatus*, and is used to determine the situation in which a person dies without a will or without a valid will.[7] It is clear from the etymology of the word that for the Romans, testamentary inheritances were the rule and legal (without a will) the exception.[8] This rule also extends its applicability in the English common-law system, but it is abandoned by the French or domestic law system. This specification is important because the choice of legal cultures under analysis captures the development of different techniques in solving the problem of succession sharing.

A separate section will be reserved for the presentation of the vast problems that have arisen in notarial inheritance procedures and the evolution in the Romanian system, but especially in the French legal system, through the reform introduced by the law adopted on 23 June 2006. The thesis will take on a profound procedural character in its attempt to transpose in an exhaustive manner the timetable and operations of this procedure, the incidents and cases of rescission of notarial

[7] K. Reid, M. J. de Waal, R. Zimmermann, *Comparative Succession Law: Volume II: Intestate Succession*, Oxford University Press, 2015, p. 2.

[8] According to Cato, in Rome there were three evils a person had to beware of: entrusting a woman with a secret, travelling at sea, and the death of a person before writing a will.

partition. Also here, we will discuss the issue of successions not distributed within two years from the date of the opening of the succession, with the economic implications imposed by the law and the identification of a link between the costs of such distribution, on the one hand, and the number of successions remaining undistributed, on the other.

Moreover, being an important part of this monograph, the position of the creditors in the division should not be lost sight of, which is why we will deal with the prerogatives conferred by the law on them both *ante* and *post factum*, by referring to the right of creditors to challenge the division of the estate, their possibility of lodging an objection to such a division and, finally, their right to challenge the final act of division.

Our attention will be further focused on analysing the ways of sharing property by first outlining the different types of assignment and then considering the need for a division of use. Of course, in this respect the study will focus on identifying the case law in the French and Romanian legal systems, with the final task of drawing up possible proposals that would embrace both the aspects of equity and those of effectiveness within these specific varieties of attribution.

Also within the framework of the two legal systems chosen as a reference for the continental-European legal family, we will analyze from a diachronic perspective the effects recognized to the inheritance division, with the mention that at this point, the approach will be a dualistic one, as a result of the abandonment by the Romanian legislator of the declarative effect in favor of a concept devoid of any legal fiction, namely the constitutive effect.

With the intention of completing the panel of our research on the division of inheritance, we will also provide a series of clarifications on the institution called ” *libéralité-partage*” created by the French legislator by reinventing the old ”*partage d'ascendant*” in order to resuscitate an institution which, unfortunately, risks falling into disuse in the native legal system.

Succession in English common law requires a more generous preamble in view of the fact that this system of law uses a number of concepts unknown to civil law systems. To approach the institution of partition of estates abruptly without clarifying the concept of transfer of property in English law, the notion of *legal estate* and *equity estate*, the role of the personal representative with the consequent dispersal of property between two distinct characters, the executor or administrator on the one hand and the beneficiary on the other, would be an approach, if not likely to fail, certainly destined to confuse.

In this regard, we will consider the specific concepts of property at common law, with particular reference to the concept of trust and its implications for inheritance, the types of jointly owned property, i.e. the difference between joint tenancy and tenancy in common, the specific concept of nominations with its two variants, pension scheme nominations and statutory nominations, as well as a brief approach to the institution of the hotchpot and the considerations that led to its repeal.

We will look at the development of inheritance law prior to 1925 in English common law and the legislative reform that occurred with the passing of two important pieces of legislation, the Administration of Estates Act 1925 and the Law of Property Act 1925.

As we shall see, the first question the English lawyer asks in a succession case is not *"Who are the heirs and what are their rights?"*, but rather *"Here are the assets left by the deceased, how will they be transmitted and who will take care of them?"*. The crucial role of the personal representative in the transmission of inheritance in English law will challenge the lawyer accustomed to the continental-European civil law system, since inheritance in French and Romanian law is essentially linked to the person and cannot be conceived outside the link attached to that person. Once we enter the realm of English law, we will see that, in reality, this personality is maintained by a pure fiction without the intervention of an official representative of this personality, as we find in common law.

We will continue our comparative approach with brief considerations on the succession regime in the case of full and partial legal inheritance, as well as the ways in which testamentary freedom is tempered by the Provision for Family and Dependants Act 1975.

Following the non-exhaustive but nevertheless comprehensive elaboration of the concepts specific to both inheritance law and property law in the legal area governed by English common law, we will be able to move on to the analysis of the problem of the division of inheritance.

Such an analysis will necessarily begin with the Partition Act 1868, which is the old law of partition in English common law that first allowed the courts to replace the physical partition of co-owned land with the more convenient and practical solution of sale. We will look in turn at the main provisions of the Partition Act 1868, namely sections 3-5, which defined the circumstances in which the courts could order the partition or sale of jointly owned land at the request of a joint tenant or tenant in common. These three provisions differed fundamentally in

purpose and scope, with distinct rules as to the extent of ownership that was required to bring an action and the factors that the court had to consider in reaching a decision.

Our study will finally turn to the Trusts of Land and Appointment of Trustees Act 1996 (TOLATA), a key piece of United Kingdom legislation governing the rights and obligations of co-owners of property, which was introduced to address issues arising from co-ownership of land and to provide a legal framework for the resolution of disputes between co-owners, including the possibility of applying for an 'order for sale' by persons managing or holding certain rights in land.

RESEARCH METHOD:

Whether we are progressive or, on the contrary, we accept the idea that history repeats itself, one thing is certain, legislative evolution has a habit of going back to its origins, the institution of inheritance division being no exception. As one of the oldest known institutions, along with the family, of course, it contains answers and solutions to natural questions in the basic aspects of humanity, including the fate of the deceased's estate.

We have not identified at the doctrinal level a work that covers almost all the issues that the proposed thesis tries to address, which will lead the present monograph to be (we hope) a valuable contribution among the already existing works. It is true that the institution of the division of inheritance has been and still is the subject of many specialist works, but we have noted that, at least at this time, there is no study of this subject from the perspective of comparative law or, if there is, we do not find a work that encompasses the three reference systems proposed for research.

The choice of the legal cultures under analysis, namely the French and Romanian systems for the continental-European family of law and the English system for the *common law*, is based, on the one hand, on the similarities existing between Romanian and French law as a result of the legal acculturation present in the former system and, on the other hand, on the much more concrete, pragmatic vision focused on the notion of "good" to the expense of "person", found in the English system.

If, as regards the Roman-Germanic system, things are very well defined, the formal sources of law being categorically hierarchical[9], the same cannot be said of the *English common law*.

[9] In the sense that in comparative continental-European private law, written law has a general and primary applicability, followed by customary law, legal doctrine, case law and, finally, the judge's reasoning.

R.C. van Caenegem in Chapter III entitled "C*ommon law and civil law: Neighbours yet strangers*" of its full title: *European Law in the Past and the Future. Unity and Diversity over Two Millennia*[10] makes a nice comparison between common law and what the famous comparatist René David used to call the *famille romano-germanique.*[11]

From the carefully written lines we discover that classical Roman law shares many more characteristics with the *common law* system than with French (and Romanian) law, the former being developed more as a result of debates between experts, occasioned by various lawsuits, than by means of various doctrinal ideas or principles enshrined by the legislator.[12] Thus, the *common law* system places more emphasis on the principle of the supremacy of law, with judicial precedents prevailing over written laws. At the same time, doctrine is seen as an underlying source of law, with case law carrying much more weight in the balance of justice, judges being, as Caenegem points out, "*the oracles of law*".[13]

We wanted to highlight these preliminary aspects to show that regarding the *common law* system, our study will focus mainly on judicial practice, old and new, as well as the legislation in force, the doctrinal sources being consulted in order to establish notions or ideas.

As far as French law is concerned, Napoleon's Code, "*the veritable constitution of Europe*"[14], but also "*the legal scaffolding of globalisation*"[15] has exerted its influence technically, legislatively and politically, and has been a source of legal acculturation for many countries, including Belgium, Luxembourg and the Netherlands (Benelux)[16], the various Italian state formations, Poland, Spain, Egypt and, of course, Romania.

The national legislation in its current form, with all the amendments made since the 2006 reform in matters of succession, is supplemented by the works of French jurists, representative in

[10] R.C. van Caenegem, *European Law in the Past and the Future. Unity and Diversity over Two Millennia*, Cambridge University Press, 2001, pp. 38-51.
[11] *Ibidem*, p. 38.
[12] R.C. van Caenegem, *op. cit.*, p. 39.
[13] *Ibidem*, p. 46.
[14] Valerius M. Ciucă, *Euronomosofia, vol. I, Prolegomene la o operă în eșafodaj*, Axis Academic Foundation Publishing House, Iași, 2012, p. 121.
[15] *Ibidem*, p. 121.
[16] A forced legal acculturation – under occupation.

the field of inheritance law being Jean Carbonnier[17], Philippe Malaurie[18], P. Dupont Delestraint[19], François Terré[20], as well as the great comparatist René David[21].

Our research is guided by the method of the seven methodological steps in the organic hermeneutics of comparative law, a method used by all the students of the private-comparative doctoral school in Iasi, which involves going through a complex process of interpretation structured in seven steps[22], as follows:

Primum dividam

In a first phase, the analysis of the legal text is considered through its integral presentation, as it appears in the current regulation, this analysis being in turn divided into two sub-phases, which are, respectively: a) *reading*, which involves the full presentation of the legal text, possibly interpolated, followed by: b) *summa*, respectively the summary of the text.[23]

Secundum ponam causam

Proper hermeneutics begins by presenting the real or imaginary case law and identifying the immediate link between the abstraction of the text and the conflicting legal reality.[24]

Tertium historia regulae explorabo

The third step leads us to the research of the first axis of the comparative investigation, the vertical one, on the historical scale of the development of the rule of law.

The third step takes us through the historical journey of national legal systems, disavowing the precepts that each system enjoys an independent and completely separate development from

---

[17] J. Carbonnier, *Droit civil*, Presses Universitaires de France, Paris, 1995; J. Carbonnier, P. Catala, G. Morin, *Des libéralités, une offre de lo*i, éd. Defrénois, 2003.
[18] Philippe Malaurie, Laurent Aynés, *Droit des successions et des liberalités*, 8 édition, LGDJ, 2018.
[19] P. Dupont Delestraint, Professeur à l'Institut de Droit appliqué, *Droit civil. Contract de marriage et régimes matrimoniaux. Successions. Libéralites*, Cinquiéme édition, Mémentos Dalloz, Ed. Dalloz, Paris, 1977.
[20] F. Terré, Y. Lequette, S. Gaudemet, *Droit civil. Les successions. Les libéralités*, 4-e édition Dalloz, coll. Précis Droit privé, 2013.
[21] René David, *Traité élémentaire de droit civil comparé: introduction à l'étude des droits étrangers et à la méthode comparative*, R. Pichon, R. Durand-Auzias, Paris, 1950.
[22] V. M. Ciucă, C. Macovei, S. Panainte (coord.), *School of Organic Law, Vol. I, Junimea Publishing House*, Iași, 2007, p. 12-18
[23] Valerius M. CIUCĂ, *The school of organic law or the school of organic hermeneutics of comparative Roman law*, p. 42, article consulted on the website: http://hermeneia.ro/wp-content/uploads/2011/02/ciuca-nr.-4_0.pdf, on 28.06.2022.
[24] *Idem.*

other legal orders. On the contrary, the historical foray will reveal a mutual reception of legal culture but also a stimulation in the development of new legal rules and concepts designed to contribute to the development of the national legal system without abandoning its own traditions.[25]

Quartum comparabo

Fourthly, on the horizontal axis of the comparative work, the comparative analysis will include references to similar texts or texts with a similar subject in the foreign legal orders or systems of reference.[26]

Quintum colligam

Fifthly, we will try to investigate the rule of law under discussion, on the one hand, through a grammatical analysis of the text and, on the other hand, through contextualization from a multidisciplinary perspective, looking at the text from a historical, sociological, philosophical, economic and political point of view, in order to discover the extra-legal meanings of the rule.

Sextum opponam et quaestio

In the sixth stage I will investigate possible objections to the reasoning implied by the text and we will clarify the contradictions according to the dialectical method. Thesis - pro auctoritas, Antithesis - contra auctoritas.

Septimum queram brocardum et de lege ferenda

The seventh and last step of legal hermeneutics, we will investigate the justifications of the right sanctioned by the text in question by exposing the arguments and exceptions, including exceptio exceptionis causa, with the final observation of the general principles, the brocades and the possible proposal of lege ferenda, within the framework of the incursive-receptive analysis, which implies referring the text to the current legislative policy.

---

[25] Reinhard Zimmermann, *Drept comparat și europenizarea dreptului privat*, Ed. Themis Cart, Slatina, 2009, p. 71.
[26] Valerius M. Ciucă, *Comparatism and organicism in the crucible of European jurisprudence. A jusnaturalist Uroboros on an endless colimason, paper presented at the Conference "Comparative Private Law - a new frontier", organized by "Agora" University of Oradea*, 10-11.XI.2016, p. 5.

The steps presented *supra* will not be reproduced exactly, but they will be followed so that during the thesis we will all make sure that each step has been covered.

COMPENDIUM OF THE DOCTORAL THESIS

We will address the main topics of the discussion by briefly exposing the topic addressed and will make a very brief overview of the thesis, a presentation followed by a primary analysis of the institution. Thus:

The first chapter entitled "*Prolegomena*" contains strong elements of empirical legal research, aiming to treat the subject under analysis from a multidisciplinary perspective. This chapter is divided into four sections as follows: *Section I. Concepts. Etymologies. Interpretations*: as in any detailed analysis of a subject of law, we must start from the root to the top, in this sense, from the first section we have put under the magnifying glass each term used in the thesis and explained the possible meanings that these terms entail (e.g. partition, *de cujus*, vocation, etc.).

Section II aims to analyze the institution of the inheritance partition from a *Diachronic perspective*, starting from pre-Roman law, Roman law (the origin of the current legal system), Byzantine law, Old French law, concluding with the historical development and evolution of the institution in Romanian law. At the same time, we have highlighted the essential characteristics of the inheritance division within the main legal systems with reference to: oriental law, Islamic law, continental-European law and the *common law* system.

Section III is entitled: *The resonance of inheritance division in anthropology, theology and philosophy*, this section moves away from the legal sphere of a legal thesis into a world of metaphors, symbols and philosophical reflections.

Finally, in the *5th Section* entitled: *Sociology, political science and economics,* we investigated the possible legal sociological aspects and economic implications of the inheritance partition, with reference to taxation, taxes and other expenses inherent in a judicial or notarial partition.

The second chapter of the thesis is entitled "*Division of inheritance in French and autochthonous law*", the reason why I have chosen to treat the two systems together is not accidental. It is the largest or "thickest" chapter, each section, subsection, paragraph being treated

first from the perspective and viewpoint of French law, subsequently qualified by elements of Romanian law.

Section I. Naturally begins with a section devoted to preliminary proceedings and the right to division. Thus, before analysing the general framework of the partition of a succession, we first considered it necessary to discover the rationale for such partition. The following sections are the pure expression of a doctrinal and jurisprudential legal research and are intended to highlight some theoretical issues concerning: *The division initiative (Section II); Operations prior to the division (Section III)*; *Division conditions (Section IV)*; *Division effects (Section V)*; *Abolition of the division (Section VI).*

The *seventh section* of the second chapter aims to analyze the legal development of ”*partage d'ascendant”*, from the concept, conditions and effects to the causes of ineffectiveness, concluding with a comparative-historical overview of this institution in Romanian law.

Also within this Chapter we have included a final section, namely *Section VIII* dedicated to possible and foreseeable procedural changes in the field of inheritance division in connection with artificial intelligence (AI), in an attempt to identify ways of integrating AI solutions in a judicial or amicable division.

The third and final chapter deals with "*Successional devolution and the division of inheritance into English common law*" and is divided into seven sections.

The *first section* of this chapter aims to provide a historical overview in order to gradually introduce the reader to a system of law that is essentially different from its usual register.

Section II is reserved for brief *Jurisdictional aspects*, starting from the English judicial organisation to the notion of *Probate court* and the general rules on the jurisdiction of courts in *probate* matters.

Section III is devoted to comparative considerations in matters of succession, in particular the primacy of testamentary transmission in the English legal system. Specific concepts of property, the notion of *trust* and its implications for inheritance and the two types of *jointly owned property* present in this system, namely *joint tenancy* and *tenancy in common,* are analysed.

Section IV presents the *legislative reform in matters of succession*, i.e. the devolution of movable and immovable property before and after 1926, while *Section V* focuses on *ab intestat* succession regime.

Section VI, entitled *Administration of succession*, presents in a non-exhaustive manner the procedure for granting representation of the succession, the regime of the estate representatives and the rules of administration.

The last section, *section VII*, is in turn divided into two main subsections, the first subsection being devoted to transmission for cause of death and the second to the different ways of division recognised in the English legal system.

CONCLUSIONS:

Inheritance law needs no affirmation, as it is the subject of countless monographs, articles, studies and other specialist works, the importance of this branch of law being indisputable. In this thesis, the main aim of the comparative treatment of the institution of partition of inheritance in the context of the doctrinal study, which enjoys a luxuriant bibliography, was to identify, at a theoretical level, the solutions that can be applied to the problems encountered in the course of a partition of inheritance in native law. The well-known Professor Philippe Malaurie rightly points out that judicial partition, being such a complex and formalistic act, is nicknamed "the black beast of practitioners", and that specialist practice and the law endeavour as far as possible to avoid it in favour of amicable partition, which is perhaps why the French legislator has repeatedly intervened to facilitate partition by agreement between the parties.

Before presenting the fruits of our study, it should be mentioned that the research initially led us on an interdisciplinary journey, with sociologists, anthropologists, historians and philosophers bringing new and unusual perspectives on these millenary legal acts. Thus, the science of the rules dedicated to inheritance law and, by extension, to the division of inheritance would have been incomplete without the invaluable contribution of other equally complex disciplines, such as theology, sociology, anthropology, etc., which are essentially captured in the chapter dedicated to the *Prolegomena*.

That being said, the first axis of comparative research starts from an etymological analysis of the main terms used in the thesis, in an attempt to explain the basic notions through an extensive analysis, and not contextual, strict and limiting. The acquisition of concepts specific to inheritance law prepares a fertile ground for the second step, the diachronic study, the presentation of the historical evolution of the inheritance division cannot be omitted, this being the central pillar of any study of law.

The Roman adage *communio est mater rixarum* best illustrates the Roman hostility towards individual property, the individual being among others the enemy of a good administration of the jointly owned thing.[27] As early as the Law of the XII Tablets, the *actio familiae herciscundae* (inheritance partition action aimed at dividing the inheritance) was enshrined, the initiation of which led to what we still know today as the *judicium duplex*, in which case each of the co-defendants was both plaintiff and defendant at the same time, with the proviso that the end of this action could lead to the "condemnation" of the plaintiff.

The historical breviary takes us further into the realm of old French law, the diametrically opposed solutions offered by the *droit écrit* in the southern provinces and the *droit coutumier* in the northern provinces being a consequence of the influences that intervened in these regions. While in the northern provinces, in order to preserve and increase the wealth of noble families, the right of primogeniture and the privilege of masculinity were created, the two being considered the easiest means of preserving the glory of the family, the law of succession applicable to the southern provinces was not based on the power given by the preservation of wealth within the confines of the family, but on the presumed affection of the deceased for his heirs.

Napoleon Bonaparte's adoption in 1804 of the French Civil Code, which is unequivocally "the most acculturated legal work in the world"[28], leaves in the shadow of history the family's reputation, in whose tradition inheritance was preserved even after death by recognising the role of the "dead hand" of the successors of the deceased's legal personality, and witnesses the birth of a new era in which the basic family is overshadowed by the rebirth of the power of the individual.

As we have constantly noticed during the work, the celebration of the bicentenary of the French Civil Code, in 2004, stimulated the re-evaluation of its provisions, the year 2006 bringing with it important reforms of the French succession law, based on previous proposals and which led to the amendment of more than 200 articles of the Civil Code.

The institution of division, or rather sharing, as it was regulated in the old Romanian laws, is dealt with in both the Caragea Code and the Calimach Code. The division of inheritance is detailed in these two codes in an essentially different manner. In the Caragea Code, the division is briefly regulated in Chap. XIII, Part III, the Calimach Code gives a special place to the division of

[27] N. Titulescu, *Division of inheritances*, Vol. III, Leon Alcalay Bookshop Publishing House, București, 1907, p. 11.
[28] V. M. Ciucă, *Euronomosophy: a philosophical journey through European law: lessons*, University of „Alexandru Ioan Cuza" Publishing House, 2019, p. 159.

inheritance in Articles 1073-1100, while the division in general is regulated separately in 48 articles, i.e. from Article 1101 to Article 1149.

In Cuza's Civil Code or the Civil Code of 1864, division as a way of terminating co-ownership was regulated in Chapter VI, entitled "On division and reports", division being regulated, according to the old Civil Code, in Articles 728-799, in conjunction with the provisions of Law no. 603/1943 on the acceleration of trials and simplification of judicial divisions[29], which was only briefly in force and was repealed by Law No. 18 of 12 February 1948 (Art. 4) with the republication of the Code of Civil Procedure.

The anthropological study reveals the close connection between the conversion of collective property into private family ownership and the mechanism of the transmission of goods by succession, while sociologists recall that the function of the family is to maintain a certain social state, giving the next generation the means to continue the living conditions of the previous one, to enjoy its privileges and to perpetuate social inequality. Two concepts of inheritance law highlight the memorial function of certain assets: the notion of family memories and the concept of the family home. Along these lines, sociologists point out that the way in which family property is divided up during the liquidation of the succession enables heirs to recover part of their past.[30] Along the same lines, some authors argue that partition of property in kind seems naturally to be the most appropriate way to liquidate the inheritance, while respecting the family nature of the property.[31]

From an economic point of view, in countries such as those governed by the common law system, young people do not entrust their future to the estate left to them by their parents, as testamentary freedom is a sufficiently powerful legal means of „forcing" them to seek various means of subsistence. In legal systems which recognise a relaxation of testamentary freedom and enshrine an inheritance reserve or a forced share of the estate, inheritance is still a primary means of acquiring property.

---

[29] D. Macovei, *op. cit.*, p. 241.

[30] Évelyne Favart, *La transmission familiale: s'approprier le passé familial entre frères et sœurs*, Pensée plurielle 2006/1 (nr. 11), p. 83, article available at the web address https://www.cairn.info/revue-pensee-plurielle-2006-1-page-83.htm, accessed on 01.10.2023.

[31] Emmanuel Putman, Jean-Philippe Agresti, Caroline Siffrein-Blanc, *Le droit patrimonial - Miroir des mutations familiales*, Presses universitaires d'Aix-Marseille, 2012, p. 95.

In inheritance law, which is closely linked to two other branches of law, namely family law and property law, there is a well-established connection between the relationships created between people and for people as a result of the devolution of inheritance and the laws they have adopted. However, the dependence on law thus mentioned is neither immediate nor complete, since new ideas travel a long way in people's minds before they penetrate the law. In order to avoid new legislation, by using old concepts and categories, tending to resurrect models long abandoned in the past, we thought it would be useful to highlight current solutions to contemporary problems by treating the subject of this thesis successively in French, English and contemporary Romanian law.

Thus, in the second chapter of the thesis, the comparative study has devoted its attention mainly to the regulation of the division of inheritance in the French legal space, frequently augmented with mentions of the existence of convergent or divergent rules in Romanian law.
French regulation is, without a doubt, particularly extensive, in an attempt to always be one step ahead of new social, but above all economic, realities in a society that is experiencing accelerated dynamics. The French Civil Code was indeed the legislative matrix of many other codes, including the Romanian Civil Code, although the almost perfect synchronisation between Romanian and French law was disrupted by the many reforms culminating in the legislative reform on inheritance and gifts brought about by Law 2006-728 of 23rd June 2006.

French inheritance law until the reform brought in with the 2006 law was based on equality in kind between heirs, and the rules on partition were particularly rigid, leaving the judge no room for discretion. In 2006, French law introduced radical changes to partition, reflecting the growing interest in the economic utility of partition, with the legislator profoundly modifying the two traditional principles: the principle of the precariousness of co-ownership and the principle of equality in kind of the lots.

Judicial practice, and in particular the French notarial profession, has called for a change in the regulation of notarial inheritance procedure in matters of partition, and the new legislation has created a framework whereby judicial partition can almost always be avoided when there is agreement on how the division should be carried out.

Moreover, the notary has acquired a central role in this act, since two distinct ways of resolving requests for sharing have been outlined, depending on the complexity of the operations to be carried out, meaning one makes it possible to resort to a notary, and the other, on the contrary,

it depends essentially on him and the committee of a judge in charge of his assistance and supervision.

Understanding the difficulties encountered in practice with regard to the distribution of the estate when the heirs include persons who do not wish to participate out of ill-will or negligence, the French legislator has also resolved this issue by providing that, in the absence of a representative chosen by the heir who obstructs the succession procedure, the court is authorised to appoint such a representative.

The dejudicialization of partition has led to a simplification of the law in the French legal system, and during the course of the research we observed a somewhat more complete regulation of the institution of partition, unlike in Romanian law.

The hermeneutical study of the provisions of the French Civil Code has also presented us with another approach that is beneficial to heirs, by establishing a method of partition that is based not on equality in kind but on the special allocation of property, namely preferential allocation. By definition, preferential allocation breaks equality in kind by removing the property in question from the usual rules on subdivision, without in any way compromising equality in value, this allocation being driven more by economic or family reasons, and is possible in respect of agricultural, commercial, industrial, craft or liberal enterprises, as well as in the case of premises used for housing or business premises.

We believe that the French model should remain a benchmark for Romanian law, the regulation of an alternative variant of subdivision in the sense recognized by the French legislator by enshrining the preferential allocation being of real interest, perpetual augmentation of the institution with decisions of the French Court of Cassation pronounced with the application of this type of allocation, representing a confirmation of its practical usefulness.

In contrast to the above, the abandonment of the French model with regard to the effects of division is a special feature of the Romanian legal system, the abandonment of the declaratory effect in favour of the constitutive effect being a wise decision of our legislator. The choice took into account the fact that the existence of a state of indivision in which the heirs find themselves from the date of the opening of the succession until the date of the partition cannot be entirely ignored, and explaining this intermediate state by means of a legal fiction, as is attempted by the declaratory effect, does not seem to be a good example.

Another point of divergence that we have noted in our research is the possibility recognized by French law to obtain the rebalancing of a partition already carried out in the hypothesis where it is discovered that a co-heir has been omitted, unlike Romanian law, where in such a hypothesis the sanction is simply the nullity of the partition. As a consequence of this antinomic approach, French law has created a special action, called "*action en complément de part*", which involves, in summary, the possibility of obtaining "a supplement to the share of the estate".

With regard to the institution of division by the ascendant, we have once again found significant differences between the two systems, given that the French legislator has broadened the scope of the institution by authorising gifts and testamentary partition in all hereditary relationships, and not only in relationships between ascendants and descendants, the change in terminology from "partage d'ascendant" to "libéralité-partage" actually reflecting considerable developments in inheritance matters.

We believe that in order to restore its brilliance, the institution of "partage d'ascendant", as it is regulated in our law, should be strengthened by taking into account the landmarks considered by the French legislator.

With some differences of nuance, the regulation of the scope of the persons who may request division, the property subject to division, the maintenance of indivisibility, the cases of dissolution of division are similar in the two legal systems.

In the third chapter of the thesis, the comparative approach shifted its attention to the English *common-law* system of law, a system which by its tradition is distinguished by the flexibility of its codifications and the fruitfulness of its jurisprudence, which allows the judge's reason to benefit from a wide space of affirmation.

Unlike in continental-European law, the *common law* does not allow for the classical taxonomy of ownership found in French or Romanian law, which is why, before addressing the issue of the right to partition, further clarification of the specific concepts of ownership in English law was necessary. For a French or Romanian jurist, the fact that legal property (*legal estate*) coexists with equity property (*equity estate*) is a matter that both contradicts and incites, the dichotomy of title recognised by common law being difficult to understand. Similarly, the two ways of acquiring co-ownership either as a *joint tenant* or as a *tenant in common* are once again quite difficult to appropriate, but without which further study could not proceed.

The mechanism of inheritance transmission in the *common law* has involved *ab initio* the elucidation of the concept of inheritance devolution in English law, given that this law, which considers property *ut singuli* in its particular diversity, only considers its pure and simple transmission in the two stages of settling a succession. Thus, in the first phase of the transfer of assets to the personal representative, which English law also qualifies as a devolution, but in a completely different sense from that which this word has in the French or Romanian conception, and in the second phase of the distribution of the net proceeds of the assets to the beneficiaries, these two successive transfers are carried out in the same way.

The fact that the presence of beneficiaries is reduced only to the last stage of the transmission confirms the idea that division is not an important part of the English inheritance law system, as many of the problems arising at this stage of the inheritance debate in French or Romanian law are resolved in the *common law* system by the personal representative appointed to administer the estate until these beneficiaries appear on the scene. This is perhaps also the reason why the regulation of the action for exit from undivided ownership is found neither in the *Administration of Estates Act 1925* or the *Inheritance and Trustees' Powers Act 2014*, nor in the *Law of Property Act 1925*, but in *the Trusts of Land and Appointment of Trustees Act 1996*, a law which lays down the conditions for bringing an action for an order for the sale of jointly owned land, as well as the criteria which the court should take into account.

BIBLIOGRAPHY

I. Dictionaries:

1. *Dictionnaire de la culture juridique,* sous la direction de Denis Alland et Stéphane Rials, Presses Universitaire de France, Paris, 2003;
2. *Encyclopædia Britannica*, vol. XXIV, Editura William Benton, Chicago, 1972;
3. *Encyclopædia of the Laws of England, Being a New Abridgment by the Most Eminent Legal Authorities · Volumul 9*, Ed. Sweet & Maxwell, London, 1896;
4. *Encyclopedic Dictionary of Roman Law* https://books.google.ro/books?id=oR0LAAAAIAAJ&printsec=frontcover&dq=encyclopedic+dictionary+of+roman+law&hl=ro&sa=X&redir_esc=y#v=onepage&q=encyclopedic%20dictionary%20of%20roman%20law&f=false
5. Felecan, Ovidiu, Felecan, Nicolae, *Dicta memorabilia, Dicționar uzual adnotat de sigle, expresii, maxime și citate latine*, Ed. Vox, București, 2007;
6. Guțu, Gheorghe, *Dicționar latin-român*, Editura Științifică și Enciclopedică, București, 1983;
7. Săuleanu, Lucian; Rădulețu, Sebastian, *Dicționar de termeni și expresii juridice latine*, Ed. C.H.Beck, ed. a 2-a, București, 2011;
8. Simenschy, Theophil, *Un dicționar al înțelepciunii. Cugetări antice și moderne*, Ediție îngrijită de Mihail Grădinaru, Vol. IIII, Editura Junimea, Iași, 1979;
9. Zamfir, Cătălin, Vlăsceanu, Lazăr (coord.), *Dicționar de sociologie*, Editura Babel, Bucureşti, 1998.

II. Sources: codes and other legislation:

1. *Codul lui Iustinian* https://droitromain.univ-grenoble-alpes.fr/Anglica/codjust_Scott.htm
2. *Codul lui Hammurapi* cu o prefață și introducere de Diacon T. Negoiță, Tip. ”Fântâna Darurilor”, București, 1935; http://oll.libertyfund.org/pages/1750-the-code-of-hammurabi-johns-translation http://avalon.law.yale.edu/ancient/hamframe.asp
3. *Codul Theodosian* http://droitromain.upmf-grenoble.fr/Codex_Theod.htm

4. *Coranul*, Traducere din arabă: dr. Silvestru Octavian Isopescu, Ed. Cartier, Chişinău, 2003;
5. *Coranul*, traducere din limba arabă, introducere și note: George Grigore, ediția a 3-a, Ed. Herald, București, 2012;
6. *Digeste*
http://droitromain.upmf-grenoble.fr/Anglica/digest_Scott.htm
7. *Novele*
http://bibliocanonica.com/legislatia-bizantina/
https://cambridge.org/core
8. *Administration of Estates Act 1925;*
9. *Code civil 2022, annoté, 121e éd., Dalloz, 2021;*
10. *Code de procédure civile annoté, 113e édition, Dalloz, 2021;*
11. *Code général des impôts;*
12. *Inheritance (Provision for Family and Dependants) Act 1975;*
13. *Inheritance and Trustees' Powers Act 2014;*
14. *Intestates' Estates Act 1952;*
15. *Law of Property Act 1925;*
16. *Law Reform (Succession) Act 1995;*
17. *Senior Courts Act 1981;*
18. *The Non-Contentious Probate Rules 1987;*
19. *Trustee Act 1925;*
20. *Trusts of Land and Appointment of Trustees Act 1996;*

III. Treatises, Courses, General Works, Manuals:

1. Alexandresco, Dimitrie, *Explicaţiunea teoretică şi practică a dreptului civil român*, Atelierele Grafice Socec/Co, Bucureşti, 1916, *in integrum*;
2. Baias, Flavius-Antoniu; Chelaru, Eugen; Constantinovici, Rodica; Macovei, Ioan, Noul Cod Civil - Comentariu pe articole, Ed. C.H. Beck, București, 2012;
3. Beignier, Bernard, *Libéralités et successions*, Lextenso éditions, Paris, 2012;
4. Bell, John, Boyron, Sophie, Whittaker, *Principles of french law*, Oxford University Press, Oxford, 2008;

5. Bermann, George A. and Picard, Etienne, *Introduction to French Law*, Kluwer Law International B.V., 2008;
6. Blanc, François-Paul, *Le droit musulman*, 2e édition, Dalloz, 2007;
7. Bob, Mircea Dan, Probleme de moșteniri în vechiul și în noul Cod civil, Ed. Universul Juridic, București, 2012;
8. Bob, Mircea Dan, *Obligația contractuală în dreptul roman cu trimiteri comparative la dreptul civil*, Ed. Universul Juridic, București, 2015;
9. Bob, Mircea Dan, *Familie și moștenire în România*, Ed. Universul Juridic, București, 2016;
10. Boroi, Gabriel; Stancu, Mirela, *Drept procesual civil*, ediția a 5-a, revizuită și adăugită, Ed. Hamangiu, București, 2020;
11. Burdick, William L., *The principles of Roman law and their relation to modern law*, Rochester, New York, Lawyers Co-operative Pub. Co., 1938;
12. Cadiet, Loïc; Jeuland, Emmanuel, *Droit judiciaire privé*, 10e édition, Lexis Nexis, Paris, 2017;
13. Carbonnier, Jean, *Droit civil. Introduction*, Press Universitaires de France, 24e èdition, 1996;
14. Carbonnier, Jean, *Écrits*, Textes rassemblés par Raymond Verdier, Press Universitaires de France, Paris, 2008;
15. Chirică, Dan, *Tratat de drept civil. Succesiunile și liberalitățile*, ediția a 2-a, Ed. Hamangiu, București, 2017;
16. Ciobanu, Viorel Mihai; Nicolae, Marian, *Noul Cod de procedură civilă comentat și adontat. Vol. II – art. 527-1.134, Partea II*, Ed. Universul Juridic, București, 2016;
17. Ciucă, Valerius M., *Drept roman. Lecțiuni. Vol. II,* ediția a II-a, addenda, corrigenda et augmenta, Ed. Universității ”Alexandru Ioan Cuza”, Iași, 2014;
18. Curti, Arthur, *Manuel de droit civil et commercial anglais*, Payot, Paris, 1928;
19. Deak, Francisc, *Tratat de drept succesoral*, Ed. Actami, Bucureşti, 1999;
20. Desgorces, Richard; Aubry, Hélène; Naudin, Estelle, *Droit civil: les grandes décisions de la jurisprudence*, 1re édition, Puf Themis, Paris, 2011;
21. Eliard, Franck, *Fiscalité des successions*, 3eme édition, Ellipses, Paris, 2014;

22. Ferre-André, Sylvie; Berre, Stéphane, Successions et libéralités, 7e édition, Dalloz, Paris, 2021;
23. Florescu, Dumitru C., Drept succesoral, ediția a VI-a, Ed. Universul Juridic, București, 2016;
24. Forgeard, Marie-Cécile; Crône, Richard; Gelot, Bertrand, Le nouveau droit des successions et des libéralités - Loi du 23 juin 2006, Commentaires et formules, Defrénois, Paris, 2007;
25. Frențiu, Gabriela Cristina; Băldean, Denisa Livia, *Noul Cod de procedură civilă comentat și adnotat*, Ed. Hamangiu, București, 2013;
26. Frison, Danièle, Droit anglais, institutions britanniques, Ellipses, Paris, 1993;
27. Gaudemet, Jean; Chevreau, Emmanuelle, *Droit privé romain*, 3e édition, éditeur Montchrestien, Paris, 2009;
28. Giraud, Charles, *Histoire du droit romain, ou Introduction historique à l'étude de cette législation*, Paris, Videcoq, 1841;
29. Girard, Paul-Frédéric, *Manuel élémentaire de droit romain*, 7e édition, Librairie Arthur Rousseau, Paris, 1924;
30. Grimaldi, Michel, Droit des successions, 8e édition, Ed LexisNexis, Paris, 2020;
31. Guével, Didier, Droit des successions et des libéralités, 3e édition, LGDJ, Lextenso, Paris, 2014;
32. Hamangiu, Constantin; Rosetti-Bălănescu, Ion; Băicoianu, Alexandru, *Tratat de Drept Civil Român*, vol. III, Ed. Națională, Bucureşti, 1928;
33. Hanga, Vladimir, *Drept privat roman*. *Tratat*, Editura Didactică și Pedagogică, București, 1997;
34. Harvey, Malcolm; Kirby-Légier, Catherine; Charret-Del Bove, Marion, Droit anglais et droit américain, Armand Colin, Paris, 2011;
35. Houssier, Jérémy, *Droit des successions et des libéralités*, 2e édition, Dalloz, Paris, 2021;
36. Jakotă, Mihail-Vasile, *Drept roman*, vol. II, Ed. Fundației „Chemarea”, Iași, 1993;
37. Jolowicz, John Anthony, Droit anglais, Dalloz, Paris, 1986;
38. Julienne, Frédérique, Successions et libéralités, Bréal, Paris, 2010;

39. Kaser, Max, *Roman private law*, Second Edition, Translated by Rolf Dannenbring, Butterworths, 1968;
40. Kerridge, Roger, *The law of succession*, 13th edition, Ed. Thomson Reuters (Professional) UK Limited, London, 2016;
41. Lefebvre, Francis, Successions et libéralités: Régime juridique et fiscal, 3e édition, Edition Francis Levebre, 2011;
42. Leș, Ioan, *Noul Cod de procedură civilă. Comentariu pe articole*, ediția a 2-a, revizuită și adăugită, Ed. C. H. Beck, București, 2015;
43. Leroyer, Anne-Marie, Droit des successions, 3e édition, Dalloz, Paris, 2014;
44. Lévy-Ullmann, Henri, *Droit international privé: Le conflit des lois dans le droit anglais*, Cours de Droit, Paris, 1937;
45. Losano, Mario G., *Marile sisteme juridice. Introducere în dreptul European și extraeuropean*, Ed. All Beck, București, 2005;
46. Macovei, Codrin, *Drept succesoral. Moştenirea legală*, Ed. Universităţii „Alexandru Ioan Cuza", Iaşi, 2006;
47. Macovei, Dumitru, *Drept civil. Succesiuni*, Ed. Ankarom, Iași, 1998;
48. Malaurie, Philippe; Aynès, Laurent, *Droit des successions et des libéralités*, 9e édition, LGDJ, Lextenso, Paris, 2020;
49. Maury, Jean, Successions et libéralités, 6e édition, LexisNexis, Paris, 2007;
50. Maury, Jean, Successions et libéralités, 9e édition, LexisNexis, Paris, 2016;
51. May, Gaston, *Éléments de droit romain, à l'usage des étudiants des Facultés de droit*, 3è edition, Ed. L. Larose, Paris, 1894;
52. Mazeaud, Henri; Mazeaud, Léon; Mazeaud, Jean, *Leçons de droit civil: Succession, libéralités*, Tome 4, Volume 2 din *Leçons de droit civil*, Henri. – Mazeaud, 5e édition, Montchrestien, 1999;
53. Micescu, Istrate N., *Curs de drept civil. Succesiunile <<ab intestat>>,* Ed Themis Cart, Slatina, 2005, ediție îngrijită de F. Ciuatcu;
54. Pérès, Cécile; Vernières, Christophe, Droits des successions, 1re édition, Ed. PUF, Paris, 2018;
55. Pollock, Frederick; Maitland, Frederick William, *The History of English Law vol. II*, Cambridge University Press Warehouse, London, 1898;

56. Renault-Brahinsky, Corrine, Droits des successions, 9e édition, Lextenso éditions, 2017;
57. Reid, Kenneth, de Waal, Marius J., Zimmermann, Reinhard, *Comparative Succession Law: Volume I: Testamentary Formalities*, Oxford University Press, 2011;
58. Reid, Kenneth, de Waal, Marius J., Zimmermann, Reinhard, *Comparative Succession Law: Volume II: Intestate Succession*, Oxford University Press, 2015;
59. Reid, Kenneth, de Waal, Marius J., Zimmermann, Reinhard, *Comparative Succession Law: Volume III: Mandatory Family Protection*, Oxford University Press, 2020;
60. René, David, *Introduction à l'étude du droit privé de l'Angleterre*, Ed. Sirey, Paris, 1948;
61. Robaye, René, *Le droit romain*, 5e édition, Academia Eds, 2016;
62. Roland, Henri, Droit des libéralités, Ellipses, Paris, 2000;
63. Safta-Romano, Eugeniu, *Dreptul de moștenire în România. Doctrină și jurisprudență*, Vol. I, Ed. Graphix, Iași, 1995;
64. Schmidlin, Bruno, *Droit Privé Romain I. Origines et sources. Famille, biens, successions,* Université de Genève, Faculté de Droit, Bruylant*,* 2008;
65. Sériaux, Alain, Successions et libéralités, Ellipses, Paris, 2013;
66. Sloan, Brian, Borkowski's Law of Succession, 3rd edition, Oxford University Press, Oxford, 2017;
67. Souvage, François, *Successions: Dévolution. Transmission. Indivision. Partage. Fiscalité*, 22é édition, Dalloz, Paris, 2013;
68. Stănciulescu, Liviu, Curs de drept civil. Succesiuni, ediția a 2-a revizuită și adăugită, Ed. Hamangiu, București, 2015;
69. Stănciulescu, Liviu, Moștenirea: doctrină și jurisprudență, Ed. Hamangiu, București, 2017;
70. Tăbârcă, Mihaela, *Drept processual civil. Vol. II – Procedura contencioasă în fața primei instanțe. Procedura necontencioasă judiciară. Proceduri speciale*, Ed. Universul Juridic, București, 2013;
71. Tăbârcă, Mihaela, *Drept procesual civil Vol. III. Caile de atac. Procedurile speciale*, Editia a 2-a, Ed. Solomon, București, 2017;

72. Terré, François; Lequette, Yves, Les grands arrêts de la jurisprudence civile, Tome 1, 12e edition, Dalloz, 2007;
73. Terré, François; Lequette, Yves; Gaudemet, Sophie, Les successions. Les libéralités, 4e édition, Ed. Dalloz, Paris, 2014;
74. Turianu, Corneliu; Țiclea, Alexandru, Drept civil. Moștenirea, Ed. Universitară, București, 2014;
75. Vallier, Ernest, *Le fondement du droit successoral en droit français (The foundations of succession law in french law)*, Paris, 1903;
76. Voirin, Pierre; Goubeaux, Gilles, Droit civil. Tome 2. Régimes matrimoniaux. Successions-Libéralités, LGDJ, Lextenso, Paris, 2010;
77. Zenati-Castaing, Frédéric; T. Revet, Cours de droit civil. Successions, 1re édition, Presses Universitaires de France, Paris, 2012.

IV. Special works, Monographs:

1. Avram, Ioan, *Politologie*, Ed. Univesității ”Eftimie Murgu”, Reșița, 1997;
2. Broussard, Alfred, *De l'effet translatif du partage en droit romain. De l'effet déclaratif du partage en droit français*, teză pentru doctorat, Poitiers, 1866;
3. Busari, Jamiu Muhammad, *AL-FARÁ'ID, Islamic law of inheritance. The introduction*, PhD, 2019;
4. Capitant, Henri; Terré, François; Lequette, Yves, *Les grands arrêts de la jurisprudence civile - Tome 1. Introduction - Personnes - Famille - Biens - Régimes matrimoniaux - Successions,* 12e édition, Dalloz, Paris, 2007;
5. Carbonnier, Jean, *Sociologie juridique: sociologie du droit des successions*, Cours, 1963-1964;
6. Catala, Pierre, *La Réforme des liquidations successorales*, 3e éd., Répertoire du notariat Defrénois, 1982;
7. Ciucă, Valerius M., *Procedura partajului succesoral*, Ed. Polirom, Iași, 1997;
8. Ciucă, Valerius M. *Lecții de drept privat comparat, vol. II, Instituții în dreptul privat comparat. Putere judiciară, jurisdicții și acțiuni*, Editura Fundației AXIS, Iași, 2005;

9. Ciucă, Valerius M., *Drept privat comparat. Lecțiuni Vol. I Prolegomene*, ediția a III-a, corrigenda, addenda et incrementa, Ed. Universității ”Alexandru Ioan Cuza”, Iași, 2019;
10. Ciucă, Valerius M., *Euronomosofia: periplu filosofic prin dreptul europenan: lecțiuni*, Editura Universității ”Al.I.Cuza”, Iași, 2019;
11. *Comparative legal studies: Tradition and transitions*, Edited by Pierre Legrand and Roderick Munday, Cambridge University Press, 2003;
12. Deak, Francisc; Popescu, Romeo, Tratat de drept succesoral, Vol. III – Transmisiunea și partajul moștenirii, ediția a III-a actualizată și completată, Ed. Universul Juridic, București, 2014;
13. Durant, Will, *Moștenirea noastră orientală: Originile. Sumerul. Egiptul. Babilonul. Asiria*, Ed. Prietenții cărții, București, 2001;
14. Edwards, William Douglas, *A Compendium of the Law of Property in Land*, Ed. Stevens and Haynes, London, 1896;
15. Gallus, Nicole, *Actualités en droit patrimonial de la famille*, Bruylant, Bruxelles, 2013;
16. Gidro, Romulus; Gidro, Aurelia, *Roma antică. O istorie pentru toți*, Editura Neverland, București, 2018,
17. Hanga, Vladimir, *Mari legiuitori ai lumii*, Ed. Lumina Lex, București, 1994;
18. Hunter, William Alexander, *A systematic and historical exposition of Roman Law in the order of a code*, Sweet & Maxwell, 1803;
19. Isac Alak, Alina, *Shari'ah sau despre istoria umana a vointei divine*, Ed. Pro Universitaria, București, 2019;
20. Isac Alak, Alina, *Statutul femeilor în islam. Perspective actuale*, Ed. Polirom, Iași, 2016;
21. Jubault, Christian, *Droit civil: les successions, les libéralités*, 2e édition, Lextenso, Paris, 2010;
22. Keller, F.-L. de, *De la procédure civile et des actions chez les Romains*, traduit de l'allemand et précédé d'une introd. par Charles Capmas, Ed. Thorin, Paris, 1870;
23. Kosven, M.O., *Introducere în istoria culturii primitive*, Editura Științifică, București, 1957;

24. Leborgne, Anne, La réforme des successions et des libéralités et la loi du 23 juin 2006, Presses Universitaires d'Aix-Marseille, 2008;
25. Lepaulle, Pierre, *Les fonctions du "trust" et les institutions équivalentes en droit français*, Agen: Imprimerie moderne, 1929;
26. Liégeard, Stéphen, *De l'origine, de l'esprit et des cas d'application de la maxime Le partage est déclaratif de propriété*, Paris, 1855;
27. Linossier, Lucien, *Le partage des successions confondues*, LGDJ, Paris, 1963,
28. Macrea, Loredana-Bianca, *Împărțeala moștenirii*, Ed. Alma Mater, Sibiu, 2011;
29. Malaurie, Philippe, *Antologia gândirii juridice*, traducere din franceză de Doina Jela-Despois, Ed. Hamangiu, București, 1997;
30. Meududî, *Introducere în Islam*, Ed. Chrater, București, 1991;
31. Pelissero, Alberto, *Introducere în hinduism*, traducere de Cornelia Dumitru, Ed. Polirom, 2014;
32. Pellegrin, André, *De la nature juridique du partage d'ascendant,* th. Grenoble, LGDJ, 1961;
33. *Peripețiile lui Nastratin Hogea*, Traducere din limba persană și nota: Mihai Cernătescu, Naser Nikoubakht, Ed. Herald, București, 2019;
34. Petitjean, Henri, Fondements et mécanisme de la transmission successorale en droit français et en droit anglais. Etude de droit comparé et de droit international privé, Librairie générale de droit et de jurisprudence, Paris, 1959;
35. Plutarh, *Vieți paralele*, Vol I., Traducere. Notițe istorice și Note de prof. N.I. Barbu, Ed. Științifică, București, 1960;
36. Pop, Cristina, *Divorțul și succesiunile: instrumente juridice de emancipare a femeii în societatea romană*, Ed. Universul Juridic, București, 2018;
37. Popovici, Alexandra, *Êtres et avoirs. Esquisse sur les droits sans sujet en droit privé*, Thèse, Université Laval, Québec, Canada, 2016;
38. Putman, Emmanuel; Agresti, Jean-Philippe; Siffrein-Blanc, Caroline, *Le droit patrimonial - Miroir des mutations familiales*, Presses universitaires d'Aix-Marseille, 2012;
39. Ricu, Carmen Simona, Moștenirea legală, partajul succesoral – practică judiciară adnotată, Ed. Hamangiu, București, 2009;

40. Rollison, William Dewey, The law of wills, Callaghan and Company, Chicago, 1939;
41. Rouland, Norbert, *Anthropologie juridique*, 1re édition, Ed. PUF, Paris, 1988;
42. Safta-Romano, Eugeniu, *Arhetipuri juridice în biblie,* Ed. Polirom, Iași, 1997;
43. Sarwar, Ghulam, *Islam. Credință și învățături*, Tipografia Timișoara, 1992;
44. Séroussi, Roland, *Introduction aux droits anglais et américain*, 5e édition, Ed. Dunod, Paris, 2011;
45. Soreață, Maria Marieta, Noutăți legislative în material successiunilor introduse prin noul Cod civil, Ed. Hamangiu, București, 2013;
46. Sourdel, Dominique, *Islamul*, traducere de Liliana Saraiev, Ed. Humanitas, București, 1993;
47. Stănilă, Laura Maria, *Inteligența artificială, dreptul penal și sistemul de justiție penală: amintiri despre viitor*, Ed. Universul Juridic, București, 2020;
48. Stephenson, Gilbert Thomas, *Estates & Trusts*, Appleton-Century-Crofts, New York, 1949;
49. Szramkiewicz, Romuald, *Histoire du droit français de la famille (History of french family law)*, Paris: Dalloz, 1995;
50. Titulescu, Nicolae, *Împărțeala moștenirilor*, Vol. III, Editura Librăriei Leon Alcalay, București, 1907;
51. Wilkins, Neil, *Artificial Intelligence: The Ultimate Guide to AI, The Internet of Things, Machine Learning, Deep Learning + a Comprehensive Guide to Robotics*, Bravex Publications, 2019;
52. Witz, Claude, *Le droit allemand*, 3e édition, Dalloz, Paris, 2018;
53. Xifaras, Mikhaïl, *La propriété. Étude de philosophie du droit*, Presses Universitaires de France, 2004;
54. Zlătescu, Victor Dan, *Geografie juridică contemporană. Introducere în teoria marilor sisteme de drept*, Ed. științifică și enciclopedică, București, 1981.

V. Articole, Culegeri de studii:

1. Ebrahim Afsah, *Artificial Intelligence, Law, and National Security* în *The Cambridge Handbook of Responsible Artificial Intelligence. Interdisciplinary Perspectives*, Cambridge University Press, 2022;

2. *Annulation ou rectification - Erreur sur l'évaluation des biens compris dans la masse partageable - Action encomplément de part pour lésion* - Cass. 1re civ., 7 févr. 2018, n° 17-12.480: JurisData n°2018-001397 în La semaine juridique – Notariale et Immobiliére, no 8-9, 23 fevrier 2018, Ed LexisNexis, Paris, 2018;
3. Bello, Abdulmajeed Hassan, *Islamic Law of Inheritance: Ultimate Solution to Social Inequality against Women*, în Arab Law Quarterly, 2015, Vol. 29, No. 3 (2015), pp. 261-273, disponibilă la adresa: https://www.jstor.org/stable/24811027;
4. Briciu, Traian, *Proceduri speciale: procedura partajului judiciar*, articol prezentat în cadrul proiectului româno-elveţian "*Asistenţă pentru consolidarea capacităţii instituţionale în domeniul formării judecătorilor şi procurorilor pentru aplicarea noilor coduri*", Consiliul Superior al Magistraturii, Institutul Naţional al Magistraturii, Bucureşti, Patru Ace, 2015;
5. Burns, Fiona, *Intestacy law in Australia, England and Singapore — Another aid to social sustainability in an ageing population?*, Singapore Journal of Legal Studies, December 2012, articol disponibil la adresa web: https://www.jstor.org/stable/24872217
6. Chiniara, Walid; De La Rosay, Andrew, *Inheritance laws in the UAE*, articol publicat în Trusts & Trustees, Vol. 15, No. 10, December 2009, pp. 781-788;
7. Ciucă, Valeius M., *Bona fides într-o nouă hermeneutică*, articol disponibil pe site-ul https://www.juridice.ro/essentials/246/bona-fides-intr-o-noua-hermeneutica,
8. Collart Dutilleul, François, *Jurisclasseur*, Civil Code, Art. 1118, Fasc. Unique;
9. Conway, Heather, *'All Good Things Must Come to an End': Terminating Co-Ownership Under the 'Old' Partition and Sale Rules*. Australian Property Law Journal, 21, 2013;
10. Douglas, Gillian; Woodward, Hilary; Humphrey, Alun; Mills, Lisa; Morrell, Gareth, *Enduring Love? Attitudes to Family and Inheritance Law in England and Wales*, Journal of Law and Society, June 2011, Vol. 38, No. 2 (June 2011);
11. Favart, Évelyne, *La transmission familiale: s'approprier le passé familial entre frères et sœurs*, Pensée plurielle 2006/1 (nr. 11), p. 83, articol disponibil la adresa web https://www.cairn.info/revue-pensee-plurielle-2006-1-page-83.htm
12. George A. Pelletier Jr., Michael Roy Sonnenreich, *A Comparative Analysis of Civil Law Succession* 11 Vill. L. Rev. 323 (1966);

13. Godechot-Patris, Sara; Grare-Didier, Clothilde, *Partage de la succession: rapport des dettes, nature et charge de la prevue* în Recueil Dalloz, 12 novembre 2020, nº39, Dalloz, Paris, 2020;
14. Goubeaux, Gilles; Bihr, Philippe, *100 commentaires d'arrêts en droit civil*, 3e édition, Ed. Lextenso éditions et LGDJ, Paris, 2008;
15. Grimaldi, Michel, *L'égalité du partage n'est pas qu'un égalité en valeur*, în Revue trimestrielle de droit civil, julliet-septembre 2016, Dalloz, Paris, 2016;
16. Grimaldi, Michel, *Là où l'héritier omis deviant un héritier exclu*? în Revue trimestrielle de droit civil, julliet-septembre 2018, Dalloz, Paris, 2018;
17. Grimaldi, Michel, *La donation-partage este un donation de lots, et non un partage de biens donnés*, în Revue trimestrielle de droit civil, avril-juin 2019, Dalloz, Paris, 2019;
18. Grimaldi, Michel, *L'utilité de la donation-partage transgénérationelle mise en évidence par les conséquences de n'y avoir point recouru*, în Revue trimestrielle de droit civil, avril-juin 2020, Dalloz, Paris, 2020;
19. Grimaldi, Michel, *Rapport des donations et rapport des dettes: quell rapport?* în Revue trimestrielle de droit civil, julliet-septembre 2020, Dalloz, Paris, 2020;
20. G'sell, Florence, *AI Judges* în The *Cambridge Handbook of Artificial Intelligence Global Perspectives on Law and Ethics*, Cambridge University Press, 2022;
21. Halder D., & Jaishankar K. (2008), *Property Rights of Hindu Women: A feminist review of succession laws of Ancient, Medieval, and Modern India*. Journal of Law and Religion, 25th Anniversary issue, Vol. XXIV, No. 2, 101-122;
22. Imani, Hamidreza, *Etude comparée du droit des successions français et iranien. Eclairage sur la place du conjoint dans l'ordre successorals*, sous la direction de Sylvie Ferré-André – Lyon: Université Jean Moulin (Lyon 3), 2014;
23. Isache, Dragoș, *Efectele partajului în noul Cod civil român: O (r)evoluție?*, DOI: 10.24193/SUBBiur.65(2020).4.11, data publicării online: 16.03.2021, articol disponibil la adresa web: https://law.ubbcluj.ro/ojs/index.php/iurisprudentia/article/download/89/147?inline=1#_Toc67473125;
24. Jora, Cristian, *Unele consideraţii cu privire la partaj, conform reglementărilor noului Cod civil*, Universul Juridic Premium Nr. 6/2016;

25. Layish, Aharon, *The Family Waqf and the Sharʿī Law of Succession in Modern Times*, în Islamic Law and Society, 1997, Vol. 4, No. 3, Islamic Law and Society (1997), pp. 352-388, disponibilă la adresa: https://www.jstor.org/stable/3399366?seq=1&cid=pdfreference#references_tab_contents;
26. Levillain, Nathalie; Forgeard, Marie-Cécile; Boiché, Alexandre, *Liquidation des successions*, 5e édition, Dalloz, Paris, 2020;
27. Lepaulle, Pierre *Réflexion sur l'expansion des trusts. Remarques à propos du livre de M. Claude Reymond sur «Le trust et le droit suisse »*, Revue internationale de droit compare, 1955;
28. Lerond, Sylvie, *Les biens objets d'une donation-partage ne sont pas rapportables, même ceux préalablement donnés qui y ont été réincorporé*s în Gazette du Palais, Recueil bimestrial, 13 novembre 2018, nº 39, Lextenso, 2018;
29. Mihăilă, Arthur, *Teorii despre dreptul natural în Antichitate și Evul Mediu*, DOI: 10.24193/SUBBiur.65(2020).4.16;
30. Mohd Altaf Hussain Ahangar, *Succession Rights of Muslim Women in the Modern World: An Analytical Appraisal* în Arab Law Quarterly, 2014, Vol. 28, Nr. 2, 2014, pp. 111-135;
31. Molinier, Juliette, *Le partage en droit fiscal*. *Droit*. Université de Bordeaux, 2016. Français. NNT:2016BORD0258 disponibilă la adressa web: https://tel.archives-ouvertes.fr/tel-01636053;
32. Piedelièvre, Stéphane, *Les donations-partages transgénérationnelle* articol publicat în *La réforme des successions et des libéralités et la loi du 23 juin 2006*, Presses Universitaires d'Aix-Marseille, 2008;
33. Planiol, Marcel, *Traité élémentaire de droit civil: conforme au programme officiel des Facultés de droit*. Tome 3, Régimes matrimoniaux - Successions – Libéralités, Librairie Générale de Droit et de Jurisprudence, Paris, 1948;
34. Powers, David S., *The Islamic Inheritance System: A Socio-Historical Approach.* Arab Law Quarterly, 1993, Vol. 8, Nr. 1, 1993, pp. 13-29;
35. Ranking, Devey Fearon de l'Hoste; Wilson, Hugh Alexander Robert James, *Ranking, Spicer and Pegler's Executorship Law and Accounts*, 17th Edition, HFL, London, 1948;

36. Rautenbach, Christa, *Indian succession laws with special reference to the position of females: a model for South Africa?*, XLI CILSA, 2008;
37. Saxena, J. N., *Widow's Right of Succession in India*, articol publicat în The American Journal of Comparative Law, Autumn, 1962, Vol. 11, No. 4, (Autumn, 1962);
38. Sauvage, François, *Le testament-partage fait à des descendants de degrés différents est-il bien né?*, La Semaine Juridique, Édition Générale, no8, 18 février 2013, LexisNexis, 2013;
39. Schafer, Burkhard *On Living and Undead Wills: ZombAIs, Technology and the Future of Inheritance Law* în *Future Law. Emerging Technology, Regulation and Ethics*, Edited by Lilian Edwards, Burkhard Schafer, Edina Harbinja, Edinburgh University Press, 2021;
40. *Succession d'un Anglais: les conséquences de la professio juris*, La Semaine Juridique – Notariale et Immobilière – N° 41, 9 octobre 2015;
41. Thébault, Vincent, *«"La faute des pères". Fragmentation patrimoniale et représentation du déclin social »*, Ruralia [En ligne], 10/11 | 2002;
42. Ţicău-Suditu, Aniela-Flavia, *Tehnologia Blockchain şi testamentele electronice*, Analele Ştiinţifice Ale Universităţii „Alexandru Ioan Cuza" din Iaşi, Tomul LXVII Supliment 2, Ştiinţe Juridice, 2021, DOI: 10.47743/jss-2021-67-4-8 articol disponibil la adresa web: https://pub.law.uaic.ro/files/articole/2021/vol.2_2/8.ticau_suditu.pdf;
43. Viganotti, Elisa, *L'accord de partage successoral au nom d'un enfant mineur est une mesure relative à la responsabilité parentale*, Gaz. Pal. 26 nov. 2015, n° 2467;
44. Waldron, Jeremy, *"Property and Ownership"*, The Stanford Encyclopedia of Philosophy (Summer 2020 Edition), Edward N. Zalta (ed.), URL = https://plato.stanford.edu/archives/sum2020/entries/property/;

VI. Specialized Journals:

1. Gazette du Palais, Recueil Bimestrial, 13 novembre 2018, nº 39, Ed.Lextenso, 2018;
2. Gazette du Palais, Recueil Bimestriel, Nr. 14 din 7 aprilie 2020, Ed. Lextenso, 2020;
3. La Revue trimestrielle de droit civil, Nr. I/2018, avril-juin 2008, Ed. Dalloz, Paris, 2008;

4. La Revue trimestrielle de droit civil, octobre-décembre 2008, Ed. Dalloz, Paris, 2008;
5. La Revue trimestrielle de droit civil, juillet-septembre 2015, Ed. Dalloz, Paris, 2015;
6. La Revue trimestrielle de droit civil, juillet-septembre 2018, Ed. Dalloz, Paris, 2018;
7. La Revue trimestrielle de droit civil, avril-juin 2019, Dalloz, Ed. Paris, 2019;
8. La Revue trimestrielle de droit civil, avril-juin 2020, Dalloz, Ed. Paris, 2020;
9. La semaine juridique – Notariale et Immobiliére, nº 45, 09 novembre 2012, Ed. Lexis Nexis, Paris, 2012;
10. La semaine juridique – Notariale et Immobiliére, nº 8-9, 23 fevrier 2018, Ed. LexisNexis, Paris, 2018;
11. La Semaine Juridique - Notariale et Immobiliére, nº 30-24, 26 juillet 2019, Ed. Lexis Nexis, Paris, 2019;
12. Recueil Dalloz, 7 juillet 2011, nº 26;
13. Recueil Dalloz, 1re novembre 2018, nº 38;
14. Recueil Dalloz, 13 juin 2019, nº 21;

VII. Jurisprudence

1. Civ., 15 avr. 1890, DP 1890, 1, 437;
2. Cass. civ, 18 juill. 1899, DP 1900.I.12;
3. Civ., 23 juin 1903, S. 1904.1.289;
4. Ch. Reun, 5 dec. 1907, Chollet c. Dumoulin, DP 1908.I.113;
5. Cass. Civ. 8 déc. 1948;
6. Cass. 1re civ., 30 mars 1955*, Bull. Civ.* I, nº152;
7. Cass. 1re civ., 20 juin 1955*, D.* 1955.737;
8. Cass. 1re civ., 5 janv. 1956, *Bull. Civ.* I, nº11;
9. Cass. 1re civ., 14 févr. 1962*, Bull. Civ.* I, nº101;
10. Cass. 1re civ., 23 juin 1964, Bull. Civ. I., nº334;
11. Cass, 1re civ, 9 mars 1966, Bull. civ. I, nº178;
12. Cass, com, 8 dec 1966, Bull. Civ. III, nº476;
13. Cass. 1re civ., 17 déc. 1996, *Bull. Civ.* I, nº462;
14. Cass. 1re civ., 21 nov. 1967, Bull. Civ. I., nº342;

15. Cass, 1re civ., 28 octombrie 1969;
16. Cass. 1re civ., 10 mars 1970, *Bull. Civ.* I, nº89;
17. Cass, 1re civ, 9 juin 1970, Bull. Civ. I, nº196;
18. Cass. 1re civ., 10 juin 1970*, Bull. Civ.* I, nº198;
19. Cass. 1re civ., 19 janv. 1971, *Bull. Civ.* I, nº23;
20. Cass. 1re civ., 3 mars 1971, Bull. Civ. I, nº70;
21. Cass, 1re civ., 26 fevr. 1975, Bull. Civ. I, nº84;
22. Cass. 1re civ., 2 févr. 1977, Bull. civ. I, n º68;
23. Cass. 1re civ., 5 déc. 1978*, Bull. Civ.* I, nº376;
24. Cass, 1re civ., 4 janv. 1979, Richard, Bull.civ.I, nº7;
25. Cass, 1re civ, 30 janv. 1979, Bull. civ. I, nº 39;
26. Cass. 1re civ., 22 janv. 1980, Bull. civ. I, nº32;
27. Cass. 1re civ., 15 avr. 1980, Bull. Civ. I., nº109;
28. Cass. 1re civ., 29 mai 1980, *Bull. Civ.* I, nº165;
29. Cass. 1re civ., 16 juin 1981, Bull. civ. I, nº212;
30. Cass. 1re civ., 15 oct. 1981;
31. Cass. 1re civ., 19 janv. 1982, *Bull. Civ.* I, nº31;
32. Cass. 1re civ., 4 mai 1983, Bull. Civ. I, nº139;
33. Cass. 1re civ., 17 avr. 1985*, Labourdette, Bull. Civ.* I, nº118;
34. CA Paris, 10 juill. 1985, D. 1985, IR, 494;
35. Cass, 1re civ, 6 janv. 1987, n.p. Bull;
36. Cass. civ, 2 juin 1897, DP 1897, 1.384;
37. Cass. Ire civ., 10 juin 1987, Bull. Civ. I, nº192;
38. Cass. 1re civ., 24 fevr. 1988, Bull. Civ. I, nº 78;
39. Cass. 1re civ., 4 oct. 1988, *Bull. Civ.* I, nº266;
40. Cass. 1re civ., 5 juill. 1989*, Bull. Civ.* I, nº282;
41. Cass. 3e civ., 16 avr. 1990, Bull. Civ. III., nº242;
42. Cass. 1re civ., 10 juill 1990, Bull. civ. I, nº192;
43. C.S.J., Secția civilă, Decizia civilă nr. 2509 din 10.11.1993;
44. Cass. 1re civ., 4 juin 1997, Bull. Civ. 1., nº188;
45. Cass. 1re civ., 16 juill. 1997, *Bull. Civ.* I, nº252;

46. Cass. 1re civ., 3 oct. 2000, no98-18.834, n.p.B;
47. Cass, 1re civ, 8 juin 2004, no 01-16.230;
48. Cass, 1re civ, 13 juill 2004, Hotărârea n° 02-10.073;
49. Cass. 1re civ., 5 avr. 2005, Hotărârea no 14-26.060;
50. Cass. 1re civ., 22 nov. 2005, no 02-17.708;
51. Cass. 1re civ., 7 juin 2006, *Bull. Civ.* I, no289;
52. Cass. 1re civ., 4 juill. 2006, no 04-16.272;
53. Cass. 1re civ., 6 févr. 2007, no 04-20.029;
54. Cass. 1re civ., 10 mai 2007, Hotărârea n° 05-12.031;
55. Cass 1re civ., 4 juillet 2007, 05-13.334;
56. Cass. 1re civ., 31 oct. 2007, Bull. Civ. I., no338;
57. Cass. 1re civ., 14 nov. 2007, Bull. Civ. I, no360;
58. Cass. 1re civ., 28 nov. 2007, Bull. Civ. I, no374;
59. Cass. 1re civ., 23 janv. 2008, hotărârea no05-20.727;
60. Cass. 1re civ., 11 juin 2008, Hotărârea no07-14.795;
61. Cass. 1re civ., 3 févr. 2010, no 08-18.196;
62. Cass. 1re civ., 12 mai 2010, Hotărârea n° 09-65.362;
63. Cass. 1re civ., 6 mars 2001, no 99-11.308;
64. Cass, 1re civ, 16, juin 2011, no 10-18.562;
65. Cass. 1re civ., 16 juin 2011, no 10-17.499;
66. Cass. 1re civ., 6 juill. 2011, no10-21134;
67. Civ. 1re, 28 martie 2012, no 12-40.002;
68. Cass, 1re civ, 6 juin 2012, no 11-20.062;
69. Cass. 1re civ., 24 oct. 2012, no 11-19.855;
70. Cass. 1re civ., 7 nov. 2012, no11-23.396;
71. Cass. 1re civ., 6 mars 2013, no 11-21.892;
72. Comp. Cass. 1re civ., 15 janv. 2014, no1229267;
73. Cass. 1re civ., 28 mai 2015, no 14-13.479;
74. Cauza CJUE, 3e ch., 6 oct. 2015, no C-404/14;
75. Cass. 1re civ., 2 déc. 2015, no 14-25.622;
76. Cass. 1re civ., 13 ianuarie 2016, no 14-29534;

77. Cass. 1re civ., 01 fevr. 2018, n° 17-12.480;
78. Cass, 1re civ, 11 avr. 2018, no17-19313;
79. Cass. 1re civ., 4 juill. 2018, no 16-15919;
80. Cass. 1re civ., 17 oct. 2018, n° 17-26.945;
81. Cass. 1re civ., 13 févr. 2019, no18-11642;
82. Cass. 1re civ., 6 mars 2019, no 18-13.236;
83. Cass. 1re civ., 29 mai 2019, no 18-18.823;
84. Cass, 1er, 3 oct. 2019, no 18-21200;
85. Cass. 1re civ., 12 fevr. 2020, no 18-23.573;
86. Cass, 1re civ., 4 nov. 2020, no 19-13267;
87. Decizia civilă nr. 96/R/1996 din 22.02.1996 pronunțată de Curtea de Apel Brașov,
88. Decizia civilă nr. 772/2014 din 05.11.2014 pronunțată de Tribunalul Cluj;
89. Decizia civilă nr. 120/2015 din 03.03.2015 pronunțată de Curtea de Apel Cluj;
90. Decizia civilă nr. 4283/2016 din 04.11.2016 pronunțată de Tribunalul București;
91. Decizia nr. 237 din 2 februarie 2016 pronunţată de Secţia I civilă a Înaltei Curţi de Casaţie şi Justiţie;
92. Decizia civilă nr. 657/2017 din 12.10.2017 pronunțată de Tribunalul Botoșani;
93. Decizia civilă nr. 957/2017 din 27.10.2017 pronunțată de Tribunalul Buzău;
94. Decizia civilă nr. 621/2018 din 20.06.2018 pronunțată de Tribunalul Bihor;
95. Decizia civilă nr. 3686/2018 din 05.10.2018 pronunțată de Tribunalul București;
96. Decizia civilă nr. 114/A/2019 din 05.03.2019 pronunțată de Tribunalul Maramureș;
97. Decizia civilă nr. 763/2020 din 02.06.2020 pronunțată de Tribunalul București;
98. Decizia civilă nr. 140/2021 din 03.02.2021 pronunțată de Tribunalul Neamț;
99. Decizia civilă nr. 364/2021 din 09.06.2021 pronunțată de Tribunalul Maramureș;
100. Decizia civilă nr. 699/2021 din 06.10.2021 pronunțată de Tribunalul Arad;
101. Decizia civilă nr. 1413/2021 din 09.11.2021 pronunțată de Tribunalul Suceava;
102. Decizia civilă nr. 1583/2021 din 14.12.2021 - Civil pronunțată de Tribunalul Timiș;
103. Req. 29 fév, 1904, DP 1905,1,7;
104. Sentința civilă nr. 2017/2013 din 19.03.2013 pronunțată de Judecătoria Sibiu;
105. Sentința civilă nr. 282/2014 din 10.09.2014 pronunțată de Judecătoria Răducăneni;
106. Sentința civilă nr. 6605/2016 din 27.10.2016 pronunțată de Judecătoria Bacău;

107. Sentința civilă nr. 4577/2017 din 04.04.2017 pronunțată de Judecătoria Craiova;
108. Sentința civilă nr. 896/2021 din 18.06.2021 pronunțată de Judecătoria Hunedoara;
109. Sentința civilă nr. 4467/2021 din 30.09.2021 pronunțată de Judecătoria Oradea;
110. Sentința civilă nr. 3056/2021 din 03.11.2021 pronunțată de Judecătoria Tulcea;
111. Sentința civilă nr. 2423/2021 din 03.11.2021 pronunțată de Judecătoria Călărași;
112. Sentința civilă nr. 3473/2023 din 06.07.2023 pronunțată de Judecătoria Galați;
113. *Crowden v Aldridge;*
114. *Cochrane's Executors v I.R.C*. (1974);
115. *Curtis v. Buchanan-Wollaston 1939;*
116. *Dennis/McDonald 1982;*
117. *Ilott v The Blue Cross (2017) UKSC;*
118. *Jones v Challenger 1961;*
119. *Kane v Radley-Kane;*
120. *MacInnes v. MacInnes*, 1934 CanLII 16 (SCC), [1935] SCR 200;
121. *Taylor v Taylor* (1875) L.R. 20 Eq. 155;
122. *Re Kay* [1897] 2 CH 518;
123. *Re Salmon* (1981) Ch 167;
124. *Re Broadwood* (1911) 1 Ch 277;
125. *Re Leigh's Will Trusts* 79;
126. *Re King's Will Trusts 110;*
127. *Saxton v Bartley* (1879) 48 LJ Ch 519;
128. *Pemberton v Barnes*, Reported at (1871) 6 Ch App 685 at 690;
129. *Porter v Porter* (1888) 37 Ch D 420 at 426;
130. *Rowe v Gray* ((1877) 5 Ch D 263 at 264;
131. *Porter v Lopes* ((1877) 7 Ch D 358 at 363-364;
132. *Reimer v Robbins* (1982) 24 Man R (2d) 311;
133. *Drinkwater v Ratcliffe* ((1875) LR 20 Eq 528);
134. *Pitt v Jones* ((1880) 5 App Cas 651;
135. *Richardson vs. Feary* ((1888) 39 Ch D 45 at 49);
136. *Mitchell v Cullington* [1997] ANZ Conv R 342.

VIII. Webographic sources:

1. Administration of Estates Act 1925
   http://www.legislation.gov.uk/ukpga/Geo5/15-16/23/contents
2. Codul civil francez
   https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070721
3. Inheritance (Provision for Family and Dependants) Act 1975
   http://www.legislation.gov.uk/ukpga/1975/63/contents
4. The Non-Contentious Probate Rules 1987
5. http://www.academia.edu
6. https://www.anevar.ro
7. http://www.archive.org
8. https://www.courdecassation.fr
9. https://www.etymonline.com
10. https://www.larousse.fr
11. http://avalon.law.yale.edu
12. https://www.jstor.org
13. https://www.lege5.ro
14. http://www.legifrance.gouv.fr
15. http://www.legislation.gov.uk
16. https://www.rejust.ro
17. https://researchacademy.elsevier.com
18. https://www.researchgate.net
19. https://www.scj.ro