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EȘANU, Oxana

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Author: **EȘANU Oxana**

Doctoral Supervisor: **ARDELEAN Grigore,** doctor in law**,** university professor

Advisory Committee: **MIHALACHE Iurie,** doctor in law, associate professor

SOSNA Boris, doctor in law, university professor

CHISARI Aliona, doctor in law, associate professor

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Author:
EȘANU, Oxana

Doctoral Supervisor:
ARDELEAN Grigore, PhD, Professor, University of Political and Economic Studies "Constantin Stere"

Doctoral Committee:

1. AVORNIC Gheorghe, Doctor Habilitated in Law, Professor, University of Political and Economic Studies "Constantin Stere"
2. ARDELEAN Grigore, PhD, Professor, University of Political and Economic Studies "Constantin Stere"
3. MIHALACHE Iurie, Doctor Habilitated in Law, Associate Professor, University of Political and Economic Studies "Constantin Stere"
4. BÎTCA Ion, PhD, Associate Professor, European University of Moldova
5. TĂLĂMBUȚĂ Angela, PhD, Associate Professor, Technical University of Moldova

Secretary of the Doctoral Committee:
6. ARDELEAN Grigore, PhD, Associate Professor, University of Political and Economic Studies "Constantin Stere"

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Author: _____ **EȘANU Oxana**

Secretary of the Doctoral Committee ....._____ **ARDELEAN Grigore**

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CONCEPTUAL REFERENCES OF RESEARCH

The relevance and importance of the addressed topic. The accelerated development of all areas of life, and with it, and of the law as a whole, the need to modernize the legal-civil norms, especially those that regulate housing relations, has always had a special place. Moreover, the everyday needs of individuals, particularly those related to the use of certain goods, often cannot be met except by resorting to using someone else's property for a fee, a situation that connects the interested parties through a contract called a lease.

Thus, the need to rent a home for oneself or family, does not target a specific category of subjects or states, it exists both in high-level developing and developing or poorly developed countries. Therefore, the need to capitalize on the state patrimony in the part of unused goods for various reasons is becoming more and more pronounced. However, this process has only to generate advantages, both for the owner (whether it is the state or the administrative-territorial units), and for those who will use these goods in their economic activity in the form of the provision of services in these rooms, production or trade.

For the reasons outlined above, we decided to address this particular subject, taking into account the increased interest of the state in capitalizing its heritage, but also the economic interest of potential beneficiaries/tenants, as well as those who do not have a direct relationship with the lessor or the rented good, but benefit from services provided in its premises.

Under these circumstances, an in-depth study on the legal essence of the institution of the location cannot be carried out without the extensive approach of the issue affecting the quality of the housing regulations, but also the identification of the right place among other law institutions, as long as the location is an important institution of civil law, with distinct and accentuated features among the institution of the civil contract. This observation calls for a sensitive and special approach to the employment relationship, starting with its definition and continuing with the detailed description of each legal character that it presents among the contracts that have as their object the transmission of a right of use.

Moreover, the institution of the lease, in its capacity as a legal instrument that ensures the development of the social relations established on the occasion of the use of the good of another, needed regulation from the beginning of its appearance, throughout the evolution of mankind, but also today, at which point the relations related to the use of various goods are constantly rising. As a consequence, the housing regulations must also evolve by connecting them to the requirements of the time we live in order to ensure the transposition of the current legal relations, as well as the categories of interests that the parties of the housing relationship are pursuing.

Thus, in order to ensure success in concluding the lease agreement, the authorities should work on improving the regulatory area, making housing legislation more accessible as a temporary personal right over the assets of another. Moreover, the new challenges facing humanity, the sedentary, the desire to exploit, to develop products and various businesses, to take over services once in state management, the diversification of payment methods, requires reconsidering, in many respects, the concept that has been the basis of regulation of housing ratios.

In this regard, we consider that the topic of our work is current and timely coming to anticipate the new needs of society related to the temporary use of goods. In fact, despite many decades of research, today we still encounter some confusion in order to identify the role and location of the location among special contracts, not to mention the subtleties that many legal specialists are far from interpreting or misinterpreting, whether they lack a well-structured and all-embracing scientific material. At the same time, the Moldovan doctrine is still addressing some outdated concepts about the location, inherited from the Soviet period, lacking adaptation to the needs that society demands today.

Although our doctrine has some scientific research in the field of housing, the continuous development of society, the diversification of the needs for the use of goods, also require a continuous research of these categories of relations, especially as the new regulations brought by the modernization of the Civil Code require to be adapted to the specifics of the rules of application, interpreted and made accessible to the general public.

Based on the previous considerations, the relevance and timeliness of this study are oriented toward finding solutions to many of the issues that affect the proper functioning of housing relations, while ensuring the protection of beneficiaries' interests—from the lessor to the fulfillment of the state's interests in terms of taxation.

All of these considerations have determined our intention to study lease relations in order to identify the full spectrum of problems affecting the functionality of the legal mechanism designed to ensure the fundamental rights and freedoms of the subjects directly involved in the report, but also those who benefit or may suffer from its constitution.

Description of the Research Field and Identification of the Research Problem.

In our country, the lack of opportunity to acquire housing has caused lease relations to expand significantly, which in turn requires the law to provide detailed regulation of these types of relationships.

In this context, the research problem is generated by the idea that although the Civil Code of the Republic of Moldova establishes a wide spectrum of rights, but at the same time, also

obligations imposed on the parties forming the housing ratio, however, after the modernization that took place in 2019, the problems on this segment remain to be many and diverse. On the one hand, the recent amendments made to the rules governing the institution of the location, today we find certain ambiguities, gaps and concepts that make difficult the functionality of the legal mechanism that regulates housing relations in many respects. On the other hand, guaranteeing the contractual rights of the subjects involved in legal relations of location becomes indispensable in the context of harmonizing our legislation to the standards of the European Union, as well as to the requirements of the days in which we live. To this is added the insufficient adaptation of the Civil Code to international requirements. In addition, the Civil Code has been insufficiently adapted to international requirements. Although some clarifications regarding lease were introduced after its 2019 modernization, these still provide reasons for researchers to continue the mission initiated at that time. Furthermore, the particularities of leasing unused goods owned by public authorities remain little studied today. In this context, it is necessary to study the phenomenon driven by the course of societal development in all its aspects, and the economic utilization of goods of any category, including those managed by the state, represents a major priority. However, this study begins with the examination of the national doctrine in the area of locational research. For this, we paid special attention to the works signed by the authors D. Cimil, S. Baiesu, A. Bolosenco, I. Trofimov, G. Ardelean, I. Bîtcă, A. Tălămbuţă, O. Efrim, Al. Secrieru, O. Cazacu, Gh. Chibac, I. Malanciuc and Al. Guinovna.

From a comparative perspective, the study of lease relations also extends to foreign doctrine, primarily Romanian, influenced by renowned authors such as C. Hamangiu, Fr. Deak, I. Dogaru, R. Dincă, E. Chelaru, G. Boroi, Gh. Beleiu, I. Popa, T. Prescure, A. Ciurea, and I. Urs.

European doctrine in the field of lease relations has been significantly influenced by authors such as E. Veress, A. Ronne, A. Menendez, Ph. Malaurie, C.A. Comelles, A. Benabent, M. Belu Magno, and C.C. Angelich.

The aim and objectives of the study are formulated in strict accordance with the general interest of identifying solutions to the problems generated by the poor regulation of housing relations, results that are difficult to obtain without drawing concrete objectives, of which we insist on mentioning the following:

- Analysis of the national legal framework governing lease relations;
- Study of the doctrine regarding the legal essence of the lease contract, in correlation with other forms of lease relations;

- Analysis of current concepts underlying the regulation of the lease institution, as well as reasoning and justification for reconsidering them and highlighting their advantages;
- Examination of legislation in other countries concerning lease relations, including their various forms;
- Identification of the most pressing issues hindering the efficient functioning of lease relations, as well as the sources generating them;
- Strengthening the mechanism for safeguarding the fundamental rights and freedoms of the parties in a lease relationship by improving the degree of regulation;
- Development of recommendations that serve as solutions and stimulate further discussion within the national doctrine on the study of the lease institution;
- Alignment of the normative framework regulating lease relations with European Union and international standards.

The methodology of scientific research is aimed at the wide range of methods that have become known through efficiency and the result generated. These include the historical method; the systemic method; the analysis method; the synthesis method; the comparative method; the empirical method.

The scientific novelty and originality of the work is made evident by identifying distinct solutions for the efficiency of the legal mechanism to ensure the guarantee of the rights of the subjects involved in the housing relations; recommending new concepts that will form the basis of the regulation of the housing relations that have as object the goods and services in the state management; introduction in the content of the Civil Code of new rules guaranteeing the rights of co-owners to transfer common property; the formulation of concepts and rules that guarantee the interests of the lessee in case of expropriation of the lessor; the establishment of a platform containing the list of lessees authorized to transmit housing space in the tenant; the creation of a structure responsible for overseeing the execution of housing relations and guaranteeing the rights of consumers of housing services.

Theoretical significance of the work consists in identifying the legal nature of the institution of the establishment and scientific substantiation of the legal regime applicable in the process of establishment and conduct of housing relations; the imposing volume and the content of the scientific material made available to the local doctrine in the matter of regulation the relationship of location.

The applicative value of the work is noted by the diversity of the solutions and recommendations submitted, of great utility to practitioners, as well as those empowered to apply the law for the resolution of disputes related to the violation of the conditions of execution of the

lease agreement. Also, with the proposals submitted in the field of amendments to the legislation in the field, optimal conditions are created for the linking of the civil legislation to the European standards, capable of ensuring maximum satisfaction of the patrimonial interests of the subjects of the tenancy report.

The main scientific results submitted for support are presented in the form of recommendations aimed at changing the concept of definition of the lease; treating differently the effects of non-performance from those of improper performance of the tenancy contract, but also establishing distinct sanctions for the two types of non-compliance of the lessor; adapting the special housing relations to the international scientific framework; correlation of the rules of the special laws with the current needs for transposition of the European Union legislation.

Implementation of scientific results. Much of the content of the doctoral thesis was presented for debate in various scientific events (conferences, workshops, symposiums, lectures, etc.), but also published in scientific journals recognized in the country and abroad. All the ideas, polemics, debates and solutions offered by this paper can be used in the development of teaching activities, in the elaboration of master's, doctoral, teaching material for training within the National Institute of Justice.

Approving results. The results of the research were presented at international conferences held in the country and abroad. The topic of the scientific papers was correlated with other contractual relations that have as object the transmission of goods in use. Also, the scientific results obtained during the research were recommended to the legislator with the approval of the draft normative acts intended to regulate the housing relations.

Publications on the thesis theme. The scientific materials in which the current problems of housing ratios are addressed are reflected in the content of 6 scientific articles published in journals accredited both in the country and abroad.

Keywords: location, contractual report, lessor, tenant, rent, lease, concession, leasing, dwelling, unused goods, public authorities, notary body.

THE CONTENT OF THE THESIS

The introduction contains the most essential information on the topicality of the topic, such as: the purpose and objectives of the thesis, the research hypothesis, the methodology of scientific research, the scientific novelty, the solved scientific problem, the theoretical importance and the applicative value of the work and the summary of the thesis compartments.

Chapter 1, entitled: *„The doctrinal framework for the research of location relationships"*, contains the result of examining the doctrine previously exposed on the essence of the relationship of location, in order to identify the research directions, the issues previously perceived by the researchers, the suggestions, polemics, but also the new perspectives in which the study is included.

Among the native authors who had as a matter of scientific concern the housing relations, in a generalized manner, but also the tenancy contract, in particular, we mention the famous civilist **Gheorghe Chibac**. Together with author **I. Malanciuc**, they described in detail the specifics of the housing report, but also of the contract by which it is constituted, starting from the assessment of the historical past of the regulations in the field and ending with the effects of the tenancy contract on the economic development of a society.

Another author who has devoted much of his work to the research of housing relations is **Alexandru Secrieru**, who was constantly interested in the evolution of housing regulations, the result of his efforts being reflected in the content of the scientific work entitled: Historical-legal evolution of the lease of real estate contract.[27,p.491]

A recent and significant contribution to the development of national doctrine in the field of lease relations is made by the author **Grigore Ardelean**, who conducts an in-depth examination of the regulatory issues concerning leases, which were addressed even with the modernization of the Civil Code. In fact, his works on lease relations are among the most diverse and numerous. He begins by examining in detail the area of regulation of location, starting with the terminological concept of the lease relationship, attempting to clarify and show the true essence of each term used in the field of location in general.[1,p.5-16]

In fact, several local authors were concerned about the issue of housing relations, which is observed from the content of the civil law manuals, intended to present the regulations in the field of civil contracts, which also includes the lease agreement. Among them we mention the authors Gh. Chibac, A. Băieșu, A. Rotari, O. Efrim [7,p.688], Dorin Cimil [8,nr.6], Eugen Bejan [9,p.160], Andrei Bloșenco [6,p.280], Igor Trofimov [29,p.127], Iurie Mihalache [24,p. 114].

In the first section of the work, we decided to conduct a study in order to consult the international legislative framework on the regulation of housing relations, for more inspiration in

the formulation of a relevant scientific framework within the reach of the legislator in the process of adapting the national legislation to the European Union standards in the same matter.

Our first view on the regulatory style, adopted by the Romanian legislator when defining the location, is a positive one, of appreciation, in the context in which he chose a concise way of explaining the essence of the housing relationship, which is not specific to our legislation.

Another quite important aspect we identify in Romania's legislation is the explicit establishment of the conditions for expressing the consent of the parties when concluding a lease agreement. In general, regarding the object of the lease, we observe that the foundation of Romania's legislation is based on the concept that distinguishes between "lease of goods" and "lease of services."[16,p.223]

In conclusion, through the analysis of Romanian legislation on the regulation of lease relations, we find that it is quite developed, with provisions capable of legally covering various situations, incorporating some of the most current innovations, which ensures high quality and rational solutions for all parties involved in the relationship.

According to the conceptual structuring and naming of the lease institution in **Italian legislation**, it is referred to by the generic term "lease contract," without differentiating the various types of leases as is done in our legislation (such as lease – lease of land and goods for agricultural purposes; concession – lease of public domain goods). Thus, the varieties of leases are all called leasing, with the inclusion of the category of the leased object in the phrase. For example, instead of *arendă*, the term "lease of rural land" is used, and instead of the lease of residential space, the term "lease of urban land" is applied.[10,n. 262]

Some particular aspects of Italian law are also encountered in the matter of the liability of the parties in the lease agreement. Thus, from the very beginning, we want to show that the Italian legislation on accountability is slightly more rigid compared to that of the Republic of Moldova, especially towards the lessee, being obliged to answer, for example, if the rented property is insured by the lessor, obviously in the part not covered by insurance (art. 1589 CCI). Also, the tenant is responsible for the damage caused by the fire that comes from the good used by him (in the case of a lease with multiple tenants).

The attempt to find in the civil legislation of Germany distinct regulations on the lease agreement results in the identification of small and non-essential regulatory differences related to the Moldovan legislative framework in the same field. So, the tenancy agreement, referred to in German civil law „lease agreement" is based on the regulations in Chapter V (Lease Agreement), Subtitle I (General provisions for rental), starting with Section 535 (Content and main obligations of the lease agreement).[13,p.42].

A relevant aspect in conducting the study on location relations is the examination of the foreign doctrinal framework on the same segment, intending to find valuable theses and opinions regarding the concept of regulating such categories of relations. Clearly, we started the study with the Romanian doctrine, because the current regulations, especially after the modernization of the Civil Code of the Republic of Moldova, are quite similar to those of the Civil Code of Romania, and they are connected to the standards of the European Union for a long time, being also experienced over time, but also closer to the style adopted by our legislator after the 1990s in the regulation of private law relations.

So, among the Romanian authors who were particularly concerned about leasing relations through their research, we mention **C. Hangeanu**, who offered innovative solutions for reviewing the concept of regulating the relations related to renting the property of another.[16,p.46]

Another Romanian doctrinaire who researched the relations of location is **A. Tabacu**. The author wanted to draw attention to the location of the housing spaces, given that they are most frequently rented in Romania [28, p.55], as well as worldwide, a phenomenon determined by the increased value of these categories of goods, as well as the sedentary towards which humanity is heading in the last decades.

In one of his works, the author **Ilie Urs**, when analyzing the legal nature of the lessor's obligations, claims that „he is obliged to pay damages, to cover the damage suffered by the lessee, whether or not he knew the cause of the claim at the time of conclusion of the contract and even if this cause occurs after the conclusion of the lease agreement" [30, p.22].

The French doctrine, besides all the problems that concern them in the matter of regulation of leasing relations, registers a lot of polemics around the protection of the interests of the co-owners of the good that is transmitted in the location. One of the promoters of the interests of the co-owners in the field of housing is **A. Benabent**, who proposes to resort to the legal obligation of the co-owner who refuses the location to recognize the conclusion of the act, the reason for the action being given by the common interest of all the co-owners to rent the good [5, p.222].

A great diversity of doctrinal approaches can we also find in French doctrine and on the issue of the grounds for termination of leasing relations, in particular, when the parties tacitly continue the execution of contractual conditions. In this sense, the French author **Azema G. Baux** argues that the fate of the contract cannot be anticipated, the existence and continuation of its effects sometimes depend on the hazard or will of the parties, which by their correct or on the contrary culpable behavior determines the end of the legal relationship between them.[4, p.177]

The German doctrine is strongly influenced by the approaches that emphasize the economic

aspect of the location, a matter that is drawn from the historical past of this state. Indeed, the rental of goods is specific to Germany due to the migration that occurred in the XI-XII centuries, but also because most of the properties belonged to the church, and they were not entitled to alienate them, which led to capitalize on them by putting them into use. Also, during that period, the institution of the settlement in Germany developed a lot, because the church doctrines claimed that everyone should show devotion by giving their houses into the property of the Church. [26, p.52]

The Spanish doctrine, like the German one, gives priority to the tenant in exchange for the burdening of the lessor by obligations, and this idea, which was the basis of the regulation of housing relations, has a historical genesis promoted since the 1610s. Or, as **author Cristina Argelich Comelles** argues, the first rule on the rental of housing was „The privilege of Villa de Madrid over the rental of houses", granted at Lerma on 8 May 1610. The act provided for a privilege for the lessee, namely, if the term of the tenancy agreement expired, he had forty days at his disposal to find a new home. [14, nr.25]

Following a complex examination of the existing situation, at the beginning of the writing of this work, both doctrinally and in the regulation of housing relations, we manage to find the following aspects relevant to the study:

1.The researchers' concerns regarding housing were focused, at all times and stages of society development, on the idea of ensuring the scientific basis of the regulation of contractual civil relations, giving the parties the priority of deciding on how to capitalize on goods that constitute a surplus patrimonial, against a financial advantage.

2.The international doctrine abounds in works that offer a great diversity of polemics, opinions and debates in the field of housing relations research, while the national doctrine remains to be more reticent in the research of the institution of the locality, in many respects being controversial or influenced by the legislative ideologies of the states that governed this territory.

3.The European legislation, which promotes the Anglo-Saxon law system, as well as the one in the Central Asia area, is characterized by a great flexibility in the lease relationships, oscillating between the guarantee of the economic-financial and social-locative interest.

4.The current legislative framework, which regulates the housing relations established on the territory of the Republic of Moldova, reflects a pronounced transposition of European legislation, while at the same time retaining some specific initial characteristics, in some respects, also to the CIS states.

5. Despite the modernization of the rules governing the institution of the leasing, there is still current a need to strengthen the mechanism for guaranteeing the fundamental rights and freedoms of the parties in a lease relationship by improving the level of regulation.

6. The current state in the regulation of lease relationship requires the elaboration of recommendations that take place solutions, but also incite further discussions within the national doctrine regarding the research of the location institution.

7. Considering the social and economic role of leasing, the scientific research in the field concerned needs to be carried out on an ongoing basis, aligning and adapting the normative framework that governs lease relationships to the European Union and international standards.

In Chapter 2, titled: *„The general concept of location as an institution of Civil Law",* the general concepts regarding the relationship of location are dealt with, starting from the examination of the origin and terminological essence of the location, the evolution of the regulations in the field, the legal nature of the location, the belonging of the institution of the location to the category of patrimonial rights, as well as the necessity and practical utility of the leasing.

Moreover, the terminological aspect of the location requires interpretation starting from the study of its origin, as well as the circumstances that in the distant weather determined its birth with all its peculiarities. This is because, with the advent of the first constituted relations, with the temporary use of the good of another, it became necessary to clarify the essence expressed by the general term of „location" which is at the head of all relations of use, as well as other derivative terms that refer to the varieties of the location.

Therefore, according to some sources, „the emergence and use of the lease agreement is closely related to the development of trade as well as social relations, this contract being one of the first contracts used, after the exchange and the sale, to ensure the transmission in temporary use of certain goods, necessary for the conduct of daily activities".[25, p.151].

By way of specification, the term „leasing", although phonetically similar to the term „home", they have little in common, although a home may also be the subject of the lease agreement, as well as the right of abitation.

Currently, in order to use correctly the terms that are identified in the text of the law governing housing relations, it is necessary to clarify, first of all, their meaning and the areas they refer to. However, in the various editorial offices of the Civil Codes applied in the territory of the present Republic of Moldova, the institution of the settlement was named differently.

Moreover, in the old Civil Code of 1964, the general term of „lease of goods" was used, expressing the meaning of temporary use of foreign goods for payment.

Examining the past, in which the institution of location was affirmed and developed, provides us the opportunity to understand its true essence, the living conditions from which it was determined, and with this fact and the content of the foundation on which lies the mechanism of current regulations.

In order to achieve the proposed goal, but also for a good sequence of exposure, we begin the study on the evolution of housing regulations by following its evolution on a global level, in order to move later to the space of the Republic of Moldova, where the location was regulated under the influence of different governing regimes, coming from both the Soviet space and the Romanian space, significantly inspired by European legislation.

In English law, the lease agreement during the period between the XII and XVI centuries. In the twelfth century, a „villeinage" represented what is today known as the modern lease; where there was a villa, „villein" (tenant) which was allocated land by the master of the mansion (locator) for an indefinite period of time .[12]

In Germany, the first regulations of the location are identified in the content of religious books dating from 1163-1167, in the form of borrowing goods (mostly housing).

In Spain, the first rule on the rental of housing was „The privilege of Villa de Madrid over the rental of her homes, rates and discounts on their rents", granted in Lerma on 8 May 1610. The act provided for a privilege for the lessee, namely if the term of the tenancy agreement expired, he had forty days to find a new home.[3, nr.25] This facility evolved in Spain to the extent that the legislation required the establishment of the living accommodation of those who had a constant tenant status, and later this form of regulation was abandoned due to the insufficiency of urban housing.

In the Romanian Countries, „location has long been regulated in the content of the Caragea Code, but also in the content of the Law for the execution of rental and lease agreements, which was applied in the old kingdom to supplement the provisions of the common law represented by Chapter IV of Part III of the Caragea Code.[28, p.15] Within archaeological discoveries, data were found on a tablet about (*locatio operarum*) through which a free man is engaged in mine work."[27, p.491] More specifically, this practice was identified in the Transylvania area around 1768, where it was used to engage land, customs or meadows, establishments (shops, fairs), mines or some customs duties; the gold exchange lease was an important source of income for the cities." [23, p.125]

A large part of the European countries took over the style of regulation of the lease agreement of the French Civil Code from 1804 in the generalized version. Although the civil

codes of some states, such as Portugal and Spain, differed in some respects from the Napoleonic Code, the same did not happen in terms of contracts.

With the achievement of independence in 1992, this marked the moment when the concept of lease relationships was based on the complex of relations concerning the rental of goods owned by other legal subjects. During this period, the Law "On Tenancy" no. 861/1992 (currently repealed) was adopted.

In the next stage, the development of lease relationships is supported by the provisions of the Government Decision of the Republic of Moldova of May 21, 1993, which adopted the Regulation of the lease undertaking and the Regulation of the leasehold undertaking. These two normative acts establish, for the first time, the new regulations on the legal-legal status and the housing relations of two organizational forms: legal - the lease and lease enterprise.

The contemporary stage of development of housing relations is related to the adoption of the new Civil Code of the Republic of Moldova on June 6, 2002 and the Law on rent in agriculture of May 15, 2003 no. 198/2003.[20, nr.163-166] These are the legislative acts that laid the basis for new approaches in establishing housing relations, inspired by international law, mainly by European Union legislation.

Of great importance is also the Law no. 75/2015 on housing, which regulates in detail the housing relations, especially of social housing, those of service, as well as those with special destination. Obviously, in addition to the laws in the field of location, other special regulations also work. An example would be the Regulation on how to lease unused assets [17] that establishes the procedure for renting the assets of state/municipal enterprises, public authority/institutions to self-management, companies with full or majority public capital.

The study carried out in the second section of the paper aims to clarify the general concept of regulation of housing relations, making it possible to understand the evolution of perceptions that dictate its legal nature, and in particular the following were found:

1. The housing relations enjoy a widespread practice since ancient times, being designed for the legal coverage of the relations established on the occasion of using the property of another for a certain period of time, against a pecuniary benefit
2. The evolution of the laws of the Western European countries, regarding the regulation of the institution of the settlement, has its beginning and still retains today influences of the French civil legislation, continued by some modernizations in the style of the own aspirations of each state, but also by the conditions imposed by the European Union ideology.
3. The foundation of the modernity of the regulations in the field of specific housing relations of the Republic of Moldova is established with the adoption of the Civil Code in 2002, being

continued by the transposition of some European concepts contained in the civil laws of different countries in the community (Germany, Netherlands, Czech Republic, Hungary and France).

4. The legal nature of the use exercised within the framework of the lease relationships oscillates between its status as real and patrimonial law in the category of debt rights, which creates complexities in choosing the regulatory direction.

5. Current regulations largely meet the needs of society in ensuring respect for fundamental rights in contractual relationships established when using the property of another, but are not sufficiently aligned with procedural and enforcement rules issued by national courts.

Chapter 3, titled„lease agreement - legal act with predominant use in the formation of lease relations", is dedicated to the examination of the general feature of the tenancy contract, the validity conditions, the legal regime of the performance of the obligations arising from the lease agreement, the legal regime of the sub-location and the assignment of the tenancy, the termination of the tenancy contract, the effects of the termination of the tenancy contract, the as well as the conditions for the extension of the lease agreement.

Therefore, the general feature of the lease agreement, in its capacity as the main legal act of establishing the lease report, concerns scientific study on the legal characteristics, the concept and the parties of the lease agreement.

In a special manner, the subjects representing the lessor are presented and they refer to: the owner locator; the co-owner locator; the quality of the lessor of the lessor; the non-owner locator of the good transmitted into use; the usufructuary; the pledge creditor as lessor; the locator of the fiduciary administrator; the locator status of the non-owner.

Regarding the last listed subject, because the law does not require that the locator status, in the tenancy contract, be owned by the owner, we deduce that this quality can be held by any person (in addition to those listed above), including a possessor who has the owner's consent or not, is of good or bad faith, is under the name of owner or owner of limited right. Or, in this case, a right of use that belongs to him, and not a right of ownership, respectively the owner transmits his right of use (regardless of the type of use) to another, matter that is in accordance with the provisions of art. 358 CC, according to which *no one can transmit or constitute more rights than he himself has*. Thus, in this compartment we refer to all categories of owners who may have the status of lessor in the lease agreement.

Regarding the legal regime of the performance of the obligations arising from the lease agreement, our decision on the designation, structure and choice of sequence is based on the reasons that are required from the perspective of the accessibility of the scientific material, but also the respect of the natural sequence of the execution of the conditions of the tenancy contract.

We could have also called this compartment as effects of the conclusion of the lease agreement, but we chose to call it: *„the legal regime of the performance of the obligations arising from the lease agreement"*, because we will refer to the regime of the obligations imposed by the legislator to the parties through the content of the Civil Code. Why we will only refer to obligations, because the rights of the parties are reflected in the opposite obligations, so if the lessor has the obligation to pay rent, this is nothing more than a right of the lessee to claim it, which requires us to avoid a doubling of exposure by statement and of rights.

It should also mention that, in the context, although most of the authors refer to mutual obligations, it is necessary to divide the lessee's obligations in relation to the lessor and the obligations it has towards other tenants or third parties. Also, the rights and obligations of the parties resulting from the sub-location or assignment of tenancy will be discussed in a separate compartment.

Finally, regarding everything discussed in the subdivision of the lessor's obligations, a question still deserves to be called into question, namely that of the solution of guaranteeing the quality, safety and proper conduct of contractual relations in matters of tenancy. In other words, although we have a relatively good, recently modernized civil legislation that normally provides us with solutions to many consensus problems that arise in the execution of the tenancy contract, in reality, it is not able to solve them all, as is not felt their expected effect by society. However, today the state fails to fully collect the taxes from the transfer of housing or commercial space due to the impossibility of efficient recording of lease agreements.

Additionally, some disputes in this area are difficult to solve because of the impossibility of providing the evidence base (on the condition of the room transferred to the location, technical parameters, destination, the actual number of beneficial tenants of housing, the limit between small repairs and large repairs, etc.), and many misunderstandings are not even admitted to settlement due to the lack of evidence regarding the establishment of the housing report. On the other hand, the state should act through concrete measures to ensure the security of consumers of such services (tenants) both from a technical point of view (supervision of the compliance of dwellings transmitted on location with the sanitary, security, quality standards in construction, as well as other social and health conditions. Moreover, given that the rental of housing for the Republic of Moldova has become, in the last decade, a type of business, it would also be necessary to ensure from the state authorities the right to competition, real estate advertising, consumer protection, etc.

In this context, we propose the creation of a structure responsible for overseeing the execution of housing relations and guaranteeing the rights of consumers of housing services. To

this end, a platform will be created to contain the list of residents authorized to transmit locative space in this list, and to be found in this list, any locators would pass a location verification post that will be the object of the housing reports in the future. During the verification, the inspectors will take into account the correspondence of the space with its destination, the technical parameters, the safety in construction, etc. Also within the competence of the mentioned structure (a possible agency for supervising the execution of the lease relations) to enter the duties of supervising the good execution, guaranteeing the rent payment, mediation of disputes, classifying the locators according to the quality of the execution of the contracts, intermediation of the contracts, etc but also other activities that would guarantee the safety of consumers of services in the real estate market.

Regarding the legal regime of the sub-location and assignment of tenancy, we shall refer only to the right of the lessee to transmit the rented property in the sub-location, as well as to its right of assignment of the location to a third person, relations which are based on the same idea and effect, but according to the nature of their formation and exercise are different. In the context addressed, we cannot understand why the legislator called art. 1270 CC with the phrase *„Sublocation or assignment of the location"* leaving it understood from the title that these are identical ratios. Yes, we understand that they also represent two alternatives of the lessee, among which he can choose that a third party to benefit from the location in his place, or by sublocation report, or by assignment of the tenancy, but in the end these are two different legal operations.

For this reason, we would suggest to the legislator that the title art.1270 of the CC be amended from *„Sublocation or assignment of the location"* in *„Sublocation and assignment of the location"*, as was done, moreover, at the designation of the norm by the Romanian legislator in art. CCR 1805.

Thus, in order to better understand that the *sublocation* and *assignment of tenants* express two separate legal operations, the first is born from the right of the lessee to subcontract, and the second from the right of the lessee to cede the tenant. That is, the first materializes through a new contract - of sublocation, derivative and accessory to the lease agreement that implies a record, by legal act, of the fact of subcontracting, and the assignment of tenancy implies the transfer of the contract to another person, without concluding a new contract.

Special attention in this section has been given to the rules regarding the extension of the lease contract after its termination. Generally, a lease relationship does not automatically end with the expiration of the term specified in the contract establishing it. However, the lease relationship can continue, allowing the lease contract itself to remain in effect even after its original term has expired.

It is important to note that in such cases, the contract is extended, and the lease relationship continues, without being considered the conclusion of a new contract. This is clarified in the content of Article 1280 of the Civil Code, which provides that if the contractual relationship continues tacitly after the lease term expires, it is *considered extended for an indefinite period*.

However, this is not the biggest problem, but the fact that the legislator does not allow the expression of the will of the parties on the conditions under which the extension of the term of the tenancy contract will take place, although logically, the lease report must be carried out under the same conditions initially set by the parties. We believe that a small nuance has been overlooked by our legislator, namely that of offering the parties the possibility to reserve the right of agreement on conditions under which the location report will be carried out further, at least in the segment of its term. For example, the Romanian legislator gives the possibility of tacitly extending the lease agreement (the tacit relocation), only when the law or the convention between the parties does not provide otherwise, noting that the new location will be indefinite, if by law *or the agreement of the parties* is not provided otherwise.

The study carried out in the present section of the thesis allows us to highlight the peculiarities of concluding, performing and terminating the lease agreement, as well as the status of the different categories of subjects that may have the status of party to the contract. In particular, we must point out the following conclusions:

1. Compared to other categories of contracts, the circle of subjects that can acquire the status of lessor is much more extensive, given that the lease is not a legal act that transfers ownership, respectively, the fact of the lease of the good by a person other than the owner does not significantly affect the real rights on the good.
2. The conditions of validity of the lease agreement have not undergone relevant regulatory changes after the modernization of the Civil Code, except that the failure to comply with the contract is no longer a basis for nullity, but for the inefficiency of the act.
3. The volume of obligations imposed on the lessor in the tenancy contract is more imposing, compared to that of the lessee. However, the practice reports a higher number of disputes in which the applicant (subject injured in rights) has the last one.
4. As regards the conditions for extending the lease relationship through the institution of the tacit resettlement, the legislator admits certain inequities in the conditions in which it does not limit the term of the new contract to the term of the initial contract concluded, which indicates a discrepancy and with the European civil legislation which imposes other rules, usually favouring of the lessor.

Chapter 4, titled *„Varieties of the location and special location reports”,* contains a study on a variety of lease contracts such as: lease, lease and concession, as well as special lease ratios. Regarding the latter, taking into account the specificity of some categories of goods in respect of which the lease agreement is concluded, the status of the subjects who are engaged in the lease report, the destination of the rented good or the social necessity that led to the use of the lease, it was considered that these relations of tenancy are special, which also requires us to examine them in a separate chapter named - *Special Lease Relationships.*

So, the location of the housing fund begins with the description of the variety of rental of private living space, because the field of rental of living space is the most widespread, not only in our country, but also throughout the world. Therefore, here we insist on the specification that the location of the private housing space does not present essential peculiarities and derogations from the general legislative framework in the field of location, both in terms of the establishment of the lease relationship and in terms of the execution of the contract conditions. Moreover, our legislator does not consecrate a separate compartment to the regulation of the housing relations established on the occasion of renting the living space, as he does, for example, the Romanian legislator.

Therefore, one of the varieties of private space rental is the contract on periodic accommodation being regulated after March 1, 2019, in a compartment distinct from the one in which the location is regulated (article 1618 of the Civil Code). From this perspective, it would seem that this report is not of location, but of accommodation, by virtue of making the holiday product available, but it remains to be, in our opinion, a special housing report constituted by a contract on periodic accommodation.

The Specifics of Leasing Dormitories During Studies or Work Activities

As a special type of lease, the use of dormitories by a specific category of subjects: students during their studies, appears in national legislation. It is considered a special lease because it targets a particular group of tenants (students or employees of an enterprise). Moreover, in the case of student dormitories managed by educational institutions funded by the state budget, the lessors themselves are special subjects. Additionally, the residential regime in dormitories is uniform for all tenants and is exercised according to strictly regulated rules, both through normative acts and through special internal regulations. Because the location of the student dormitories is quite widespread in the Republic of Moldova, we decided to refer to the specifics of this category of legal report, taking into account the fact that the respective contractual relations also concern private legal entities. Or, according to Article 25 (3) of the

Law no. 75/2015 „the dormitories belong to legal persons of public and private law and cannot be alienated if they were built or procured from the sources of the state budget or local budgets. The owner or authority in whose administration these dormitories are located decides on the categories of persons who have the right to live in them."[21, nr.131-138] Regarding the concept of the rule of art.25 (3) in the part referring to the prohibition of the alienation of dormitories belonging to legal persons of public and private law built or procured from the sources of the state budget or local budgets, we have a small claim. Namely, the lack of students currently suffering from the Republic of Moldova, and every year the problem is growing, the universities being forced by these circumstances to merge, therefore, we find ourselves in the situation when the need for accommodation places to become a surplus. Therefore, the lack of necessity, the financial burden generated by their maintenance and management determine the revision of the concept by which the legislator prohibited their alienation, leaving room for decision for the authorities, owned by them, to alienate them in case of demonstrating the lack of necessity. However, it should also be taken into account that over time the situation at the country level will change due to various causes (demographic growth, attracting students from abroad, return of Moldovan citizens to the country, etc.). In these conditions, rather than allowing the final alienation of the homes, an optimal solution would be that of their alienation with the right of redemption, the legal relationship of the sale-purchase being constituted under the conditions of Article 1136-1141 of the Civil Code. **The particularity of certain lease relationships** may also be determined by circumstances beyond the prospective tenant's control. Specifically, this refers to cases where tenants of a building must be temporarily relocated to allow for repairs, reconstruction, or remediation of their homes following significant damage caused under normal conditions or as a result of natural disasters. Or, according to the notion given in Article 4 of the Law no. 75/2015, „*manoeuvring dwelling* is the dwelling intended for temporary accommodation of persons whose housing undergoes capital repair or reconstruction works, which cannot be carried out in blocks without evacuation of residents, or intended for accommodation of persons left homeless due to natural disasters or for persons who have been evacuated from social housing."[21, nr.131-138]. Although, at first glance, the meaning of the cited norm would be clear, there is still something confusing, namely, the concrete cases in which the housing contracts that have the destination of the maneuvering dwellings are concluded. Moreover, the cause of the natural disasters that entitle the rental of housing for the homeless is a restrictive one, these relationships needing other people in other exceptional situations, such as, for example, the state of emergency, siege or war, which in fact gives the basis for their internal

displacement. The location of the residential space owned by the state and the administrative-territorial units has as subjects of exposure the following special relations.

Renting of social housing. In the sequence of the immediately preceding subject, in order for a person to benefit from social housing, he must meet certain status conditions, mainly vulnerable. Therefore, according to Article 10 of the Law no. 75/2015, the social housing is assigned to the persons or families registered, whose monthly income for each family member does not exceed the minimum of existence established by country and which cumulatively meet „the following mandatory conditions:

a) do not own a dwelling in the Republic of Moldova and abroad, land for housing construction, land with another destination or house built in fruit-growing associations, as well as have not alienated a dwelling in the last 5 years in the Republic of Moldova;

b) have not benefited from the State and the local public administration authorities of preferential credits and support expressed through building materials or financial assistance;

c) have not participated in the privatisation of dwellings, construction lots, fruit-growing land, individual houses, previously obtained from the state;

and one of the following additional conditions:

a) provide, in the public housing fund, for each family member of a total habitable area below the minimum standard established for the total habitable area of the social housing;

b) live in a dwelling in the public housing stock that does not meet the technical and sanitary requirements established for the dwelling, which is confirmed by a technical report issued by the authorized public body."[21, nr.131-138] So, the specialty of social housing location is that they are granted only „to families, especially those that are registered; to families that have their domicile or residence in the location of the real estate; the contract is concluded based on the decision of the public authority; the public space belongs to the public authorities with the right of public property; the lease agreement is concluded under special conditions provided by Regulation."[21, nr.131-138].

Leasing within the Framework of Service-Related Relationships

For certain categories of employees, during the term of their employment, the state guarantees their provision with residential space in so-called service dwellings. This category of employees primarily includes public officials within the justice system (judges, prosecutors, police officers, etc.), personnel in the national defense system, and other categories entitled to similar guarantees. Thus, when we speak of state-provided housing, we are clearly referring to the allocation of apartments for temporary use free of charge. On the other hand, Law No. 75/2015 provides in Article 21 that "service dwellings are granted to persons and their family members if they do not own a dwelling within the same administrative-territorial unit at the time of concluding the lease contract." Furthermore, Article 33, paragraph (1), letter c) states that the lease contract for service dwellings is concluded between the dwelling owner or the authorized authority and the tenant for the duration of the individual employment contract or the exercise of the official function. The validity of the lease contract for a service dwelling terminates upon the cessation of the employment relationship.

enting of housing with special status (of protocol)

A subcategory of the lease of the service space would also be that of renting the dwelling space with special status (of protocol) which, by law (art. 31 of the Law no. 75/2015), is assigned to the President of the Republic of Moldova; to the President of the Parliament and the Prime Minister, which include separate apartments or houses.

Housing with special status (protocol status) is assigned, according to the decision of the body in whose administration they are, on the basis of the decision on validation or appointment and other documents provided by the legislation.

As regards the compatibility of the housing relationship with the domain to which it applies, then we find a concordance, once in Article 29 (3) of Law no. 75/2015 it is expressly stated that for the use of dwellings with special status (protocol) the payment for rent and payments for communal and non-communal services rendered is charged.

Accordingly, it is reflected in the following paragraph that the use of dwellings with special status is carried out under the tenancy agreement.

What is specific to that contract that the tenancy benefits the indicated persons over together with their family members, and if the exercise of the elective or designated function ceases before the term or in case of death of the lessee, the dwelling with special status (protocol) is issued by the family members within 15 days (art. 30 (2) of the Law no. 75/2015.

Lease of Unused Public Assets

In the process of managing public assets of any category, the state, like any private entity, may, at certain times, identify a surplus of assets that were previously used and remain unused, at least for a certain period. Consequently, these assets can be leased to other individuals or legal entities who require them for various activities, whether profit-generating or not.

While in the case of privately-owned assets, the interest in leasing is predominantly patrimonial, in the case of unused public assets, the purpose extends beyond financial gain. There is also a public interest in placing these assets into productive use through other beneficiaries, referred to as lessees.

This distinction highlights the main difference and the specific feature that separates a standard lease contract from one concluded under special conditions, as examined in the section on special lease agreements. Therefore, a lease contract may constitute a special lease relationship, when it is executed under specific conditions, the leased object is a public asset, and one of the contracting parties is a public authority.

Moreover, in order to better manage the categories of goods mentioned, in addition to the general rules contained in the Civil Code, after 2008, the legislator has established a special framework for regulating the housing relations carried out in respect of state property and those of unused administrative-territorial units, being adopted, in this respect, the Regulation on how to give the lease of unused assets. However, although we have a specific regulatory framework for more than 16 years, there is an increased interest of the state in capitalizing on its heritage, but also of potential beneficiaries/tenants, the doctrine did not rush to investigate the impact of the legislation in the field on these special categories of relations. Considering the above, we decided to resort to the scientific and practical investigation of the housing relationship established and carried out under specific conditions, in a separate compartment, trying to show its specialty, as well as to identify the main shortcomings.

Thus, starting from the practical aspect, most subjects refrain from leasing the state's unused assets due to high rental costs, sophisticated and bureaucratic procedures for selecting potential tenants, specific requirements for contract registration, and the additional obligation to pay the real estate tax for these assets. According to point 18, paragraph (2) of the Regulation, lease agreements for assets managed by public authorities/institutions must stipulate the tenant's obligation to transfer to the budget *the real estate tax related to the leased properties,* calculated based on the lessor's information regarding their value.

In this context, it correctly senses the local doctrine, with which we fully agree, that the reluctance on the part of potential tenants is due to the expensive procedure of participation in

the auction, the normative rent price is exaggeratedly high, even compared to some goods of individuals, to which the tax burden is also added to their task.[2, nr.17]

Having outlined the above, we suggest to the legislator ***a reduction of procedural burdens, in particular the elimination of the auction requirement, and the exemption of tenants of unused public assets from the real estate tax on the land associated with the rented space.***

Nevertheless, in the following text, we will attempt to demonstrate the particularity of the lease of unused public assets, taking into account the specific regulations regarding the conclusion, execution, and termination of a lease contract whose object is an unused asset belonging to public authorities at any level.

Regarding the category of goods covered by the contract in question, we consider that these are all the goods of the private domain of the state and those of the administrative-territorial units, once the legislator does not refer only to the goods of the public domain. Or, in item 2) of the Regulation, the legislator speaks about the goods under the management of state/municipal enterprises, the goods under the management of public authorities/institutions in self-management, the unused goods of companies with full or majority public capital.

However, as is also argued in the literature, in the category of public domain goods, we consider that only public domain goods of public interest and not public utility goods can be given in the lease, because the latter by their nature do not admit the restriction of access to them, respectively, nor the lessee could ask for this fact that can create serious impediments in the activity for which it is to be rented . Moreover, according to Article 471 (2) of the Civil Code, goods of public interest are those goods that involve the damage of the good to a public service or to any activity that meets the needs of the community, without assuming its direct access to the use of the good according to the mentioned destination.

The lease relationship under discussion is also a special one because the parties forming the contract are themselves special, at least on the part of the lessor. According to point 11) of the Regulation, it is expressly stated that the lessor's rights are exercised by the commercial company that owns the assets or are attributed to enterprises, self-managed public authorities/institutions, or commercial companies managing the assets to be leased, unless the Government or the local council decides otherwise.

The same conclusion can be drawn from point 10) of the Regulation, which specifies that assets managed by budgetary authorities/institutions may be leased with the consent of the *authority responsible for administering the institution.*

The study of the varieties of the lease contract is necessary in the context of the diversity of civil relations involving the use of another person's property, determined by the category and

purpose of such property (lease of agricultural land – lease), by the continuity of use and the distinct rules for acquiring ownership of the leased object (leasing), as well as by the public interest pursued through the leasing of public works and services (concession).

Moreover, this section of the work also covers the segment of special lease relationships, characterized by the specific interests they satisfy, such as providing housing for various categories of employees during the performance of their service duties, as well as a broad range of subjects who exercise the use of property that does not belong to them as owners during certain stages of their career development (students, national security officials, diplomatic staff, etc.).

Thus, the study conducted on the particular categories of lease relationships allows us to draw the following relevant conclusions:

1. Doctrine, the academic environment, teaching staff, as well as subjects with responsibilities in the field of law enforcement, do not make a distinction between the varieties of lease contracts and special lease relationships, even though the legislator regulates them through separate normative acts.
2. With the modernization of the Civil Code, the structuring of the norms regulating the varieties of leases has been influenced by the idea of consolidating them within the content of the Code. Consequently, the Law on Agricultural Lease, after incorporating a substantial part of its provisions into the Civil Code, was repealed. In contrast, other laws concerning the varieties of leases (such as leasing and concession) remain in force, aligned with the most recent regulations of European Union law.
3. The problem of incapacity of the state to provide service housing to certain categories of civil servants (judges, soldiers, policemen) obtains a temporary solution by approving the Regulations that provide for the compensation of the payment for their rental of housing space, which distorts the essence of special housing relations, risking to disappear in the next decade.
4. The special laws governing some housing relations, but also those aimed at the transfer of assets under the management of public authorities, contain rules contradictory to the general concept of location, and a large part of them do not transpose the normative framework of the European Union.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The finality of a study in any field is presented in a systematized form through general conclusions, which describe the broad spectrum of research in a concise manner.This applies to

the research conducted on the regulation of lease relations, where the primary conclusions have led us to focus the study on achieving the following scientific and practical results:

- studying the doctrine regarding the research of the legal essence of the lease agreement, in correlation with other types of leasing relationships;
- analyzing the current concepts that form the basis for regulating the institution of leasing, while also arguing for the reasons and advantages that justify their reconsideration;
- conducting a comparative study of the legislation of other countries regarding the regulation of lease relations and their various forms;
- resolving certain regulatory divergences and ensuring the proper application of the law in the field of the establishment and execution of special lease relations;
- strengthening the mechanism for guaranteeing the fundamental rights and freedoms of the parties to the lease relationship by improving the level of regulation;
- developing recommendations that provide practical solutions while also encouraging further discussion within national doctrine on the study of the institution of lease.

Within the present study, we have managed to reach the following **general conclusions:**

1. In a general context, although the national doctrine provides research on lease regulations, it is nevertheless characterized as insufficient and limited to superficial studies, often produced for educational materials or specific scientific articles that separately address narrow themes within the field; furthermore, these are often controversial or influenced by the legislative ideologies of former socialist bloc states. In contrast, the international doctrine within the European space offers complex studies, featuring a wide diversity of polemics, opinions, and debates regarding the research of lease relations in all their variety.
2. Although after 2019 the national legislative framework reflects a pronounced transposition of European legislation, it still retains certain initial characteristics specific to CIS states; ; meanwhile, European legislation, as well as that of the Central Asian region, is characterized by greater flexibility in lease relations, making it possible to guarantee both the economic-financial interests and the social-housing needs of an extensive category of subjects.
3. The examination of the evolution of housing regulations indicates an early genesis, being determined by the need for legal coverage of the relations established when using the good of another, capitalizing on the surplus of goods or for obtaining permanent sources of income. Starting with the adoption of initial concepts from Roman private law, followed by their enrichment through the influence of French civil legislation, and later shaped by

modernizations reflecting each state's own aspirations as well as the conditions imposed by the ideology of the European Union, the current legislation in this field can be regarded as relatively effective.

4. The study conducted on the establishment and execution of the lease agreement highlights the particularities of entering into, performing, and terminating the lease contract, as well as the status of various categories of subjects that may act as parties to the agreement. Unlike other contracts, the circle of subjects capable of acquiring the status of a party to the contract is much broader, and the volume of obligations is quite significant, being influenced by the diversity of interests that must be guaranteed for the lessee.
5. The conditions for extending the lease relationship after its termination are specific compared to other civil legal relationships; however, they are not perfectly aligned with the particularities of other lease relations that constitute varieties or special forms of lease.Consequently, the legislator allows for certain inequities by not limiting the term of the new contract to that of the initially concluded agreement,as is the practice in the case of agricultural leases (leasehold),a fact which indicates a contradiction with the concept promoted by European civil legislation.
6. The national doctrine does not distinguish between the varieties of the lease contract and special lease relations, while the legislator regulates them through special normative acts, as is also the case with certain varieties of lease (leasing and concession).
7. A particular issue specific to the Republic of Moldova is the state's inability to provide official housing for public officials with special status, which has led to the adoption of alternative solutions that, unfortunately, risk distorting the essence of certain special lease relations. At the same time, the special laws regulating the leasing of assets managed by public authorities contain rules that contradict the general concept of lease and fail to incorporate the regulatory framework of the European Union.

We attempt to address all these identified issues through the following recommendations, divided into the theoretical-conceptual, legislative, and organizational-supervisory levels regarding the execution of lease relations, as outlined below:

At the Theoretical-Conceptual Level

1. Defining the lease contract in a more simplified formula, ***as an agreement under which the lessor undertakes to transfer a property to the lessee for temporary use in exchange for a cost, referred to as rent.***

2. Treating the effects of non-performance differently from those of improper performance of the lease contract, while also establishing distinct sanctions for these two types of non-compliance by the lessor, namely:

Failure to perform the obligation of delivery (*the refusal or refraining from the transmission of the good*) could result in the following effects, sanctions (rights of the lessee), made available to the lessee, from which to choose the application of one, to apply one main (repair of damage[1]), accompanied by a complementary one that would consist of:

- *The refusal to pay rent* until the moment the property is delivered;
- *Compelling the lessor to deliver the property* by resorting to the coercive force of the state;
- *Termination of the lease contract*.

In the case of improper performance (delayed delivery of the property):

- *Claiming a rent reduction proportional* to the duration for which the lessee was deprived of the use of the property;
- *Termination of the lease contract.*

At the Legislative Level, we recommend:

Introducing a new provision (Article 1252) into the Civil Code with the following text: "One of the co-owners may conclude a lease agreement without the consent of the other co-owners, provided that their interests have not been prejudiced thereby; in such cases, the other co-owners shall be entitled to a portion of the rent proportional to their respective ownership shares.

1. Including in the lease contract a clause that establishes the essence of the lessor's delivery obligation, specifying in the first paragraph that: *the good must be delivered along with all its accessories, in a condition suitable for use according to its intended purpose, and in the following paragraph that, in lease relations, the rules governing the delivery of the good are subject to the general principles of property relations* (Articles 511, 1109, 1115, and 1169 of the Civil Code).

2. Amending Article 1254 of the Civil Code as follows: *the lessor guarantees against material or legal defects, even if they were unaware of them at the time of concluding the contract, including in cases of expropriation for public utility purposes.*

3. *In cases where, at the time of concluding the lease contract, the owner was aware that the property was classified as a public utility asset, and thus subject to future expropriation, they shall be obliged to compensate the lessee for any resulting damages.*

4. Renaming Article 1277 of the Civil Code from "*effects of the Expropriation of the Leased Property*" to "*effects of Expropriation on the Execution of the Lease Contract.*

5. Reformulating the text of Article 15, paragraph (2) of Law no. 488/1999 as follows: *compensation shall consist of the actual value of the properties or patrimonial rights subject to expropriation and of the damages caused to the owner* or holders of other real rights, **as *well as to other beneficiaries of use;*** *and paragraph (4) as follows: it shall be stated that experts will determine the compensation due to the owner separately from that due to holders of other real rights or* ***other beneficiaries of use.***

6. Amending Article 19, paragraph 1 of Law no. 488/1999 by adding the phrase: "…*and the lessee prior to expropriation shall have the preemption right when concluding a sublease contract."*

7. Adding paragraph (2) to Article 1278 of the Civil Code of the Republic of Moldova with the following text: *"Upon the death of the lessor, in the case of lease contracts concluded for an indefinite period, their heirs may request the termination of the contract within 3 months from the date of obtaining the certificate of inheritance."*

8. Amending the text of Article 1280 of the Civil Code as follows: *If contractual relations continue tacitly after the expiration of the lease contract term, the contract shall be considered extended for an indefinite period, but not exceeding the term provided in the original contract.*

9. Revising the text of Article 25, paragraph (3), first sentence of Law no. 75/2015 to read as follows: *Dormitories belong to legal entities under public and private law and cannot be alienated if they were constructed or acquired using state or local budget funds,* ***except in cases where their lack of necessity is demonstrated and confirmed by the Government.*** *The owner or the authority managing these dormitories decides on the categories of persons entitled to reside in them,* ***as well as their management by private real estate companies.***

10. Revising the text of the definition provided in Article 4 of Law ***no. 75/2015*** as follows: *maneuver housing* is a dwelling intended for the temporary accommodation of persons whose homes are undergoing capital repairs or reconstruction that cannot be carried out without evacuating the tenants; or intended for the accommodation of internally displaced persons during

a state of emergency, siege, or war; or intended for persons who have been evacuated from social housing.

11. Throughout the entire text of the Law on Housing, the phrase "of lease" should be excluded from the sections regulating the legal regime of contracts that establish special relationships for the use of service housing, protocol housing, as well as those for student accommodation in dormitories.

12. Considering that a consideration-based obligation is not required in all special lease relations, we deem it necessary to provide some clarifications directly in the text of Article 3 of Law no. 75/2015, where the scope of the relations regulated by this law is defined.

13. In this regard, we propose amending the text of Article 3, letter h) of Law no. 75/2015 as follows: *the payment for the use of the dwelling, **except in cases of free allocation for certain categories of beneficiaries, as well** as for the communal and non-communal services provided*.

14. In order to encourage the intention to lease unused public property, we suggest that the legislator reduce administrative procedures,specifically by excluding the auction requirement and exempting lessees from the real estate tax for the land associated with the leased space.

15. Amending the Regulation on the leasing of unused assets by adding a final Chapter IV, to be titled: "Responsibilities for the execution of the provisions of this Regulation," which shall contain the following norms:

16.The responsibilities for supervising the conclusion and execution of lease contracts involving unused assets are assigned to the Public Property Agency.

17. Persons involved in concluding lease contracts bear civil, administrative, or criminal liability if they have caused damage to the property interests of the authorities or public institutions that leased out the unused assets.

18. Removing the phrase "*hydrographic constructions*" from paragraph (2) of Article 1288 CC.

19. Amending paragraph (2) of Article 1288CC by adding the phrase "*and other assets used in agricultural activities."*

20. Repealing Article 1290; paragraph (3) of Article 1305; and paragraph (1) of Article 1307 CC, and amending paragraph (2) of Article 1289 to read as follows: *"Unless the parties agree otherwise, the right of possession and use of leased agricultural assets arises and may be exercised from the moment the lease contract is signed."*

21. Amending paragraph (1) of Article 1295 CC as follows: *"The lessor has the right to verify at any time how the lessee exploits the leased assets, without interfering in their day-to-day activities, **except in cases of land pollution,** and to obtain the necessary information."*

22. Amending the text of letter (a), paragraph (3) of Article 1295 CC by adding: *"has not caused damage to the land or other environmental components related to the leased land."*

23. Amending paragraph (1) of Article 1301 CC as follows*: "The right to state compensation for damages caused by natural disasters shall be exercised by each party to the contract according to the interest affected, in the manner established by special normative acts adopted for this purpose by the competent authorities."*

24. Revising the title of Article 1308 CC and that of Section VI of Chapter IX as follows: "*Leasing of Agricultural Land Owned* ***by the State*** *or by Local Administrative Units."*

25. Reformulating paragraph (1) of Article 1309 CC as follows: *"The lease price for assets other than agricultural land shall be freely determined by the parties, and in case of disagreement, the calculation formula established by the Government shall apply."*

26. Clarifying paragraph (2) of Article 1326CC e as follows: *"The lessee may also exercise the option to acquire ownership after the termination of the lease, provided that a notification is given to the lessor within 30 days from the contract's termination date."*

At the organizational and supervisory level regarding the execution of lease relations, we propose:

1. Establishing a dedicated body responsible for supervising the execution of lease relations and guaranteeing the rights of housing service consumers. To this end, a platform should be created containing a list of lessors authorized to lease residential space; to be included in this list, prospective lessors would undergo a verification procedure of the premises intended to be the object of future lease relations. During this verification, inspectors will assess the space's compliance with its intended purpose, technical parameters, sanitary standards, construction safety, etc. The competence of this body (a potential Lease Relations Supervision Agency) would also include duties such as overseeing proper performance, guaranteeing rent payment, mediating disputes, ranking lessors based on the quality of contract execution, intermediating contracts, and other activities aimed at ensuring consumer safety in the real estate market.

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Scientific Works List on the Thesis Topic

1. Articles in Scientific Journals

1.1 In journals from other databases accepted by ANACEC (indicating the database)

1. EȘANU, Oxana. *Theoretical Landmarks Regarding the Notion and Legal Characteristics of the Lease Agreement.* In: Revista Universul Juridic, No. 11/2024, Romania, p. ISSN 2393-3445.

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2. Articles in Conference Proceedings and Other Scientific Events

2.1 In the proceedings of scientific events included in other databases accepted by ANACEC

1. ARDELEAN G., EȘANU O. *Lease of Residential Space Owned by the State and Administrative-Territorial Units.* In: Proceedings of the National Scientific Conference with International Participation, December 5, 2024, *entitled Protection of Fundamental Human Rights and Freedoms in the Process of Ensuring Public Order and Security*, 4th edition, Chișinău, 2024, pp. 280–287, 95 p. ISBN 978-9975-135-99-3.

2.2. Monographs

1. EȘANU, Oxana. *Lease Contract. Complete Guide for Owners and Tenants*. Căpățînă-Print, Chișinău, 2025, 98 p., (4.40 c/a), ISBN 978-5-86654-404-2.

ADNOTARE

EȘANU Oxana *„Reglementarea juridico-civilă a raporturilor de locațiune”.* Teză de doctor în drept la specialitatea: 553.01 - Drept civil, Chișinău, 2026

Structura tezei: Introducere, 4 capitole, Concluzii generale şi recomandări, Bibliografia din 159 de titluri, 162 pagini text de bază. Rezultatele obținute sunt publicate în 6 lucrări.

Cuvinte-cheie: raporturi civile, locațiune, locator, locatar, chirie, arendă, concesiune, leasing, contract, condiții de validitate, locuință, impozit, răspundere civilă.

Scopul tezei de doctorat constă în cercetarea multidimensională a reglementărilor ce vizează raporturile de locațiune necesară identificării soluțiilor la problemele generate de reglementarea defectuoasă a raporturilor de locațiune, rezultate greu de obținut fără trasarea unor obiective concrete, cum ar fi: analiza cadrului juridic național în domeniul reglementării raporturilor de locațiune; studierea doctrinei pe segmentul cercetării esenței juridice a contractului de locațiune în mod corelat cu celelalte varietăți ale raportului de locațiune; analiza conceptelor actuale ce stau la baza reglementării instituției locațiunii, precum și argumentarea rațiunilor și avantajelor ce determină reconsiderarea acestora; examinarea legislației altor state în partea ce reglementează raporturile de locațiune, dar și varietățile acesteia; identificarea celor mai acute probleme ce stau în calea eficienței desfășurării raporturilor de locațiune, precum și a surselor ce le generează; consolidarea mecanismului de garantare a drepturilor și libertăților fundamentale ale părților la raportul de locațiune prin îmbunătățirea gradului de reglementare; elaborarea unor recomandări care să țină loc de soluții, dar și să incite la discuții ulterioare în cadrul doctrinei naționale pe segmentul cercetării instituției locațiunii; racordarea cadrului normativ ce reglementează raporturile de locațiune la standardele Uniunii Europene.

Noutatea şi originalitatea științifică a lucrării se face evidentă prin identificarea unor soluții distincte de eficientizare a mecanismului juridic care să asigure garantarea drepturilor subiecților implicați în raporturile de locațiune; recomandarea unor noi concepte ce vor sta la baza reglementării raporturilor de locațiune având ca obiect bunurile și serviciile aflate în gestiunea statului; introducerea în conținutul Codului civil a unor noi norme care să garanteze drepturile coproprietarilor la transmiterea în locațiune a bunurilor proprietate comună; formularea unor concepte și norme care să garanteze interesele locatarului în cazul exproprierii locatorului; înființarea unei platforme care să conțină lista locatarilor autorizați să transmită în locațiune spațiu locativ; crearea unei structuri responsabile de supravhegerea executării raporturilor de locațiune și garantării drepturilor consumatorilor de servicii locative.

Importanța teoretică constă în identificarea naturii juridice a instituției locațiunii și fundamentarea științifică a regimului juridic aplicabil în procesul constituirii și desfășurării raporturilor de locațiune; volumul impunător și conținutul materialului științific pus la dispoziția doctrinei autohtone în materia cercetării normelor ce reglementează raportul de locațiune.

Valoarea aplicativă a tezei se face remarcată prin diversitatea soluțiilor și a recomandărilor propuse, de mare utilitate practicienilor, precum și celor împuterniciți să aplice legea întru soluționarea litigiilor legate de încălcarea condițiillor executării contractului de locațiune. Mai mult, odată cu propunerile înaintate în planul modificărilor legislației în domeniu, sunt create condiții optime racordării legislației civile la standardele unional europene, capabile să asigure o satisfacție maximă a intereselor patrimoniale ale subiecților raportului de locațiune.

Implementarea rezultatelor științifice. O mare parte din conținutul tezei de doctorat a fost prezentată spre dezbatere în cadrul diferitelor evenimente cu caracter științific (conferințe, ateliere de lucru, simpozioane, prelegeri etc.), dar și publicate în reviste științifice recunoscute în țară și peste hotare. Toate ideile, polemicile, dezbaterile și soluțiile oferite de prezenta lucrare pot fi utilizate în cadrul realizării activităților didactice, la elaborarea lucrărilor de masterat, doctorat, a materialului didactic pentru instruire în cadrul Institutului Național de Justiție.

ANNOTATION

EȘANU Oxana „Civil-legal regulation of tenancy relations”. Doctor of Law thesis in the specialty: 553.01 - Civil Law, Chișinău, 2026

Structure of the thesis: introduction, 4 chapters, general conclusions and recommendations, bibliography of 159 titles, 162 pages of basic text. The results obtained are published in 6 scientific papers.

Keywords: civil relations, tenancy, lessor, tenant, rent, lease, concession, leasing, contract, conditions of validity, housing, tax, civil liability.

The purpose of the doctoral thesis consists in the multidimensional research of the regulations concerning tenancy relations necessary to identify solutions to the problems generated by the defective regulation of tenancy relations, results difficult to obtain without setting concrete objectives, such as: analysis of the national legal framework in the field of regulating tenancy relations; studying the doctrine in the segment of researching the legal essence of the lease contract in correlation with the other varieties of the lease relationship; analyzing the current concepts that underlie the regulation of the institution of lease as well as arguing the reasons and advantages that determine their reconsideration; examining the legislation of other states in the part that regulates lease relationships, but also its varieties; identifying the most acute problems that stand in the way of the efficiency of the development of lease relationships, as well as the sources that generate them; consolidating the mechanism for guaranteeing the fundamental rights and freedoms of the parties to the lease relationship by improving the degree of regulation; developing recommendations that will serve as solutions, but also incite further discussions within the national doctrine in the segment of researching the institution of lease; aligning the regulatory framework that regulates lease relationships with European Union.

The novelty and scientific originality of the work is evident by identifying distinct solutions to streamline the legal mechanism that ensures the guarantee of the rights of the subjects involved in the lease relationships; recommending new concepts that will form the basis for the regulation of lease relationships that have as their object the goods and services under state management; introducing into the content of the Civil Code new norms that will guarantee the rights of co-owners when transferring jointly owned goods on lease; creating a structure responsible for supervising the execution of lease relationships and guaranteeing the rights of consumers of housing services.

The theoretical importance consists in identifying the legal nature of the lease institution and the scientific substantiation of the legal regime applicable in the process of establishing and carrying out lease relationships; the impressive volume and content of the scientific material made available to the local doctrine in the field of researching the norms regulating the lease relationship.

The applicative value of the thesis is noted by the diversity of the solutions and recommendations submitted, of great utility to practitioners, as well as to those empowered to apply the law in resolving disputes related to the violation of the conditions of the execution of the lease agreement. Also, with the proposals submitted in the plan of amendments to the legislation in the field, optimal conditions are created for the alignment of civil legislation with European Union standards, capable of ensuring maximum satisfaction of the patrimonial interests of the subjects of the lease relationship.

Implementation of scientific results. A large part of the content of the doctoral thesis was presented for debate within the framework of various scientific events (conferences, workshops, symposia, lectures, etc.), but also published in scientific journals recognized in the country and abroad. All the ideas, polemics, debates and solutions offered by this work can be used in carrying out teaching activities, in the development of master's and doctoral theses, and in the development of teaching material for training within the National Institute of Justice.

АННОТАЦИЯ

ЭШАНУ Оксана «Гражданско-правовое регулирование арендных отношений». Диссертация доктора юридических наук по специальности: 553.01 – Гражданское право, Кишинёв, 2026 г.

Структура диссертации: введение, 4 главы, общие выводы и рекомендации, библиография из 159 наименований, объём основного текста 162 страницы. Полученные результаты опубликованы в 6 научных работах.

Ключевые слова: гражданские правоотношения, аренда, арендодатель, наниматель, аренда, концессия, лизинг, договор, условия действительности, жилищное строительство, налог, гражданско-правовая ответственность.

Целью докторской диссертации является комплексное исследование законодательства, регулирующего арендные отношения, необходимое для поиска решений проблем, порожденных несовершенным регулированием арендных отношений. Результаты, которые трудно получить без постановки конкретных задач, таких как: анализ национальной правовой базы в области регулирования арендных отношений; изучение доктрины в части исследования правовой сущности договора аренды во взаимосвязи с другими разновидностями арендных отношений; анализ современных концепций, лежащих в основе регулирования института аренды, а также обоснование причин и преимуществ, обусловливающих их переосмысление; изучение законодательства других государств в части регулирования арендных отношений, а также его разновидностей; выявление наиболее острых проблем, препятствующих эффективному развитию арендных отношений, а также источников их возникновения; укрепление механизма гарантирования основных прав и свобод участников арендных отношений путем повышения уровня регулирования; разработка рекомендаций, которые послужат решением проблем, а также вызовут дальнейшие дискуссии в отечественной доктрине в части исследования института аренды; приведение нормативной базы, регулирующей арендные отношения, в соответствие с нормами Европейского Союза и международными стандартами.

Новизна и научная оригинальность работы заключаются в выявлении самостоятельных решений по совершенствованию правового механизма, обеспечивающего гарантирование прав субъектов арендных отношений; Разработка новых концепций, которые лягут в основу регулирования арендных отношений, предметом которых являются товары и услуги, находящиеся в государственном управлении; Введение в Гражданский кодекс новых норм, гарантирующих права сособственников при передаче в аренду имущества, находящегося в общей собственности; Разработка концепций и норм, гарантирующих интересы арендатора в случае принудительного изъятия жилья арендодателем; Создание платформы, содержащей перечень арендаторов, имеющих право передавать жилые помещения в аренду; Создание структуры, ответственной за надзор за исполнением арендных отношений и обеспечение прав потребителей жилищных услуг.

Теоретическое значение заключается в выявлении правовой природы института аренды и научном обосновании правового режима, применяемого при установлении и осуществлении арендных отношений; Значительный объем и содержание научного материала, предоставленного отечественной науке в области исследования норм, регулирующих арендные отношения.

Практическая ценность диссертации определяется разнообразием представленных решений и рекомендаций, представляющих большую пользу для практикующих юристов, а также для лиц, уполномоченных применять право при разрешении споров, связанных с нарушением условий исполнения договора аренды. Кроме того, предложения, представленные в плане изменений в законодательство в данной области, создают оптимальные условия для приведения гражданского законодательства в соответствие со стандартами Европейского Союза, способными обеспечить максимальное удовлетворение имущественных интересов субъектов арендных отношений.

Внедрение научных результатов. Значительная часть содержания докторской диссертации была представлена для обсуждения в рамках различных научных мероприятий (конференций, семинаров, симпозиумов, лекций и т. д.), а также опубликована в признанных в стране и за рубежом научных журналах. Все идеи, полемика, дискуссии и решения, предложенные в данной работе, могут быть использованы при осуществлении преподавательской деятельности, при разработке магистерских и докторских диссертаций, а также при разработке учебно-методических материалов для обучения в Национальном институте юстиции.