



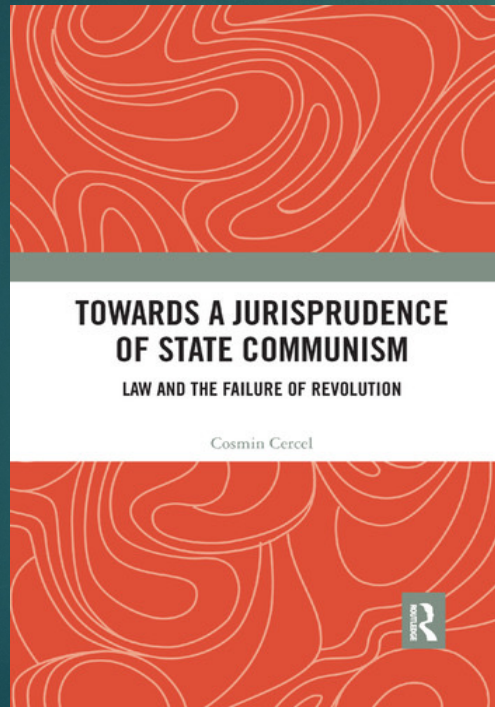
EMERGE

RĂSPUNSURI LA CRIZĂ. CONCEPTUL DE URGENȚĂ ÎN CULTURA JURIDICĂ
EUROPEANĂ

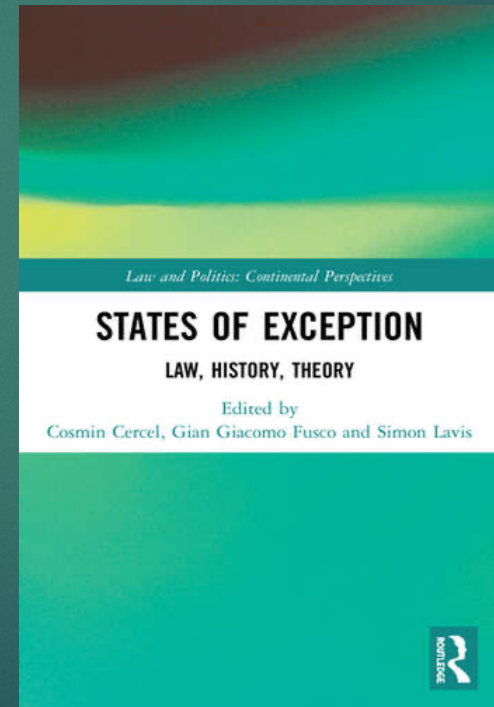
1914-2020

Cărți

Routledge 2018



Routledge 2020



Colaborări

Proiecte

- ▶ Heads of States: The Authoritarian Dynamics of Power in Romanian Constitutional History (2017-2020) University of Sibiu;
 - ▶ Co-Investigator;
- ▶ Judges Under Stress: The Breaking Point of Judicial Institutions (2018-2022) University of Oslo
 - ▶ Advisory Board;
- ▶ An Ethnography of the Dual State: The State of Siege and the Rise of Authoritarianism in Romania 1933-1944 (2022-2025) Romanian Academy (History);
 - ▶ Co-Investigator;
- ▶ Rule of Law and Peripheral Constitutionalism (2022-2025); New Europe College;
 - ▶ Co-Investigator;

Afilieri

- ▶ British Association of Comparative Law (2014)
- ▶ European Society for Comparative Legal History (2017)
- ▶ Nomos Research Centre of International Research on Law, Power and Culture (Jagellonian University in Krakow) (2020)

Teoria „stării de urgență”

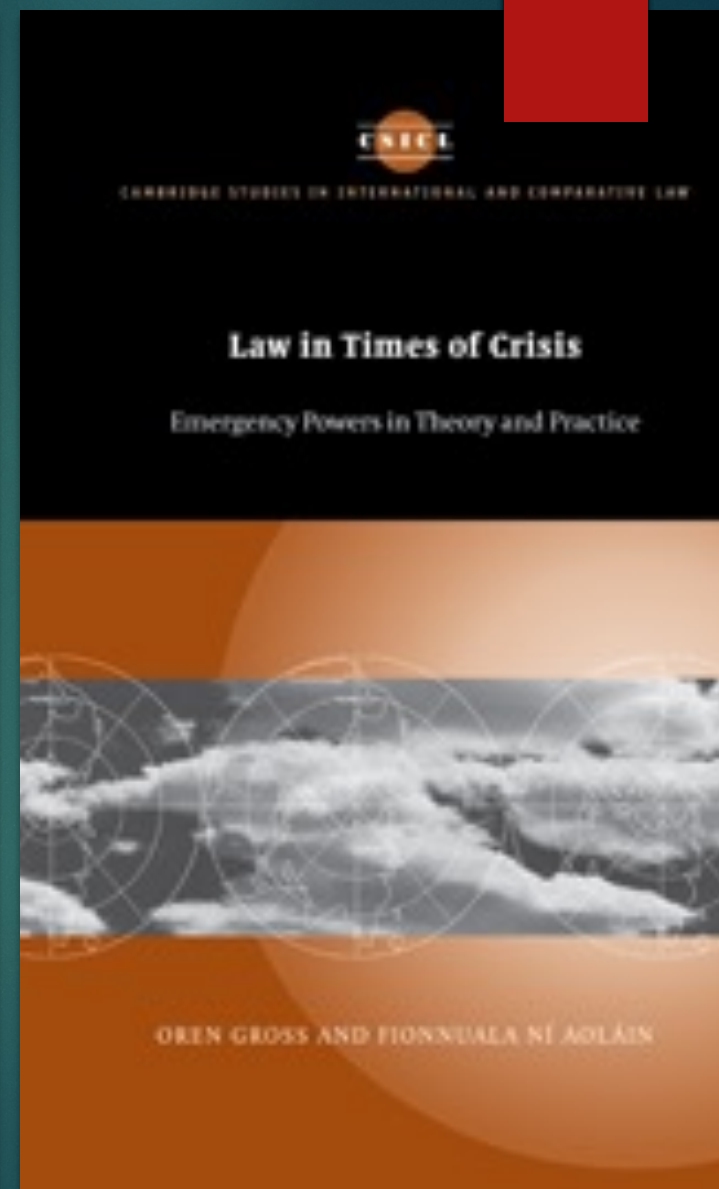
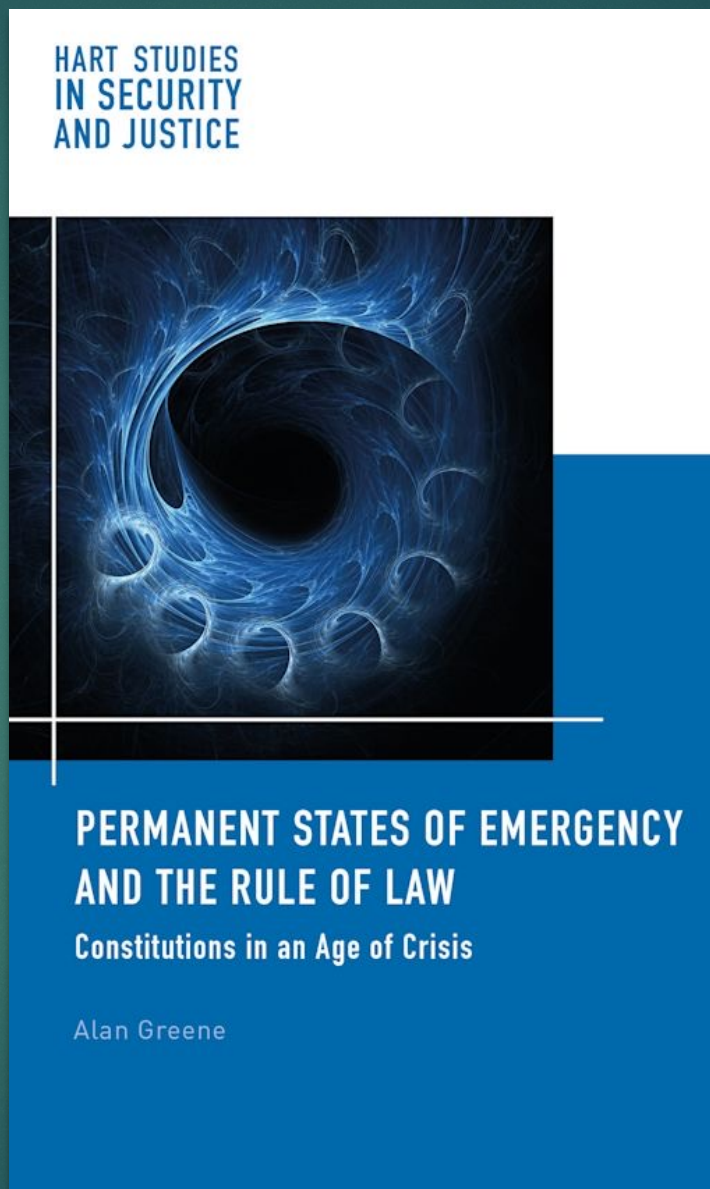
- ▶ ‘for a legal order to make sense, a normal situation must exist’ (Schmitt 1922, 12);
- ▶ Contextul de criză (din 2015);
- ▶ ‘in times of crisis a democratic, constitutional government, must be temporarily altered to whatever degree is necessary to overcome the peril and restore normal conditions’ (Rossiter 1948, 5).
- ▶ Paris minimum standards: ‘public emergency which threatens the life of a nation’; Art 15 ECHR;
- ▶ Modelul roman: ‘full powers: ‘once the imperium conferred upon him, the dictator became as absolute a ruler as could well be imagined’ (Rossiter 1948, 23);
- ▶ ‘the entire purpose of declaring a state of emergency is to enable powers not ordinarily permissible under the constraints of the constitution’ (Greene 2018, 19);
- ▶ Limite: ‘rights are to be restored, legal processes resumed’ (Ferejohn and Pasquino 2004, 228).

Teorie și Istorie

- ▶ *Natura conservatoare a urgenței*: ‘the executive is not permitted to use emergency powers to make any permanent changes in the legal/constitutional system’ (Ferejohn and Pasquino 2004, 211);
- ▶ Excurs istoric (WW1; 1920; 1930; postwar; 1968; 1970s; 2001);
- ▶ Hans Kelsen: teza identității: ‘the state . . . is a legal system’; ‘in situations of ‘national emergency’, the state’s action ‘cannot (...)go against the statute’ (Kelsen 1934, 100);

Limite și lacune

- ▶ Un concept restrâns (fie drept internațional, fie la nivel național);
- ▶ Static (nu discută cum urgența influențează sistemele de drept după declarare și mai ales după revenirea la „normalitate”)
- ▶ Nu explică inerția și înscrierea urgenței;
- ▶ paradoxuri– ‘permanent states of emergency’;



Doctrină și teorie

- ▶ A 'historical' turn
- ▶ In Intl Law: Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960*. Cambridge: Cambridge University Press, 2001
- ▶ Arvidsson and MacKenna 2020
- ▶ Istoria comparată a dreptului:
 - ▶ Germany (M Stolleis; D Fraser; K Hanshew);
 - ▶ France (JL Halpérin);
 - ▶ United Kingdom (S Skinner);
 - ▶ Romania (C Cercel);
 - ▶ Belgium (R Arango 2019; D Roden 2010)

O turnură istorică în analiza conceptelor constituționale

- ▶ Un răspuns *temporar* la criză.
- ▶ Schimbări substanțiale ale drepturilor fundamentale.
- ▶ O analiză diacronică istorică.
- ▶ Potențialul transformator al urgenței.



Analiză istorică



Contexts of
emergency



Laws of
emergency



Actors of
emergency



Formă și forță a dreptului

