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THE IMPACT OF PROCEDURAL AND CIVIL SANCTIONS ON THE FAIR ADMINISTRATION OF JUSTICE

553.03 Civil procedural law

Summary of doctoral thesis in law

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CONCEPTUAL REFERENCES OF THE RESEARCH

The relevance and importance of the research topic.

The impact of procedural civil sanctions on the fair administration of justice is a major current issue, as the effectiveness of the act of justice depends not only on the substantive regulatory framework, but also on the procedural mechanisms designed to ensure compliance with procedural rules. In the context of the intensification of the requirements imposed by the case law of the European Court of Human Rights regarding the right to a fair trial, procedural sanctions can no longer be viewed exclusively as mere repressive measures, but as instruments for balancing the particular interests of the parties and the general interest of the proper administration of justice.

The relevance of the research also stems from the need for the Republic of Moldova to harmonize its civil procedural regulations with European standards, where the emphasis is on the proportionality and predictability of the sanctions applied. In the absence of clear and consistent application, procedural sanctions may give rise to the risk of excessive formalism or violation of fundamental procedural rights, thus affecting the very essence of a fair trial.

The importance of the topic therefore lies in identifying and analyzing the ways in which civil procedural sanctions contribute to guaranteeing a fair trial, insofar as they discipline the behavior of participants in the trial and prevent abuse, but without compromising the effective right of access to justice.

Purpose and objectives of the thesis. The general purpose of the thesis is to conduct a comprehensive study of civil procedural sanctions from the perspective of national and European regulations, doctrinal opinions, and national and international judicial practice in order to assess the impact of civil procedural sanctionson the fair administration of justice in the Republic of Moldova by identifying the relationship between the application of procedural civil sanctions and respect for the rights of litigants, as well as highlighting ways to improve the regulatory framework and judicial practice in accordance with European standards.

The following **research objectives** were formulated**:**

- A comprehensive analysis of the concept of procedural civil sanctions, their functions, and the principles governing their application.
- Identification and classification of the types of procedural civil sanctions regulated by the legislation of the Republic of Moldova.
- To evaluate the legal regime of the main sanctions (nullity, forfeiture, permption, judicial fines), including legislative deficiencies and inconsistencies.
- Examination of the impact of the application of sanctions on the fundamental rights of the parties to a fair trial (access to justice, the right to defense, the adversarial principle).
- Comparison of national regulations with those of other legal systems (in particular, European Union member states) and with the case law of the European Court of Human Rights (ECtHR).
- Formulation of concrete proposals de *lege ferenda* for optimising the regulatory framework and judicial practice in the Republic of Moldova.

Research methodology.

Various methods, procedures, and techniques were used in the preparation of this thesis, as research on procedural civil sanctions cannot be carried out using a single isolated method. A

complex approach, combining historical-legal (for historical and evolutionary background), dialectical (for understanding contradictions), comparative legal (for reference to other systems) and logical-formal (for conceptual clarity) methods, provides a complete picture of the institution under study.

In the research process, we relied on doctrinal, normative, and empirical material. The normative basis was constituted by: the Constitution of the Republic of Moldova, the Code of Civil Procedure, the Administrative Code, as well as other relevant special laws. At the same time, legislation from other countries, such as Romania, France, Italy, Spain, and international law acts were studied. Along with normative acts, national and European Union case law was also researched.

The theoretical importance and practical value of the work.

Special sanctions are an expression of the flexibility of civil procedural law, responding to various needs for discipline and protection of the process. They complement the classic mechanisms and contribute to maintaining the balance between the speed of the proceedings, respect for the rights of the parties, and the authority of the court. That is why their clear recognition and delimitation, either by legislation or by consolidating judicial practice, is essential for strengthening a coherent and modern procedural framework.

The practical value is expressed by stating critical views on how to interpret and apply in practice the provisions governing civil procedural sanctions. The research process has allowed for the development of arguments based on doctrine, judicial practice, and our own analysis to assist lawyers, judges, and other categories of legal professionals in applying the legal framework under analysis, as well as to standardize judicial practice. A study dedicated to this topic will contribute to identifying systemic deficiencies and formulating concrete proposals for improving the administration of justice in the Republic of Moldova, having a direct impact on litigants and confidence in civil justice.

The practical importance of the paper is also determined by the fact that the conclusions and proposals for *lex ferenda* presented can be used by the legislator in the process of improving the legal framework, by the Competition Council in order to strengthen the mechanisms for counteracting anti-competitive agreements, and by the courts that will examine disputes arising from anti-competitive agreements in order to substantiate their decisions.

Approval of results. The thesis was developed and discussed within the Doctoral School of Legal and Economic Sciences of the State University of Moldova. The research results were approved by the guidance committee of the Doctoral School and the Department of Procedural Law, Faculty of Law, USM.

Publications on the thesis topic – 9 publications.

Volume and structure of the thesis.

The work consists of an introduction, four chapters comprising 17 subchapters, conclusions and recommendations, as well as a list of bibliographical references and normative acts used. Overall, the work comprises 173 pages of text, and the bibliography includes 103 titles.

CONTENTS OF THE THESIS

1. ANALYSIS OF THE CURRENT SCIENTIFIC SITUATION REGARDING RESEARCH ON CIVIL PROCEDURAL SANCTIONS

This chapter identifies the degree of research on procedural civil sanctions at the national level (subchapter 1.1), in other countries (subchapter 1.2), and the empirical reflection of procedural civil sanctions (subchapter 1.3).

In the field of civil procedural sanctions in the Republic of Moldova, there is no in-depth study or systematic analysis of this procedural institution. Doctrinal contributions are rather fragmentary and deficient, focusing on isolated contextual aspects—such as nullity, forfeiture, judicial fines, or peremption—and lacking an integrative view of the institution of sanctions as a whole. However, in the absence of a dedicated monograph, domestic research remains insufficient, being partially supplemented by the practice of the courts and doctrinal influences from other legal areas, in particular Romanian and continental European law.

Research on procedural sanctions abroad is particularly consistent and voluminous. Firstly, in European countries, this topic has been the subject of study for several decades, even centuries, which has allowed for the development of a solid, systematic, and well-articulated doctrinal basis.

With regard to the basic regulations on procedural sanctions, the Civil Procedure Code of the Republic of Moldova establishes their general regime in Article 10.

Although the peremption is not expressly mentioned in the CPC, doctrine consistently considers it one of the fundamental procedural sanctions, analyzing it as a separate institution.

With regard to nullity, the Code does not contain a general and uniform regulation, but the conditions for the validity of procedural acts and the consequences of non-compliance with them are scattered throughout various articles. Another fundamental sanction is forfeiture, which is regulated by a broader regulatory framework.

A special place is occupied by the judicial fine, regulated both by general principles and by specific provisions covering various situations.

The Romanian Code of Civil Procedure[1] provides much more detailed and systematic regulations on procedural sanctions, which are treated separately and grouped into several categories.

The French Code of Civil Procedure[2] establishes a complex regime of procedural sanctions that goes beyond the classic framework of nullity, forfeiture, and judicial fines, including institutions such as inadmissibility or financial penalties with a disciplinary function.

The Italian Code of Civil Procedure[3] establishes a series of fundamental procedural sanctions, the most important of which are nullity, forfeiture, and mechanisms for terminating proceedings due to lack of activity.

Similar to those already presented, regulations on procedural sanctions are also found in other European codes, such as those of Spain, Belgium, or Luxembourg.

When discussing national and international regulations on sanctions, we cannot overlook the most convergent effort in this area, namely that of standardizing the rules of procedure in a

[1] Romanian Code of Civil Procedure, No. 134/2010, dated July 1, 2010. In: Official Gazette of Romania, 2015.
[2] French Code of Civil Procedure of December 5, 1975, with subsequent amendments and additions.
[3] Italian Code of Civil Procedure No. 253 of October 28, 1940, as amended and supplemented.

single document. The Model European Rules of Civil Procedure (MERCP)[4] , adopted in 2020 under the auspices of ELI and UNIDROIT, arose from the desire to harmonize the legal framework of civil procedure in a context where the diversity of national regulations is considerable.

With regard to national case law on procedural sanctions, it is noted that it is uneven, which means that court decisions are more of a benchmark for criticism and doctrinal analysis than a basis for consolidated judicial practice. This lack of consistency highlights the need for an explicit definition of the concepts and institutions of sanctions, both at the doctrinal and legislative levels, as well as the imperatives of developing a uniform and predictable case law.

The case law of the European Court of Human Rights is of great interest both in terms of the principles it enshrines and the interpretations it offers on the application of procedural sanctions. In the Court's view, procedural rules and related sanctions are not only permissible but are necessary instruments in a state governed by the rule of law, provided that they comply with the standards of Article 6 §1 of the ECHR on fair trial. Thus, sanctions must be proportionate, predictable, and justified by the conduct of the party, avoiding excessive formalism that could disproportionately restrict access to justice.

2. THEORETICAL FOUNDATIONS OF CIVIL PROCEDURAL SANCTIONS contains the main doctrinal landmarks from which the research on this topic started.

2.1. Conceptualization of procedural civil sanctions

Sanctions have always been an important and inherent part of legal systems, and they remain one of the fundamental aspects of law today. A sanction is usually a measure taken against the wishes or will of those who violate the provisions of the law. Any law needs coercion to be enforced, and the state has a monopoly on coercion. Therefore, the particularity of the legal norm lies in its socially organized sanction[5] .

Art. 10 para. (1) of the CPC provides us with a legal definition of procedural civil sanctions. Thus, procedural sanctions are *unfavorable consequences, established by the rules of civil procedural law, which arise for the obligated subject in a procedural relationship in the event of non-fulfillment or defective fulfillment of a procedural act, as well as in the event of abusive exercise of a procedural right.* We can see that Article 10 CPC cited *above* has a broader scope, as it not only defines civil procedural sanctions, but also includes in its provision certain conditions for the application of civil procedural sanctions.

2.2. Determination of the main types of civil procedural sanctions

The law has never known as many sanctions as it does today. Their number is constantly growing, often without a clear system or real coherence. Each branch creates its own sanctions. Thus, they no longer belong exclusively to criminal law, becoming a concern for other lawyers as well.

The Civil Procedure Code of the Republic of Moldova does not directly and separately refer to "procedural sanctions" as a distinct institution. However, throughout the text of the code, we

[4] ELI – UNIDROIT MODEL EUROPEAN RULES OF CIVIL PROCEDURE FROM TRANSNATIONAL PRINCIPLES TO EUROPEAN RULES OF CIVIL PROCEDURE. Approved by the ELI Council and Membership in summer 2020, as well by the UNIDROIT Governing Council at the second meeting of its 99th session on 23-25 September 2020.

[5] UNGUREANU, Ovidiu. *Nulitățile procedural civile*. București: Ed. All Beck, 1998, p. 2.

find numerous provisions regulating what happens when certain rules of form or procedure are not followed: whether we are talking about deadlines, the timing of procedural acts, or other conditions. In other words, sanctions are everywhere in the framework law, even if they are not gathered in one place or expressly called "sanctions."

An overview of procedural sanctions is provided by the legislator in Article 10(3) CPC, where they are listed succinctly, without further elaboration. From this article, we can deduce sanctions such as *the annulment of the procedural act, forfeiture, judicial fines*, but also some remedial or regularization measures, such as completing or redrafting the procedural act. However, this list does not include forfeiture—a sanction that is not regulated by law but is recognized and analyzed in the specialized literature as part of the category of main procedural sanctions.

In very few cases does procedural law expressly classify certain measures as sanctions. When it comes to nullity, the legislator mentions this expressly in only a few articles.

As regards *the sanction of forfeiture*, its regulation in the Code of Civil Procedure is neither complete nor exhaustive. We can identify only a few provisions that expressly enshrine it, but they do not cover all the cases in which this sanction may be imposed.

However, forfeiture does benefit from a minimal regulatory framework in the Code of Civil Procedure, which is not the case for nullity.

The only sanction that benefits from express regulation, with separate articles in the Code of Civil Procedure, is the judicial fine. In this regard, the legislator not only clearly defines it, but also establishes the exact amount of the fines for each offense, as well as their limits.

The difficulty in identifying and delimiting procedural sanctions lies not only in the lack of uniform and explicit legal regulation, but also in the fact that specialist doctrine has not addressed this issue systematically and autonomously. Most often, procedural sanctions are analyzed incidentally, within the framework of related topics, such as the regime of procedural deadlines, the validity of procedural acts, or the effects of non-compliance with them.

We cannot agree with the opinions expressed in the specialist literature, where, alongside the sanctions listed above at national level, procedural sanctions also include the obligation to redo the procedural act and restore the violated rights. Even if these are listed in Article 10 of the CPC, they are rather ways of remedying and correcting procedural acts, but they cannot be attributed to the category of sanctions.

Moreover, legal doctrine, for the most part, does not classify measures such as redoing the procedural act or restoring violated procedural rights as procedural sanctions per se. These institutions are rather considered procedural remedies or mechanisms for correcting defects, not having the coercive nature and specific functions of a sanction in the strict sense of the term.

The Code of Civil Procedure, in Article 10, suggests that there may be other sanctions provided for by law through the phrase *"and other measures provided for by law,"* which implies a greater diversity of civil procedural sanctions.

2.3. Analysis of the functions and importance of civil procedural sanctions

In most situations, procedural sanctions act as a means of deterrence, exercising a dissuasive function towards all participants in the proceedings. Through this function, sanctions contribute to preventing behavior contrary to procedural order and ensuring discipline in the administration of justice.

Respectively, among the most frequently mentioned functions performed by civil procedural sanctions are *the preventive function, also known as the educational function; the punitive function, or repressive-intimidating function; and the reparative function.*

While the preventive and punitive functions target the party that abused a procedural right, failed to perform a procedural act, or performed it improperly, the reparative function is aimed at protecting and compensating the party whose rights were prejudiced by the unlawful conduct of the other party.

In most cases, the reparatory function takes the form of imposing a financial obligation on the person who abused their procedural rights, this burden being in favor of the other party to the proceedings or, where appropriate, for the benefit of the state—especially when it comes to disregarding the authority of the court or failing to comply with the court's orders.

However, beyond these functions expressly recognized by doctrine, if we analyze the role of sanctions in the proceedings more closely, we find that they also serve other purposes, which are natural and easy to deduce from their nature and effects. Therefore, even if they are not formulated distinctly in theory, other functions can be extracted that complete this picture: *The function of streamlining the process; The function of protecting good faith; The function of filtering access to justice.*

2.4. Establishing the conditions for applying procedural civil sanctions

Procedural sanctions may be imposed on the obligated party in a procedural relationship in the event of: *Failure to perform a procedural act* or *Improper performance of a procedural act* or *Abusive exercise of a procedural right.*

One of the most common examples, particularly of a practical nature, leading to the imposition of a sanction for failure to perform a procedural act is the return of the statement of claim pursuant to Article 171(2) CPC, and cases of return of the appeal pursuant to Article 369(1)(a) CPC or return of the cassation appeal pursuant to Article 370(1)(a) CPC. and cases of return of the appeal pursuant to Article 369(1)(a) CPC or return of the cassation appeal pursuant to Article 438(2) CPC.

Failure to comply with a procedural act. Returning to the obligation of participants in the proceedings to comply with procedural rules and requirements, we would like to point out that not only failure to comply with a procedural act may result in the application of sanctions, but also failure to comply with it properly.

These requirements and conditions imposed on participants in civil proceedings have been divided into[6] :

a) conditions imposed on civil procedural acts performed by participants in the proceedings and persons contributing to the proper administration of justice; and
b) conditions imposed on the procedural acts of the court.

This shows that civil procedural law attempts, in various ways, to put an end to any abuse of rights, in order to avoid the exercise of procedural rights that are not provided for by law, or even to avoid the repeated examination of claims based on the same grounds, or claims that are intended to mislead the court or that have the clear purpose of delaying the proceedings.

However, we must ask ourselves to what extent these conditions can be considered exhaustive or restrictive in practice. Throughout this paper, we will analyze in detail whether these criteria apply absolutely or whether, on the contrary, there are situations in which the court may impose a procedural sanction outside these formal premises, depending on the purpose of the violated rule or the nature of the consequences produced.

3. REGULATION AND LEGAL REGIME OF CIVIL PROCEDURAL SANCTIONS IN THE REPUBLIC OF MOLDOVA

3.1. Nullity of civil procedural acts

3.1.1 Clarification of the concept of civil procedural act

Defining a procedural act is an essential prerequisite for any analysis of procedural sanctions, as most legal scholars agree. We believe that a complete understanding of the concept of *"procedural act"* cannot be achieved without taking into account a related concept, namely that of *"form of procedure*."

A current challenge relates to the filing of electronic documents in court—petitions, references, and other procedural acts—signed with an electronic signature. Recently, there has been increasing debate on this issue. The discussions arise in a context where civil procedural law does not expressly regulate the electronic form of civil procedural documents or the possibility of filing them in court in this format.

A step towards digitization was taken by the legislator in 2018 with the adoption of Law No. 17 of 05.04.2018 on the amendment and supplementation of certain legislative acts[7] . Among the amendments made by this law, a provision was introduced in Article 166(7) CPC This instrument is currently not functional, because the submission of applications with electronic signatures through PIGD requires the functionality of the electronic file (e-Dosar) instrument, which, unfortunately, is currently in a testing phase. This tool is currently not functional, because the submission of applications with electronic signatures through the PIGD requires the functionality of the electronic file tool (e-Dosar), which, unfortunately, has been in testing for many years already.

[6] PRISAC, Alexandru. *Comentariul Codului de procedură civilă al Republicii Moldova*. Chișinău: Cartea Juridică, 2019, p. 59.
[7] Published on May 4, 2018, in the Official Gazette No. 142-148.

On December 10, 2022, the provisions of Law No. 124/2022 on electronic identification and trust services[8] came into force. As a result of the entry into force of the aforementioned law, Law No. 91/2014 on electronic signatures and electronic documents was repealed.

The content is a prerequisite for the validity of the procedural act. In fact, it expresses the essence of the procedural acts performed or intended to be performed. It is precisely from its content that the action or inaction of exercising procedural rights and obligations is expressed[9] .

Essentially, the procedural act represents the technical and legal core of the civil proceedings, being the formal expression through which the procedural rights and obligations of the participants are manifested. From the perspective of sanctions, it acquires particular relevance: any deviation from its requirements of form, content, or time limit generates the risk of procedural consequences, such as nullity, forfeiture, inadmissibility, or other sanctions provided by law. Therefore, the analysis of sanctions cannot be conceived outside a clear definition of the procedural act, which constitutes the intersection between procedural formalism and the guarantee of fairness in civil proceedings.

3.1.2 Definition of the nullity of civil procedural acts

The theory of legal nullities has been considered one of the most controversial theories in law, given that both doctrine and case law admit the existence of several degrees and types of nullities, which, unfortunately, do not have a legal basis without controversy and a valid and sustainable system to support their theories.

Among the few definitions offered by national doctrine, the nullity of procedural acts is presented as that procedural sanction which is applied by the court ex officio or at the request of the participants in the proceedings interested in invoking it, for failure to comply with the substantive and formal conditions of the procedural act provided by law, which deprives it of legal effect.

The institution of nullity of procedural acts is of major practical importance in civil proceedings, as the validity of each act depends on compliance with procedural rules, and any deviation may lead to its annulment. However, the normative regulation is summary, limited to a few general provisions, and doctrinal reflections are limited and fragmentary. As a result, procedural nullity sometimes appears to be an insufficiently defined institution, more theoretical than an effective instrument of civil proceedings. Therefore, the development of a legal definition becomes indispensable for a clear and uniform understanding of this institution in Moldovan civil procedural law.

3.1.3 Delimitation of nullity systems in civil procedure

Analyzing the set of rules and the way they are drafted, it can be said that, broadly speaking, the code is based on the system of nullities expressly provided for by law, since all formalities and requirements regarding procedural acts, as well as the consequences of their non-compliance, are directly regulated by legal norms. From this perspective, the court has a limited margin of discretion, being called upon rather to establish the non-fulfillment or non-compliance of an act

[8] Published on 10-06-2022 in the Official Gazette No. 170-176.
[9] BELEI, Elena et al. *Drept procesual civil. Partea generală. Ediţia a III-a*. Chişinău: Lexon, 2024, p. 506.

than to apply a h e reasoning of expediency. However, this system is characterized by a high degree of automatism, since nullity occurs regardless of the existence or absence of actual harm, which can lead to rigidity and formalistic application of the sanction.

Furthermore, we must acknowledge that developing a coherent and effective system of procedural nullities is no easy task, as it requires taking into account a multitude of factors: the formal nature of procedures, the protection of the rights of the parties, the balance between legality and efficiency, and harmonization with modern principles of fair trial.

3.1.4 Classification of nullities in civil procedure

Depending on the nature of the rule violated at the time of the procedural act, nullities are divided into absolute nullities and relative nullities.

We consider that the determining criterion for the distinction between absolute nullity and relative nullity lies in the nature of the interest protected by the procedural rule that has been violated. Absolute nullity sanctions the violation of mandatory rules enacted in the public interest, being invocable ex officio and not subject to confirmation. In contrast, relative nullity occurs in the case of damage to a private interest and is conditional on invocation by the injured party, being susceptible to coverage by ratification or express or tacit confirmation.

It should be noted that, in a situation where the legal rule protects both a public and a private interest, the applicable sanction will always be that of absolute nullity.

What is essentially lacking in the procedural legislation of the Republic of Moldova is the express regulation of the classification of nullities into absolute nullities and relative nullities. The establishment of this distinction would not only provide a solid normative basis for the regime of nullity of procedural acts, but would also bring considerable benefits both theoretically and practically. Such a classification would allow for a clear delimitation of the conditions for invoking nullity, the identification of the subjects entitled to invoke nullity, and the determination of the legal effects produced by each type of nullity. In the absence of such a distinction, the interpretation and application of the rules on the sanctioning of irregular procedural acts remains uneven and, at times, unpredictable.

If we analyze the perspective of nullities conditional on harm in the legislative context of the Republic of Moldova, we can say that such a regulation would be necessary and appropriate, as it would bring greater clarity and consistency to the system of procedural sanctions. However, in order for this institution to be introduced in a coherent manner, it is not sufficient to simply enshrine the rule on conditional or unconditional nullities. A broader regulatory framework is needed, which should include at least:

- a general definition of procedural nullities;
- an explicit distinction between absolute and relative nullities;
- the enshrinement of the concept of protected public and private interest, in order to establish who is entitled to invoke the exception of nullity.

Based on these fundamental guidelines, the institution of nullities conditional on harm could be integrated in a natural and functional manner. In general, these are associated with relative nullities, intended to protect private interests, while nullities aimed at protecting a public interest usually fall within the category of unconditional nullities.

It is important to note that such a regulation would not require the invention of a completely new institution, as the idea of harm as a prerequisite for nullity has long been established in other legal systems. From this perspective, legislative harmonization inspired by Romania's experience—in particular by adopting the solutions enshrined in Articles 175 and 176 of the CPC—could provide the Republic of Moldova with a modern, predictable, and balanced legislative framework for the application of procedural nullities.

3.1.5 Analysis of the ways of invoking nullities in civil proceedings

In order to better organize the analysis and highlight the problems we identify at the legislative level with regard to invoking nullity, it is useful to return to the classifications presented above, namely absolute and relative nullities, as well as to the emphasis on public and private interest, which serve as criteria for analyzing and delimiting certain essential aspects.

While it is accepted that absolute nullities of public order may be invoked at any stage of the proceedings by any participant or even by the court, the situation must be viewed differently when it comes to relative nullities and those that protect exclusively private interests.

The possibility that relative nullities may be raised ex officio by the court is fundamentally wrong, both conceptually and for the simple reason that civil proceedings are governed by the adversarial principle, and the judge must not defend the position of one party himself. On the other hand, it is also unacceptable that such nullities can be invoked at any time, without any time limits, deadlines, or clearly defined procedural stages.

Most European legal systems have regulated the manner of invoking relative nullities in a more rigorous manner, unlike the solution existing in our legislation. In these systems, relative nullities can be invoked exclusively by the interested party, not by the court ex officio, and there are also clear time limits within which such nullities can be raised.

3.1.6 Finding of civil procedural nullity and its effects

The finding of nullity does not operate by operation of law, but is made by means of a court order, following its invocation ex officio or by the interested parties, depending on the absolute or relative nature of the nullity.

Regardless of the way in which the nullity is invoked – either ex officio by the court, or by way of exception by the parties, or in the context of an appeal – the parties must always be given the opportunity to express their position in adversarial proceedings, in accordance with the principle of the right of defense. Only after this adversarial exchange of views has taken place will the court be able to rule on the admissibility or rejection of the exception, or on the application or non-application of the penalty of nullity.

The right to declare nullity usually lies with the court before which the alleged irregularity was committed. If nullity is invoked in an appeal, the competence to rule on it lies with the court of judicial review.

The court will rule on the request to declare the procedural acts null and void by means of an appropriate judicial act: judgment, decision, or ruling.

As mentioned above, nullities may be total or partial. Thus, when declaring an act null and void, the judge, as in substantive law, must expressly rule whether the act in question is annulled in whole or in part. This distinction is of major importance, especially when nullity is invoked

through an appeal, as the court has the possibility ly to quash the contested judgment in whole or in part, and the unquashed part acquires the authority of res judicata.

It is also essential to mention the incidence of the radiating effect of nullity on other procedural acts. In doctrine and case law, two scenarios are consistently distinguished in which the annulment of a procedural act affects the validity or even the existence of other related procedural acts. When discussing the effects of nullity, the following should be noted:

- the judge, as a result of applying the penalty of nullity, may annul the voidable or void act in whole or in part;
- the legislator gives priority to saving the procedural act whenever possible, which may be redrafted in compliance with all conditions of validity;
- the nullity of the procedural act has retroactive effect from the date of performance of the act challenged on grounds of nullity;
- the nullity of the procedural act also entails the nullity of subsequent procedural acts if they cannot exist independently and depend on the initial act;
- the nullity of procedural acts, being a procedural sanction, naturally affects the procedural function of the acts, which, although null and void, may produce legal effects other than those arising from their own nature[10] .

In the civil procedural law of the Republic of Moldova, there is no express provision regulating the effects of nullity, unlike the Civil Procedure Code of Romania, where Article 179(3) provides that the annulment of a procedural act also entails the annulment of subsequent procedural acts, if they do not have an independent existence.

3.1.7 Completion or redrafting of civil procedural acts

Although the regulatory framework for remedying nullities is relatively incomplete, Article 10 CPC nevertheless allows for the identification of two distinct ways of correcting defective procedural acts. Thus, even in the absence of detailed regulations, two forms of remedial intervention emerge from the legal text: the completion and the redrafting of the procedural act.

These remedies are expressly provided for in paragraph (3) of Article 10 CPC, which lists the penalties applicable in the event of non-compliance with procedural requirements, including the possibility for the court to order, as appropriate, the completion of the document lacking essential elements or the redrafting of the document drawn up in violation of the law. Completion occurs when the procedural document has been issued and drawn up but contains remediable omissions, while redrafting involves the complete redrafting of a defective document. Completion occurs when the procedural document has been issued and drawn up but contains remediable omissions, while redrafting involves the complete redoing of a document that is flawed in substance.

Through these two instruments, the legislator establishes a functional approach to nullity, in which the fundamental purpose is not to formally sanction the parties, but to restore procedural legality and ensure the efficient conduct of the proceedings, in conditions that comply with both mandatory rules and the right to a fair trial.

[10] CIOBANU, Viorel Mihai, BRICIU, Traian Cornel, DINU, Claudiu Constantin. *Drept procesual civil, Ediție revăzută și adăugită.* București: Editura Universul Juridic, 2023, p. 362.

The re-establishment consists in replacing the flawed procedural act with a new one that meets all the requirements of the law; it is a characteristic way of regularizing procedural acts affected by total nullity[11] .

Therefore, according to the provisions of Article 10 CPC, absolute nullity cannot remain without corrective consequences, and the resumption of the procedural act under conditions of legality becomes the only way to restore procedural order and ensure the parties' right to a fair trial.

The situation is different in the case of relative nullities, as these are established exclusively for the protection of the individual interests of the parties. From this perspective, the obligation to correct procedural acts affected by such defects is not mandatory, but is subject to the option of the holder of the procedural right. In such a framework, the principle of availability governs both the possibility of invoking nullity and the freedom to decide on the correction of the unlawful act.

Consequently, even if the annulled acts are kept in the file, they no longer have legal effect, but only documentary value. Their presence in the case has an evidentiary function, giving the higher court the opportunity to verify the legality and validity of the annulment ordered.

The redoing of procedural acts is usually ordered by the court of first instance, as well as by the court vested with judicial review. The court of first instance may decide on the redoing either by separate decision or by recording it in the minutes. If the nullity is established on appeal, the competence to order the redoing lies with the higher court.

3.2. Forfeiture

3.2.1 Definition and assessment of the importance of forfeiture in civil proceedings

The institution of forfeiture has broad practical applicability, being found in both procedural and substantive law. However, the two forms should not be confused, as procedural forfeiture refers to the time limitation on the exercise of a procedural right, without affecting the substantive right to action.

Although the Civil Procedure Code of the Republic of Moldova does not expressly define the concept of forfeiture, Article 113 establishes that the right to perform a procedural act ceases upon the expiry of the time limit provided for by law or set by the court. Failure to comply with the time limit results in forfeiture of the right to perform the procedural act, unless otherwise provided by law.

The text of the rule governing forfeiture provides important defining elements for the institution of procedural forfeiture, which is characterized by the same elements found in doctrinal concepts, namely that the procedural act must be performed within the time limit set by law or by the court, and failure to comply with these time limits results in forfeiture and the impossibility of performing the procedural act.

Forfeiture serves to bring order and clarity to the conduct of civil proceedings, being directly linked to compliance with procedural deadlines. The law sets deadlines precisely so that the parties can exercise their rights within a well-defined framework and the proceedings are not delayed. If a right is not exercised in time, it is lost, and acts performed after the deadline has

[11] LEȘ, Ioan, *Sancţiunile procedurale în materie civilă.* Bucureşti, Editura Hamangiu, 2008, p. 82.

expired may be annulled. In terms of sanctions, forfeiture is a severe sanction, referred to in doctrine as "fatal," much more serious than nullity, even if there is interference between the two[12].

3.2.2. Establishing the conditions for forfeiture in civil proceedings

forfeiture will occur if the following conditions are cumulatively met:

- the law or the court establishes a deadline for exercising the right or performing the act, and the party has allowed that deadline to expire without taking advantage of it;
- the law establishes that a procedural act is to be performed at a certain stage or moment in the proceedings, or the law provides for a certain order in which procedural acts are to be performed, and the party does not comply with the stage, moment, or order established by the legislator[13] .

- We do not aim to list all the rules that expressly mention the word "forfeiture," but the point we wish to make is that these rules are in the minority; in most cases, forfeiture occurs by operation of law, and civil procedural law operates with "virtual" forfeiture, which takes various forms ("within", "by", "no later than", "at the stage", etc.)[14] .
- The penalty of forfeiture should not affect the procedural documents drawn up by the court, nor does the law provide for anything in this regard; forfeiture refers to the parties and participants in the proceedings. For example, we know that the court is required by law to give reasons for its decision within 45 working days (Art. 236(5) and (6) CPC), but failure to meet this deadline will not deprive the court of the right to give reasons for its decision, nor will it deprive the parties of the right to obtain those reasons.
- With regard to judicial deadlines, the key question that arises is whether failure to comply with the deadlines set by the judge may result in the parties forfeiting their right to perform the procedural act. With reference to the provisions of Article 113 CPC, there is no doubt that the legislator has conferred the same legal value and the same consequences on both the deadlines set by law and those set by the court. Thus, the violation of any deadline, regardless of its source, will result in forfeiture, in the absence of an express provision to the contrary.
- For forfeiture to apply, it is not sufficient for there to be a legal or judicial deadline governing the proceedings, since, according to Article 10 CPC, the penalty for forfeiture is failure to complete the procedural act within the deadline. Thus, in addition to the existence of legal and judicial deadlines, for forfeiture to apply, there must also be inaction on the part of the party, manifested by failure to perform the act within the deadline.
- With regard to this criterion, it should be noted that when we refer to the deadline granted and the failure to perform the act within the deadline, we are referring only to procedural deadlines, i.e., forfeiture extinguishes a specific procedural right recognized to the parties who have not exercised it within the deadline, such as the exception of tardiness, the submission of evidence,

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[12] JOSAN, Vasile. *Garantarea ordinii în cadrul procesului civil prin sancționarea cu decăderea din drepturi*. În: Conferința științifică națională cu participare internațională „Integrare prin cercetare și inovare", USM, 10-11 noiembrie 2020, p. 173.

[13] BELEI, Elena et al. *Drept procesual civil. Partea generală. Ediția a III-a*. Chișinău: Lexon, 2024, p. 544.

[14] JOSAN, Vasile. *Garantarea ordinii în cadrul procesului civil prin sancționarea cu decăderea din drepturi*. În: Conferința științifică națională cu participare internațională „Integrare prin cercetare și inovare", USM, 10-11 noiembrie 2020, p. 172.

the payment of expert fees, the filing of an appeal, etc. procedural forfeiture does not in any way affect the subjective right brought before the court.

From the analysis carried out, we cannot identify what the legislator's arguments were when it adopted amendments restricting the possibility of restoring certain deadlines. This different approach by the legislator has no plausible explanation; obviously, we would opt for the possibility of restoring the deadline in the case of an appeal when the deadline was missed for justified reasons[15] . This is because we see no difference between the deadline for appeal and that for cassation—both can be missed for objective reasons, such as a serious medical condition. In other words, if the deadline for appeal was missed due to illness, the party may be reinstated, but missing the deadline for cassation appeal for the same reasons does not allow for reinstatement. Such a difference in treatment lacks legal logic and proportionality.

We consider that the institution of deadline extension is useful for maintaining procedural order, but an erroneous interpretation of the rule should not lead to the removal of the penalty of forfeiture. Such a consequence could result if the idea of extending deadlines that have already expired were accepted, which would be contrary to their peremptory nature.

3.2.3. Invoking, establishing, and the effects of forfeiture in civil proceedings

When a legal or judicial deadline is breached, forfeiture will occur, which the court is obliged to invoke ex officio. In other words, forfeiture will occur simply upon the expiry of the deadlines.

On the one hand, the court has an obligation to verify compliance with the deadlines set by law, which is a matter of public interest, and on the other hand, when the court sets certain deadlines for the participants in the proceedings, it will be obliged to verify that they are complied with. The existence of the court's obligation to verify compliance with both categories of deadlines is also the basic premise for which forfeiture operates *ope legis.*

With regard to the means of invoking forfeiture, we can make a distinction depending on the stage of the trial. Thus:

- if the trial is ongoing, forfeiture may be invoked during the trial, either by the court ex officio or by the participants by way of exception;
- if a decision has been rendered on the case, forfeiture may be invoked through an appeal, if the procedural stage allows for the forfeiture to be discussed.

The issue of raising both types of time limits, legal and judicial, on its own initiative is specific to the national legal framework, as it is not a general rule found in other codes of civil procedure.

If the procedural time limit is established by a rule of private interest, forfeiture may, in principle, only be invoked by the interested party (plaintiff, defendant, intervener, third party, etc.). As noted in legal doctrine, the interested party is understood to be the party against whom the procedural act performed after the deadline is directed.

In the event of a breach of a court deadline, forfeiture may be invoked ex officio by the court, by the prosecutor, or by the parties, the conclusion being that it would be pointless to establish forfeiture for failure to comply with a court deadline if the court were not able to invoke

[15] BELEI, Elena et al. *Drept procesual civil. Partea generală. Ediţia a III-a.* Chişinău: Lexon, 2024, p. 546.

this sanction. In the event of a breach of a legal deadline, the manner in which the forfeiture rule is invoked depends on whether the legal rules governing it are of a public or private nature[16] .

The finding of forfeiture is made by the court. Thus, only the court has the right to apply the penalty of forfeiture, after establishing that the procedural right was exercised beyond the time limit set by law or by the court. Even if in some situations forfeiture is regulated in the text of the law (for example, failure by the applicant for judicial expertise to pay the amount for its performance results in forfeiture of the right to request the repeated performance of judicial expertise, Art. 124 para. [17] .

A category of cases that are very common and have the greatest impact on the rights of participants in the proceedings are those where forfeiture of the right to exercise remedies (appeal, cassation, cassation against decisions, etc.) is applied. all appeals have strict and mandatory time limits regulated by law, and once these time limits have expired, forfeiture will occur, with forfeiture in this category being such as to terminate even the trial itself.

Another category of cases where forfeiture occurs, also among the most common, is the forfeiture of the right to raise procedural objections, to report violations, and to raise procedural exceptions. This category assumes that all procedural violations, or procedural exceptions as they are also called, must be invoked within the time limit or at the procedural stage provided for by law, otherwise the party will forfeit its right. Similarly, this category of situations may have an impact on the rights of participants in the proceedings. For example, Article 186/($^{1)}$of the CPC provides that the exception of tardiness shall be filed at the stage of preparing the case for judicial debate; if it is not filed, the right shall be forfeited.

A third category of cases is related to the deadline for submitting evidence. Evidence is an essential element in civil proceedings, and even if, formally, the proceedings will continue, failure to submit it within the time limit or at the stage provided by law will result in the party forfeiting its right to use it. Essentially, this sanction deprives the party of the real chance to argue its case, thus directly affecting its success in the proceedings. By way of example, we refer to the provisions of Article 119/¹ CPC, which stipulates that all evidence must be submitted, under penalty of forfeiture, within the time limit set by the court during the preparation of the case for judicial debate, unless otherwise provided by law. If the evidence is submitted in violation of these conditions, the judge will return it by means of a formal decision.

3.3. Sanctions determined by the procedural passivity of litigants

3.3.1 Peremption – doctrinal concept, domestic regulation, and comparative law

Starting from the premise that the interest of society requires civil disputes to be resolved quickly so that the rule of law can be restored in an efficient manner, the litigating parties also clearly want the uncertainty surrounding infringed rights that must be defended or claimed in court to be removed. In this way, the parties have a e interest in the resolution of the dispute, which is also the reason that led them to seek justice[18] .

In order to ensure compliance with the principles of civil procedure, in particular the resolution of the case within a reasonable time and with speed, most jurisdictions provide for

[16]LEȘ, Ioan. *Noul Cod de procedură civilă. Comentariu pe articole. Editia a 2-a.* București: Ed. C.H. Beck, 2015, p.
[17] BELEI, Elena et al. *Drept procesual civil. Partea generală. Ediţia a III-a.* Chișinău: Lexon, 2024, p. 545.
[18] POP, Paul. *Sancțiunile procedural civile*. București: Ed. Universul Juridic, 2016, p. 245.

mechanisms to sanction passivity in the proceedings. Thus, if no relevant procedural action is taken within a certain period of time, either by the parties or, in certain systems, by the court, a procedural sanction is imposed to discourage unjustified delay and contribute to ensuring efficient justice.

In the same vein, it has been noted that failure to comply with the requirement for continuity between procedural acts results in forfeiture. Peremption has a mixed legal nature, in the sense that it is a procedural sanction for failure to comply with the time limit provided by law, consisting in the termination of the proceedings at the stage at which they are, but also a presumption of withdrawal, inferred from the fact of prolonged inactivity in court[19] .

Although peremption is a procedural sanction with a major impact on the conduct of civil proceedings, only national legal doctrine highlights peremption as a distinct form of procedural sanctions. The current civil procedural legislation of the Republic of Moldova does not expressly enshrine this institution, lacking clear regulation in this regard in the Civil Procedure Code. This absence creates a regulatory gap that contrasts with the approaches found in other legal systems.

In most European jurisdictions, civil procedure legislation contains express provisions on the institution of peremption, which in itself speaks to the importance of the institution of peremption in the construction of modern legal systems.

Behind these provisions lies not only the intention to penalize passivity, but also the need to ensure an efficient, fair, and timely trial, in which each participant has a responsibility to contribute to the proper conduct of the case.

3.3.2 Peremption and removal of the claim from the docket for failure to appear: regulations and applicability in Romania and the Republic of Moldova

For peremption to occur, the following conditions must be met cumulatively:

- *The court must have been seized of a claim or an appeal (for review or withdrawal);*
- *The case must remain pending for 6 months;*
- *The party must be responsible for the case remaining pending.*[20]

Peremption is established ex officio or at the request of the interested party, at the request of the prosecutor, and by other persons participating in the judicial activity. According to Article 420 of the Romanian CPC, before establishing peremption, the court, ex officio or at the request of the interested party, shall order the parties to be summoned in order to comply with procedural guarantees.

The peremption shall be established either by a court decision, in which case all the conditions provided by law for peremption must be met, or, if it is admitted, an appeal may be lodged against the decision. At the same time, if the peremption is rejected, the court shall issue an interlocutory decision stating that the peremption has not occurred, which decision may be challenged only together with the merits.

In the Republic of Moldova, there are apparently only two situations that are relatively similar to each other but very different from peremption. The first situation, regulated by Article

[19] BOROI, Gabriel, RĂDESCU, Dumitru. *Codul de procedura civilă, comentat și adnotat, Ediția a II-a revizuită și adăugită*. București: Editura ALL, 1994, p. 348.
[20] CIOBANU, Viorel Mihai, MARIAN, Nicolae. *Noul Cod de procedură civilă comentat și adnotat. Vol. I art. 1-526, Ed. 2-a*. Ed. Universul Juridic, București, 2016, p. 1141.

267(f) of the CPC, is when the legally summoned parties did not appear at the court hearing after the second summons and did not request that the case be examined in their absence. In this case, there are two consecutive summonses addressed to both parties, to which neither party appeared. Since no one will be present at the court hearing, the removal from the docket can only be invoked by the court ex officio.

The second situation in which the removal of the claim from the docket may be applicable is regulated by Article 267(g) of the CPC. In this case, the removal from the docket may only be invoked by the defendant, and the decision to continue or terminate the proceedings by removing the claim from the docket is made by the defendant and the interveners on the defendant's side. This is clear from the legal text itself, which states that if the legally summoned plaintiff does not appear at the court hearing for valid reasons and does not request that the case be examined in his absence (Article 206(4) CPC), the defendant may request the court to remove the claim from the docket or may request that the case be examined in the absence of the plaintiff. In some cases, the defendant may be interested in continuing the proceedings even if the plaintiff does not appear. The removal of the claim from the docket concerns claims that are currently being examined in the first instance, as expressly stated in the provisions of the article invoked.

The removal of the claim from the docket concerns claims that are currently being examined in the first instance, as expressly stated in the provisions of the article invoked. Thus, the measure is not applicable to appeals, but applies exclusively to cases pending in the first instance.

Some national authors classify the removal from the docket pursuant to Article 267(f) and (g) of the CPC as a genuine sanction of forfeiture. Thus, it has been reported that even if the Civil Procedure Code of the Republic of Moldova does not expressly regulate the institution of forfeiture, it can be inferred from the provisions of the legislation in force. In this regard, Article 267(f) and (g) is presented as a procedural sanction of peremption[21] .

It can be argued, with some reservations, that the removal of the claim from the docket has a punitive function, in the sense that it punishes the passivity or lack of diligence of the parties to the proceedings. However, such an idea can only be accepted in part.

To avoid these negative effects, the legislation of the Republic of Moldova should be revised by introducing a flexible mechanism that allows the court to assess the real reasons for the parties' failure to appear and to set a fixed period of inactivity, similar to the peremption of time in Romania. This would ensure that the sanction is applied fairly only in cases of obvious passivity, while protecting the parties' right to a fair trial[22] .

3.3.3 Similarities and differences between expiry and removal of the claim from the docket

If we analyze their purpose and the situations in which they apply, we can see that peremption and dismissal have some important similarities.

[21] DUMITRAȘCU, Dumitru. *Instituția perimării și celeritatea procesului civil*. În: Știința în Nordul Republicii Moldova: realizări, probleme, perspective, Bălți, 2019, p. 429-430.
[22] JOSAN, Vasile. Aspecte comparate: perimarea şi scoaterea cererii de pe rol. În: Revista Institutului Naţional al Justiţiei, NR. 1 (72), 2025, p. 36-40.

- Firstly, both institutions aim to terminate the proceedings without the court examining the merits of the case. They intervene when, due to the lack of action by the parties, continuing the proceedings is meaningless.
- Secondly, both peremption and dismissal are applied in situations of procedural passivity, when the parties show no interest in pursuing the case or fail to fulfill their procedural obligations, although in this respect the finding of procedural passivity is very different.
- Thirdly, both institutions also have a disciplinary role, as they are intended to discourage passive behavior or delaying the proceedings. Through these measures, the court sends a clear signal that procedural good faith and compliance with deadlines are essential in the conduct of the trial.
- Fourthly, both peremption and dismissal do not imply and have nothing in common with withdrawal of the claim, as withdrawal implies the express manifestation of will.

For this reason, these aspects cannot be considered similarities per se, and the differences between them are significant enough to be discussed separately.

A first difference that deserves attention concerns the object to which peremption and dismissal apply. If we look at Article 267(f) and (g) of the Civil Procedure Code of the Republic of Moldova, we see that removal of the claim from the docket strictly concerns claims brought before the court of first instance. On the other hand, peremption, as regulated by Article 416(1) of the Romanian Code of Civil Procedure, applies to any procedural claim: whether we are talking about a claim, a challenge, an appeal, a review, or any other request for reform or retraction.

This is where an essential difference arises: when regulating the institution of peremption, the Romanian legislator clearly assigned it a role as a procedural sanction, applicable at any stage of the proceedings—first instance, appeal, cassation, review—as a form of punishment for passivity. In contrast, in the case of removal from the docket, we do not find the same consistency or the same punitive purpose. As mentioned above, it is unclear why it was decided to punish the parties' failure to appear only before the court of first instance, while situations of passivity in appeal or cassation are treated differently or even ignored.

Another important difference concerns the way in which the party's fault is assessed. In the case of removal from the docket, the law refers to "unjustified failure to appear," and the courts often consider that a single absence is sufficient to establish fault. The problem is that the court no longer analyzes the real reasons for the failure to appear, applying the measure directly, as if it were an automatic sanction.

A third difference concerns who can invoke the sanction, this criterion clearly outlining the particularities of each procedure.

Thus, in the case of removal of the claim from the docket, the sanction may be invoked by any participant in the proceedings, including the court ex officio, with the exception of the claimant. This exclusion is logical, since the sanction concerns the unjustified absence of the claimant from the court hearing, and the claimant, by virtue of his absence, cannot himself request the application of a measure resulting from his own inaction. Moreover, there is no legal scenario

in which the claimant could validly request the removal of their own claim from the docket on the grounds of their absence.

The fourth difference, which is an essential one, concerns the manner in which the sanction is determined and applied. Thus, in the case of both removal from the docket and peremption, the determination and application of these procedural measures is carried out by the court, but according to completely different logic and mechanisms.

3.4. Fines and other special sanctions

3.4.1 Concept and legal nature of judicial fines in civil proceedings

The judicial fine is an autonomous procedural institution, with a legal regime distinct from that of civil, criminal, or administrative penalties. It is complex in nature, as it combines an educational function—intended to make participants in the proceedings accountable—with a repressive function, through the prompt sanctioning of procedural violations. Its strictly procedural nature, its application exclusively within judicial proceedings, and its pecuniary destination to the state give it a clear identity and obvious practical utility. In this way, the judicial fine not only disciplines procedural conduct but also contributes to the efficiency and fairness of civil proceedings, constituting an indispensable tool for the proper administration of justice.

An analysis of its regime in the civil procedural law of the Republic of Moldova highlights both the merits and vulnerabilities of the institution. On the one hand, the detailed regulation and diversity of situations in which it can be applied demonstrate the legislator's concern for disciplining procedural conduct and protecting the proper conduct of civil proceedings. On the other hand, judicial practice reveals a reluctant and uneven application of fines, especially in cases of bad faith exercise of procedural rights. The lack of clear criteria for distinguishing between good faith and abuse gives courts a wide margin of discretion, but also creates the risk of unpredictable outcomes. In addition, the relatively modest amount of the fine, compared to other domestic regulations (Administrative Code No. 116/2018, Insolvency Law No. 149/2012) and the legislation of other countries, reduces its coercive impact and real preventive effect.

Furthermore, the Civil Procedure Code of the Republic of Moldova provides for the possibility for the court to order the party that has brought a manifestly unfounded action in bad faith or has consistently opposed the fair and expeditious trial of the case to compensate the other party for lost working time. The amount of such compensation is set within reasonable limits, depending on the circumstances of the case and the level of remuneration for the profession in question.

However, we consider that the exclusion of general rules on compensation was a misguided legislative strategy. Although there are currently specific rules providing for the possibility of redress for damages, in the absence of clear and uniform general rules, participants in proceedings who suffer damages as a result of abusive or bad-faith behavior by other parties do not have a legal mechanism for compensation. In such situations, the only applicable measure remains the judicial fine imposed by the court, which, however, is not intended to repair the actual damage caused, but only to sanction procedural conduct.

3.4.2 The regime for applying judicial fines in civil proceedings: grounds, procedure, and means of appeal

The procedural law, namely Article 161 of the CPC, does not provide an exhaustive or absolute framework for the regime of judicial fines. Firstly, the expression "in the proportions established by this code" does not cover all possible situations, as discussed above, since other procedural legislation may contain additional provisions relating to both the grounds for application and the amount of the fine.

Currently, national judicial practice does not provide clear criteria for identifying situations in which certain procedural actions can be classified as being exercised in bad faith (procedural abuses). At the same time, neither does the specialized doctrine at the national level support a delimitation of these situations. This lack of clarity contributes to the uneven and often reluctant application of judicial fines, even in cases where the abusive behavior of the parties is evident.

3.4.3 Identification of other special sanctions in civil procedure

At the very beginning of this paper, I emphasized that the provisions of Article 10 CPC leave open the possibility of additional procedural sanctions, through the use of the phrase "and other measures provided by law." Although it is not entirely clear whether, by the term "measures," the legislator referred exclusively to sanctions, a systematic and contextual interpretation of the norm – corroborated by the fact that it is found in an article dedicated to sanctions – entitles us to consider that the legislative intention was to leave room for the existence of other procedural sanctions, not expressly regulated in the text. The identification, delimitation, and qualification of these sanctions naturally fall to doctrine and, to a certain extent, judicial practice, which are called upon to clarify the applicability and nature of these punitive measures.

When discussing other special sanctions, we will refer mainly to the Civil Procedure Code of the Republic of Moldova, where we will identify, list, and briefly analyze the forms of sanctions which, although not expressly classified as such, can nevertheless be considered procedural sanctions by their nature and effects.

A classic punitive measure, which can be classified as a genuine civil procedural sanction, is *the removal from the courtroom of a participant in the proceedings or their representative* when they repeatedly violate the order of the hearing and have been previously warned. According to the provisions of Article 196(2) CPC, in such situations, the court may order, by judicial decision, the removal of the person concerned from the courtroom. This measure has a dual purpose: on the one hand, to restore order and the authority of the court, and on the other hand, to sanction inappropriate procedural behavior.

Although, traditionally, *court costs* are seen as a compensation mechanism, contemporary doctrine increasingly highlights their punitive dimension.

Although *inadmissibility* is a specific institution of civil procedure, its express regulation in the Civil Procedure Code of the Republic of Moldova appears, surprisingly, for the first time only at the level of the Supreme Court of Justice, in the context of the inadmissibility of appeals (Art. 433 CPC). It remains unclear why the legislator did not previously integrate this institution into the architecture of the Code, but we note that such an approach was clearly adopted in the Administrative Code. Thus, the institution of admissibility, expressly regulated in this new code, takes over the functions previously assigned to Articles 169–170 CPC (refusal to accept the action, return of the application, non-examination), bringing them together in its own conceptual

framework. According to Article 195 of the Administrative Code, the application of Articles 169–171 of the Code of Civil Procedure is expressly excluded.

Essentially, inadmissibility serves to filter applications, allowing those that do not meet the legal conditions to be dismissed without resorting to an examination of the merits of the case.

It should be noted that there are regulations in the field of evidence that include *"sanction by presumption"* in a more mitigated form, but with features specific to procedural sanctions. An example of this is Article 138(1) Even in a mitigated form, this procedural consequence implies a genuine sanctioning of unfair conduct, highlighting a relevant punitive element. Even if in a mitigated form, this procedural consequence implies a genuine sanctioning of unfair conduct, highlighting a relevant punitive element, although it is not formally qualified as such.

Opinions have been expressed that "the annulment of the court decision" constitutes a civil procedural sanction, but we can say with certainty that the annulment of the decision cannot be classified as a civil procedural sanction, as it does not fulfill the specific functions of such a sanction, such as preventing or repressing non-compliant procedural behavior. It is not repressive or coercive in a procedural sense, but is a legal consequence of a violation of the rules of law, serving to restore the legality and fairness of the proceedings, not to sanction a party to the proceedings.

Professor Ioan Leș argues that certain legal institutions, although traditionally classified as substantive law, may have procedural sanctions. A telling example is *the statute of limitations.* Although the prevailing view in law has always been that the statute of limitations is an institution of substantive law, the author opts for the idea that it also has a procedural component and can be viewed, in certain respects, as a procedural sanction.

Opinions have been expressed that "the annulment of a court decision" constitutes a civil procedural sanction, but we can say with certainty that the annulment of a decision cannot be classified as a civil procedural sanction, as it does not fulfill the specific functions of such a sanction, such as preventing or repressing non-compliant procedural behavior. It is not repressive or coercive in a procedural sense, but is a legal consequence of a violation of the rules of law, serving to restore the legality and fairness of the proceedings, not to sanction a party to the proceedings.

We return to the idea that the obligation to complete or redo a procedural act that has been done incorrectly, as well as the measure of restoring the violated rights, cannot be considered procedural sanctions, neither general nor special.

4. European trends and prospects for reform in the area of civil procedural sanctions

4.1. European trends in civil procedural sanctions

Traditionally, civil procedural law has not been perceived as an area of legal innovation or dynamism. As argued by C.B.Picker[23] for decades, civil procedure has been considered one of the most stable and conservative branches of law, where changes were rare and often marginal.

The traditional perception of civil procedure as an eminently national, stable, and conservative field has gradually eroded in recent decades under the combined impact of transformative forces such as the demands of judicial efficiency, the imperatives of fair trial, and,

[23] PICKER, Colin B., BAUM, Harald, REHBINDER, Manfred (eds). *The Dynamism of Civil Procedure – Global Trends and Developments* In: *Ius Comparatum – Global Studies in Comparative Law, vol. 22,* Springer, Cham, Switzerland, 2016, pp. 45-48.

above all, the European Union's commitment to promoting the harmonization of civil procedures at the European level.

The European Union has taken clear steps towards identifying general rules in the field of civil procedure through several political and legislative initiatives related to civil justice.

The evolution of the civil procedural sanctions regime marks a transition from a rigid formalism, specific to national traditions, to a modern, flexible European vision oriented towards efficiency and fairness. The experience of the Member States of the European Union and harmonization projects, such as the European Model Rules of Civil Procedure (ELI/UNIDROIT), show that sanctions should not be seen exclusively as punitive instruments, but as functional mechanisms for accountability and discipline, capable of ensuring that proceedings are conducted within a reasonable time and in a climate of loyal cooperation. In addition, the digitization of justice requires the adaptation of the sanctioning regime to the new realities of electronic and hybrid proceedings, which calls for modern, clear, and adaptable mechanisms.

4.2. ECtHR case law as a factor shaping domestic law relevant to procedural civil sanctions

In this context, the case law of the European Court of Human Rights plays a decisive role in shaping the law, acting as a veritable corrective to formalistic excesses and disproportionalities. The Strasbourg Court has established fundamental principles regarding proportionality, predictability, and the avoidance of excessive formalism, emphasizing that form is not an end in itself, but a tool designed to protect the substance and fundamental rights of the parties. Whenever form ends up affecting substance, either because of flawed regulation or abusive application, its protective function is undermined. For the Republic of Moldova, as a state party to the Convention, these standards are not mere recommendations, but direct legal obligations that require the adjustment of legislation and judicial practice so that procedural discipline is compatible with the requirements of the rule of law.

In line with this logic, a comprehensive modernization of the Moldovan civil procedural framework is required. Among the priorities are: a clear definition of procedural sanctions; the explicit establishment of forfeiture as a sanction for the passivity of the parties and a tool against unjustified delay; explicit regulation of the nullity of procedural acts, with the establishment of its main classifications (absolute and relative nullity), the condition of harm – according to the principle of "no penalty without harm" – as well as the time limits and subjects entitled to invoke the penalty. At the same time, clearer regulation of judicial limitation periods is needed to eliminate the current uncertainties. The judicial fine regime should also be revised by increasing the amount and applying it more consistently as an effective deterrent to abusive conduct. In addition, the establishment of a compensation mechanism would provide effective protection to parties harmed by unfair procedural conduct, ensuring real redress for the damage suffered.

Therefore, the Republic of Moldova is called upon to combine European trends, ECHR standards, and its own internal reform needs into a balanced regulatory framework that guarantees both the efficiency and fairness of civil proceedings. The implementation of these reforms would not only represent a technical adjustment, but a genuine modernisation of civil proceedings, designed to meet the requirements of the rule of law and strengthen the confidence of litigants in the justice system.

4.3. Proposals for updating and improving the regulations on civil procedural sanctions are the result of the entire research, materializing the achievement of the last objective we set ourselves and which, summarized, can be found in the General Conclusions and Recommendations.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

Based on the analysis carried out in the doctoral thesis, focusing on identifying problems and gaps in the process of examining and resolving the aforementioned disputes, 16 conclusions and 8 proposals for *lex ferenda* were formulated.

In the Republic of Moldova, the impact of procedural civil sanctions as they currently manifest themselves on the fair administration of justice requires qualitative regulation (clarity, predictability, proportionality) and a balanced approach to enforcement (flexibility and individualization).

European standards (ECHR and EU acquis) require that sanctions always be justified by the intended purpose and proportionate to the seriousness of the procedural violation.

Therefore, we consider it appropriate to conceptualize procedural civil sanctions not only according to the grounds for their application, but also according to their purposes. Thus, procedural civil sanctions are the coercive consequences that litigants bear in civil proceedings when, in bad faith, they do not comply with the requirements of form, deadlines, or content of procedural documents, with the aim of ensuring the proper conduct of the proceedings, protecting the rights of the parties, and preventing violations that could affect the efficiency and fairness of justice.

The Civil Procedure Code of the Republic of Moldova does not uniformly establish the institution of procedural sanctions. Therefore, at the very least, the introduction of forfeiture as a distinct sanction is clearly necessary. At the same time, the legislator's use of general formulations such as "*and other measures provided by* law" confirms the difficulty of an exhaustive list and shows that there are other procedural sanctions beyond those expressly established, thus keeping the regulatory framework open and flexible.

In doctrinal terms, even if there is no unanimously accepted definition of civil procedural sanctions, Article 10 CPC provides an essential reference point, outlining both the concept and the general conditions of application. These general criteria constitute the theoretical basis for the application of sanctions and give coherence to their legal regime. At the same time, it is important to emphasize the need for a clear distinction between sanctions and procedural remedies—the former being coercive and disciplinary in nature, the latter serving to correct or supplement procedural defects, without fulfilling the function of a sanction.

The analysis of the nullity of procedural acts confirms its central role in the architecture of procedural sanctions, as it is impossible to conceive of it outside the permanent reference to the notion of "procedural act." A first level of reflection concerns the nature and functions of nullity. The lack of a unified theoretical e foundation risks transforming the institution into a sanction applied in a fragmented manner, lacking coherence and predictability. A possible solution would be to establish, in the Code of Civil Procedure, a general regulatory framework that expressly defines the conditions for the application of nullity and its effects, with special rules referring to

these provisions. In this way, nullity would acquire a unified theoretical and practical foundation, and its application would no longer depend on fragmented interpretations, but on clear criteria accessible to both the court and the participants in the proceedings.

Secondly, the lack of an explicit legislative classification of nullities (absolute/relative, conditional/unconditional, own/derived, total/partial) creates additional difficulties. Although national procedural doctrine has proposed these distinctions, the absence of their normative enshrinement generates divergent practices and affects predictability. For example, the legislative classification into absolute and relative nullities would allow a clear distinction between public and private interests – an essential criterion both for the invocation regime and for determining the effects. At the same time, we have another example, that of Romania, where the enshrinement of the classification of nullities conditional on harm has implemented the principle that the penalty of nullity should only apply when the irregularity has caused actual harm. The integration of such a criterion into Moldovan legislation would represent a necessary modernisation, in line with the principles of proportionality and procedural fairness.

Another sensitive area is the regime for invoking nullities. While absolute nullities, being matters of public policy, can be raised at any time and by anyone, including ex officio by the court, relative nullities should be subject to clear conditions: they can only be invoked by the interested party, within a pre-established time limit and under penalty of forfeiture, with the possibility of coverage through procedural conduct. The absence of precise rules in this regard has led to divergent solutions in practice and, more seriously, has allowed the exploitation of nullity exceptions for purely dilatory purposes, which is contrary to the principle of procedural expediency.

Furthermore, the regime governing the effects of nullity is insufficiently regulated. The lack of clear provisions on the extension of nullity to related acts has led to case law oscillating between restrictive and broad interpretations. The Romanian experience, which expressly establishes the nullity of subsequent acts when they depend on the existence of the annulled act, could serve as a model, contributing to the standardization of solutions and strengthening confidence in the act of justice.

Finally, the institution of redrafting and supplementing procedural documents, enshrined in Article 10(3) of the CPC, reflects a tendency to move closer to a functional view of nullity. However, the regulation remains fragmentary. Even though rectification and amendment are found in the text of the Code of Civil Procedure, their express enshrinement as autonomous remedies would balance the punitive dimension with the remedial one. Even though rectification and modification are found in the text of the Civil Procedure Code, their express enshrinement as autonomous remedial mechanisms would balance the punitive dimension with the reparatory one and bring Moldovan civil procedure into line with contemporary European trends, which emphasize regularization and the reduction of excessive formalism.

Forfeiture is one of the most severe and rigorous procedural sanctions, being inextricably linked to compliance with procedural deadlines. It should be noted that, although certain aspects of the regulation of forfeiture are not fully in line with modern trends, the current national regulatory framework provides clear and predictable regulation, being perhaps the procedural sanction with the greatest legislative transparency.

A central issue related to the application of forfeiture concerns the judicial deadlines set by the court. Practice has shown that, although both legal and judicial deadlines can lead to forfeiture,

there are situations in which courts set excessively short deadlines, which generates excessive formalism and the real risk of restricting the right of access to court. For this reason, there is a need to establish legal safeguards by setting a minimum time limit (e.g., 10 working days) that the court cannot reduce, regardless of the circumstances.

Another sensitive issue concerns regulations that establish irrevocable forfeitures, such as the two-month appeal period provided for in Article 434 of the CPC. Although, in principle, such solutions are admissible, they must pursue a legitimate aim and comply with the criterion of proportionality, so as not to turn procedural discipline into a disproportionate barrier to access to justice. When these conditions are not met, formalism risks prevailing over the essence of civil proceedings, emptying the right to a fair trial of its content.

The institution of limitation, even if not expressly enshrined in the civil procedural law of the Republic of Moldova, is emerging as an objective necessity of modern civil proceedings. From this perspective, peremption is part of the logic of procedural discipline, serving to sanction lack of diligence, encourage active involvement, and ensure that justice effectively serves its purpose—the resolution of disputes within a reasonable time.

The removal of a claim from the docket, as regulated in the Republic of Moldova, is rather formal and limited in nature, occurring quickly on the basis of unjustified absence from one or two hearings, without a mechanism for real assessment of procedural conduct and without sufficiently clear regulation of the effects on procedural acts already performed.

An analysis of judicial fines in the civil procedural law of the Republic of Moldova highlights both the merits and vulnerabilities of the institution. On the one hand, the detailed regulation and diversity of situations in which it can be applied demonstrate the legislator's concern for disciplining procedural conduct and protecting the proper conduct of civil proceedings. On the other hand, judicial practice reveals a reluctant and uneven application of fines, especially in cases of bad faith exercise of procedural rights. The lack of clear criteria for distinguishing between good faith and abuse gives courts a wide margin of discretion, but also creates the risk of unpredictable outcomes. In addition, the relatively modest amount of the fine, compared to other domestic regulations (Administrative Code No. 116/2018, Insolvency Law No. 149/2012) and the legislation of other countries, reduces its coercive impact and real preventive effect.

Beyond the classic sanctions enshrined in the Code of Civil Procedure, procedural order is also protected by a series of indirect or atypical sanctions. Removal from the courtroom, punitive court costs, inadmissibility, presumptive sanctions, or certain effects of the statute of limitations are clear examples that civil procedural law does not expressly exhaust all forms of response to unfair procedural conduct.

The evolution of the civil procedural sanctions regime marks a transition from a rigid formalism, specific to national traditions, to a modern, flexible European vision oriented towards efficiency and fairness. The experience of the Member States of the European Union and harmonization projects, such as the European Model Rules of Civil Procedure (ELI/UNIDROIT), show that sanctions should not be seen exclusively as punitive instruments, but as functional mechanisms for accountability and discipline, capable of ensuring that proceedings are conducted within a reasonable time and in a climate of loyal cooperation. In addition, the digitization of justice requires the adaptation of the sanctioning regime to the new realities of electronic and hybrid proceedings, which calls for modern, clear, and adaptable mechanisms.

The Strasbourg Court has established fundamental principles regarding proportionality, predictability, and the avoidance of excessive formalism, emphasizing that form is not an end in itself, but a tool designed to protect the substance and fundamental rights of the parties. Whenever form ends up affecting substance, either because of flawed regulation or abusive application, its protective function is undermined. For the Republic of Moldova, as a state party to the ECHR, these standards are not mere recommendations, but direct legal obligations, which require the adjustment of legislation and judicial practice so that procedural discipline is compatible with the requirements of the rule of law.

In this logic, a comprehensive modernization of the Moldovan civil procedural framework is required. Among the priorities related to the research topic, we can mention:

- a clear definition of procedural sanctions, particularly for reasons of expected outcomes;
- expressly establishing peremption as a sanction for the passivity of the parties and as a tool against unjustified delay;
- explicit regulation of the nullity of procedural acts with the establishment of its main classifications (absolute and relative nullity), the condition of harm – according to the principle of "no penalty without harm" – as well as the time limits and subjects entitled to invoke nullity.
- At the same time, clearer regulation of judicial limitation periods is needed to eliminate the current uncertainties.
- At the same time, the judicial fine regime needs to be revised by increasing the amount and applying it more consistently as an effective deterrent to abusive conduct.
- In addition, the establishment of a compensation mechanism would provide effective protection to parties harmed by unfair procedural conduct, ensuring real redress for the damage suffered.

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ADNOTARE

JOSAN Vasile, „IMPACTUL SANCȚIUNILOR PROCEDURAL - CIVILE ASUPRA ÎNFĂPTUIRII ECHITABILE A JUSTIȚIEI ”. Teză de doctor în drept. Școala doctorală Științe Juridice și Economice a Universității de Stat din Moldova. Chișinău, 2025

Structura tezei: introducere, patru capitole, concluzii și recomandări, bibliografie din 103 titluri, 173 pagini de text de bază. Rezultatele obținute sunt publicate în 9 lucrări științifice.

Cuvinte cheie: sancțiune procedural-civilă, acte de procedură, nulitate, termen de procedură, decădere, perimare, amendă judiciară.

Domeniul de studiu: dreptul procesual civil.

Scopul lucrării rezidă în realizarea unei cercetări complexe asupra sancțiunilor procedural-civile, analizându-le prin prisma reglementărilor naționale și europene, a opiniilor doctrinare și a practicii judiciare, atât naționale, cât și internaționale, pentru a evalua impactul acestora asupra desfășurării echitabile a justiției în Republica Moldova

Principalele **obiective** ale cercetării sunt: conceptualizarea sancțiunilor procedural-civile și a tipologiilor acestora întru evitarea deficiențelor și inconsecvențelor legislative, respectiv a caracterului difuz de aplicare; evaluarea regimului juridic al principalelor sancțiuni (nulitatea, decăderea, perimarea, amenzile judiciare), pentru a delimita impactul fiecărei categorii asupra funcționalității justiției civile; analiza comparată a reglementărilor naționale cu cele din alte sisteme de drept (în special din state membre ale Uniunii Europene) și cu jurisprudența Curții Europene a Drepturilor Omului (CtEDO);Formularea de propuneri concrete de *lege ferenda* pentru optimizarea cadrului normativ și a practicii judiciare în Republica Moldova.

Noutatea și originalitatea științifică conferă prezentei lucrări substanța unui studiu complex menit să fundamenteze științific conceptul „sancțiune procedural-civilă” pe fonul unei austerități doctrinare naționale. Acesta fiind și reperul noutății cercetării științifice efectuate. Curtea Europeană a Drepturilor Omului a remarcat că statul poate stabili anumite rigori pentru accesul la justiție, nerespectarea cărora să fie sancționată prin neadmiterea persoanei la această metodă de apărare. În același timp, Înalta Curte nu a ezitat să remarce că aceste rigori nu trebuie să afecteze însăși substanța accesului liber la justiție, astfel încât sancțiunile general aplicabile să poată fi ajustate în funcție de situația unor justițiabili concreți. Acest fin echilibru necesar în instituirea sancțiunilor procedurale stă la baza echității procedurilor judiciare în ansamblul lor, iar cercetarea acestora este o bună ocazie de a releva eficiența, oportunitatea și contribuția sancțiunilor procedurale la realizarea actului de justiție.

Semnificația teoretică rezidă, în identificarea și analizarea modalităților prin care sancțiunile procedural-civile contribuie la garantarea unui proces echitabil, în măsura în care acestea disciplinează comportamentul participanților la proces și previn abuzurile, dar fără a compromite dreptul efectiv de acces la justiție.

Valoarea aplicativă a lucrării se exprimă prin enunțarea unor viziuni critice asupra modului de interpretare și aplicare în practică a prevederilor ce reglementează sancțiunile procedural-civile. Procesul de cercetare a permis elaborarea unor argumentări bazate pe doctrină, practică judiciară și analiză proprie pentru a servi avocaților, judecătorilor și altor categorii de juriști la aplicarea cadrului juridic supus analizei, cât și uniformizarea practicii judiciare.

АННОТАЦИЯ

ЖОСАН Василе, «ВЛИЯНИЕ ПРОЦЕССУАЛЬНО-ГРАЖДАНСКИХ САНКЦИЙ НА СПРАВЕДЛИВОЕ ОСУЩЕСТВЛЕНИЕ ПРАВОСУДИЯ». Докторская диссертация по праву. Докторантура юридических и экономических наук Государственного университета Молдовы. Кишинев, 2025

Структура диссертации: введение, четыре главы, выводы и рекомендации, библиография из 103 названий, 173 страницы основного текста. Полученные результаты опубликованы в 9 научных работах.

Ключевые слова: процессуально-гражданская санкция, процессуальные действия, недействительность, процессуальный срок, утрата права, истечение срока, судебный штраф.

Область исследования: гражданское процессуальное право.

Цель работы заключается в проведении комплексного исследования процессуально-гражданских санкций, их анализе с точки зрения национальных и европейских нормативных актов, доктринальных мнений и судебной практики, как национальной, так и международной, с целью оценки их влияния на справедливое осуществление правосудия в Республике Молдова. Основные **цели** исследования: концептуализация процессуально-гражданских санкций и их типологии с целью предотвращения законодательных недостатков и несоответствий, а также неоднозначности их применения; оценка правового режима основных санкций (недействительность, утрата права, истечение срока давности, судебные штрафы) с целью определения влияния каждой категории на функционирование гражданского правосудия; сравнительный анализ национальных норм с нормами других правовых систем (особенно государств-членов Европейского Союза) и с практикой Европейского суда по правам человека (ЕСПЧ); формулирование конкретных предложений по *lege ferenda* для оптимизации нормативно-правовой базы и судебной практики в Республике Молдова.

Новизна и научная оригинальность придают настоящей работе содержание комплексного исследования, направленного на научное обоснование концепции «процессуально- гражданские санкции» на фоне строгости национальной доктрины. Это и является ориентиром новизны проведенного научного исследования. Европейский суд по правам человека отметил, что государство может устанавливать определенные специальные требования для доступа к правосудию, несоблюдение которых наказывается недопущением лица к этому способу защиты. В то же время Европейский суд не колебался отметить, что эти строгие требования не должны затрагивать саму суть свободного доступа к правосудию, с тем чтобы общепримени мые санкции могли быть скорректированы в зависимости от ситуации конкретных лиц, подлежащих судебному преследованию. Это тонкое равновесие, необходимое при установлении процессуальных санкций, лежит в основе справедливости судебных процедур в целом, и их исследование является хорошей возможностью выявить эффективность, целесообразность и вклад процессуальных санкций в осуществление правосудия.

Теоретическое значение заключается в выявлении и анализе способов, с помощью которых процессуально-гражданские санкции способствуют обеспечению справедливого судебного разбирательства, поскольку они дисциплинируют поведение участников процесса и предотвращают злоупотребления, но не ущемляют фактическое право на доступ к правосудию.

Прикладная ценность работы выражается в изложении критических взглядов на способ толкования и применения на практике положений, регулирующих процессуальные гражданские санкции. В ходе исследования были разработаны аргументы, основанные на доктрине, судебной практике и собственном анализе, которые могут быть использованы адвокатами, судьями и другими категориями юристов при применении анализируемой правовой базы, а также для унификации судебной практики.

ANNOTATION

JOSAN Vasile, "THE IMPACT OF PROCEDURAL-CIVIL SANCTIONS ON THE FAIR ADMINISTRATION OF JUSTICE." Doctoral Thesis in Law. Doctoral School of Legal and Economic Sciences, Moldova State University. Chișinău, 2025.

Structure of the thesis: introduction, four chapters, conclusions and recommendations, bibliography comprising 103 titles, 173 pages of main text. The obtained results are published in 9 scientific works.

Key words: procedural-civil sanction, procedural acts, nullity, procedural time-limits, forfeiture, discontinuance, judicial fine.

Field of study: civil procedural law.

The **purpose** of the research resides in carrying out a comprehensive examination of procedural-civil sanctions, analyzed through the lens of national and European regulations, doctrinal opinions, and judicial practice—both national and international—in order to assess their impact on the fair conduct of justice in the Republic of Moldova.

The **main objectives** of the research are: conceptualization of procedural-civil sanctions and their typologies, with a view to avoiding legislative deficiencies and inconsistencies, as well as diffuse modalities of application; evaluation of the legal regime of the principal sanctions (nullity, forfeiture, discontinuance, judicial fines), in order to delimit the impact of each category on the functionality of civil justice; comparative analysis of national regulations with those of other legal systems (particularly in Member States of the European Union) and with the case-law of the European Court of Human Rights (ECtHR); formulation of concrete proposals *de lege ferenda* for optimizing the normative framework and judicial practice in the Republic of Moldova.

The **scientific novelty and originality** confer upon the present work the substance of a complex study aimed at providing a scientific foundation for the concept of "procedural-civil sanction" against the background of a certain doctrinal austerity at national level—this being the point of reference for the novelty of the research undertaken. The European Court of Human Rights has observed that the State may establish certain procedural requirements for access to justice, the failure to comply with which may be sanctioned by denying a party the possibility of pursuing such a means of defence. At the same time, the Court has emphasized that such requirements must not impair the very essence of the right of free access to justice, such that generally applicable sanctions may be adjusted according to the situation of specific litigants. This delicate balance, necessary in the institution of procedural sanctions, lies at the core of fairness in judicial proceedings as a whole, and the study of such sanctions offers a valuable opportunity to highlight their efficiency, appropriateness, and contribution to the realization of justice.

The **theoretical significance** resides in identifying and analyzing the modalities through which procedural-civil sanctions contribute to guaranteeing a fair trial, insofar as they discipline the conduct of the participants in proceedings and prevent abuses, without compromising the effective right of access to justice.

The **practical value** of the work is expressed in the articulation of critical perspectives on the interpretation and practical application of provisions regulating procedural-civil sanctions. The research process has enabled the elaboration of argumentation grounded in doctrine, case-law, and original analysis, intended to serve lawyers, judges, and other categories of jurists in the application of the relevant legal framework, as well as in the pursuit of uniformity in judicial practice.

JOSAN VASILE

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553.03 CIVIL PROCEDURAL LAW

Summary of doctoral thesis in law

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