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PhD THESIS
ROMANIA'S NAVIGATIONAL SYSTEM
(1945-2007)
(SUMMARY)

SCIENTIFIC COORDINATOR:
PhD University Professor :Valentin CIORBEA

PhD Student:
Naiden (Vasilescu Naiden)
Gabriela - Andreea

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ROMANIA'S NAVIGATIONAL SYSTEM (1945-2007) (SUMMARY)

Key words: legal regime for navigation, maritime transport, marine pollution, safer navigation, sailing conventions, the European Union

The problem I proposed for analysis in the Romania's Navigational System (1945-2007) is particularly complex, characteristic of the maritime and river navigation regime itself, regulations and rules of national or international law to be observed by any State, any vessel sailing in territorial or national waters.

The work, which deals with the navigation regime in its historical evolution, aims in fact to analyze the evolution of the legal regime of national and international maritime navigation, the activity of Romania in the field for the adoption of solutions corresponding to the interests of the riparian states, in close connection with the efforts of the state Romanian for the development of its own maritime navigation institutions, which brings this novelty element, placing the work at the border between history and public international law.

From a historiographical point of view, the issue of the evolution of the national maritime navigation regime has not been dealt with in a unitary study, the numerous works in the field, signed by reputable lawyers, presenting almost exclusively the legal aspects, especially in the treaties of public international law, international trade, international maritime law and very little "avatars" of these regulations in their historical evolution.

The importance and significance of the chosen period was also another argument underlying our choice.

The period between the two world wars on the maritime navigation regime and especially on the international shipping regime in the Black Sea and the Straits was very much written, the authors addressing the problems in terms of the transformations suffered in this field as a result of major events have also marked the history of Romania. By comparison, for the period we propose to look at, the situation is quite different. There are years that, if we take into account the magnitude of the mutations in national history can be grouped in at least three stages: the one that started with the establishment of the

Soviet occupation regime in Romania and its adverse effects on political, diplomatic, economic, social, military level, which inherently affected the activity of the Romanian state and in the field we are dealing with (1945-1947), the period of the communist regime in Romania (1948-1989), the pre-accession period to the European Union (1989-2007). If each of these stages had and has its historians, from the point of view of the history of Romanian maritime law, in the present case the effects of these profound mutations in the field we are dealing with, the specialists, as we have shown, generally address areas of interest, of strict specialty, which are not found in a synthesis on the navigational regime of Romania.

Starting from this reality and analyzing the historiography of the subject, the detailed research of the problems addressed in the paper imposed on us the evaluation of a rich and diverse documentary material, which highlighted, first of all, the continuity of the Romanian state's policy in the field of navigation, of its enforcement institutions, which have traversed, as well as the Romanian society as a whole, transitional periods of the most difficult ones.

In this respect, we have researched documents from existing funds in: Central Historical National Archives, Contemporary Archives Service, Central Committee of P.C.R., M.A.I. saddle.; Constanta County Service of National Archives (SSA Constanta): Maritime Naval Directorate Constanta (D.N.M.), 1878-1950, fund 133; General Administration of Waterway Ports and Pipelines (P.C.A.); Maritime Ports Directorate (DCP); Constanta Port Captain, Registry of Ship, Romanian Navy Archive, etc. The volumes of published documents, especially those drafted in international conferences, conventions, national and international regulations in the field of maritime transport, volumes and studies of diplomatic and political history signed by famous historians and jurists, lectures and parliamentary, periodical expositions and so on. , have also been an important working tool. Considering their multitude and diversity, for the consistency of exposure, in the Introduction we mention, to a great extent, the critical apparatus of each chapter presented.

The motivation for choosing the subject is also based on the fact that a large part of the documents referring in particular to the legislation regulating the Romanian navigational system in its recent history is held by the Romanian Naval Authority, a material which, at

least until now, has not been presented in the way we approached. The research directions are based on the very structure of the paper, namely the five chapters and 15 subchapters, the latter also containing another 32 divisions. In the first chapter of the thesis, entitled The evolution of the special national and international maritime navigation regimes in the years leading up to the Second World War, we propose some conceptual clarifications regarding the maritime areas of a state, namely the inland maritime waters, the territorial sea, the contiguous area, exclusive economy and the continental platform on the one hand and the high seas on the other, concepts which, as we shall see along the way, are found in the work of some well-known specialists in the field. We also sought to capture the efforts of most maritime states, to elaborate codifications of the legal regime of the territorial sea and the contiguous area, both in the interwar period and the period following the Second World War, and Romania's contribution to regulating the problems of the two maritime areas of national jurisdiction and the high seas. We referred in particular to the Conference on the progressive codification of international law in the Hague (1930), to the maritime areas of national jurisdiction (the territorial sea) and to the elaboration of the guiding principles of the international shipping regime in the Black Sea and through straits, The Montreux Convention (1936) for the High Seas, whose provisions are still in force.

A presentation of these issues and, in particular, the historical evolution and legal regulations that influenced the Black Sea and Strait regimes, was provided by historians, jurists, field specialists, whose works have also used us in dealing with other issues addressed in the thesis.

In the second part of this chapter we analyzed some of the most important regulations that occurred during the period between the two world wars with regard to the Romanian maritime navigation and its legal regime, some partially maintained today, and the institutions for the application of the law of law maritime.

The problems arising from the maritime and river activity formed, between 1918 and 1938, the object of several international conventions which developed regulations and norms specific to this activity, to which Romania participated and subsequently joined. There are important conventions for the legal structure of maritime business that contributed to regulating the navigation regime, which we will present in this chapter.

With regard to the institutions called upon to issue and enforce the legislative provisions for the regulation of the navigation regime, the development of trade, navigation and construction in ports has led to the establishment of administrative and police authorities responsible for the oversight and control of maritime and river navigation

Such institutions are: the subordinated port captains during the reign of Alexandru Ioan Cuza, the Ministry of Foreign Affairs, the Naval Inspection and the Ports Inspectorate, established in 1879 for the supervision of the regulations in the field of navigation, the General Directorate of the Water Communications Ports and Pipes (1908) , subordinated to the Ministry of Public Works, transformed into the Autonomous Administration of Water Communications Ports and Pipes (1829) and Commercial Administration of Water Communications Ports and Pipes (1934).

In 1936, the Decree Law No 2620 of 14 November established the Ministry of Air and Marine (M.A.M.) in order to coordinate the entire air and maritime activity of the country. This law created, along with the other civil aviation and marine organs of the ministry, a "Navy Trade Direction" whose duties were closely related to the application of the national navigation regime.

The worsening of the international situation and Romania's entry into the Second World War brought natural changes into the organizational system of the MAM, of which a large part of the Marine Corps will return to the Ministry of Public Works

Changes and adaptations of the navigation policy of Romania (1945-1989) constitute the second chapter of the thesis, problematic in which we proceeded from a brief analysis of the first post-war decade.

At the end of the Second Modest War, the naval policy of the Romanian state, the attempts to return to the normality of its own sailing regime and the international regulations in the field, were difficult objectives, the whole of which suffered, on the one hand, the critical economic situation, the consequence of the war, which marked the years that followed, on the other hand, the international political context, the restrictions imposed on Romania at the beginning of the Cold War and the entrance into the sphere of Soviet influence.

If, in connection with the major events that have disturbed the history of Romania in these years and the effects of the sovietisation of the Romanian economy, it is written

about the proper navigation regime, the references are almost entirely missing, probably because of the Soviet occupation, at least until the abolition of the monarchy , pre-war legislative institutions and regulations continued to work largely.

In 1945, Soviet control over national production, navigation and foreign trade of Romania gained new valences following the signing of the Soviet-Romanian Soviet-Soviet Agreement (SOVROM), which provided the Soviets with free access to all the resources of the country and made the Romanian state to be dependent on Russian raw materials and East European markets. The entire naval activity carried out between 1945 and 1954 (the year of the Soviet withdrawal) was under the control of Sovromtransport, which imposed the Soviet monopoly on shipping activity .

Further, in this chapter, we are broadly referring to the evolution of the internal regulations regarding the naval transport and the national maritime navigation regime (1948-1989), focusing on the important aspects of this process, such as: the socialist Romania's objectives in the field of maritime transport , party directives and development plans; the unitary regulation by the Romanian state of the national navigational regime and the naval transport, materialized by: the post-war juridical regulations regarding the Commercial Marine of Romania and the legal regime of the territorial waters of Romania (1950-1972), by updating the legislation on civil navigation and the legal regime in national waters in the 8th and 9th centuries of the last century, ending the chapter on the presentation of national maritime law enforcement bodies.

In our analysis we refer to the above-mentioned aspects, considering that, naturally, the problems with the ship's shipping, with everything that implies the good functioning of this field, the development of the port activities, are directly related to the transformations known by the Romanian navigation regime , the evolution of maritime law in general, this being analyzed, in relation to the practices and peculiarities of the development of maritime transport and maritime navigation that imposed the affirmation of the maritime trade, by specialists in the field such as Gh. Bibicescu, Gh. Caraiani, Marin Voicu, Maria Verioti , Gh. Pipera, Constantin Anechitoae and others, whose works we refer to during the work .

In Chapter III I analyzed the aspects related to Romania's Contribution to coding the special maritime navigation regimes. International Conventions and Agreements (1948-1989).

It is a time when, after a stage of the necessary recovery, commercial sea shipping in Romania reached the highest level in its history.

In dealing with the subject we have left the objectives of Romania at that time in the field of maritime transport, the starting point of which is found in the party and state directives of the time, from which derive, at least from the point of view of the governmental policy, on navigation and the national maritime navigation regime and enforcement institutions .

In the year following the dissolution of Sovromtransport, in February 1955, by the Council of Ministers Decision no. 368 was established the Marine and River Navigation Enterprise (Navrom), an enterprise that subordinated the Romanian shipyard at the beginning, more than modest, until the end of the sixth decade of the last century, counting only 10 ships with a tonnage of 34327 TDW.

After 1960, the Romanian maritime fleet entered a process of complex development and diversification of the types of ships, the park being enlarged by both imported and Romanian ships. The naval policy applied in the following years made in 1989 that the Romanian marine fleet numbered 297 ships and the river more than 650 units.

In the paper, I also referred to these aspects, considering that, naturally, the problems related to the navigation itself, the growth of the naval park, the development of the port activities, are directly related to the transformations known by the Romanian navigation regime, the evolution of the law This is being analyzed by the aforementioned contemporary specialists in relation to the practices and peculiarities of the development of maritime transport and maritime navigation that have imposed the affirmation of maritime trade.

The reorganization of port enterprises in the 1970s brought also the pilotage and maneuvering of ships within the Port Operations, which now served as the general manager of these operations, maintained the navigable channel, the quays and dams, the hydrotechnical works and solved numerous other issues related to the proper conduct of port activities. There are aspects to which we refer in our thesis, given their importance in

the correct application of the navigation regime established by national and international regulations.

In Chapter IV of the thesis I addressed the issue of the National and International Regulations on the Maritime Navigation Regime during the pre-accession period to the European Union (1989-2007), dealt with in three subchapters on the alignment of the national legislation in the field of maritime navigation with the European Union legislation, to the institutional system for coordination of commercial navigation in Romania and to the legislative regulations regarding the training and improvement of the Romanian maritime personnel

After 1989, the modifications and abrogations mentioned in the course of the work, the legal and navigational regime of the maritime areas of national and maritime jurisdiction as well as the maritime transport are regulated by the following normative acts: Law 17/1990, modified and completed by Law 36/2002; Decree 443/1972 on Civil Navigation (mentioned above), Chapter VI "Offenses", the other chapters being repealed by Law 412/11 August 2002, amending, completing and approving the Ordinance 42/1997 on Civil Navigation Ordinance 42/1997, by Law 412/2002.

These three normative acts ensure the primary regulation of the legal regime of navigation and of the maritime transport in Romania. They form the legal framework in strict accordance with the international law rules contained in the treaties and conventions to which Romania is a party, supporting the ecological and security interests of our country in these areas.

The paper also deals with the problem of alignment with the European Union legislation based on numerous examples, analyzed mainly in terms of the way of application and the effects on the maritime activity of the Romanian state.

Regarding the institutional system for coordination of commercial navigation in Romania after 1989, the state authority in the field of ship transport is the Ministry of Transport, which elaborates and implements the normative acts and the specific norms applicable to the maritime transport, aims at their application and ensures the bringing to fulfilling the duties of the state through the international legal regulations to which Romania is a party. The function of state authority in the field of navigation safety is fulfilled by the Romanian Naval Authority (RNA), established by the Government Decision no. 1133 of

10 October 2002. RNA and the bodies through which it performs its functions is the institution of the highest importance in the supervision and enforcement of the legislation which is in fact the Romanian navigation regime and which has played a particularly important role in fulfilling the requirements of the *acquis communautaire* in the field of transport maritime and river transport. Directly involved in this mission are the Port and Waterways Administrations, called upon to implement the port policy of the Romanian state.

Apart from the existing documents in the archives of the mentioned institutions and the legislation we have researched directly at the source of the "Official Monitors" of Romania, in the treatment of this subject we also used the works of some authors for whom the national and international regulations on the regime of maritime navigation during the pre-accession period to the European Union, have even constituted their field of activity, thus providing information of great interest.

Finally, in the last chapter of the thesis, Chapter V, we dealt with an important aspect in the economics of the work, regarding Romania's activity in international organizations and associations in the maritime and port sector during the pre-accession period to the European Union.

Indiscriminately linked to the problem of the navigation regime of any state, the subject concerns cooperation on the protection of the marine environment, the European Union's marine strategy; presents aspects of the international activity of the Romanian Naval Authority (RNA) and its legislative contribution, referring in particular to the activities of the Naval Authority to ensure the safety of life at sea and protection against pollution of the marine environment until 2007. In the last part of the paper, we present the special regulations concerning the transport of dangerous goods, in general and maritime transport in particular.

The subject is topical because, as a result of the development of the world economy and the technical progress of the last century, the level of high freight transport commodities has increased, those products which by their physico-chemical nature can cause damage to persons, works, the environment etc.

In order to protect against undesirable events that have occurred, a series of severe technical and legislative measures have been developed at the UN level that apply in

domestic and international traffic and which, as a whole, create the international legal framework for transport of this type of cargo. We refer to: International Maritime Organization (IMO) Conventions and Hazardous Goods, International Maritime Dangerous Goods Code (IMDG CODE) and to Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security.

Due to the fact that the whole issue addressed in the thesis is a subject in constant "movement", marked by the rapid and spectacular evolution of shipbuilding and shipbuilding, of the advantages of using the latest conquests of technology and informatics in the field, and legislative regulations are documents to which our direct access is limited, and an important tool for dealing with it was the websites. We refer here to documents available on EU, UN, IMO, etc., press articles, blogs, which are found in the paper and in the Final Bibliography.

Without the pretense of exhaustion of the subject, in fact inexhaustible, we hope that through this work we will contribute to a better knowledge of Romania's Navigational System, a field known by specialists and practitioners, but for the first time presented in its historical evolution, in a distinct work.