

Habilitation thesis

The modernization of the labour and social security legislation in Romania in the European integration framework

-SUMMARY-

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The modernization of the labour and social security legislation in Romania after 1990 was a component of the comprehensive process of reform the Romanian law underwent in general. When I started my professional activity, the labour legislation had suffered major amendments, in the context in which the employment relation itself came through some essential changes.

I have started my didactic and research activity in the field of labour and social security law and, afterwards, I have enclosed within my professional interest areas the European Union social law.

Furthermore, as a lawyer, in my professional activity I have specialized in labour and social security law and I have carried on professional activities in all sub-fields of labour law, inclusively through interdisciplinary approaches, with elements of social security law, tax law, personal data privacy and intellectual property.

I have addressed all these fields of activity in an integrated manner. My scientific and professional accomplishments followed two main paths of interest:

- (i) Labour relations and social security – new views in the national regulations
- (ii) European Union legislation and its influence in the Romanian legislation reform

In these areas of interest my accomplishments came to fruition with the drawing up of scientific works following the research carried out and the results obtained, the presentation of scientific papers at various conferences, congresses, debates, round tables I have participated to, the elaboration of course materials and workshop notebooks, the preparation of opinions and legal analysis in different practical situations of interpretation and application of the labour and social security law, the drafting and reviewing of legal documents used by employers in the field of human resources and employment relations etc.

From the perspective of my activity as a lawyer, I point out that, starting with 2010, every year the most prestigious international ranking of lawyers designated me as the best lawyer in Romania in the employment law field: “**Chambers Europe, Romania Band 1 Lawyer** in employment law”.

At the same time, I aimed at ensuring the knowledge and assimilation of the practical perspective of the labour law, of the social security law and of the labour legislation in force at the level of the European Union, to the students in bachelor and master degrees study programs. Moreover, I have provided support and guidance to the trainee lawyers or fully-qualified lawyers with whom I have worked in several projects in carrying out

legal research, understanding the manner in which the legal provisions should be interpreted in the framework of the labour legislation in general, in relation to the regulations of the civil law and with the observance of law principles.

Through this habilitation thesis I aimed at presenting the arguments sustaining the submission of my dossier for obtaining the habilitation to coordinate doctoral studies in the field of Law, Labour and Social Security Law specialization, in order to be able to contribute to the training of doctoral students and formation of labour and social security law specialists, by sharing to the doctoral students my professional knowledge and my research, professional, didactic and practical experience gained over the 20 years of activity in these fields.

SECTION I – Scientific, professional and academic accomplishments

1. Labour relations and social security – new views in the national regulations

1.1. The regulation of employment relations, as part of private law, in the interdisciplinary framework

Since the beginning of my didactic career I was involved in several *scientific research projects*, within which I have studied the regulations, the case law and the practice of the administrative authorities in the field of labour law but also in other fields, the comprehensive knowledge of which offered me an overall vision on the Romanian law system (civil law, company law, administrative law, etc.), by analysing projects of new laws and submitting proposals for amending the existing legislation and implementing legislative reform in these fields, in order to remove the barriers identified on the path of the private sector's growth.

1.2. The collective labour relations and their new dimension in the labour legislation

1.2.1. Collective labour conflicts – in a first phase, within the doctoral studies, my scientific research was focused on the collective labour conflicts (of interests) subject, a category of labour conflicts, which did not find its regulation in Romania for decades. The results of my scientific research from my doctoral studies were materialized in *the articles published* both during my doctoral studies and afterwards, as well as in the *PhD thesis: “The conflicts of interests between the employer and employees. A compared view on the right to strike”*, within which I have expressed some *de lege ferenda* proposals to be considered in a further regulation of the subject analysed. Afterwards, the legal aspects I have analysed and the proposals I have expressed were subject for debate for other colleagues in their research projects (as resulting from their published papers).

1.2.2. The collective negotiations and the social dialogue – initially I have approached this field in the context of my participation to several *international scientific conferences* and *European projects of scientific research*.

From a *practical perspective*, I have asserted the results of the scientific research in the field of collective labour relations also in my activity as a lawyer. I have counselled and assisted employers through my personal involvement in solving the collective labour conflicts (of interests) triggered by the employees' representatives or trade unions, I have analysed and counselled the employers with respect to their obligations in relation to the

negotiation of the collective bargaining agreements and the procedures for initiating the collective negotiations, I have drafted the documents pertaining to different practical situations of collective negotiations, I have elaborated the negotiation strategy, etc.

The research and the practical activities in the field of collective labour relations were also materialized in several *published papers*.

1.3. The individual labour relations – between flexibility and social protection

1.3.1. The new Labour Code and the reflection of the European vision in the Romanian legislation

Another main path of research was dedicated to the regulation of the individual labour relations, in the framework of the elaboration and adoption of a new Labour Code (Law no. 53/2003), in accordance with the reality of the Romanian labour market, having as objective to align, primarily, the labour relations with the values of the rule of law, with the democratization of the social dialogue, and also with the European normative standards.

I was selected to perform the activity pertaining to a project for analysing the New Labour Code following its adoption and implementation, in the framework of a program financed by the World Bank dedicated to increasing the flexibility of the labour market in Romania, having as objective the consolidation of the legal, institutional and public policies framework in order to enhance the competitiveness of the Romanian economy in Europe, and to foster the economic growth and the creation of jobs and to reduce the unemployment.

Based on this program and on the report “*The revision of the Labour Code in Romania*”, submitted to the Minister of Labour, Social Solidarity and Family the procedure for amending the Labour Code was started. Following this procedure there were elaborated some amendments subsequently adopted through Government Emergency Ordinance no. 65/2005 regarding the amendment and completion of Law no. 53/2003 – The Labour Code, subsequently approved with amendments through Law no. 371/2005.

The scientific research performed after the appearance of Law no. 53/2003 – The New Labour Code was also materialized in several *published books, chapters of books, articles and studies*.

Moreover, following the adoption of the new Labour Code, I have participated to a large-scale project consisting in drafting extensive comments regarding the Labour Code, being part of a team of prestigious authors. The project was finalized through the publication of the work in 2 volumes “*The Labour Code. Comments on every article*”, Volume I (2007) and Volume II (2011).

Afterwards, following the substantial amendments brought to the Labour Code in 2011 through the adoption of Law no. 40/2011, and also following the adoption of the Social Dialogue Law no. 63/2011, I have *published a series of articles* analysing these amendments from a practical application perspective and I have presented the results of my scientific research in the field of individual labour relations at the *scientific conferences* I have participated to.

Another important part of my scientific research activity was the *research performed for the European Commission*, in the framework of the development of the individual labour relations in Romania and their alignment to the new social and economic realities. I have participated to several *research projects*, as project officer or as a member of the research teams and I have drafted the national reports on the various subjects of the respective projects.

Following the adoption of a new Labour Code, regulating exhaustively the individual labour relations, with the aim of preparing a study material to help the students in studying and understanding the “Labour law” discipline, I have elaborated together with prof. Alexandru Athanasiu a university course “*Labour law. University course*”, that was among the first course materials published after the appearance of the new Labour Code.

1.3.2. The interpretation and application of the labour legislation in the labour relations practice

The scientific research performed in the field of individual labour relations also had a strong *practical nature*. The frequent amendments of the legislation applicable to the individual labour relations led to acute needs in practice for supporting the employers and the employees as regards the implementation and application of the respective regulations.

Thus, I have drafted several *analyses regarding the manner in which the legal provisions are interpreted and applied in the practice of individual labour relations*, especially by the employers, through their legal and human resources departments, regarding the manner in which the documents used in the labour relations in different practical situations are drafted. I had the opportunity to share the results of my research to the practitioners, to address proposals of interpretation and elaboration, part of which were published in articles.

Part of the results of my research was asserted within some *scientific papers* with a strong practical nature, presented at national and international conferences.

Combining the didactic activity with the research activity, I have presented several *courses in the field of labour relations and labour law*, to the specialists from the legal and human resources departments of various employers, as well as to the managers of the respective employers.

1.4. Social security – new dimensions of social assistance and insurance

As regards social security law, my research and professional activity envisaged the new views with respect to the social policies, including social insurance benefits, mainly the pension insurance system and the unemployment insurance, but also with respect to the insurances for work accidents and professional diseases and other types of insurance, as well as with respect to the social assistance system, with all its components, and the evolution of the regulations in these areas.

For the “Social security law” discipline, I have elaborated and published in 2012 the book “*Social security law: Summaries and tests*”. This book was the first work of this kind and was also used in their didactic activity by the colleagues teaching social security law within other law faculties in Romania.

2. The labour relations in the European Union – the European Union regulations and their influence in the reform of the Romanian legislation

2.1. The evolution of the European Union legislation and the case law of the European Court of Justice in the field of labour relations. Their essential role in the interpretation and application of the labour and social security legislation in Romania

Over the past 10 years, my scientific research activity was mainly focused on the analysis of the national legislation in the field of labour relations from the perspective of the regulations in force at the level of the European Community/Union. This field of scientific research is placed in the context of Romania's accession to the European Union and of the large process of transposing the community acquis in the field of labour law. The results of the scientific research were materialized in several *reports drafted for the European Commission* as regards the transposition and the implementation of the European directives adopted in the field of labour relations, report elaborated in the framework of several *research projects*, as project officer or as a member of the research teams.

The scientific research from a comparative perspective, especially as regards the manner in which the social legislation adopted at the level of the European Union was transposed and implemented, was also reflected through the publication of several *papers in foreign languages*.

In this context, in 2012 I have elaborated and published the course "*Labour and industrial relations in the European Union*".

From the perspective of the connection between my research and practical activity, it is to be mentioned that, in April 2012 I was invited to participate as an *independent expert to the public hearing that took place in the European Parliament*, organized on the subject of the amendments brought to the labour legislation and the challenges implied by these amendments in the countries of Central and Eastern Europe – Romania, Czech Republic and Hungary, in the panel dedicated to Romania.

2.2. Other dimensions of the community acquis, their transposing and implementation in the Romanian legislation

I have also accepted challenges in the field of scientific research in other areas of the law. In the framework of some research projects performed for the European Commission I have drafted, as an expert for Romania, member of the project teams, "*Conformity studies of Member States' national implementation measures transposing community instruments in the area of citizenship of the Union*", "*Conformity studies of Member States' national implementation measures transposing community instruments in the area environment*", etc.

SECTION II – Coordination of project teams and mentoring

The development of my career on two paths, both as a theoretician and researcher in the field of law and as a lawyer, practitioner in labour law and social security law allowed the extensive development of my abilities to train and guide the students in their academic and research process and also the young jurists at the beginning of their career.

1. Guiding bachelor students and master students

A. Didactic activities - During my entire university career I taught the courses and organized the seminars in an interactive manner, with numerous practical applications. I have envisaged the development of the bachelor students and master students' abilities for team works and collaboration, as well as the organization of various projects involving teamwork.

B. Drafting course materials - Through my didactic career I have elaborated a lot of study materials which offered support for the bachelor students and master students in preparing the seminars and exams at the disciplines Labour Law, Social Security Law, Labour Jurisdiction, Labour Relations in the European Union etc. As well, the elaboration of a course material in English language on "Labour Law" for the students of the master program "The Culture and Language of the European Organizations - CLOE" within the Faculty of Foreign Languages and Literatures of the University of Bucharest is also of relevance.

C. Other guiding activities - Starting with 2004 I have led several *bachelor theses*, *dissertation theses*, and also papers presented by the students in the scientific communication session for the bachelor students and master students and in the years 2004, 2006 and 2008 I have organized *moot courts trials*.

At this moment, I am part of the *guiding committee* for the doctoral students performing scientific research activities in the field of labour law in the doctoral studies.

2. Guiding young researchers and practitioners

Starting with 2007, when I joined the law firm Nestor Nestor Diculescu Kingston Petersen (NNDKP), which I am a member of also at this moment, I have contributed to the development of a labour law specialized practice and to the formation of a team dedicated exclusively to the labour law practice within this law firm.

A. Guiding trainee lawyers - The majority of the lawyers co-opted in the team I am coordinating within NNDKP started their activity as trainee lawyers, and their formation through the mentoring activities that I have performed over the last 10 years of activity within NNDKP represented an essential step in building the current team.

B. Guiding bachelor students in the internships programs - Starting with 2009 I have coordinated, every year, the activity of the students who performed internships in NNDKP specialized labour law team during the student internship programs "Summer school" and "Autumn school".

C. The coordination of project teams - Within NNDKP I have coordinated project teams in a large number of projects, both in the field of legal counselling and in the field of litigation.

SECTION III - Plans for evolution and development of the professional, scientific and academic career

I will continue my professional path by *combining the didactic and research activity with the practical activity*, thus being able to identify the course of my endeavours as a

university lecturer and researcher, as well as the needs for regulations, for interpretation and research that the realities of the labour relations and the legislation in force are imposing.

I believe that the experience acquired during 20 years of activity creates the premises for a valuable contribution in the training of future bachelor, master and doctoral students, of future researchers and future practitioners in the field of labour and social security law.

1. The elaboration and publication of specialized works

One of the main objectives of my future projects is to continue the elaboration of some quality scientific works: courses, seminar papers and other didactic materials, monographs, articles on various subjects of interest for the practice and case-law notes.

Moreover, I intend to involve part of my collaborators in drafting some scientific articles on diverse subjects of labour law field that we addressed together in practice.

2. Scientific research

In my future scientific research activity, I will have in view the following paths: the coordination and participation to research projects, the participation to conferences, round tables, debates, scientific communication sessions, the consolidation of the relations with the International Society of Labour Law and Social Security, the organization of regular meetings between researchers, practitioners, bachelor, master, doctoral students, and also of labour law conferences within the Faculty of Law, University of Bucharest.

I plan to involve various specialists in large-scale projects in order to build the most suitable team in view of reaching the objectives of the respective projects.

3. Didactic activity

I plan to perform the didactic activities within the courses and seminars in the same manner as I performed them so far by presenting the courses and organizing the seminars using interactive methods, organizing moot courts trials, etc.

I will develop the collaboration with the bachelor, master and doctoral students by involving them in practical activities of interest for them.

4. Guiding, coordination of project teams and mentoring activities

I will continue to perform the activities of academic guidance of bachelor and master students, in their training for becoming legal professionals, as regards the study of the relevant legislation, doctrine, case law and as regards the methods of research, and also the activities of coordinating the teams of legal researchers, training future lawyers, guiding the students in practice and mentoring as regards the career of young practitioners and the training of the future legal professionals.

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Through all this activity performed so far I believe that I have demonstrated the competences and abilities that support the submission of my dossier for obtaining the habilitation to coordinate doctoral studies in the field of Law, Labour and Social Security Law specialization, in order to be able to contribute to the guidance of doctoral students

in their endeavours of researching and drafting scientific papers, including the doctoral theses.

In my view, this combination of theory and practice in the same field of law that characterizes my entire activity is beneficial to the academic activity, inclusively for the guidance of young researchers, which is improved with the practical vision, giving the possibility for the lecturer to perform the academic activities with a pronounced and up-to-date practical perspective and to train and support the future practitioners in the formation of their competences and abilities, taking into account the needs of the practice.

I believe that I am able to successfully contribute to the formation of specialists in the field of labour and social security law, sharing with the doctoral students my professional knowledge and research, professional, didactic and practical experience gained over the 20 years of activity in these fields.