

CONSIDERATIONS ON THE EFFECTS OF THE INSURANCE CONTRACT IN THE LIGHT OF THE NEW CIVIL CODE

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Abstract: The entry in force of the new Civil Code has determined changes of the legislation in the field of insurances, where the central place is held by the insurance contract. The current legal regime of the insurance contract reflects the specific features of insurance operations, so that all the rules instituted in the field, according to the traditional analysis structure which concerns: the legal characters of a contract, its contracting parties, content, validity conditions, conclusion, effects and termination, determine the profile of a contract characterized by a high technical character and complexity.

Out of the rules mentioned above, the regulation of the effects of the insurance contract has been selected for the present study, its content being as it follows: the effects of the contract in regard to its parties, which also involve the relations between coinsurance and reinsurance, the effects of the contract in relation to third parties and the regress of the insurer.

Keywords: insurance contract, notification duty, insurance premium, insured case, insurance allowance.

1. Introduction

When the new Civil Code entered in force¹, the Romanian legal regime of insurances has been strengthened. As a main tool to perform the operations typical to the field of insurances, the insurance contract is concluded so as to generate legal effects and, respectively, to create, modify, transmit or extinguish compulsory legal relations².

The aspect previously mentioned is also captured by the lawmaker that, at article 2199 of the new Civil Code, defines the insurance contract from the perspective of the most important obligations belonging to the contracting parties. These provisions are completed by those of articles 2214, 2223 and 2227 of the new Civil Code, so that, on the basis of legal provisions, the insurance contract can be defined as the contract by means of which the insured takes upon the commitment to periodically pay an amount of money called insurance premium to an insurer, the latter having the duty that, when the insured risk takes place, to give to the insured, beneficiary of the insurance or third party undergoing damages an amount of money as insurance allowance, within the agreed limits and terms³.

2. The effects of the insurance contract

By being a synallagmatic contract, the insurance contract raises obligations belonging to both parties. As a feature, it must be reminded that the main duty of the insurer, in regard to the payment of the insurance allowance, is conditioned by the insured risk taking place.

2.1. The obligations of the insured

¹ Law No. 287/2009 on the Civil Code, published in the Official Gazette No. 511 from 24th July 2009 has been modified by Law No. 71/2011 and republished in the Official Gazette No. 427 from 17th June 2011 and Official Gazette No. 489 from 8th July 2011.

² For more details regarding the effects of the contract, see Ioan Adam, *Drept civil. Obligațiile. Contractul în reglementarea N.C.C.*, C.H.Beck Publ. House, Bucharest, 2011, pp. 290 – 294.

³ For the definition of the insurance contract, see also Liviu Stănciulescu, Vasile Nemeș, *Dreptul contractelor civile și comerciale în reglementarea noului Cod civil*, Hamangiu Publ. House, Bucharest, 2013, p. 452, Eugeniu Safta-Romano, *Contracte civile*, volume 2, Graphix Publ. House, Iași, 1995, p.124.

According to law, the main obligations of the insured are: a) communicating the essential circumstances and information regarding the object of the insurance; b) the payment of insurance premiums; c) the notification of the insurer on the insured case taking place.

2.1.1. The notification of the insurer

The notification duty stipulated for the insured regards the insured risk, reason for which the provisions of article 2203 paragraph (1) of the new Civil Code state that the person entering the insurance contract is bound to answer in written to the insurer's questions, but also to declare, when the insurance contract is concluded, any information or circumstances of which he is aware and which are also essential for evaluating the risk. Law considers this information essential, which is after all normal, given that the insurance is concluded precisely to counter the consequences of dangers (risks). At the same time, the insurer can only evaluate the risks which will have to cover by means of the information received from the person requesting the insurance. This notification duty belongs to the insured also when, during the contract enforcement, changes of the essential circumstances regarding risk emerge, according to article 2203 paragraph (2).

The notification of the insurer is made by filling in the printed form, that is by answering to the questions regarding the probability and intensity of the risk to take place.

As a novelty element in relation to the former regulations, article 2204 of the new Civil Code provides for sanctions if the notification duty previously mentioned is not observed, case in which, in certain conditions, the insurance contract becomes void. Thus, according to law, besides the general rules for nullity, the insurance contract becomes void also in case of an imprecise statement or reluctance made in ill faith by the insured or the person requesting the insurance, regarding circumstances which, if they had been known by the insurer, would have determined the latter not to give his consent or at least not to give it in the same circumstances, even if the statement or reluctance did not have influence on the insured risk taking place. In regard to the provisions mentioned above, it must be reminded that, in order to determine the nullity of the contract, an imprecise statement or reluctance must: a) come from the insured or the person requesting the insurance; b) be made in ill faith; c) be made on circumstances which can determine the insurer not to give his assent on the conclusion of the contract or give it in other conditions. The statement or reluctance do not generate the nullity of the contract if the ill faith could not be established. The ill faith of the insured will have to be proven by the insurer due to the fact that, according to article 14 paragraph (2) of the new Civil Code, good faith is presumed.

2.1.2. The payment of insurance premiums

The duty to pay the insurance premium is the most important one belonging to the insured, until the insured risk takes place⁴. The insurance premium represents the amount of money which the insured pays to the insurer for taking up the risk (the price of the insurance)⁵. According to article 2206 paragraph (1) of the new Civil Code, the insured is bound to pay the insurance premiums at the terms established by contract. From the legal text, it emerges that the insurance premium is the object of the negotiation between the contracting parties. At the same time, any modification of the insurance premiums during the enforcement of insurance contracts is done too with the agreement of the contracting parties.

The object of the insurance premium is represented only by amounts of money, being excluded other performances from the insured.

Regarding the payment methods, the insurance premium can be paid entirely, when the contract is perfected, in another moment or in several installments, at the due terms within

⁴ For more details, see Irina Sferdian, *Obligația de plată a primei de asigurare*, in the Law magazine No. 2/2003, pp. 70-83.

⁵ Regarding the definition of the insurance premium, see Irina Sferdian, *Dreptul asigurărilor*, C.H.Beck Publ. House, Bucharest, 2007, p. 152.

the contract. The possibility to pay the insurance premium in several installments reflects the character of contract with subsequent enforcement⁶ also from the perspective of enforcing the duties of the insured.

According to article 2206 paragraph (2) of the new Civil Code, if no contrary agreement has been made, the payment can be made at the headquarters of the insurer or of his representatives. From the regulation above, it results that the payment of the insurance premium is legally performed also if the amounts of money have been given to the agent⁷ who facilitated the conclusion of the insurance contract. In this case, if the insured risk takes place, but the agent does not hand in the amounts of money received to the insurer, the latter is not exempted from the duty to pay the allowance and he will have to take legal action against the agent for compensation, in order to recover the paid amounts of money. At the same time, the insurer is still bound to pay damages also when the agent did not inform him on the conclusion of some insurance contracts. If the insured or a prejudiced third party proves the existence of the contract, the insurer is bound to pay compensations, with the possibility to sue the agent for those.

Regarding the proof of paying the insurance premiums, article 2206 paragraph (3) of the new Civil Code clearly states that this belongs to the insured. Within the system of the new Civil Code, the proof of paying the insurance premiums can be done by any evidence method approved by law. This happens under the circumstances in which Law No. 136/1995⁸ was restricting the evidence of paying the first insurance premium only to written documents.

If the insured does not manage to prove that he has paid the insurance premiums, his duty will be considered as not fulfilled and, consequently, the provisions of article 2206 paragraph (4) of the new Civil Code will be enforced, leading to the rescission of the contract. The payment of the insurance premium conditions the insurer's obligation to pay damages. Practically speaking, until the insurance premium is paid, the insured is not included in the insurance and, consequently, does not have the quality of insured⁹.

Regarding the duty to pay the insurance premiums, it must be mentioned that the insurance contract can include a period of time, after the due term, within which the insured can pay the premiums; this term is called indulgence term¹⁰. In this case, if the insured does not make the payment of the insurance premium at the due date, but within the indulgence term, the rescission of the contract can be avoided.

At the same time, the contracting parties can include for the missing payment of the insurance premiums another sanction than the rescission of contract. For this matter, a clause can be stipulated, according to which the missing payment of the insurance premiums can trigger the suspension¹¹ of the contract and not its rescission. In what the suspension is concerned, the insured is not either part of the insurance contract, which signifies that, if the insured risk takes place, the insurer is not bound to offer damages.

The insurer is exempted from the payment of the allowance if the insured risk takes place after the due term when the premium had to be paid. If the risk emerged before the due term, the missing payment of the insurance premium can no longer trigger the rescission or suspension of the contract, as long as these generate legal effects only for the future, *ex nunc*, and not also for the past, *ex tunc*.

⁶ For more details, see Liviu Stănciulescu, Vasile Nemeş, *quoted works*, p. 494.

⁷ *Idem*, p. 495.

⁸ Law No. 71/2011 has abrogated articles 9-47 of Law No. 136/1995 on insurance and reinsurance in Romania, the content of which has been taken over by articles 2199-2241 of the new Civil code.

⁹ *Idem*, p. 496.

¹⁰ Francisc Deak, *Tratat de drept civil. Contracte speciale*, Actami Publ. House, Bucharest, 1999, p. 478.

¹¹ For more details, see Liviu Stănciulescu, Vasile Nemeş, *quoted works*, p. 496.

At article 2234 of the new Civil Code, the lawmaker considers a special situation for the missing payment of insurance premiums during the enforcement of the contract, regarding life insurances. According to law, when dealing with insurances for which premium reserves¹² are constituted, the insured can cease the payment of the premiums, with the right to maintain the contract at an insured amount of money or to denunciate it, requesting the restitution of the constituted stock, according to the insurance contract. Thus, in these situations, the insured can choose to maintain the insurance contract, even if this is not provided for in the same contract. Consequently, in what life risks are concerned, if the insured is opposed to something, than the insurer cannot invoke the rescission of the contract due to the cessation of the payments by the insured.

It should be also mentioned that, irrespective if the insurance form contracted, the insured cannot be forced on a judicial way to pay the due premiums¹³.

According to article 2206 paragraph (5) of the new Civil Code, the insurer is bound to notify the insured on the consequences of not paying the insurance premiums at the payment terms and to foresee these consequences in the insurance contract. In order to find its enforcement, each of the consequences of not paying the insurance premium must be specified in the contract. We were mentioning rescission and suspension of the insurance contract earlier, but the parties can also establish another solution for the missing payment of the insurance premium. We are talking about the compensation of the insurance premiums to be paid with the compensations owed by the insurer, a solution resulting from the provisions of article 2206 paragraph (6), according to which the insurer has the right to compensate the primes which are owed to him until the end of the insurance year, on the basis of any contract, with any allowance belonging to the insured or the beneficiary. If the parties do not include in the contract the legal consequences for not paying the insurance premium, the contract will be terminated by considering the concrete provisions of article 2206 paragraph (4) of the new Civil Code.

2.1.3. The notification of the insurer on the occurrence of the insured risk

According to article 2207 paragraph (1) of the new Civil Code, the insured is bound to notify the insurer on the occurrence of the insured risk, within the term specified in the contract. This obligation is clearly provided for by law, so that it will operate even if it is not stipulated in the insurance contract.

According to law, what parties can negotiate is the notification term and not the actual duty. In all cases, the term provided for in the contract must be reasonable for the insured.

Regarding the obligation mentioned before, the issue raised is the content and the enforcement method. Since the law in the field does not provide for special regulations, there will be enforced the common law rules. Of course, if the insurance contract provides for a content and way to comply with this duty, then the insured will abide by the provisions of the contract, as it results from the provisions of article 1350 paragraph (1) of the new Civil Code.

If the parties made no other agreement regarding these aspects, we can assess that in terms of notifying the insurer on the occurrence of the insured risk, this can be made by any communication method, written document, fax, e-mail, or verbally, towards his representatives. What is important is the enforcement of the obligation under scrutiny and not the way in which is complied with. The proof of having made the notification belongs to the insured, who can use any proving method approved by law, including witnesses¹⁴.

¹² The reserve of premiums is constituted for all life insurances, except for temporary death insurances. The reserve of premiums is calculated by the insurer, being one of the components of the insurance premium.

¹³ Liviu Stănciulescu, Vasile Nemeș, *quoted works*, p. 497.

¹⁴ *Idem*, p. 499.

According to article 2207 paragraph (3) of the new Civil Code, the notification on the insured risk taking place can also be made by the insurance broker who, in this case, has the duty to notify the insurer, within the term provided for by the insurance contract.

Speaking about the content of the notification duty, in the absence of some regulations in the field, it rests with the contracting parties to stipulate in the insurance contract those data and information which the insured must notify to the insurer, when the insured risk takes place. If there are no contractual clauses, then the content of the notification can only include the fact that the insured risk has taken place, without any further data.

Taking into account the specific features of the insurance relations to which other persons than the insured can also take part (the contracting-party of the insurance, the beneficiary, the person included in the insurance, agents, third party undergoing damages), it also emerges the issue of the persons bound to make the notification. Since what matters in this field is the enforcement of the notification duty and less who makes it, we consider that the notification of the insurer on the occurrence of the insured risk can also be made by the other participants to the insurance relations, different from the insurer, without for this preventing the payment of compensations to take place. Yet, as it results from the provisions of article 2207 paragraph (3) of the new Civil Code, only the insured is bound to notify the insurer on the insured risk taking place, while the other participants to the insurance relation only have the possibility to perform this operation¹⁵.

Article 2207 paragraph (2) specifies the legal consequences borne by the insured when not complying with the duty to inform on the insured risk taking place. Thus, according to law, if the insured does not comply with this duty, the insurer is entitled to refuse the payment of the allowance, but only in the conditions in which he proves that the missing notification on the insured risk taking place has triggered the impossibility for him to determine: a) the cause for which the event took place; b) the length of damages. In conclusion, the insurer's refusal to pay the compensations does not operate automatically, but only with the observance of the conditions provided for by law. The legal norm has a disposition character, so that the insurer can pay compensations even in the absence of the notification on the insured risk taking place.

2.2. The duties of the insurer

2.2.1. The payment of the insurance allowance

The insurance allowance is the amount of money which the insurer pays to the insured when the insured event takes place. It represents in fact “the reason for which the insurance contract has been concluded”¹⁶, being the main obligation of the insurer, after the insured risk takes place. According to law, the value of the insurance allowance is determined by the contracting parties and if disagreements emerge they will be settled by mutual agreement or by the court. If the case, the unquestioned allowance amount will be paid by the insurer before the misunderstanding is resolved [article 2208 paragraph (1)].

As for the value of the compensations which must be paid to the insured, the legal ground in the field is represented by the provisions of article 2217 paragraph (1) of the new Civil Code, according to which insurance compensations cannot overcome either the value of the asset at the moment when the insured risk takes place, the value of the damage or the amount of money insured. The insurance at a value which is superior to the asset is not allowed, as the lack of ceiling for the insured amounts of money encourages the insurance of assets above their real value and determines the interest of the insured for the insured event to take place.

¹⁵ Liviu Stănciulescu, Vasile Nemeș, *quoted works*, p. 499.

¹⁶ Irina Sferdian, *quoted works*, p. 211.

According to the provisions of article 2519 paragraph (1) of the new Civil Code, the right to take action based on an insurance or reinsurance relation is subject to a statute of limitations of 2 years, while on the basis of provisions of article 2527, in order to establish the statute of limitations for the right to take action, will be taken into account the terms established for the payment of the insurance premium or the allowances/compensations.

2.2.2. Overinsurance, underinsurance and franchise in terms of compensations

In the field of insurances, the principle of compensation does not involve in all cases a complete settlement of the prejudice caused by the occurrence of the insured risk, but only an inferior compensation or one which is at most equal to the value of the damage. Thus, when concluding the insurance contract, the insured must not suffer from any loss, or obtain a benefit¹⁷.

Overinsurance appears when, at the conclusion of the insurance contract, the insured declares an amount of money which is higher than the real value of the asset. It is the result of the harming actions performed by the insured and can have a criminal character¹⁸. The existence of overinsurance is evaluated, each time, when the insured risk takes place, as the insured must not receive a compensation which is higher than the value of the asset at the present moment. Regarding the compensations offered for overinsurance, since the regulations in the field of insurances do not contain solutions, we will take into account the provisions of the insurance contract. But if the contracting parties did not foresee the consequences of such circumstances, when a risk is overinsured, there will be made a distinction related to the good faith of the insured at the conclusion of the contract, according to specialized literature. Thus, the ill faith of the insured triggers the relative nullity of the contract, whereas if the insured had good faith, the solution is to maintain the contract and to pay compensations in accordance with the real value of the consequences generated by the insured risk taking place¹⁹.

Underinsurance intervenes when the insured amount of money is inferior to the real value of the asset. Unlike overinsurance, when it comes to underinsurance, the solutions are the same, irrespective of the subjective attitude of the insured. This time, the error or the criminal intention has no relevance, the insurer being bound to pay the compensations in accordance with the agreed limits²⁰.

As for the franchise²¹, it represents that part of compensation which, if the insured risk takes place, will be borne by the insured. Thus, the provisions of article 2217 paragraph (2) of the new Civil Code state that the parties can stipulate a clause in the insurance contract according to which the insured remains his own insurer for a franchise in relation to which the insurer is not bound to pay the compensation. In this case, if the due compensation (damage) will be inferior to the franchise, the insured will have no interest in using the insurance policy.

2.2.3. Exemption of the insurer from the payment of the insurance allowance

According to law, in some special circumstances the insurer is exempted from the payment of the insurance allowance. Thus, the parties can agree that, when it comes to the insurance of assets and civil liability, the insurer is not bound to pay the insurance allowance if the risk has been intentionally produced by: a) the insured, the beneficiary of the insurance or a member from the leadership of the insured legal person; b) off age legal persons who constantly live and share the same place with the insured or the beneficiary of the insurance; c) the officials in charge of the insured or the beneficiary of the insurance [article 2208 paragraph (2)]. In this case, the lawmaker maintains the solution given by Law No. 136/1995

¹⁷ Irina Sferdian, *quoted works*, p. 230.

¹⁸ For more details, see Irina Sferdian, *quoted works*, p. 193.

¹⁹ *Idem*, p. 193.

²⁰ Liviu Stănciulescu, Vasile Nemeș, *quoted works*, p. 503.

²¹ Franchise comes from the French verb *franchir*, meaning “to jump”, “to go over something”.

(articles 19-20), taking into account that risk represents an essential element of the insurance contract. For this reason, if the event takes place out of the intentional deed of the insured or the persons restrictively mentioned by the legal text, then it loses its character of being uncertain or casual and can no longer constitute an insured risk. But the culpable (unintentional) deeds of the insured or the persons indicated by the lawmaker or even the intentional deeds of some other persons do not entitle the insurer to refuse the payment of the insurance allowance.

2.3. The effects of the insurance contract in regard to insurance and reinsurance relations

According to article 2 point 8 of Law No. 32/2000 on insurance companies and insurance supervision²², coinsurance is the operation by means of which two or more insurers take upon the same risk, each of them enjoying a share of this. In its essence, coinsurance presupposes contracting the same risk or risks by two or more insurers. From here it results that, if there are more insurers involved, but different risks have been contracted, we cannot speak of a coinsurance, but about self-standing insurances²³.

For proving the good faith of the insured, article 2219 paragraph (1) of the new Civil Code states that both at the conclusion and during the enforcement of the insurance contract, the insured is bound to declare the existence of all the insurances referring to the same asset.

Taking into account the specific features of coinsurance relations, if the insured risk takes place, each insurer will offer compensations to the insured which are proportional with the risk assumed, without the possibility of the insured to receive a compensation which is higher than the prejudice effectively suffered as a direct consequence of risk.

According to article 2 point 17 of Law No. 32/2000, reinsurance represents the insurance of the insurer. The reinsurance relation is born on the basis of a contract by means of which the insurer seeks insurance, in his turn, at other insurers²⁴. Reinsurance is reserved only to insurers, the insured not being part of the reinsurance contract, reason for which, if the insured risk takes place, only the insurer can take action, while neither the insured, nor the prejudiced third party or other person can file an action against reinsurer. Consequently, unlike insurance relations, neither the insured nor the prejudiced third party can take a direct action against the reinsurer.

2.4. The effects of the insurance contract in relation to third parties

2.4.1. The effects in regard to the persons included in the insurance

The notion of person included in the insurance contract is encountered in the field of civil liability insurances. For this purpose, article 2223 paragraph (2) of the new Civil Code, states that the insurance contract can also include the civil liability of other persons than the contracting party of the insurance. The effects of the insurance contract are the same both in terms of the persons included in the insurance and the insured. Thus, when dealing with the civil liability insurance contract, the duty to notify the insurer on the insured risk, the payment of the insurance premium and the occurrence of the insured risk belongs to the contracting party of the insurance, but also to the person or persons included in the insurance. Speaking about the duties of the insurer, he will pay the allowance also when the prejudice was not caused by the person or the persons included in the insurance. If the allowance does not cover the prejudice undergone by a third party undergoing damages, then the latter can file an action against the person included in the insurance, for obtaining the difference. The third party will not be allowed to take action against the contracting party of the insurance, as long as he or

²² Published in the Official Gazette No. 148 from 10th April 2000, with the subsequent modifications and amendments.

²³ Liviu Stănciulescu, Vasile Nemeș, *op.cit.*, p. 506.

²⁴ For more details, see Irina Sferdian, *op.cit.*, pp. 26-27, Francisc Deak, *Tratat de drept civil. Contracte speciale*, Universul Juridic Publ. House, Bucharest, 2001, p. 472.

she did not cause the prejudice. If the prejudice is caused by both the deed of the party contracting the insurance and the deed of the person included in the insurance, the responsibility will be joint, and the third prejudiced party can take action, upon his choice, against all those responsible for the prejudice or only against one of them.

2.4.2. The effects regarding the heirs of the third party undergoing damages

If the third party that undergoes damages dies, then the insurance contract generates effects in relation to his heirs who, irrespective of the nature of the prejudice (material or moral) will have the chance to take action against the civil liability insurer, for recovering the damage undergone. In this case, the insurer will pay the compensation within the limit of the insured amount of money, while if the insurance allowance does not cover the entire damage, the heirs of the third party can file for legal action against the author the prejudice.

2.4.3. The effects regarding the heirs of the insured

In the field of civil liability insurance, the insurance contract produces certain effects also in relation to the heirs of the insured. Thus, if the insured has committed the deed intentionally, then the insurer is bound to pay compensations to the injured party seeking for compensation with the insured. If the insured dies, the action for obtaining compensation is promoted against the heirs of the insured who received the insurance allowance and did not offered compensations to third parties. This situation is allowed only for the civil liability insurance, having the role to cover the damage undergone by third parties and not that undergone by the actual insured persons²⁵.

2.4.4. The effects regarding insurance agents

Insurance agents have a particular role in perfecting insurance contracts which, most of the times, are concluded by means of their contribution. The main persons performing insurance intermediation are insurance agents and brokers. The insurance agents are not part of the insurance contract, which has effects only between the insured and the insurer.

Throughout the enforcement of the insurance contract, due to certain operations performed by insurance agents, such as filing the insurance policies which they perfected, depositing the insurance premiums they received from the insured and communicating the change of the circumstances regarding the insured risk, if any issue regarding these operations emerge, then the agents involved will be held accountable. On the basis of the insurance contract, the insurer is bound to pay the insurance allowance to the insured only if he will recover the amounts of money paid from the negligent or ill-faith agent. In other words, the insurer will be able to refuse the payment of the allowance on the reason that the agent who facilitated the conclusion of the insurance contract did not file the insurance policy and did not deposit the amounts of money received as premium from the insured or the contracting party of the insurance²⁶.

3. The action for compensation filed by the insurer

The new Civil Code provides for the subrogation of the insurer, at article 2210 paragraph (1), according to which the insurer is subrogated, within the limits of the insurance paid, in all the rights of the insured or the beneficiary of the insurance, against the persons responsible for a damage taking place, except for the case of life insurances. Thus, within the limits of the allowance paid, the insurer is subrogated by law and without any formality in all the rights of the insured or the beneficiary of the insurance, against those responsible for a damage taking place²⁷. If the damage is partially covered by the insurer, the insured will have the chance to file a direct action for recovering the difference, against the responsible person. If the insured has received damages, the insurer can file an action against the third party

²⁵ Liviu Stănciulescu, Vasile Nemeș, *op.cit.*, p. 509.

²⁶ *Idem*, p. 510.

²⁷ For more details, see Irina Sferdian, *quoted works*, pp. 244 - 255.

undergoing damages for the paid allowance. Thus, subrogation is founded on the payment done to the insured. The right to seek for compensations is exerted only on one's own name and does not represent an exemption from liability; what is typical for this situation is the fact that the insurer pays the allowance/compensation, but he recovers it from the accountable persons²⁸.

4. Conclusions

As it was being mentioned at the beginning of the current work, the legal definition provided to the insurance contract points out its most important effects, by mentioning the duty of the insured or the party contracting the insurance to pay the insurance premium and the duty of the insurer to pay the insurance allowance. At the same time, the definition given to the insurance contract also reflects its derogatory character in terms of the simultaneous and mutual obligations of contracting parties, as a result of the specific features of the insurance convention; thus, the insurer is bound to pay the insurance allowance only when the risk provided for by the contract takes places. Following these coordinates, we have approached the actual legal regime of the effects of the insurance contract, acknowledged by the provisions of the new Civil Code.

5. Bibliography

Ioan Adam, *Drept civil. Obligațiile. Contractul în reglementarea N.C.C.*, C.H.Beck Publ. House, Bucharest, 2011.

Francisc Deak, *Tratat de drept civil. Contracte speciale*, Actami Publ. House, Bucharest, 1999.

Francisc Deak, *Tratat de drept civil. Contracte speciale*, Universul Juridic Publ. House, Bucharest, 2001

Eugeniu Safta-Romano, *Contracte civile*, volume 2, Graphix Publ. House, Iași, 1995.

Irina Sferdian, *Obligația de plată a primei de asigurare*, in the Law magazine No. 2/2003, pp. 70-83.

Irina Sferdian, *Dreptul asigurărilor*, C.H.Beck Publ. House, Bucharest, 2007.

Liviu Stănciulescu, Vasile Nemeș, *Dreptul contractelor civile și comerciale în reglementarea noului Cod civil*, Hamangiu Publ. House, Bucharest, 2013.

²⁸ For more details, see Liviu Stănciulescu, Vasile Nemeș, *quoted works*, pp. 510-511.