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Project presentation:

By relinquishing the legal dualism doctrine, that separates and, at the same time, grants quasi absolute priority to the internal / state / national legal order, both the legal doctrine and fundamental research in the Eastern European states adopt the Kelsenian based legal doctrine, that grants a substantial priority to the international/external legal order towards the internal state legal order, doctrine that nevertheless represents the theoretical model of conceiving the ties between the EU legal order and the internal legal order for the EU Member States.

One should observe that, at the same time, there are certain confusions and ambiguities regarding the *legal order, public order, international order, EU order concepts*, these having different senses depending of the branch of legal theory, depending on the legal doctrine that fundamentals a certain branch of Law and depending on the philosophical conception of the legal scholar, without establishing, till this very moment, a theoretical- philosophical approach related to these concepts.

Hence, our project aims, as a first approach, at establishing the conceptual level of the assertions related to optimizing the implementation capacities of the EU legal order into the national legal order, semantic and referential content clarification related to the utilized terms, re-establishment of the logical relations among them, towards the use of methodological instruments, as correctly and as refined as possible, in order to accomplish the objectives set by this Project.

Another preliminary problem towards better understanding the ties between the EU legal order and the internal legal order is constituted by clarification on the legal force of different EU legal acts, thus identifying a constructive solution in the EU Sources of Law issue, since the Communities/EU Constitution - Treaties leave a large margin of discussions and divergent interpretations in the field. We aim at theoretical classifications, given that only by them we can correctly understand and, at the same time, conceive theoretical- methodological models, practical models, related to public policies, for optimizing the remodeling of the internal public / legal order by the EU legal order.

Recognizing the priority of the EU legal order towards the internal law, in the fields that EU rules over in their quality of EU policies, practically determine a huge impact regarding the traditional protecting feature of the internal public and legal order, modifying it, orientating it and *communitarizing* it towards the creation of an economic public order, in agreement with the economic and meta economic legal order at the EU level and towards designing a public order by utilizing political-legal mechanisms of an unique space, related to the EU freedoms. Our project aims at studying the impact of the EU legal order over the national legal / public order (along with Romania, we shall consider a possible experience for Moldova, based on the actual legislation in this country), from a triple point of view: *a*) constitutional and legislative; *b*) institutional (optimizing proposals related to the state institutions under the functional level, re-designing in the judiciary etc; *c*) amendments of the legal paradigms and of the public mentality by conceiving educational projects, focused on youth sectors.

The project also aims to study the jurisprudence of the Luxemburg EU Court on granting priority to the EU legal order over the national legal/public order, with special view on the economic public interest and the public interest in social policies, as very important aspects in conceiving and operating a post accession strategy. A special importance shall be given (theoretically, but inserting the consequences for a public policies also) to the establishment of certain limits regarding state competence for determining the structural interests of the national/state legal order, firstly under the positive consideration aspect of the fundamental interests, of the principles and ground EU values as determinant for the fundamental interests and values of the internal public/legal order. The outline of the internal legal order, especially of the public order, shall suffer a communitarian determination. The *communitarization* of the concept and field of legal/public legal order shall impose a resort, in the internal; legal order area, to the *proportionality principle*, hence state measures in different internal public policies to be strictly adequate for the safeguard on the public order.

Other impact principle that necessitates findings over its optimization mechanisms is the one of *treatment equality*, ground EU Law principle, hence the operational optimization of the internal legal/public order being realized in an EU wise context towards the democratic principles and the fundamental rights and freedoms, as guaranteed by the European Convention and the Charter of the Fundamental Rights, proclaimed within the Nice Summit.

An essential aspect shall be studied towards finding optimization modalities for the *communitarization* of our internal legal/public order is represented by the possibility remained to the Member State for frontier controls, meaning *how* - over the residents of the third world and even over certain European citizens, after abolishing the internal border controls and conceiving of certain EU competencies in the field, based on Art. 62 TCE and establishing a border control only at the external EU frontiers.

Nevertheless, the project aims at studying the modalities of progressive edification of an *EU/Communitarian economic, political and social public order*, inclusively of an internal security European order (at least with relation to the *minimal rules* of the constituting elements of infractions and of criminal sanctions in the terrorism, organized crime and drugs trafficking field, along with observing certain measures, by *de lege ferenda* proposals, towards decreasing the criminality level).

As a different pillar in the project structure, we are beginning with the globalization tendencies regarding the economic phenomena within the EU, along with a new model of economic public order that substitutes to the classical model, issued by the German and French scholars from the first half of the XX-th century. Consequently, the two spheres of the economical order – the orientation economical public order and the protector economical legal order – are being deployed now on new theoretical grounds for underlining the neo liberal model. We're especially interested, from this perspective, by the EU Competition Law, as privileged of the EU policies and nucleus of the orientation economic public order, with special role in *communitarizing* our legal order-, as generator engine that issued the EU legal order and that constitutes the premise of success in the post accession process, by essentially implying the communitarian reconfiguration of our legal order. From this perspective we conceive a comparative study of the jurisprudence of the Romanian Competition Council (with special stress of the ententes – anti competition agreements and abuse of dominant position) with the jurisprudence of the EU member states institutions, but especially with the Luxemburg based ECJ jurisprudence in order to clarify the reclaim mechanisms of the Competition Law, resulting from such a casuistic.

Also, we intend to submit to a study with applicability in or legal order of the EU determined solutions regarding the Consumption Law, a new EU ruling domain that loudly assumes a certain position within the EU protection economic order. The doctrine notes even a *consumption legal order*, based on public order normative provisions, from which it's impossible to depart from by particular agreements. It's being also considered that in the space of the final element in the economic process – the consumption – the most energetic intervention of the EU Law can be registered, in a legal field considered till now as a purely private one. For the EU public order, the consumer and his rights do not represent a purpose by itself, but more, an efficient and flexible key factor for building, finalizing and enhancing the internal market as segment of the unitary economic European space.

The project also aims at a more precise establishment of the *priority concept* related to the EU Law and the internal legal order, of the immersing mechanisms of the EU legal order towards the internal legal order, of the uniform application and interpretation of the EU Law and its action in time. The research shall permanently envisage the ECJ jurisprudence, the implications that its solutions have for a better understanding and application of the EU Law. The project aims at a better understanding of the concept of *harmonization* of the national legal systems of the EU Member States with the EU Law, the harmonization mechanisms (with particular stress on the Romanian Law). Nevertheless, the project aims to analyze the doctrine of the direct and immediate application of the EU Law, based on the American model of *self-execution* towards the treaties.

Taking into account both the written EU Law and the ECJ jurisprudence, we shall analyze the solutions given by our national jurisdictional organs (case studies) and shall identify the eventual conception errors of the Romanian legislative authorities or the doctrinarian reminiscences that led to solutions that are now in opposition with the EU Law optics or the ECJ jurisprudence, with *de lege ferenda* proposals towards a more optimal application of the EU Law in complementing our national law.

In elaborating and finalizing this project, there shall be utilized, as information and documentation, the books and periodicals of the Institute for Legal Research within the Romanian Academy Library, as well as the specialized libraries of other Institutes of the Academy, if the respective books and periodicals correspond to our research objectives, the online ECJ jurisprudence database and also the EU Official Journal.

Project objectives

Clarifications and conceptual refining, with impact on the EU accession strategies, the elaboration of a theoretical vertical hierarchy model of the EU Law sources, the evidence on the strong position of the EU jurisprudence towards the EU written Law, which can imply a strengthening of the national jurisprudence position within the EU system, the identification of new legislative modalities regarding the impact of the Criminal EU policies over the national legislation, restructurings in the competition legislation and consumers' rights, the rethinking of our constitutional order in agreement with the queries of an affective accession.