THE LETTER OF GUARANTEE FROM THE PERSPECTIVE OF THE NEW CIVIL CODE

LUMINIȚA TULEAȘCĂ*

Abstract:
The letter of guarantee is frequently used in the domestic and international commercial activity, first of all, for the safety offered for securing the contractual obligations without blocking the pecuniary funds and, second of all, due to the existing uniform international regulations that correspond to the needs supporting the occurrence of these types of autonomous securities.
In Romania, the lack of legal policing of the letter of guarantee has created practical difficulties and offered judges the possibility to "make the law" in the litigations generated by the enforcement or by the suspension of enforcement of these contractual securities.
This work analysis the regulation of the letter of guarantee provided in the New Civil Code from the perspective of its harmonization with the Uniform Rules of the International Chamber of Commerce in Paris and with the Draft Common Frame of Reference in the matter of the European private law.

Key words: *letter of guarantee, autonomous guarantees, personal securities, New Civil Code, demand guarantees*

I. Introduction

Undoubtedly, the international trade activity and the banking practice represented, along the time, the main engines for the modernization of commercial legislation.

On the other hand, it is axiomatic that commercial activity is accomplished almost exclusively on the basis of contracts and, in this matter, contract guarantees are essential, as strongest and most inexpensive guarantees are needed.

In this context, the codification and standardization by the International Chamber of Commerce of Paris of international commercial usual practices having as object the various forms of contract guarantees had a primordial role internationally.

In the first instance, we are considering The Uniform Customs and Practice for Documentary Credits (UCP) whose utilization was generated by The New York Bankers, and which have been regulated in the form of UCP in 1933, with the last revision of July 1st, 2007 – UCP 600.

Secondly, we are considering the demand bank guarantees – The ICC Uniform Rules for Demand Guarantees (URDG) adopted in 1992 and successively revised until reaching the latest form entered in force on the date of July 1st, 2010 – URDG 758 and the contract guarantees – The ICC Uniform Rules for Contract Guarantees – ICC Publication no. 325, which have not been revised since 1978 and became almost obsolete after almost one decade of non-use in the banking practice.

At the European Union level, the contract guarantees issue is included in the experts' and European organisms' concerns as part of the extensive and ambitious project of the Common Frame of Reference for European Private Law (CFR).

Thus, the European Commission financed through a research grant the activity of an academic international network which performed preliminary legal research in view to adopting CFR. The research activity has been completed at the end of 2008 and lead to publishing the Draft Common Frame of Reference (DCFR) – Principles, Definitions and Model Rules of European

* Lecturer, Ph.D., Faculty of Law, Romanian-American University, (e-mail: luminita.tuleasca@ profesor rau ro).

Private Law. Draft Common Frame of Reference (DCFR)[1]. The objective of this project is to provide a uniform contract law to the European internal market. This is due to the fact that various international and regional organizations admitted that the legislative differences in the law of contracts create barriers in the international trade.

Within the DCFR, contract guarantees are assigned three chapters with general provisions in Part G – Personal Security of Book IV – Specific contracts and the rights and obligations arising from them (IV-G1:101 – IV-G-3:109).

The Romanian legislator, proving an illaudable consistency, did not understand to answer coherently and rapidly to the essential requirements of the commercial activity, therefore our legislation does not regulate up to now any of the modern guarantees of extensive use in the national and international commercial practice.

In this context, the New Civil Code of Romania, adopted by Law no.287/July 17th, 2009[2] and foreseen to enter into force on July 27th, 2011 fills in this long-time gap of the Romanian law.

In this work, we shall analyze and determine the legal regime of the letter of guarantee from the perspective of the New Civil Code and, not in the last resort, how much appropriate and adjusted the Romanian regulation is to the most modern approaches of this form of guarantee.

II. Personal securities

Traditionally, the regulatory Romanian private law comprises a single form of personal security: the surety. For this reason, the autonomous conditional securities have been sometimes assimilated to this type of guarantees[3].

It was inevitable and necessary to complete the category of personal securities with other forms existing in other domestic regulations and in the commercial practice, respectively to regulate expressly the autonomous guarantees and to generally indicate any other types of personal guarantees that may be provided by law, without other such guarantees to be regulated, up to this moment, by the Romanian law.

Thus, according to article 2.279 of the New Civil Code: "The personal securities are the surety, the autonomous guarantees, as well as other guarantees expressly provided by law".

Analyzing the trends of the European private law, as recently illustrated in Principles, Definitions and Model Rules of European Private Law. Draft Common Frame of Reference (DCFR), we believe that creating a clearer and more simple dichotomy by regulating the dependent and independent securities as main categories which would include expressly or by qualification the concrete types of guarantees would have been more adequate.

Thus, according to DCFR, the personal securities are either dependent or independent securities, the distinction being taken into consideration especially from the perspective of the conditional or unconditional nature of the way in which the guarantor personally undertakes.

---

[1] Principles, Definitions and Model Rules of European Private Law, Draft Common Frame of Reference (DCFR), outline edition, Prepared Prepared by the Study Group on a European Civil Code and the Research Group on EC Private Law (Acquis Group), Based in part on a revised version of the Principles of European Contract Law, Edited by Christian von Bar, Eric Clive and Hans Schulte-Nölke and Hugh Beale, Johnny Herre, JérômeHuet, Matthias Storme, Stephen Swann, Paul Varul, Anna Veneziano and FryderykZoll , 2009, Sellier. european law publishers GmbH, Munich., available at:

<http://ec.europa.eu/justice/policies/civil/docs/dcfr_outline_edition_en.pdf>, (ultima vizualizare in 24 ianuarie 2011);

[2] Law no.287/July 17th, 2009 on the Civil Code, published in the Official journal Part I, no.511/July 24th, 2009;

[3] Classical Approaches of the Autonomous Guarantees in: Octavian Capatina, Brandusa Stefanescu, International Trade Law Treaty, Vol.II, Special Part, Ed. Academiei, Bucharest, 1987, page 113; Ion Turcu, Liviu Pop, Commercial Contracts. Conclusion and Performance. Introduction to the Theory and Practice of the Special Commercial Contracts Law, Vol.I, Ed. Lumina Lex, Bucharest, 1997, page 202; I. Rucareanu, Victor Babiuc, The Legal Regime of the Bank Guarantees, World Economy Institute, Bucharest, 1980;

In DCFR, the independent personal security is regulated as an obligation a guarantor provides to a creditor with the purpose of guaranteeing a right to execute an actual or future obligation of a debtor to a creditor, execution which is incumbent only if and to the extent that the obligation execution is due by the latter – art.IV.G.-1:101: Definition (a) – DCFR[4].

The second main type of personal securities – the independent security is considered to be an obligation undertaken by a guarantor in behalf of a creditor for the purpose of guaranteeing and which is expressly or impliedly declared as not depending on the obligations undertaken by another person towards the creditor – art.IV.G.-1:101:Definition(b) – DCFR.

In DCFR's vision, the personal securities category includes any type of guarantee undertaken voluntarily, including the letters of comfort (a form of conditional – dependent personal securities) and the stand-by letters of credit (a form of unconditional – independent securities) and it creates the presumption of the dependent character of all personal securities, except where the creditor indicates it has been agreed otherwise.

Accordingly, it has been opted in DCFR for a less rigid regulation and classification of the personal securities, the legal bond between the guaranteed obligation and the security being determinative for distinguishing between the dependent and the independent securities, not in an abstract but in anactual manner, in particular regarding the way the guarantor undertakes towards the creditor.

It is relevant from this perspective to mention that the independence of the security is not affected a by a simple general reference to a basic obligation (including to a personal security).

ICC Publication no.325 regarding the contract guarantees represented an unsuccess from the perspective of using these rules in the banking practice, probably due to the conditional character of the obligation undertaken by the personal guarantor.

Thus, The Uniform Rules for Contract Guarantees – ICC Publication no.325[5] are applied to the guarantees granted to some natural and legal persons for participating to tenders, for guaranteeing contract obligations performance and for guaranteeing the repayment of the advance payment given, any bails, insurances or similar commitment, whatever their name or description may be, which indicate it is submitted to the ICC Uniform Rules for tender bonds, performance guarantees and repayment guarantee – Publication no.325, all these guaranteed obligations arising from supply, service and works execution contracts.

The capacity of guarantor may be held by banks, insurance companies and any natural or legal persons, but in the domestic and international banking practice the guarantees granted by banks in the form of the letters of credit imposed.

From the perspective of ICC Publication no.325, the autonomous guarantee issued in the form of a letter of guarantee is the title on whose grounds a bank, an insurance company or any natural or legal person (guarantor) undertakes to pay, based on the instructions of a person called originator, an amount of money inscribed in the title to another person called beneficiary, upon this one's request, in case that the originator fails to fulfill his obligations to the beneficiaryarising from participating to the tenders organized by the beneficiary or from the supply, service or works contracts concluded between the originator and the beneficiary.

In order to prevent the fraudulent use of contract guarantees, ICC Publication no.325 rules the principle of justifying any letter of guarantee execution demand.

---

[4] Distinction is made in DCFR between the obligation and its performance (<<"Obligation" -An obligation is a duty to perform which one party to a legal relationship, the debtor, owes to another party, the creditor. art. III. –1:101(1) - DCFR si, "Performance", in relation to an obligation, is the doing by the debtor of what is to be done under the obligation or the not doing by the debtor of what is not to be done.- art. III. – 1:101(2) DCFR>>);

[5] International Commercial Law, Source Materials, Selected by Willem J.H.Wiggers, Kluwer Law International, Hague, 2001;

Thus, the conditional character of a demand guarantee means that the execution of the guarantee is conditioned by the proof or the justification of failure to fulfill the contract obligations by the originator in the base contract.

The guarantor must comply with the obligation of paying the amount of money inscribed in the guarantee text only in case of failure to fulfill or inadequate fulfillment of the obligations by the originator in the base contract concluded with the beneficiary of the guarantee, failure to fulfill or inadequate fulfillment which must be duly proved or at least justified by the beneficiary.

It is obvious that, in case that the originator dully fulfilled the obligations undertaken in the base contract, the beneficiary has no right to request and receive the payment of the demand guarantee, as he cannot present justifying documents for his guarantee payment request neither can he justify this non-execution by statement, and the Guarantor shall thus refuse the payment according to ICC Paris Publication no.325.

It results from the short analysis of the contract guarantees regulated by ICC Publication no.325 that the main characteristics of this form of guarantee: the dependent and conditional character of the obligation undertaken by the guarantor have lead to avoiding them in the commercial and banking practice, creditors being much more interested in much safer autonomous guarantees, in unconditional or independent autonomous securities on first demand.

In this sense, ICC Publication no.325 on the demand guarantees, recently revised in the form of URDG 758[6] met exactly the creditors' needs, and we shall present these independent personal demand guarantees in the section dedicated to the letter of guarantee.

This last statement might be contradicted by a short glimpse to the United Nations Convention on independent guarantees and stand-by letters of credit of 1995[7], a regulation not very successful itself in the banking activity despite the fact that it regulates, as the very name of this international act indicates, the independent guarantees[8].

III. The letter of guarantee in the New Civil Code

The Romanian New Civil Code regulates the letter of guarantee as following: "The letter of guarantee is the irrevocable and unconditional commitment by which the guarantor undertakes, upon the demand of a person called originator, in the consideration of a pre-existing obligational relationship, but independently of it, to pay an amount of money to a third-person called beneficiary, according to the terms of the undertaken commitment" – art.2.321 paragraph 1 of the New Civil Code.

It is, undoubtedly, the only general definition that could have been given to this form of autonomous guarantee. It lacks any connection to the ICC Publication no.325 on contract guarantees and it corresponds to the similar concept regulated by URDG 758.

But by acting in this manner the Romanian legislator decides not to regulate the conditional personal securities. A counter-argument would be that surety is already regulated and it is a

[6] ICC Uniform Rules of Demand Guarantees Including Model Forms, 2010 Revision, Implementation Date July 1, 2010, ICC Publication No.758, ICC Services Publications, Paris, 2010;

[7] United Nations Convention on independent guarantees and stand-by letters of credit, adopted by the Resolution 50/48 ofn December 11th, 1995 at New York, entered into force on January 1st, 2000, not ratified by Romania,available at: <http://www.uncitral.org/pdf/english/texts/payments/guarantees/guarantees.pdf>, the last view at february 19, 2011;

[8] In art.3 al United Nations Convention on independent guarantees and stand-by letters of credit, the independence of the guarantee is defined as folows: "For the purposes of this Convention, an undertaking is independent where the guarantor/issuer's obligation to the beneficiary is not: (a) Dependent upon the existence or validity of any underlying transaction, or upon any other undertaking (including stand-by letters of credit or independent guarantees to which confirmations or counter-guarantees relate); or (b) Subject to any term or condition not appearing in the undertaking, or to any future, uncertain act or event except presentation of documents or another such act or event within a guarantor/ issuer's sphere of operations.";

conditional personal security, but, no doubt, it is a species and not a specific institution, and not in the last instance, the regulation of the letter of comfort as an implicitly conditional autonomous security.

In our opinion, it would have been much more necessary to distinctly regulate the conditional and unconditional personal securities[9] as general tools which would have included several expressly or impliedly indicated species, following the DCFR model for example.

In such a context, letters of guarantee could have been, as case may be, either conditional or unconditional, according to the terms of the commitment undertaken to the creditor[10].

Thus, from the perspective of the New Civil Code, the letter of guarantee is an autonomous guarantee, independent of the pre-existing legal relationship which generated the issuing of the guarantee, independently strengthened by its unconditional character.

Similarly to URDG 758, the guarantee is, by its nature, independent of the pre-existing relationships and the guarantor is not preoccupied of these ones at all. The references in the guarantee text to the pre-existing legal relationships made with identification purpose do not change the independent nature of the letter of guarantee.

In the same direction, an interesting aspect is seen in the French law, which did not include until by 2006[11] an express provisions on the letter of guarantee so that the literature assimilated it to a form of simple or imperfect delegation, qualified as an abstract act and ruled by the principle of unenforceability of exceptions: the initial debtor cannot elude the execution of his obligation to the assigning debtor by invoking an exception (nullity, termination, non-fulfillment exception) extracted from his relationships with his assigning debtor or from the relationship of the assigning debtor with the assigning creditor[12].

In these conditions, according to the provisions of art. 2.321 paragraph 2 of the new civil code, the guarantor must execute the obligation undertaken in the letter of guarantee upon the first and simple demand of the beneficiary if the text of the letter does not provide otherwise.

This superficial disposal is to be completed by the doctrine and especially by the jurisprudence, considering that, even in the case of the demand guarantees regulated by URDG 758, it is necessary, as a "formal" condition for the execution of the demand security, that the beneficiary's demand, based on the security, to be accompanied by a beneficiary's statement indicating the grounds on which the applicant (the originator) is found to be in default of fulfilling his obligations arising from the subsidiary relations (the pre-existing legal relationships). This statement may be included in the text of the demand based on the guarantee or in a separate document. The condition regarding this statement can only be superseded by express exclusion which would indicate that this condition is not required to be fulfilled. The exclusion formula is not sacramental, but it must be express and explicit in its essence, being necessary to mention that the guarantee execution demand justification statement is excluded.

The beneficiary's justifying statement is indicated in all modern regulations of the letter of guarantee and it is based on maintaining a balance between parties' interests and especially on the wish of demanding with good faith the execution of the letters of guarantee.

Accepting the possibility to derogate by the text of the letter of guarantee from the rule of executing it upon the beneficiary's first and simple demand provided for by art.2.321 paragr. 2 of the new civil code may be understood either in the sense of imposing by convention the formal condition

---

[9] In the same sense: Pierre-Alain Gourion, GeogesPeyrard, Nicolas Soubeyrand, Droit du commerce international, 4e edition, L.G.D.J., Paris, 2008, p.267;J.P. Mattout, Droitbancaire international, Ed.Banque Paris, 1995, p.145; Ana-Maria Lupulescu, Autonomous Bank Guarantees, Romanian Review of Private Law no.6/2008, p.126;

[10] Detailes about this destinction: Mariana Negrus, Platisigarantiiinternationale, Ed.aIIIa, Ed.C.H.Beck, 2006, p.342-343;

[11] The Ordonance from 23 martie 2006 has been included the art.2321 in French Civil Code about personal securities; for detailes: Alain Cerles, Le cautionnement et la banque, 2e edition, Revue Banque, Paris, 2008, p.33;

[12] Philippe Malaurie, Laurent Aynes, Philippe Stoffel-Munck, Civil Law, The Obligations, Ed.Wolters Kluwer, Bucharest, 2010, page 831;

having as object the above-presented justifying statement, or in the sense of imposing a real condition which may be connected even with the modality of execution of the obligations arising from the pre-existing legal relationship which justified the issuing of the letter of guarantee. Such a last meaning of the legal phrase "if the text of the letter of guarantee does not provide otherwise" would lead to the conventional transformation of the letter of guarantee from unconditional to conditional, which would mean that, in the new civil code's conception, the conditional character is of the letter of guarantee's nature and not of its essence.

In the actual configuration of the new civil code, this one does not indicate either the period of time within which the guarantor must execute his obligation to the beneficiary nor the form that the execution demand must have. For this reason, the parties will probably refer to the provisions of URDG 758 as specific usual practices in this field. According to URDG 758, the guarantor must examine the beneficiary's demand and to determine if this one meets the requirements for being qualified as an execution demand within 5 business days from the date of being presented. When the guarantor determines that the beneficiary's demand is a consistent letter of guarantee execution demand, the guarantor must make the payment in the currency indicated in the guarantee, at the place of payment (art.20 and art.21 of URDG 758).

Due to the autonomy of the letter of guarantee by reference to the pre-existing legal relationship, the new civil code grants a special statute to unenforceability and, in this sense, the guarantor cannot oppose to the beneficiary the exceptions based on the obligational relation pre-existing to the commitment undertaken by the letter of guarantee[13] and he cannot be oblige bound to pay in case of abuse or evident fraud (art.2.321 paragraph 3 of the new civil code).

The Romanian doctrine and more rarely the jurisprudence admitted beneficiary's abuse or fraud as reasons for refusing to execute the letter of guarantee even when missing a legal definition of these manifestations.

The New Civil Code does not entirely cover this old gap of the Romanian private law and we do not believe that the practice can suitably apply these non-execution exceptions, still preferring to reject the demands for the suspension of bank letters of guarantee execution based on the fraud of the beneficiary's payment demand.

Thus, we shall be in the presence of abuse of rights by the letter of guarantee's beneficiary any time when his demand is made with the purpose to injure or prejudice the originator or it is excessive and unreasonable, contrary to the good-faith (art.15 of the New Civil Code).

The beneficiary's abuse or fraud is referred to the pre-existing legal relationship, more precisely to the beneficiary's demand's justified or unjustified character. Inasmuch as the letter of guarantee's originator, having pre-existing legal relationships with the beneficiary, has fulfilled all the obligations undertaken, the beneficiary cannot place the execution demand unless by abuse or fraud.

Certainly, the guarantor who made the payment had the right of recourse against the originator of the letter of guarantee[14]; otherwise the originator would record an unjust enrichment of his patrimony.

In practice, the bank issuing the letter of guarantee requests a collateral deposit, that is debited after enforcing the letter of guarantee. Another frequently used option for the guarantor is to credit the originator based on the terms established upon accepting the guarantee. In default of a contrary convention, the letter of guarantee is not transmittable together with the transmission of the rights and/or obligations arising from the pre-existing obligation relationship.

The letters of guarantee are usually not transferable but, by means of exception, the beneficiary may transfer the right to claim the payment under the letter of guarantee, if such

[13] Detailes in: Jean-Michel Jacquet, Philippe Delebecque, Droit du commerce international, 2e edition, Dalloz, Paris, 2000, p. 245;

[14] Jacques Beguin, Michel Menjucq, Droit du commerce international, LexisNexis, Litec, Paris 2005, p.562;

possibility is expressly stipulated within the text of the letter of guarantee. Thus, the letters of guarantee can be "transferable" only by means of an express statement in this sense provided in its text. A similar provision in provided by art.33 of URDG 758, with an additional mention regarding the non-transferable nature of the couter-guarantee.

Obviously, if the letter of guarantee's text does not provide otherwise, the letter will produce effects from the issue date and will *de jure* cease to be valid upon the expiration of the stipulated period, regardless of the delivery of the original letter of guarantee.

The New Civil Code, by its sole article on the letter of guarantee, composed of 7 (seven) paragraphs, obviously cannot even sketch properly the structure of this guarantee.

IV. Conclusions

This analysis of the letter of guarantee from the perspective of the New Civil Code, referred to the newest and most modern approaches in definitive or provisory regulations, respectively the ICC Uniform Rules for Demand Guarantee URDG 758 and the Principles, Definitions and Model Rules of European Private Law, Draft Common Frame of Reference (DCFR) reveals essential aspects of the letter of guarantee taken into consideration in the new civil code.

We are considering the definitions of the parties involved in the issuing and execution of the guarantee, some terms interpretation, non-documentary conditions of the letter of guarantee, the contents of the instructions, modifications and completions of the letter of guarantee, the extension of the guarantor's responsibility, the presentation of the letter of guarantee, the enforcement application, including partial and multiple demands, the examination of the beneficiary's demand, etc.

We cannot consider acceptable such an option of regulating the letter of guarantee even if considering the provisions of art.10 paragraph 1 line 1 of the new civil code according to which in all these cases which are not provided by the new civil code usual practices and respectively, in our case the URDG 758, may be applied.

From this perspective, the reserve we have in based firstly on the provisions of art.10 paragraph 2 of the New Civil Code: "In the matters regulated by law, the usual practices are effective only inasmuch as they are recognized and expressly admitted by law". Or, the matter of the letter of guarantee is regulated by the New Civil Code, which does not recognize nor expressly admit the applicability of URDG 758 or of other usual practices.

As far as art. 10 paragraph 2 of the New Civil Code will be interpreted in the sense of applying the usual practices to the aspects and not to the matters which are not regulated by the law, we may have a more favorable attitude towards the legislator's option of regulating the letter of guarantee in a minimalist manner, outlining of the legal regime of these guarantees in a simple way.

Undoubtedly, the importance and the frequency of the practical use of the letters of guarantee would have justified a better legal regulation in accordance with the most modern European and international approaches.

References:

- Jacques Beguin, Michel Menjucq, Droit du commerce international, LexisNexis, Litec, Paris 2005;
- Octavian Capatina, BrandusaStefanescu, Tratat de drept al comertului international, Vol.II, ParteaSpeciala, Ed.Academiei, Bucuresti, 1987, p.113;
- Alain Cerles, Le cautionnementet la banque, 2e edition, Revue Banque, Paris, 2008;
- Pierre-Alain Gourion, GeogesPeyrard, Nicolas Soubeyrand, Droit du commerce international, 4e edition, L.G.D.J., Paris, 2008;
- Jean-Michel Jacquet, Philippe Delebecque, Droit du commerce international, 2e edition, Dalloz, Paris, 2000;
- Ana-Maria Lupulescu, Garantiibancareautonome, RevistaRomana de DreptPrivat nr.6/2008;

- Philippe Malaurie, Laurent Aynes, Philippe Stoffel-Munck, Drept Civil, Obligatiile, Ed.Wolters Kluwer, Bucuresti, 2010
- J.P. Mattout, Droitbancaire international, Ed. Banque Paris, 1995;
- Mariana Negrus, Platisigarantiiinternationale, Ed. aIIIa, Ed.C.H.Beck, 2006
- Ion Turcu, LiviuPoP, Contractele comerciale. Formaresi Executare. Introducere in teoria si practica dreptului contractelor comerciales peciale, Vol.I, Ed.LuminaLex., Bucuresti, 1997, p.202;
- I.Rucareanu, Victor Babiuc, Regimuljuridic al garantiilorbancare, Institutul de EconomieMondiala, Bucuresti, 1980;
- International Commercial Law, Source Materials, Selected by Willem J.H.Wiggers, Kluwer Law International, Hague, 2001;
- ICC Uniform Rules of Demand Guarantees Including Model Forms, 2010 Revision, Implementation Date July 1, 2010, ICC Publication No.758, ICC Services Publications, Paris, 2010;
- United Nations Convention on independent guarantees and stand-by letters of credit, available at: <http://www.uncitral.org/pdf/english/texts/payments/guarantees/guarantees.pdf>, the last view at february 19, 2011;
- Principles, Definitions and Model Rules of European Private Law, Draft Common Frame of Reference (DCFR), outline edition, Prepared by the Study Group on a European Civil Code and the Research Group on EC Private Law (Acquis Group), Based in part on a revised version of the Principles of European Contract Law, Edited by Christian von Bar, Eric Clive and Hans Schulte-Nölke and Hugh Beale, Johnny Herre, JérômeHuet, Matthias Storme, Stephen Swann, Paul Varul, Anna Veneziano and FryderykZoll , 2009, Sellier. european law publishers GmbH, Munich., available at: <http://ec.europa.eu/justice/ policies/civil/docs/dcfr_outline_edition_en.pdf>, (the last view at 24 ianuarie 2011);