

**UNIVERSITY OF BUCHAREST**  
**FACULTY OF LAW**  
**DOCTORAL SCHOOL OF LAW**

**Private law legal relationship with foreign element in the legislative dynamics:  
the necessary path from the atomicity of national law  
towards uniformity of suprapstate rules**

**Summary of habilitation thesis**

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In more than 20 years of teaching and research activity, the center of my preoccupations has been the analysis of **private law relationships with a foreign element**, regarding regulation from multiple perspectives: substantive rules vs. procedural rules, general rules vs. special rules (applicable mainly to international trade law relationships and environmental law relationships with a foreign element - especially those arising in the context of transboundary pollution), conflict rules vs. substantive rules.

This concern has also been encouraged by the impressive normative evolution, from a minimalist regulation provided until the beginning of the 2000s<sup>1</sup>, mainly by the Law no. 105/1992 on the regulation of private international law relationships, to the current complex normative system, comprising several dozens of regulations that can be grouped into three levels: European, international and national.

In the aforementioned context, the habilitation thesis entitled "*Private law legal relationship with foreign element in the legislative dynamics: the necessary path from the atomicity of national law to the uniformity of supranational rules*" is a synthesis of my teaching and research activity and, at the same time, a projection of the main directions of development of my career. In accordance with the legal provisions in force, it is structured in two sections, the first one devoted to the development of my professional career after obtaining the degree of Doctor of Laws, and the second one to the main directions of development of my professional career.

**The first section** of the habilitation thesis documents **the main scientific and teaching achievements** since the date of obtaining the title of Doctor of Law and up to the present, as well as the managerial capacity of the undersigned in the field of research and teaching.

**The first premise** for the development of my professional career was my *doctoral thesis* entitled "The legal regime of the protection of the marine environment against hydrocarbon pollution", which I defended publicly in 2009. This interdisciplinary work deals with the legal relations between professionals involved in the international trade in hydrocarbons or operating seagoing ships carrying such goods or using oil fuel for propulsion, on the one hand, and, on the other hand, public authorities with powers in the field of environmental protection, builders of seagoing ships suitable for such trade or using oil fuel, insurers in the field and international compensation guarantee funds, as well as natural or legal persons potentially affected by environmental pollution. The nature of the subject matter of the research required a threefold

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<sup>1</sup> The qualification "minimalist regulation" does not consider the bilateral international legal instruments nor the non-specific ones (including only incidentally some norms of private international law).

analysis, carried out from the perspective of *international trade law* (considering the status of the subjects of the legal relationships considered), *private international law* (considering the presence of the element of foreignness in the legal relationships analyzed, determining specific rules relating to the determination of the applicable law and the procedure for any disputes) and *environmental law* (in view of the specific features of the legal relationships examined, which led to the adoption of special substantive rules relating to the prevention of oil pollution, the limitation of its effects and the polluter's liability - rules which belong to this branch of law and which, at the same time, constitute mandatory overruling rules from the perspective of private international law).

*A second premise* has been the impressive *evolution of the rules* applicable to private law relationships with a foreign element over the last twenty years. If at the beginning of the 2000s, the framework regulation was provided by Law no. 105/1992, accompanied by a series of specific international instruments, year 2003 marked the emergence of a second level of regulation (represented by the implementation in Romania of the international conventions adopted under the aegis of the Hague Conference on Private International Law), and year 2007 brought a third level of regulation following the acquisition by our country of the status of Member State of the European Union. In addition to these three normative levels, there is a rich network of multilateral and bilateral international conventions regulating, at the substantive or conflictual level, certain private law relationships with a foreign element (international trade law relationships and those arising from environmental pollution being a favourite area of their incidence). Lastly, the areas that remain unregulated are filled by rules created by the subjects of these legal relationships themselves (through their own practice) and sometimes codified by international institutions in the form of *soft law* instruments.

The two aforementioned premises have fundamentally influenced the evolution of my career and the directions of its development, both in terms of scientific research and teaching, on the one hand towards the three branches of law mentioned, and on the other hand towards the new regulations that have intervened over time.

*Scientifically*, in the field of *private international law*, my research interests have focused on: conflict reasoning (in particular qualification and renvoi), the application of conflict rules in different branches of law (e.g. in contractual, tort, succession, family relations, etc.), as well as international civil procedure (international jurisdiction, the status of the foreigner as a party to the civil procedure, the law applicable to the trial procedure, the effects of foreign judgments in Romania). In the field of *international trade law*, I have deepened both

institutions of substantive law (such as companies as subjects of international trade law and international commercial contracts) and institutions of procedural law (especially arbitration as a means of dispute resolution). Finally, in the *field of environmental law*, my concerns have focused on transboundary pollution in general and the marine environment in particular, with a particular attention to the civil liability of the polluter.

The research carried out took the form, first and foremost, of treatises, courses, monographs, commentaries on legislation, as sole author or co-author, among which may be mentioned: *Dreptul comerțului internațional. Tratat* (co-authored paper, two editions, in 2008 and 2017, awarded by Academia Română and by Uniunea Juriștilor din România), *Regimul juridic al răspunderii civile pentru daune cauzate prin poluare în context internațional: repere pentru configurarea unei răspunderi obiective a poluatorului* (2013), 'Romania'. In *International Encyclopaedia of Laws: Private International Law – suppl 50* (co-authored, Ed. Kluwer Law International, 2016), *Noul Cod de procedură civilă comentat și adnotat* (work coordinated by V. M. Ciobanu și M. Nicolae, published in 2016 and awarded by Uniunea Juriștilor din România și Revista Română de Drept Privat), *Regulamentul (UE) nr. 1215/2012 adnotat cu explicații și jurisprudența CJUE* (work published in two editions in 2015 and 2020), *Codul civil. Comentariu pe articole* (collective work, coordinated by F. Baias, E. Chelaru, R. Constantinovici, I. Macovei, published in three editions, in 2012, 2014 and 2021, awarded by Uniunea Juriștilor din România), *Proceduri de arbitraj. Arbitraj intern. Arbitraj internațional* (2021), *Procesul civil internațional* (2023) etc.

Secondly, I have drafted, as sole author or co-author, thematic collections of legislation and case law, over 40 articles / studies published in specialized journals or in collective volumes and 9 specialized opinions (written in collaboration) at the request of the High Court of Cassation and Justice, which was asked to settle appeals in the interest of the law or with requests for clarification of legal issues.

Third, I have participated in a number of internal or international research projects, namely: *Research project „Parteneriatul universitar în cercetare – un pas înainte spre o școală postdoctorală a viitorului”*, strategic project ID 61968 (2009) cofinanced from Fondul Social European (FSE), Programul Operațional Sectorial Dezvoltarea Resurselor Umane 2007-2013 (POS DRU) (2011-2013), *Research project “European Insolvency Regulation Case Register”*, carried out at the initiative of INSOL Europe, UK (international organization of insolvency practitioners) on the application by national courts of Regulation (EC) No 1346/2000 on insolvency proceedings (2011-2017), *Research Project “Nouveau Code de procédure civile roumain. Traduction commentée*, carried out within Juriscope (research structure of the

University of Poitiers, France) - concretized in the eponymous paper published by Presses universitaires de Poitiers (2018), *Research project "The localisation of damage"*, carried out within The International Academy of Comparative Law, Paris (2022).

Fourthly, as of 2023, I participate as an expert in the working group set up at the level of the Ministry of Justice in order to draw up the mandate for negotiation and presentation of Romania's position on the *draft Council Regulation on jurisdiction, applicable law, recognition of judgments and authentic instruments in matters of filiation and on the creation of a European certificate of filiation*.

Finally, in order to facilitate scientific research in collective form, I have initiated the establishment of a research center in the fields of competence of the undersigned. Established by the Decision of the Rector of the University of Bucharest no. 496/10.03.2021, *the Center for International Private Law and International Environmental Law (CDIPDIM)* is a research unit, without legal personality, affiliated to the Department of Private Law of the Faculty of Law of the University of Bucharest and aims to promote the study and scientific research in the field of international private law and international environmental law among teachers, researchers, doctoral students and students, as well as the dissemination and publication of scientific research results.

***On an academic level***, I became a tenured faculty member at the Faculty of Law, University of Bucharest, in 2004. After obtaining a PhD in Law, I conducted teaching activities, first as a university lecturer, and since 2018 as an associate professor, in the following subjects: Private International Law and International Commercial Law in the undergraduate program (4th year of study), International Civil Procedure, Commercial Arbitration/Arbitration Procedures, and Legal Protection of the Environment in European Union Law within the master's programs of Private Law, Business Law, and European Union Law.

These activities included teaching and seminar work, as well as the evaluation of students and master students, supervising more than 30 dissertation papers, participating in advisory committees for over 50 PhD candidates and in the public defense committees of 13 doctoral theses as a specialist referee (in the fields of Private International Law, International Commercial Law, and Environmental Law). Additionally, over the years, I have also been involved in providing support with printed materials for the teaching of the subjects taught/seminars.

In parallel with my teaching activities at the Faculty of Law, I have also engaged in teaching and seminar activities in response to requests from practitioners and the business

community. I have participated as a lecturer at conferences, courses, and seminars organized by legal professionals (the law firm SCA Piperea și Asociații, the Ploiești Chamber of Public Notaries), private companies specializing in course organization (Media Makers, Cursuri pentru Tine, Expert Audit Grup), economic publications (the "Bursa" Press Group), and Chambers of Commerce and Industry (the Chamber of Commerce and Industry of Romania, and the Chamber of Commerce, Industry, Navigation, and Agriculture of Constanța).

My academic (teaching) activity is complemented by practical experience in the legal profession. Since 2002, I have been *a lawyer* within the Bucharest Bar Association, and two years later, I obtained my full qualification in the profession. To date, I have accumulated over 20 years of experience in this field (similar to my academic experience) and have the right to plead before all courts in Romania. Approximately 15-20% of my work involves legal matters with an international element. Additionally, I provide support to partner organizations in applying private international law norms and environmental legislation. Since 2015, I have also been *an arbitrator* on the list of the International Commercial Arbitration Court attached to the Chamber of Commerce and Industry of Romania, applying the procedural rules I teach in the *Arbitration Procedures* course within the Business Law master's program organized by the Faculty of Law at the University of Bucharest.

In the post-doctoral period, I carried out *coordinating activities* both in terms of scientific research and teaching. Thus, I currently carry out my teaching and research activities at the Faculty of Law of the University of Bucharest, coordinating a team that includes, alongside myself, two tenured professors (respectively university lecturer and assistant professor) and two collaborators (PhD students in the subjects of private international law and international commercial law).

Moreover, I am the founder of the Center for Private International Law and International Environmental Law (CDIPDIM) within the Faculty of Law at the University of Bucharest, and I have been its director since its establishment in 2021. In this capacity, I represent the Center and oversee its administrative and research activities.

**The second section** of the habilitation thesis is a projection of my career in the future and considers the main directions of development in the following area: i) scientific, ii) academic and professional and iii) managerial.

*On the scientific level*, I aim to continue my research in the fields of Private International Law, International Commercial Law, and Environmental Law. In the field of substantive *Private International Law*, I plan to further explore relevant institutions of conflict-of-law (particularly public order and the exceptional removal of the applicable law when it has a very distant connection to the legal relationship), as well as aspects related to determining the applicable law in certain matters (e.g., in family relations—specifically maintenance obligations, divorce, legal separation, and filiation—, in succession matters—especially with regard to the European Certificate of Succession—, and in certain special contracts frequently encountered in practice, such as transport contracts and consumer contracts). In the area of international civil procedure, I intend to deepen my research on special procedures (specifically, the European Payment Order, Small Claims procedures, the procedure for obtaining a European Enforcement Order, and the European Account Preservation Order). *In the field of International Commercial Law*, I aim to deepen my research into both substantive legal institutions (such as the legal regime of companies or the legal regime of contracts from the perspective of the UNIDROIT Principles) and procedural legal institutions (such as cross-border insolvency or international commercial arbitration under the rules elaborated by UNCITRAL or within ICSID). *In the field of Environmental Law*, I plan to continue and deepen my research on liability for damage caused by pollution, a concern supported also by the proposal of the study discipline "*Liability of Professionals in International Trade for Damages Caused by Cross-Border Pollution*" within the master's program in International Commercial Law, which is currently in the process of establishment and accreditation.

These lines of research are to be materialized in the elaboration of papers consisting of updating and completion of already published volumes (treatises, courses, monographs, commentaries on case law or legislation), as well as in the elaboration of new papers, among which I am considering: a university course on private international law, a monographic work on the general theory of international commercial contracts, taking as its starting point the UNIDROIT Principles applicable in this field, a course material for the subject "*Liability of international trade professionals for damage caused by transboundary pollution*" in the future Master's program in the field of International Trade Law.

From the perspective of institutionalizing research, I intend to develop the activity of the Center for Private International Law and International Environmental Law (CDIPDIM) by: continuing projects involving young researchers (students or master's students), carrying out individual or collective research projects by Center members (with priority on the aspects included as academic subjects in the curriculum of the International Commercial Law master's

program, currently in the process of establishment and accreditation), and conducting research at the request of the Faculty of Law, national and international institutions (Ministry of Justice, High Court of Cassation and Justice, International Academy of Comparative Law), or at the invitation of foreign law faculties to participate in their conferences. Additionally, I plan to organize a conference on topics related to Private International Law and International Trade Law.

*On the academic level*, I plan to continue my teaching and seminar activities in the fields of Private International Law, International Commercial Law, and Environmental Law.

In this regard, in order to *expand the educational offer* of the Faculty of Law at the University of Bucharest by providing advanced/specialized courses in these areas, I initiated the process of establishing and accrediting a master's program in International Commercial Law. The curriculum I developed for the future master's program includes the following specialized subjects: company law, international commercial contracts, the liability of professionals in international trade for damages caused by pollution, and dispute resolution.

Additionally, I will continue my work as a lawyer and arbitrator, as these roles provide valuable insights and serve as a motivation for both my research and teaching activities.

Finally, I will continue **to coordinate the development of my research team**. This includes organizing a conference on topics related to Private International Law and International Commercial Law, with a particular focus on issues of ongoing practical interest, such as international jurisdiction, the service of judicial and extrajudicial documents abroad, the proof of foreign law, the recognition of foreign judgments in Romania, international successions, family relations with cross-border element, and international contracts. Furthermore, I intend to develop, together with the seminar lecturers whose work I coordinate, a series of support materials for the subjects taught (seminar workbooks and collections of case law). In the coming period, I will also oversee the establishment of the International Commercial Law master's program, both from an academic perspective (developing the course syllabus, including the topics, bibliography, evaluation criteria, etc.) and from an administrative perspective (preparing the file for program creation and accreditation).



Seen today, the regulation of private law relationships with a cross-border element bears little resemblance to that of 20–30 years ago, with the fragmented nature of national regulations gradually giving way to the harmonization of rules at a supranational level.

From the perspective of conflict-of-law rules, this phenomenon prompts a reinvention of the role of Private International Law: shifting from the assertion of the legal equality of parties, which underpins the right of national courts to apply a law other than that of the forum, as a premise for the recognition of foreign judgments, toward the application of the same substantive rules to a legal relationship, regardless of the nationality of the court adjudicating the dispute arising from such a relationship.

At the level of substantive rules, this phenomenon leads to the shaping of a common body of law that transcends national borders, easily observable in the field of commercial relations with a foreign element (e.g. in the formation and functioning of companies, international contracts of sale and transportation, international commercial arbitration, etc.) and those arising from cross-border pollution (e.g. legal relations arising from radioactive pollution, pollution by hydrocarbons or hazardous substances, etc.), but also procedural rules (e.g. international jurisdiction, service of judicial or extrajudicial documents, taking of evidence, international access to justice, recognition and enforcement of foreign judgments, etc.).

This evolution of the regulatory framework necessarily leads to changes in both scientific research and teaching. Thus, as uniform law tends to take the place of conflict of law rules or, where appropriate, substantive rules adopted at national level, the focus of research into private-law relationships with a cross-border element also shifts from the individuality (specificity) of national legal systems to the new supranational common law. A similar adjustment is also taking place in the field of teaching, with the traditional concern to explain the national mechanisms for dealing with private law relationships with a cross-border element gradually giving way to a new academic approach aimed at uniform application of supranational rules of law in order to prevent their 'nationalization'.