The Christian and Juridical Dimension of the Relationship between Marriage and Wedding

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Abstract: **Objectives**: The present study aims at radiographing the marital phenomenon, being at the confluence of two areas with distinct social and moral implications. **Prior Work**: Marriage is a family law institution, the regulation of which was not indifferent to the Romanian legislator who proposed to adopt and renovate the legal norms in the matter. With most often imperative provisions, the new civil law provides for the background and form conditions of marriage. From a different perspective, the canon law puts the legal provisions on a second place and imparts to this union of two persons a sacredness that goes beyond the legal domain. **Approach**: After studying the regulation of the family law institutions, we will highlight the non-involvement of the religious factor in the juridical side, and the contradictions between family law and canon law, concerning only the moral dimension of the family, more formally supported by the civil law and the procedure for regulating marriage, the imposed conditions and impediments. Thus in the family law the legislator does not give priority to personal experiences, to the mutual love of spouses as the first condition of their union in marriage. **Value**: In order to accomplish this we shall also present a personal perspective regarding the two essential conditions for the concluding of the religious wedding, as they are not valid from a juridical point of view.

Keywords: marriage; wedding; canon law; impediments; religious identity

1. Introduction

Since the oldest times, the family and implicitly the phenomenon of marriage as an absolute symbol of the persistence of family was "un mélange", a mixture of diverse feelings guided by moral, economic, juridical, and religious rules. Therefore, marriage is an "act of will" (Florian, 2011, p. 21), seconded and guided by norms of right, but also by some Christian order, that confers value to the institutionalized canons about the issue.

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The present paper has as its main objective the highlighting and the analysis of the juridical relevant aspects of the internal legislation regarding the validity of the concluding of marriage, compared and in relation to the Orthodox canons and rules seen as "the juridical norms of the Christian society" (Dron, 2016, p. 117). The present undertaking allows us to observe to what extent one of the weak social institutions that is omnipresent as a matter of fact, benefits from the protection and the authority of the law, but from a certain Christian order, with a certain specific regarding the matrimonial field, by means of the voice of the Gospel. We shall recall both the common laic and canonic aspects regarding marriage which are deeply rooted within the human consciousness, but also those that differentiate and somehow limit its completion.

One may think that the comparative character of the present research encourages the distance between the two components that both act as different types of "authority" and which characterize marriage. On the contrary, our purpose is to observe the common role of these normative values and church norms that accompany the completion of such a juridical act, respectively the Mystery of the wedding.

2. General Juridical-Canonic References Regarding the Conditions of Concluding the Marriage

Marriage is considered *expressis verbis* to be a fundamental right of human beings. Internally, even if the rights of the Romanian citizen to marriage and to make a family are not expressly considered; article 48 of the Romanian Constitution provisions, among other rights, freedoms and fundamental duties of the human being, the fact that "*the family consolidates itself upon the free willingly marriage chosen by the husband and wife*". In exchange, the Civil Code amends this "injustice" by adding in article 259 line (2) the fact that "*a man and a woman have the right to get married*", which means to settle down the right to marriage, in other words we are confronted with the fact that **marriage is considered to be a fundamental right or a fundamental freedom**.

As a very important juridical institution, marriage has always been of interest for the attention of the men of law. One very important first definition is given by the Roman juriconsult Modestin: *nuptiae sunt coniunctio maris et feminae et consortium omnis vitae…*" (marriage is the union between the man and the woman and their communion for the entire life). From another point of view, marriage represents "the juridical act having a civil character between a man and a woman (single, widowed

or divorced), signed for life, by their free will, demonstrated within the conditions required by the law, personally and unconditionally, with the purpose of settling a family of the new type, that is a guarantee for the complete juridical equality between husband and wife" (Ionașcu, 1964, p. 18). Another definition of the special literature considers marriage to be "*the free willingly union between a man and a woman, settled according to the law, with the purpose of making a family and which is provisioned by the imperative norms of the law*" (Filipescu & Filipescu, 2007, p. 25).

Starting with the multitude of definitions given to the institution of marriage, we consider that the one that expresses the meaning and purpose of marriage is the following one: "*marriage is the solemn juridical act by which a man and a woman, with the objective of making a family, settle a union between them, whose conditions (its consummations and breaking) are imperatively brought under regulation by the law.*" (Lupșan, 2001, p. 22)

Looked upon as an expression of the free will of choice and of consent upon its consummation, marriage subordinates to certain rules and regulations well discussed both by the law of family and the canonic one. From the juridical point of view, marriage is not an ordinary civil act, but a distinguishing one, and it may be considered a bilateral no patrimonial juridical act, as well as an institution because of the multitude of right and specific duties, and having the character of reciprocity between the husband and wife both at the personal and the patrimonial level (Avram, 2016, p. 25). Moreover, the will to get married has to be linked to certain "personal circumstances" (Florian, 2011, p. 21). As a result, certain conditions, which are settled both by the law and by the church canons, have to be respected.

As they have a common ground, the fundamental conditions, to the extent to which they are expressly provisioned and their breaking give rise to sanctions of the civil kind (sometimes even of the criminal kind, in the case of bigamy) are the following ones: the **positive** ones, such as consent, the matrimonial age, and the informing on the health condition of the future husbands, and the negative ground conditions or the **impediments** – those circumstances of fact or of right whose existence forbids the validating of a marriage, such as bigamy (article 273 of the Civil Code), tutorship (article 275 of the Civil Code), alienation or mental debility (article 276 of the Civil Code), the lack of gender difference (article 277 of the Civil Code), and the forbiddance of marriage between relatives (article 274 of the Civil Code).

From the second perspective, the wedding is seen as the Holy Mystery and it has to fulfill certain essential conditions regarding its: matter, form, doer, receiver, and the

social life. Among the ground conditions admitted by the Church to a large extent we may consider those starting with the conclusion of the civil marriage, respectively the difference of genre, the legal age for marriage, the consent, and the informing on the health condition of the future husbands. There is no surprise that the health condition could forbid the realizing and the sharing of the Holy Mystery, by making reference to psychical disorders or physical disabilities. Both dimensions valorize marriage with the purpose of settling a family and a spiritual and physical coherence within society. The Christian impediments that forbid the conclusion of the wedding can be ***absolute*** or ***relative***, according to the extent to which they forbid the conclusion of the wedding to anyone in general (priesthood, the monastic vote) or only to some persons (relativeness) (Șesan, 1942). The author Valerian Șesan categorizes the impediments within the category of those who make the essence of the wedding impure and those that regard the formalities for the conclusion of the wedding.

But the canonic right theologically consolidates the matrimonial field from another perspective, as well, as other conditions are being envisaged that the future husbands have to respect in order to receive the Holy Mystery of the wedding. In this way, the canonist I. Floca (1990, p. 69) classifies them by using another fundament as it follows: religious, moral, physical, and social rules. We have to make the observation that, except for the physical conditions, all the other three categories are not to be found within the juridical field, as they confer the special character to the canonic field by a series of own conditions that will never lead to the complete unifying of the matrimonial rules under some canonic-juridical field.

In order to illustrate, we shall say that there are the following conditions of the first category: the Orthodox belief, the existence of the baptism (christening), the inexistence of a previous engagement or of another wedding in course, the future husbands should not be spiritually or religiously related in degrees forbidden by the Church rules (Floca, 1992), they should be of different religions or confessions, the male should not have been converted into a priest, the groomsman and his partner should be wedded or the person in question should not have been wedded thrice. The civil aspect does not surprise us with any rule, except for bigamy and the character of being relatives, none of these conditions should lead to the forbiddance, avoiding, or the annulling of the wedding. Moreover, there is no established limit regarding the number of civil marriages to be celebrated.

Among the moral conditions that have to be fulfilled we can recall: to be self-conscious, to be moral persons, the persons that they are to be married with to be

maiden and never to have been married before, or widowed if they are to became priests. The social conditions reflect the following aspects: the complete freedom of the person, the approval of the authorities or the proper institutions when it should be the case (Constantinescu, 2010, pp. 89-90), the religious wedding should be preceded by the civil marriage, according to article 259 line 3 of the civil Code).

3. Short Considerations regarding the Legal Conditions and of the Canonic Law Specific to the Conclusion of Marriage

Regarding the *difference of genre between the future husband and wife*, we have to underline that the subject is a current one, although the fight is inherently won by the coherence between the social reality or the Christian traditions of our people within the field of the relationships of marriage and family, even if the law does not expressly provisions it. Although the following sentence may seem speculative, there are a few arguments that endorse the idea that in reality the express lack of such a Constitutional norm did not entail confusion, not even for one second, when it came to bringing this juridical act under regulation. The civil code provisions that according to the human nature marriage can be settled only between a man and a woman (article 259 lines 1 and 2, such as article 271, which expressly makes reference to a man and a woman. So that no confusion may appear, the legislator maintains the rule by the provisions of the article 277 of the Civil Code that expressly provision the forbiddance or the equivalating of certain ways of living together with marriage, as it follows: "(1) *The marriage between persons of the same sex is forbidden. (2) Marriages between persons of the same sex concluded or legalized abroad either by Romanian citizens or by foreign citizens are not recognized in Romania*."

According to the provisions of the Civil Code, the sanction for not respecting these conditions leads to complete annulment of marriage. As a consequence, the marriage concluded between persons of the same sex is void, as well as that one settled between persons whose sex is not sufficiently mentioned because of physical abnormalities, but only if such an abnormality is a no differentiation regarding the genre that leads to the impossibility of consuming the marriage. The condition is fulfilled by the medical certificates, as well as the documentation of the civil kind that prove this thing.

The Orthodox Church maintains the same opinion, by maintaining as fundamental condition the difference of sex between the future husbands when it comes to

concluding the wedding (Floca, 1990, p. 70), though there are no concrete ways of checking this aspect. The most, because of the optional character of the canonic rules, taking into consideration the mandatory character of the celebration of marriage in order to get the Holy Mystery of the wedding (article 259 line 3 C. civ.); we can consider that this condition is redundantly fulfilled. The divine blessing "have many children and grow in number" (Genesis I, 27) show this thing, namely that the difference of sex when consuming the wedding is the will of God, as a gift that God gave to the creation, and especially to the human beings. (Floca, 1990, p. 70)

Unlike the juridical character of the issue, the Christian habits, that generated this condition within the canonic law as well, are based to which their content is envisaged upon the idea of heterosexuality, seen as a sign of the difference within the union, and of the hypostatic distinction. Such a theory (Costa de Beauregard, 2004, p. 20) assumed by the Romanian canonic law (Constantinescu, 2010, p. 96) reflects in itself that God established by the law of creation the communion between male and female for the very reason of creating the unity in (and by means of) diversity. Moreover, the theory also advances the idea according to which heterosexuality, unlike homosexuality, maintains the idea of the relationship between the humane and the divine.

The matrimonial age of the future husbands represents another legal and canonic by whose respectfulness depends the entire faith of the establishment of the family. The provisions of article 272 of the Civil Code provision the minimum age for the conclusion of the marriage both for the male and the female, and that is 18 years old. Therefore, the legislator established only the minimum age, before which the conclusion of marriage is forbidden; out of this we may conclude that on the one hand the conclusion of marriage is possible at any age, even *in extremis momentis*, and on the other hand I the difference of age between the husband and wife t has no juridical importance whatsoever.

From the rule that the legal minimum age for marriage is 18 the Civil Code has **only one exception**, as in the following sentence: "*Out of just reasons, the minor who reached the age of 16 can get married if having a medical certificate, if one's parents agree or, should it be the case, with one's tutor's consent and the authorization of the tutelary court within the district to which the minor belongs according to its place of residence*".

Under the hypothesis that one of the parents is deceased or in the impossibility of giving one's consent, the consent of the other parent is enough. Also, if regarding

the minor in question the court has decided that the parental authority should be exercised by only one parent, only this one keeps the right to give one's consent regarding marriage. Anyway, the legislator provisions a solution for the situation when the minor has neither parents, nor a tutor, respectively the consent should be given by the person or the authority authorized by court to exercise one's parental rights.

As a conclusion, the minor with the age between 16 and 18 can get married as an exceptional provision if one fulfills the following conditions: he/she has reached the age of 16[1]; there should be a solid reason (for instance the pregnancy of the woman, the existence of a child already admitted by the future husband, the future husband is to leave abroad for a longer period of time (Frenţiu, 2013, pp. 2-3); a medical certificate signed by an office doctor should be shown which could establish the health condition of the minor and one's capacity to have normal sexual relations; the consent of the parents, of the tutor, of the person or authority who exercises parental rights depending on each situation; the authorization of the instance of tutorship.

As for the way of giving the consent by the parents or other persons, the Civil Code solves this issue in the sense that according to article 280, line (3) the parents or by case the tutor "will personally make a statement to the register of births, marriages and deaths by which he/she agrees with the concluding of the marriage".

A special case is to be found in article 40 of the New Civil Code: "For solid reasons, the instance of tutorship can admit the full capacity of exercising one's rights to the minor who has reached the age of 16. For this purpose to be achieved the parents' or the minor's tutor 's opinion will be taken into consideration, and should it be the case the service of the family council will be considered". This is the so called institution of "the emancipation of the minor" that is given its full capacity of anticipated exercise" (Frenţiu, 2013, pp. 6-7). In this case, by getting full capacity of exercise, and coming out of the parental authorship, the minor who reached the age of 16 can get married at one's own free will, without the consent of the parents or the tutor and without the authorization of the court of tutorship. To this text of law the provisions of article 263 (5) of the Civil Code are added; according to those "*along the line of the legal provisions regarding the protection of the children, by child we understand the person who has not yet reached the age of 18 and who neither was given the entire capacity of exercising one's rights, according to the law*". As the fundament of the agreement upon marriage by the parents or the tutor is given by the parental

[1] So even if the minor gave birth before reaching the age of 16, the law does not allow her to get married.

authorship, this agreement being conceived as a measure for the protection of the children rights, it means that since the child was given full capacity of exercising one's rights according to article 40 of the Civil Code, one can conclude the marriage on one's own.

The law does not decide a maximum age until which the marriage can be concluded. For this reason, marriage can be concluded even at a very old age. The law does not exclude either the marriage "*in extremis vitae momentis*". The concluding of such a marriage is done in principle in order to make a preexistent state of facts legal (a notorious and long cohabitation relationship). Also, the law does not establish a maximum difference of age between the future husband and wife. Yet, a too big difference of age between the future husbands can be a clue that a fictive marriage is intended to be concluded. Finally, in order that the marriage should be valid the fact that the future wife could be older than the future husband is of no juridical importance.

From the perspective of the canonic law, the Orthodox Church respects the age imposed by the civil law, the matrimonial coming of age being a physical condition (Floca, 1990, p. 69). In exchange, although there is a canon regarding the interdiction of the giving of the Mystery of Wedding to the persons between which there is a large difference of age, this union is considered to be a "*discreditable jobbery based on interest, and the domestic life of the two is a hell to one of the parts involved*" (Erbiceanu, 1899, p. 20 *apud* Constantinescu, 2010, p. 112), the Christian doctrine observes the fact that it is not respected, but such marriages are concluded more and more often within the present socio-economic context. On the other hand, the Church gives the fact that the less evil should be chosen by avoiding the continuation of the cohabitation in such cases, a way of living together not admitted by the Christian Church, as a motive for not respecting the canon. Moreover, there are some who encourage and recommend to the civil legislator that it should expressly provision such provisions as the following: a maximum age and a critical age difference between the future husbands, for the purpose of essentially contributing to the increasing of morality within the family relationship through solid marriages not predisposed from the very start to end and suspicious of being based on material interest (fictive marriages). (Constantinescu, 2010, pp. 112-113)

Therefore, at this level of analysis, marriage as an institution under the civil law and the divine right, although based on common rules, can be approached with priority from a different angle without the appeal to juridical punishment or religious interdiction – the religious interdiction to which we made reference is only secondary

relative to the permissive juridical norm. The fundament of this consideration is a moral one, motivated by the solid considerate of the holy Mystery which intends to be life long, and not ephemeral from the star.

The consent to marriage reflects in fact a free will of the future husbands to agree on the concluding of the marital act at the juridical level. The condition of the consent to marriage expresses both the necessity of its existence as a structural element of the juridical act of marriage, meaning the fact that the two husbands manifest their free will to get married, according to the law, as well as the necessity of the inequality of the consent which is assured by the fulfilling of the legal requests of validity. So that the consent should be valid and consequently to produce juridical effects, the consent to marriage should fulfill the following conditions: to exist, to be given by someone with discernment, not to be vitiated, to be given for the purpose of making a family, with the intention of becoming juridically engaged; to be given in person and simultaneously by the future husbands; to be directly noticed by a competent officer of the register of marriages who also served the celebration of marriage.

In order to be valid the consent has to be effective, in the sense that it is compulsory that it should exist at the moment of marriage. From the juridical perspective, both the existence and the willingness of the consent to marriage are to be noticed only at the moment when the marriage is served and concluded at the register of marriages. Therefore, the consent to marriage has to be expressed at the moment of the celebration of the marriage (Lupşan, 2001, p. 34). This request for the effective character of the consent is fulfilled by the fact that the future husbands are obliged to be present in person in front of the officer of the register of marriages (article 287 of the New Civil Code). In this way, we may conclude that the promise to get married has no juridical value as consent to marriage, even if it was previously made under the umbrella of the engagement. Also, the civil celebration of marriage has to be made public by the two simultaneously answering "I do" in front of the officer of the register of marriages, and their response has to be affirmative, not vitiated by interests or other considerate and the result of their free will and liberty of expression[1].

The religious character of the consent comes under the pattern of the same considerate: the direct, valid, personal, and simultaneous acknowledgement with the

[1] Regarding the viciousness that can affect the consent of the persons that are to get married, see (Avram, 2016, pp. 53-54; Florian, 2011, pp. 22-24).

purpose of the concluding of the religious wedding in view. The rules of the Orthodox canonic law also reject the existence of a vitiated consent[1].

The reciprocal informing upon the heath condition is both a "real fundamental condition" (Avram, 2016, p. 51) and a natural argument used by the laics and the Orthodox as well for that which marriage brings along: the forming of a family, a healthy life style both physically and psychologically speaking. According to article 278 of the Civil Code no marriage can be concluded if the future husbands have not reciprocally declared their health condition to one another and the provisions that make reference to the impediment to marriage of those who suffer from certain affections (mental disorders, in general) are related to it and remain valid. The legislator has not offer a list of the disorders in question, but those having a serious impact on the mind[2], that make the consuming of the marriage impossible as well as the permanent existence of the discernment forbid its valid conclusion.

On the other hand, should there be the case of any other medical illness, there is no question of forbidding the marriage, but the fact that the two have to inform one another about their medical condition which could postpone or even cancel a prospect juridical or religious engagement having a matrimonial character. The medical condition is not therefore "an eligible criterion" (Florian, 2011, p. 36) considered by the law through express provisions, having a medical character, but its "eligible character" becomes subjective to the extent to which, once all the medical problems were declared, the persons in question may maintain their will to get married both religiously and according to the civil law. It is proved by their obligation to add medical papers from the medical unities after running some tests to their declaration of marriage. The hiding the reticence to inform upon any other diseases that cannot be found by running an ordinary mandatory set of medical tests lead on the one hand to the altering of the consent of the other half and on the other hand to the possibility of annulling the weeding, the deadline being one of 6 months

[1] The old canon of Saint Vasile cel Mare made the difference between those who made the virgins get carried away and kidnapped them when the girls had already been engaged to be married to someone else and the free virgins, but under no circumstances was marriage between the rapper/kidnapper and the ravished/kidnapped allowed. Nowadays, the Orthodox canonic law brings under regulation the ravishing a vice of consent. Presently, such a practice cannot be retained any longer as marriage has a public character. Canon 27 of the 4th ecumenical Synod of Chalcedon provisions punishments for those who kidnapped women in order to get married to them secretly, no matter if the kidnappers or their accomplices were laic or cleric. The punishment for the clerics consists in losing one's position, and for the laics the anathema. (Constantinescu, 2010, p. 126).

[2] Especially, alienation and mental debility.

since the time when the catchy consent was vitiated[1], in our case (article 301 line 1 of the Civil Code).

As we have mentioned earlier, the Orthodox canonic law maintains this condition similarly to its juridical content, as the absence of an illness is a physical condition of those who will to get to know the Holy Mystery of the wedding.

4. The Role of Special Conditions in the Accomplishing of the Holy Mystery of the Wedding

In this final short section we do not intend to present the model of the religious wedding, but to show that through its competent institutions the handling of the marriage is brought under regulation as a Holy Sacrament by the Orthodox Church[2], as it gives the canonic rules to be obeyed within the practice of the churchy way of living adapted to its own pastoral needs, as well as in a valid connection to the internal legal context.

In principle, the religious wedding is not accomplished as all the other sacraments in the church. In exceptional cases, it can be accomplished at the place where the two husbands live if one of them is ill, if they are older or there is no church. In order to the wedding to be valid it is absolutely necessary that minimum two witnesses should be present in from of whom the two future husbands express their free will to be wedded. They have to be major of age and to be perfectly and at least one of them should be a man. As for most suitable time for the wedding the days when there is no food religious restriction and those when there are no churchy important celebrations are the most appropriate ones.

Since the moment of their union, the husbands owe to one another full fidelity and they have to help one another with dedication to the better and the worse. Those wedded and married make up a Christian family part of a local church unity. Although each person keeps one's individuality they still form one body, and the two husbands have reciprocal and equal rights and duties from the religious perspective.

[1] In order for the catchy element to be recalled, the following three conditions have to be fulfilled: the illness should be serious to a certain degree, the specific symptomatology should be evident, and the ill partner should have known about it before the conclusion of marriage, also there should be a willingly omission of truth when presenting details on the diagnostic, the evolution of the disease, and the health condition in particular etc. to the other partner.

[2] There a rich Romanian theological bibliography regarding the Holy sacramental the wedding: (Constantinescu, 2010, pp. 139-181; Branişte, 2005, pp. 327-336; Gavrilă, 2004, pp. 73-105).

Among the duties they undertake by becoming wedded the husbands have to take good care of their children, assist them to go to school and learn, raise and educate them from a spiritual and moral point of view. The resuming of the wedding is allowed only in the case when one of the partners dies or in cases similar to death. In principle, divorce is not allowed but in the case of adultery and exceptionally for reasons that can be assimilated to partial or full death, either religious or physical, either moral or civil.

Regarding our latest paragraph, the logic of things brings a delicate issue from the Christian perspective to discussion that was not discussed in juridical terms from neither of the aspects that it comports. Yet, it is very important for the proper course of the marriage. We are referring to the feeling of love under all of its aspects (between husband and wife, parent and child or towards God), a feeling that presupposes the deep knowing and the complete acceptance of the other half. From the Christian Orthodox perspective, family is sacred, based and formed upon the model of the divine family[1], characterized by love, understanding, so that marriage is seen as a communion in the name of love and faith. Exactly this fundament confers stability and durability to the family that comes along with the concluding of the wedding. The lack of faith and the absence of the feeling of love should be considered impediments to the concluding of the religious marriage (Constantinescu, 2010, pp. 139-148).

While love and faith become essential condition for the receiving of the Holy Sacrament of the wedding, the content of this engagement is not legally provisioned, although there were some who claimed that love should be included among the preliminary conditions of the concluding of marriage. As a feeling, love cannot be absent from the family context. Although the Romanian civil law in its entirety does not mention the word "love" when it comes to discuss marriage, it is the fundament and the internal spring that sets it off and determines it as a final purpose. Herein the role of the church intervenes in order to fulfill and make it complete the dialogue about marriage. So that there is no contradiction between the church and the law, no one can stop us from envisaging the following idea: from the juridical point of view, through interpretation, the association of conditions previously presented become more powerful if they are based upon the feeling of love that is meant to determine

[1] In the Epistle to the Ephesians, (V, 21-33), Paul the Apostle resembles the union between the man and the woman to the union between Christ and the Church. As a Holy Mystery, the wedding trasnposes the relationship between the man and the woman to the kingdom of God where the Savior and Church are one single body. (Stamatoiu, 2002, p. 271)

the two give their consent for getting married. Also regarding the laic character of marriage, by strictly analyzing the text of law, articles 308 and 309 of the Civil Code show our point of view as being justified: "the two husbands agree upon everything in regards to marriage" or "the husbands owe to one another respect, fidelity and moral support". We observe therefore that by the legislative modification of the new Civil Code, by considering the models of the Quebec and the French Civil Code, the absent topic of the family Code that said nothing of these duties can be raised: "The reciprocal respect is the synthetic expression of the duty of fidelity and of moral support and also the qualitative indicator of the harmony and reciprocity between the two husbands" (Baias, 2011, p. 248). The concepts of fidelity and moral support contain within their conceptual sphere the notion of love, responsibility, and the communion represented by the family and, why not, that of faith.

5. Conclusions

Looked upon from the two perspectives, though it seems an act socially motivated by the desire of interhuman communion, marriage involves, in order to attain its purpose a complex mechanism conditioned by rules. In its entirety, marriage, as an institution of civil and divine law is based on ordinary rules regarding its conclusion and the respecting of certain fundamental conditions. The laic and religious characters of marriage cannot be fully separated because the Christian order and authority represented the necessary elements to lead to the configuring of a juridical assembly with an evolution apt to be analyzed.

While the juridical aspect configures the general context of requirements in order to socially admit marriage and also suggest the ways in which marriage as an element to attain the order of right can make its coming out of the juridical stage (Baias, 2011, p. 201), the future husbands have to also obey to the canonic conditions of the Church in order to be given the Holy Sacrament of the Wedding. The element that differentiates them is strictly related to social, moral, and religious aspects. We cannot neglect the system of dependency imposed by the legislator either, meaning that the religious celebration of the wedding cannot be realized but subsequently to the civil one. Marriage is a laic institution so only if officiated in its religious version does not have any significance, not even the significance of a juridical simulation of marriage, and as a consequence it is not able to confer the efficiency of a legal marriage.

While the juridical mechanism has known other constants in certain other states, but not in Romania, the churchy orders remain strictly moral rules meant to be piously respected by men or, by borrowing the rigor and the authority of the juridical norm, they become compulsory rules of the public order, having the possibility of punishing those who disobey them. We share the opinion according to which, although more restrictive, the churchy rules do not cancel the validity of a civil marriage that respects the rules imposed by the coercive force. Having a reciprocal character, it imposes that the marital canonic law should be one that everyone officially admits and care for, in a harmonious relationship to the civil one.

As a final conclusion, both dimensions give value to marriage with the purpose of forming a family and establishing a physical and spiritual unity and coherence within the society as a whole.

6. References

Avram, Marieta (2016). *Drept civil. Familia*. Ediția a 2-a/*Civil Law. The Family*. 2nd ed. Bucharest: Hamangiu.

Branişte, Ene (2005). *Liturgica special/Special liturgy*, 4rd ed. Bucharest: Editura Lumea Credinţei.

Constantinescu, Iulian Mihai (2010). *Condiţiile administrării căsătoriei/Terms of Marriage Administration.* Bucharest: Christiana.

Costa de Beauregard, Marc-Antoine (2004). *Teoria sexualităţii. Heterosexualitaea şi homosexualitatea din perspectivă creştină/The Theory of Sexuality. Heterosexuality and Homosexuality from a Christian Perspective*. Translate by G. Moldoveanu. Bucharest: Christiana.

Dron, Constantin (2016).*Valoarea actuală a canoanelor/The Current Value of Canons*. Iași: Doxologia.

Erbiceanu, Constantin (1899). *Căsătoria în Biserica noastră naţională din timpurile vechi până în prezent în raport cu canoanele şi legile civile/The Marriage in our National Church from Ancient Times to Today in Relation to Canons and Civil Laws*. Bucharest: Tipo-Litografia "Cărţilor bisericeşti".

Filipescu, Ion. P. & Filipescu, Andrei I. (2007). *Tratat de dreptul familiei ediţia a VIII-a, revizuită şi completată/Treaty of Family Law*. 8th ed., revised and completed. Bucharest: Universul Juridic.

Floca, Ioan N. (1990). *Drept canonic ortodox. Legislaţie şi administraţie bisericească/ Orthodox Canonical Law. Legislation and Church Administration*. Vol. II. Bucharest: EIBMBOR.

Floca, Ioan N. (1992). Rudenia ca piedică (impediment) la căsătorie şi cununie/Kinship as an impediment to marriage and church marriage in *Studii Teologice/Theological Studies*, XLIV, nr. 1-2.

Florian, Emese (2011). *Dreptul familiei*/*Family Law*. 4th ed. Bucharest: C. H. Beck.

Frentiu, Cristina (2013). *Dreptul familiei, Practică judiciară conform noului Cod civil. Jurisprudenţă C.E.D.O./ Family Law, Judicial Practice under the new Civil Code. Jurisprudence C.E.D.O*. Bucharest: Hamangiu.

Gavrilă, Vasile (2004). *Cununia- viaţă întru Împărăţie/The marriage-Life in the Kingdom*. Bucharest: Fundaţia "Tradiţia Românească".

Ionaşcu Tr. (1964). *Căsătoria în dreptul R. P. R./The Marriage in the R.P.R. Law.* Bucharest.

Lupşan, Gabriela (2001). *Dreptul familiei*/*Family Law*. Iaşi: Junimea.

Stamatoiu, Dionisie (2002). *La plinirea vremii (Gal.IV, 4). Pagini de Noul Testament/In the fullness of time (Gal. IV, 4). New Testament pages*. Craiova: Editura Universitaria.

Şesan, Valerian (1942). *Curs de drept bisericesc universal*, ediţia a IV-a, îngrijită de Dr. Milan Şesan/*Course of universal church law*, 4th ed. edited by Milan Şesan. Cernăuţi: Tipografia "Mitropolitul Silvestru".