

Summery of the doctor's degree thesis

The paper is entitled "*The compensation as a way of touching the obligations*", having a simple structure that contains two titles, which are structured on chapters, which at their turn contain more sections.

Title I of the thesis is entitled "*Synthesis on notions and determinations regarding the obligations in general and the civil obligations in special*" and contains two chapters.

Chapter I – is entitled "*Civil obligations in the system of the compulsory law*". It is made up of an introductive part of the research realized upon the institution, through this following the framing of the theme dealt with in the ample problems regarding the compulsory system in general.

Chapter II is entitled "*The position of civil obligations in the system of the compulsory law*". This chapter is dedicated to the research at high generality level of those elements that justify many of the judicial peculiarities of the legal system of the analyzed institutions. In this chapter is tried an analysis of the component elements of the compulsory judicial report, subjects, object content, sanctions.

A different section from this chapter is dedicated to the presentation of the civil obligations classification in proportion to many criteria, with the aim to emphasize the particular judicial regime of every category, with direct implications including on the way of extinguishing them. It was tried in this way the emphasis of the theoretical, and also importance of the obligations for the civil circuit in general.

In order to underline the role and importance of the civil obligations in the compulsory system, I have also included in the research plan a presentation of the civil obligations fountains, a study that allows a clear emphasis of their

diversity, sustaining at the same time the amplex that these have in the judicial life in general. The most important and often used judicial institutions of civil law constitute the fountain of the civil obligations, in order to justify the important role and position that these have in the compulsory system in general.

The title II of the thesis is entitled “*The place of the compensation in the system of the ways to extinguish civil obligations*” and contains five chapters, presenting itself as a progressive analysis on the judicial institutions that make the object of the present thesis the research plan, following the separation and emphasis of the connections with other judicial institutions with similar effect.

Chapter I is entitled “*General presentation of the ways to extinguish obligations*” and it is destined for the realization of a general presentation of the middle concept of obligations, being emphasized the common elements of the judicial regime to these institutions, and also the aspects that differentiate them under the aspect of the judicial regime. It is realized a classification of these in report to the main recognized criteria of doctrine.

Chapter II is entitled “*Payment as a natural and normal way to extinguish the obligations*” contains a complete analysis of the institution of the payment. The analysis of the payment in this chapter is fully justified because the compensation at its turn practically represents a double payment, so that many of the applicable principles of this institution have also incidence in the matters of compensation. There are treated in different sections aspects like: judicial nature of payment, object of payment, conditions of the payment, principle of the individuality of payment, date of payment, place of payment, expenses occasioned by payment, and the real offer followed by deposit.

I have manifested a special preoccupation for the emphasis of the newness elements proposed in matters of new civil code, occasion with which he had exposed the opinion towards the manner of settlement proposed in the synthesis law mentioned anterior.

The study on the judicial institution of payment has allowed the insurance of a solid base for the study destined to the judicial institution of compensation.

Chapter III is entitled “The position of compensation in the system of ways to extinguish the obligations” and in its content are returned notions that anterior were presented at general level as middle notion of extinguishing the civil obligations, extinctive effect, and voluntary execution. I have tried to point out the justification of the appearance and development of the analyzed judicial institution, reason for which in a different section it is treated the regulating evolution of the institution, starting with the first settlements from the Roman law, exposing their evolution, that is the way in which it is taken over and transposed the institution of the compensation in different systems of law, including the Romanian one. Such an analysis allows the emphasis of the real fundament of the research institution, and it assures a clear understanding of the peculiarities of the judicial regime, determined in a greater part by the reasons for which the institution subdued to analysis was created.

Also the main forms of the compensation, legal compensation, optional or conventional and judicial compensation are presented, particularizing for each of them the applicable judicial regime. The whole theoretical presentation is illustrated with relevant practical examples, fact that confers to the thesis an increased grade of accessibility.

Chapter IV is entitled “*The functions and importance of compensation as a way to distinguish the obligations*” representing the part from the paper in which it is tried to explain in detail the functioning way of the compensatory mechanism. Although the institution of the compensation is found treated in all the paper of civil law which treat the domain of civil obligations, in no other paper we can find an analysis of detail of the functioning way of this legal mechanism. Through the way in which it was structured the research contained in this chapter, it was succeeded the realization of a true radiography on this institution starting from the releasing elements of its effects, at the legal

conditions for a functioning of the institution and the achieving of the effect recognized by law and not least, a presentation of the extinctive effect that is produced automatically and legally, without that the parts' will to be able to influence one way or another the expanse or realization modality of the extinctive effect of compensation. Also, this part of the paper contains an ample comparative analysis of the institution with the solutions conferred by other systems of law.

A particular section is destined to the analysis of the releasing compensatory mechanism, distinctively analyzing the role of the parts' will for the three forms of compensation, legal, conventional and judicial compensation.

Not least, there are presented the regulation newness proposed by the new civil code, being signaled the elements of introduced absolute newness, but also the deficiencies of the new system proposed in the new civil code.

The last chapter is entitled "*The institution of compensation in other branches of law*" and is constituted in a synthesis of the entire paper, destined on the one way to point out that the settlement base of the judicial institution of compensation is represented by the dispositions of civil code, being presented as an application of this at the level of other branches of law, especially on the commercial law.

During the study, it was tried and succeeded the commendation of the advantages of this institution, and also of the inconveniences presented by the actual settlement, underlying the necessity of a new settlement in order to confer this institution a flexible character, conferring it a real practical utility.

The end of the paper synthesizes the author's conclusions after the realized study, also pointing out a part from the formulated proposals of ferenda law.