

# Legal Fiction in the Light of the Four Principles of Classical Logic

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**ABSTRACT:** The succession of logical forms being a facet of the otherness of time, the subsumption of materiality, and especially of conceptuality to different logical patterns become a truism that wears the garment of a logical evolutionary process. By this, it is imperative to undertake a logical-philosophical analysis on some conceptual entities that show traces of ancestry, in the sense of researching their logical permanence. The concordance with the temporality of this research demands, as essence, the research of the logical permanency related to that *logicae prima facias*. The latter *prima facias* as a logical pattern must imperatively be represented by the logical entity that has the value of *ab initio* point on the scale of temporality, namely the classical logic. Considering an *ab initio* conjugated homologous point, but which designates the source of fictionality in the field of law, we conclude that the legitimacies, functionalities, respectively subtleties of the principal pattern of classical logic that is incident in the conceptuality of legal fiction must be investigated in order to conclude over the actuality of this abstract construct of law-part of legal reality, as well as on the actuality of the precepts of classical logic as *prima facias logicae*.

**KEY WORDS:** legal fiction, classical logic principles, fictional mechanism, physical reality - GIVEN, legal reality - constructed, physical reality continuous relation function

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## Introduction

Considering that "causal explanation (...) plays a fundamental role in all sciences" (Zamfir 1987, 19) and thus it "(...) seems to be a universal

explanatory scheme used in all scientific disciplines to explain any phenomenon” (Zamfir 1987, 19), we can conclude that all other explanatory schemes (structural-material or functional in all the sciences subsumed to the two spheres - the real sphere and the human sphere), although they are high degree of complexity schemes “(...) might consequently be reducible to causality” (Zamfir 1987, 19).

Since fiction can be considered in the sense of *otherness of truth*, and to this definition we apply the previous explanation, we consider that the elementary explanatory scheme of the first is represented by, respectively coincides with, the logical truth. In short, the elementary explanatory fiction scheme = the scheme of logical truth. This egalitarian relationship between the two diametrically opposed values reveals certain paradoxes that derive from the fact that if the first scheme contains the idea of fictionality, the second one should be a scheme of intrinsic illustration of fictionality. Combining these two features, by containing the idea of fictionality, the elementary explanatory scheme of fiction becomes *a scheme of addition* in relation to the logical truth. Thus, the idea of fiction is the determining element through which the shaping of the relationship between the two schemes takes place. In this way, the scheme of logical truth *per a contrario* would suggest the idea of fiction and fictionality. On the other hand, the elementary explanatory scheme of fiction, paradoxically, would also contain the idea of truth! (More precisely we can consider that the elementary explanatory scheme of the legal fiction paradoxical/paradoxally the idea of truth)

In order to have an adequate understanding of this abstract concept of law, we should overcome this axiological paradox by considering the theological argument according to which “(...) all knowledge is in the service of theology which uses patterns and suitable terms for each type of knowledge” (Saint Bonaventura 2010, 77). To that end, man as God’s creation first met Good, and after the fall into original sin, he met Evil. Therefore, from that moment on, it has been axiomatized (Thus the axiomatic principle can be found in ancestral times) as a universal principle that in order to know, re-know, and understand a *fundamental axiological value* (The Good, The Truth, or the Beauty), one should at least understand the correlative value (evil, falsity, injustice, ugliness) of the first one (primary axiomatic value idea).

Taking into consideration this universal principle (that includes the essence of *non contra dictionary* principle as the main principle of logic) and supplementary applying it in the field of logics by considering its particular incidence in a special logic, such as the legal fiction one, with regard to the latter we should consider that “(...) in that logic, everything derives from a contradiction” (Priest 2020, 144).

Thus, why could we not subsume to the classical logic this logic directed by the antinomy of the contradiction? In order to answer this axial question, as far as the logic of legal fiction is concerned, we should consider it determined by the contradiction related to the four cardinal principles of classical logic- *the principle of identity, the principle of non-contradiction, the principle tertium non datur, respectively the principle of sufficient reason* - as elements of “(...) tri-modal realism (...)” (Dumitriu 1975, 357).

Taking into consideration the extent to which these cardinal principles find themselves into this logic triggered by contradiction, we could characterize this logic as one related to the pattern of the classical logic. To that end, regarding *the principle of identity* and considering that “(...) each material or ideal object is characterized by two types of properties” (Bieltz 1992, 8) and “some belong to other objects and based on them the related object together with other objects having the same properties can be grouped into a class of objects” (Bieltz 1992, 8), and correlatively “other features tend to differentiate the related object from others, including those belonging to the same category with the related object” (Bieltz 1992, 9), we should consider this logic determined by the contradiction in relation with the two forms of reality (By its legal fiction and construct reality part, physical reality is a component of legal reality created by distorting, modifying or contradicting the value of the first one) included and therefore presumed by the legal fiction. Thus, due to the fact that legal fiction at least presupposes the plane of reality due to the fictional mechanism, it becomes a feature making this abstract construct and reality be part in the same category of objects, namely the general category of realities.

But, on the other hand, legal fiction distorts this basic plane of reality through the same fictional mechanism approaching thus this distortion and valorizing it by transposing it into a specialized reality, the legal reality. Thus, this abstract construct of law also makes a differentiation from physical reality.

Summing up, we conclude that through the fictional mechanism, it is implicitly involved the principle of the classical logic of identity, regarding the situation of legal fiction (This logical qualification triggers the immanence of the fictional mechanism regarding the abstract concept of legal fiction. The character of immanence is highlighted by the fact that framing this distortion in the category of realities (as a logical object category), the fictional mechanism realizes the legal fiction legitimatization as a form of reality, based on the cardinal principle of classical logic, the principle of identity. So, *the fictional mechanism is the intrinsic element of the legal fiction which validate it as a form of reality* (primary axiomatic idea). In this way, from this primary axiomatic idea a second such idea derives, namely that the legal fiction is a concept of law that achieves an axiological self-validation. The first consequence that emerges from this second axiomatic idea is that it highlights the fact that this abstract concept of law, legal fiction, is a specialized conceptual construct of legal nature which does not only reveal a high degree of abstraction, but it even possesses an axiological autonomy. Since legal fiction requires a specialized framework of existence and development in the form of its own functionality, namely the law as a system, we can conclude that this axiological autonomy cannot be absolute, but must be considered as relative. The second consequence that emerges from the second primary axiomatic idea is represented by the question if, like the specialized conceptual constructs, the general conceptual constructs can possess axiological autonomy? In an attempt to answer, considering the logical rule applied in the legal sphere, the *specialia generalibus derogant*, it would appear that since it derives from the general, the individual in turn took over the aspect of possessing an axiological autonomy from the latter general. Therefore, the general in turn should possess an aspect of axiological autonomy. On the other hand, considering that the general includes the individual (*proprium* definition), the first one becomes a complementary-confirmatory bed of the watercourse of the second one, and when the individual one axiological self-validates itself, it does that in the same riverbed represented by the general. Thus, just as the stream of water barely shapes what holds it, so the individual possesses an axiological autonomy and thus self-validates itself, determining in an inductive sense, a similar but ruled by the general autonomy. q.e.d.), because the two realities subsumed to legal fiction belong to the same category of

objects: the category of reality planes (both physical and legal reality, which must be considered as reality planes) and also two different entities within the same category (one being a part of physical reality, and the other being a part of specialized information reality, the legal reality). Thus, in addition to the validation of legal fiction as a form of reality, the fictional mechanism also realizes its differentiation as a specific form of truthfulness/specialized form of truthfulness. So, by respecting *the principle of identity* related to classical logic, the fictional mechanism has the value of an element of validation, as well as of differentiation as reality, for the legal fiction. On the other hand, with regard to *the principle of non-contradiction*, considering that "(...) certain features are incompatible, which means that the presence of one of them in a certain object entails the exclusion of others in the same object" (Bielitz 1992, 10) we understand that legal fiction achieves the exclusion of this principle of classical logic through the fictional mechanism. Thus, if we analyze legal fiction only in terms of its content, because it brings together the attributes of a distorted reality, thus excluding the content truthfulness of reality, then we realize that the former fully applies *the principle of non-contradiction* to classical logic. But if we look at this abstract construct of law by considering its functionality - the fictional mechanism, then legal fiction excludes *the principle of non-contradiction* as a principle of classical logic, since the latter also implies the part of physical reality from which legal fiction starts from. So, at its background, legal fiction applies *the principle of non-contradiction* as a principle of classical logic and at the functional level, legal fiction excludes this principle (Primary idea for the legal fiction notion). In other words, as an ideational background, legal fiction is circumscribed to *the non-contradiction principle* of classical logic, and as functionalism background it excludes this principle (Primary idea for the legal fiction notion).

That is why we can say that legal fiction is an abstract construct of law that enshrines in its intrinsicity the principle of classical logic of non-contradiction and which, paradoxically, through its functional synergy, excludes this principle (Primary idea for the legal fiction notion). In short, legal fiction is an abstract construct of law that intrinsically enshrines classical logic, but which operates according to the canons of a logic different from and derogatory from classical logic. Thus, the possession of *logicae classicae* and the functioning based on an *alter pars logicae* represent the indicator that

the logic of legal fiction is one related to the pattern of new logic (primary idea - Thus, that *alter pars logicae* becomes *novum pars logicae*). In another structure of ideas, but in the same ideational plane, considering that "(...) any sentence must be considered in relation to a system of sentences, and from this point of view, there are only two possibilities for any sentence: be accepted or not be accepted in a system of sentences" (Bieltz 1992, 12) because "(...) any third possibility is excluded" (Bieltz 1992, 12), we consider that this principle has to be studied within legal fiction

Thus, as an *ab initio* point of this research, the notion of *system of sentences* must be considered. Relating this notion to the content of legal fiction, we consider that in the form of the system of sentences can reside only one of the two realities subsumed to legal fiction, the physical reality or legal reality. However, relating the idea of the system of sentences to the construct represented by the fictional mechanism that ensures the functionality of the legal fiction, it appears that the mechanism of the latter one itself represents the system of sentences.

Therefore, the following possibilities are to be considered:

- I. physical reality or legal reality represents the system of sentences;
- II. fictional mechanism as a whole represents the system of sentences.

In other words, when we refer to the content of legal fiction (which can be normative in the case of legal fiction, jurisprudential in the case of jurisprudential legal fiction, or doctrinal in the case of doctrinal legal fiction), the system of sentences is first of all represented by reality-constructed, part of legal reality, and, in a subsidiary way, it can be considered also the part of physical reality from which the legal fiction starts.

Summarizing our explanation, in general the system of sentences must be seen as reality-constructed when we consider the content of legal fiction, respectively as an exception, the system of sentences must be considered to be the part of physical reality from which this abstract construct of law starts from when we consider the object of legal fiction (Primary idea for the legal fiction notion).

Using the two conceptual entities: the object and the content of the legal fiction (considering these two as autonomous conceptual entities, our aim was to highlight their own role in legal fiction, because in relation to the latter, being in a part-whole relationship with legal fiction, the two can be seen only as parts of a conceptual whole entity. This axiological finesse delimitation is

of interest especially by considering the notion of fictional mechanism. Thus, within the legal fiction as a unitary whole, delimitations can be made in the form of conceptual autonomy regarding the object, respectively the content., conjugated with the aspect that the legal fiction subsumes an entire mechanism that ensures its functionality and implicitly substantiates it functionally. This conceptual autonomy denotes the fact that this abstract construct of law presupposes conceptual detachments of its parts, precisely to highlight the functional role of the latter, and combined with the aspect that legal fiction, it subsumes a whole mechanism that ensures and implicitly substantiates its functionally. In other words, legal fiction brings together component parts that can reside in an autonomous conceptual form when appropriate, respectively subsuming in its own conceptual sphere, a whole functionality represented by the fictional mechanism. In other words, legal fiction is an abstract concept of law whose intrinsic parts can be the object of autonomy, the latter synergism being ensured by a functionality that, although not worth its own content, is part of its sphere: the fictional mechanism), we obtain different values of truth depending on the mutual reporting meaning of these two.

Thus, when we consider for analysis the content of legal fiction (which is equivalent to analyze legal fiction itself), the system of sentences being represented by legal reality, this concept of law (and implicitly the part of legal reality which it creates it) appears to us as one of truthfulness, which thus excludes the idea of falsity

On the other hand, when we consider and analyze the object of legal fiction (represented by the part of physical reality on which this abstract concept of law affects its action), the system of sentences being represented by the physical reality plane, this construct of law appears as one of falsity, which thus distorts the veracity of physical reality.

Briefly expressed in the form of a graphic, the idea lies in the form of:

I. the content of legal fiction  $\rightarrow$  legal reality  $\leftarrow$  attracts truth;  
as a reference system,

respectively

II. the object of legal fiction  $\rightarrow$  physical reality  $\sim \sim \sim \sim \sim$  »illustrates  
the idea of falsity by distorting physical truthfulness  
as a reference system



From synthesis I and II, it appears that taking into consideration the object and the content determined by it, the legal fiction, acquiring only one of the two prime axiological values - truth / falsehood, applies *the principle tertium non datur* (Primary value about legal fiction notion). The element of interest regarding the incidence of *the tertium non datur principle* in the situation of legal fiction is represented by the reflection of this principle in the functionality we designated by the notion of fictional mechanism, as an entity that ensures the functionality of this abstract construct of law. Thus, since this mechanism contains at a functional level both realities subsumed to legal fiction (the part of physical reality that is the object of legal fiction, respectively the part of reality-constructed that is outlined on the basis of the first - physical reality, respectively legal reality), it means that the former implicitly contains both systems of sentences as reference systems, according to which legal fiction can be qualified alternatively by both axiological values derived from the primary axiological values: truth, respectively falsehood.

*Omissio medio*, by assuming both realities (however, taking into account the need to continuous report to physical reality, the fictional mechanism imprints the value of deliberate falsity to legal fiction, deliberately constructing falsity, which is legitimized by the purpose of legal fiction, which also represents the reason for its existence. Thus, even in the case of legal fiction, this legitimation of falsity which is achieved through the function of continuous reporting to physical reality, is only a particularization of the general legal rule that the general interest takes precedence over the particular interest, respectively the particular interest yields in the face of the general interest. q.e.d.), the fictional mechanism is the element that can impress both axiological values derived from primary axiological values to legal fiction, thus excluding *the principle tertium non datur*.

Summing up, we conclude that at the material level through object and content determined by the object (thus, depending on the object and content, we could define the legal fiction as *an abstract concept of law that is constructed by transposing in a distorted form the object itself, within its content, in order to determine the achievement of a legal goal. Or, in other words, legal fiction represents an abstract concept of law constructed by transposing the extrinsicity represented by its object into the intrinsicity represented by its own content, subsumed to achieve a desideratum of the former.* The specific element



of these definitions lies in the fact that we become aware that we are in the presence of an abstract construct, whose abstraction is determined by the fact that it approaches within its own content its object, which is a notorious entity - part of physical reality), legal fiction applies *the principle tertium non datur*, but at the level of functionality through the fictional mechanism legal fiction excludes this principle (Primary value about legal fiction notion).

Last but not least, considering that "(...) any sentence has a basis (...)" (Bieltz 1992, 13) that "(...) requires us not to accept or reject a certain sentence, unless we have a satisfactory basis for its acceptance or rejection" (Bieltz 1992, 13), it becomes imperative to analyze the incidence of *the principle of sufficient reason* regarding the situation of legal fiction. In other words, the idea of subsuming this abstract construct of the right of a legal desideratum is an indicator of the principle of sufficient reason. The subsuming emerges on the one hand from the material side represented by the content of legal fiction, as well as from the functional side represented by the rule of priority of the general interest over the particular one, enhanced by the function of continuous relation to the physical reality.

Thus, as a *ratio juris*, the incidence of *the principle of sufficient reason* is a priority in legal fiction, being fully understood that the revelation of this incidence must be the easiest as a finality, by reference to all the other three incidences of the other three cardinal principles of classical logic. In other words, of all the four principles of classical logic, the priority of the incidence of the principle of sufficient reason determines an easier revelation of this incidence, both the priority and the ease being paradoxically necessary to be related to themselves as homologous aspects of the other three cardinal principles of classical logic. This quadratic principle incidence (notion similar to the previous one: trinitar) requires the research of the idea of logical correctness of the legal-fiction in the field of classical logic (One should note that there is identity in the form of overlap between the notions by which these axial rules are qualified in the case of classical logic: "cardinal principles" and the way, respectively the degree, to which these principles ensure the representativeness of classical logic. In other words, just as the four cardinal points ensure the full representation of the two-dimensional geographical spatiality, similarly, these axial principles ensure the representation in a succinct but full manner way of classical logic, the consequence of this being

the fact that just as the representation made by the four cardinal geographical points ensures the spatial orientation, in a similar way, the four cardinal principles of classical logic ensure the orientation in the field of this science and, most importantly, ensures its comprehension, as a logical mega-structure of thought. q.e.d.).

Regarding the ease with which these cardinal principles of classical logic are incidents in the situation of legal fiction, we consider that a hierarchy of them is not without effect. To that end, without a preferential principal hierarchy we consider that in order to build the structure of the incidence of these cardinal principles in the situation of legal fiction, we must take into consideration that the principle of sufficient reason is in the place of centrality that constructs this hierarchy.

Thus, without losing sight of the fact that, from a *phylogenetic* point of view (an aspect different from *ontogenetic*, since the notion of *phylogenetic* refers to the antecedent from which a physical or conceptual entity derives its origin from. On the other hand, following this source derivation, the ontogenetic path of a physical or conceptual entity in question begins. Taking into consideration the above, we should consider that the ontogenetic itinerary begins with the oldest *ab initio* point of the antecedence of a physical or conceptual element and ends with the beginning of the ontogenetic path which in turn lasts until the terminus of this physical or conceptual entity. Noting that only in the case of physical entities, as a rule there is a terminus of them (such as: the life of a human being). However, this rule could not be stated in the same way with the same title in the case of conceptual entities, as some of them, being in a continuous evolution, are evolutionarily subsumed to a continuous itinerary, which is thus perennial to the existence of human society (e.g.: the notion of property in civil law. This is a conceptual entity that retains its historical permanence - any form in which it can exist requires a human subject holder - natural person, respectively holder of a conceptual entity - legal person, but which is also subject to a permanent evolutionary readjustment - the emergence of intangible assets as an object of property right, such as cryptocurrencies, etc. However, there may also be conceptual entities that have an ontogenetic terminus point and implicitly are obsolete, such as the institution of *capitis deminutio* in Roman law. etc. q.e.d.), the principle of sufficient reason has its origin in the old Latin logical

rule *cessante causa, cessat effectus*, the latter principle can be either a premise or a conclusion within the hierarchy in question.

I. It has the value of a premise and implicitly occupies the *locus primus* within the hierarchy, if in the process of researching legal fiction as a conceptual entity through classical logic we start from the idea that this construct of law must have its own *raison d'être* and subsequent conceptual existence.

II. The principle in question has the value of a conclusion if the reason in question is outlined after following the research itinerary of this abstract construct of law that ends with the revelation of its legitimacies and functionalities.

In the first case, the idea of the existence of a reason regarding the legal fiction is a conceptual one *in situ* which stress the need to undertake a research on this abstract concept of law, precisely in order to be able to highlight this reason. Thus, after considering the *premise* value of the principle of sufficient reason, in a natural methodological fluency, follows the consideration of the *conclusion* value of the principle of sufficient reason. In other words, the legal fiction reason demands as a precedence, the consideration of the previous idea that this construct of the law possesses an own reason of being and conceptual existence. So, in outlining the legal fiction reason, we should begin with the previous idea that principle of law has its own *raison d'être* and subsequent conceptual existence. So, in defining the legal fiction we start with the valorization as a *premise* of the principle of sufficient reason and continue with the valorization as a *conclusion* of this principle of classical logic.

Overlapping to this itinerary the application of the other three principles of classical logic in legal fiction, we realize that their integration takes place during a logical path between the sufficient rationale of the legal fiction as a *premise* and the rationale of this abstract construct of law as a *conclusion*. Thus, the trilateral ensemble - the principle of identity, the principle of non-contradiction, the principle *tertium non datur* - is imposed between the reason of conceptual legal fiction *in situ* as a premise and the reason of this abstract construct of law as a conclusion.

In this way, the comprehension, the explanation of the functionality and the legal fiction consist in a logical itinerary observing the application of the four logical principles to the situation of the legal fiction. We should take

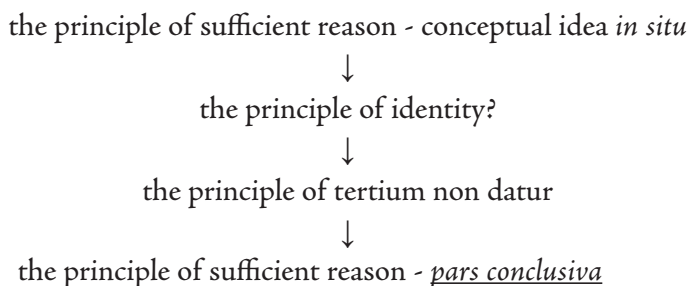
into consideration that these four principles of classical logic do not apply to legal fiction in a unitary manner, but three of them are limited by the one that has the nature of a justifying principle of legal fiction: *the principle of sufficient reason*. In other words, the application of these four cardinal principles to the situation represented by legal fiction begins with the principle of sufficient reason and ends with the latter (through this division of the principle of sufficient reason, being highlighted the aspect that in the particular situation of legal fiction this principle of classical logic has the value of a premise of being, as well as the value of a posthumous enhancing element. In other words, in the particular situation of legal fiction, the principle of reason sufficient as a principle of classical logic, *ab initio* values the premise of existence and *postum fiction existentia* values as a rational element through empowerment. Questioning the cause of this division of the principle of sufficient reason in the case of legal fiction, without losing sight of the need to group three of the four principles of classical logic into a trilateral logical way, dictated by logical legitimacy, we have to take into consideration that there is also a secondary cause of this division, namely the abstract character of this concept. In other words, since by its essence legal fiction is an abstract concept in terms of comprehension, the reason that justifies it cannot be a linear and structured *uno icto* reason, but only after realizing the purpose of this abstract construct of law this reason becomes a full and implicitly potentiating one, so that it can only be a reason divided into several parts and structured in the *alter pars additio mode*. Summarizing the above, we must consider that in the situation of legal fiction the reason that substantiates and justifies it is not a reason that substantiates and justifies, at the same time, a conjunctive reason (the term subjunctive being used to highlight the reunion through the logical operation of the conjunction – “ $\wedge$ ”, the aspect of substantiation as an idea of being, as well as the justifying aspect as a reason for existence by purpose), but it is a reason that substantiates *ab initio* and then imperatively justifies an additional *pars ratione finalis*, a cumulative reason. Without reiterating the idea, we can briefly state that since the reason behind legal fiction is a cumulative reason, the incidence of the sufficient reason principle of classical logic within this first concept of law is not an *uno icto* and linear incidence as in the case a conjunctive reason, but it is a structured incidence. Adding the idea of the degree of abstraction to the previous consideration, it appears

as a rule that the reason behind the entities - notions or concepts that do not have an abstract character- is linear, *uno ictu* and thus conjunctive, while in the case of entities - notions, concepts that have an abstract character- the reason that revolves around them is a structured, non-linear and thus cumulative, as an exception. Next, adding to the previous consideration the idea of linear information, respectively the idea of wrapped information, it appears as a rule that in the situation of entities - notions or concepts as flat information that do not have an abstract character- the reason is linear, *uno ictu* and therefore conjunctive, while in the situation of entities - notions, concepts as wrapped information that have an abstract character - the reason is a structured, non-linear and thus cumulative, as an exception. Regarding the latter idea, to resume, the linearity of information determines the linearity and the *uno ictu* character of the fundamental reason - conjunctive reason, respectively the wrapped character - multi-planarity of information determines the structuring and nonlinearity of the fundamental reason - cumulative reason. With regard to the two hypotheses, there would be a special situation in which plane-linear information should have an abstract character, respectively the special situation in which wrapped information should not have an abstract character. As for the latter, since any wrapped information is composed of a linear-plane accumulation of information, whether the composition is structured or not - amorphous, the decryption of the wrapped information in terms of comprehension requires *sine qua non*, the detection of the meaning/significance of each constituent planar information. Thus, in the event that those individual findings are not made, the wrapped information is not comprehensible and thus is presumed to be abstract information or at least *potential abstract* information. So, *any wrapped information is at least potential abstract information and in no case is an informational conglomerate devoid of the abstract character* (axiomatic idea). On the other hand, in the case of the first special situation, we consider that there is that flat information that have a comprehensible content, but whose meaning and content cannot be understood, and in this way they appear to us as linear, flat information with abstract character. This information is the one that has the value of Given and is revealed through dogma. For example: God-Son existed before the times. This information in the field of theology is linear-plan information related to its content, but in terms of its meaning

and reason is abstract information, as it is not comprehensible to human reason, because it succinctly emanates the possibility that God-Son existed before temporality, since He was born almost two millennia ago!)

Therefore, in a similar manner we can assess that: attracting classical logic in what we consider the full explanation of the concept of legal fiction implies together the principle of identity, the principle of non-contradiction and the principle *tertium non datur* in a circularity that is represented by the division of the principle of sufficient reason.

Submitting the above to an attempt to prioritize the four cardinal principles of classical logic regarding their incidence in the situation of legal fiction, we consider that the following hierarchy:



This scheme can be considered as having the value of a *canon of classical logic regarding legal fiction*. Therefore, from the perspective of classical logic, the explanation of legal fiction as a conceptual entity of law can be offered through its own canon.

Starting from the statement that “also called ‘validity’, logical correctness coincides with the property of a logical form being composed in such a way that it fully respects the laws of reasoning (...)” (Bieltz 1992, 15), namely the four cardinal principles of logic which “(...) are fundamental laws of reasoning” (Bieltz 1992, 15), we should verify whether the canon of classical logic related to legal fiction ( and implicitly the four cardinal logic principles applied to the legal fiction), the latter one as a *logical form*, respects through its own structure these cardinal principles.

Overcoming the axial extremes represented by: the *eo ipso* (in the current particular situation, the phrase “*eo ipso* observance” expresses the

idea of concordance between the essence, structure and functionality of legal fiction and the four cardinal principles of classical logic, namely the principle of identity, the principle of non-contradiction, the principle *tertium non datur* and the principle of sufficient reason) observance of these principles, respectively the *eo ipso* nonobservance of them, which attract and both exclude the logical correctness of this abstract construct as a form of law, we consider that in the situation of legal fiction is important to have a *gradual form by approximation of the logical correctness* of the latter, as a form determined by the extent to which legal fiction applies these four main rules. In other words, the logical correctness regarding the classical logic related to the legal fiction is not the traditional one in the sense of *esse* or *non esse*, respectively *de veritas* or *non-veritas*, but it is a logical form by approximation. Therefore, the logical correctness of legal fiction to which the four cardinal principles of classical logic are subsumed is a *logical correctness by approximation* (primary value about legal fiction notion).

Without losing sight of the latter form of logical correctness related to this abstract concept of law, in terms of the principle of identity, its incidence in legal fiction is one that can be seen only by reference to the physical reality plane. Thus, the function of continuous reporting to the physical reality of the fictional mechanism is the instrument through which the principle of identity is highlighted in the incidence of legal fiction as a cardinal principle of classical logic. Since the essence of this principle is *to compare what is comparable* (and through this, the principle of identity presupposes as a premise a universal rule of classical logic applied in the case of comparison. Moreover, this cardinal principle of classical logic, claiming the operation of comparison, implicitly presupposes the logical rules subsumed to this operation, especially the one that suggests the aspect that must be subjected to comparison, the terms that are *eo ipso* are comparable. Thus, *the principle of identity - cardinal principle of classical logic, claims as a premise an operation as functionality: comparison and implicitly the underlying background of the latter: the rule of universal logic which consists in the idea of comparing what is comparable eo ipso*), it follows that it presupposes at least two entities as terms of comparison, which in the case of legal fiction can only be represented by the part of physical reality that makes the object of legal fiction, respectively of the constructed reality that is outlined according to the latter part of physical reality. Summarizing, one should take into consideration



*the principle of identity - a cardinal principle of classical logic - as an incidence in the situation of legal fiction that requires both planes of reality subsumed to this abstract construct of law (primary value about legal fiction notion).*

On the other hand, regarding *the principle of non-contradiction*, we realize the incidence of this cardinal principle of classical logic within this content by referring only to the content of legal fiction. However, without penetrating the functionality of this construct of law, the fictional mechanism, we should consider that the former also demands a function of continuous reporting to the plane of physical reality (this *claim as imperative through a functionality of physical reality* is the consequence of the aspect that this cardinal principle of classical logic intrinsically subsumes the idea of incompatibility, respectively the idea of simultaneity. More precisely, through functionally valued simultaneity, this principle excludes the overlap or even the conciliation of two fundamental antonymic axiological values (Truth and Falsity), when they concern the same object. Thus, through the incompatibility that emerges as the functional valorization of simultaneity by this cardinal principle of classical logic is generated as an effect the idea of exclusion that underlies the principle of identity. In short, by subsuming two ideas, one of which is of a functionalist nature, the essence of the principle of identity as a cardinal principle of classical logic is outlined, namely the *exclusion*).

Thus, only in relation to the content of legal fiction, this principle mainly demands reality-constructed and, in a subsidiary and less powerful than the principle of identity, the part of physical reality that is the object of legal fiction. However, referring to the plan of the functionality of legal fiction (represented by the fictional mechanism), although the differences between the two planes of veracity fade functionally, the latter mechanism also takes into account the part of physical reality that is the object of the former.

Summing up the above, it appears *that the principle of non-contradiction in the situation of legal fiction, in the prima facies claims only reality-constructed and only in the deeper plane of functionality of this abstract construct of law claims the part of physical reality that is the object of legal fiction (primary value about legal fiction notion).*

At the same time, with regard to *the tertium non datur principle*, we should consider that at the material level, through object and content determined by the object, legal fiction applies this principle, but at the level

of functionality, through the fictional mechanism legal fiction achieving its exclusion.

In conclusion, it is clear that the trilateral ensemble is defined by the principle of sufficient reason as divided into two parts:

- *the principle of identity* is the only one that claims *uno ictu*, both plans of veracity subsumed to legal fiction which shows that it has the easiest impact on the conceptuality represented by legal fiction;

- *the principle of non-contradiction* is one of the two principles that claims the two planes of veracity in a staged manner: first the reality-constructed, and then the part of physical reality that is the object of the legal fiction. Moreover, it is one of the two principles which applies itself within the intrinsic materiality of legal fiction, respectively it is excluded from the functionality of this abstract construct of law;

- with regard to *the tertium non datur principle*, the previous ideas are valid, by stressing that that the exclusion of the former, unlike the exclusion of the principle of non-contradiction, has a more pronounced functionalist character which is associated with a subtler impact.

Thus, taking into consideration the above, regarding the incidence in the situation of the legal fiction of the principles within the tri-principal ensemble, the decreasing series of this incidence is the following:

the principle of identity > the principle of non-contradiction > the principle tertium non datur

In support of the above we present the series of ease of ascertaining the incidence of these tri-principal elements in the situation of legal fiction:

principle of identity > principle tertium non datur > principle of  
non-contradiction, or  
principle of identity > principle of non-contradiction > principle *tertium  
non datur*.

With the mention that the incidence of one of the two ways of the series of *the ease of ascertaining the tri-principal elements* is given by the subject-author from whom the legal fiction emanates (the legislative body in the case of legal fiction, a judicial body in the case of jurisprudential legal

fiction, respectively a doctrinaire of law in the case of doctrinal legal fiction), because "(...) the subject is the one who adds something extra to the facts so the truth to be construction, not pure reflection" (Dima 1975, 59).

Adding to this principal trinitarian ensemble the principle of sufficient reason as the delimiting-limiting principle of the extremities (similar to a *framing limit*) of this ensemble, the decreasing series of incidence becomes:

[principle of sufficient reason - premise > principle of identity > principle of non-contradiction > principle *tertium non datur*] ← principle of sufficient reason - conclusion

Also, regarding this *tri-principal ensemble* in the conceptuality represented by the legal fiction "all three principles remain valid, as long as only the modality as such is considered" (Gică 2015, 104), the manner in question being represented by this abstract concept of law.

Last but not least, related to the notion of logical correctness is also the idea of truth, especially the way of establishing it. Thus, we should consider that the essence of the way of establishing the truth is *correspondence*. Even more, the same idea is of the essence of the notion of logical correctness, because "like the truth, logical correctness is born as a result of a correspondence (...)" (Bieltz 1992, 15).

Returning to the incidence of the idea of correspondence regarding the value of truth, one should take into consideration the following premises: first of all, the idea of *consideration by restraint* (of physical reality), *comparison*, the idea of *partial or total overlap* or rather, *descending or equivalent itinerary* (this being equivalent in the case of a truth regarding only one plane of reality), *ascending retro-itinerary* in order to have success in finding of the aspect of partial or total overlap of truth, all these elements having a topic of temporality in terms of their realization.

In other words, the establishment of a conceptual truth *in situ* according to a physical truth requires the following functional steps: consideration by retention → ascending way of making itinerary or equivalent to the constructed truth → comparison → descending way of making itinerary or equivalent to the physical truth - GIVEN (retro-itinerary) (we note that in the case of legal fiction the retro-itinerary is represented by the *continuous reporting to the physically reality of the fictional mechanism*).

Thus, in the situation of constructing a conceptual truth *in situ* (as in the case of legal fiction) all of these imperative functional stages are subsumed to the idea of correspondence with the physical truth-GIVEN (primary value about legal fiction notion). We note that in the case of physical truth the correspondence is established between the part of physical reality that is the object of physical truth and its expression as information in the content of this truth

In the case of *in situ* conceptual truth the correspondence is established between this information expression and an information over-expression that is constructed by modifying/distorting or contradicting the first expression. Thus, the physical truth presupposes the correspondence materiality → information (ideality), and the conceptual truth *in situ* presupposes the correspondence information (ideality) → over-information (ideality) (thus, the conceptual *in situ* truth although it is exclusively related to ideality it cannot delimitate itself of the physical reality. To that end, the conceptuality designed by legal fiction which although has the value of a conceptual *in situ* truth still does not establish a direct correspondence with physical reality but mediated by physical truth - GIVEN).

In another adjacent plan of analysis, regarding the notion of *logical correctness*, we should start from the fact that the latter presupposes the idea of observing some logical precepts, observance which in turn implies the *idea of correspondence*. Thus, we can consider that *the notion of logical correctness implies the idea of correspondence through the idea of respect/conformity*. As for the qualification of the latter correspondence, we must start from the object of logic. By this, considering the material on which logic acts on is represented by statements about material entities (related to physical reality) or conceptual (*erga omnes* to the former), we can conclude that *the object of logic is a formal one as an ideal*. In short: *the object of logic is a formal object as an ideal* (primary value about legal fiction notion).

Next, this object is the element that must correspond to the formal reasoning laws of logic (such as the four cardinal principles of classical logic). Thus, if the object / term subject to comparison - the object of logic (that can be only conceptual) is considered to be the apparatus of comparison, this, as the apparatus in which the comparison takes place, is also conceptual, showing that the link between the term subject to comparison and the object of logic can only be conceptual.

Thus, with regard to the correspondence that is established between logical precepts and an entity that falls within the scope of its object as a science, this correspondence is an absolutely pure conceptual correspondence.

Thus, we can conclude that:

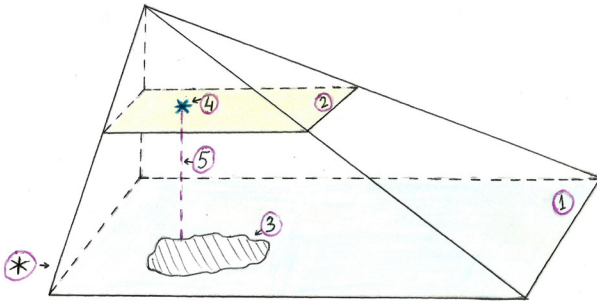
- in the case of correspondence between the content of a physical truth and its object, it is a *material correspondence relatively integrated into the ideal*;
- as regards the correspondence between the content of a conceptual truth *in situ* and the physical truth-GIVEN, this is an *ideal relative correspondence* (due to the fact it claims physical reality as object of physical truth);
- regarding the correspondence between the content of a conceptual truth *in situ* (having a built value) and the physical reality, this is a *material correspondence absolutely integrated in the ideal*;
- as regards the correspondence between a conceptual truth *in situ* (having a built value) and logical precepts, this is an *absolute ideal correspondence*.

The first three situations refer to the correspondence that is established in the case of *truth*, and the last one is the correspondence that is established in the case *logical correctness*. In short, we can consider:

1. physical truth → physical reality: *material correspondence relatively integrated in the ideal*;
2. conceptual *in situ* truth - constructed → physical truth-GIVEN: *relative ideal correspondence*;
3. conceptual *in situ* truth - constructed → physical reality: *material correspondence absolutely integrated in the ideal*
4. conceptual *in situ* truth - constructed → precepts and rules of logical reasoning-GIVEN: *absolute ideal correspondence*

Coming back to the correspondence explained by hypothesis 1, this is relatively integrated into the ideal, since physical truth is the value expression of physical reality, as an expression that is integrated and thus related to ideality, or, in other words, physical truth is the value form - truthfulness of a part of physical reality, as a form that tends to and ultimately belongs to ideality (that can be interpreted in the sense of a definition of physical truth).

In order to illustrate precisely the propensity of truth towards ideality, the representation of the latter must be realized as a fundamental axiological value, within the conceptual construction of the Pyramid of Knowledge:



### Legend:

\* - Pyramid of Knowledge

1 - physical reality plane;

2 - information reality plane;

3 - the part of physical reality that implies the physical truth;

4 - physical truth;

5 - link between physical truth and the part of reality involved (Where

N means the two meanings to be considered as *axiological equivalence relation*, the connection that is established between the part of physical reality subsumed to a physical truth and the latter one).

In this way, the locus of physical truth in relation to the plane of physical reality is established; From the above, it appears that physical truth as a true expression of a piece of physical reality is contained in the plane of information reality (in this way, the locus of physical truth in relation to the plane of physical reality is established). Considering that in the itinerary that starts from the base of the Pyramid of Knowledge (basis represented by the physical reality plane) and reaches its top (point representing the spiritual reality), the information reality being located in the middle within it, the latter appears to us as the first stage of integration within this first conceptual construction. Since the last level of the latter is represented by the spiritual reality - located in the top area of this conceptual construction, and at the same time, the top of the Pyramid of Knowledge, being a point representing the Perfect (which by the idea of sphere intrinsically subsumes perfection), the Infinite and implicit the Absolute, it turns out that the plane of information reality is a *plan of integration in relative*. Even more, we can consider that it is the only relative integration plan within the Pyramid of Knowledge.

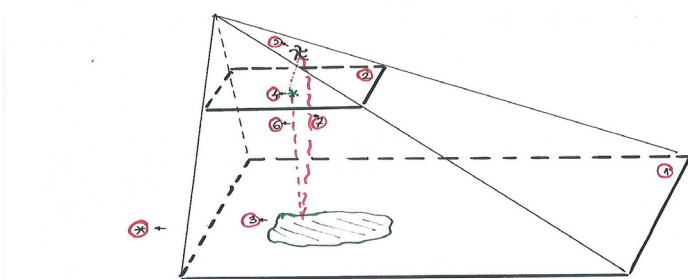
Summarizing the above, we can consider that:

- the plane of physical reality is the supporting plane of the Pyramid of Knowledge;

- the information reality plan is the only relative integration plan within this conceptual construction;

- the plan of spiritual reality is the only plan of integration in the Absolute within the Pyramid of Knowledge, with the specification that it does not reside in the form of a plane, but paradoxically, it resides in the form of a point represented by the top of this conceptual construction, which at the same time paradoxically, is the fundamental plan (paradox overcomes by the ideational fundamental nature of this point) of the Pyramid of Knowledge.

Regarding the correspondence between a conceptual *in situ* truth - constructed and the physical truth - GIVEN, this is the correspondence that opens the series of correspondences integrated in the ideal, being relatively integrated in the ideality because through the physical truth whose expression it realizes, it cannot be detached by the materiality that is represented by the physical reality, but remains *indirectly connected* to it. This entire functionality, being represented by the graphics:



<sup>E</sup>Legend:

\* - Pyramid of Knowledge;

1 - physical reality plane;

2 - information reality plane;

3 - the part of physical reality that implies the physical truth;

4 - physical truth;

5 - conceptual *in situ* truth - constructed;

6 - link between physical truth and its related part of physical reality;

7 - connection in the form of the indirect retro-connection between conceptual truth *in situ* -constructed and the part of physical reality subsumed



to the physical truth which in turn is presupposed by this conceptual truth (where N means the two meanings to be considered as *axiological equivalence relation*, the connection that is established between the part of physical reality subsumed to a physical truth and the latter one).

From the above graph, one can note that the *locus* occupied by a conceptual *in situ* truth is located proximally superior in the information reality compared to/in relation to the *locus* occupied by the physical truth, which in turn is assumed by the first conceptual truth. The reason why conceptual *in situ* truth realizes this exercise of distance in the form of the axiological demonstration that "(...) utopia is nothing but an exercise in the possible" (Antohti 1998, 104), resides in the fact that this truth is an intermediate form of truthfulness, between the perennial truth that is contained by the spiritual reality and the physical truth that is contained by the physical reality. In this way, the conceptual *in situ* truth, although it tries an exercise of the distance from the physical truth, is in a propensity and implicitly orientation towards the perennial truth.

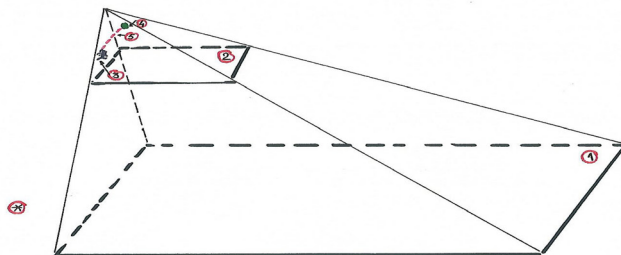
In short, *both the physical truth and the conceptual in situ truth are contained by the information reality* (axiomatic value idea).

Regarding the connection in the form of the indirect retro-connection between the conceptual *in situ* truth - constructed and the part of physical reality that is subsumed to physical truth ( which in its turn is supposed by this conceptual truth), we note that it has a material value due to the fact that it has as an initiating point of emergence, physical reality, respectively it is absolutely integrated in the ideal through its presumed character, as well as through the tendency of the conceptual *in situ* truth towards the ideality represented by the spiritual reality.

Last but not least, the correspondence between the conceptual *in situ* truth - constructed and the precepts and rules of logical reasoning is the only absolute ideal correspondence from all four correspondences that are established within the Pyramid of Knowledge through the value of truth. The elements that lead to this conclusion are represented by:

- the aspect of the propensity of the conceptual *in situ* truth towards the ideality represented by the perennial truth, as an ideality that is contained by the spiritual reality, respectively
- the nature of GIVEN of the precepts and rules of logical reasoning.

Thus, this nature of the universal GIVEN and the propensity in question make the conceptual *in situ* truth, as well as the precepts and rules of logical reasoning to be positioned in the upper side of information reality, and this *locus* to be as close as possible to spiritual reality. In this way, the correspondence between them is an ideal one integrated in the absolute, being illustrated in the graphic below:



<sup>E</sup>Legend:

- \* - Pyramid of Knowledge;
- 1 - physical reality plan;
- 2 - information reality plan;
- 3 conceptual *in situ* truth - constructed;
- 4 - precepts and rules of logical reasoning - GIVEN;
- 5 - correspondence → between conceptual *in situ* truth and precepts and rules of logical reasoning;

Summarizing the essences of the three previous graphs, it appears that depending on the part of physical reality *locus* (part of legal fiction) located within the physical reality as a network, the locus of physical truth located within the information reality, respectively the locus of conceptual truth (constructed through legal fiction) located in the upper frame of to the latter reality, this abstract concept of law realizes an exercise of axiological distance, “mastering the procedures of ambiguity, antiphrasis, and allusion (...)” (Antoși 1998, 119).

Without being *ultima verba*, it becomes a truism the fact that the incidence within the conceptuality represented by the legal fiction, and by the four cardinal principles of the classical logic in the form of an ensemble of the principal trinity that is delimited by the highest justifying value principle of all determine the substantiation of this abstract concept of law through a

polyvalent logic in which “(...) the meaning of *true* and *false* values (...) does not correspond exactly to that attributed in bivalent logic” (Gică 2015, 106) and thus, through the logic of legal fiction, is being outlined a part of legal reality in which “(...) polyvalent logics actually operate with bivalent logic” (Gică 2015, 106).

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