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INTERNATIONAL COOPERATION IN THE INTERNATIONAL TRANSPORT OF DANGEROUS GOODS

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CONTENTS

Introduction	3
Chapter 1. General aspects on the transport of dangerous goods.....	5
Chapter 2. Synthetic considerations on the history of dangerous goods and their transport regulation	11
2.1 History and conceptualization of the term "dangerous goods".....	11
2.2 The agreements on dangerous goods transport and the determining factors of their occurrence	15
Chapter 3. Soft law – an active factor in the construction and application of international agreements on transport of dangerous goods	30
3.1 The concept of soft law.....	30
3.2 The function of developing and harmonizing legal norms	33
3.3 The function of interpreting and explaining the application of the legal norms	43
3.4 The incidence of soft law elements on modal agreements and national laws on the transport of dangerous goods	47
Chapter 4. Terminology – a determinant in harmonizing the provisions of international agreements on the transport of dangerous goods	54
4.1 Harmonization of terminology – a mandatory step for multimodal harmonization	54
4.2 Theoretical considerations regarding terminology	55
4.3 Characteristics of the language used in the transport of dangerous goods.....	62
Conclusions	73
Bibliography.....	7

ABSTRACT

The research project “International Cooperation in the Field of International Transport of Dangerous Goods” deals with the legal aspects of the cooperation between states and governmental and non-governmental international organizations in the drafting of the regulations governing the transport of dangerous goods, as well as with the complex problems of the international agreements, which result from the specificities of this activity and from the interaction of the public international law technical norms and soft law.

The international agreements governing this type of transport and which constitute the object of international cooperation are: *The Regulations concerning the International Carriage of Dangerous Goods by Rail (RID)*, Annex C to The Convention concerning International Carriage by Rail (COTIF), done at Bern, on 9 Mai 1980, which was preceded by Annex I of the International Convention for the Transport of Goods by Rail (CIM), done at Rome, on 23 November 1933; *the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)*, done at Geneva on 30 September 1957; *The European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN)* done at Geneva on 26 May 2000, under the auspices of the United Nations Economic Commission for Europe (UNECE) and the Central Commission for the Navigation of the Rhine (CCNR); the *International Maritime Dangerous Goods Code (IMDG Code)*, adopted at the 4th General Assembly of the International Maritime Organization (IMO), in 1965 and Annex 18 „Safe transport of Dangerous Goods” of the Convention of the International Civil Aviation Organization (ICAO), which stipulates that transport of dangerous goods be done according to the Technical Instructions For The Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions).

The current report represents a preliminary stage of several chapters in the doctoral thesis and concentrates information with regard to transport of dangerous goods, creating a general vision on the transport of dangerous goods as an economic activity and on the applicable regulations.

The regulations on the transport of dangerous goods represent, in our view, a complex integrated normative assembly which functions as a model of rigorous scientific thinking and action, of reaction and continuous adaptation to technical and scientific progress, of progressive harmonization and simplification of their dispositions.

SUMMARY

The research project “International Cooperation in the Field of International Transport of Dangerous Goods” deals with the legal aspects of the cooperation between states and governmental and non-governmental international organizations in the drafting of the regulations governing the transport of dangerous goods, as well as with the complex problems of the international agreements, which result from the specificities of this activity and from the interaction of the public international law technical norms and soft law.

The international agreements governing this type of transport and which constitute the object of international cooperation are: *The Regulations concerning the International Carriage of Dangerous Goods by Rail (RID)*¹, Annex C to The Convention concerning International Carriage by Rail (COTIF), done at Bern, on 9 Mai 1980, which was preceded by Annex I of the International Convention for the Transport of Goods by Rail (CIM), done at Rome, on 23 November 1933; *the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)*, done at Geneva on 30 September 1957²; *The European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN)* done at Geneva on 26 May 2000, under the auspices of the United Nations Economic Commission for Europe (UNECE) and the Central Commission for the Navigation of the Rhine (CCNR)³; *International Maritime Dangerous Goods Code (IMDG Code)*, adopted at the 4th General Assembly of the International Maritime Organization (IMO)⁴, in 1965 and Annex 18 „Safe transport of Dangerous Goods” of the Convention of the International Civil Aviation Organization (ICAO)⁵, which stipulates that transport of

¹ Romania acceded by the Decree no. 100 of 28 March 1993 on the ratification of several international treaty, published in the Official Bulletin no. 23 of 1 April 1983.

² Romania acceded by the Law no. 31 of 18 May 1994 for the accession of Romania to the European Agreement on the *concerning the International Carriage of Dangerous Goods by Road (ADR)*, done at Geneva on 30 September 1957, published in the Official Journal No. 136/31 May 1994.

³ Romania acceded by the Law no. 159/2008 of 26/09/2008 for the accession of Romania to The European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN), done at Geneva on 26 May 2000, published in the Official Journal, Part. I no. 675 of 01/10/2008.

⁴ Romania acceded by the Decree no. 114 of 6 March 1965 on the accession of the Romanian Popular Republic to the Convention regarding the creation of the International Consultative Maritime Organisation done at Geneva, on 6 March 1965, published in the Official Journal no. 10 of 22 March 1965.

⁵ Romania acceded by the Decree no. 194/1965 for the accession of the Romanian Popular Republic to the Convention on International Civil Aviation, done at Chicago, on 7 December 1944, published in the Official Journal no. 14/24 April 1965.

dangerous goods be done according to the Technical Instructions For The Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions).

The acknowledgement of the dangers presented by dangerous goods during transport and the need to regulate this specific economic activity occurred at the end of the XIX-th century and they materialized in the conclusion of the Bern International Convention concerning the Carriage of Goods by Rail in 1890. Subsequently, throughout more than a century, specific regulations were developed for each transport mode, which were – initially – conceived in a relative independence one from the other. Gradually, due to the interferences in supply chains and the emergence of logistic systems, as well as due to the raising influence of the Recommendations of the Committee for the transport of dangerous goods of the UN Economic and Social Council, the modal regulations started to harmonize their prescriptions in a substantial manner.

The first chapter deals with the „*General aspects of the transport of dangerous goods*”, presenting, at the same time, generically the transport of goods, as the transport of dangerous goods is a part of it. The importance of this strategic factor for the economic development of a state is emphasised and it is presented as a fundamental weapon in the success and failure of any commercial activity. The particularities of the transport of dangerous goods are also presented.

Chapter two, „*Synthetic observations on the history of dangerous goods and of the regulations applicable to their transport*” presents briefly the concerns, research and the steps taken at the end of the XIX century and the beginning of the XX century for the clarification of the “dangerous goods” concept and the establishment of adequate criteria of classification, as well as the prescriptions for the packing, stowing, handling and transport of such goods. The factors which, after the Second World War, determined the UN organisms (the Economic and Social Council – at a worldwide level, and the Economic Commission for Europe – at a regional level) to start the drafting of the Recommendations and of the mode specific regulations. At the end of the chapter, the five mode specific agreements are presented.

Chapter three deals with “*Soft Law – an active factor in the construction and application of the international agreements concerning the transport of dangerous goods*”. This chapter opens with a brief presentation of the concept of soft law, of the history of its elements and functions as an effect of our conviction that the Principles and Recommendations in the UN Model Regulations act as soft law instruments for the development, harmonization and simplification of the prescriptions and the texts of the five

modal regulations. Another important motif is the fact that in the text of the agreements standards, guidelines, best practice guides, instructions for the use of dangerous articles or substances are included in order to substitute or complement legal norms, as elements of soft law. This approach determined the need to present the Guiding Principles for the Development of the UN Model Regulations⁶ and the UN Model Regulations, as well as their influence on modal regulations.

The fourth chapter is dedicated to “*Terminology – a pivotal factor in the harmonization of the dispositions of the international agreements on the transport of dangerous goods*”. The research undertaken does not pretend to fulfil the canons of linguistic and terminological research, but tries to make use of the instruments provided by them in order to explicit the terminology used in these specialised agreements and to evidence the existent terminological problems. Terminological harmonization is a compulsory step in the progressive harmonization process which is currently underway in the field of the transport of dangerous goods and, therefore, some general considerations regarding terminology and the particularities of specialised language in this field are presented, as it is situated at the crossroads of different scientific fields.

The regulations on the transport of dangerous goods represent, in our view, a complex integrated normative assembly which functions as a model of rigorous scientific thinking and action, of reaction and continuous adaptation to technical and scientific progress, of progressive harmonization and simplification of their dispositions. Admitting the fact that the regulations applicable for the transport of dangerous goods are a part of transport law, their specificities were presented, both in terms of the field of application and content.

In the context in which the concept of dangerous goods is still considered vague and ambiguous, new both for academic research and administration organisms, the current research encountered the risks of all pioneering research. There are, certainly, aspects which could have been dealt with in a more detailed manner, but the author considers it her right to further meditate on the subject until the defence of the doctoral thesis.

⁶ ***, Guiding Principles for the Development of the UN Model Regulations, 4th Version (2013), http://www.unece.org/fileadmin/DAM/trans/danger/publi/unrec/GuidingPrinciples/Guiding_Principles_Rev18.pdf