



ACADEMIA ROMÂNĂ
SCOSAAR

HABILITATION THESIS

EVOLUTIONS OF THE INTERNATIONAL AND EUROPEAN HUMAN RIGHTS LAW

Fundamental field: Romanian Law

Habilitation field: International and European Human Rights Law

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Thesis developed to obtain habilitation certificate in order to manage doctoral work in the field of International and European Human Rights Law

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A. Abstract of habilitation thesis

A.1. Summary of competencies

In this part I have tried to structure the scientific activity between 1992-2018.

The main directions of research, teaching or in which I intend to realize practical applications are the International and European Human Rights Law.

My research will focus mainly on the comparison of the currently large consecrated systems, on the identification of some of their weaknesses, but also of their strengths, on the analysis of the reforms introduced in the implementation mechanisms, on the revelation of the process of legal acculturation between the major legal systems.

At the same time I have had in view the aspects concerning the transformations induced by human rights on public international law and in this sense the classification of the person as a subject of international law in this area. Based on human rights treaties, a State party may engage in an international procedure another State party in connection with the obligation assumed for the benefit of the individuals –ressortissants or not - of the latter (inter-state complaints). In other words, the international law of human rights engages the collective responsibility of the states on the application of the consecrated rights. The obligation to protect becomes an *erga omnes* obligation, as long as human rights transcend the framework established by the internal order. As a consequence, states may not invoke the principle of non-interference to hinder the control mechanisms that they have already accepted. The protection of the individuals against abuses of states does not suppose, for them, mutual subjective rights. Human rights, inherent to the being - stripped of a particular status - must be protected irrespective of the attitude of the states towards the juridical tools that enounce them and do not depend on the respect of conventional obligations reciprocity.

In the European protection system of human rights outlined by the European Convention, the right of individual complaint opens the way for great changes. The relation between individual and state is changed, but the latter has the levers of sovereignty which ensure the protection of its interests: the consent to be bound by a treaty on human rights is provided by the Convention, as well as the right to make reservations (provided they do not affect the Convention) and to decide on the entry into force of the additional Protocols amending the control system of the Convention. The originality of the current system consists of its jurisdictional nature and of the shift of focus from the inter-state complaints to the solving of communications from individuals.

The European system of human rights protection is under constant "reconstruction". The 1998 moment (the entry into force of Protocol No. 11 to the European Convention) which marks the creation of the single Court, having permanent character, was followed by the adoption of Protocol No. 14 and the change of the conditions of admissibility to the Court. Its text enables the Court, at present, to reject an application if it finds that the applicant did not suffer a significant disadvantage. This provision is amended by Protocol No. 15 so that, after the entry into force, the possibility of rejecting an application on this ground will be limited. The same protocol modifies the general term of six months from the date of the last final decision, term which will be of four months. Protocol No. 16 (also called "the dialogue Protocol") establishes a dialogue between the ECHR and the national courts, bound by the advisory opinion procedure (similar to the mechanism of interlocutory applications of the CJEU).

At the level of international human rights law developments are also visible. At UN level, the role of the Human Rights Committee is reinforced through the authority of the recommendations made to the states and through the General Comments focused on current and complex issues. In turn, the Human Rights Council, body which replaces (since 2006) the Human Rights Commission, introduces the verification procedure of complaints that reveal "gross and reliably attested" violations of human rights "in any part of the world and under any circumstances" and sets the general criteria for lodging complaints. The right of complaint is recognized to "persons, groups of persons or NGOs acting in good faith and having direct and reliable knowledge of the allegedly violated rights". At the same time, in order to verify the fulfillment of obligations undertaken by the States parties, the Council adopted a universal verification procedure (Universal Periodic Review) based on reports every four years.

Approached from the perspective of bioethics, human rights acquire new meanings. The amazing advances in science have troubled the world of law with many questions. The medically assisted reproduction methods can radically change some institutions of law. The traditional family is losing ground, the relations between parents and children are more and more complicated, contracts with surrogate mothers are concluded in the absence of legal regulations etc. The uniqueness of the human being is contradicted by the fragmentation of the human body, the mystery of the human genome was decoded, the identity of a person changes with the sex change, human dignity is invoked to justify the claim of new rights. Large areas of "non-law" are thus created, areas that must be covered.

The relevance of this research is obvious in a continuously changing world, and although we do not always find clear-cut answers to the many questions that we raise, the fact of questioning and identifying some aspects represents an important step in the research activity.

B. Scientific achievements, professional and career development and evolution

B.I. Scientific, academic and professional developments

B.I.1. Scientific Achievements

Doctoral thesis

The doctoral thesis "Personal Status and Nationality in Private International Law" was under the coordination of Prof. Emeritus PhD Mihail Vasile Jakotă, at "Al.I. Cuza" University in Iasi. The public dissertation was on April 29, 1999.

Publication of books, monographs, studies, articles

-5 books as single author- in the area of abilitation

-6 books as co-author

Articles published as author/co-author

-54 articles, 5 of them in ISI Thomson Reuters and the rest in BDI (International Databases) indexed journals.

-17 studies published in collective volumes or in the proceedings of some international conferences held abroad.

Participation in national and international grants/projects

-member in 2 international scientific projects

-member in 4 national projects

Founder/initiator/co-organizer of scientific activities/research

-Founder of the Academic Association "Vespasian V. Pella" (Iași, 2015)

-member in the organizing committees of 10 national conferences in the area of law, International Law, Human Rights Law

B.I.2. Professional Achievements

During my 26 years professional activity I have tried to respond to all professional challenges and to contribute to the development of my interest area.

A brief presentation of my professional achievements might be in the light of my recognition that I have acquired from the academic community from Romania and abroad.

At national level

- I was awarded with the PhD thesis in the interdisciplinary field of private and public international law, on a topic for the first time approached in our country;
- I have published the books in my professional field;
- I participated at more than 70 national and international conferences as speaker, plenary speaker, moderator;
- I have been member in commissions for professional appointments and in doctoral commissions;
- there are 41 citations of my papers in books or articles in specialized literature;
- I was invited to become member of the Romanian Society of European Law, Romanian Society of Bioethics and member of the Board of Equal Chances for Women Foundation;
- I am member in the editorial councils of 4 journal.

At international level

- I was awarded with Diploma Master "Cum laude" in International Law and International Human Rights Law at the University Notre Dame (USA);
- 15 of my articles are published in journals abroad;
- 4 of my studies are in the current Bibliography of the Court of Justice of the European Union;
- 10 citations of my works in books/papers published abroad;
- I was speaker/plenary speaker at 30 international conferences;
- I was invited professor at Institute of High International Studies (Institut de hautes études internationales), Panthéon-Assas University, Paris (2014);
- I was participant in Erasmus+ Teaching mobilities at the University of Parma, Italy.

B.I.3. Academic Achievements

Since 1992 I have been associate assistant at the Faculty of Economical Sciences, International Relations Department at "AL. I. Cuza" University. Between 1997-2012 I have been university lecturer, university associate professor and then professor at the "M.Kogalniceanu" University in Iasi. My duties supposed the laboratory and the teaching activity in the area of Private International Law, Public International law, International and European Human Rights Law.

Between 2000-2008 and 2010-2012 I used to be the Dean of the Law Faculty and in 2012 I have been elected Rector of the university.

In 2012 (following my resignation) I have been appointed (by competition) as professor at "Stefan cel Mare" University in Suceava where I work at the Faculty of Law and Administrative Sciences.

In both universities I made the proof of the capacity to coordinate research teams, to manage teaching activities, to explain and facilitate the learning and research. I have been involved over four years in the activity of Legal Clinic which represented a news in Romania. Trying to develop this concept I have coordinated students, professors and associated lawyers' activity, I have participated as coach at international law moot courts.

B.II. Plans for the evolution and development of the professional career, scientific and academic research respectively directions/teaching/practical applications and probable modes for their implementation

B.II.1. Plans for development and professional career development

Since the beginning of my professional activity I have constantly tried to be involved in all the specific activities, to update my knowledge in the so huge area of International Law and to develop my professional abilities.

At present, my aim is to obtain the habilitation certificate which should confirm the possibility to supervise PhD studies in this field. This fact will suppose the continuation of research activity, participation in national and international projects, the diversification of cooperation with national and international universities.

B.II.2. Development plans and development of scientific career

As until now, the scientific career's objective will be oriented towards conducting research, implication in national and international projects, coordinating scientific papers of students and publishing the results of these activities. The theoretical aspects of human rights protection, knowing the international ways of action available to individuals, knowing the case law of regional courts are now indispensable in the training of jurists – practicing or theorizing law -. The research topics in this area are numerous and complex and require special attention.

The future projects includes: the activity of peer-reviewer, conference participation, diversification of the research topics and their interdisciplinary approach, publishing books and other papers.

B.II.3. Development plans and academic career development

In my teaching activity I always have been interested to improve the quality of teaching and to get new data in the frame of training stages able to get access to new documents and to the ideas of european and whole world experts in international human rights law. Obtaining the habilitation certificate will contribute to my academic career development through academic exchanges with romanian and european academic milieu. At the same time, this is going to improve the relationship with undergraduates, master and doctoral students.

B.II.4. Directions of research/teaching

In terms of scientific research, in the short term, I intend to complete the projects on the development of scientific research both at individual level and as part of some research teams (publishing a collective volume, with the participation of professors from Europe and America). As to the teaching level I have in view the improvement of teaching methods through the students' active participation.

The future research and teaching topics will include:

- aspects concerning the development of general international law;
- the onusian human right system reform;
- the reform of regional human rights system;
- the impact of human rights on general international law.

B.III. Bibliographic references

prof. univ. dr. Aurora Ciucă



5.03.2019

