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**Book review: Abuzul de drept Author: Ign tescu Camelia, Editura Lumen,
Ia i, 2013**

Aurora CIUC

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Book review: *Abuzul de drept*
Author: Ignatescu Camelia, Editura Lumen, Iasi, 2013

Aurora CIUCĂ¹

Abstract

The author approaches in this paper one of the issues less discussed in the legal literature, being able to capture, from the logical view, the most relevant aspects of the concept of abuse of rights in terms of the general theory of law.

Keywords

abuse of law, general theory of law, subjective right, juridical liability, law fraud

The reconstruction opera of the right, on the basis of subjective rights in a world evolving in turn, brings into question the need for correction of adverse legal consequences through the theory of law abuse, good faith, fairness and the rule of *fraus omnia corrumpit* (A. Sériaux, 2003).

Always new, revisited and reformulated, the theory of abuse of rights has been a constant concern of legal doctrine. The trenchant statement of G. Ripert, who sees in every exercise a subjective right as a of source to achieve the right of another, "symptom" Josserand of right passion (as a work of lawmaking) and the idea of denying of right himself throuh an unreasonable exercise (A.Sériaux, 2003) or its current dilemma of choosing between the nomophily and the risk of law implausibility through inflation are just a few examples.

In the context of the Romanian legislative instability, the abuse of law is of great interest: courts are faced with an increasing number of cases, which reflects both an increasing trend of abuse of rights and a manifestation of legal awareness to people who understand to capitalize certain legal interests on the background of heightened anomie social.

In the eleven chapters of the book the author manages to cover a broad scientific territory (the correlation between the object and the

¹ Aurora CIUCĂ – Professor Ph.D., „Ștefan cel Mare” University, Suceava, aurora_ciuca_2000@yahoo.com

subjective, the structure of the subjective classification systems, subjective rights and individual rights, issues of law and legal personality, the exercise subjective rights, use of the subjective definition and forms of abuse of rights, terms of legal liability for the abuse of law).

Reading the book leads us to understanding right abuse as the exercise of the subjective right to its holder, which perceive it as a legal privilege granted by the legislature in order to achieve a social function, and not just for selfish gratification of such powers (interpretation not only in the letter of the law, but in particular in the spirit of the law (Ignătescu, 2013).

Analysis of rights' abuse in terms of the general theory of law is likely to strengthen the position of magistrate in relation to excessive and abusive invocation of right on particular situation, and also in the context of public relations (abuse of constitutional, administrative etc. rights).

Social phenomenon of abuse of rights met beyond our legal space is addressed by the author and from the perspective of EU law (Ignătescu 2013 b) in a compelling and documented analysis.

An interesting discussion is initiated by the author regarding the distinctions between the external boundaries of a subjective right (as drawing the boundary between existence and / or absence of subjective right in question) and the internal limits of the subjective right, the rules and methods of concrete exercise of a subjective right, regardless of its legal or conventional nature (pp.81-88).

It is also important to note the analysis of negation theory of abuse of law (in Roman law, by large civilists and theorists like Planiol, or authors of the Civil Code of 1804 ie 1811), both from the point of view of absolutization during the age of legal logic and theoretical causes that led to such theoretical assumptions. In the same vein, we remark the author's approach to emphasize the transition from absolutist doctrine type towards understanding relative subjective rights under the social pressure, a process that allowed tracing the contours of abuse of rights institution (pp.95 -99).

A successful theoretical and style demonstration of the author is the critical analysis of subjective and objective theories of abuse of law, social purpose in explaining the abuse of law, abuse of assimilation theory of law and delict torts, and highlight some contemporary landmarks definition of abuse of rights (pp.95 -99).

It is notable the scientific contribution of the author to the conceptual clarification, the subtle differences in the chapter entitled "Interference", between the abuse of law and law fraud, abuse of power and silence in right, between the abuse of rights and the right appearance in law, between abuse of law and abuse of power. The latter, according to the author, is an easy drive to discrimination (C Ignătescu 2013 c) and is based on disregard of fairness.

Conclusions

Undoubtedly, the author Camelia Ignătescu succeeded a valuable scientific synthesis, which validates the logic between the general-abstract plan of the general theory of law, and branch theories of the right in terms of the stated theme - institution of abuse of rights.

That would seem to be just a plan for discussion proper to theoretical discipline on the right branches (at least by tracking historical evolution of abuse of rights that is extending and gains theoretical significance and application through a horizontal transgression), proves to be a material worthy of research in a meta-theoretical level, the general theory of law.

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