

***THE FINANCIAL LAW –
A CROSS-SECTION OF LAW***

HABILITATION THESIS

Ass. Reader, PhD. Ioana Maria Costea

Field Law – Financial Law

Abstract

The habilitation thesis *The financial law, a cross-section of law*, has a classic structure meant to ensure, on the one hand, the presentation of the scientific, professional and academic achievements of the candidate and to present, on the other, our professional development plan, correlated with the present and future professional activities.

The thesis aims, first of all, to present relevant aspects of the candidate's research, research carried out after obtaining the title of doctor and centered on aspects with different structures and degrees of generality or specificity circumscribed to the financial law. We highlight here, at the level of the research carried out and disseminated through publications, a work plan given by the summative courses, namely *Financial Law. Course notes* and *European Taxation. Course notes*. These works have a relatively classical structure, as they aim to provide a generic analysis, with a high degree of stability, of the provisions of national law (for the licensing course) and the provisions of national law and European (for the master course).

Secondly, we mention as professional contributions our researches materialized in monographs: *Tax evasion. Law n. 241/2005 commented and annotated (2019); Fiscal Control (2017); Tax Evasion and Community Fraud (2010), Tax Optimization. Solutions. Limits. Jurisprudence (2011), Tax Inspection (2014, 2011, 2009)*. These volumes have the source in our doctoral research, since the doctoral dissertation addressed issues of convergence between criminal law and tax law, doubled by the deepening of research in support of didactic activity. The work is equally pursuing a concern to identify and analyze relevant aspects of administrative and judicial practice and to propose new practical and regulatory solutions.

In the third plan, we mention the works that deal with disciplinary and interdisciplinary thematic directions, treated as studies and articles, which we have chosen to organize in the thesis in five working axes: (1) financial law - budgetary law; (2) financial law - fiscal law; (3) financial law - fiscal law and elements of civil or civil law; (4) financial law - fiscal law and criminal or criminal law elements; (5) financial law and European Union law or European law. This research is, in our opinion, an admissible argument for the autonomous but also extremely permeable nature of financial law. In the representation of

the variety of elements in other branches of law, with which financial law communicates, we will militate to consider this branch of the legal sciences as a cross-section of law. We appreciate that the red thread of the narrative is given by the power of public interest, impregnating the legal norms on public financial resources; however, the related legal mechanisms are not foreign to models specific to private law, criminal or European law mechanisms. All these elements form a complex matrix within which the elements of public law should find the optimal form of framing, throughout import and massive contagion from other branches of law. These issues, filtered through the regulatory prudence designed to ensure the maximum legal protection of this highly relevant legal value, increase the autonomy of the legal branch and potentiate the elements of originality of the norm and the subsequent research.

Regarding the relevance and originality of our researches, we appreciate that the determinant aspects are outlined in different registers. Courses require style stability and clarity, a hypothesis where originality derives from the steady takeover of judicial practice elements and from the concern to develop and consolidate concepts, skills, and steady competences for the use of law professionals. Monographs, on the other hand, are more dynamic, impregnated with personal contributions, organized according to concepts, social values or other dominant values, with a focus on the clarification and delimitation of institutions. At the level of studies and articles, we hope to have covered two research directions: on the one hand, to take on normative novelty elements and to propose to the legal space a first reading of them in order to facilitate practical assimilation (such as the study about preventive financial control or insolvency of administrative-territorial units), on the other hand, to raise pertinent interrogations at the confluence of relevant legal institutions (such as prescription studies or delimitation between illicit tax and criminal offenses).

With persuasion, the habilitation thesis makes also a review of the candidate's teaching contributions, with an emphasis on our role in synthesizing and communicating to students in most appropriate forms the legal issues of financial law, both at bachelor, master and school PhD level. Equally, our modest contribution is revealed by the guiding activity materialized in the organization of academic events: summer schools, conferences, seminars,

etc.; in coordinating the research activity of students, in the management and implementation of research projects.

In the second part of the paper, we tried to outline a series of perspectives and objectives for the development of our personal career, with the identification of some research and career development directions. In this regard, we first of all mention that we hope to write a *commented and annotated Fiscal Code*, probably in intermediate steps by analyzing each separate tax (*Company taxation, Personal Revenue Tax, VAT, Social contributions, Local Taxes*), proposing a working model that includes both a doctrine analysis and the identification of examples from judicial practice, with the goal of implementing the Dalloz code model. Of course, this approach can be considered to be extremely bidding and could offer the context to integrate the research of future PhD students in financial law. Secondly, we consider it appropriate to continue the thematic researches by drafting monographs on financial law, but especially on fiscal law, among which I refer to *Forced enforcement in fiscal matters, Fiscal contentious*. As far as the studies and the articles are concerned, we assess that the matter of financial law has the great quality to be a highly dynamic normative matter, which is why we are sure that, the points and sources of analysis will appear continuously and we can only affirm a continuous concern to identify and treat such issues.

A dimension of our future project is the continuation of didactic work materialized in providing working materials for our students, not only of the revised courses, but also of other forms of synoptics, fiches, etc., as tools for enhancing the competencies formed.

Undoubtedly, a central focus of our career remains the coordination and organization of academic events, joint projects, including PhD students and Master students, which we want to be involved in the field of financial law research. As a result of this work, we can see several actions, such as: drawing along with colleagues from other law faculties, who teach financial law (with variable names) and other disciplines circumscribed to the same field of research, of a *Financial Law Colloquium* or *Fiscal Law Colloquium*, the creation of a Simulated Processes Competition on Tax Law, maybe in cooperation with student associations, the implementation of public administration development projects, POCA type, the development of new disciplines such as *Tax litigation, Imposition of companies*.

All of these elements are, with certainty, dynamic components, adaptable to a set of hopes and professional endeavors to which we want to give shape and content.