Summary of the Habilitation Thesis

CRIMINAL PROCEDURAL LAW –USE OF EVIDENCE OBTAINED THROUGH TECHNICAL SURVEILLANCE IN CRIMINAL PROCEEDINGS. VERIFICATION OF DATA BY THE COURT AFTER THE NOTIFICATION

The present thesis aims to highlight the results of the scientific activity embodied in the articles published in national and international journals, as well as the professional achievements after obtaining the PhD, by presenting the proposed and achieved objectives. The method of presentation relates to the evolution and development of the academic, scientific and professional career, as well as its main directions and future development, in the global context of significant and current scientific achievements in the field of criminal procedural law, mainly focused on the evidence obtained through technical surveillance and their use in the criminal trial.

The thesis is structured in four chapters that fully reflect my professional and academic activity to date, as well as future projects.

***The first chapter**, respectively "Scientific contributions in the field of the use of audio or video interceptions as evidence in the criminal process and the compatibility of the regulation with European and international requirements" is structured in three sections and contains a review of my scientific achievements, presented as disciplinary or interdisciplinary themes, confirmed by changes in national legislation.*

In the first section, suggestively named "Ferenda law proposals that became reality by Decisions of the Constitutional Court", I presented the scientific, professional and academic achievements, on disciplinary or interdisciplinary thematic directions, exemplifying the way in which personal contributions in the relevant field contributed to the modification of the jurisprudence of the constitutional court.

The second section of the first chapter is entitled "Ferenda law proposals that became reality through transposition into national law", proposals that concerned

the impossibility of carrying out the technical surveillance activity before the start of the criminal prosecution, the need to authorize the recordings by a specialized and impartial judge and even the exclusion of the results of the technical surveillance which do not meet the conditions of fairness provided by the ECHR.

The third section of the first chapter presents some of the most important scientific contributions of the undersigned, materialized through ferenda law proposals expressed in specialized works on the issue of interceptions.

In the fourth section I presented ferenda law proposals that I have expressed over time in specialized papers regarding the preliminary chamber stage.

Highlighted achievements are documented through references to publications, each reference offering the possibility of verification. At the same time, personal scientific contributions are presented in the context of the current stage of scientific research in the thematic field of the specialty, individualizing, in a reasoned and documented way, the relevance and originality of personal contributions.

The second chapter, *entitled „Books and papers published after obtaining the PhD in the issue of technical surveillance in the current Criminal Procedure Code – a complete analysis of the controversies in the national doctrine and jurisprudence related to the European and international legislation and jurisprudence" highlights the transposition of scientific research through the prism of papers published after obtaining my PhD title, but also of the results in the field of case law uniformity achieved as a result of my activity as expert within the Superior Council of Magistracy.*

The monography „Technical surveillance in the New Criminal Procedure Code" was published at C.H.Beck in 2014, and in 2016, on February 16, the Constitutional Court issued Decision no. 51/2016 through which a large part of the ferenda law proposals presented in the book were implemented.

Said book represents a research based on the method of documentation, bibliographic research, respectively the comparative one, having the role of highlighting the procedural rights and guarantees enshrined in domestic law as well as in international instruments in the field of technical surveillance.

In this chapter I also presented the personal contributions from scientific papers, published after obtaining the PhD, regarding the competent authorities, the probative value and the verification of the data obtained through technical surveillance.

At the same time, I highlighted both essential aspects regarding the preliminary chamber procedure and the annulment of the decisions by which the technical surveillance was authorized by the judge of rights and liberties, as well as the way in which I consider that my activity as expert of the Superior Council of Magistrates in criminal law and criminal procedure contributed to the unification of non-unitary jurisprudence.

Another aspect dealt with in the second chapter is the whole context created around the audio-video interceptions and later the technical surveillance carried out by the Romanian Intelligence Service, either by "extending" the powers granted by the legislator through Law no. 51/1991 regarding Romania's national security, or the activity carried out on the basis of some protocols that have aroused special interest at a national level.

Personally, in this context created by the "specialized authorities of the state", I believe that among the biggest challenges for legal practitioners are primarily the non-unitary jurisprudence of the national courts, but mainly of the High Court of Cassation and Justice, which aimed at the declassification of the evidence obtained by or with the help of the RIS, a fact that created an unpredictable judicial framework, and secondly the access of the defense to the optical media containing the data resulting from the technical surveillance as well as to the criminal investigation volumes containing the playback minutes, both having a special regime of storage, archiving, access, but especially of direct administration before the courts.

The entire database and information resulting from the scientific research on the chosen topic has been substantiated with reference, bibliography and up-to-date judicial practice in the field, regarding the features and essential changes in audio or video interception and recording domain, in an era based on information and

technology, as well as sources from the jurisprudence of the European Court, the Constitutional and national courts.

The third chapter *was reserved for a subject that I considered during my entire career as one of the most important in the field of technical surveillance, respectively, the forensics of optical supports containing the results of this evidentiary procedure.*

This chapter includes personal scientific contributions in the field of technical surveillance results, a significant percentage of this chapter consisting in new scientific research fields and subjects invoked in courts through the lawyer capacity of the undersigned.

I have highlighted in scientific papers difficult case law matters regarding the verification of technical surveillance data by the courts, as well as techniques, methods and applications used by experts of the Romanian National Institute of Forensic Expertise.

The personal observations regarding the forensics of the supports containing the results of the technical surveillance activity began with the exhaustive analysis of the normative framework, continues with the presentation of the technique, methods and programs used in the analysis of the authenticity of the interceptions and end with the presentation of some practical considerations regarding the expertise of the data consisting of the results of the technical surveillance and the importance of the assumption of procedural documents by the prosecutor.

Moreover, I have analyzed different interpretations given by forensic experts regarding the same results of technical surveillance and the dysfunctionalities of forensic expertises.

I have granted special attention towards the verification of tapes by the courts, towards the methods used by forensic experts and the legal framework regarding the forensic expertise activity.

I have addressed a new direction of research regarding the analysis of audio-video tapes through the perspective of analogical communication.

Given the fact that a conversation can be decoded from the point of view of communication significance, as consisting of 7% words, 38% voice and 55% non-verbal behavior, I have analyzed along with reputed professionals in the field of analogical communication a series of audio-video tapes that leave room to interpretations regarding the message sent.

***The fourth chapter** aims not only to present the undersigned's professional and academic career of the undersigned, but also the prospects for the evolution and development of my own career.*

That is why this last chapter has been structured in three sections. In the first section I presented a synthesis of my academic activity and in the second and third sections I presented the opportunities and plans for the development of the university career by referring to both its didactic and scientific dimensions.

Regarding the relevance and originality of the research I carried out, I believe that the determining aspects are revealed on several levels. On the one hand, the courses developed and taught to students stand out for their stability of style and clarity, their originality consisting in constant updating and the effort to develop and strengthen both theoretical concepts and skills for future professionals.

The monography, on the other hand, has a dynamic note, with consistent personal contributions. The studies and articles developed, mostly in English, presented at international conferences and published in specialized journals indexed in international databases, had a dual purpose: on the one hand, I highlighted new aspects of both national legislation and the European and/or international one and I proposed, in some places, the alignment of Romanian legislation with the standards imposed by the European Court of Human Rights, the Court of Justice of the European Union and the Constitutional Court of Romania, and on the other hand, I formulated pertinent criticisms and solutions to certain normative texts, either flawed from the perspective of their constitutionality, or through the lens of respecting the fundamental rights of the persons targeted by technical surveillance.

Therefore, I consider that this habilitation thesis makes a complete review of the contribution of the undersigned in the chosen field and presents personal evolution and future research directions.