

Abstract

Habilitation Thesis

Contravention Law and Judicial Procedure in Public Law. Present and Perspectives.

Associate professor PhD Mircea Ursuța,

The work is structured in two titles: the first one presents scientific and professional achievements in three fields of research, respectively: contravention law, civil procedure and administrative contentious, and the second one highlights the career evolution and development plan towards two important directions: contravention law and judicial procedure in public law.

After a succinct presentation of the professional evolution, beginning with the moment of the enrollment as a doctoral student and until today, necessary in order to understand my present vision on contravention law, due to the contact, in one form or another, with several law branches, from criminal law to civil procedure, I have synthesized scientific research in the three fields mentioned here above.

Regarding contravention law, the achievements can be synthesized in the following manner: i) the elaboration of the first doctrine work dealing with contravention procedure, from the moment of the notification of the traffic officer who issued the sanction and until the moment of the enforcement of the contravention sanction; ii) the making of a monograph dedicated to traffic contravention procedure, analyzing the specific particularities of the finding and of the sanction of this type of deviation, found very often in judicial practice; iii) the elaboration of a co-authored work regarding the particularities of the contravention procedure, applicable to contraventions in the field of competition; iv) the punctual analysis of legislative modifications occurred over time and of the most important decisions ruled by the Constitutional Court and by the High Court of Cassation and Justice (in appeal in the interest of law or within the mechanism of the previous decision); v) commenting on certain solutions of judicial practice highlighting punctual problems of contravention law, as: distinction between complementary sanctions and the measures of the administrative police, applicability of the presidential ordinance in contravention procedure, etc; vi) analysis of certain aspects regarding the enforcement of contravention sanctions, insisting on the necessity of the regulation of *legeferenda* of a contestation to the enforcement, specific to contravention matter; vii) the carrying out of a series of conferences in the field of contravention law.

I have presented my overall vision regarding the present problems of contravention law, reiterating the proposal to draft a Contravention Code. I have shown that current legislation is by far exceeded by the realities of society, and I made punctual propositions regarding the future code, some of which I would like to mention here: i) the correlation of the criminal sanctions with contravention sanctions; ii) adopting a much more flexible system for the individualization of the contravention sanction; iii) regulating the principle of formality; iv) the regulation of the nullity system, by the consecration of a regime similar to criminal procedure; v) the regulation of a contestation to the enforcement, specific to the contravention field, etc.

Regarding civil procedure, the main achievements can be synthesized as it follows: i) the elaboration of synthesis presenting in a comparative manner institutions of the New Civil Procedure Code and of the 1865 Civil Procedure Code ; ii) the participation to numerous conferences where I explained the rationale of new legal texts; iii) the making of a work instrument for law practitioners, respectively a new annotated Civil Procedure Code, with special legislation, case jurisprudence of the Supreme Court, extracts from the Unification Minutes of judicial practice, relevant extracts from the decisions of the Constitutional Court and of the Supreme Court (ruled in appeal in the interest of law or within the mechanism of the previous decision); iv) the elaboration of studies regarding the applicability of certain new institutions of the Civil Procedure Code, as, for example, the procedure of regulation of the request for summons; v) the participation to the making of the commented Civil Procedure Code, under the coordination of Professors Viorel Mihai Ciobanu and Marian Nicolae.

Concerning the contentious administrative, scientific research can be summarized in the following manner: i) the carrying-out of studies regarding the application of the new provisions of the Civil Procedure Code and the application over time of certain legislative modifications brought to contentious administrative; ii) the analysis of certain traditional institutions of contentious administrative, suffering modifications as a consequence of the entering into force of the New Civil Procedure Code; iii) analysis of the procedural perspectives generated by the possible adoption of the Administrative Code and of the Administrative Procedure Code.

The second title presents the perspectives of scientific research on the two levels shown at the beginning, respectively, contravention law and judicial procedure in public law.

In the field of contravention law, I intend to carry out a work comprising comments regarding the frame law (Government's Ordinance no. 2/2001), and the special legislation, accompanied by extracts from judicial decisions, as well as the updating of Contravention Procedure, related to the new realities generated by the entering into force of the four Fundamental Codes. On the long-term my objective is the elaboration a contravention law treaty.

Regarding judicial procedure in public law, I consider that it is imperious to carry out a work analyzing which institutions of the Civil Procedure Code are compatible and which ones are incompatible with the specific of public law litigations.

A complete analysis of contravention law and of judicial procedure in public law implies nevertheless, from my point of view, the creation of a research team, analyzing as profoundly as possible, inclusively through the drawing-up of a doctoral thesis, problems of maxim importance in this field.