

Original Article

The Importance of Accurately Determining the Underlying Cause of Death in a Causal Chain Situation. Effects on Legal Liability. Essential Role of Forensic Investigation in Determining the Underlying Cause

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Abstract - Forensic research responds to requests to scientifically verify and analyse certain actions and their effects in the past to provide precise solutions for future use, both in the case in question and jurisprudence in general. This retrospection is indispensable for the establishment of irrefutable conclusions, the foundation of any legal liability that is intended to be indisputable. The novelty of the research stems from recent case law, which has emphasized the essential role of proving the causal link both for establishing the existence of the act and guilt in a criminal investigation, as well as for attracting civil liability in case of meeting the legal requirements necessary for civil liability.

Keywords - Causal chain, Liability, Forensic, Investigation.

1. Introduction

Determining the cause of an outcome is a fundamental concern in human existence. The concept of causation has an ancient origin and has a wide practical application, going beyond the sphere of law, including tort liability [1]. These considerations were the basis of the present study, which is not intended to be exhaustive but only to complete the horizons of scientific research on this institution [2].

Events, their relevance and effects in the causal chain have been written about and will certainly be written about as long as the outcome is directly influenced by the analysis of the role of the facts in producing the result. Therefore, debates on the relevance of causality have turned into theories justifying why a particular practical orientation is chosen. The present study does not aim to analyse theories of causality but merely to highlight the essential role of forensic research in determining the fundamental cause of the production of an unlawful act, which entails an obligation to punish the perpetrator and to compensate the injured party for the damage suffered.

Why would this analysis be important? Because many situations require careful identification, individualisation, and separation of actions to establish the effects of each action and their causal role, i.e. their involvement and possibly their hierarchy in producing the result. Or, if it

would be possible to paraphrase the title of a Romanian movie [1], was the action the decisive cause of what happened or did other causal events contribute to the outcome?

2. Research Novelty and Comparison with Previous Research Results

The causal link is most often seen as the link between the origination of the thought of obtaining the fulfillment of a particular desire, the deliberation in choosing the way the action manifested and the attainment of a result, whether the intended one or only an intermediate or even unsatisfactory one.

The novelty of the research stems from recent case law, which has emphasized the essential role of proving the causal link both for establishing the existence of the act and guilt in a criminal investigation, as well as for attracting civil liability in case of meeting the legal requirements necessary for civil liability.

As one of the most prominent authors[2] in tort law mentioned, "When an ordinary roan in his daily pursuits refers to the cause of an event, he is not merely pointing out that absent the one, the other would not have occurred. His problem is not that of the philosopher or of the scientist, who is concerned with types of occurrences and seeks invariable



sequences as the basis of general rules. The focus of his attention is, rather, a particular occurrence, a departure from the expected sequence of events, for which he seeks an explanation. The complete explanation would be the entire set of conditions, without every one of which the event would not have occurred. Nevertheless, he quite habitually selects one of these conditions and calls it "the cause." In doing so, he identifies to his satisfaction the factor which made the difference between normal course and abnormal event".

Therefore, theoretical and practical experiences may complete the practical framework necessary for a judicious approach to each case that requires the causal link to be established with precision.

The present study will support research by highlighting theoretical novelties in the field of causation and recent approaches in local case law.

3. The Causal Link Between the Act and the Damage which is an Essential Element of Civil Liability, The Precise Determination of Which is Often a Matter for Forensic Investigation

Causation is one of the elements of liability and, at least in civil matters, is sometimes only formally analysed, probably because of the simplicity with which it is presented in most situations. In many other situations, however, most often in criminal law, the complex causal chain is made up of „exogenous and/or endogenous causes (depending on the nature of the causes), immediate direct causes, mediated direct causes, indirect causes, multiple causes (depending on the mode of action), primary causes and/or secondary causes (depending on the time elapsed between the action of the cause and the moment of the effect), single or multiple causes (depending on the number of causes)"[1]. The determination of the causal chain is essential to determine the role of the participants in producing the result, the manner of participation, the effects of the actions of each participant, possible culpability, its forms and/or exonerating causes, and, obviously, to determine the existence or non-existence of a wrongful act or even a crime.

As it was already pointed out, several theories of causation have been formulated in legal practice, the most representative being the theory of equivalence of conditions, the theory of adequate cause, the theory of proximate cause and the theory of indivisible unity between cause and conditions.

According to decision no. 262/2020/01.10.2020 of the High Court of Cassation and Justice, "the theory of equivalence of conditions establishes that all the facts and circumstances which were indispensable for the production of the result must be considered as causes of the result, with

equal value, i.e. they are equivalent. Accordingly, each fact that precedes the harmful result and without which it would not have occurred is causal, together with the other facts and circumstances. Thus, for an event to form part of the causal chain, it is sufficient for it to have been one of the conditions "sine qua non", i.e. necessary for the result to occur.

In accordance with the theory of adequate cause, only those facts or circumstances are considered causes which normally, ordinarily, according to human experience, have the objective capacity to produce a result of the kind that has occurred. However, this theory has now been completely abandoned, not having been enshrined in the case law of Romanian courts.

The theory of proximate cause was developed in Anglo-Saxon law, and according to it, only that phenomenon, act, or circumstance immediately prior to its occurrence is causally connected with the result produced. However, this theory has now been completely abandoned and has not been enshrined in the case law of the Romanian courts.

Finally, according to the theory of indivisible unity between cause and conditions, in establishing the causal relationship, it must be considered that the causal phenomenon does not act alone, in isolation, but in the context of external conditions which, without directly producing the harmful effect, have nevertheless favoured the production of this effect, facilitating the birth of the causal process, accelerating, and favouring its development or aggravating its negative results.

The unity of those circumstances is given by the fact that they contribute to the production of the damage so that the causal effectiveness of each of the elements of the causal complex must be recognised. In other words, there is an indivisible unity between the main cause and the conditions, the causal relationship comprising not only the facts which constitute the necessary and direct cause but also the causal conditions, the facts which made possible the causal action or ensured or aggravated its harmful effects. In general, the case law of the Romanian courts has adopted this theory, considering that it is able to largely mitigate the shortcomings of the other theories by fairly configuring the causal relationship between the act and the result produced.

As has been pointed out in the doctrine [6], "The adoption of the theory of objective imputation in the judicial practice of the Romanian courts represents a process of modification of jurisprudence through the effect of doctrine. It requires a two-stage examination: first, it must be verified whether the perpetrator's action produced a risk that is criminally relevant to the legal object of the offence, and then it must be established whether there is a causal link between the danger created and the result."

All these theories have been the fruit of hard research and constructive debate that have looked at typologies of situations one by one to establish with certainty the underlying cause and to eliminate or diminish the role of insignificant causal conditions in producing the outcome. Eliminating or diminishing the role of such conditions entails the removal or reduction of liability, with effects both in terms of the penalty and the need for compensation.

4. Recent Case Law on the Importance of Properly Determining the Element of Causation and the Underlying Cause of the Damage

Case law abounds with cases that examine the events in the causal chain and must establish their relevance to the outcome. Of these, several attract attention by subliminally identifying the decisive role of forensic investigation.

According to Decision No 262/2020/01.10.2020 of the Romanian High Court of Cassation and Justice, "the Court held that even if the administration of anaesthesia caused the cardio-respiratory arrest that occurred during surgery, and this event caused the formation of cerebral oedema that led to the death of the victim, it cannot be ignored that it was the defendant's culpable act which triggered the causal chain which led to the victim's death and that all the events which occurred between the time of the road accident and her death (complications during the period of hospitalisation, possible medical negligence) are circumstances which contributed to that outcome. The Court found that it is obvious that if the defendant had not been at fault in the road accident, the fatal outcome would not have occurred. Applying the above theoretical considerations to the specific case before the Court, the Court found that the defendant's culpable act was the causal action which gave rise to the chain of events which resulted in the death of the victim and that the other circumstances which arose subsequently were causal conditions which aggravated the harmful effects of the defendant's action".

In another judgment [7], "the Court of Appeal held, as relevant circumstances in the causal chain of the damage, that the car accident occurred during the night, at 2 a.m: 20, and all three passengers in the car - the driver, the deceased victim and the plaintiff - had consumed alcohol together at the time of the accident (the driver had an alcohol level of 1.80 g‰ and the deceased victim 4.05 g‰); it was also held, on the basis of the findings of the criminal investigation authorities, that the driver's blood alcohol level caused the tragic event, as he was driving at excessive speed, on a roadway covered with ice, on a section with particularly dangerous bends, losing control of the vehicle and causing the traffic accident.

As a result, the appellate court sufficiently and adequately justified the victim's culpable attitude and his

causal role in the complex circumstances that contributed to the injury.

Referring to Articles 12(23) and 13(13) (3) of European Directive 103/EC/2009, the appellants argued that the purpose of insurance would no longer be achieved if compensation to injured parties were excluded or reduced where the passengers of the motor vehicle were aware that the driver was under the influence of alcohol, and no legal provision in the matter excludes claimants from being exonerated by Law No 136/1996 in their capacity as injured parties.

The fact that the passenger was in a car driven by a driver who was under the influence of alcohol does not mean that there is no causal link between the damage caused by the death of the victim and the driver's wrongful act, in which context there can be no question of concurrent fault on the part of the passenger in relation to the consequences of the accident. However, in the case in question, as is clear from the evidence, the intervener's action is a *sine qua non*-condition which generated the result and without which the result would not have occurred".

Confirmation of the causal chain based on the forensic expert report is essential in establishing the correct factual situation, i.e. the actions committed and the effects suffered, even if it would be necessary to redo the report for certain elements of imprecision. As held in another court judgment [8], "according to the necropsy report no. x/A3/162 drawn up by the Institute of Forensic Medicine Târgu Mureş on 28.02.2018, the death of the victim was due to haemorrhagic and septic shock that occurred in the course of thoraco-abdominal treatment. Since the commission did not approve this necropsy report for Approval and Control of Medical Acts of the Institute of Forensic Medicine of Târgu Mureş, a new forensic expert report was carried out during the judicial investigation to find out, among other things, whether there was any medical negligence in the case that could break the causal chain between the trauma suffered by the victim and her death. Conclusions of the new forensic expert report No x of 10.04. 2019, drawn up by the Institute of Forensic Medicine Târgu Mureş and endorsed by the Commission for Approval and Control of Medical Acts of the Institute of Forensic Medicine Târgu Mureş are set out in the recitals of the sentence appealed, so they will not be repeated, but it was categorically assessed that there was a causal link between the thoraco-abdominal wound suffered by the victim as a result of the defendant's action and her death, the evolution of the traumatic injury leading to death, and that no medical deficiencies were identified in the treatment of the victim, much less medical deficiencies likely to break the causal chain between the trauma suffered by the victim and her death. In the contents of the new forensic report, expert opinions are inserted which respond to the criticisms raised by the defendant-appellant in the appeal, showing, among

other things, that the abdominal injuries, due to their severity, even if they were correctly surgically resolved, could still lead to the appearance of a septic state and shock, and arguments are presented for this support, including the appearance of pneumonia in the victim under antibiotic treatment.”

The need to accurately establish the causal chain stems from the obligation to resolve the criminal and civil side of the facts committed. In the case of criminal liability, "any offence with a result has consequences not only in the abstract through the violation of the criminal rule, but also directly on the property of the injured party (as in the case of property offences, for example). However, in most cases, the damage caused to the property of the injured party results indirectly as a 'side-effect' of the criminal act.

This issue has been debated and settled in the doctrine, with arguments being put forward to legitimise the joining of civil and criminal action in the same procedural framework. This is the case of the offences covered by Article 178 or Article 184 of the Criminal Code, which also generates "secondary effects causing damage caused by rebound", e.g. hospitalisation costs, maintenance obligation, and funeral expenses. These damages can be compensated through criminal proceedings because the act itself, even if indirectly, has generated these effects (these damages) in the causal chain. In practice, if it looks at the facts, the main effect of the commission of the offence is the immediate consequence - death/injury to the victim - and the "subsequent effects" are the damage consisting of hospitalisation costs, etc. In this case, the offence has produced both the main effect and the subsequent effects” [9].

Regarding civil liability, which is directly and conditionally dependent on criminal liability in the case of a crime, "in the case of civil litigation, the elements of civil liability in tort shall be analysed, and evidence shall be adduced to prove the existence of the damage and the guilt of the perpetrator of the tort, from the perspective of civil law.

According to Article 1371 para. (1) of the Civil Code, if the victim has intentionally or negligently contributed to causing or increasing the damage or has not avoided it, in whole or in part, even though he could have done so, the person called upon to answer shall be held liable only for the part of the damage he has caused.

This legal rule makes it possible to reduce the liability of the perpetrator of the tort/delict where it is considered that the victim also contributed, intentionally or negligently, to the causing or increasing of the damage. The tortfeasor may be liable for damages only in respect of his "contribution" to the damage, the victim being liable for the remainder of the damage because of his act or omission in competition.

From the interpretation of the legal provision, it appears that the Romanian legislator has established as a condition for the victim to be held to have participated in the occurrence of the damage, the commission of the act with a certain form of guilt, intention, or fault. The effect of the application of this rule is to reduce the amount of compensation owed by the person liable only for the part of the damage which he caused.

By Decision No 12/2016 of the High Court of Cassation and Justice, delivered by the Complex for the resolution of questions of law in criminal matters, published in the Official Gazette No 498 of 4 July 2016, it was decided that "the provisions of Article 1371 para. (1) of the Civil Code shall be interpreted as meaning that the perpetrator shall be held liable only for the part of the damage that he has caused if the victim of the damage has also culpably contributed to causing or increasing the damage or has not avoided it, in whole or in part, although he could have done so.

Thus, the decision held that the provisions of Article 1371 para. (1) of the Civil Code does not establish the condition that the victim must himself commit an unlawful act, as is the case with the perpetrator, being relevant in the hypothesis governed by the legal rule in question only the examination of the victim's attitude, from the perspective of his guilt; (...) in the form of intent or fault, as defined by the provisions of art. 16 para. (2) and (3) of the Civil Code, and not the lawful or unlawful nature of the victim's act, if the existence of a concurrent culpable act is established which is part of the causal chain generating the damage and which constitutes a legal circumstance reducing the compensation obligation incumbent on the perpetrator. (...)

Therefore, if the offender and the victim are jointly at fault, the extent of the damages to be paid by the offender will be directly proportional to the extent of his contribution to the damage.

In order to find common fault, however, the legal provisions do not require the victim to have committed an unlawful act himself, as the defendant erroneously claims in its justification of the contradictory nature of the considerations, but merely require an examination of the victim's attitude from the point of view of his guilt, which may be in the form of intention or fault, as, moreover, the Court of Appeal also argued.

Accordingly, the fact that the Court of Appeal held that the victim committed with indirect intent the culpable acts forming part of the causal chain which gave rise to the damage does not in itself justify the defendant's reasoning that those acts were unlawful and since the victim committed them, required a finding that the victim alone was liable for the damage suffered by the applicant” [10].

Similarly, with regard to the effects of the victim's wearing of the seat belt, the Court of Appeal found, with reasons, that the major traumas suffered by the victim, as revealed by the conclusions of the forensic expert report and the extra-judicial technical expert report, were caused by the force of inertia, amplified by the victim's failure to wear the seat belt, thus explaining, in the recitals, the judicial syllogism which led to the victim's contribution to the damage. Specifically, the Court of Appeal held, as relevant circumstances in the chain of causation leading to the damage, that the injuries caused to the victim and which led to her death were aggravated by the fact that she was not wearing a seatbelt, in the context in which it concluded that the victim's participation in the insured event could be held to be 20%." [11]

Even if there are grounds for dismissing the criminal nature of the offence or civil liability, the forensic report is necessary for a sound and legal solution. In a recent case, it was held that "although the court did not consider the defendant's request for a finding of fortuitous circumstances, the fact that the defendant did not comply with the rules on road safety on public roads, ignoring his obligation to secure the tarpaulin fitted to the dumper truck properly, cannot constitute a fortuitous circumstance; the victim's collision with the tarpaulin of the dumper truck was not caused by an unforeseeable circumstance but by the defendant's failure to secure the tarpaulin; if the defendant had properly secured the tarpaulin, the speed of the wind would have been irrelevant; at the same time, the occurrence of such a meteorological phenomenon (gusty wind) is not an unforeseeable circumstance. Consequently, the court found that the cumulative conditions for incurring civil liability in tort, namely, the existence of material damage which has not yet been repaired, caused as a result of the accident caused by the defendant (the wrongful act), the causal link between the wrongful act and the damage, and the defendant's guilt, as the court also found in the subjective aspect of the offence at issue, the defendant acted culpably as a form of guilt, were met in the case in question [1]".

The importance of the forensic investigation in establishing the elements of civil liability and establishing the existence of a causal link between the act and the loss caused is more important if factors external to the perpetrator's action intervened in the development of the factual situation after the generating event, which must be precisely determined in order not to alter the determination of liability. Thus, in a judgment, [13] it was held that "the socially dangerous result (death of the victim) in the case had as a sine qua non the defendant's act, which caused the initial injuries, and no other causes. The fact that an intra-hospital infection is possible in the case of any hospitalisation and the case of any surgical intervention does not diminish or remove the guilt of the defendant, as the victim required

hospitalisation and surgery precisely because of the defendant's action.

In this situation, the causal chain has been suggestively expressed by the following scheme: failure to give way (at the fault of the defendant) led to the accident, which caused the victim to suffer fractures of the right lower limb and a spinal injury with neurological complications. A possible concurrent medical fault due to failure to diagnose the potentially thanatological injuries in time could have led to cerebral oedema, with the consequence of the victim's death. But even if the cerebral oedema was of a non-traumatic, post-hypoxic nature, caused by cardio-respiratory arrest following pulmonary lipid embolism, there was also a causal link between the defendant's culpable act and the victim's death."

This type of reasoning is common to other jurisdictions. As pointed out in a study on carrier liability for the death of the beneficiary of the contract of carriage, "in the case of a heart attack, although caused by the passenger's health problems and although unreported to the flight crew, the airline's error in noticing and responding to the heart attack could be considered an unexpected and unusual event in the rules and practices of the civil aviation industry, which would constitute a link in the causal chain that resulted in the passenger's death" [14].

5. Causation and the Effect of the Underlying Cause of Action on the Determination of Legal Liability in Accordance with the Law

As has been rightly held in judicial practice and has been taken up in doctrine, "the relevance of the causal link in the topography of the crime is that if it is missing or its existence is not proven, the perpetrator cannot be imputed a possible harmful result, making his action (or inaction) irrelevant from a criminal point of view, since it does not constitute a cause of the result. In other words, the absence of a causal link removes the typicality of the act, excluding the possibility of it constituting an offence [1]".

However, the accuracy of the forensic investigation is often the key to revealing the decisive aspects in clarifying the causal link. This is precisely why accurate identification of the underlying cause of the injury is essential, especially in situations where there is either a succession of causes or an overlap or overlap between two or more actions by perpetrators, the victim himself or even third parties. To ensure that the development of the factual situation is legally sound, the facts and the potential causal links between each of them and the result produced must be identified. In addition, in the case of a complex of actions by one or more participants, or even by external persons or factors, including the injured party, it is necessary to identify the development of each legal relationship individually, from fact to

consequence, to determine which of them caused the damage. Only if there is a clear causal link can legal, criminal, or civil liability be incurred.

As was pointed out in another case[16] in which the provisions of positive law were sufficient to determine the elements of civil liability, "as regards the causal link between the breach of those rules and the death of the injured person, the court found that that condition was clearly satisfied. Given that the legal occupational health and safety measures were not taken, that inaction was one of the causes of the result, namely the death of the victim, the defendants' inaction having a causal value, contributing, together with the activity of the victim himself, to the result of the accident."

In the case of a sequence of risks, the contribution of the victim or a third party to the outcome, after the initial state of risk, has been dealt with in the matter of causation.

To establish with certainty the causal link between the perpetrator's act and the contribution of the victim and/or a third party, it is necessary first to distinguish the perpetrator's acts from those of the victim or third party, which can and must be individual acts. Situations where the victim's act immediately precedes his death must be verified based on a forensic report to exclude any subsequent excuse, interpretation or exception.

Each such action has a certain effect, and the consequence of each can be analysed separately to determine the contribution of the perpetrator, the victim and/or the third party. The separation between them can be based on the conclusions of the forensic report. As it has been pointed out in doctrine, in a case where the death of the victim was the final moment in the development of a factual situation from the patella injury, followed by correct medical treatment applied by the doctor but not privately administered by the victim at his home after discharge, that "the medical causal relationship cannot be equated with the legal-criminal one [17]. On the other hand, the court of judicial review decided that the result of the victim's death was not causally linked to the defendant's negligent action. In order to reach that conclusion, the court used the theory of equivalence of conditions, stating that the result was caused by a complex of prior actions or inactions (the defendant's action in culpably causing a traffic accident, the action of carrying out surgery, the victim's failure to follow the prescribed treatment), so that it is necessary to determine which of those actions or inactions have the value of causation" [18].

In the case of a confluence of risks, to determine the causal link, it is necessary to distinguish the perpetrator's acts from those of the victim and, possibly, from those of a third party, in which "the actions of these persons converge

towards a harmful result, without losing their individuality" [19].

Even in these cases, where it may be necessary to analyse the effect of certain behaviours of the victim, such as "antitherapeutic conduct, refusal to see a doctor, delaying medical treatment, failure to take the prescribed treatment, reopening injuries caused by the perpetrator, leaving the hospital contrary to medical instructions, violation of the usual rules of prudence in caring for an injury, even refusal to undergo specific treatment such as a blood transfusion" [20], forensic investigation is essential to determine the causal chain and the relevance of its elements in causing the injury.

6. The Importance of the Forensic Investigation and the Pre-Eminent Role of the Forensic Expert Report in Establishing a Sound and Legal Causal Relationship Between Actions and Their Effects. The Probative Force of the Forensic Report

Forensic research responds to requests to scientifically verify and analyse certain actions and their effects in the past to provide precise solutions for future use, both in the case in question and jurisprudence in general. This retrospection is indispensable for the establishment of irrefutable conclusions, the foundation of any legal liability that is intended to be indisputable.

In legal language, the forensic expert's report is given a certain value in the body of evidence in each case, called probative value. The different probative value of the evidence leads to a certain interpretation of the factual and legal grounds in a case, tipping the balance one way or the other. Therefore, evidence is, in most cases, the most interesting and dynamic part of legal research. As regards the probative value of the forensic expert report, as has been pointed out in case law, "from the point of view of the probative value of the forensic expert report, the court is bound by its conclusions, which can only be overturned by another means of evidence of equal scientific value, that is to say, by a forensic report establishing a contrary situation, and not by the testimony of witnesses whom a number of affective elements, such as the pressure of solemnity, the suggestibility of status, the socio-cultural background and the origin of the witness may influence" [21].

For the most precise conclusions, it is necessary to state the objectives as clearly as possible; referring to the facts, causes, diagnoses, and effects of the treatments applied should be used for precise conclusions, avoiding any confusion or, interpretation or even speculation.

It is obvious that no check that claims certainty can be straightforward, and, obviously, neither can forensic

investigation to determine the underlying cause of death. The complexity of the factors that contribute to the outcome implies both rigour and responsibility for the conclusions, the outcome of the forensic report being the basis for both the direction of the investigation and, above all, the final solution [22].

The forensic report is not only a necessary record of the proceedings but is a scientific document that verifies the elements of a particular case from a medical point of view for its legal use. The accuracy of the investigation and the conclusions make the difference between justice and failure, between punishment and acquittal, and between liability and lack of liability and compensation [23].

A particularly important aspect of forensic analysis concerns the effects of the victim's potential subsequent contribution on the perpetrator's criminal liability and, by implication, on the quantification of the perpetrator's civil liability for reparation of the damage caused. The accuracy of the determination of the causes that led to the result depends on the thoroughness and, of course, the legality of the entire legal investigation.

In the cases of culpable bodily injury offences, “the provisions of Article 1391 para. (1) of the Civil Code shall be interpreted as meaning that only the victim of the offence who has suffered an injury is entitled to compensation for the

restriction of family and social life. The provisions of Article 1391 para. (1) of the Civil Code shall be interpreted as meaning that the offender shall be held liable only for the part of the damage which he has caused if the victim of the damage has also culpably contributed to causing or increasing the damage or has not avoided it, in whole or in part, even though he could have done so.” [21].

7. Conclusion

As has been rightly pointed out, “humans have a natural predisposition, deeply engrained in our thought system, to attribute causes, respectively effects, to the events all legal subjects face” [22]

It is precisely for this reason, but also for the consolidation of the social framework, for the soundness and legality of holding people accountable, it is necessary to establish with certainty their causes and effects. For this reason, in cases requiring the use of this means of evidence, forensic research through a specialist expert report is essential to find out the truth, hence the need for a precise and justified investigation with scientifically well-founded reasons, without contradictory or unfounded conclusions. Hence, the probative force of the forensic expert report stands out among the means of evidence as one of the most important elements of the criminal investigation.

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- [21] By decision no. 121/7.06.2010 of the Bucharest Court of Appeal, Criminal Section I, published in *Pandectele Române* no. 10/2010, it was held that the resolution of the case in relation to a certain legal classification or another must be based on all the evidence in the file, among which the most conclusive evidence may be that of the forensic expert report which establishes in a detailed and precise manner both how the crime was committed and its consequences and the causal link between the crime and the result.
- [22] See in this regard criminal decision no. 134A of 18.09.2007 of the Cluj Court of Appeal, published in the *Romanian Journal of Jurisprudence* no. 1/31.01.2009
- [23] Judgement no. 12/16.05.2016 of the Romanian High Court of Cassation and Justice for a preliminary ruling on the interpretation and application of Article 1391(2) of the EC Treaty (1) and Art. 1.371 para. (1) of the Civil Code
- [24] Ioan George Cristian, see above, published on <https://sintact.ro>