DOI: 10.47743/ejpar.2023-2-7

CONSIDERATIONS REGARDING THE INFLUENCE OF THE JURISPRUDENCE ON THE LAW NO. 31/1990 ON COMPANIES

CRINA MIHAELA VERGA
George Bacovia University of Bacău
Bacău, Romania
Alexandru Ioan Cuza University of Iași
Iași Romania
crina_verga2000@yahoo.com

Abstract
In Romania, Law no. 31/1990 constitutes the key legislative framework for companies, which contains legal provisions regarding their establishment, organization, operation, dissolution. This law underwent multiple changes, which occurred either because of the activity of the ordinary or secondary legislator, or as a consequence of the pronouncement of some court decisions on the matter.
After a general presentation of Law no. 31/1990, some decisions of the High Court of Cassation and Justice and of the Constitutional Court are commented, then, in detail, emphasizing their impact on the studied field.
Through the prism of the aspects examined, we believe that the present study is of real use both to researchers in the field, to the legislator, and especially to the courts, which effectively interpret and apply the legal norms of Law no. 31/1990.
Keywords: *societies, legislation, jurisprudence, Romania.*
JEL Classification: N44

1. INTRODUCTORY CONSIDERATIONS

The law no. 31/1990 represents the basic legislative framework regarding the legal regime of companies, which refers to their constitution, organization, operation, dissolution. Some changes occurred in the content of this law were the consequence of the pronouncement of some significant court decisions in the field.

In the present study, some relevant decisions of the High Court of Cassation and Justice, pronounced either in the resolution of the appeal in the interest of the law, or to solve some legal issues, are analysed in detail; in this way, it was aimed to achieve a uniform and unitary interpretation of the legal norms contained in Law no. 31/1990, in order to give more coherence and clarity to the regulations on the matter. Also, a decision of the Constitutional Court is taken into account, by which it removed from the normative field a provision of Law no. 31/1990, which did not allow the decisions of the board of directors or the directorate to increase the share capital to be appealed in court.

2. GENERAL ASPECTS REGARDING THE LAW NO. 31/1990

The law no. 31/1990 does not provide a definition of companies, but the doctrine explained and developed this concept. It is necessary to mention that the notion of society has a double meaning. In a first sense, it represents a distinct legal subject, which acquires legal personality from the moment of its registration in the Trade Register, "a grouping of persons and capitals, constituted for profit" (Nasz, 2019, p. 11), which arises through a company contract and which contains three essential elements: the obligation assumed by each partner to pool a patrimonial value (the contribution); the intention to jointly carry out an activity that is the object of the company; the participation of all associates in the achievement and sharing of benefits. In the same sense, the company is "the legal form of exploitation of an economic enterprise"(Cărpenaru, 2019, p. 118), "a merchant, which is established as such, in order to carry out acts of commerce" (Cărpenaru, Piperea, David, 2002, p. 8). It was also stated that the companies are professionals, within the meaning of art. 3 of the Civil Code, to whom the provisions of the Civil Code relating to the obligations generated by the operation of the enterprise whose owner is the company are directly applied (Cărpenaru, Piperea, David, 2014, p. 2).

In another sense, according to art. 1881 of the Civil Code, the company is a contract, by which "two or more persons oblige each other to cooperate for the performance of an activity and to contribute to it through monetary contributions, in goods, in specific knowledge or benefits, with the aim of sharing the benefits of using the economy that could result. Each partner contributes to bearing the losses in proportion to their participation in the distribution of the benefit, if the contract has not been established otherwise. The company can be established with or without legal personality" (Șandru, 2017, pp. 18-19). From this definition, the legal literature has systematized the defining elements, as well as the legal characters of a company contract (Tofan, Popescu, Grădinaru, 2021, pp. 138-139; pp. 252-253; Cărpenaru, 2019, pp. 118-120; Cadariu-Lungu, 2014, pp.18-28).

The law no. 31/1990 is structured in titles. The first of these concerns general aspects of companies. In this sense, five types of companies are established: the Romanian Collective-Name Company (SNC company), the Romanian "sleeping partnership company" (SCS company), the Romanian "partnership limited by shares company" (SCA company), the Romanian joint-stock company (SA company) and the Romanian limited liability company (SRL company). On the one hand, they have a distinct legal regime, which determines, for each, a series of benefits and risks. On the other hand, they share some common characteristics. Thus, the method of setting up companies is relatively similar, with certain differences, which are not significant. Also, all companies can have associates or shareholders, as natural persons, but who do not acquire the quality of business professionals. The share capital can take the form of

contributions in cash or goods and can be deposited or constituted by associates or shareholders. At the same time, the share capital cannot be financed from the non-refundable funds granted through European projects.

It is necessary to mention, in this context, the European company (SE), which can be constituted, in the form of a joint-stock company (SA), according to the Law no. 31/1990, the Government Decision no. 187/2007, the Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE), the Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies, the Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law.

It is necessary to specify the fact that national societies, national companies and commercial companies with majority state capital benefit from a derogatory legal regime from Law no. 31/1990, which is established by the Government's Emergency Ordinance no. 8/2003, which aims at the process of restructuring, reorganization and privatization of such legal entities.

Title II of Law no. 31/1990 refers to the establishment of companies and it addresses issues related to: the company's constitutive act; the specific formalities for the establishment of the joint-stock company by public subscription; the registration of the company; the effects of violating the legal requirements for establishing the company; some procedural rules.

Title III of the law in question includes legal regulations regarding the functioning of companies, and the next title refers to the amendment of the constitutive act. Title V covers the exclusion and withdrawal of associates, and Title VI deals with the dissolution, merger and division of companies. Title VII addresses the issue of liquidation of companies, and Title VII[1] contains provisions regarding the European company.

Title VIII enshrines contraventions and crimes. Rightfully so, in the legal literature (Hotca, 2019, p. 11) it was appreciated that the rules of incrimination contained in the Law no. 31/1990 has special (derogatory) incrimination rules, as compared to those existing in the Criminal Code [art. 295 (embezzlement), art. 297 (abuse of service) etc.], because they have priority, unless the punishment of the Criminal Code is more severe, according to the art. 281 of Law no. 31/1990.

The last title contains final and transitory provisions.

3. THE ROLE OF JURISPRUDENCE ON THE ANALYZED LEGISLATION

The influence of judicial practice on the analyzed field was essential in establishing a unitary meaning to various legal regulations, which were often interpreted and applied differently by the courts. Also, the existence of some imperfections of the law in question determined the expression of divergent

points of view of the judges related to the solutions adopted by them regarding the actual implementation of the examined provisions.

3.1. Decision of the High Court of Cassation and Justice no. 22 of June 12, 2006 for the resolution of the appeal in the interest of the law

The High Court of Cassation and Justice, constituted in United Sections, met to examine the appeal in the interest of the law, declared by the general prosecutor of the Public Prosecutor's Office attached to the High Court of Cassation and Justice, who requests the admission of the appeal and the establishment by the supreme court that the requests for authorization of the establishment and the registration of consultancy, assistance and legal representation companies are inadmissible.

In judicial practice, it was found that there is no unified point of view regarding the application of the provisions of art. 46 para. (1) from Law no. 31/1990 amended. In this sense, some courts accepted the requests made by legal advisers, authorized the establishment, and ordered the registration in the Trade Register of some companies whose sole object of activity is the carrying out of legal activities consisting of assistance, consultancy, legal representation and drafting of legal documents. These courts considered that the provisions of art. 21 of the Statute of the profession of legal advisor allow, pursuant to Law no. 31/1990, the establishment of legal entities, with the character of a professional society, by one or more legal advisors, entered in the tables kept by the territorial colleges.

Other courts rejected such requests, reasoning that, according to the provisions of art. 3 and 4 of the Commercial Code, by which commercial acts are defined, legal activities do not constitute commercial acts or facts. Also, the Law no. 514/2003 on the organization and exercise of the profession of legal advisor does not provide for the possibility of establishing legal advisors in commercial companies. Therefore, the art. 21 of the Statute of the profession of legal advisor is in contradiction with the disposions of Law no. 514/2003.

The law no. 514/2003 does not contain any rule that allows the association of legal advisors in commercial companies with the purpose of carrying out legal activities of the nature mentioned, the only form of association allowed being regulated by art. 5, according to which "legal advisors can form professional associations for the purpose of defending and promoting professional interests, under the conditions of the law on the association and establishment of legal entities"; this latter form of association can only be achieved in compliance with Government Ordinance no. 26/2000 on associations and foundations.

The article 21 of the Statute of the profession of legal adviser, adopted by the Extraordinary Congress of the Colleges of Legal Advisers in Romania on

March 10, 2004, contravenes the provisions of the Law no. 514/2003, as well as the provisions of the Law no. 31/1990, according to which legal consulting and legal representation activities are not considered commercial acts or facts. The previously mentioned Art. 21 also violates the imperative norms provided by Art. 67-81 of the Civil Procedure Code, which concern the representation of parties in court and legal assistance.

Consequently, the High Court of Cassation and Justice established that, in relation to the provisions of art. 46 para. (1) from the Law no. 31/1990, republished, with subsequent amendments and additions, the requests for authorization of the establishment and registration of commercial companies for consultancy, assistance and legal representation are inadmissible.

3.2. Decision of the Constitutional Court no. 382/2018 regarding the exception of unconstitutionality of the provisions of art. 114 paragraph (3) of Law no. 31/1990

The Constanța Court of Appeal - Second Civil, Administrative and Fiscal Litigation Section and the Constanța Court - Second Civil Section notified the Constitutional Court with the exception of the unconstitutionality of the provisions of art. 114 paragraph (3) of the Companies Law no. 31/1990. This exception was raised by Dragoș Băldescu, Mariana Georgescu and Paul-Alexandru Băldescu, in cases that had as their object the settlement of appeals filed against the decisions of the court, through which the requests for annulment of some decisions of the board of directors, by which it was decided to increase the share capital, were rejected, as inadmissible, as well as the settlement of the action for the annulment of a decisions of the general meeting of shareholders.

The Court found that, although the three constitutive elements of a joint-stock company (the registered office, the object of activity, the increase of the share capital) have the same regime in terms of their establishment and modification, the legislator regulated, by art. 114 para. (3) from Law no. 31/1990, a distinct legal regime regarding the possibility of challenging them in court. Thus, only the decisions of the board of directors/directorate given in the execution of the decisions of the general meeting of shareholders delegating the attributions to change the registered office and the secondary object of activity can form the object of the annulment action. Therefore, the exclusion from judicial control of the decisions of the board of directors or directorate to increase the share capital means the impossibility of a court verifying the fulfilment of the conditions provided for by law by a constitutive act. Thus, the legislative solution established by the provisions of art. 114 paragraph (3) of Law no. 31/1990 is likely to affect the substance of the right of free access to justice, established by the art. 21 of the Romanian Constitution.

The Court ruled that the criticized legal text does not establish limitations or conditions of the right of free access to justice, aspects compatibles, in principle,

with its intrinsic requirements, but refuses the benefit of this fundamental right to the people whose rights were affected by the decisions of the board of directors or directorate for increasing the share capital; therefore, the lack of judicial control in the analyzed matter constitutes a violation of access to justice.

Consequently, by its decision, the Constitutional Court admitted the exception of unconstitutionality and ruled that the legislative solution contained in art. 114 para. (3) from the Companies Law no. 31/1990, which does not allow legal appeals, through the annulment action provided for in art. 132 of the law, of the decisions of the board of directors, respectively the directorate taken in the exercise of the delegated attribution of increasing the share capital, is unconstitutional. Thus, during the period August 1, 2018 - September 14, 2018, the regulation of the Companies Law no. 31/1990 declared non-compliant with the fundamental act was legally suspended and came out of force on September 15, 2018, because neither the Parliament nor the Government complied with the decision of the Constitutional Court, as stipulated in the article 147 para. 1 of the Constitution.

3.3. Decision no. 7/2020 of the High Court of Cassation and Justice (The Complement of judges for resolving some legal issues)

The High Court of Cassation and Justice (Complement for resolving legal issues) admitted the referral made by the Oradea Court of Appeal - Section II civil, administrative and fiscal litigation, in order to pronounce a preliminary decision regarding the following legal matter : "If, in the interpretation of the provisions of art. 132 of the Companies Law no. 31/1990, republished, with subsequent amendments and additions, in relation to art. 116 of the same law, the adopted decisions can also be challenged in court, with an action for annulment by the special meeting of shareholders".

Through the action in court registered on the roll of the Bihor Court on May 22, 2017, the complainant A, a natural person, requested, contrary to the defendant B, a joint-stock company, the declaration of absolute nullity of the decision of the special meeting of the shareholders of this company, with obliging the defendant to pay the court costs caused by the trial. The plaintiff reasoned that the object of the decision of the special meeting of shareholders is the conversion of a number of 240 bearer shares with a nominal value of 110 lei, in a total amount of 26,400 lei, representing 24% of the company's share capital, into preferential shares with a priority dividend for shareholder A. In order to justify the annulment of the decision, the complainant listed: the adoption of the decision by an incompetent body, because the power to order the conversion of shares from one category to another belongs to the extraordinary general meeting of shareholders; non-compliance with the quorum and majority conditions required by law; failure to fulfil the legal advertising conditions; abusive exercise of voting right by shareholder C, joint-stock company.

Defendant B requested the rejection of the action, specifying that the formulation of an action to annul the decision of the special meeting of shareholders is inadmissible, because art. 132 of Law no. 31/1990 considers only the decisions of the general meeting of shareholders.

The Bihor Court admitted the plaintiff's action and declared null and void the decision of the special meeting of the shareholders of the defendant company B. The latter filed an appeal, requesting the rejection of the plaintiff's action.

The Oradea Court of Appeal - Section II civil, administrative, and fiscal litigation declared itself competent to resolve this litigation. It formulated a request for a preliminary ruling pronounced by the supreme court, to prevent the emergence of a non-unitary judicial practice in the matter.

Art. 132 of Law no. 31/1990 refers to the legal challenge of decisions adopted by the general meeting of shareholders.

Most of the specialists in the field, who were consulted on this occasion, found that from the interpretation of the article 116 para. (2) and (3) from Law no. 31/1990 results that the law establishes a double and reciprocal conditioning between the decisions pronounced by the general assemblies and those pronounced by the special assemblies. Thus, the decision of the general assembly in the matter cannot exist, it does not produce legal effects in the absence of the decision of the special assembly. Reciprocally, the resolution of the special meeting must be approved by the general meeting. The doctrine also stated that compliance with the principle of free access to justice can only be ensured by admitting the possibility of attacking in court the decisions of the special assembly under the same conditions as the decisions of the general assembly. It was also emphasized that, in view of this legislative gap, only a proposal for a *lege ferenda* is likely to ensure the procedural basis for the formulation of actions in court with the object of contesting the decisions issued by the special assembly.

Most of the courts consider that the decisions of the special meeting of shareholders can be challenged in court with an action for annulment, based on the provisions of art. 132 related to art. 116 of Law no. 31/1990. A first argument refers to the fact that any legal act can be subject to judicial control, because, otherwise, access to justice would be restricted and thus there would be a violation of art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms. Then, it is argued that art. 132 para. (2) from Law no. 31/1990 is a norm of general applicability, which is also valid in the case of special meetings, based on art. 1 paragraph (2) of the Civil Code, according to which in cases not provided for by law, the legal provisions regarding similar situations are applied.

The High Court of Cassation and Justice appreciated that, considering the mutual conditioning of the decisions of the two assemblies, the decision-making process would be easier to the extent that each of the two decisions would be

challenged in court separately, for its own irregularities of conduct. In this way, the resumption of the entire procedure and affecting the functioning of the company would be avoided.

Therefore, the supreme court decided that: "in the interpretation and application of the provisions of art. 132 of the Companies Law no. 31/1990, republished, with subsequent amendments and additions, related to art. 116 of the same law, decisions adopted by the special meeting of shareholders can also be challenged in court, with an action for annulment".

3.4. Decision no. 55 of September 21, 2020 of the High Court of Cassation and Justice (The Complement for resolving some legal issues)

The High Court of Cassation and Justice - The Complement for resolving some legal issues examined the referral made by the Oradea Court of Appeal - Section II civil, administrative, and fiscal litigation, to pronounce a preliminary ruling on the following legal issue: "if, in the interpretation of the provisions of art. 195 para. (3) from Law no. 31/1990, the 10-day period begins to run from the date of dispatch/deposit at the post office of the convocation by registered letter or from the date of its effective reception by the associates".

The article 195 para. (3) from the Companies Law no. 31/1990 amended provides: "[…] The convening of the meeting will be done in the form provided for in the constitutive act, and in the absence of a special provision, by registered letter, at least 10 days before the day set for its holding, showing the order of the day".

Through the annulment action registered before the Bihor Court on December 11, 2018, plaintiff A requested, contrary to defendant B, the annulment of the decision of the general meeting of associates of May 29, 2018, adopted by associates C and D, for violating the provisions of Law no. 31/1990 and of the constitutive act of B. The Bihor Court admitted the action filed by plaintiff A and ordered the annulment of the decision of the general meeting of associates. It found that the lack of convocation of the associate/irregularity of the convocation by not respecting the 10-day deadline for general meetings, according to art. 195 para. (3) from Law no. 31/1990, is sanctioned with the absolute nullity of the decisions adopted, nullity arising from the serious and irremediable violation of the associate's rights to information and to take part in the decisions regarding the company's activity.

Defendant B filed an appeal against this decision, requesting the admission of the appeal and the complete change of the contested sentence in the sense of rejecting the action filed by plaintiff A. The Oradea Court of Appeal - Section II civil, administrative, and fiscal litigation established that the term of 10 days provided by art. 195 para. (3) from the Law no. 31/1990 flows from the effective reception of the convenor by the associates. The court of appeal found the

admissibility of the referral to the High Court of Cassation and Justice, to issue a preliminary ruling.

Some of the courts consulted in this case believe that the 10-day period begins to run from the date of dispatch to the post office of the convocation by registered letter. Most of them appreciate that this term runs from the date of effective reception of the convocation, by registered letter, by the associates. Thus, when establishing this term, the legislator's intention was to allow the associates to be properly informed about the issues on the agenda and to be able to vote in full knowledge of the case in the general meeting for which they were convened.

The supreme court specified that, for the limited liability company, the convener, as a unilateral legal act according to art. 1,324 of the Civil Code, takes effect on the date of its display and distribution to associates. The convenor's communication is, therefore, a natural condition for the exercise of the voting right of each of the associates. According to art. 1.326 para. (1) of the Civil Code, communication is mandatory for the issuer "when it establishes, modifies or extinguishes a right of the recipient and whenever informing the recipient is necessary according to the nature of the act". Also, informing the recipient, as the holder of the right to vote, is necessary, because only in this way he can effectively exercise this right.

It was also shown that, in fact, the convenor of the general meeting of the shareholders of the limited liability company is a legal act subject to communication, as a condition for its effectiveness, and implies bringing it to the attention of the recipients, identified in the person of the associates. Its legal force cannot thus be opposed until the date of communication, presumed by law to have been achieved on the date when the communication reaches the addressees.

Finally, the supreme court concluded that the interpretation of the provisions of art. 195 para. (3) from the Law no. 31/1990, republished, with subsequent amendments and additions, the 10-day term begins to run from the date on which the convening of the general meeting by registered letter reached the addressees, if in the constitutive act or on the basis of a special provision of the law it is not provided another way of communication.

3.5. Decision no. 28 of May 10, 2021 of the High Court of Cassation and Justice (The Complement for resolving some legal issues)

The High Court of Cassation and Justice - The Complement for resolving some legal issues admitted the referral made by the Oradea Court of Appeal - Civil Section II regarding the resolution of the following legal issue: “if the situations of exclusion of the associate provided for by art. 222 of Law no. 31/1990 are supplemented with the provisions of art. 1,928 of the Civil Code”.

The law on companies lists the situations in which an associate can be excluded from a company in the collective name, in simple limited partnership, in limited partnership with shares, with limited liability.

Art. 1,928 of the Civil Code states that "at the request of an associate, the court, for valid reasons, may decide to exclude any of the associates from the company".

Through the Application registered on February 22, 2018 before the Bihor Court – Second Civil Section, the plaintiffs A S.R.L. and B (administrator and associate of the company) requested the court to order the exclusion of the defendant C (associate) from the company A S.R.L. and to rule on the redistribution of the defendant's social shares. In the motivation, serious misunderstandings between the associates were cited, likely to prevent the activity of the plaintiff company. The defendant filed a counterclaim, by which he requested the exclusion of the plaintiff-defendant B from the company, based on the provisions of art. 222 para. (1) lit. d) from the Law no. 31/1990 for fraud to the detriment of the company and, in the alternative, the dissolution of the company A S.R.L. The court rejected the counterclaim and admitted the main claim, ordered the exclusion of the defendant-claimant C from the company A S.R.L., assigned the shares held by him to the plaintiff-defendant B and obliged A S.R.L. upon payment of the consideration of the shares belonging to the defendant-plaintiff. Against this sentence, the defendant-plaintiff C. filed an appeal, which claimed, inter alia, that the provisions of art. 1,928 of the Civil Code, which represents the general norm, are removed from the application of the special norm, contained in art. 222 para. (1) lit. d) from the Law no. 31/1990.

The court of appeal notified the High Court of Cassation and Justice, with a view to issuing a preliminary ruling, which would clarify whether the situations of exclusion of the associate provided for by art. 222 of the Law no. 31/1990 are supplemented with the provisions of the Civil Code. Pronouncing a solution by the supreme court was necessary because the opinions expressed in this regard by different courts in Romania were divergent.

The supreme court emphasized that the general law is applied in any matter and in all cases, except in those in which the legislator has established a special and derogatory regime, establishing in certain matters special regulations, which have priority over the norm of common law. This orientation is also reflected by art. 15 of the Law no. 24/2000 on legislative technical norms for the elaboration of normative acts.

It was also specified that the special norm, being derogatory from the general norm, is applied with priority, even when it precedes the general norm, whenever a hypothesis falls under its provisions, and the special norm can be modified or repealed by a later general rule only expressly. Also, the list included in art. 222 para. (1) from the Law no. 31/1990 is not exemplary, which determines the impossibility of exclusion from the limited liability company in

situations other than those regulated by the special law. At the same time, according to art. 138 of the Law no. 71/2011 for the implementation of the Law no. 287/2009 on the Civil Code, the companies regulated by special laws continue to be subject to them.

The decision of the supreme court was that the situations of exclusion of the associate provided by art. 222 of Law no. 31/1990, republished, with subsequent amendments and additions, is not supplemented with the provisions of art. 1,928 of Law no. 287/2009 regarding the Civil Code.

4. CONCLUSIONS

Since its adoption, Law no. 31/1990 has seen numerous changes, some of which intervened through the action of the legislator, others because of the existence of some decisions of the Constitutional Court pronounced on the matter.

Jurisprudence had a particularly important role in clarifying the meaning that the legislator conferred on some legal regulations of the Law no. 31/1990, to remove their divergent interpretations by the courts. The latter often had opposing orientations and solutions, which affected, over time, the security of the legal norms under analysis. In this way, the goal desired by the High Court of Cassation and Justice was achieved, embodied in the uniform and unitary application of the relevant legislation. In some situations, it was found that the application of the legal regulations regarding companies from the Civil Code, which represents the general legal framework in the matter, was required; in other cases, however, the provisions enshrined in the Law no. 31/1990 are of strict interpretation, having priority of application of the special law.

Also, through the Decision of the Constitutional Court cited above, the lack of legal effects of art. 114 para. 3 of the Law no. 31/1990, by which the decisions of the board of directors or directorate to increase the share capital, given in the execution of the decisions of the general meeting of shareholders on the delegation of powers, could not be challenged, through an action for annulment. Thus, the legal provision declared non-compliant with the Constitution practically removed the free access to justice of the persons whose rights were affected.

References

1) Cadariu-Lungu I. E. (2014). *Contractul de societate conform noului Cod civil (The company contract according to the new Civil Code)*. Bucharest: Hamangiu Publisher
2) Cărpenaru S. D., Piperea Gh., David S. (2002). *Societățile comerciale, Reglementare, doctrină, jurisprudență (Commercial companies, Regulation, doctrine, jurisprudence)*. Bucharest: All Beck Publisher

3) Cărpenaru S. D., Piperea Gh., David S. (2014). *Legea societăților, Comentariu pe articole (Law of companies, Commentary on articles), 5th Edition.* Bucharest: Publisher C.H. Beck.
4) Cărpenaru S. D. (2019). *Tratat de drept comercial român (Treaty of Romanian commercial law), 6th updated edition*. Bucharest: Universul Juridic Publisher.
5) Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE), OJ L 294, 10.11.2001, pp. 1–21. [online] Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32001R2157; Current consolidated version: Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE), ELI, [online] Available at: http://data.europa.eu/eli/reg/2001/2157/2013-07-01, https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02001R2157-20130701 [Accessed 16.10.2023].
6) Decision of the High Court of Cassation and Justice no. 22 of June 12, 2006 regarding the application of the provisions of art. 46 para. (1) from Law no. 31/1990 regarding commercial companies, republished, with subsequent amendments and additions, in the case of requests for authorization of the establishment and registration of commercial consulting, assistance and legal representation companies, published in the Official Gazette no. 936 of November 20, 2006.
7) Decision no. 7 of January 20, 2020 of the High Court of Cassation and Justice (The Complement for resolving legal issues) - art. 132 related to art. 116, published in the Official Gazette no. 151 of February 25, 2020.
8) Decision no. 55 of September 21, 2020 of the High Court of Cassation and Justice (The Complement for resolving legal issues), published in the Official Gazette no. 969 of October 21, 2020.
9) Decision no. 28 of May 10, 2021 of the High Court of Cassation and Justice (The Complement for resolving legal issues), published in the Official Gazette no. 544 of May 26, 2021.
10) Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies, OJ L 310, 25.11.2005. [online] Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A32005L0056 [Accessed 14.10.2023].
11) Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (codification), OJ L 169, 30.6.2017, p. 46–127. [online] Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32017L1132 [Accessed 14.10.2023].; Consolidated text: Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (codification), OJ L 1132, 12.08.2022, ELI, [online] Available at: http://data.europa.eu/eli/dir/2017/1132/2022-08-12, https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02017L1132-20220812 [Accessed 14.10.2023].
12) Government Emergency Ordinance no. 8/2003 regarding the stimulation of the process of restructuring, reorganization and privatization of some national societies,

national companies, and commercial companies with majority state capital, published in the Official Gazette no. 144/2003.
13) Hotca M. A. (2019). General aspects regarding the offenses provided for in Law no. 31/1990. *Romanian Journal of criminal business law*, 1. Bucharest: Universul Juridic Publisher, pp. 11-24.
14) Law no. 31/1990 on companies, published in the Official Gazette no. 1066 of November 17, 2004.
15) Law no. 287/2009 regarding the Civil Code, published in the Official Gazette of Romania, Part I, no. 511 of July 24, 2009, amended by Law no. 71/2011 and rectified in the Official Gazette of Romania, Part I, no. 427 of June 17, 2011 and in the Official Gazette of Romania, Part I, no. 489 of July 8, 2011.
16) Nasz C. B. (2019). *Drept societar (Companies Law)*. Bucharest: Universul Juridic Publisher.
17) Șandru D.M. (2017), *Dreptul societăților în România (The Law of companies in Romania)*. Bucharest: University Publisher.
18) The Constitution of Romania, published in the Official Gazette of Romania, Part I, no. 233 of November 21, 1991, republished in Official Gazette no. 767 of October 31, 2003
19) Tofan, M., Popescu A. I., Grădinaru S. (2021). *Business Law*. Iasi: Alexandru Ioan Cuza University Publisher.