Center for Open Access in Science ▪ https://www.centerprode.com/ojls.html
Open Journal for Legal Studies, 2019, 2(1), 11-20.
ISSN (Online) 2620-0619 ▪ https://doi.org/10.32591/coas.ojls.0201.02011m

New Concept of Personality Rights in Romanian and French Law

Camelia Mihăilă[1]

Alexandru Ioan Cuza University of Iasi, ROMANIA
Faculty of Law, Iasi

Received 29 May 2019 ▪ Revised 7 July 2019 ▪ Accepted 9 July 2019

Abstract

Under the name of personality rights can be defined those rights inherent to the quality of person belonging to any individual by the very fact that he/she is a human being. Since they are rights which are attached to the person, the concept has found its origins even in antiquity, in the form of theatrical masks, in Christianity of the Middle Ages and up to the Modernity of contemporary thinkers. The concept of "personality rights" can be clearly found in the art. 58 of the Romanian Civil Code, which stipulates that "every person has the right to life, health, physical and mental integrity, dignity, an image, respect for private life, as well as other similar rights recognized by law", and they are not transmissible. However, the French Civil Code does not regulate these rights equally clearly, but interprets them from the contents of civil rights and human body regulations, correlated with the chapters governing the examination of a person's genetic characteristics and the identification of a person by its genetic fingerprints, and brain imaging techniques.

Keywords: personality rights, bioethics, right to private life, dignity.

1. Brief history of the concept of "person"

1.1 *In antiquity*

The notion of *person* comes from Antiquity. The Greek word *prosopon* designates the face or the image. Over time, it became a "theater mask" referring to the idea of a person acting and speaking. It coexists alongside the words *anthropos* (man in general) and *soma* (successively the body, then "the animated individual, after anchoring the psyche to the *soma*, sometimes provided with a legal entity"). The Latins introduced an additional concept, *individuum*, which designates the human subject. But they continue to talk about *Homo* (the man in general), *Caput* (legal personality) and *Persona* (mask). With Cicero, the word *Persona* assumes the fullness of the person's meaning and ontic dimension and the term ends up by imposing itself.

By signifying "the concrete individual, encountered every day in his proximity and indivisibility", *Persona* integrates both the role of an individual in justice, and also his social role, his collective reality or dignity, his remarkable personality or his dignity, the legal person as opposed to things, the personality or concrete character of an individual and the philosophical

[1] PhD student.

© **Authors**. Terms and conditions of Creative Commons Attribution 4.0 International (CC BY 4.0) apply.
Correspondence: Camelia Mihăilă, Alexandru Ioan Cuza University of Iasi, Faculty of Law, ROMANIA.
E-mail: camihaila@gmail.com.

notion of a person or human nature, whether strictly individual or rational. *Persona* thus gradually becomes "a concrete, individual, indivisible, measurable and unique individual".

1.2 *The influence of the Christian middle ages*

With the emergence of Christianity, the notion of person is considered to be in accordance with the dogma of the Holy Trinity, one God in three persons. After the Council of Chalcedon in 451, it is then redefined as the principle of identity and unity, a definition that will prevail in the Middle Ages. In the 6th century, Boethius defines the person as "the individual substance of a reasonable nature". For Thomas Acquinas, on the same line, it corresponds in the 13th century, "to be as he lives, rather finding in another than in himself the support of his existence," a definition that prefigures the modern concept of self-consciousness. Thus, we have progressively moved from an ontological conception of the person, widespread in ancient Greece and Rome, to an ontological conception devoted to the Middle Ages, which refers to the person as "a concrete existence, the object of a quest for its intrinsic nature".

- From the ontological concept of the Person, modern authors come to a subjective conception (referring to the subject) of the person.
- The rights of personality are in tandem with bioethics.
- The evolution of personality rights is constantly influenced by the evolution of medicine and science.
- In the Romanian system, the concept of personality rights is expressly defined in art. 58 of the new Romanian civil code.
- In the French system, the concept of personality rights is not expressly regulated, but it is interpreted by the civilian regulations.

1.3 *Modern age*

"Moderns can smell objectivity traps containing a monolithic substance". They then complement the concept of person with new dimensions. In his famous *Discourse on the Method,* Descartes proposes the notion of subject, *Cogito ergo sum*. According to him, the subject is what makes the thought appear. By thinking, the subject assures his personal existence and discovers his certainty through methodical doubt. Through action, the Cartesian subject exercises its free will.

Kant influences the Cartesian concept of the subject by introducing the notion of "*moral*" subject. It is "the autonomy that forces the personality of the moral subject, assures his dignity, making him able to become the lawmaker of his own law and to further fulfill his duty".

Hegel will help evolve the concept of person by introducing the notion of relational subject. Therefore, it highlights the "inevitable conflicts among subjects, allergic to each other, and the struggle for recognition". He states that the original experience is not that of the thinking subject, but it is constituted through the interaction of the other's view of the "Ego" and the confiscation of its radical otherness. He also adds the "principle of relational differentiation".

From the ontological concept of the Person, Moderns come to a subjective conception (referring to the subject) of the person.

1.4 *Contemporary thinkers*

Emmanuel Mounier proposes in the 20th century a constant dialectic between the person and the community, opposed to individualism, existentialism and the Marxism of the time. Here we can find the fundamental notions of the body, interiority, liberty, generosity,

commitment, etc. In Mounier's opinion, "the person is a being capable of responding to interpellations of events, a being who must, through engagement," assume responsibilities "within a community of people". The person is therefore constantly in contact with his environment, and the interaction with it defines him as a person.

Gabriel Marcel develops the concept of person distinguishing between the individual – the Ego – of the person. According to him, the Person encompasses and exceeds the Ego, and the individual is only a "Static Element (...) of (...) others whose views reflect (...) the ideas received in his environment". He distinguishes the person from the individual by saying that "specific to the person is not only to consider, to appreciate, to face, but to assume". In other words, the person is directly confronted with a given situation and is actually committed. Gabriel Marcel also brings the notion of availability as an "ability to offer oneself to what it is presented and to link oneself to the donation". He affirms the importance of commitment and responsibility to others: "affirmation of the person requires faith in the existence of others and recognition of responsibility for his actions in a real society".

Starting with *Emmanuel Levinas*, the human becomes first and foremost an ethical subject, before thinking of himself as being rational, subject to a commitment or being altruist. The ontological dimension goes on the second plane to make room for the central concept of the image. While the person is conceived as a "mask borrowed from the being," "the image" is the transcendence of the person. The ethical relationship occurs when it transcends the surface or the image of people, if it is "de facto" about the plastic form (ontological, social or legal mask) in order to "re-create the image and maintain its essential ambiguity". This ethical relationship makes it possible to "perceive the singularity, the invisible depth" and the vulnerability of the other. It testifies the dignity of others by "giving the due respect".

Paul Ricoeur insists, in the meantime, on the person-community relationship and that between "thought and action". According to him, "the person is in a situation of crisis caused by conflicts of values". He proposes a philosophy of the person approaching the acts of speech – such as expression, communication and language – the moral ethos – such as self-esteem, solicitude, and fair institutions. He also suggests an ethical purpose, such as a good life together and for others in fair institutions (les institutions justes).

These contemporary thinkers brought, beyond the subjectivity of the Modern authors, the notion of the Person involved in the community, where the action is guided by a moral or ethical order.

As *Lucien Sève* remembers, medical professionals in the exercise of their profession can meet during their experience of confronting the others, three dimensions of the Person: the biological individual, the subject endowed with personality and the human person. Difficulty occurs when these three realities may not coincide perfectly. Lucien Sève thus offers every man a value in itself[2].

1.5 *The impact of modernity on personality*

At first glance, for individuals, the legal person appears at birth and disappears with death. In many ways, this is only an approximation, especially because of the uncertainty between life and death, absence and disappearance. For millennia, birth and death have discovered the nature, for centuries, medicine has healed people and protected life by helping nature, never by distorting it. Contemporary medicine has changed mentalities. Science (often to improve the quality of life) and individual wills (to satisfy personal desires: the child's desire, the desire for life

[2] G. Maujeana, b,d, & B. V. Tudrejc, d, La notion de Personne, évolution d'un concept. In: *Ethics, Medicine and Public Health* (2016), 2, 319-321. http://dx.doi.org/10.1016/j.jemep.2016.04.007

and the desire to die) intend to have power over procreation and death. Will humanism resist in such conditions?

Medicine has seen considerable changes in recent years: life can be transmitted in a different manner than the one nature knows, quality of life can be appreciated before birth through prenatal or pre-implantation diagnosis, life can also be saved by prenatal transplantation or transformed by gene modification, and survival can be provided by artificial manners, biological destiny, identity and secrecy of the genome can be perceived and discovered in their true meaning.

Nowadays, man has the technical power to modify the human genome by transforming his own species. The law sets out a rather religious and philosophical principle than legal: "no one can harm the human being", then sets out three prohibitions by condemning "eugenic practices", "reproductive cloning" and genetic alteration, but allowing, for example, the conception of hybrid beings, the so-called "mythological or medieval monsters".

The quality of life is a vague notion; in the current language it means a "beautiful life" that includes feelings of happiness, pleasure, love, youth, good luck, beauty, intelligence, success, etc. In law and morality, there is no question whether there is a choice that can be made between suppressing life and its quality. In this situation, three contradictory answers can be imagined:

> (1) Utilitarianism (or the morality of happiness): keeping a patient alive will not be acceptable unless survival is viable[3];
>
> (2) The autonomy of the will: every ill person is free to decide his fate, and to the extent that he is lucid and informed, he has the decision to live or die (objection: what are his lucidity and information?)
>
> (3) The absolute imperative of the sacredness of life (the Judeo-Christian tradition), no one can decide for someone else's life, neither his nor someone else's (objection: medically assisted procreation, obsolete coma, therapeutic anger leads to a case-law on what is allowed and what is being defended)[4].

The bioethics issue is involved by several factors: biological (whether medical or environmental), the individual as a bio-psycho-social entity, the stake of values and standards in force in a state.

If we look at the evolution of social values throughout history, we can see that ethics often appears before the law. In fact, many rules fall into disuse for losing legitimacy in relation to what society values as "self-regulatory" standards. There is a discrepancy between what the law says and what society claims to represent the norms for itself.

It is noteworthy that, to the extent that the rules are discussed and internalized by society, there would be no reason to violate them, since it would correspond to the rules that every individual wants and for whom each one is held responsible.

Since the problem of bioethics combines social values with individual interests and often self-referential behaviors that are allowed or not by the law, we can say that the link between the two disciplines is purely dialectical. For the Law, Bioethics can be a source of updating and

[3] The term "viable" is ambiguous: Tolerant? Agreeable? The meaning of this expression and in this context refers to the existence of ill people whose life is not worth saving and for which neither money nor effort should be sacrificed. An example would be the decision to suppress the life of a malformed fetus, a child with severe deficiencies, or an old man, a good-quality child would rather deserve a chance than an infirm child. The objection: this is the thinking of eugenics or of Nazism. (Source: Philippe Malaurie, Laurent Aynes, *Les personnes. Les incapacites* [Persons. Disabilities], Defrenois Publishing House, Paris, 2007, 9-10).

[4] Philippe Malaurie, Laurent Aynes, *Les personnes. Les incapacites* [Persons. Disabilities], Defrenois Publishing House, Paris, 2007, 10.

interpreting the norm in relation to individual assessments or the strength of society at a given time (without, therefore, excluding certain minimum principles inherited from Kantian ethics), and for Bioethics, the Law is an instrument that can reflect social or individual values in written norms, so that the same result works in the final requirement or final rules like those Rawls would call legitimate in a "well-ordered society"[5].

The laws of bioethics come to untie and confuse at the same time the mysteries of life, their juridical-moral realm being quite difficult to penetrate under all their aspects into a society whose technological evolution is much faster than that of legal evolutionary regulations. The laws of bioethics come to offer compromise solutions to the detriment of moral issues widely debated by other sciences (religion, philosophy).

2. The new rights of the personality regulated by the new Romanian Civil Code

Under the denomination of "personality rights", are qualified the rights inherent to the quality of human person, rights belonging to any individual by the very fact of being a human being. They mainly refer to the "protection of the physical and moral characteristics of the human being, to his individuality or personality".

Without claiming a definitive definition, we will remember that these are the prerogatives according to which the holder is granted the faculty of enjoying and defending the essential attributes and interests of his person. Or, in another vision, the personality is the ensemble of goods (or values) that belong to a person from the simple fact of its existence: life, physical and psychic integrity, private life, etc., are also "properties" of personality. Each "property" of the personality corresponds to a right that each person possesses for himself.

The personality to which these rights refer is not limited to the technical notion of legal personality in the sense of being a subject of the law. The term wants to express more, namely: the human person as a whole, in his biological, psychological and social reality.

Personality rights can resemble extra-patrimonial rights because they do not have an economic content and do not integrate the person's patrimony. Indeed, life, dignity, honor, right to an image, etc. cannot be measured in money; they are not goods in the strict sense of the term. In our doctrine, most authors classify extra-patrimonial rights in three categories: (a) rights that pertain to the existence and integrity (physical and moral of a person, the right to life, health, body integrity, the right to honor, honesty or reputation, the right to human dignity); (b) rights regarding the identification attributes of natural and legal persons (the right to a name, denomination, home, etc.); and (c) rights concerning intellectual creation, which means, those derived from the literary, artistic or scientific work and from invention[6].

The definitions given to "the rights of personality" under the rule of the Romanian Civil Code of 1865 preserve its actuality. In the new Civil Code, the picture of the personality rights is practically improved by the legislative amendment of the old legislation (Decree-Law no. 31/1954), the non-patrimonial rights regulated by the Decree were, in fact, rights of personality, even if the law of that time did not name them as such[7]. Therefore, the new Romanian Civil Code introduces a new institution through Chapter II. "Respect for Human Being and his Inherent Rights", from

[5] Carlos Burger, *Etica y Moral. Principales teorías éticas. Etica, Bioética y Derecho / Moral and Ethics. Main ethical theories. Ethics, Bioethics and Law*. Visited 21 September 2018 at http://muerte.bioetica.org/doc/doct23.htm.

[6] Ovidiu Ungureanu, Cornelia Munteanu, *Civil law. Persons in the regulation of the New Civil Code*, Hamangiu Publishing House, Bucarest, 2013, 44-45.

[7] Calina Jugastru, *The right of persons. The right of obligations*, Hamangiu Publishing House, 2013, 3-4.

Title II "The Physical Person" of Book I. "About Persons" of the Civil Code (art. 58-81), the article 58 being the one consecrating the concept of "Rights of personality".

It is the first time that a normative act expressly enshrines, in the Romanian law, the rights of personality. In a declarative way, the code mentions some of the prerogatives without pecuniary content closely related to the human person. First of all, in direct relation to the effects of biomedicine, there are rights that concern the integrity of the person; then follow the prerogatives closely related to the moral integrity and social relationship of the individual[8]. This change is mostly welcomed and especially the civil regulation of the bioethical aspects, Romania being among the inactive countries in the field of Bioethics, with a very low presence in the European and international debates in the field.

Old Romanian legislation prior to 1990, prior to the current Constitution, recognized as facets of the *right to private life*, the secrecy of correspondence and inviolability of the home, without mentioning anything regarding the respect for private life. After the change of the social and political context in Romania after 1990, the Romanian constitutional law had to absorb the international regulations in the field (Universal Declaration of Human Rights, European Convention on Human Rights, International Covenant on Civil and Political Rights) in order to officially protect private life[9].

Also, the right to private life, often associated with the right to an image, was also regulated by special laws, such as the Audiovisual Law no. 504 / 2002 or the Law no. 677/200163 which aim to "safeguard and protect the fundamental rights and freedoms of individuals, in particular the right to intimate, family and private life, regarding the processing of personal data", being the first Romanian law regulating the issue of private life in the information society[10].

Through their specific emphasis, personality rights, in tandem with Bioethics, bring modern connotations to moral rules, medical practice, and biology. By manipulating the most intimate prerogatives of the human being, Bioethics leaves its mark on the essential characteristics of the human being. Since some legislation already have a long standing in the regulation of Bioethics and the confluence between law-biology-medicine and morals, Romanian law must become more energetic and more adaptable to changes in order to be able to keep pace with new scientific developments that could influence social, moral and biological nature of the individual and for the state to be able to create valid protection instruments for this individual. Therefore, adapting to facts that can no longer be ignored, including through wider provisions in special laws in the medical field, is imperative[11].

3. Regulation of personality rights in French law and classification of these rights by the doctrine

Apart from some theories of the last two decades of the 19th century, which focused more on the philosophy of law than on positive law, the theory of personality rights emerged in France only at the beginning of the 20th century. *Perreau* is considered the first to define the expression in French law. In his famous article, published in 1909, in the *Quarterly Civil Law Magazine* titled "Rights of Personality," Perreau defined a new category of non-patrimonial rights, those rights "whose main object is not that of foreign affairs". Personality rights were *erga omnes*

[8] *Ibid*., 9.

[9] Article 26, paragraph 1 of the Romanian Constitution: *"Public authorities respect and protect intimate, family and private life".*

[10] Institute of History„G. Barit" from Cluj-Napoca, Humanistica Series, tom. V, 2007, 325-340, last visited on 21 May 2019.

[11] Calina Jugastru, *Op. cit*., 32.

and could not be valued in money, as a consequence, they were inalienable, imprescriptible and non-transferable and could only be exercised by the owner and not by anyone else.

Despite the increasing use of the expression "rights of personality", it remained unclear at the time if these were true subjective rights. The most popular authors of this subject have denied the quality of subjective rights, such as *Nerson* – whose thesis entitled "Extra-Patrimonial Rights" has long remained the standard work in the field[12]. This view is shared by *Roubier* in his famous study of "Subjective Rights and Legal Situations" published in 1963[13]. However, after the mid-twentieth century, the opinion that the rights of personality should be seen as representing a new category of subjective rights, has begun to gain ground. At that time, a proposal to amend the Civil Code was prepared, containing a chapter on the rights of personality. Even though this proposal was never adopted, it became obvious the importance that personal rights gained in the middle of the century.

Regarding the relevant casuistry in the field, in many of their decisions, the courts sanctioned the disclosure of details from private life or the publication of a picture taken without the consent of the person concerned, based on the dispositions of the article 1382 of Civil Code[14], which states that: "any act of the men which causes damage to another, obliges the person by whose fault it happened, to repair it"[15].

In fact, French law does not recognize a general right of personality but a general principle of personality protection that can be achieved through subjective rights for attributes that contain a certain "materiality" (name, image, voice, private sphere) and through offenses for other interests such as honor, dignity and feelings.

The rights of personality, in the traditional French conception, are extra-patrimonial rights that cannot be measured in money. Their purpose is to protect the individual in its individuality. This uncontested move to sell the human person, even if it is not a new element, seems to question the dogma of the extra patrimony of the personality rights. Since anyone can sell their image, voice, names or details of their private life, does that mean that, to some extent, the rights of personality have become patrimonial? Are there still rights whose use of personality attributes must be forbidden, or do they confer today the power of the owner to take advantage of the commercial exploitation of his personality?[16]

The French Civil Code regulates the rights of personality in Book I, Title I – Civil Rights, at Chapter II – Respect of the Human Body, Chapter III – Examination of a person's genetic characteristics and identification of a person through his genetic fingerprints and Chapter IV – Use of brain imaging techniques, which we will analyze extensively in the thesis.

---

[12] In his opinion, "the rights of personality" only entitle the holder the right to sue somebody: "no one can speak of the right to one's life or his integrity, his honor or his image, etc." ...; before suffering loss or injury, the injured person protected by the provisions of the art. 13822 of Civil Code, has no *abstract right*; his right only occurs when the damage occurs". Huw Beverly-Smith, Ansgar Ohly, Agnes Lucas-Schloetter, *Privacy, Property and Personality. Civil law perspectives on commercial appropriation*, Cambridge University Press, Cambridge, 2005, 151.

[13]"These claimed rights of personality do not have the usual appearance of subjective rights, as there is no question of adapting elements such as image, honor, etc. which are not adaptable". Huw Beverly-Smith, Ansgar Ohly, Agnes Lucas-Schloetter, *Privacy, Property and Personality. Civil law perspectives on commercial appropriation*, Cambridge University Press, Cambridge, 2005, 151.

[14] See: Marlene Dietrich case, Bernard Blier case, Trintignant case, Gunther Sachs case.

[15] Article 1382: "*Tout fait quelconque de l'homme, qui cause à autrui un dommage, oblige celui par la faute duquel il est arrivé, à le réparer*".

[16] Huw Beverly-Smith, Ansgar Ohly, Agnes Lucas-Schloetter, *Privacy, Property and Personality. Civil law perspectives on commercial appropriation*, Cambridge University Press, Cambridge, 2005, 150-154.

French law evolved in the same sense as medical technology and science, the doctrine regrouping the rights of personality. One of the authors, *Philippe Malaurie*, grouped the rights of personality into two main categories: *Respect for physical integrity* – including references to physical integrity and to the respect due after death (sepulture), and *Respect to human dignity* (including respect for private life, the right to free speech, the right to an image, the right to an honor, the right to a secret).

One of the most important French lawyers of the 20th century, *Jean Carbonnier*, claims that the doctrine varies with regards to this expression – the rights of personality – or often with regards to the equivalent expression of *primordial rights*, prerogatives which are sufficiently precise in terms of their object in order to be qualified as subjective rights and provided by way of legal action. Among the ones we order as ordinary in this category, is the right to life, the right to a name, which we have met before, because they are also subject to other aspects of law; but here are three, which may be rights of the personality by excellence, and that go together, as though they were part of the same immateriality.

The right to one's own image – by virtue of this right, recognized by the jurisprudence, a person may object to third parties, without express or tacit authorization from him, reproducing his portrait, namely taking pictures or filming it.

The right to honor – notion which implies two phenomena, a psychological and a social one. Honor is the feeling a person has to be irreproachable in morals and in law and the fact that he is considered such by the others (global society or a restricted circle).

The right to dignity – appeared later in the 1990s, coming from Germany. More than in the first two previous cases, the bypass made by subjective law seems superfluous.

The issue forming is that, before imposing on others the respect for dignity, everyone must take care of their own dignity. It is enough and it could be much clearer, the ban on all violations of human dignity. It is what the first bioethical law has done under the article 16 of the Civil Code at the same time as the New Criminal Code, which devotes an entire chapter to such violations. Between honor and private life, however, it is difficult to structure a specific domain for human dignity. It is likely that the body is again involved, and body posture; if we make a synthesis, we would reasonably ask whether the issue of respect for the human body is of current interest. In the rich doctrine that welcomed the emergence of the right of dignity, an opinion detaches itself which is already present through deontology, between the patient and the physician and, more generally, through the social function of lifting protection from the excess of a science too prepared to classify the human body[17].

4. Conclusion

Current debates on bioethics would have more to gain by opening to the history of the conception of the human being, which is a part of the history of the Christian Occident. This conception, of which we are the heirs, is that of the *imago Dei*, the Man created according to the image of God and called in this way to impose himself as the master of nature. Like Him, the human is a unique and indivisible being; like Him, he is a sovereign subject endowed with the power of the Verb, as He is, in the end, a person, an incarnate spirit.

But, created by the image of God, man is not God. His unique greatness does not derive from himself, but from his Creator, and he shares it with the other people. Here's where stands the ambivalence of the three attributes of humanity that are: individuality, subjectivity and

[17] Jean Carbonnier, *Droit civil. Les personnes* [Civil right. Persons]. Presses Universitaires de France, Paris, 2000, 148-150.

personality. As an individual, each person is unique, but at the same time just like everyone else is. As a subject is sovereign, but also tributary to the common law, as a person he is not only spirit but also matter. This anthropological ensemble has survived the secularization of Western institutions, and the three attributes of humanity are found in their full ambivalence, in the Declaration of Human Rights. The reference to the Divinity has disappeared from the Right of Persons, without, however, losing the logical need to confer on every human being a Guarantor of his Identity which symbolizes the prohibition of treating man as a thing[18].

From the point of view of the relation between the personality-subject of Law and the State, one can observe juridical values that predominantly preserve the ethical society: state security, community property, attributes of the person. On the other hand, there are legal values that preserve mainly the legal personality: human rights, personality, autonomy of will, citizens' freedoms. Nowadays, the values that predominantly preserve the ethical society are immanent to the normative or circumstantial legal system, specific to a normative legal system. Instead, the values that predominantly preserve the legal personality are only circumstantial, because their form and content have historical variability determined by the changes and transformations that take place in the process of social development. They are, however, under the sign of the structural legal value immanent to the legal system, which confers them a historical time[19].

Thus, the concept of personality rights appears differently regulated in the Romanian system and the French system. If in the Romanian system the rights of personality are regulated in the chapter dedicated to the respect for human beings and their inherent rights, there is no article in the French system that defines or encompasses the name of personality rights, as they are found in the chapter on civil rights, the chapter on respect for the human body as well as the chapter that regulates the examination of the genetic characteristics of a person and the identification of a person through his genetic fingerprints, as well as the use of brain imaging techniques.

Acknowledgements

This research did not receive any specific grant from funding agencies in the public commercial, or not-for-profit sectors.

The author declares no competing interests.

References

Beverly-Smith, H., Ohly, A., & Lucas-Schloetter, A. (2005). *Privacy, property and personality. Civil law perspectives on commercial appropriation*. Cambridge: Cambridge University Press.

Burger, C. (n.d.). Etica y Moral. Principales teorías éticas. Etica, Bioética y Derecho [Moral and ethics. Main ethical theories]. *Ethics, Bioethics and Law*. http://muerte.bioetica.org/doc/doct23.htm.

Carbonnier, J. (2000). Droit civil. Les personnes [Civil right. Persons]. Paris: Presses Universitaires de France.

[18] Alain Supiot, *Homo Juridicus. Essay on the anthropological function of law*, Rosetti Educational Publishing House, Bucharest, 2011, 49-51.

[19] Popescu, Gabriel, Gheorghe Mihai, *Introduction to the Theory of Personality Rights*, Romanian Academy Publishing House, Bucharest, 1992, 54.

Jugastru, C. (2013). *The right of persons. The right of obligations*. Bucharest: Hamangiu Publishing House.

Jugastru, C. (2007). Reflections on the notion and evolution of personality rights. Institute of History „G. Barit" from Cluj-Napoca. *Humanistica Series*, tom. V, 325-340.

Malaurie, P., & Aynes, L. (2007). Les personnes. Les incapacite [The persons. Disabilities]. Paris: Defrenois Publishing House.

Maujeana, G., b,d, & Tudrejc, B. V., d (2006). La notion de Personne, évolution d'un concept [The concept of person, evolution of a concept]. *Ethics, Medicine and Public Health*, 2nd Edition, 319-321.

Popescu, G., & Gheorghe M. (1992). *Introduction to the theory of personality rights*. Bucarest: Romanian Academy Publishing House.

Supiot, A. (2011). *Homo Juridicus. Essay on the anthropological function of law*. Bucharest: Rosetti Educational Publishing House.

Ungureanu, O., & Munteanu C. (2013). *Civil law. Persons in the regulation of the new Civil Code*. Bucharest: Hamangiu Publishing House.

* * * * *

New Romanian Civil Code

French Civil Code

Romanian Constitution

Universal Declaration of Human Rights

European Convention on Human Rights

International Covenant on Civil and Political Rights