

Dilemmas and Controversies Concerning the Heritage and Its Role on Accounting Stage

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Abstract

Information is an abstraction, a product of intelligent knowledge but also a ubiquitous reality to which accounting contributes as well. In Romanian accounting, at the turn of the millennium, one of the "accounting controversies" was to have the heritage as its object, or more precisely conceptualizing this notion and reporting it on the subject of accounting. For radiographing the controversy, we considered as appropriate to deal with the following aspects: conceptualization and legal of the heritage features; the evolution of the perception on the use/non-use of the notion of heritage, implications of the legal framework for accounting organization and management after Romanian accounting reform on the perception of heritage, analysing the direction of tilting the balance of the views expressed by leaders of accounting in contemporary period. The effect of this investigation is, on the one hand, an image array of assets from an accounting and legal point of view, on the other hand identifying new research directions on this topic, namely accounting interference for marginal values of the heritage, accounting and legal expertise of non-property.

Keywords: Heritage, accounting, pro heritage, juridical heritage, alternatives for heritage

1. Introduction

It is said that simple things are the most complicated, always the deepest.

This is also the case of the heritage, a concept long conveyed in accounting theory and practice, both current and obsolete, "the cause or matrix of the accounting existence itself whose object and recordable material is", whose spirit "is difficult to be kept in implementing international standards of accounting" and to which standard setters have renounced (partially emphasis added) under current accounting regulations.

But, as Professor E. Horomnea said "what a dull life we would have if one day we all had the same opinion" (Horomnea, 2008, p. 15). The divergence of views is the main way of progress; the fight is on, not between individuals but between concepts, arguments, principles, doctrines, theories etc. The concept of heritage is circumscribed (also) to legal matters (civil law) where is perceived as legal universality which is in a unit including all rights – the assets

and all debts - liabilities, existing as long as there are people. Each person may have only one property.

The goal that we have set is to shape a holistic image of the heritage, both accounting and legal concept to create the premises for identifying the response to the question "To what extent does the heritage fall within the subject of accounting?". Our approach is especially called by theory where the opinions differ, by the legal framework which does not treat this problem uniformly, as well as by accounting practice where an accounting term last a long time, even if it is not stipulated by law (an example of this is the expression of the accounting statement, currently used within public institutions, even if it was replaced by law for years). To achieve this goal we used the accounting and legal literature review, and also the regulatory framework in the period after the Romanian accounting reform. Our approach falls within the three functions of accounting research (Colasse, taken after Neagu, <http://jfa.ro/pdf/neagu.pdf>), namely: classification and theorizing accounting practices (referring to heritage emphasis added); accounting adjustment to new information needs, the progress of knowledge in accounting.

The research undertaken is both normative (accounting practices are based on accounting norms and rules issued by normalization agencies) and basic (can help increase the awareness of knowledge by accounting even if it is not a direct response to the needs of accounting practices, it can help guide accounting practices).

As research methods, we used: comparative method, the argument being that which allows us to identify existing similarities and also differences on the perception of the relationship between heritage and the subject of accounting by accounting theorists, by lawyers but also by the accounting legislation; observation method, which involved tracking the purpose mentioned above in the systematic manner, reasoning which aimed to obtain new information from combining the already existing ones.

2. Heritage in the „juridical” light

The explanatory Dictionary of Romanian language defines heritage as (i) all rights and obligations of economic value and material goods covered by these rights belonging to a (natural or legal) person; (ii) all assets belonging to the community and are administered by state bodies, public goods, (iii) spiritual goods belonging to all the people (being transmitted from ancestors), to all mankind, cultural heritage.

In legal literature heritage is conceptualized (taken after Chelaru, 2006, p. 5) as follows:

- "All rights and duties a person has, which have or are an economic or pecuniary value, meaning that they can be evaluated in money";

- "the heritage presents the universality of law relations, which have the same assets and liabilities subject, to the extent that these relations are monetised through their final effect,

being distinct from the goods being covered";

- "the accounting expression of all economic powers belonging to a matter of law".

The heritage refers to "all rights and obligations that the legal entity has at one point, considered without taking their individuality into account.

It resembles "a container whose contents can be subject to constant fluctuations without affecting the container existence" (Statescu, 1970, p. 484).

The heritage has the following legal features:

- it is a legal universality, which is more than the sum of its components, a system with autonomous existence, which keeps its legal identity unchanged;

- Everyone has a heritage that is affected to the goal achievement and prior to acquiring legal personality. Heritage personality with its inalienability is opposed to consideration of the relationship between owners and their property as property relations (Chelaru, 2006, p. 8);

- It is unique (each person has one heritage) and also divisible (divisibility conceived as an ethnic tool of grouping the assets and liabilities of a person;

- It is inalienable, which does not prevent the alienation of some of its components. Universal transfer of heritage may take place only when reorganizing or ceasing the existence of the legal person. Relatively recently it was spoken of "heritage marginal value" (Filipescu, 2000, p. 11) that is closely related to the legal personality of the holder and can not be alienated as such. These values, "not to be included in the heritage content are closely related to it and tend to become heritage (Chelaru, 2006, p. 6). An example in this respect is represented by work ability of an individual to the extent that a professional activity is, for those who exercise it, not only a source of income, but also capital (an aspect especially obvious for the people who exercise a liberal profession, whose professional customer has a certain economic value.

Are about to become heritage those correlative rights and obligations with an economic content, which can be monetised. Par excellence, ownership is a property right, as its object, the goods are capable of such an assessment. The subjective right is the right that a person uses and exercises directly, as a proprietor. Heritage rights are real rights and claims to money.

Real rights entitles the holder to exercise the attributes of an asset, directly without competition, the relation being established between people concerning an asset, and not between people and an asset that is only an external object, immediately or derivatives of that report.

Under economic rights of claim, the creditor as an active subject can claim to the creditor as a passive subject to have a certain behaviour, respectively "to give, to do or not to do something" (Chelaru, 2006, p. 15).

Non-property rights have an object without economic value, not likely to be measured in money (the right to name, honour, reputation and so on).

Patrimonial or non-patrimonial character of subjective rights generates certain legal consequences as follows: (i) in the case of legal actions with patrimonial character, the statute of limitations operates, while those of non-patrimonial nature are imprescriptibly; (ii) the economic rights are transmissible through legal acts (due to economic value which entails access to the economic cycle), while the non-patrimonial are not; (iii) the violation of a property right is repaired by means of patrimonial nature, especially through the payment of some amounts of money as compensation or damage and the removal consequences of a violation of a non-patrimonial right are of the same nature as of the violated right and seek to restore it (there is the possibility of a violated non-patrimonial right to determine patrimonial consequences, such as damage to a person's health that can generate monetary measures to restore health or non-patrimonial consequences that cannot be removed without recourse to property means - payment of moral damages as a result of illegal acts which led to diminishing the possibilities of a person to integrate socially and familial (Reghini, 2008, 301).

Heritage "allows and explains" the following:

- The general pledge of unsecured creditors whose claims are not secured by a particular asset of the debtor's patrimony. It is interesting to note that the obligation assumed at a time can be guaranteed not only in goods existing at that time, but also with future goods, acquired by the debtor in the interval between the commitment and due date, the condition being that future goods to exist in debtor's heritage due date.

This possibility is due to the fact that the object of the pledge right of the unsecured creditors is represented by debtor's property and not by individual assets within it.

- Real subrogation (replacement) with universal title, allows replacement of goods and values with others, automatically, without the need for an express provision of the law in this respect.

- The possibility of universal transmission (the entire heritage) and universal title (a quota heritage) which covers the universal heritage of law, or fractions of this universality, including both active and passive sides, not just some property and rights.

The heritage of a legal person is distinct (not to be mistaken for the heritage of other legal persons, nor with individuals that compose that person) and autonomous in the sense that the legal entity is not liable for its own heritage for its members' obligations, as they do not respond to their heritages to legal entity debts "(C. Atias, quoted by Ungureanu, 2003, p. 279).

The existence of heritage as a defining element of the legal person can be spotted in at least two aspects (Ungureanu, 2003, p. 283): its existence makes possible for the participation of law subject to legal life; their own heritage allows own liability of legal persons.

The heritage (autonomous, distinct) is (Lupan, 2000, p. 39) one of the three elements indispensable to legal personality (with its own organization and purpose). It consists of all rights and obligations with economic content with the legal person as their holder, and is based on "above all, the ownership of their assets" (Lupan, 2000, p. 65).

As an accounting expression, the heritage content is given by an asset and corresponding liability (Birsan, 2001, p. 7).

Regarding heritage, we can also find the following expressions:

- The common heritage of humanity, having as its object the natural resources of the high seas, which belong to all humanity.

- National cultural heritage consists of "special or exceptional goods with historical, archaeological, documentary, ethnographic, artistic, scientific and technical, literary, cinematographic value, etc. (Law 182/2000).

Thus, legal personality is important both for heritage existence and for accounting organization and management of an entity. Also, legally, we do not notice the existence of any objections on the perception of heritage as "accounting expression".

3. The beginning of heritage presence on accounting stage

The association between accounting and heritage was achieved in our country in the early twentieth century. Heritage was considered then an accounting subject and defined as "a set of rights and obligations, with their respective rights and obligations objects" (Sp. Iacobescu, Al Sorescu quoted by Calu, 2004, p. 11).

According to the approach, the heritage is viewed in legal, economic and mixed terms. The economic aspect is however held as absent by Ion Evian who "launches a theory that "the concepts of assets and liabilities show us the enterprise as an economic entity with a property (an asset) of its own, consisting of different types of concrete goods and a liability (a capital) of its own, representing the abstraction of the entire value - expressed in money – of the means available to the enterprise. The theory was considered "materialistic as purely economic angle of research of the enterprise phenomena" (Calu, 2004, p. 12).

The term heritage "disappears" with the communist regime, the transition to standardized accounting and the appearance of the first chart of accounts in 1949. Following the introduction of accounting socialist doctrine, the planned process of extended socialist reproduction and socialist property falls under the concern of the "accounting records" subject.

Through the Council of Ministers Decision no. 1885 of 1970 on the accounting organization and management, the duties and responsibilities of the head of financial-accounting department, the concept of heritage is back on the accounting scene, so: the balance sheets are used to reflect the heritage in monetary terms, exercise permanent control

over the existence and movement of property values (article 3); financial-accounting department head hires the economic unit ... in all economic operations (art. 9); the leaders of the economic units are required to ensures the inventory of property (article 10); compensation ... in inventory may be approved by the head of the economic unit ... but without diminishing heritage value.

After this period, the property was seen both as a subject of accounting and as a matter in motion within the economic circuit.

4. The heritage in the accounting regulatory framework at the turn of the millennium

After the appearance of the Accounting Law no. 82/1991 the significance of the notion of heritage increases. Olimid L. and D. Calu senses that the term heritage with its derivatives appears 22 times (compared to its 5-time-use in H.C.M. no. 1885 of 1970).

Over time accounting law has undergone a series of changes, updates, and republications. In the 2002 version we notice the use of the concept related to that of public institutions, respectively "accounting of public institutions provide information to authorizing officers on heritage under management ...", "for public institutions, the official document of presenting the heritage situation under the management of the state and territorial-administrative units", "the main object of public institutions balance sheet is the heritage of the state and administrative units".

Government Ordinance no. 70/2004 for the amendment and completion of Accounting Law no. 82/1991, approved with amendments by Law no. 420/2004, makes clarifications on the public accounts, specifying its components, including the underlying accrual accounting and it should "reflect financial and patrimonial developments, and the patrimonial surplus or deficit".

References to heritage persist in subsequent versions of the accounting law except that covering the main object of public institutions balance sheet.

Interesting to note is the meaning given to the term legal person or non-profit found in the same regulatory framework.

Also, analysis of the regulatory framework for approval of accounting regulations oriented towards international accounting standards and European Directives reveals a number of aspects regarding heritage which are presented below.

In the OMPF no. 94/2001¹ we find formulations "asset transactions", property inventory, heritage management, output of current assets of heritage, heritage items, heritage entrance etc.

¹ The order of the Ministry of the Public Finance no. 94/2001 for approval of accounting regulations harmonized with the Fourth Directive of the European Economic Community and the International Accounting Standards.

According to OMPF 1752/2005² "that who is responsible for managing the heritage" (section 99) may decide on the period of depreciation of tangible assets.

For public institutions accounting, the legal framework represented by (and) the OMPF no. 1917/2005³ uses the terms: patrimonial result, heritage under management, real and exact situation of the heritage, net heritage, heritage item, entrance date within the heritage, heritage transmission, heritage inventory, movable national cultural heritage, companies' heritage etc.

In the contents of current legal framework for the approval of accounting regulations with European Directives OMPF no. 3055/2009⁴ one can find only the expressions of „overhead heritage" and public heritage, otherwise retrieval in other laws.

Law no. 213/1998 stipulates in art. 12 that "property in the public domain can be given, as appropriate, to autonomous administrations, prefectures, central government and local authorities, other public institutions at the national, county or local level".

Autonomous administration heritage is divided into private property goods of administration heritage and the assets over which it only exerts a management right, the property belonging to the State under public law or administrative-territorial units (Adam, 2006, p. 147).

Property ownership should not be mistaken for the right of administration exercised on public property that entered into the heritage administration by reorganizing (Calota–Ponea & Danisor, 2006, p. 75).

In public institutions there are goods from the public domain over which they exercise only administration right (and this is the subject of accounting).

We notice that the issue of heritage is treated differently if we refer to the legal framework for "traders" and to that for autonomous administrations and public institutions. In the first case it will be kept in mind administration heritage and the public one, in the second case the influence of "heritage" seems to be more pronounced, even if the normative act that we meant has undergone several changes over time. It can be found some graduality in accounting reform of economic sectors, public institutions maintaining their statute of "late child of Romanian accounting reform".

² The order of the Ministry of the Public Finance no. 1752/2005, for the approval of accounting regulations compliant with European Directives.

³ The order of the Ministry of the Public Finance no. 1917/2005 for the approval of the Methodological norms regarding the organization and the management of the accounting of the public institutions patrimony, of the accounts plan for the public institutions and the monograph regarding the registration in accounting of the main operations.

⁴ The order of the Ministry of the Public Finance no. 3055/2009, for the approval of accounting regulations compliant with European Directives.

In other words, the provisions of the regulatory framework maintain the dilemmas and controversies surrounding the accounting perception of the heritage.

5. Pro heritage in Accounting

In the tandem with the regulatory framework, accounting literature from the beginning of XXI century states heritage as a subject of accounting. Thus "the subject of accounting is a single one, namely the heritage, other concepts (economic and financial emphasis added) are nothing but a manifestation of the same essence" (Oprean & Popa, 2001, p. 6).

Heritage is seen as one of the qualitative structures used to personify separation of economic value movement's management on natural or legal persons as appropriate and to address this management issue on an information and decision-making plan. The same authors (Oprea & Ristea, 2002, p. 8) emphasize that the option for heritage does not exclude another reality that of income categories and capital use, economic resources by the conjunction or disjunction with heritage structure, but which presents certain conceptual limitations.

Also, not any heritage becomes object of accounting representations, but only that one that reflects "the extent to which economic values separated from the heritage point of view are invested in proprietary business to obtain goods and services subject to sale transactions, or in administrative and social-cultural activities which satisfy specific and rational society needs" (Oprea & Ristea, 2002, p. 9) In a paper published a year later (in 2003) it is stated that "always at the core of the accounting subject was the enterprise heritage" which finds a legal and an economic interpretation (Bojian, 2003, p. 19).

A year later, N. Baltas and A. Ciuhureanu emphasized that "in the context of accounting reform, the term heritage of the economic entity is not explicitly defined, being replaced by balance sheet structures." Transformation justified by "necessity providing relevant information, credible and consistent" in the context of accounting internationalization, and 'changing the shape of the balance sheet. "These two authors' opinion is that the use of the concept of heritage is not an error, as long as its structure is presented in the international referential and that it contains structures that are directly related to the assessment of financial position (assets, liabilities, equity).

By calling the timeline, D. Matis (2005, p. 41) emphasizes that autonomous values movements on natural or legal persons were personified by calling qualitative structures of wealth, funds, heritage and more recently the economic resources controlled by the entity (emphasis added) and "distinctions that are made between heritage, capital, resources, fixed assets, stable uses and fixed capital or between equity and stable resources etc. are insufficiently relevant and confusing" (Matis, 2005, p. 48).

The notion of heritage can be challenged as a subject of accounting if seen ... as a "Procrustean bed" for accounting (Covlea, 2008, p. 14).

E. Horomnea catalogues accounting as "a form of systematic and specialized knowledge of heritage", represented both as a form of means, as economic reality and in terms of the acquisition or origin method, so of "resources" Horomnea, (2008, p. 117). "Heritage is a synthetic structural unit, an autonomous constituted entity, distinct from the person to whom it belongs, and from each element that comprises it" (Horomnea, 2008, p. 126), in its turn both part of the whole, and independent entity, which in some circumstances can delineate to the whole.

Heritage structure will be retained on an economic level, as appropriate, in situations of assets, economic capital and resources controlled without losing sight of its legal dimension. Patrimonial description was accounting vocation that precedes its perception as management and information system.

Not any heritage becomes an object of accounting representations, only one that reflects the extent to which separate economic values are used in business, administrative and social-cultural activity.

According to the above author, the category of controlled economic resources as a basis for defining specific accounting structures "cannot compensate for the consistent relationship between law and taxation" (Ristea, 2009, p. 20). In addition, "heritage legal quality can be retained as a general structure capable of mixing elements present in the financial statements" (Ristea, 2009, p. 21).

"Heritage is a concept designating the economic and legal structure of approach and management of material and money ... the primary form and the main criterion of identification of any economic firm, by virtue of property relations and management form" (Cretoi, 2007, p. 8). And this time, accounting grafting on a heritage completes the plethora "pro heritage" in addressing the accounting object.

Indirectly, by building a "thread of accounting logic" C.M. Dragan stating "accounting mission is undoubtable: tracking existence of the movement and transformation of heritage ... going to determining financial results" (Dragan, 2009, p. 27).

N. Todea analyses the influence of culture and/or legal system of accounting and its mechanisms, concluding that "the subject of accounting should remain entity heritage, with all aspects that the structure has, evolution and its transformation from operations and transactions exercised by the entity (Todea, 2009, p. 58).

The results of financial and extra-patrimonial elements are heritage complements and together they form the subject of financial accounting in the authors Pantea and Bodea' opinion, which emphasizes the existence of "many interpretations and variations in the definition and analysis of heritage as an accounting object" (Pantea & Bodea, 2011 p. 12), the term (seemingly outdated, but in the habit of accounting practice) was replaced with that of

financial position presented in terms of assets, liabilities and equity.

6. Alternatives for heritage

Economic activity reflected by the accounting is both dynamic and rational. Naturally, the two features are imprinted to the heritage, because it supports certain changes during the activity development due to the complex processes that comprise the economic activity and plays an important role depending on the destination it was created.

The notion of heritage establishes a certain state of affairs at a time which gives more static dimension. Through the instruments available, accounting records first patrimonial movements of an entity which binds less the notion of heritage.

The dynamics of patrimonial movements can be viewed differently, depending on a variety of information needs, but strictly reporting to the notion of heritage, rigid and rigorous in interpretation makes it becomes a closed system in creating information alternatives.

It is believed that an alternative in this respect could be the notion of investment which, viewed in terms of procedure, it is better attached as accounting raw material, covering both the dynamic nature of the activity and purpose intended by the activity in the use of sources and resources posed by its existence.

By expanding the accounting application field, from the notion of heritage to the notion of investment would lead to the need to cover further highlight interests and the purpose to form the heritage, its destination of structural component elements both statically and dynamically. <http://www.trilantulcontabil.ro/1.html>. Opposed to this view, we may also encounter the acceptance according to which heritage can only be conceived in its dynamics and the analysis of heritage at some point has a certain degree of relativity since the changes will continue during such an analysis" (Chelaru, 2006, p. 7).

Financial position is the subject of accounting, required by international accounting standards in A. Dutescu's opinion (2001, p. 30), and "the study of accounting as social practice" is the idea put forward by N. Feleaga, L. Malciu and St. Bunea (2002, p 16).

The vast accounting harmonization program triggered by OMPF 94/2001 for approving the Accounting Regulations harmonized with the Fourth Directive of European Economic Community and the International Accounting Standards determined "transition from patrimonial vision to economic vision of the balance" (Berheci, 2010, p. 160), even though "the indicator that shows the financial position and which allows verifying the accuracy of the balance sheet in a list format type (net assets - emphasis added) appears separately (Berheci, 2010, p. 171).

I. Ionascu supports the idea of quitting the patrimonial accounting approach and the adoption of economic ownership in recognition of usage under leases. The same author, four

years later, exposes a redefinition of heritage that exists internationally, substantial heritage that involves a duplication of property in a property of damage and an operating property (Ionascu, 2003, p. 60). The property of damage is dematerialized, it ensures guarantee of bankruptcy and gives the holder a right to the value of something. Operating property refers to the right to use the assets.

The above mentioned author's conclusion (Ionascu, 2003, p. 57) is that "it is hard to say which the subject of accounting is (or if there is one object of study).

D.A. Calu (2004, p. 17) considers justified the substitution of heritage as accounting subject with "the effects of economic transactions and other events on the economic and financial situation, and on performance of an accounting entity in order to inform external and internal users ". The acceptance is accompanied by a challenge of economic and financial mechanisms to the changes in the economic environment that may trigger the need for redefinition, and the quite low probability as redefined heritage is agreed internationally.

7. Conclusion

There is no doubt that any segment of knowledge is likely to controversy, so the accounting approach of heritage is not compromising it.

The legal approach of the included heritage "is given by the asset and corresponding liability", does not prevent its consideration as a subject of accounting, ultimately, the property comprises individual rights and correlative obligations which are measured by reference to the currency.

Undoubtedly, shaping the notion of heritage is the result of doctrinal analysis of legal regulations suggesting it, and the various practical implications of some of these regulations.

The issues presented allow us to formulate questions, such as:

- It is necessary to approach the subject of accounting distinct from that of heritage?
- Is "the notion of Heritage" able to prevent accounting to achieve its primary objective?
- Is not "Redefining heritage" more a matter of form rather than one of substance?
- What advantages are there is we renounce the patrimonial approach of balance in determining the outcome (the variation of equity) that do not affect the natural course of things in terms of accounting practice?

Naturally, in more than half a millennium of double entry, accounting evolved and emerged as the main tool for describing and modelling an organization as important system of information and assistance of its decision.

Heritage is a complex concept with multiple interferences, related both to accounting, legal and cultural. The accounting principles, methods and rules operate both upon "legal"

heritage and the cultural heritage (as at the level of to the organizations, institutions that manage these assets accounts are held and managed).

We believe that in any field, including accounting, whether we refer to its object or something else, we need diversity. We need a pragmatic approach to heritage and its theoretical foundation, we need accounting philosophy and econometric models, of static and dynamic approach, we need both precision and relativity, we have an obligation to support someone else's right to have a different opinion than ours.

Ownership is the element that launched the "apple of discord" about the concept of heritage and its reporting on the subject of accounting.

In these circumstances, the opinion that the concept of heritage is strictly related to that of property, that reflecting financial leasing transactions constitutes an exception to the rule and that the object of accounting, reported to the legal framework (which prohibits the possession, in any form, of valuable goods and money without being recorded in the books), is represented by the heritage complements ("operation heritage"). Under these conditions neither abandon nor redefining the heritage does not solve the problem.

Non-patrimonial approach is different because the accounting aspect, absolutely all transactions are reported to the currency, so there is no question of non-susceptibility of monetary assessment.

We acknowledge another truth; nothing could be seen in isolation, but at least dual, patrimonial with non-patrimonial aspect, the single entry with double entry accounting etc.

We believe that form should be put on second place to the substance, to the essence. Important is what accounting can do, valuing its information potential both for decision-makers within entities and for external users of accounting information. In terms of accounting theory we subscribe to professor Ionascu's view according to which, the issue of the subject of accounting is not straightforward and perhaps cannot relate to a single element.

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33. Official Gazette no 1186 bis/2005, The order of the Ministry of the Public Finance no. 1917/2005 for the approval of the Methodological norms regarding the organization and the management of the accounting of the public institutions patrimony, of the accounts plan for the public institutions and the monograph regarding the registration in accounting of the main operations, with the following changes.

34. Official Gazette no. 1080/2005, The order of the Ministry of the Public Finance no. 1752/2005, for the approval of accounting regulations compliant with European Directives.

35. Official Gazette no. 766 bis/2009, The order of the Ministry of the Public Finance no. 3055/2009, for the approval of accounting regulations compliant with European Directives, with the following changes.

36. <http://www.trilantulcontabil.ro/1.html>