MARRIAGE – TRADITION AND MODERNITY. CHRISTIAN LEGAL INSTITUTION AND VALUE ENSHRINED IN THE NEW CIVIL CODE

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Abstract: Civil Code is one of the fundamental legal acts of any legal system; a law that orders the perennial values of a society – relationships, family, wealth, goods flow – and that is why it is characterized by stability. However, improving the standards of civil law in recent years has been a constant concern; such a major scientific approach is accelerated deep transformations of the Romanian society in the context of contemporary European values assimilation and ideological concepts established permanent evolution.

Keywords: Civil Code, Constitution, Canon Law, European Law, Christian values, marriage, the European Union.

1. ARGUMENTUM. ABOUT GLOBAL APPROACH RIGHT

The idea to take this approach is very recent. To be complete I must add that some of the ideas presented here were partly influenced by the works of renowned experts, judges of the Constitutional Court of Romania, presented at academic symposium organized by the Romanian Academy on 8 December 2011, when they celebrated 20 years after the entry into force of the Romanian Constitution of 8 December 1991, the Euro-Atlantic destiny major event for our country, unfortunately been too easily overlooked by our political decision makers, but with all solemnity marked by the highest forum of academic, research house Romanian science. I should mention as a reference work of the Constitutional Court judge Lord Zoltan Puscas Valentin[1]. I will make appropriate reference where we will find it necessary for the scientific character of the work and appreciate the theme under discussion can be complete only through a comprehensive approach to law. Why? As the global approach can be done from the standpoint of collective object of research or that of the subject. This distinction has the following meaning: we can formulate a hypothesis about the nature of the objects studied by various industry and legal sciences, assuming that these objects adapt their science, to try to outline the interdisciplinary relations between them relying on the types of units assigned according to our hypothesis, as they are objects in the real world or whether to start from the very science of law as we

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[1] Zoltan Puscas Valentin, *Christian values enshrined in the Constitution*, paper presented at the Academic Symposium "Romanian Constitutional Development. Tradition and Modernity", Bucharest, December 8, 2011.

can see. In the latter case, we are offered two ways: the distinction between law and science branch of legal science by means of which serve to achieve the objectives of general methodology (explanation, verification, formulation of laws and theories, how to benefit from observations and experience) to establish comparisons between the main models and theories currently used by these disciplines.

These three ways of approach, based respectively on the object, method and theory, must eventually be combined. Object type determines the type of interaction between objects and subjects (which describes the methodology of science right), but also how these objects are their researchers (way foreshadowed in the main theories). And because we want to ensure as soon as a solid basis of our study, we begin with the third method: comparison of major theories. In fact, nobody can deny the existence of theories that we will quote their role currently no fundamental research. Thus, if we get to emit each interdisciplinary relation, the latter will be undeniable. From this perspective, we analyze in this article, very briefly some aspects of the concept of interdisciplinary and historical connections between legal science and legal sciences industry, with special about marriage material in the new Civil Code[2].

The first question that should in theory that the delimitation of the object, the definition of interdisciplinary. Avoiding constraints mainly didactic purpose work they find in many works devoted to the field, we drew a distinction between the concepts of interdisciplinary and transdisciplinary. We give a special appreciation of a particular theory, inter- and transdisciplinary its capacity, we emphasize that a thrust in the development of science, global social theory, conceptual and methodological approaches will be the basis for inter- and transdisciplinary.

Maybe I should add that there is already a whole literature devoted to defining the two concepts, establishing differences and similarities between them and clarified especially useful in connection with forms of interdisciplinary practice in scientific research. Thus, one can distinguish several types of interdisciplinary –, auxiliary, composite, or complementary and unifying: linear, structural and restrictive. Most authors consider the existence of three or four levels of cooperation and interpenetration of disciplines, approaches and methods of research: multidisciplinary, multidisciplinary, and interdisciplinary and transdisciplinary. In a brief summary of the four terms are defined accordingly, to identify relevant optical specificity of each.

Multidisciplinary appears as the least developed of interdisciplinary, consisting rather in the juxtaposition of certain elements of various disciplines to highlight their common aspects. Requires a multidisciplinary symmetric communication between different specialists and different disciplines.

[2] Law no. 287/2009 on the Civil Code was published in the Official Gazette, Part I, no. 511 of 24 July 2009, amended by Law no. 71/2011 and corrected in the Official Gazette, Part I, no. 427 of 17 June 2011 and in the Official Gazette, Part I, no. 489 of July 8, 2011. Law no. 287/2009 was republished under art. 218 of Law no. 71/2011 for the implementation of Law no. 287/2009 on the Civil Code, published in the Official Gazette, Part I, no. 409 of June 10, 2011.

Transdisciplinary is seen as the interweaving of several disciplines and coordination of research likely to lead, over time, the formation of a new discipline or field of knowledge.

Interdisciplinary is, in relation to transdisciplinary, a less developed form of communication, coordination and integration of scientific disciplines. In the broad sense of the term interdisciplinary implies a degree of integration between different fields of knowledge and different approaches, and use a common language allowing the conceptual and methodological shifts. In summary, the four "species" of interdisciplinary are:

1. Interdisciplinary surrounding areas (up to areas of application methods and concepts of two or more disciplines);

2. Interdisciplinary problems (refer to issues or groups of problems beyond the boundaries of disciplines and whose study requires collaboration of several sciences);

3. Interdisciplinary methods (the methods of their discipline – mathematical or statistical methods, for example – in other disciplines or appeal to an auxiliary discipline in studies of a branch of science);

4. Interdisciplinary concepts (characterized situations where the methods and concepts developed in a research discipline in the field are applied in other disciplines).

In conclusion, the argument that calls for interdisciplinary is not that subjects would be an erroneous theory of knowledge, but in that they give us (and we will never give) a complete picture of the things considered in isolation. Articulating to one another, integrating, they fulfill their role in an effective manner. Meanings of the concept of interdisciplinary and epistemological ways of expressing it are necessary chip, multiple, and therefore would be contrary to the scientific spirit they attempt to circumvent the operational diversity of contemporary research development and deepening of cooperation between disciplines. The diversity of conceptual, methodological and operational interesting interdisciplinary work is strikingly illustrated, each bringing an original interdisciplinary approach and promote, together they provide a picture of the landscape expressive creativity, renewal process development, specialization and the interweaving of social sciences and human, to deepen their relations and technical sciences.

In this context it should be mentioned an original interpretation, but reductionist in our opinion, given the concept of interdisciplinary. According to its interdisciplinary – the contemporary meaning of the term – does not refer to the intersection of theoretical and methodological research in the disciplines (also seen in the history of science), but rather an "engineering", *i.e.* an application of science, namely scenarios developed from the perspectives of many sciences connected to a decision to design an action.

Undoubtedly, interdisciplinary reveals a characteristic of our age: the social integrity of knowledge, now constitutive element of power, and power are

interested in applied science background, only able to guide in formulating and articulating programs that exercise. Interdisciplinary is in this call to engineer and expert. Of course, interdisciplinary, in its contemporary form often manifests itself precisely in studying and solving problems whose ultimate meaning is the decision-making, politics and acting, but it is nevertheless a step whose features were well defined.

Considerations are material to its original disclosure of factors and circumstances – social and pragmatic – that propels the organization now more extensive scale interdisciplinary research. Therefore, somewhat ostentatious wording appears conclusive that interdisciplinary is simply an application of one or the other disciplines, but coordinating synthesis, subordinates, reducing – or what I want – knowledge, other than a bridge thrown between specialized knowledge. Is obscure form of human relationship, place and status in the space of complex connections where science and technology meet, whether natural or social? At one point, is as essential, this idea coincides with the general conclusion: global problems – of humanity, law, schooling, the impact of science and technology – is the main field which focuses on interdisciplinary studies at present.

Moreover, conceptual and taxonomic aspects are achieved, inevitably, in particular studies in recent times. Thus, on the right issues, we emphasize with full justification that the research method to be applied can only be interdisciplinary because of the complexity and synthetic nature of these problems themselves. Reliance on a single discipline to undertake this study could lead to erroneous conclusions or results would translate to insufficient volume of work. From the perspective of research undertaken on these issues can make an important conceptual methodological conclusion, namely that of "organic interdisciplinary" approach required that the study of global complex type.

In this view, genuine interdisciplinary far exceeds complementary studies undertaken by experts in different disciplines often on a phenomenon or of a problem. In such cases we can talk soon for multidisciplinary cooperation. The conclusion of this is of particular importance for scientific and operational design, planning and organization of interdisciplinary research, or in a more simple and less advanced (to bring together in a collective activity studies of various specialists), or as advanced a true interdisciplinary activities involving the will to set up a general framework (a theoretical and methodological framework for joint research), the specialized disciplines are also modified and related to each other. In this case, elements of sociology or political theory, for example, are included in economic analysis; economic theory elements are integrated into sociological analysis, historical research elements in economic and legal studies, etc.

The big problem remains open in the design of research lies in the transition from simple to practice interdisciplinary multidisciplinary cooperation in the deep sense. Acceptance and use of a common paradigm as a basis for cooperation "organic" between researchers from different disciplines (natural and social), call the

conceptual and methodological approaches transdisciplinary in scientific languages tend to be universal (those of systems theory, computer science, cybernetics, formalization, etc.) is undoubtedly fruitful approaches, interdisciplinary expressions of higher forms collectively by the term transdisciplinary.

I insisted on issues related to taxonomic distinctions more than simply a desire for clarification of terminology. The purpose of this excursion was to support the theory, and the like, the argument in favor of efforts to prepare and cultivate interdisciplinary in its true meaning, the sense of higher and its forms complex, more difficult but more fruitful for progress knowledge of social and theoretical amplification functions of the applied social sciences and humanities. This does not mean that – paraphrasing an old saying – due to not seeing the forest trees. In general almost contemporary with that momentum is sustained and promoted interdisciplinary, not infrequently looks need to develop, improve and deepen the various social and human disciplines. A fundamental conclusion that emerges is that a fruitful interdisciplinary must rely on strong social discipline, and especially clearly outlined in possession of some theoretical and methodological standards. It would therefore be an error, for which slips sometimes interdisciplinary contrasts defined and anchored the existence of disciplines within the relevant parameters. Deepening and expanding field of specialization and interdisciplinary forms feed each other in a process.

Without being one of the most avid supporters of interdisciplinary (with a pioneering role in organizing interdisciplinary research-oriented), are more definite in requiring the new context of contemporary scientific developments in the movement to give full attention and disciplinary specialization cultivation of existing legal disciplines. Specialization and diversification of legal sciences, equivalent to the establishment of true “specialized intellectual subculture”, which is a framework for training and professional specialists in these fields, to deepen the concepts and theories, especially research methods and techniques. Deepening specialization and disciplinary research remains so timeless, but it must be organic effort associated with cross-disciplinary theoretical and methodological invoice. Each legal discipline has its history and methodology, and thorough knowledge of them is indispensable to all who want to use to use the concepts and methodologies from several disciplines to deepen (multidimensional) problems in their field of study. Legal researcher to be in a position to participate in this double movement of the cognitive approach – the study of the disciplinary and interdisciplinary methodological approaches to them to continue renewing its own disciplines. Urgent need for bridges between disciplines has resulted in the appearance, by the middle of the twentieth century, multidisciplinary and interdisciplinary.

Multidisciplinary study refers to an object in one and the same discipline by means of several disciplines at once. The object will leave them more enriched after crossing many disciplines. Objective knowledge obtained in their own discipline is deepened by a fertile multidisciplinary input. Multidisciplinary

research that brings discipline, but the "plus" is the exclusive service discipline. In other words, the multidisciplinary approach overflows beyond disciplines but its purpose remains entered in the disciplinary investigation.

Interdisciplinary has another ambition, different from that of multidisciplinary. It refers to transfer methods from one discipline to another. Are three degrees of interdisciplinary: a) an applied degree. For example, methods transferred nuclear physics in medicine lead to new treatments for cancer, b) an epistemological level. For example, transferring methods of formal logic in the field of epistemology right generates interesting analysis, c) a general level of new disciplines. For example, the transfer of mathematical methods in physics led to mathematical physics, methods of particle physics in astrophysics gave birth to quantum cosmology, the study of mathematics or scholarship metrological phenomena caused chaos theory, the computer in art led to the art computer. As multidisciplinary, interdisciplinary overflows the limits of discipline but also its purpose remains registered in interdisciplinary research. By his third degree, interdisciplinary contribute even disciplinary big bang.

Transdisciplinary concerns – as indicated by the prefix "trans" – which is at the same time and between disciplines, and within various disciplines, and beyond all discipline. The purpose is to understand the world they present one of its imperatives is the unity of knowledge. But is there something in between, within and across disciplines? In terms of conventional thinking, there is nothing, strictly nothing. Area in question is empty, completely empty, the vacuum of classical physics. Even giving up the vision of the knowledge pyramid, traditional thinking considers that each fragment of the pyramid, generated by the disciplinary big bang is a full pyramid, each discipline states that its relevant field is inexhaustible. For classical thought, transdisciplinary is nonsense because no object. Instead, for transdisciplinary, classical thinking is absurd, but its field of application is considered small.

In the presence of several levels of reality, the space between disciplines and across disciplines is full, as the quantum vacuum is full of all potentialities: from quantum particle in galaxies, from quark to the heavy elements which determine the appearance of life in the universe. Discontinuous structure of levels of Reality determines the discontinuous structure of transdisciplinary space which, in turn, explains why transdisciplinary research is radically distinct from disciplinary research, and also being complementary. Disciplinary research covers more than one and the same level of Reality, in fact, most often; it refers only to parts of one and the same level of Reality. In contrast, transdisciplinary concerns the dynamics is caused by simultaneous action of several levels of Reality. Discovering these dynamics necessarily passes through disciplinary knowledge. Transdisciplinary without a new discipline or one nine is nourished in disciplinary research, in turn, is clarified in a new and fertile cross-disciplinary knowledge. In this sense, disciplinary and transdisciplinary research are not antagonistic but complementary.

The three pillars of the trans-disciplinarily – levels of reality, logic and complexity of third parties, including – determine transdisciplinary research methodology. There is a striking parallelism between the three pillars of the trans-disciplinarily and the three postulates of modern science. The three methodological postulates of modern science from Galileo remained unchanged until today, despite the infinite variety of methods, theories or models that have passed through the history of various scientific disciplines. One full and complete knowledge, however, satisfy the three postulates: physics. Other scientific disciplines not only partially satisfying. However, the absence of rigorous mathematical formalization of psychology, history and religions of many other discipline does not remove these disciplines in the field of science. Even the science of art, such as molecular biology, can not claim, at least until now, it would have a mathematical formalization as rigorous as that of physics. In other words, there are degrees of discipline depending on how they are taken into account, more or less completely, the three methodological postulates of modern science.

Similarly, taking into account a more or less complete, the three pillars of transdisciplinary research trandisciplinaritate varying results. Transdisciplinary research corresponding to a certain degree of transdisciplinary will be multidisciplinary approach rather (as in ethics) and the corresponding degree will be another interdisciplinary approach (as in epistemology).

Disciplinarily, multidisciplinary, interdisciplinary and transdisciplinary are four arrows of one and the same arc: that of knowledge. As transdisciplinary research is not antagonistic but complementary multi and interdisciplinary research. Transdisciplinary is nevertheless radically different from multi and interdisciplinary in its end – understanding the present world – the end which is not included in disciplinary research. The purpose of multi disciplinary and interdisciplinary research is always. If transdisciplinary is so often confused with interdisciplinary and multidisciplinary (as in fact is often confused with interdisciplinary and multidisciplinary) this is explained mostly by the fact that all three disciplines within overflowing. This confusion is very harmful to the extent that it masks different aims of these three new approaches.

Even acknowledging the radically distinct trans-disciplinarily in relation to disciplinarily, multidisciplinary and interdisciplinary, it would be extremely dangerous to absolutist this distinction because in such a case transdisciplinary would remain empty of all its content and effectiveness of its action would be reduced to zero. The manifesto says that trans-disciplinarily Basarab Nicolescu scientific revolution due to quantum mechanics forced us to overcome the contradictions of otherwise inconceivable to admit even the existence of third parties, including the perspectives of several levels of reality. Hidden third party, including the sacred.[3]

[3] Basarab Nicolescu, *Transdisciplinarity – Manifesto*, Polirom, Iaşi, 1998, p. 5.

God was gradually buried by classical physics efforts to bet that makes EVERYTHING experienced in a single level of reality and wanted to postulate that the only truth is science. Expand her knowledge and external universes inside universes charging choke. But transdisciplinary offers the chance of finding the sacred in all sections, in the reality and our social relations, the normality of each day. Reintroduction sacred means rethinking education and emotional dimension as important in knowledge and analytical dimension. And so, we can appeal to Christian values enshrined in the Constitution and in the new Civil Code of Romania, the transdisciplinary approach to the institution of marriage.

2. GOD AND SCIENCE. GOD AND THE RIGHT

After half a century of political dictatorship, during which Romanian society has undergone a strange and acute, we have witnessed a sudden plunge to the opposite extreme, a pseudo-critical discourse, understanding and violent. More specifically in the 20 years of freedom I have managed to articulate a culture of dialogue, to make the leap from the fist argument. This shortfall is added and other changes scientific and cultural paradigm shift: challenges physics and quantum genetics, human genome decryption complexity disciplinary, multi-purpose logic, genetic engineering, the ability of handling the media, nuclear arsenal, computer revolution, nanotechnology, artificial intelligence, robotics, abolishing the boundaries between fiction and reality, coherence virtual phenomenon, inter-and conflicts, fundamentalism, terrorism, sexual hedonism exacerbation, the proliferation of pathogenic viral entities related fatal cancer and other diseases with high morbidity, global warming, axiological relativism, social gerontology, the approach globalized economic globalization, financial imbalances, political instability, the crisis of meaning, existential vacuum, all of which are realities that requires an objective attitude and lucid, discursive approach type multi-, inter- and transdisciplinary. Man lives in a postmodern world of spray scientific point of view, cultural and spiritual. Excessive unique specialization makes it impossible to communication between people and between scientific fields, creating a world monad, an orchestra impeccably trained in technical and artistic, but without a conductor. Multi-, inter- and transdisciplinary is an approach that ensures consistency, glue logic, the arbitration between the various scientific fields, researchers multi-, inter- and transdisciplinary conductors of the orchestra are nothing but spirit.

Worse we were to live without God than without freedom, especially the young of those nine times, educated from childhood poisoned air of divine hatred. Atheistic science have all the answers to your mouth shut, since heart remained awake, quietly bleeding. Sometimes along with Einstein, Planck, etc.[4]. Bohm. May

[4] See for example, *Interdisciplinary and social sciences publishing*, Bucharest, 1986.

take steps across borders, especially those who had minimal access to their world. Here, however, that as social liberation has created the premises of other releases, leaving the vast knowledge true. As was the case in law, here in Romania, where a famous and well documented material, Ion Gheorghe Maurer Academy (later prime minister of Romania) succeeded by an article program (the famous "Foreword" at no. 1 of 1956, the Institute magazine "Legal Studies and Research") as a fundamental objective of the activity analysis ICJ "constants right, beyond the existing social order". Indeed, the question whether or not the right meet certain "constants" can not answer easily will require long and thorough checks. Research could not stop, however, here[5].

Assuming that they would conclude that there is, in law, certain constants, will be to clarify and explain how their existence. Not to answer categorically, outlined, as a hypothesis, some possible explanations. But "these are possible explanations, however, the real explanation? And admitting that I be in the presence of real explanations, are they the only explanation? On the other hand, asked the author, the role of each of the constants clarifying explanations right? To what extent play one or the other? What is the specific weight? So, as in many other areas of law, an accumulation of unknown unknowns that lie ahead. The answer was at hand, but the blindness of their mind's eye not allowed to see God, because only in this way to explain their existence"[6].

Of course, no one could say that the ideas are brand new, but there is always the same allegations pan truth and the truth that always remain fresh, even if he ever the same, you always said to other people and other terms. This is the first time after more than two centuries the science of Christian worship is again, because God is not only able to get adoration. Scientific research and the visible world is born cry of the psalmist of old doxology: "How things have increased thy Lord, all you have done wisely."

But in a world increasingly occupied more than science and thought patterns that it produces, technology and ways of life that entailed, philosophical discourse has lost its old power of truth, threatened humanities, powerless to produce ideological systems that make him at least one political guide, philosopher seems to be on the verge of losing the last privilege: to think. Religion remains. But it seems that here, the knowledge born of science oppose increasingly more profound order entered in the sacred certainties: God and science seem to belong to different worlds together so that nobody would even think the risk of approaching them.

[5] Ion Gheorghe Maurer "Foreword" in the "Legal Studies and" no. 1/1956, the Institute of Legal Research p 1–57.

[6] *Exempli gratia*, George Piperea, Commercial Law. Volume I, Ed C. H. Beck, Bucharest, 2008. Interesting is the approach of commercial law, as canon law. Thus, it is shown that although, normally, canon law is synonymous with church law, canon law actually means any law that is based on a system of rules of a professional, religious or collegiate. The reason is that, in Latin, canon means rule. To those mentioned, the author emphasizes, commercial law was originally a canon law, consisting of guild statutes.

However, some warning signs that tell us it's time to open new paths through deep knowledge, to look beyond appearances from almost metaphysical mechanistic science of "nothing", while near and strange, powerful and mysterious and inexplicable scientifically: something that a God can. This just try to say it now when we are in a great revolution in thought, a radical epistemological rupture so as philosophy has never been for centuries. It seems that by way of conceptual open quantum theory, a new representation of the world, radically different that, building on two previous current – realism and idealism (spiritualism and materialism) – two opposing current, two conceptual field effects, we exceeds, by synthesis. November stand this concept is born this side of spiritualism, but far beyond materialism[7].

Quantum theory is to always pull on the edges of knowledge, to feel a fundamental conundrum facing the human spirit: the existence of a transcendent being, while the cause and meaning of the great universe. After all, is not the same as scientific theory and religious belief? God himself is now sensitive spotted, almost visible, in fact the ultimate reality that he describes physicist! Where we are we who study the law? I live, thank God the turn of the millennia. Reaching the age at which memories can be drawn to take its place in the great flow of history, I feel that I traversed half of the twentieth century without equivalent in the history of the species on this planet thinking: a period of irreversible rupture of unpredictable innovations. The last years of the millennium, ended a great time: we enter the blind in a metaphysical time. Nobody dares to say, is always silent on the essential, which is unbearable. But the great hope arises for those who think. And we want to make clear, in these brief considerations, that soon fatal reconciliation between scientists and philosophers, between science and faith. Several masters of thought, animated by a spirit of prophecy, already announced that Aurora: Bergson, Einstein, de Broglie, Heidegger, and many others. Right, with all the "constants" of his particular social phenomenon and as a specific form of human activity, which can not be regarded only as a system of ideas, representations, theories (still image), but as a system develops, continuously produce new knowledge, the spiritual values (dynamic image), can not remain outside of these changes, the more that its focus is the individual man, viewed individually, as holder of the rights and obligations, subject law (art. 15 para. 2 of the new Civil Code), but also creation of God, the image and likeness, no Darwinian monkey. Moreover, anticipating somewhat short trip on Christian values, we see that its roots are lost in the mists of time, find in the Ten Commandments revealed to Moses by the Creator, and obligations that are very current and for humanity today, as "God made us free so likely to make mistakes and fall into a diminished perfection" and "Dome Fear is the beginning of wisdom"[8].

[7] See for details about this debate, Jean Guiton, *God and science*, Ed Charisma, Timisoara, 2009.

[8] The proverbs of Solomon, cap.1.7, the Bible or Holy Scripture, and Mission Bible Institute of the Romanian Orthodox Church, Bucharest, 1982, p. 638.

3. LAW AND RELIGION. LEGAL AND RELIGIOUS RULES AND MORAL RULES

In terms of our life after the fall, when good is required to be helped, and fought evil, that freedom organized to acquire a value and a positive role in our lives, freedom is the only organizer of the law is right. Human society has no other effective means to create and maintain the order in it, only right and natural law is written in the law of nature. Indeed, the word of the Apostle to the Gentiles, "Gentiles who do not have law do by nature the law, these, having no law, they are Locus law. Which shows that the law written in their hearts, their conscience and the testimony of their judgments, accusing them and defend them"[9]. "Natural law and moral law, implanted in the human heart of creation, is thus stated by the power of human reason, which is destined for human beings, whether or not a religious or moral."

He said that ancient civilizations (Babylonians, Egyptians, Romans, etc.) made confusion between law and morality. But that, "unlike other peoples, the Romans ignored this confusion, evidence that as early as the age was old rules were assigned through the Jus and the religious as the Fas". First, it should be noted that – at that time – no distinction between religious and moral norms and legal, because both were considered to be the result of the same divine will, and was not content merely to express the moral and religious precepts this "voluntas Dei", imposed as "lex vitae" (life time). Then, it should be noted that in ancient times, the Romans, laws were put on a garment such as an expression of religious language and on their content. Indeed, in old age, even legal institutions, such as contracts were concluded in the form of religion. For example, they have dressed as a conventions contract was to become religious. The most important contracts in this form are sponsio (promise) and jusiurandum religious freedom (oath emancipated slaves).

Initially, and international law (jus gentium) had a religious character. We know, for example, that the Romans, international issues within the competence of the Senate and a sacerdotal college, led by Father partitas, which have an important role in cutting disputes, war, the peace treaties of alliance, as a ritual. Fetial apply the rules contained in a code of religious, just called virginity, including the first germs of international law.

A comprehensive process of decasualization Roman society, and, ipso facto, a distinction between jus and fas but was held after chase last king and the establishment – the republic, only in 509 BC. As an immediate consequence, "Pontifex Maximus" has lost much political powers. But can one speak of a so-called "cult" laws of the Romans? He also said that the Roman conception of primitive, rural and superstitious cult laws cult figure with the gods, whose benevolence was invoked for the purposes of social relations. Of course we can not speak of a cult of laws,

[9] Epistle to the Romans St. Paul, chap. 14–15, op. cit., p. 1289.

and more than a cult parallel – the laws and the gods – but only sacred laws. Character derives from the cult brought their sacred gods, who were considered the very source of law, hence the requirement of observing and applying them as divine commandments. But not to be understood that these laws brought involving a cult like the gods, and even less so to speak "cult laws" without risking a frieze of course not so much ignorance of primitive religious reality of the Romans, and especially our thinking in the area of ideological mentality, revolute, the so-called "golden age".

So, in old age, we can not speak of a so-called confusion, because, then, all divine and human laws were considered as decisive or arising from divine will, hence the common phrase at that time: "FAS East", i.e. allowed (the gods) or permitted by law. As you know, in 449 and H, have been published "tabularum leges XII" (Laws of Table XII), engraved in brass plates, they were fixed sight. So, just at this time we could speak of a distinction between what is permitted or allowed by the gods and what is not allowed by law (per legem non licet), although any act of obedience to the will of the Romanian legislature meant another submission to the will of the Deity. This should be highlighted and retained all the more since we do not know the original text of the law of the XII Tables, since we have not received, because bronze tablets were destroyed early in the fourth century, and H when Rome was burnt by the Gauls. Should also be evident and that this law on which the impressive edifice of Roman law was not repealed before. In formal terms, it has been in force since 11 centuries.

Original meaning that it expresses the concept of "lex", i.e. submission to the will of the gods, was indeed expressed and materialized by the legislature and in the era of empire (27 BC-565 AD), when at least in the principality era (27 BC and 284 AD), all power was concentrated in the hands of the king's autocratic head of state, the "Spirit" (Augustus), revered by virtue of his election by the will of the gods. In fact, during this period, although the Senate and the old magistracies survive, they are nothing but a screen behind which disguise monarchy, an institution which the Romans of yesteryear considered it – like other peoples of that time – willed by the Deity, the So where the law is dictated by the decay term was finally something divine will.

The real distinction between "FAS" and "lex", we can not just talk than the fourth century when Christianity became the religion of the Roman Empire (year 380). But the king continued to be considered "God's anointed" by the collapse of the Roman Empire, the Eastern (Byzantine), in 1453, where the idea was in fact transferred to all countries in Europe, including the Romans, and the laws have continued to be issued in the name of the Deity and the legislature, aka, king, prince, prince etc.

And even these brief details so we can see that it is improper to speak of a so-called confusion between law and morality or a breach of this confusion by spreading the two notions, "FAS" and "lex", because, on a real divorce between

sacred and profane can not speak only in modern times, but then, it was partly, and not everywhere. That he has not eaten in its entirety, we practice it today shows that the courts find in some rooms or oversea in Europe, where the oath on the Bible or in the name of the Deity is still a reality. The motto "In God We Trust" and it certifies the same faith in the Supreme Legislator! The same specialists in Roman law states that in classical texts, especially in the writings of jurist, to reflect the old confusion between law, on the one hand, morality and religion, on the other side.

First you have to mention that it is a so-called confusion between legal and moral name-religious, but a true expression of the concept of these people about the idea of law, and, ipso facto, their conception of the relationship between divine and human. In fact, the Romans thought about law, was quintessential to the nature and purpose of those Utterance law, expressed by jurisconsults in those formulas stoning and concise, unique, that true that, for them, the principles of law and morality have their common source. This fact confirms us as Celsus and Ulpianus. For Celsus, for example, that "jus et aequi facie burned east" (the right is the art of good and justice), as word has both a moral sense and legal. Also, Ulpian, Roman law principles intertwine – the utterance or define them – with the moral nature osmotic and organic way. Indeed, for him, "*Juris praecepta are haec: Vivera honest, non Laadah alter, suuiti cuique tribute*" (principles of law are these: to live in a fair, not to harm another, giving each his own).

According to specialists, the theory of Roman law in Ulpian's definition we learn that "a moral principle is put together two legal principles, for if not to hurt each other and to give what are his principles of law, honorable way to live is a moral principle". However, as can be easily found in Ulpian's definition but can not identify a moral principle, put together two legal principles, such as those claimed Romance, but three principles with a pool, and more specifically, with a moral and legal content. In fact, do harm to another is first and foremost a principle of moral law – enshrined in law and Decalogue[10] – and then saying clothed in legal principle. Also a moral principle – before one of the legal nature – is to give each what is his. That is why, in Ulpian's famous definition should see a happy expression of both principles, both legal and moral, which in time, defining the relationship between the Roman conception itself sacred and earthly, hence the requirement "*divanarum humanorum atque notes*" (knowledge of things divine and human), and, ipso facto, "what is right and what is unjust" (instant atque injustice).

Moreover, the definition of the same famous Roman jurist, Ulpian (sec. II), resulting in the most eloquent possible that the very science of law is "just atque injustice scientia" (the science of what is right and wrong). Or, to distinguish between what is right and wrong – both conceptual and factual – entails first of all to have a definite conception of what is moral and immoral, good and bad, allowed

[10] The Ten Commandments, Exodus, op. cit., p. 89.

and disallowed, etc., i.e. accordance with the precepts of the natural moral law. Here, then, that this definition of Ulpianus must remember this about organic, intrinsic, that exists between moral law and legal law, and to take into account when assessing, categorizing or judging human act, and it does not relate only in its social aspect. That even one as "political" must take into account the principles of "religious and moral law", our true even some theorists of law for which the state is "a political-territorial moral person". Of course, moral norms are not legally binding, nor operate by coercive measures (constraint). And yet, they even have a binding international law, is often observed under the pressure of public opinion. The principles of moral law actually affect all branches of international law, civil and criminal. For example, "international morality" – whatever it may be crossed religious principles (Jewish, Buddhist, Christian, Islamic, etc.) – Influence international law, meaning that more and more rules of morality and fairness, being respected by states enriched the international law, turning into its rules. "Violation of the rules of morality and justice exercise, on the contrary, a negative action on international law. Conversely, respect for international law – writes Prof. I. Diaconu – ensure the promotion of a moral element in relations between states, in which moral values, even unprotected by rules of law are respected."

Or seen in terms of human institution, the Christian Church had and has also needed – to fulfill its mission – legal rules. Therefore, means that the Church is to achieve its purpose, subject to some forms of law. "The achievement of the State on the other hand – Orthodox canonists wrote a novel, at the end of the nineteenth century – as a church and in contact with some other relationship arising again, to be determined by principles of law". But the Church is a divine-human institution, spiritual nature, its laws based on the law, have compulsory power, but not as a binding civil law. Therefore, in terms of character laws, the right church bases its moral authority on the actions, rather than coercive aspect (binding), the civil laws. Moreover, it should be noted that, in the Church, any offense shall be tried first as sin, and the gravity of his offense severity is assessed and, where so and evaluation through the Christian moral law.

As you know, in Romanian, the concept of law was – among others – and the sense of "religious belief, Christian Orthodox". In speaking Romanian, the word law was taken from the Latin word "religious", expressing – in discerning Noica given – "to bind within, by faith and conscience", which the Romans sent their by unwritten law, i.e. "moss" (usual). It is no accident that occurred when collections Nomo canon (Privilege Country), Romanians were called "divine law" or "God's law". Naturally, with such a conception of law as far as Romanians were our genuine by those who, in the era of the communist regime tried to indoctrinate them that religion is a reflection of false, distorted, fantastic natural and social reality.

Unlike the law – to ensure legal compliance, part of the law, by force of coercion – moral ensure compliance with human coexistence, usually unwritten, by custom, by secular traditions. Or, just by habit have been stated and moral relations

between people who have found their religious faith and the criterion trial support their actions. But the same Marxist theorists of religion held to teach us that, "as opposed to unscientific concepts that explain the origin and essence of morality through divine will, the spirit of absolute or eternal human nature, Marxism proved that morality is essentially social origin. Communist morality, moral working class, is – they concluded – the highest stage of moral progress of mankind".

Not long ago, a Romanian specialist in administrative law, believes, with justification, that we can not talk about "moral recovery of the country without moral recovery of government and administration, and the latter – He was remarkable – not possible without professional elite and chosen characters". Hence the expression of his conviction that those who come to law school, to study law on the city, are moral traits chosen people aware of their role in the national recovery. Here, then, theorists among Romanian law, the realization that, without moral principles, learned and applied both by the government and those who are called to share or to defend justice (justitio), we can not reach a moral recovery Romanian nation and, ipso facto, the state government.

Thus, osmotic relationship between law and morality, between what is right and what is good (good) between law and religion, etc. is proven not only the historical reality of human life, yesterday and today, as well as some theorists of law, and therefore where natural conclusion: there should be no law without morality, without affirmation of the principles of humanistic moral, healthy, which always have regard to the good, justice and equity, precious values of humanism, as they are otherwise provided by law and morality, the origin biblical Judeo-Christian, and demanded and universal human rights, rated themselves as a religion man of today and tomorrow.

We must keep our reality and extent but do not believe that the world of Romanian lawyers, will be easier to talk about law and religion, about the relationship between law and religious law and moral legal etc., Because the one-off a hostile thinking, of before December 1989, still continues to think so-called "civil law relationships and legal workers" and to believe that private property would be incompatible with public property, as otherwise required by the Constitutions of 1948 and 1952 and 1965. It is no wonder that in the 1991 Constitution, constitutional regulations on property left to be desired. Those who participated in formulating them actually admit that the text of the Constitution, "it speaks of two forms of ownership: a) private and b) public property, to which state has the same position, because the latter has the holder – justify those – whether state or administrative-territorial units".

But things have changed and new: Here, the Constitution revised, and now new Civil Code, governing for the first time public property and public property rights corresponding real prospect of Christian and moral values.

Instead of conclusions from this brief overview of the relationship between law and moral law the law, we must remember that here, in Romanian, "Romanian

law" – which make express mention Privilege Country – requires first of all observe moral and law enforcement – Christian as it was referred to the New Testament revelation. Moreover, we know that once, in the Romanian, the rulers did not have them than "God and the law", that divine law (religious – Christian), and human law, Nomo-canon (Church and State) both results, however, a synergy will (divine-human).

A secular law – national or international – which does not take into account the principles of moral law, universal, proves the authors they are telling that total divorce with their Creator, and that they departed from his mind. However, when the mind is separated from thinking of God becomes man or demon or animal. Mind, departing from thinking of God – said an anchorite of the fourth century – falls in lust and anger necessarily. And I lust animal and devilish wrath. Course, and we, today, we might ask: is sentence pronounced by a court that ignores basic principles of a moral law, unanimously, universal, and it is sometimes under the impact of this anger and alienation from God thinking?

For the principle of morality, of interiority, of Socrates once proclaimed to be the general consciousness, as needed. No doubt we have time we need for moral principles to become a civic consciousness, whose spirit to express course and city laws. Naturally, only then we can talk and a compliance and enforcement as a state and civic consciousness and legal light and religious and moral principles laid down by the sacred book of the Judeo-Christians, that the Bible – the only original text – the major European literatures have met since the dawn of their assertion, and in which our nation has found itself Romanian national consciousness awakened.[11] In the same vein are the rules of canon law, secular law of tangents, the Romanian civil law, in particular, rules compared to the presentation of which we proceed through a short trip, below.

4. ROMANIAN CIVIL AND CANON LAW

Canon law is on the scale of importance in biblical theology and dogmatic theology, because it deals with the analysis and interpretation of a phenomenon that has no need for the Church and salvation character, as we have faith. Canon law is a basic theological disciplines auxiliary part of practical theology, but also a branch of legal science, in that it deals with laws that serve the government as a religious organization. Practical theology is divided into three groups of subjects of study or theological disciplines:

– Studies show that one should know and what should be done in the Church to exercise (homiletics, catechesis and pedagogy);

[11] Nicholas V. Dura, law and religion – religious-legal norms and moral norms, material taken from the site, http://www.crestinortodox.ro/drept-bisericesc/69944-.

– Studies show you need to know and how to work for the exercise of sanctifying the church (liturgical, religious ritual and religious singing);

– Studies show you need to know and how to proceed to exercise rulers, leaders, pastoral or jurisdiction in the Church (pastoral and canon law).

Canon law itself will necessarily be primarily a theological study or discipline, and then secondly a study or a legal discipline, standing by the two aspects or two parts of its content both in legal education system, as in theological education system. Mutatis mutandis, some of the rules of canon law may also apply in secular activities, the latter being the left to reach the Divine.

5. CHRISTIAN VALUES ENSHRINED IN THE CONSTITUTION

Christianity is an essential element of European identity. Europe today faces the global economic crisis has changed the way we relate to the world financial and economic resources in general. But something has changed: the way we relate to Christian values. Economic context made it necessary to change, and change began with the EU legal regulation, a market that needed a flexible, as legislation. Change has brought new challenges. Implementation of new regulations requires a knowledge and interpretation effort, effort that is neither easy, nor free. To understand the magnitude and implications of these changes, academic forums and not only have heated debates about the role of Christian roots, of religion in contemporary society.[12]

The ratio between church and state, between Christian and European identity generated much controversy, particularly in developing a European Constitution. The preamble to the draft Treaty establishing a Constitution for Europe adopted by consensus by the European Convention on 13 June and 10 July 2003 states[13]: "drawing on the cultural heritage, religious and humanist, whose values still present in its assets, were anchored in the central role of human society and his inviolable and inalienable rights, and respect for law". The text of the preamble of the Treaty, although shy, makes a direct reference, along with cultural heritage and religious humanist values were "anchored" in society.

Subsequently, the preamble to the consolidated version Treaty on European Union and the Treaty on European Union,[14] is returning in a slightly modified form the same sentence referring to "cultural heritage, religious and humanist Europe,

[12] For historical details, see, Academician Razvan Teodorescu, *The Two Europes*, article published in the International Conference of University Titu, Bucharest, November 11 to 12, 2011, p. 14–17.

[13] Published in the preamble to the future of Europe Convention on July 18, 2003, signed in Rome on October 29, 2004.

[14] Consolidated versions of the Treaty on European Union and the Treaty on European Union and its protocols and annexes thereto, as amended by the Treaty of Lisbon signed at Lisbon on 13 December 2007 and entered into force on December 1 2009 were published successively in OJ series C no. 115 of May 9, 2008 and OJEU Series C no. 83 of 30.03.2010.

who have developed the universal values which are inviolable and inalienable rights of the person, freedom, democracy, equality and the rule of law, ... commitment to the principles of liberty, democracy and human rights and fundamental freedoms and the rule of law ... to fundamental social rights defined in the European Social Charter signed at Turin on 18 October 1961 and the Community Charter of Fundamental Social Rights of Workers in 1989".

Romania, an Orthodox Christian country with Christian roots millennia, with a society in which religious traditions have been inherited from generation to generation, preserved, even when they appear in modern conceptions of Christian values governing relations between members of society[15]. Assumption by us Romanians, but also by contemporary Christian traditions millennial Europe is, according to renowned specialist in constitutional law, a natural necessity for keeping Romanian and European identity. In this context reflection, devotion and protection of Christian values in the Constitution or national. Whether Europe is a goal not only necessary but also mandatory. Portrayed arguments to join the opinion expressed, as in 1884 and today, development and adoption of Romania's legal codes marked by political and historical imperatives dictated by modern state-building, making legislative unification or change of political regimes and socio-economic systems. In this process, most times, science was not called upon to contribute to identification, and reserving the mission, modest and undeserved, to intervene a posteriori by analyzing its results and reveal imperfections detected, corresponding to amend. Of course, with huge costs, perception and history stated scale.

Calling into doubt the validity of such practices, their causes and justifications, and considering that the time has come for the abandonment issue properly promote a partnership between Christian values and coding, we propose a complex debate on this issue, given that no such phenomenon has a decisive role in the modernization, Europeanization and globalization of law. And the more so as, after the experience to achieve the set of the four traditional codes – civil, civil procedure, criminal law and criminal procedure – stated, unfortunately, the same general perspective, concerns regarding develops and manifests itself in new areas such as administrative law, environmental law, intellectual property, the right planning, etc. judiciary. We aim also to redefine the Quadratic Trinomial by Grouping Christian values – science-coding as new crystallization conditions, marked by globalization, by uniformity, scientia and technical formulation, and hope that in practice, will be given due weight. Especially since, here twenty years have passed since the overthrow in 1989, just peace and quiet during the two world wars that started in Europe (1919–1939), time of restlessness and searching for a better world and more just, both for Europeans, but especially for Romanians try hard history.

[15] Valentin Zoltan Puscas, *op. cit.*, p. 1.

What actually understand the Christian values?[16] It is difficult to give a comprehensive definition in this regard. Christian values are found in the Bible and have very wide area coverage. By analyzing the expression we find that the value is the acquisition of things, facts, ideas and events to meet social needs and ideals generated by them and the Latin Christian cristianus is something that comes from Christ[17]. Based on this analysis, the author asserts, without claiming accuracy, that value is a Christian idea, an ideal, which comes from Christ through the teachings of the Bible.

In terms of the Constitution, can be analyzed, especially those Christian values which govern the general relations of human society. Pope John Paul II – century, the message "Towards a European Constitution" addressed participants at the Conference in Rome in June 2002, proposed to the European Constitution following Christian values: sacritatea human life, human dignity, the role of the family based on marriage, the importance education, freedom of conscience and expression, freedom of belief and the exercise of religion, legal protection of individual and community, society collaboration for the common good (*bonum commune*), work – individual and social value, political power – public service.

A brief overview of these values, we offer a vast array comprising largely the rights and freedoms enshrined in the Universal Declaration of Human Rights and national constitutions of democratic countries. Hence a question, at least natural. If however these values mostly appear in national constitutions, international conventions, but to some extent and in the draft Treaty establishing a Constitution for Europe, why are not recognized universally as Christian values? The answer is very difficult and requires a scroll historical development of human society, and especially the church's role in European history.

The values quoted in the message of Pope John Paul II – century, Christian historical roots, and throughout history have been taken over by current diverse humanistic, secular democratic movements and institutions. Right now is based on three pillars, Athens, Rome and Jerusalem and what is important, in our opinion, is the exercise, using these values respect and value the most important Christian commandment – love for man, love of neighbor. Religious faith, God, Christian traditional values are present in national constitutions since the beginning of their occurrence. Thus, the U.S. constitution – adopted on 17 September 1787 in its preamble makes reference to Christian values like "justice settlement", "promote the general welfare" or "securing the blessings of liberty" that is enacted and promulgated the "We the people Member united".

[16] According to Dex online, acquiring things, facts, ideas, events correspond to social needs and ideals generated by them; amount qualities that give value to an object, a being, a phenomenon so., Importance, importance, merit. Instead. adj. Value: a) (things) precious, precious, valuable, valuable, b) (of people) important, worthy, authoritative, valuable. Expression. To remove (or make) the value = to show, demonstrate the importance, the essential qualities of a being, of a work of a phenomenon so.; To emphasize, emphasize. Specifically, what is important, valuable, worthy of appreciation, esteem (in terms of material, social, moral, etc.).

[17] Valentin Zoltan Puscas, *op. cit.*, p. 4.

The text of the Constitution is not, in his first editorial, any reference to freedom of religion or speech, but the first amendment to the Constitution, in 1791, introduces an article which forbids Congress to enact legislation that would be prohibited to establish a religious cult or be prevented or restricted religious freedom of expression.

As I mentioned, the national constitutions of democratic countries devote major traditional Christian values, without making direct reference to God or Christian origin of those values. This fact does not diminish the importance of the consecration of these values. There are however, several national constitutions that make direct reference to God or Christian traditions.

An example of this is the Constitution of Poland of 2 April 1997 in its preamble states: "We – the Polish nation – all citizens who believe in God as the source of truth, justice, goodness and beauty, but also those who are not believers, but respect these universal values." Constitution of the Federal Republic of Germany (Bonn 1949) in the preamble is the following: "In the fullness of responsibility before God and the citizen." Similarly, the Greek Constitution (1975) in art. III of the preamble states that "state religion in Greece is Orthodox religion .... Head of the church is Jesus Christ". Constitution of Ireland (1937) includes text like "On behalf of Holy Trinity, humbly acknowledging our obligations to our Lord, Jesus Christ". We continue with examples of texts of the Constitution of Canada 1982 – "Canada is based on the principles of supremacy of God and ask recognize the force of law", the Hungarian Constitution requires states in the preamble "We the members of the National Assembly, which we believe is the Holy God, creator of history" national constitutions or in Sweden, Norway, Lichtenstein, Malta where God's name appears as.

In the Constitution, the word God appears in the text of art. 82 – Oath of the President of Romania – the phrase "So help me God". Without doing an analysis of the text oath President-elect and validated by the Constitutional Court, we can ask rhetorically, how it will do if elected President of Romania shall be validated an atheist? References to God in the Romanian legislation are also found in civil and criminal procedure codes with the same content, regulating the oath of witnesses.

ECHR Decision of 18 March 2011 in Case *Lautsi* and Others v. Italy[18], regarding the exposure of crucifixes in public schools, the Grand Chamber of European Court

[18] Retrieved http://www.mae.ro/node/7920 site. In this case, Romania intervened to criticize the initial decision of the Court (of 3 November 2009), which finds infringement to education and freedom of thought, conscience and religion, as a result of exposure required to crucifixes in classrooms public schools. In its observations, the Romanian Government stressed that the presence of religious symbols in schools is a sensitive issue, where the need arises to recognize states broad discretion in this area, the principle was not taken into account. Government of Romania considered that recommendation the Italian State for the purposes of removal of religious symbols in public schools could violate their duty of neutrality of the state, equivalent to suppressing the manifestation of religious beliefs of some of its citizens. Also, the Romanian Government emphasized that since the exposure of a religious symbol is associated with certain school obligations of religion, it does not place religious feelings reach a degree sufficient for a finding of serious breach of Convention invoked.

of Human Rights found that their presence in public schools does not lead to violation of the right to education, guaranteed by Article 2 of Protocol no. 1, does not affect human rights is categorized as a victory for the recognition of European Christian roots and traditions. However, the Grand Chamber considered that no separate issue arises in the freedom of thought, conscience and religion guaranteed by Article 9 of the Convention. To issue its ruling, the Court, in agreement with observations made by the Romanian Government had in mind that states enjoy a broad discretion in balancing the tasks undertaken by them in education, the right of parents as children's education them to make in accordance with their religious and philosophical beliefs. In this regard, the Court stated that respect the decisions they take states in this area, provided that such measures are not taken to a form of indoctrination. In addition, given the place they occupy mainly a particular religion in a country's history; the Court noted that granting a larger space this religion in school curricula can not be considered a form of indoctrination. In addition, it was noted that there are indications that national authorities would have shown students who were intolerant to other religious beliefs, compared to atheists or philosophical beliefs students who were unrelated to any religion. The Court also based its decision on the fact that the applicant, as a parent, kept intact the right to educate their children according to his own philosophical beliefs.

A similar decision was adopted by the Constitutional Court of Austria held that "the presence of Christian symbols in schools does not violate the Constitution means the country".

Looking at the consecration of Christian values proposed by Pope John Paul II to the Constitution century, we find that the main Christian values are present in our constitution. Thus, in art. para. 3 is establishes the: Romania is the rule of law, democratic and social, in which human dignity, rights and freedoms, free development of human personality, justice and political pluralism represent supreme values, in the spirit of the democratic traditions of the Romanian people and ideals of the Revolution in December 1989, and are guaranteed. "In this text we find Christian values such as human dignity, free development of human personality, justice. Ferenda law, in full agreement with the author cited above, the possible revision of the Constitution, proposed to the text, along with democratic traditions and "Christian roots and traditions".

In the analysis, in art. 4.1 states that "The state is founded on Roman unity and solidarity of its citizens". Consecration of the welfare state and its citizens show solidarity Christian spirit of the Romanian Constitution, providing for the welfare of society collaboration community of the people. For us, solidarity is the best way to overcome all conflicts of interests in society. Giving up the political, economic, social, individualistic and patronage in favor of large projects around the world – poverty eradication, environmental protection, fight against terrorism, etc. – Requires solidarity and the world when such an approach requires both citizens, and especially, the liability policy makers, civic or economic destiny directs

mankind. Everyone must be concentrated and focused on solving these problems, to humanize the abstract notion of solidarity and to bring immediate reality of relations between people.

Solidarity is the practical expression of a universal humanism and European and global dimension, where each of us in this world, forces us to rethink how we understand, lately, to be united[19]. Solidarity means awareness of the interdependence between people and between human communities. Whatever happens will be a person in one way or another, impact on others. Solidarity is above all, in protecting the weakest in our own family, community, national, and worldwide. Affirming the unity of humanity, in time and space, we see not only horizontal solidarity between the generations now living beings, but also vertically, by taking into account the legitimate interests of future generations and respect for the created world.

Solidarity we must protect each of us the risks of life: war, natural disasters or human, terrorism, poverty, sickness, disability, unemployment, etc. Defending solidarity and generosity, we build a world where every citizen to be protected and to find the place. Social cohesion is built on solidarity.

Sacrit of human life, first proposed by Pope John Paul II century, finds its consecration in the Constitution by the provisions of art. 22, "The right to life and physical and mental integrity" of art. 34 "The right to health", art. 35 "The right to a healthy environment", art. "The standard of living".

Protection of family, marriage as a basic instrument of the founding family are great values in Romanian society and regulation as both the Constitution and the new Civil Code (art. 271) which is based on Christian values, provides: " Marriage is between man and woman with free consent and their staff. "On this issue we will return below, the ranks for the analysis of Christian values in the new Civil Code.

Article 49, protection of children and young people, is another provision with a particular Christian value by establishing a special protection for children and youth, and by enshrining the protection of individuals with disabilities, the norm contained in art. 50, Constitution, based on human life and human dignity protects the core values of Christianity. Also, education, value of the highest importance to the Christian roots, with access to culture, is some of the fundamental human rights.

Freedom of religion guarantees in addition to freedom of thought and religious belief and religious autonomy from the state, their organization based on its statutes (Article 29), inviolability and freedom of expression shows expression of thoughts, opinions and faith in our country. Finally, as the power to act in the public service is not only a Christian vision, and given command of our fundamental law finds its consecration express constitutional provisions of art. 69 para. 1: "In exercising their mandate Deputies and senators are designed to serve the people."

[19] Valentin-Stelian Bădescu, *Humanization of humanitarian law*, CH Beck Publishing, Bucharest, 2007, p. 3.

In this brief analysis of the Romanian Constitution, reported the most important Christian values, which should be found and a possible future Constitution (Treaty or what will be called) to Europe, I tried to evoke that, while in Europe are endless debates on this issue, our fundamental law, even if not explicit textual references to the roots, traditions and Christian values, enshrines the religious headquarters for the benefit of Romanian society[20]. But not only our law enshrines fundamental Christian values, but our new Civil Code, through many civil institutions, the example of grace, art. 61: One that "human interest and good must prevail over the sole interest of society or science" that would make jealous even enlightened, but time and space considerations, we will still only institution of marriage.

6. MARRIAGE – LEGAL INSTITUTION AND CHRISTIAN VALUE ENSHRINED IN THE NEW CIVIL CODE

Civil Code is one of the fundamental legal acts of any legal system, a law that orders the perennial values of a society – relationships, family, wealth, goods flow – and that is why it is characterized by stability. However, improving the standards of civil law in recent years has been a constant concern; such a major scientific approach is accelerated deep transformations of the Romanian society in the context of contemporary European values assimilation and ideological concepts established permanent evolution. That is, the work of harmonizing national legislation with the recent reform of legal systems inspired French Napoleonic Civil Code and the very dynamic social relations require rethinking some of the general principles of civil and commercial protection of new socio-moral values, cultural, economic and technical-scientific[21]. As regards marriage as absolute novelty, were regulated in the new Civil Code:

– Institution of engagement, the conditions for completing the engagement are, in principle, similar to those required for marriage, except medical opinion and approval by the administrative data, no particular formalities are provided, special, for engagement, it can be proven by any means sample, return gifts made in consideration of engagement and sanction abusive breaking it;

– Choice of matrimonial regime, for the first time after 1954 spouses are given a choice between community legal regime, the conventional community and the separation of goods, unlike the previous regulation, those who wish to apply the legal community may conclude agreements dating, to be authenticated and to be binding on third parties, will be entered in the National Register of matrimonial regimes (at spouses, conventions can be noted in the land register or trade register, as advertising and other records required by law);

[20] Valentin Zoltan Puscas, *op. cit.*, p. 7.

[21] Government Decision no. 277/2009 for prior approval of Theses Project Civil Code published in Official Gazette no. 213/02.04.2009.

– General economic effects are regulated marriage (so-called primary treatment imperative), such as those regarding the family home, which has an identical system, regardless of the matrimonial regime chosen by the spouses;

– Under the regime of separation of property, each spouse is exclusive owner of property acquired before marriage and those that acquired its name after that date;

– During the regime of the community, common property can be shared without restriction, matrimonial regime may be modified either by conventional or judicially;

– Was introduced divorce by administrative institution, the power delivery it will belong to the civil status officer at the last marriage or common dwelling spouses?

In agreement with the importance given to marriage and consensus about marriage, it was defined in the most complete by the Romans, as follows: "*Nuptiae are conjunctio Maris et feminae OMNIS consortium vitae, divine action Humani juris communicatio*". (Marriage is man and woman relationship by accompanying his life and to share each other divine and human rights. From this definition, which belongs to the Roman jurisconsults Herenius Modestinus dating from the third century and the Church endorsed a in his time as a whole, we see that the act of marriage is based on a natural connection established – by agreement – between a man and a woman for their accompaniment for life and to share with one another is made of those rights were established both by human will and divine will. These Christian values are found in the rules of our new Civil Code, is exactly what has art. 266 paragraph (5) "Engagement may be terminated only between man and woman" and Article 271 "Marriage is between man and woman by the free consent of those" in the new Civil Code[22].

The definition thus includes both natural common element of consensus, and religious or supernatural element, which seals and holy strengthening the consensus and thereby ensure – and divine will and work – accompanying the mutual sharing of life and not only the rights human and the divine but, that is, those that provide religious belief, and if Christian marriage, sharing the grace we intercede Holy Sacrament of marriage.

But not only Roman law but all laws or old and new systems of law have paid special attention to marriage for her with an act that has a special significance that is a natural and other religious or supernatural, as a means ensure both by natural laws, as Handy as the divine life perpetuating the human race.

According to Article 258 of the new Civil Code, the family founded on marriage between spouses freely consented (by spouses understanding man and woman united by marriage), the equality of both spouses and the right and duty of parents to ensure growth and educate their children. The family is entitled to

[22] Ioan N. Floca, *Orthodox Canon Law*, Volume II, Mission Bible Institute and the Romanian Orthodox Church, Bucharest, 1990, p. 68.

protection by society and the state, the latter being obliged to support economic and social measures, marriage and family development and consolidation.

According to Article 259 of the new Civil Code, marriage is the union of freely between a man and a woman, done in the law. Men and women have the right to marry in order to found a family. Religious celebration of marriage may be made only after civil marriage. In connection with such marriage understood as a monogamous relation, which corresponds in the most complete human nature and purpose of human life, the Church has planted a number of ordinances, some of which took them from Roman law, and on others they has forged itself. From these rules, those that primarily concern us are those with legal, regulating the conditions that must first meet someone for marriage, then how the marriage ends, either the right or by completion prior to engagement, relations between spouses, seen in side mutual rights and duties, that new social and religious unity that is created by marriage: the family, which determines the rights and duties of family relations, that is not only relations between spouses, but also established between all other possible members of the family and between parents and children first, and finally, a category of special rules regarding the termination of marriage, either naturally or through separation or divorce.

Conditions to be met by candidates for marriage can be divided into four categories: religious, moral, physical, social. We will analyze the religious conditions, which constitute the subject matter of canon law, we will focus on the other, using for this purpose a comparative analysis. Thus, the main moral conditions must be met are:

– Be aware, that minded and responsible;

– Have the power to consent freely or to give consent freely to marriage, it is not prejudiced by anything;

– To be moral, that have not committed serious acts that would disqualify the moral point of view, showing him unable or unworthy in this report to the marriage;

– Persons not related by kinship morality in grades in which marriage is allowed (i.e. not related by adoption or adoption, or through guardianship);

– Have dispensed with such obstacles if possible.

The main physical conditions to be met by candidates for marriage:

– Not of the same sex and physical health have tributary;

– Have physical integrity requires that marital cohabitation and marriage purposes;

– Have established that increased marital age, i.e. age laws which establish state and the church so that one can enter into marriage;

– People have the physical capacity to carry out the duties of conjugal that may not be deprived of this because of disability potency;

– Be physically present at the marriage, and the administration of sacred mystery of marriage;

– There is no physical relationship with each link, i.e. causerie blood or in such a degree that it allows marriage Church;

– Have dispensed with such obstacles if possible.

Besides the moral and physical conditions, recipients sacred mystery of marriage and must meet certain social conditions such as:

a) Be citizens of the state who want to enter marriage and have free exercise of civil rights, not hit by any prohibition;

b) Have full social freedom, not being in prison or in such situations they can not take their own decision to marry or can not carry out without prior approval of others who depend;

c) have the approval of higher authority or competent authorities, when such approval is required for persons in special situations or in terms of social freedom, either in the same profession or duties (bishop's blessing for the candidate to ordination);

d) To enter into marriage prior and present its evidence;

e) To be needed in cases dispensations necessary and possible.

The same conditions must be met and to end the engagement. The latter was allowed minors even without such permission to engage the respective indulgence before marriage increased.

In view of the new Civil Code, Christian values mentioned above (the moral, physical and social) are so-called background conditions that must be met to conclude a valid marriage. Thus, marriage is between man and woman with free consent and their staff (art. 271) and only if the future spouses have reached the age of 18 years (art. 272).[23] For good reasons, the minor who has attained the age of 16 can marry under a medical opinion, with the consent of his parents or, where applicable, the guardian, and authorized the guardianship court in whose jurisdiction the minor resides. If one parent refuses to approve the marriage, guardianship court and decides on the discrepancies, given the interests of the child. If one parent is deceased or is unable to manifest the will, consent of the other parent is sufficient. Also, according to art. 398, parent consent is sufficient parental authority. If there is no parent or guardian can approve the marriage, the need for a declaration that the person or authority was empowered to exercise their parental rights.

Another major issue in terms of circumscribed approach in title of the article seem to be causes marriage ban, especially on the family as impediment to marriage. Impediments to marriage are missing the necessary conditions for marriage and the principle is about:

– Kinship to those who wish to marry;

– Lack of free consent, and the moral and physical characteristics necessary for marriage;

[23] I. N. Floca, *op. cit.*, p. 83.

– Marital status of either (engaged, married);

– Lack of necessary and possible to obtain exemptions in specific cases.

Acts causing or are to be born is the act of assisting or religious affinity to baptism by keeping the nose that will be baptized and which is called fine and assisting the marriage act from one or from several persons, a pairs which is officiating the wedding, and acts which cause or are taking birth kinship guardianship or kinship morality are act of adoption and engagement. From the physical act of birth is born of blood kinship itself, and the physical act of marriage, called a brother is born for causerie or relatives.

Rules related to impediments to marriage were originally inherited from Jewish law and Roman law then ran – including their family relationships and family – all Christians of the first centuries. Holy Apostles have established some new rules based on religious grounds, which were later supplemented and amplified by both customary and regulation canonical path.

Along with religious and customary law adopted in respect of impediments to marriage based on kinship, it was also come with some state laws in this regard. Adapted and adopted in various regions and historical stages, the example grace, now, the new Romanian Civil Code, under which marriage is prohibited:

– The person who is already married (art. 273);

– Between relatives in a straight line and between the collateral line to the fourth degree inclusive (art. 274). For good reasons, marriage between relatives in the collateral line of the fourth degree may be authorized by the guardianship court in whose district he resides at the required permission. The court may decide on a special medical opinion given in this respect. These provisions are applicable in the case of adoptive kinship:

– Between tutor and minors who are under the tutelage (art. 275);

– To derangement and mental impairment (art. 276);

– Between persons of the same sex (art. 277). Same-sex marriages concluded or abroad or Romanian citizens or foreign citizens are not recognized in Romania. It should be noted that no civil partnerships between persons of the opposite sex or same sex be concluded or Romanian citizens abroad or foreign citizens are not recognized in Romania.

It goes without saying that some of these impediments, if are the closest kinship, they not only detrimental to marriage and family, but are real diseases that are transmitted and lead to illness or demolition of the institution of marriage and family and thereby undermining the very life of the church as a social life in general. These consequences are added specifically that very seriously both physically and in terms of moral and religious, which is the physical degeneration of both spouses are close blood relatives and children who would bear of such marriages.

Concerned by the same considerations, and the State took care of old times to ensure physical health, moral and even religious marriage and family, not only by establishing special conditions for this purpose, but also by setting obstacles to end

those marriages for which main husbands do not meet the conditions of physical, moral and religious.

Comparative Analysis of Christian values enshrined in the new Civil Code as family law rules could be extended on other family law legal institutions such as the end and break the engagement, the formalities for marriage, nullity of marriage, rights and Personal duties of spouses, property rights and obligations of spouses, family home, expenses and divorce, etc. Appreciate, but even that only in terms of symmetry, to evoke the canonical principles relating to dissolution of marriage, specifically the reasons for divorce.

Church law and practice of church life that never did set a definite or precise list of reasons for divorce. She turned in assessing grounds for divorce in the first place after his religious rules and then by the rules set by the state in different times, for the acceptance of divorce. First, the Church allowed divorce for one reason, namely to that which it considers as such and Savior himself: namely adultery. If his divorce do not experience any weight or resistance from church authority. For other reasons but which could be anything serious, the Church always opposed divorce, taking the durability of marriage, after word of the Lord that "what God has joined together, let man not separate, and known as the Apostle Paul Utterance"[24] legato you have with the woman, not seeking separation, "and then" the married, not I, but God commands, she must not divorce her husband"[25].

In principle, the Church is against divorce in that divorce is not considered a normal and positive act by which the individual lives, the social and religious believers to be helped in any way, but it is a negative act, which cause much suffering and shortcomings of all human life, viewed as a whole, and call that individual aspect and social aspect[26].

But when maintaining a marriage is no longer possible because of serious, I can no longer be provided no natural order, even the religious marriage, but on the contrary, because it causes serious or persistent inability to passes over them, continuing marriage is dangerous for the life of spouses, children, society and their religious faith and their salvation default, then the Church is forced to admit the separation of marriage to avoid a greater evil than he who reached by causes that require such separation. But how they did the Church intends to do to regulate the issue of divorce, not facilitated and does not intend to facilitate or encourage divorce, which in some periods is a true social scourge, undermining the common life and religious people. In such circumstances the Church just as the phenomenon of healing a disease that seeks to take care with all the positive factors of society. But since such diseases, as all others are determined by laws that are not mastered and not to direct the Church, they appear regularly as a result of war or human degeneration. Of course the Church is obliged to be concerned and removing the

[24] First Epistle to the Corinthians the Apostle Paul, I Corinthians, 7: 27, p. 1299.
[25] Matthew, ch. 19, 6, p. 1120.
[26] *Ibid.*, p. 99.

causes of the disease, acting either through its own or in collaboration with the forces of positive and healthy did each company and every time. How? Not only legal rules, since we live today is hard and critical, we as a country with a dire economic crisis creates uncertainty and fear of many. We do not know what lies in tomorrow. Our country seems to be no longer free, but in fact is run by our lenders.

It is true that what happens in our country is unprecedented and shocking. Spiritual crisis, social and economic goes hand in hand with the overthrow of all natures. It's about trying grounds uprooted and destroyed many traditions which until now were considered self-evident to life in our area. In terms of office operates a reversal of the data and rights, of course with a clear argument: these measures ask our creditors under whose occupation we are and who's we execute orders, commands our heads-debtors. The question that arises is whether their requests concerning economic matters and insurance only or also cover spiritual and cultural physiognomy of our country.

Faced with this situation any rational man asks why I did not take these drastic measures earlier, which today are characterized as necessary. Why have not changed their time these pathogens society and economy that today carry out in a brutal way? People on the political scene in our country are, for two decades, the same. Then counted as political cost, knowing that lead the country to catastrophe, and now they feel safe, because it acts on the position of those who give the orders? Radical upheavals that occur before the revolt throughout Romania, and today they require almost no opposition.

Our economic crisis in very simple words is due to the difference between production and consumption. Between the slow pace of production that we achieve the high level of life and we learned to live. When what is consumed is much higher than what is produced, the economic balance tilts towards the costs. Our country, to meet, is forced to borrow in the hope that it will rebalance the disturbed balance. When this happens but do not require return and borrowers loans plus interest, to reach crisis and bankruptcy.

Economic crisis dominates our country that struggles and is not only the tip of the iceberg. Stems and fruit of another crisis, the spiritual. Disproportion between production and consumption but not only has an economic dimension, but primarily is a spiritual fact. It is indicative of spiritual crisis, which concerns the country's leadership and people. A leadership that could not have a responsible attitude towards people who could not or would not speak the language of truth, which promoted false models, which has cultivated clientele, and only for that aimed holding power. A leadership which in practice proves that undermined the real interests of the country and the people.

And on the other hand, a people, i.e. us, we carried irresponsible. We have left welfare prey, easy enrichment and good living; we walked easily gain and deception. We have not questioned the truth of things. Arbitrary claim of rights by guilds and social groups, with a complete disregard of social cohesion, contributed greatly to the situation today. And not only that.

But analysis of the current crisis in Europe and Romania is our approach to crisis and opportunity could be the reason other studies of other renowned experts in the field, we made the short trip only a desire to reveal that even when the best intentions are encumbered by economic deprivation can become just utopia. With hope that these lines were not only opportunity for reflection, but also deserved criticism, please do not hesitate to bring them the benefit of each and all.

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