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CONTENTS

BOOK REVIEW

Editors' Note

Anca Parmena OLIMID, Aurel PIŢURCĂ

EUROLIMES- Where Europe Goes?

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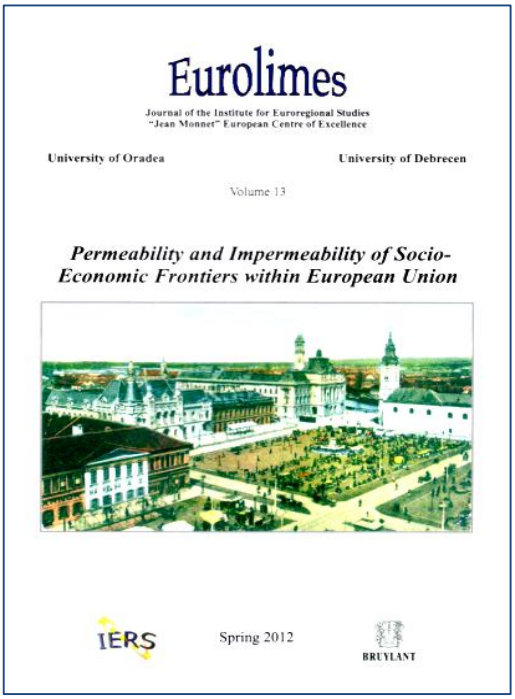

Much has happened in the European context in the last decade. Europe and its process of enlargement have evolved considerably, and so too has our perception of understanding the integration and its costs and benefices.

The Spring 2012 volume of the Eurolimes Journal (Journal of the Institute for Euroregional Studies "Jean Monnet" European Centre of Excellence, University of Oradea and University of Debrecen, Oradea University Press, ISSN-L 841-9259, ISSN 2247/ 8450) edited under the coordination of Professor Ioan Horga (Oradea) and Professor Istvan Suli-Zakar (Debrecen) emphasizes many of these processes, changes and transformations, in all sorts of contexts and environments: European social environment, the new economic challenges, transnational economic and social Europe. This issue reflects the European arena "as a new land of economic and social permeability". Moreover, all these developments reflect a special mention of the politics of identity and a possible pattern of the European populism.

"Mapping" the new European Borders

Our discussion opens with a consideration of the permeability of the European borders and the corporate social responsibility from a triple perspective: a global, European and Corporate perspective. *Nevertheless, this note* assesses the possibility for deeper understanding due to the fact that this issue of Eurolimes is dedicated to the question of "mapping" the new European Borders.

Furthermore, this issue discovers a wide range of issues and questions: EU's electronic frontier, the Digital Agenda for Europe, cross-border labor in the EU, social rights, the role of the Council of Europe, spatial demographic and income tendencies.

One of the major developments in 2012 was the start of a completely new activity focused on the influence of social factors. In this context, looking at the role of the European internal market, this issue of Eurolimes is unique for a number of reasons.

In addition to exploiting the trade effects of borders' elimination, the issue of cross-border labor in the European context becomes vital questioning the theme of the trans-nationalization and renationalization of social rights.

In this way, the challenges and opportunities of EU enlargement, in general, are discussed in the economic, social and political context focusing on the influence of spatial demographic and income tendencies.

Europe and the identity-based divisions

One of the most contentious concepts in the debate over the future of Europe is that of the "identity-based divisions". In this direction, the journal value added derives from exploiting the social pattern of European populism.

Furthermore, this theme explores how the political agenda intends to convert social questions into an issue of identity. This new interpretation is experienced and implemented under the framework of social demands and political process.

Another innovation in this edition is the use of the term "integration" referring to the socio-psychological process of forming the current European environment as a "balance sheet" in the last twenty-five years. Questions of integration and development inevitably bear on that of eligibility for "a more democratic world". The struggle for unity and integration assess the European environment towards an "institutional permeability".

In addition to addressing political and economic issues, the journal also examineds the crisis of the Euro zone as a catalyst for redesigning the new European borders. Nevertheless, the place of the European social agenda and the transnational changes debate is also central to all three thematic area of this journal issue.

The reviews and articles in this issue demonstrate the need for further researches analyzes and studies of the European borders and their role in establishing the future of the European social and political arena.

ORIGINAL PAPER

Cosmin Lucian GHERGHE

THE LEGAL STATUS OF THE ROMANIAN PRINCIPALITIES DURING THE RUSSION OCCUPATION (1828-1834)

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Abstract: *The Russo-Turkish war of 1828-1829, led to the change of the legal status of the Romanian Principalities. Russia became a protective power and Turkey a suzerain power. The Organic Regulations introduced new provisions in various areas of the Romanian social life, the most significant remaining those regarding the State organisation.*

Key words: *Russian occupation, Organic Regulations, legal status, Romanian Principalities..*

The Russo-Turkish war of 1828-1829, the Russian military occupation of the Romanian Principalities – on April 14th, 1828, the Russian troops led by General Wittgenstein crossing the Prut on Sculeni-Falciu and Vadul lui Isac heading towards the Danube[1]- determined major changes in the social and political life of the Principalities.

After the occupation of the Romanian Principalities, General Wittgenstein gives a proclamation on behalf of Tsar Nicholas I, which stated:"The war declared by Russia on the Ottoman Porte serves no purpose other than fulfilling the straightest complaints and implementing the most solemn treaties. The laws, the ancestral customs, the properties, the rights of the holy faith, which we have in common, shall be respected and protected...To reach this goal, first the King charged me to establish, without delay, a proper central administration in the Principalities, whose leader is appointed the private counsellor of Count Pahlen...He will be, here before among you, the plenipotential president of Wallachia and Moldavia' National Assemblies"[2].

On September 2th/14th 1829, at the conclusion of the peace between Russia and Ottoman Empire there were signed three documents: The Peace Treaty; The Separate Document regarding Moldavia and Wallachia (an integrant part of the Peace Treaty); The Separate Document regarding the trade and war indemnities and the evacuation of Moldavia and Wallachia[3].

The Russo-Turkish war which started on April 1828 and ended in September 1829 put an end to the native regencies from the two principalities. The Romanian Principalities were to be administrated by a plenipotential Russian president, appointed by the imperial authority of Petersburg. The President residency was established to Bucharest[4].

Apart from the sufferings of the Romanian people during the Russian occupation, by the Peace Treaty of Adrianople, concluded on 2th/14th 1829, new elements were introduce which essentially changed the legal status of the Principalities. Russia get a new quality, that of protective power, Turkey remaining just a suzerain power."This right of suzerainty is reduced to two aspects: 1. the Supremacy of the Ottoman Porte; 2. the Tribute imposed to Romanian principalities. As for the rest the precision of the professor Royer Colard from the Paris Law Faculty, the state independency is not destroyed; the Romanian people kept their right to elect their prince and their magistrates, to make their laws and to decide in matters of war and peace"[5].

Russia, as a protective power had to defend the rights and interest of the Romanian people, but it essentially changed the meaning of this notion acting as a conqueror.

The Russo-Turkish war and the peace of Adrianople gave Russia a diplomatic and strategic gain in the South-eastern Europe."The peace of Adrianople - wrote the Russian Foreign Minister Nesselrode on February 12th, 1830-strenghtened Russia's supremacy in the Orient. It strengthened the Russian borders, provided freedom to its trade and secured its interests"[6].

For the further evolution of the Principalities a significant role was played by the article 5 of the Peace Treaty which provided: independent national administration, full freedom of trade, free exercise of religion etc. which led to a conclusion of a separate attached document entitled *The document achieved for Moldavia and Wallachia Principalities* making some remarks on the obligations of the suzerain power to Moldavia and Wallachia. "The principalities of Moldavia and Wallachia obeying, after surrending, the suzerainty of the Ottoman Porte and Russia granting their prosperity – it specified the document -, is self explanatory that they will retain all the privileges and immunities granted, either by their surrendings or by the treaties concluded by the two empires or the Hatti-Sheriffs given in various moments. Consequently, they will enjoy the free exercise of their religion, a perfect safety, an independent national administration and a full freedom of trade"[7].

The Ottoman Porte as suzerain was bound to respect the right of the Principalities stipulated in the treaties from 1812 and 1826 concluded with Russia, on autonomy (freedom of religion, independent administration and so on); to enforce the conformation of these rights by the Turkish commanders on the right bank of the Danube; finally, it was expressly forced not to tolerate any Turkish settlement on the left bank of the river, and the retrocession of the main ports of the Danube. Turkey was forced to admit the full freeform of trade, the right of free navigation on the Danube for the Romanian people, thus giving the possibility of developing the capitalism and limiting the external interference of the Ottoman Empire in the internal and external affairs of the Romanian principalities.

The war and the Treaty of Adrianople have produced new motivations between the great European powers, on the Principalities[8].

It should be emphasized the fact that the recognition by the two great powers of the Romanian Principalities right to administrative autonomy (art.7) and the creation of a new armed guard (art.8) insuring the borders safety and the compliance of the laws and regulations, had a great significance for the further development of the Romanian Principalities. Such provisions, which shall be entered on line broadening of political autonomy, have opened the way for the remodelling of the national army.

For the central leadership of the Principalities the provisions stipulated that the princes were to rule for the entire life (art.1) and they were chosen by the Ruling Council which were to freely rule the public affaires. This stipulation, the rule for the entire life, was new in addition with the provision compared to the international documents concluded between Turkey and Russia from- 1802 until the Convention of Akkerman from1826- providing a rule of 7 years. In addition to the mention on the rule duration, very important was also the emphasis on the election of the princes among natives by the Ruling Councils. The princes shall freely govern all the intern administration

affaires, consulting the National Assemblies, without prejudice to the two assured powers, Turkey and Russia(art. 2)[9].

Also, the Ottoman Porte was forced to confirm administrative regulations developed during the Russian administration in the Principalities. The Russian Administration in the Principalities was to last until the payment of the debt of 11.500.000 ducats, compensation after war, by Turkey. Besides those mentioned, the new quality of Turkey in the relation with the Romanian Principalities was a diplomatic and strategic gain of Russia in the South-eastern Europe and the limit of rights which the Ottoman Porte reclaimed on the two Romanian Principalities. "The occupation of the Principalities and of the Silistra during a quite long period of time (until the payment of the compensation after war) and the total domination of the Russian fleet in the Black Sea – reported General Diebici on September 3rd 1829 to the Tsar Nicholas I- is necessary to our interests. This peace will demonstrate to Europe our power but also our kindness towards the enemy[10].

After the occupation of the Romanian Principalities, the Russian military authorities have taken the measure of reorganization as quickly as possible of the local administration. Thus, interim governments have been installed in both countries, made up of Russophille landowners, and the Royal National Assembly has been abolished and replaced with: the Executor National Assembly, Court National Assembly and the Public Assembly (the reunion of the two National Assemblies).

The Romanian Principalities have been given basic laws called Organic Regulations which came into force on July 1st/13th 1831 in Wallachia and on July 1st/13th 1832 in Moldavia. In the era, the Organic Regulation was perceived as a fundamental law (charter), as certain publications known both in Bucharest and Iasi specified, or a series of protagonists of political scene, such as Nicolae Şuţu or Mihail Sturdza.[11]

The Regulation did not intend to overturn the social order, but only the reorganization and modernization of the country according to the interests of the noblity and protective Russia. Still, the Organic Regulation eliminated a series of institutions and previous practices, has created a modern state apparatus by the identical organizational bases, has lead to the legislative and intitutional modernization of the Romanian Principalities, has represented a step forward on the union line. Their provisions have stimulated the development of the capitalist elements in economy. Along with their entry into force, the Principalities have disposed of the instrument designated to provide a legal framework for the governance, due to which the state, in its modern sense, is invented with its specific mission and function.

The separation of powers introduces, unlike the Old Regime, a democracy which makes possible the coming out of the system of classic powers[12]. Nevertheless, the legal framework created by the Organic Regulations was a less favourable to the setting up of a parliamentary system.

Even if the legislative power was given to the Ruling Councils, they did not participate in the accomplishment of the legislative activity by decisions producing legal effects by themselves, the lord being the one who had the initiative considering the enactment and he also sanctioned the laws. The existence along with a lord of a *administrative council* made up of ministers appointed by him, and in Great Wallachia of a *great council of ministers,* gives the impression of a two-headed executive, as in the parlamentary regimes[13].

The Organic Regulation introduces the term of *ministers,* they being responsible only to the prince, they participating in the sesions of the meetings as his representatives, the capacity of deputy and that of minister being incompatible. Also, the Regulations contain procedural norms for the judicial activity as well as fundamental legal norms regarding the political, constitutional organization of each Principality. The judicial power was exercised by the county courts as courts of first instance, independent of the Assembly and the Prince. The article 212 provided: "The separation of the ruling and judicial powers, being known that it is necessarily needed for the proper order in terms of causes of justice and for the protection of rights of individuals, these two branches will be very special from now on"[14].

At the same time, the Organic Regulations have introduced for the first time in the Romanian legislation, the principle of res judicata, own rules on the immovability of judges and the equality of all before law. The legal practice and law science start to play more important roles in elaborating the law norms than the customary law. We can not talk about a law science as a formal source, it still being mistaken for the law moral which remained the fundamental book.[15]

Even though the Organic Regulations include provisions on various areas of social life, the most important remain those regarding the state organization. To this regard, we mention the principle of separation of powers, the establishment of some assemblies which have common features with the parliamentary regime of the era, the separation of the state revenues from those of the Prince and their management according to a public accounting system, thus achieving a clear administration between the notion of state and the person of the Prince[16].

Starting from the ideea that the Danube represents the natural boundary of the Czarist Empire, Russia has installed in the Principalities with dark thoughts, in fact aiming to unite the two countries[17]. The brutality of Russian occupation, the violation of state autonomy, but especially the systematic exploitation to which the inhabitants have been subjected caused a deep dissatisfaction among them. "The Christian protectorate of Orthodox Russia – it was appreciated in a time document – destructed us in a few years, worse than the pagan pressure of the Turks, along two hundred years"[18]. The Russian military occupation lasted from 1828 until 1834, this occupation

ending by the Treaty of January 17th/29th, 1834, signed in Petersburg between Russia and Turkey[19].

Notes:

1. Nicolae Ciachir, Gheorghe Bercan, *European Diplomacy in Modern Age,* Scientific and Encyclopedic Publishing House, Bucharest, 1984, page 290; I.C. Filitti, *Romanian Principalities from 1828 to 1834; Russian occupation and Organic Regulation,* Bucharest, 1934, pages 9-10;
2. I.C. Filitti, *op.cit,* p.10;
3. Nicolae Ciachir, Gheorghe Bercan, *op.cit,* p.294;
4. Dan Berindei, *Modern Romanian diplomacy from the beginning to the proclamation of state independence (1821-1877),* Albatros Publishing House, Bucharest, 1995, pages 50-53;
5. *Ibidem,* p.37;
6. Vasile Boeresco, *La Roumanie apres le traite de paix du 30 mars 1856,* Paris, 1856, pp.2-3;
7. Dinica Ciobotea, Vladimir Osiac, *Tsarist Empire Policy in the Lower Danube,* Aius Publishing House, Craiova, 2008, p.64;
8. Liviu P. Marcu, *History of Romanian Law,* Bucharest, 1997, page 165;
9. Nicolae Ciachir, Gheorghe Bercan, *op.cit,* p.295;
10. *Ibidem,* p.293;
11. Radu Carp, Ioan Stanomir, Laurentiu Vlad, *From the code of laws to Constitution,* Nemira Publishing House, Bucharest, 2002, page 24;
12. Ioan Stanomir, *Liberty, justice and law. A history of Romanian constitutionalism,* Polirom Publishing House, Iasi, 2005, pages 18-19;
13. Tudor Draganu, *Constitutional law and political intitutions. Elementary treaty,* vol. I, Lumina Lex Publishing House, Cluj Napoca, 1998, page 60;
14. Ioan Stanomir, *op.cit,* page 9;
15. *History of Romanian law,* vol II, parta I, Academiei Publishing House, Bucharest, 1984, page 70;
16. Emil Cernea, Emil Molcuţ, *State history and Romanian law,* Casa de Editura si Presa Sansa SRL, Bucharest, 1994, page 172;
17. See also Anca Parmena Olimid, *Le personalisme spirituel européen de la revendication à l'intégration dans la modernité politique roumaine*, Revista de Ştiinţe Politice. Revue des Sciences Politiques, nr. 24/2009, pp. 98-103
18. Cosmin Lucian Gherghe, *Emanoil Chinezu, politician, lawyer and historian,* Sitech Publishing House, Craiova, 2009, page 51.
19. In this context, see Anca Parmena Olimid, *Ortodoxie, stat şi naţiune în configurarea societăţii româneşti de la jumătatea secolului al XIX-lea (Orthodoxy, state and nation in Roanian society at the middle of the XIXth century)*, Analele Universităţii din Craiova. Seria Istorie, Anul XIII, nr. 1(13)/2008, pp. 127-145.

Bibliography:

Dan Berindei, *Modern Romanian diplomacy from the beginning to the proclamation of state independence (1821-1877),* Albatros Publishing House, Bucharest, 1995;
Vasile Boeresco, *La Roumanie apres le traite de paix du 30 mars 1856,* Paris, 1856;
Radu Carp, Ioan Stanomir, Laurentiu Vlad, *From the code of laws to Constitution,* Nemira Publishing House, Bucharest, 2002;
Nicolae Ciachir, Gheorghe Bercan, *European Diplomacy in Modern Age,* Scientific and Encyclopedic Publishing House, Bucharest, 1984;
Dinica Ciobotea, Vladimir Osiac, *Tsarist Empire Policy in the Lower Danube,* Aius Publishing House, Craiova, 2008;
Emil Cernea, Emil Molcuţ, *State history and Romanian law,* Casa de Editura si Presa Sansa SRL, Bucharest, 1994;
Tudor Draganu, *Constitutional law and political intitutions. Elementary treaty,* vol. I, Lumina Lex Publishing House, Cluj Napoca, 1998;
I.C. Filitti, *Romanian Principalities from 1828 to 1834; Russian occupation and Organic Regulation,* Bucharest, 1934

Cosmin Lucian Gherghe, *Emanoil Chinezu, politician, lawyer and historian,* Sitech Publishing House, Craiova, 2009;
Liviu P. Marcu, *History of Romanian Law,* Bucharest, 1997;
Anca Parmena Olimid, *Ortodoxie, stat şi naţiune în configurarea societăţii româneşti de la jumătatea secolului al XIX-lea (Orthodoxy, state and nation in Roanian society at the middle of the XIXth century)*, Analele Universităţii din Craiova. Seria Istorie, Anul XIII, nr. 1(13)/2008;
Anca Parmena Olimid *Le personalisme spirituel européen de la revendication à l'intégration dans la modernité politique roumaine*, Revista de Ştiinţe Politice. Revue des Sciences Politiques, nr. 24/2009;
Ioan Stanomir, *Liberty, justice and law. A history of Romanian constitutionalism,* Polirom Publishing House, Iasi, 2005;
History of Romanian law, vol II, parta I, Academiei Publishing House, Bucharest, 1984.

ORIGINAL PAPER

Mihaela Camelia BUZATU

ASPECTS OF THE HISTORIOGRAPHICAL STAGES OF THE NATIONAL RENAISSANCE FRONT – THE POST-COMMUNIST PERIOD

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Abstract: *After 1938, the year of its establishment, the National Renaissance Front was the subject of numerous historical works. The historical literature dedicated to the first Romanian single political party can be divided into three distinct historiographical stages.*

Our paper is addressing the last historiographical stage of the National Renaissance Front, the one after 1989; in a previous paper we have presented the first two periods: the first stage (1939-1940), that includes historical works that were written in the first two years after the establishment of the new political party and the second stage (1940-1989), that contains historical papers published during the communist regime.

The third historiographical stage, that covers the period after 1989, includes historical works which are intended to be objective. During this last historiographical period of the King Carol II's political party, were written, along with various papers, the only two monographs dedicated to the National Renaissance Front.

Key words: *National Renaissance Front, historiographical stages, King Carol II's personal regime, communist regime, post-communist period.*

After 1989, although there was no well-defined overview regarding the development of the Romanian historiography, as Şerban Papacostea – correspondent member of the Romanian Academy – noted[1], we could see an increase of the researchers' interest in what concerns the approach of some neglected subjects, even incorrectly analyzed subjects, during the communist regime. At the same time, after 1989, a significant number of archive files, which have been available only for a small number of people during the communist regime, became accessible to the public, leading the researchers to study new topics, that, from different reasons, they had neglected until then.

Fitting into this trend, after the fall of the communist regime, more historians became interested in the history of the National Renaissance Front. First of all, there must be mentioned the general historical works: the studies that present the history of the Romanian nation – by a single author, as the academician Florin Constantiniu[2] or a number of authors[3] – or the historical works regarding the contemporaneous period of the Romanian history, as the one belonging to Gheorghe Buzatu and Ioan Scurtu[4]. They are all trying the present the political party created by King Carol II, a little while before the end of 1938, from impartial positions.

Considering the powerful personality of Carol II and the way in which he influenced the political life of interwar Romania, several monographic books, dedicated to the Romanian sovereign also approached the topic of the National Renaissance Front, seen as a king's party. In this category we can mention the works of some historians as Petre Turlea[5] or Neagu Cosma[6]. An important role for a better understanding of the evolution of the N.R.F. are playing the studies and articles written on this theme; although referring to punctual matters, these complete the better knowledge of the royal party[7]. The historiography of the period after 1989 is characterized by an attempt of the historians to overcome the purely factual approach of history[8], method which dominated the writings from the communist period. One could also observe the intention to diversify historical researches, through approaching new methods of analyzing historical events, but also by rallying to the trend proposed by the universal historiography. Nevertheless, a great part of the writings follow the same pattern of approaching the past in a descriptive manner, seeing the documents as a supreme and indisputable source of truth [9].

This is also the case of two monographic papers referring exclusively to the National Renaissance Front. The first one, written by Radu Florian Bruja, is a thesis dedicated to the first Romanian single political party[10]. Written in a cursive manner, based on an impressive literature and several archive documents, the book analyzes the birth and evolution of the National Renaissance Front and the complexity of its functional structures. This begins with the origins and the establishment of the royal party, analyzes its organization, the propaganda and doctrine of the Front, the role of the National Guard, the evolution of the N.R.F. in a wide historical context and also its

metamorphosis into the Party of the Nation. There is to be noted the author's quotation regarding the single political party: „The posterity has not given an appropriate refund to the National Renaissance Front. It has not been analyzed according to its features, organization, not even its importance. Although, as in any single political party (and we know that Romania has an even more relevant example) the National Renaissance Front represented a step back on the road of the free development of the state"[11].

The second historical work that refers directly to the Front was written by Petre Ţurlea[12]. Beginning with ample archives documentation, the study highlights some important aspects in the evolution of the royal political party, having a well-balanced structure, although not very exhaustive; four chapters formulated in a good summary cover a large amount of data regarding the political party founded by Carol II. The final opinion of the work deserves to be mentioned. It depicts some negative accents regarding the N.R.F., in the context of the Romanian disaster during the summer and autumn of 1940: „National Renaissance Front – the Party of the Nation, creation of King Carol II, is a party of reference for the evolution of the Romanian contemporary society. Not for the power, or for its achievements. But for being related to the attempt of a dictatorial regime to maintain itself, and for the fact that, at least formal, it was leading the country during the great territorial losses in 1940, so that, those losses could be also attributed to it"[13].

Among the authors which included in their researches aspects regarding the Front, although they haven't dedicated any papers to the subject, we should also mention Sorin Alexandrescu. In his work „Paradoxul român", he characterizes in a few sentences and in an original manner the carlist regime and the political organization created by the sovereign: „The political parties are being outlawed. Instead of them, in December 1938, the National Renaissance Front is being founded, under the leadership of the King (starting in June 1940, it shall become the Party of the Nation). The Parliament and the political parties, which before 1938 represented the counterpart for the King, now they have nothing else left to say, so they stand, humble, by the King. At the beginning, Carol establishes an absolute monarchy rather than a proper dictatorship, as the governance is based on a forced consent, but not on repression. N.R.F. is more like a ceremonial space than a powerful instrument and does not own any ideological apparatus"[14].

One could easily observe that the transition from one regime to another – the carlist regime, the communist regime and the democracy after 1989 – automatically led to a change of the historiographical discourse. During 1938 – 1940 the papers referring to the National Renaissance Front rather represented, as we mentioned earlier, a proper way to generously describe the party. This was the main reason for which the historiohgraphic discourse was often mistaken for the propagandistic one and the boundary between the two

concepts – the historical presentation and the political promotion – is many times violated.

Marxist historiographical cannons brought a radical change in the way the Front was analyzed this time. The ones that presented the political architecture during the communist regime, not only were they not sustaining this doctrine, as in 1938-1940, but they had to pay greater attention so that their papers would fit into the templates imposed by the authorities. Most of the time, the purpose of these templates to promote the communist ideology went hand in hand with a negative presentation of the previous period (the monarchy) and especially with highlighting the deficits and malfunctions of the single political party founded by King Carol II. The historiographic discourse substantially changed as the terms of praising the Front from before 1940 were replaced by phrases like „horrific construction" or „grotesque result".

The National Renaissance Front did not receive, before 1989, an analytic approach that has not been influenced by any authorities. This time, the historiographical discourse was meant to be *sine ira et studio*; unlike the previous approach, which was whether extremely favorable or essentially critical, the actual discourse is way more balanced. The unavoidable changes occurred are rather caused by the individuality of the discourse or by different interests or even the understanding capacities and the manner of interpretation[15].

In conclusion, regarding the historiographical stages of the political party founded by King Carol II, the National Renaissance Front, one could not argue on the evolution of the approach methodologies or on the impartiality of the authors that embraced this subject. Starting with the monarchic period, when the royal party was analyzed in an obviously subjective manner, continuing with the papers issued during the communist regime, characterized by an attempt to follow the trends imposed by the authorities and, finally, to the researches after 1989 which are trying to approach the N.R.F. in a more objective way, we could conclude that although there were many interests expressed on this subject, this topic is far from being exhausted. As the two authors, who wrote the monographic papers on N.R.F., declared – and we subscribe to this opinion – their scientific effort represented only the base of what is meant to be a detailed history of the first Romanian single political party.

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[1]Raluca Alexandrescu, *Istoriografia contemporană între fragmentar şi întreg. Interviu cu Şerban Papacostea*, in „Observator Cultural", no 12, May 2000, accessed February 23rd, 2012, http://www.observatorcultural.ro/Istoriografia-contemporana-intre-fragmentar-si-intreg.-Interviu-cu-Serban-PAPACOSTEA*articleID_6474-articles_details.html.

[2] Florin Constantiniu, *O istorie sinceră a poporului român* (Bucureşti: Editura Univers Enciclopedic, 1997).

[3] *Istoria românilor*, vol. VIII, *România Întregită (1918-1940),* coord. prof . univ. dr. Ioan Scurtu, secretar dr. Perte Otu (Bucureşti: Editura Enciclopedică, 2003).
[4] Ioan Scurtu and Gheorghe Buzatu, *Istoria românilor în secolul XX* (Bucureşti: Editura Paideia, 1999).
[5] Petre Ţurlea, *Carol al II-lea şi camarila regală* (Bucureşti: Editura Semne, 2010).
[6] Neagu Cosma, *Culisele Palatului Regal, Un aventurier pe tron Carol al II-lea (1930-1940)* (Bucureşti: Editura Globus, 1990).
[7] Radu Florian Bruja, *Alegerile parlamentare din 1939 în Ţiunutul Suceava*, in „Codrul Cosminului", no 8-9 (18-19) (2002-2003): 237-241; idem, *Doctrina şi programul Frontului Renaşterii Naţionale*, in „Codrul Cosminului", no 6-7 (16-17) (2000-2001): 335-339; idem, *Organizarea şi activitatea Gărzilor Naţionale ale Frontului Renaşterii Naţionale*, in „Codrul Cosminului", no 8-9 (18-19) (2002-2003): 77-94; idem, *Originea şi înfiinţarea Frontului Renaşterii Naţionale*, in „Codrul Cosminului", no 10 (20) (2004): 231-241.
[8] Ştefan Purici, Harieta Mareci, Dumitru Vitcu, *"Frontiere" şi "Identităţi" în istoriografia românească postbelică*, in „Codrul Cosminului", no 11 (21) (2005): p. 173.
[9] Vasile Vese and Crina Capotă, *Frontiere şi identităţi în istoriografia românească*, in „Codrul Cosminului", no 11(21) (2005): 164.
[10] Radu Florian Bruja, *Carol al II-lea şi partidul unic: Frontul Renaşterii Naţionale* (Iaşi: Editura Junimea, 2006).
[11] *Ibidem*, p. 261.
[12] Petre Ţurlea, *Partidul unui rege: Frontul Renaşterii Naţionale* (Bucureşti: Editura Enciclopedică, 2006).
[13] *Ibidem*, p. 295.
[14] Sorin Alexandrescu, *Paradoxul român* (Bucureşti: Editura Univers, 1998), p. 119.
[15] Platon, *Istoriografia*, accessed February 27th, 2012, http://institutulxenopol.tripod.com/xenopoliana/ arhiva/2001/pagini/2-6.htm.

ORIGINAL PAPER

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HISTORICAL EVOLUTION OF LOGISTICS

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Abstract: *The general objective of logistics is to ensure of all necessary things in order to fulfill different missions, plans or actions. This paper aims to show the evolution of logistics when passing from planned economy to the new market based economy in the last two decades.*

Logistic activity is common in many fields of activity (economic, cultural or military), but the main field where it was consecrated was the economical one. Logistics is the main element of any economic strategy and is the link between many activities.

The originality and value of this study comes from the suggestions that have been made regarding concepts and methods that might improve logistic activity.

Key words: *logistics, decisions, public acquisitions, packing, storing, transport, stocks.*

Introduction

Revolution started in 1989 opened a new perspective on the demographic development. Until recently, little has been written about logistics because logistical problems had required audience. They reach beyond the public interest and not imposed from outside the vital curiosity of the readers of specialists. This is because the logistics, although regarded as a branch of military science, studying the not defined in all its complexity. A long period of time, logistics has dealt with a small part of the work, considered, erroneously, as minor.

After logistics has entered its rights, and content to all sections completed that performs all technical assurance and material, it must treat it with utmost seriousness. Experience the latest global and regional conflicts have proved it abundantly. Without logistics cannot think even the initiation of an action more or less large, not only military but also in key sectors of society.

Chapter I. Origins logistics

Logistics is an evolving concept. The term logistics concept is borrowed from military vocabulary, which means "the art military targeting problem of food supply and transport of armies" Logistics first appeared in World War, when troops from the front needed equipment. Logistics is the activity that aims to manage physical flows of an organization by providing relevant resources. In 1968, F. Magee introduces the notion of flow: logistics is technical and management control flow of raw material and products, from their sources of supply to point of consumption. Another highlight definition of logistics supply chain that creates added value and can play a vital role for the enterprise to gain a competitive advantage over competitors.

Initial use of logistics was to describe the science of movement, supply and maintenance of military forces in the field. It was later used to describe management of material flow through an organization, from raw materials to finished products.

Logistics is considered to have originated in the need to supply the army with weapons, ammunition and food rations. In Rome, ancient Greece and Byzantium, as „Logistikas" officers were responsible for finance, distribution and supply.

Oxford English Dictionary defines logistics as "the branch of military science on the acquisition, maintenance and transport of personnel and facilities." As such, logistics is commonly seen as a branch of engineering which creates "people systems" rather than "machine systems". So logistics is defined as the acquisition of strategic management, movement and storage of

materials and finished products (with adequate information flows these processes) within the company and distribution channels in order to satisfy orders with the lowest costs for company. Contrary to military research, which saw the logistics a secondary function (famous phrase, "Intendancy will follow!"), contemporary research has made strategic game in the competition to impose another sentence:,, Intendancy not must follow, but precede "(Charron and Sépari, 2004, pg. 217). ASLOG (French association for logistics company) proposes the following definition: 'Logistics is all activities aimed at making available at the lowest price, a quantity of a product where and when there is a demand." "Logistics means having the object right in the right place at the right time" (Logistics World).

A possible definition of the concept of logistics is applying the 6 P: right amount of goods right at the right time, right quality at the right cost, at the right place. Often appears and 7th P with the right information to all participants.

Chapter I.1. Logistics in the military

The last 3500 years of our history of 3165 years of war and if we are parallel to the conflict, have not less than 8,000 wars. Since the man was war, logistics was one of the elements which have given great thought leaders of armies. Philosopher Paul Virilio, showed that the relationship between logistics and war is close, that existed before the war and logistics can be considered a founding element of its "first freedom is freedom of movement, but this freedom is not a pleasure but an aptitude ". The word comes from the greek "logisteuo" logistics, which means, above all, to manage. The military has used this word to describe an activity that has managed to combine two essential factors in the management of flows necessary military maneuvers: space and time. Alexander the Great in his journey in Asia his army thought movement by organizing food and feed stores. Roman legions of Julius Caesar considered the logistics dimension, creating "delogista" function, function conferred an officer who was tasked to provide movement of the Roman legions and organize camps or winter night. Gulf War (1990-1991) showed the importance of continuous adaptations. Sending armed forces on foreign territories is a phenomenon that has not ceased to multiply in recent years. Fall of Berlin Wall, collapse of the Soviet Empire, brutal war in Iraq have changed the world and geographic and strategic context and nature in which armies are involved. Sending ground troops is the result of a final warning and involves commitments to high intensity. Therefore careful planning is required and therefore plans to use rigorous supply units. For an enterprise, adapting to change products, the competitive environment or context is an exercise almost daily, but no less difficult.

The last decade was marked mainly in logistics information systems development, using technologies belonging to the civil sector. Various armies under NATO alliance member states trying to build networks using standards of the civil (bar codes, automatic identification, radio frequency tags, the Internet as a channel of information exchange logistics). In order to keep human resources and avoid long-term commitment of support operations, Army tries outsourcing logistics functions. Logistics with its strategic and organizational size was not a privileged area of research. If concerns are identified early twentieth century, considering the logistics field itself is made in the U.S. in the mid-70s and early 80s in Europe. The first indication in logistics are made by Crowell (1901) in his work on physical distribution operations of agricultural products. In marketing logistics is in the works of Clark (1922). Many works in logistics that support mathematical methods were becoming more sophisticated methods belonging to operational research field. These methods were applied not only logistics but also distribution flows in industrial planning and authorizing. World War II and the postwar period were decisive steps to affirm logistics. Following the Vienna Diktat was amputated again by ceding national territory north and north - western Transylvania, Hungary. King Carol I of Romania abdicated the throne and was proclaimed King Michael I, and the head of state General Ion Antonescu, passing from royal dictatorship to authoritarian military rule. In 1973, Heskett strategic stakes delimiting logistics and organizational issues they raise. He defined the 1978 logistics "process that encompasses all activities involved in managing the physical flow of products, the coordination of resources, seeking to achieve a level of service at cost". Porter in 1980, in his work on value chain, identifies logistics as competitive business advantage. Development of the logistics, whether it was in the U.S. or in France involved a large number of professionals who have tried to popularize the subject and being a logistician. Professional associations and journals have played a significant role in formalizing knowledge and building professional networks.

In 1997 the journal "Strategy Logistique" in its title announces a new phase of logistics that logistics has become a strategic element, because it considered only those that managing operational flows, but all those who competed in the optimization process, including department Computer and managers at the highest levels. With this new management approach we consider the concept of "supply chain management". The term "logistics" was first used in the military. In the early twentieth century, logistics was considered that branch of art of war, dealing with the movement and supply armies.

During the World War II, participating armies have developed and used different models of logistic systems for the material to reach the right place when needed. Currently, the term logistics is widely used to define the insurance material, technical and medical troops (feeding, equipment,

technical and material supply of all kinds), including their travel and accommodation. In the aftermath of the Second World War, logistics concepts and methods were temporarily ignored, the world, amid a trend of development of economic activity. Producing companies had as main objective the increased demand for goods in the postwar. Success in business depends apparently only able to meet market demand, particularly in terms of quantity.

Recession in the second half of the 50 companies and reduce profits have forced the business to identify cost control systems, able to maintain or increase their business efficiency. Thus, many operators have started to consider the untapped potential of the physical distribution, of physical flows downstream client oriented companies. Physical distribution concept has been widely used for decades to turn, before the term logistics is commonly used in academic and business vocabulary. In the 80s of the twentieth century, for example, efforts to eradicate hunger in Ethiopia have imposed the application of the logistic activities of the food supply. A significant evidence is the book entitled "Getting It There - The Logistics Handbook for Relief and Development", published in 1987 by World Vision International, one of many humanitarian organizations, acting on the African continent. Logistics principles can be applied also government actions and non-profit organizations.

Chapter II. Historical development of logistics

The historical process of formation and development of Romanian society includes naturally and birth and evolution of public policy structures. To normal operation and management of economic activities settlements since ancient times, these forces have acted to achieve internal order and security in the whole of Romanian-inhabited lands. Since the geto-dacian, when beekeeping, pottery, metalworking and commerce have boomed, increasing wealth and therefore a surplus of goods and continuing the Middle Ages, when the Romanian territories were subject to known the hardships of hostile times, emerged as overriding need to protect and defend property against criminals, thieves, robbers, the spies, invaders, but also need the transmission and administrative royal commands consistently and organized. To this end, owners and captains time organized military formations and specific administrative tasks that were continuously generating perfectly the centuries XIV - XV, a new military structure, called "the little army," who acted logistically to provide feeding, equipping, lodging and equip ministers with the necessary weapons to fight, housing and feeding of animals used for carrying out tasks. Logistics activity is characteristic of several areas (economic, cultural, and military) the area is devoted to economics. Logistics

is the cornerstone of any economic strategy and is the glue integrator of several activities.

In Greek, the term "logistics on" designate the ability to make calculations, craftsmanship calculator. In "Was logistics is" the university lecturer Bernard H. Karschak notion emerged during the reign of Byzantine Emperor Leontius VI said "philosopher" (886-911) in the military for 'all organizational measures capable supply to bring an army to victory in the confrontation with the enemy". In 1972 the Lexicon published under the Military Academy Military logistics is defined as "a term used in Western literature to define the insurance technical and material forces (feeding, equipment, technical supplies and materials of all kinds) including their transport far away ", while logistics is considered as a subdivision of military art with strategy, tactics aimed at studying travel and supplies. Evolution of conceptual and operational logistics of goods is not confined to simple replacement of the term natural distribution, through the logistics. Depending on economic and business environment in each country, the role and significance of logistics are the result of a series of steps were followed in the early 50s of the twentieth century to the present. Historical development of logistics in other markets was relatively similar, the influence of concepts imported from the USA. In the United Kingdom, for example, it is considered that the development stages of distribution and logistics, in the twentieth century were as follows:

a) decade of VI and VII beginning of the decade. Distribution systems in this period were not planned. Distribution of goods is done through carriers and fleet vehicles owned by producers. There were no real links between the various functions related to distribution.

b) decade of the seventh and early eighth-century decade. In the 60s, is from the U.S. concept of physical distribution. For more firms, distribution is a domain management involvement is required. Advantages reconsideration distributions of producers who are initially develop distribution operations.

c) the eighth decade. For the United Kingdom, the 70 is a very important step in developing the concept of distribution. There were two major changes - including distribution in functional management structure of the organization (first in a small number of companies) and the modification of forces between producers and retailers. Unlike the previous one major power producers against retailers increases, due to the fact that the big chain stores create their own distribution structures, initially based on regional or local storage, supply stores.

d) ninth decade. Since the 80s, there is an increase of professionalism in distribution, resulted in long-term planning and the concern for identifying and implementing cost reduction measures. Major trends that marked this period include centralizing distribution, drastically reduced stocks, using computers to provide necessary information and control, development

operators specializing in logistics activities. The need for integrated logistics systems is recognized by more and more participants in the distribution. In the years 1949-1960, in full and deep process of change, the tide beginning of socialist construction in the Romanian society during the transition from capitalism to socialism, logistics departments were most heavily involved in the Romanian phenomenon in transition , seeking to find solutions to conduct business for providing services to troops.

The infamous era of communist dictatorship (Ceausescu), following the victory of the Revolution ended in 1989, meant for all people, including the military, a painful decline, materialized by numerous injustices, abuses, frustration and limitations to which was subject to all staff of the army. In this age and especially in recent years, the conditions of feeding and equipping the military became increasingly precarious, by reducing unnecessary rights established by decree, poor supply of basic necessities and the gradual diminution of their quality. In this respect since 1984 has been developed "scientific diet program" under the direction of former dictator, which were reduced daily rations of meat and meat products and substituted with other products with a much lower nutritional value. Also in this period military units were obliged to perform hard labor in the national economy, especially for construction of buildings pharaonic, initiated by dictatorship.

Chapter III. After the 1989 revolution logistics in the process of renewing

Distinct expression of social organization in the workplace, logistics forces is an obvious process of transformation that began immediately after the outbreak of the Revolution of 1989 and will be fully functional with the implementation of new structures in this field. Employing our country on the path of market economy forced the move adaptation of logistic processes in the field of public order forces to economic realities, a new bill, which they perceived as imposed fast. Thus, with a substantial reduction in the role of central supply, increased duties and responsibilities in the field of logistics bodies on the steps of the system lower. Structures small of order began to secure the honor of supplying the necessary entering into direct relations with bidders, the basic principle of the economic relationship between supply and demand. Soon, the normative basis of logistic processes in the system existing enforcement officers became important, which made the logistics bodies to move to direct application in practice of republican legislation - laws, ordinances, decisions government without wait for issuing instructions for the application. In such a context, one can say that elements of system enforcement officers have become market traders were required to maintain supply relationships with many suppliers. As a result it took a thorough adaptation of the military requirements of market economy, with solid

economic knowledge, which has shown the action and shows a deep economic thinking. On this basis, the whole system within the police organization, has become the principle of making decisions based on economic criteria, where quality and costs have become dominant elements. Consequently, logistics activities have begun to be analyzed in terms of quality costs, which led to making the decision. Increase public spending toward accountability, transformation of economic thought in decision making on quality logistics management by budgets increased substantiation and other such measures have led to large-scale actions, which result in mind the general structure of public policy, aiming the performance of specific tasks with the lowest costs. In this process, it examines the role and missions of each structure, each post, the positions of functions, is rethinking forms of management, trying local and territorial responsibilities so central.

Pressure requirements of market economy, economic thinking is in a position to impose a new public system, resulted in the harmonious blending of civilian and military structures by intertwining elements of local and territorial responsibility with the central. In turn, such a system must have a logistics subsystem able to assure full functionality, knowing that the most accurate expression of the effectiveness of enforcement officers is given their own degree of logistical support. On this line, logistics subsystem is expected to include local and regional structures (regional) and central structures, harmoniously designed.

Fair understanding of the role of logistics personnel in achieving a proper law enforcement logistics is a major component of the new training policy, training and promoting training of senior staff in the entire public system. ,, The right man in the right place, is a saying and at the same time, a principle of social action, which forces the logistics subsystem of public policy, requires appropriate forms and methods of recruitment, training, expertise, training and promotion staff. Corps logistics personnel should be characterized by deep economic and management knowledge and the moral traits chosen. Laws of market economy and economic thinking amend any proactive actions indiscriminate promotion of logistics professionals. As such, the new logistics system of public law enforcement system should be made only from specialized, well trained, that they did prove some obvious deposition process management and execution of logistic units and large units.

Great changes in political, economic, social, military products in Romania 90 years took place, as was natural significant changes in terms of providing technical, material, medical and financial. On this occasion has become the term and concept of logistics, widely accepted both in the military, but in many areas of social and economic activity across the country. This intensified the process of optimizing logistics activities to create better conditions fighters operating range by means for performing, simpler

handling and maintenance, while ensuring greater speed in the conduct of combat and maneuvers required by the concrete situation in the area of responsibility. Replacing the old concept of "insurance material, technical and medical" with "logistics" was first determined that it was considered that the new term is most convincing and makes a unitary several distinct sectors have the object of military action necessary resources. However this substitution was determined by the need for achieving interoperability and compatibility and in terms of terminology, with their counterparts in Western countries. Most states define this concept as a set of material conditions and the existence of those who act for carrying out various activities. So, logistics is not limited exclusively to military life, more businesses in the private sector and state owned logistics can say that in a broader sense is found in all social activities as a necessary and crucial to their success. Logistics includes functions related to material management, distribution, storage, transport. As a result of particularly high interest of logistics, not only in military activity in the U.S. was created in anii'50, National Council of Management distribution Physics. In 1963 it was converted into U.S. Logistics Council, which formulated and the concept nationwide. In that acceptance, "Logistics is the process of design, implementation and management of effective and efficient flow of materials through, semi-finished and finished products and the associated information from the place of origin, on-site with the intention to meet customer expectation ".

Americans have given so much importance as logistics have found that logistics is of vital importance in planning, organizing and carrying out any activity, including the military. France considers that logistics must ensure that the combatant is necessary for them to live, fight and move. According to this concept brings together logistics: Providing technology, providing material, financial insurance and medical insurance. German armed forces believe that logistics plans to ensure conditions for maintaining the readiness of large units and units, incorporating three basic components: technical and material support, medical insurance and military transport organization. In our logistics must meet several requirements of compliance and has as its mission the provision of required consumer products, right quality, in quantity, at acceptable costs, in the place indicated at the time appropriate for the consumer who has needed products.

Supply system begins to supply foundation plans, providing market study, evaluation and selection of suppliers, analyzing bids, purchase products by known procedures, transportation, warehousing, storage and ending with the actual distribution to customers and control their use, are all moments in that one of the criteria it is important to assess the economic efficiency.

From the above, to the conclusion that in a market economy, is very much reduced " involvement" endowment from central bodies, in favor of

decentralization and public institutions autonomy. In these new conditions, inspired by the interwar experience of Romania and the practice of countries with tradition in a market economy can introduce new ways to generalize supply some products, such as:

- direct purchase of businesses without other intermediaries;
- by organizing public procurement law;
- procurement of goods and services through leasing.

Supplying products and materials through the process of buying direct from manufacturers businesses aimed at preventing speculation and saving, in this way public money.

Procurement of goods, services and works are in accordance with European legislation, putting a particular focus on transparency in the use of public money since 2007 successfully using the Electronic System for Public Procurement.

Conclusions

In consequence, the evolution, structural change experienced logistics and act according to historical periods characteristics experienced by the Romanian people. And functioned as an element strictly necessary, logistics has continuously developed and managed to fulfill the missions have been entrusted. Throughout history, logistics structures, were based on: national interests, administrative-territorial status, socio-economic development of the country, tasks and missions in November, appeared in the succession of historical stages, changes in strategy, tactics and technique development of the forces of public order, process and technology technical, general readiness of the people called to arms; lessons revealed by previous periods and other quantitative factors, qualitative and effective evolutionary.

Logistics is becoming a tool to reach global scientific social structures by which ensure the flow of information, materials, products, people, to conduct all activities with the lowest costs. Logistics remains the structure that will provide material resources, financial and human resources to successfully carrying out specific missions.

Bibliography:

1. Popescu, Dumitru, Logistica secretul succesului managerial, Editura Luceafărul, Bucureşti, 2000
2. Bălan, Carmen – Logistica, Ediţia a III –a revizuită şi adăugită, Editura Uranus, Bucureşti, 2006.
3. Gattorna, John - Managementul Logisticii şi Distribuţiei, Editura Teora 1999, Bucureşti
4. General – locotenent Botoş Ioniţă, Locotenent – colonel Duţu Alexandru, Logistica armatei Române în al doilea război mondial, Editura Militară, Bucureşti, 1995.

5. General – locotenent(r) dr. Dafinescu, Traian, colonel(r) Boaţă Ion, Istoria serviciilor logistice ale armatei române, Editura Militară, Bucureşti, 1990.
6. Joel, Sohier- La logistique, Editura
7. Nistorescu, T., Constantinescu, D. – Economia Intreprinderii, Editura Universitaria, Craiova, 2010.
8. H.G. nr. 925/ 2006 (actualizata) pentru aprobarea normelor de aplicare a prevederilor referitoare la atribuirea contractelor de achizitie publica din Ordonanta de urgenta a Guvernului nr. 34/2006 privind atribuirea contractelor de achizitie publica, a contractelor de concesiune de lucrari publice si a contractelor de concesiune de servicii, Monitorul Oficial nr. 628 din 20 iulie 2006.
9. Locotenent – colonel Ciobîcă Vasile, Bazele Logisticii militare, Editura Academia Trupelor de Uscat, Sibiu, 2000.
10. Udrescu, Mircea; Bădălan, Eugen – Logistica militară în epoca globalizării, Editura Academiei Oamenilor de Ştiinţă Bucureşti, 2010.
11. O.U.G. nr. 34/2006(actualizata) privind atribuirea contractelor de achizitie publica, a contractelor de concesiune de lucrari publice si a contractelor de concesiune de servicii, Monitorul Oficial nr. 418 din 15 mai 2006.
12. Popescu, Dumitru, Colonel Udrescu, Mircea, Sistematizări despre logistica militară, Bucureşti, Editura Ministerului de Interne, 1999.

ORIGINAL PAPER

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PRIVATIZATION IN POST-TOTALITARIAN ROMANIA

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Abstract: *The Romanian post-totalitarian state was marked by many changes in all its levels, political, social, economic, media, etc.. The economic field has experienced a radical transformation by establishing, at constitutional level in 1991, of the concept of market economy, freedom of private property and freedom of competition. Subsequently, expression of the liberal character of the Romanian post-totalitarian state, through the constitutional revision from 2003, another concept underlies the relationship from the field of economy: economic freedom.*

The centralism of the totalitarian state is replaced by free market economy, public and private property and free competition of economic actors. The state has become such an economic actor, along with other private economic agents, the regulation of the economic field having to meet the requirements of economic liberalism.

In this context, the privatization process of certain state assets appears as a natural one. However, the evolution and regulation of this process is a difficult and complex one, regarding many aspects: privatization of state-owned companies (Law no. 58/1991), bank privatization (Law no. 83/1997), transfer or sale of actions, the establishment of specialized institutions (National Agency for Privatization, Private Property Fund).

Key words: *evolution of privatization in Romania, privatization of state-owned companies, bank privatization, National Agency for Privatization, Private Property Fund, market economy, economic freedom, property right, freedom of competition, the legal regime of state's interventions in the economy.*

I. Property rights in the Romanian constitutional system

Property rights in the Romanian legal system have a fundamental value recognized by Constitution.

Thus, Article 44 entitled "The right of private property" states: "(1) The right of property, as well as the debts incurring on the State are guaranteed. The content and limitations of these rights shall be established by law. (2) Private property shall be equally guaranteed and protected by the law, irrespective of its owner. Foreign citizens and stateless persons shall only acquire the right to private property of land under the terms resulting from Romania's accession to the European Union and other international treaties Romania is a party to, on a mutual basis, under the terms stipulated by an organic law, as well as a result of lawful inheritance. (3) No one shall be expropriated, except on grounds of public utility, established according to the law, against just compensation paid in advance. (4) The nationalization or any other measures of forcible transfer of assets to public property based on the owners' social, ethnic, religious, political, or other discriminatory features. (5) For projects of general interest, the public authorities are entitled to use the subsoil of any real estate with the obligation to pay compensation to its owner for the damages caused to the soil, plantations or buildings, as well as for other damages imputable to these authorities. (6) Compensation provided under paragraphs (3) and (5) shall be agreed upon with the owner, or by the decision of the court when a settlement cannot be reached. (7) The right of property compels to the observance of duties relating to environmental protection and ensurance of neighbourliness, as well as of other duties incumbent upon the owner, in accordance with the law or custom. (8) Legally acquired assets shall not be confiscated. Legality of acquirement shall be presumed. (9) Any goods intended for, used or resulting from a criminal or minor offence may be confiscated only in accordance with the provisions of the law".

Also, Article 136 called "property" states: "(1) Property is public or private. (2) Public property is guaranteed and protected by the law, and belongs to the State or to territorial-administrative units. (3) The mineral resources of public interest, the air, the waters with energy potential that can be used for national interests, the beaches, the territorial sea, the natural resources of the economic zone and the continental shelf, as well as other possessions established by the organic law, shall be public property exclusively. (4) Public property is inalienable. Under the terms of the organic law, the public property can be managed by autonomous companies or public institutions, or can be granted or leased; also, it can be transferred for free usage to public utility institutions. (5) Private property is inviolable, in accordance with the organic law".

The two articles of the Constitution as amended in 2003 form the constitutional foundations of property rights, also drawing the normative

configuration of property as a fundamental right - the types of property, legal content of property, and ways of guaranty.

1. Types of property

Romanian legal system has two types of property: public and private (Article 136 paragraph 1).

a) Public and private property

Criterion for distinguishing between the two kinds of property is given by the right holder, as you might think at first glance, Article 136, paragraph 2 stating that public property belongs to the state or territorial-administrative units, but by the nature of the good, Public property having a separate legal regime and being provided *expressis verbis* in the law, in this respect, Article 136 paragraph 3 stating that "The mineral resources of public interest, the air, the waters with energy potential that can be used for national interests, the beaches, the territorial sea, the natural resources of the economic zone and the continental shelf, as well as other possessions established by the organic law, shall be public property exclusively".

In conclusion, public property assets are those expressly provided by constitutional and legal acts, while private goods are all the other - "(...) because the private property is not defined, results that the property which is not public, it is private"[1].

b) State property

An important clarification that needs to be mentioned is the notion of "state property", since, as previously distinguished, the property can only be public or private.

Regarding the holder of the public property, that cannot be anyone else but the state, directly or through its administrative-territorial units.

Regarding the holder of private property, that it can be the simple particular, natural or legal, but also can be the state that appears as a moral person owning goods in private property.

Following these clarifications, it can be seen clearly that the questioning of notions such as "state property", which should have a privileged legal status, cannot be accepted because it would lead to a violation of one of the principles directing the protection of Article 44 paragraph 2 of this law regulated "Private property is guaranteed and protected equally by the law, regardless of its ownership."

2. Legal content of private property

As a result of the aforementioned it becomes clear that private property is related to all goods that are not object to public property. According to article 44 paragraph 1 "The right of property, as well as the debts incurring on the State are guaranteed ". Generic guarantee of the property right covers all its attributes - *jus utendi*, *jus fruendi* and *jus abutendi* - this being emphasized even by the Romanian Constitutional Court in Decision nr. 44/1996: "The guarantee of the property right requires the protection of all its attributes and, in particular, the right of disposal. The owner may not be required by law, in its contractual relations, an obligation which has not consented."

Reference to contractual relations seems to accredit the idea that the Court emphasizes one of the characters of property in terms of the constitutional guarantee in relation to the other two that are otherwise also guaranteed, namely *jus abutendi*.

State may bring legal limitations of these two "underprivileged" attributes of the property, but these restrictions must respect the constitutional framework established by Article 53 of the Constitution, essentially to not affect their substance and to respect the principle of proportionality.

State tax obligations imposed on goods affects *jus fruendi*, so their legal establishment must comply with the Constitution that opposes absolutely to the state: "Taxation should be not only legal but also proportionate, reasonable, fair, and not distinguish taxes test groups or categories of citizens"[2].

It should be emphasized that warranty given to property right covers all aspects thereof, any estate or movable property, tangible or intangible, and all the other real rights.

Also, according to Article 44 paragraph 1 are constitutionally guaranteed also the claims against the state. "The specification is made because of the importance that the state has. He is also the subject of private property and holder of public power. Guarantee given by the Constitution wants to prevent the state to make use of its powers of public power when appears as a holder of private property, equal with the other holders of such a right."[3]

Article 136, paragraph 5, stating that "private property is inviolable, in the conditions of the organic law" establishes the principle that no one shall be deprived of his property (the principle of inviolability of private property). The exceptions comported by this principle are expressly provided in the Constitution and must be strictly interpreted.

The most important exception to this rule which has the effect of forced transferring the good from the private property of the individual into public property, is the institution of expropriation, whose ways of exercising and conditions are set out in article 44, paragraph 3: “No one shall be expropriated, except on grounds of public utility, established according to the law, against just compensation paid in advance.”

Another legal exception to the principle of inviolability of property is provided by Article 44, paragraph 9: "Any goods intended for, used or resulting from a criminal or minor offence may be confiscated only in accordance with the provisions of the law."

Also, according to article 44, paragraph 5: "For projects of general interest, the public authorities are entitled to use the subsoil of any real estate with the obligation to pay compensation to its owner for the damages caused to the soil, plantations or buildings, as well as for other damages imputable to these authorities."

II. Law no. 58 of 14 August 1991 on privatization of commercial companies[4] - the transfer of state property to the private sector

Law no. 58/1991 was adopted to transfer state property to the private sector, in the conditions of the equivalent of 30% of the share capital of companies entitled Romanian citizens, including regulations on the sale of shares or assets of companies to individuals or legal, Romanian or foreign[5].

Companies' privatization law establishes the proper legal transfer of state property into private property of individuals and legal persons for this purpose stating that: a) the procedure for free distribution of ownership certificates by Romanian citizens entitled b) methods of privatization of companies, c) offering for sale of shares or assets of companies to their employees, d) participation of individuals and legal persons, Romanian or foreign, the sale and purchase of shares or assets of companies.

According to art. 2 of the Law, subjects covered by the law were joint stock companies or limited liability companies set up by companies with unique shareholder the Romanian state, and some utility that had transformed by the Government's decisions in companies.

Privatization of companies was realized, according to art. 3 of the Law, by free transfer of a portion of state shares and the sale of the shares remaining after the transfer. Parts of the heritage of companies could be alienated by the direct form of sale of assets, as provided by law. Free transfer took place via the distribution of ownership certificates.

Certificates of property were shares in companies of financial nature called Private Property Funds and property holders have the right certificates to choose: a) the sale of certificates of ownership, b) the change of the certificates of property into shares based on market conditions to any company that will be privatized anytime in a period of five years from the date of entry into force of this law, c) transformation of certificates of property, remaining at the end of the five years, shares Funds of Private Property, by organizing them into companies such as mutual funds.

Managing and selling shares of state-owned institutions was achieved through a public, commercial and financial, called State Property Fund.

In accordance with art. 5 of the Law, Private Property Funds originally held a total of 30% of the share capital of companies, except for the capital of companies undergoing privatization as provided by chapter V of the Law. Distribution of 30% of the share capital of companies among the five Private Ownership Funds was conducted by the National Agency for Privatization.

Private Property Funds operated as joint stock companies, only for a period of five years from the effective date of the law (art. 14). After that deadline, PPFs were held, by law, in joint stock companies of common law, such as mutual funds.

Each Private Property Fund emitted, in an equal and free way, to all Romanian citizens residing in Romania, who turned 18 until 31 December 1990, a certificate of property, financial title with a value determined by the ratio of the nominal capital of each Fund Private Property and the number of citizens who are entitled to property certificates. Property certificates represented an undivided participation of Romanian citizens to Private Property Funds.

National Agency for Privatization distributed property certificates to support local public administration bodies. Distributing certificates of property was made in compliance with the conditions set by the National Agency for Privatization, date and place announced by it in the Official Gazette and the mass media.

In accordance with art. 21 of the Law, holders of certificates of property had the following rights: a) to receive annual dividends that are paid under the Fund and Private Property data set b) to propose actions to improve the specific activity of each fund, trigger performance financial control by auditors or require, replacement board members, provided that proposals be acquired by holders of at least 10,000 certificates of ownership, c) to buy shares of companies that are put on sale by the Fund State Ownership in a limited period, before any public sales of shares with a 10% discount from the public offering price, in a period of five years from the date of entry into force of the law, limited market value certificates owned d) to obtain the services of Private Property Funds broker services to change ownership certificates into shares in market conditions, the company offered to any privatization e) any other rights provided by law for shareholders.

1. The sale of shares of commercial companies

Shares in companies owned by Private Property Funds and Fund of State Property could be sold to individuals or legal persons, Romanian or foreign, by: a) trade offers of shares to the public, b) sales of shares on the open or auction with pre-selected participants, c) sales of shares through direct negotiation d) any combination of the previous procedures. Employees and

members of their management companies could participate in the purchase of shares by any of the procedures provided.

Shares of companies put on sale by the State Property Fund, based on the offer of sale by public auction or based on, were offered for purchase in the context of art. 48, to employees and board members of these companies on preferential terms, as follows: a) in the case of sales of shares through public offering, employees and members of management are entitled to buy a limited period, up to 10% stake on sale, with a discount of 10% from the public offering price, b) in the case of share sales by auction, any employee or director, or an association thereof will be entitled to purchase preferred shares, in case the book offers a price up to 10% less than the highest price offered in the auction and your respective other conditions of the offer.

On equal terms with other potential buyers, companies' shares offered for sale through direct negotiation by the State Property Fund were awarded to employees and board members of these companies.

State Property Fund might grant, under the terms established by its board and on commercial principles, facilities and senior management employees and pensioners, who buy shares of companies as follows: a) credit b) payment term c) payment in installments, d) other facilities, taking into account the specific actions and specific conditions of making sale.

2. The sale of assets of commercial companies

Companies that hold assets representing units that could be organized and could operate independently had the right to sell such assets. Sale of these assets was done on the basis of public tender or auction envelope with the award at the highest price.

Sale of assets of companies based on open tender or auction envelope made under the law and the methodological norms issued by the National Agency for Privatization and approved by Government decision.

National Agency for Privatization was obliged to prepare, within three months, an active list of companies that will be on sale in the first 12 months of the entry into force of this Law.

Upon acquiring assets of companies could participate natural or legal persons, Romanian or foreign. People who buy assets, they had no right to sell, lease or transfer them otherwise use them for a period of one year from the contract of sale and purchase.

III. Law no. 55 of June 15, 1995 of accelerating the privatization process[6] - Transfer of shares

The process of accelerating the privatization was done in the context of art. 1 of the Law by transferring effective and free of charge shares to Romanian

citizens in a quantum of 30% of share capital of the state owned companies, hereinafter companies, as well as the sale of shares issued by that company. Purposes of applying the privatization program, the Government, the State Property Fund and Private Property Funds were authorized to take necessary measures according to law[7].

1. Free transfer of shares

The transfer of shares free of charge to Romanian citizens of 30% of share capital of companies referred to in art. 2 of Law on privatization of commercial companies no. 58/1991 was based on property certificates distributed under the same law, and registered coupon privatization.

Coupons targeted for privatization, with only exchange value, were issued and distributed by the National Agency for Privatization Romanian to citizens residing in Romania, until the date of December 31, 1990 inclusive, who had reached the age of 18 and were thus entitled to receive certificates of property according to Law no. 58/1991, and in the case of death, to their successors and Romanian citizens who reached the age of 18 till 31 December 1995 inclusive, residing in Romania.

There were not assigned nominative privatization coupons to Romanian citizens who, before the entry into force of the Law, used in the privatization process, the entire book of property certificates issued under Law no. 58/1991. Nominative privatization vouchers could not be alienated by legal acts *inter vivos*.

Shares of companies subject to privatization were transmitted free of charge, within the limits established by law, as follows: a) in exchange for property certificates books distributed according to Law. 58/1991, the unique value of 25,000 lei exchange, b) in exchange for privatization vouchers nominative, whose exchange value is determined only by the Government, the State Property Fund and funds of private property, the difference between the equivalent value of shares 30% of the share capital of companies as at 31 December 1994 accounting reports divided by the number of citizens entitled to nominal coupon privatization according to art. 2 of this law, on the one hand, and the only exchange value book with ownership certificates, on the other hand.

The books of property certificates and/or coupons targeted for privatization could be used by citizens entitled to acquisition of shares in companies from off date targeted for privatization vouchers distribution, up to 31 December 1995 inclusive.

People who opted to purchase shares of POFs, being organized as investment companies, were entitled to receive dividends for the period between the time of obtaining the status of shareholder and financial year of that fund. Dividends only from profits came from financial and economic

activities of companies in which the Fund becomes a shareholder of private property by exchanging books with ownership certificates and vouchers targeted for privatization.

According to art. 5 of Law, could change books of property certificates and/or coupons targeted for privatization in shares in a state owned company which was not included in the list of companies referred to in art. 1 paragraph (3): a) employees of the company; b) members of the management company and manager c) unemployed last job at that company, d) retirement who had last job at that company e) manufacturers farmers who maintain a continuing contractual relationship with companies that, if it falls in agriculture, manufacturing of agricultural commodities or provision of services for agriculture.

2. The sale of shares

Since the entry into force of the law, the shares underlying share 40% of the share capital of companies referred to in art. 1 paragraph (3), which were not subject to privatization charge, were being offered for sale, by the State Property Fund, individuals and/or private legal foreign novels or by any of the methods provided by law.

For quick and full privatization of companies in the application of action were less than the supply, sale price of shares may be reduced based on the assessment report under their nominal value. Where the assessment report lead to a reduction greater than 30% from the nominal value of shares, sale was made under contract with the buyer, which included provisions for insuring such companies. The same shall apply to activities unchanged privatization process free of charge.

After the exchange of shares for books with ownership certificates and / or coupons targeted for privatization and the end location management contracts or lease of assets of the company, residents who invest in these assets received as compensation actions were being issued following the capital increase by incorporation of the updated remaining value of their investments in assets.

IV. Law no. 83 of May 21, 1997 of privatization of the banks in which the state is a shareholder[8]

Banking companies in which the state held shares, established under Law no. 15/1990 on the reorganization of the state as autonomous and businesses of Law. 31/1990 on trading companies and Law no. 33/1991 on banking activity, were privatized using one of the following procedures[9]: a) increase of the share capital by private capital in cash, according to a public offering or private placement, made in accordance with the legal provisions in

force; b) sale of shares managed by the State Property Fund, cash only, with full payment, by individuals and legal entities novels with majority private capital, including financial investment by companies from turning Funds Private Property and the natural and foreign entities with private capital, c) combining procedures stipulated in point. a) and b).

Sale of shares managed by the State Property Fund could be made at any of the companies privatized under Law no. 58/1991, Law no. 52/1994 on securities and stock exchanges, and the regulations issued in pursuance of the Law.

State Property Fund, as manager of the stake state may reserve, for each banking company, a number of shares corresponding to a share of total capital or may choose to keep nominal control action as appropriate.

Procedures and methods used and capital shares that could be acquired by natural or legal persons in the privatization of banking companies were established for each case, the decision of the Government, at the proposal of privatization, in consultation and joint opinion of the National Agency for Privatization, National Bank of Romania and the State Property Fund.

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[1] Decision no. 3/1993 of the Romanian Constitutional Court.
[2] Decision no. 6/1993 of the Romanian Constitutional Court.
[3] Ion Dogaru, Dan Claudiu Dănişor, *Drepturile omului şi libertăţile publice*, Ed. Zamolxe, Chişinău, 1998, p. 223.
[4] Published in M. Of. no. 169 of 16 August 1991.
[5] For an ample analyses see Sorin Fusea, Dorin Ciucan, *Privatizarea în România. Aspecte tehnice - consecinţe juridice*, Ed. Universul Juridic, Bucureşti, 2008, p. 33-44.
[6] Published in M. Of. no. 122 of 19 June 1995.
[7] See Sorin Fusea, Dorin Ciucan, *op.cit.*, p. 45-49.
[8] Published in M. Of. no. 98 of 23 May 1997.
[9] Sorin Fusea, Dorin Ciucan, *op.cit.*, p. 51-54.

ORIGINAL PAPER

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DETERMINATION OF DYNAMIC INDICATORS. APPLIED PROGRAM

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Abstract: *The analysis of different social-economic phenomena is characterized by specific elements. Even the average level of a series can be determined in different ways, given the fact that time series can be either of intervals of time, or of certain moments of time. Also, estimating evolutionary trends is influenced by the real progress suggested by the considered time series. Thus, for an accurate analysis, it is necessary to determine indicators specific to the series of time, indicators that are summarized below. At the same time, in order to determine the set of specific indicators, a program was presented as a procedure that can be easily applied.*

Keywords: *indicators, increase (decrease), indicator, rate, procedure*.

The analysis of chronological series presents some specific elements. The characteristic indicators of the chronological series, taking into account that the variable considered for keeping a track of these indicators is the time, are known as well as *indicators of dynamics*. These indicators can be divided into three groups: absolute, relative and medium.

In the first group, we present the *absolute benefit (deficit)*. It is determined as the difference between absolute levels of one variable of the series successively taken and an arbitrary level considered as the basis of the comparison.

Two variants of this indicator are to be distinguished:

a) With fixed basis. Is calculated as the difference between the absolute levels of the series and an arbitrary level which is maintained constant. As referential level is usually used the initial level of the series, symbolized with x_0. The calculation formula is:

$$\Delta_{n/0} = x_n - x_0,$$

that is:

$$\Delta_{1/0} = x_1 - x_0,\ \Delta_{2/0} = x_2 - x_0,\ \Delta_{3/0} = x_3 - x_0, \ldots$$

The absolute benefit (deficit) with fixed basis highlights the increase (+) or the decrease (-) of the absolute levels compared to the level used as the basis for comparison.

b) With chain basis. Is calculated as the difference between each level, successively taken, and its previous, using the formula:

$$\Delta_{n/n-1} = x_n - x_{n-1},$$

that is:

$$\Delta_{1/0} = x_1 - x_0,\ \Delta_{2/1} = x_2 - x_1,\ \Delta_{3/2} = x_3 - x_2, \ldots$$

The absolute benefit (deficit) with chain basis highlights the increase (+) or the decrease (-) of the levels of the series from one period from another or from one moment to another.

By comparing the calculation formulas of the two variants, it appears that:

$$\Delta_{n/0} = \sum \Delta_{k/k-1}.$$

In the group of the relative indicators we present the *rate* and the *dynamics rhythm*.

The dynamics rate is calculated as the ratio between the absolute levels, successively taken and an arbitrary level used as the basis for comparison.

In the case of this indicator, two variants are to be distinguished, as well:

a) *With fixed basis.* Is calculated as the ratio between the absolute levels and an arbitrary level maintained constant, using the formula:

$$I_{n/0} = \frac{x_n}{x_0}$$

that is:

$$I_{1/0} = \frac{x_1}{x_0},\ I_{2/0} = \frac{x_2}{x_0},\ I_{3/0} = \frac{x_3}{x_0} \ldots$$

b) *With chain basis*. Is calculated as the ratio between each level, successively taken, and its previous, using the formula:

$$I_{n/n-1} = \frac{x_n}{x_{n-1}}$$

that is:

$$I_{1/0} = \frac{x_1}{x_0},\ I_{2/1} = \frac{x_2}{x_1},\ I_{3/2} = \frac{x_3}{x_2} \ldots$$

By comparing the two calculation formulas, it appears that:

$$I_{n/0} = \prod I_{k/k-1}\ .$$

The dynamics rates can be expressed in percentages, as well.

The dynamics rhythm has, in its turn, two variants:

a) *With fixed basis,* calculated with the formula:

$$R_{n/0} = (I_{n/0} - 1) \cdot 100$$

or, by developing:

$$R_{n/0} = (I_{n/0} - 1) \cdot 100 = \left(\frac{x_n}{x_0} - 1\right) \cdot 100 = \frac{x_n - x_0}{x_0} \cdot 100 = \frac{\Delta_{n/0}}{x_0} \cdot 100\ .$$

b) *With chain basis*, which has, basically, the same calculation methodology, except that, in its calculation, the indicators with chain basis are used:

$$R_{n/n-1} = (I_{n/n-1} - 1) \cdot 100\ ,$$

or:

$$R_{n/-1} = \frac{\Delta_{n/n-1}}{x_{n-1}} \cdot 100\ .$$

The dynamics rhythm is expressed exclusively in percentages and highlights the increase (+) or the decrease (-) of or the levels of a phenomenon, in percentages.

Finally, the third group, *medium indicators*, is divided into two subgroups:

a) *Absolute medium indicators*, including:

a1) *The average of the absolute levels.*

If the chronological series is of intervals, the average is calculated as an arithmetic mean.

If the chronological series is of moments of time, the medium level is calculated as a chronological average; if the intervals between the moments are equal, then the simple chronological average is used; if the intervals between the moments are not equal, then the weighted chronological mean is used.

The calculation of the chronological average presupposes:

I. The calculation of mobile averages, as arithmetic means of two consecutive terms, from which one is repeated:

$$\overline{x_1} = \frac{x_1 + x_2}{2}; \overline{x_2} = \frac{x_2 + x_3}{2}; \overline{x_3} = \frac{x_3 + x_4}{2}; \ldots \overline{x}_{n-1} = \frac{x_{n-1} + x_n}{2};$$

II. Calculation of the chronological average:

1. as simple arithmetic mean of mobile averages, if the intervals between the moments are equal:

$$\overline{x_c} = \frac{\overline{x_1} + \overline{x_2} + \overline{x_3} + \ldots + \overline{x}_{n-1}}{n-1}$$

2. as weighted arithmetic mean of mobile averages, the weights being the intervals between the moments, if these intervals are different:

$$\overline{x_c} = \frac{\overline{x_1} \cdot t_1 + \overline{x_2} \cdot t_2 + \overline{x_3} \cdot t_3 + \ldots + \overline{x}_{n-1} \cdot t_{n-1}}{t_1 + t_2 + t_3 + \ldots + t_{n-1}} \quad .$$

a.2) *The medium benefit* determined as a simple arithmetic mean of the benefits with chain basis:

$$\overline{\Delta} = \frac{\sum \Delta_{k/k-1}}{n} \text{ sau } \overline{\Delta} = \frac{\Delta_{n/0}}{n}.$$

b) *Relative medium indicators*, including:

b.1) *The dynamics medium rate*:

$$\overline{I} = \sqrt[n]{\prod I_{k/k-1}} = \sqrt[n]{I_{n/0}} \ .$$

b.2) *The dynamics minimum rhythm*:

$$\overline{R} = \left(\overline{I} - 1\right) \cdot 100.$$

The medium rhythm is expressed exclusively in percentages.

In order to determinate these indicators, a Turbo Pascal procedure has been realized, easy to attach to a program, presented below.

```
procedure indicatorii_dinamicii;
 type vect=array[1..20] of real;
 var dbf,ibf,rbf,dbl,ibl,rbl,val,t,medm:vect;
    dmed,imed,rmed,med:real;
    raspuns:char;
    i,n,eps:integer;

 procedure citire(var eps,n:integer;var val,t:vect);
  var k:integer;
  begin {procedure citire}
   eps:=0;
   write('Introduceti numarul valorilor din sir: ');
   readln(n);
   for k:=1 to n do
      begin
         write('v(',k,') = ');
         readln(val[k]);
      end;
   write('Seria este de momente de timp (y/n)?');
   readln(raspuns);
   if raspuns = 'y'
     then
       begin
          write('Intervalele dintre momente sunt egale (y/n)?');
          readln(raspuns);
          if raspuns = 'n'
            then
               begin
                  for k:=1 to n-1 do
                     begin
                        write('intervalul ',k,' = ');
                        readln(t[k]);
                     end;
               eps:=1;
               end;
       end;
 end;{procedure citire}
```

```
procedure scriere(n:integer;dbf,ibf,rbf,dbl,ibl,rbl:vect);
var i:integer;
 begin {procedure scriere}
 writeln;
 writeln;
 writeln('Indicatori cu baza fixa');
 writeln('Sporuri/deficite');
 for i:=1 to n-1 do
    begin
       write('  D',i+1,'/1   ');
    end;
 writeln;
 for i:=1 to n-1 do
    write(' ',dbf[i]:7:2,' ');
 writeln;
 writeln('Indici');
 for i:=1 to n-1 do
    begin
       write('  I',i+1,'/1   ');
    end;
 writeln;
 for i:=1 to n-1 do
    write(' ',ibf[i]:7:2,' ');
 writeln;
 writeln('Ritmuri (%)');
 for i:=1 to n-1 do
    begin
       write('  R',i+1,'/1   ');
    end;
 writeln;
 for i:=1 to n-1 do
    write(' ',rbf[i]:7:2,' ');
 writeln;
 writeln;
 writeln('Indicatori cu baza mobila');
 writeln('Sporuri/deficite');
 for i:=1 to n-1 do
    begin
       write('  D',i+1,'/',i,'   ');
    end;
 writeln;
 for i:=1 to n-1 do
    write(' ',dbl[i]:7:2,' ');
```

```
 writeln;
 writeln('Indici');
 for i:=1 to n-1 do
    begin
       write('  I',i+1,'/',i,'   ');
    end;
 writeln;
 for i:=1 to n-1 do
    write(' ',ibl[i]:7:2,' ');
 writeln;
 writeln('Ritmuri (%)');
 for i:=1 to n-1 do
    begin
       write('  R',i+1,'/',i,'   ');
    end;
 writeln;
 for i:=1 to n-1 do
    write(' ',rbl[i]:7:2,' ');
 writeln;
 writeln;
 end; {procedure scriere}

function media_ponderata(n:integer;val,t:vect):real;
 var k:integer;
    sum,ttot:real;
    medmob:vect;
  begin {function media_ponderata}
    sum:=0;
    ttot:=0;
    for k:=1 to n-1 do
     begin
       medmob[k]:=(val[k]+val[k+1])/2;
       sum:=sum+medmob[k]*t[k];
       ttot:=ttot+t[k];
     end;
    media_ponderata:=sum/ttot;
  end;{function media_ponderata}

function media(n:integer;val:vect):real;
 var k:integer;
    sum:real;
    medmob:vect;
  begin {function media}
```

```
    sum:=0;
    for k:=1 to n-1 do
     begin
       medmob[k]:=(val[k]+val[k+1])/2;
       sum:=sum+medmob[k]*t[k];
     end;
    media:=sum/(n-1);
  end;{function media}

 begin {procedure indicatorii_dinamicii}
  citire(eps,n,val,t);
  for i:=2 to n do
    begin
       dbf[i-1]:=val[i]-val[1];
       ibf[i-1]:=val[i]/val[1];
       rbf[i-1]:=(ibf[i-1]-1)*100;
    end;
  for i:=2 to n do
    begin
       dbl[i-1]:=val[i]-val[i-1];
       ibl[i-1]:=val[i]/val[i-1];
       rbl[i-1]:=(ibl[i-1]-1)*100;
    end;
  scriere(n,dbf,ibf,rbf,dbl,ibl,rbl);
  dmed:=dbf[n-1]/(n-1);
  imed:=exp(ln(ibf[n-1])/(n-1));
  rmed:=(imed-1)*100;
  if eps = 1 then med:=media_ponderata(n,val,t)
          else med:=media(n,val);
  writeln;
  writeln('  Media                          = ',med:7:2);
  writeln('  Sporul/deficitul mediu al dinamicii = ',dmed:7:2);
  writeln('  Indicele mediu al dinamicii       = ',imed:7:2);
  writeln('  Ritmul mediu al dinamicii         = ',rmed:7:2);
 end;{procedure indicatorii_dinamicii}
```

Bibliography:

1. Costescu, M.R., Vasilescu, N., Ionaşcu, C., *Statistică şi elemente de teoria sondajului. Ediţia a II a revizuită şi îmbunătăţită (Statistics and survey theory elements. Edition II revised and improved)*, Universitaria Publishing House, Craiova, 2001

2. Costescu, M.R., Ionaşcu, C., *Prelucrarea electronică a informaţiei (Information electronic processing)*, Universitaria Publishing House, Craiova, 2001.

ORIGINAL PAPER

Anca Parmena OLIMID

CROSSROADS OF LAW, RELIGION AND POLITICAL REPRESENTATION: A COMPARATIVE STUDY IN TWELVE CENTRAL AND EASTERN EUROPEAN COUNTRIES

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Abstract: *The increasing number of legal, theological and political studies and publications on "law and religion"[1] in recent years reveals anew academic interest in Central and Eastern Europe after the fall of communism[2]. In contrast to many other Western academic studies, the comparative study on law and religion and related concepts (items) in former communist countries focuses on the religious and democratic rebirth of the region. The present study distinguishes between both sides of the regulation of law and religion: the constitutional developments of the church-state relation and the status of state commitments towards the respect of freedom of religion.*
Keywords:*church, state, religion, rights, religious freedom, Constitution.*

From an empiric perspective, it may be argued that the present study of legal settings of church-state relation includes the following key items of comparison: the historical, cultural and social backgrounds; the constitutional developments of church-state relation; the status of respect of these legal commitments; the legal guarantees for religious freedom; law, religion and human rights, rights of religious organizations (denominations, groups); religion and education (family relations), finance of religion, specific legislation.

Needless to say, a comparative study on these items is particularly valuable in order to understand the legal evolution of church-state models in the European arena and to establish the historical patterns of the religious pluralism in Europe. Each item selected for analysis has its own impact on the fundamentals of relations between church and state. An additional problem for a comparative research on constitutional and other legal settings on religion is that it deals with national comprises and local obstacles. As already pointed out, the church-state relation is projected according to constitutional developments.

Indeed, former communist countries were in a difficult position when it came to the atomized religious Western arena. Recent political events (case study Hungary) proved that the status of respect of state commitments toward religious diversity and cultural or social norms.

Of these indicators, the first one focuses upon focuses on the historical, social and cultural backgrounds of Church-State relations. No doubt, the above mentioned item reveals the importance of common heritage of the "secularized" Europe and accurately "rediscovers" the issue of multiculturalism. This investigation can take several forms. For example, the profound influence of Orthodox Christianity in the historical and social development of the analyzed country is taking place according to the old adagio: "symphony between Church and State" (see the cases of Bulgaria, Greece and Romania).

In its stronger approach, Church influence is conducted in terms on particular legal settings, based on traditional approaches (see the cases of Croatia: *Law on Legal Position of Religious Communities* (2002), Czech Republic:*Law on Churches and religious societies* (2002), Latvia: *Law on Religious Organizations* (1995), Lithuania: L*aw on Religious Communities and Associations* (1995), Poland: *Law regarding the guarantees of freedom of religion and belief* (1989), Romania: *Law on the Freedom of Freedom of Religion and the General Status of Denominations* (2007), Slovakia: *Law on the freedom of religious belief and on the status of churches and religious societies* (2001), Slovenia: *Religious Freedom Act* (2007).

This open-ended discussion on the constructionist background of church-state relations identifies a focus indicator that differentiates systematically the countries involved in this study: the proclamation of a "prevailing religion" (a dominant church) in legal developments. This approach characterized the Greek model where the privileged position of Orthodoxy

assumes a unique model of partnership in the European religious landscape (for more details see Table 1. Item 1 for comparison: historical, social and cultural backgrounds of Church-State relations).

Table 1. Item 1 for comparison: historical, social and cultural backgrounds of Church-State relations

No.	Country	Item for comparison: historical, social and cultural backgrounds of Church-State relations
1	**Bulgaria**	The Orthodox Christianity influences the cultural, historical and social development of Bulgaria according to the adagio "symphony between Church and State". The backgrounds are based on the establishment of the Orthodox Christianity as the "traditional religion" (meaning the prevailing religion) counting nearly seven million citizens. The Muslim religion is the second religion counting 10% of the Bulgarian population.
2	**Cyprus**	The backgrounds were established in the Ottoman Empire by *Hatt-i/Humayun*, an old Imperial rescript offering various forms of religious autonomy to Christian as well as non-Muslim religious communities.
3	**Croatia**	*Law on Legal Position of Religious Communities* adopted on July 4, 2002 governs the organizational environment, "the governing bodies, hierarchy and competences, bodies and persons that will represent the religious communities" (article 2)[3].
4	**Czech Republic**	Since January 1990, the Catholic diocesan bishops are appointed by the Apostolic See without having the approval of the Czech authorities. *Law on Churches and religious societies* (2002) regulates the status, conditions, terms of registration, dissolution of churches and religious societies. They also define the basic terms concerning the relationship between Church and State: "church", "religious society", "adherent", "personal data", "headquarters of a registered church or religious society" (Title I, Section 3. Basic Terms). The backgrounds are grounded on the *Charter of Fundamental Rights and Freedoms* (1991) (as Resolution of the presidium of Czech National Council, part of the constitutional Czech law since 1993)[4].
5	**Greece**	All Greek Constitutions since modern times recognized the prevalence of the Eastern Orthodox religion[5] (each previous Constitution was dedicated to a list of basic civil rights which included religion, spiritual ceremonies, free exercise of religion or freedom of religion;
6	**Hungary**	The basic legislation regarding church-state relations is based on the legal provisions of the *Law on the Freedom of Conscience and Religion and the Churches* (1990)[6]. *Law on Freedom of Conscience and Religion and the Churches* (1990) included particular provision regarding right of freedom of conscience and religion, churches and their status and activity[7]. Freedom of

		conscience and religion were considered as "the fundamental human right of freedom" guaranteed to all citizens including: a. the free choice or acceptance of a religion or other conscientious convictions; b. freedom for everyone to manifest or to abstain from manifesting; (Section 2 § 1, Section 3 § 1 and Section 4). According to Section 5 of the *Law on Freedom of Conscience and Religion and the Churches* the right to decide on the moral and religious education is in charge of parents and guardians. In 2011, Hungary adopted a new Fundamental Law. Furthermore, a new *Law on the Right to Freedom of Conscience and Religion, and on Churches, Religions and Religious Community* was adopted on December 2011 and entered into force in January 2012[8].
7	**Latvia**	Latvia has a multi-confessional arena with three main religions: Catholic, Lutheran and Orthodox. Furthermore, there areother around 170 various denominations or religious groups. The rights and obligations of religious groups are stated in the *Law on Religious Organizations* adopted by the Latvian Parliament in September 1995 and amended in 1997, 1998, 2000[9];
8	**Lithuania**	The basic legislation which regulates the legal aspects regarding religious communities and associations is the *Law on Religious Communities and Associations*(1995 and amended in 1997, 2000)[10];
9	**Poland**	The political transformations begun in 1989 required a new position for the Catholic Church based on the following options: the acceptance of the neutrality of state "understood as a community of believers and nonbelievers" or the challenge of the acceptance of the neutrality of state in the conditions of promoting the Catholic teaching "at the very heart of state organization"[11]. The Polish Constitution of April 1997 governs the relations between church and state in Poland[12]. With respect to the guarantees of freedom of thought of religion and belief, the *Law regarding the guarantees of freedom of religion and belief* (1989)[13] follows the traditional line "of tolerance and religious freedom" in Poland in conformity with the international legislation in this field.
10	**Romania**	The historical, social and cultural backgrounds of Church-State relations reveal a new conception on state, society, church and even politics. This perspective marks the evolution of relations between institutions and religion (see the first provisions on freedom of cults in the view of the 1866 Constitution, *The rights and freedoms of cults in theview of Berlin Treaty* (1878), *The regulation for the church relations of the Romanian Orthodox clergy with heterodox believers or of other communion and with the believers who live in the Kingdom of Romania* (1881). Special provisions concerning church-state relations, the legal regime of cults and interfaith relations are comprised in the *Law on the*

		*Freedom of Freedom of Religion and the General Status of Denominations (*2007)[14].
11	**Slovakia**	The cultural, religious and historical heritage of the Slovak Republic prevails in the preamble of the Constitution as part of the national existence and self-determination. Since 1989, the new legal framework of the church-state relations allowed the restitution of the church properties and a significant financial support for registered churches. The specific legislation is represented by the *Law on the freedom of religious belief and on the status of churches and religious societies*[15].
12	**Slovenia**	The cultural and historical heritage is founded on the special position of the Catholic Church in the Slovenian society. The specific legislation is based on the *Religious Freedom Act*(RFA) (2007)[16].

Since the fall of the communist regime, the fusion of constitutional settings, national identity and self-determination has taken on new fundaments, precisely at the moment of the European integration. The dominant positions of church in transition democracies change the perspectives on religious arena mixing the status of church monopoly with national spirituality. The increasing number of constitutional (legal) settings of fundamentals rights and liberties frequently rank Central and Eastern Europe highly among the countries with a highly degree of religious tolerance. The majority of Constitutions assure a favorable climate in order to respect and guarantee the basic freedoms of democracies.

This is an objective approach allowing to selectively categorizing European religious landscape as "free market". Basically, the constitutional (or other legal developments) state the following rights and freedoms: the freedom of conscience, freedom of thought, freedom of religion, choice of religion, the practicing of the religion, and religious institutions (Bulgaria); the guarantee of the exclusive right of regulating and administrating its own issues and properties according to the Holy Canons and its own Charter (Cyprus);the protection of human rights and fundamental freedoms, the personal and political liberties and rights and the rights of religious communities. (Croatia); the freedom of thought, conscience and religious convictions, the right to profess freely religion (administration of their own affairs) (Czech Republic); the freedom of religious conscience, the exercise of worship, other rights and obligations of religions (Greece); the freedom of religion, free choice or acceptance of a religion, freedom to manifest, freedom to exercise religion (Hungary); the right of thought, conscience and religion (Latvia); the freedom of thought, conscience and religion (Lithuania); the rights of religious organizations, the relationship between church, state, and the Holy See, the protection of religious identity, the guarantee of freedom of conscience and religion (Poland); the freedom of thought, opinion, and religious belief, freedom

of conscience, the proclamation of the principle of equality for all religions before the law and the principle of autonomy of all religious cults (Romania); the freedom of thought, conscience, and religious faith (Slovakia); the freedom of conscience, separation of church and state, the principle of equality in rights of all religious communities, religious and moral education of children (Slovenia).

Table 2. Item 2 for comparison: Constitutional (or other legal) developments

No.	Country	Item 2 for comparison: Constitutional (or other legal) developments
1	**Bulgaria**	The Constitution of Bulgaria (1991) sets up the main legal aspects of the relationship between Church and State concerning the separation between the two of them. Basically, the constitutional settings regard provisions on freedom of conscience, freedom of thought, freedom of religion, choice of religion, the practicing of the religion, and religious institutions[17]. The *Religious Denominations Act* (RDA) of 1949 is applicable to the status of religious denominations in Bulgaria. RDA sets up the legal aspects applying to the regime of religious denominations, religious associations and regarding the structure, the management, the activities and the clergy under the administrative monitoring of the state.
2	**Cyprus**	The backgrounds regard provisions on family law and religious tribunals. The Autocephalous Greek Orthodox Church of Cyprus enjoys the exclusive right of regulating and administrating its own issues and properties according to the Holy Canons and its own Charter (according to article 110 § 3 of the Constitution).
3	**Croatia**	The backgrounds regard provisions on the protection of human rights and fundamental freedoms, the personal and political liberties and rights of religious communities.
4	**Czech Republic**	Czech Constitution provides particular provisions regarding democratic values, freedom of thought, conscience and religious convictions, the right to profess freely religion. The Charter also specifies that fundamental rights and freedoms are guaranteed to all citizens irrespective of "sex, race, color of skin, language, faith, religion, political or other conviction, ethic or social origin, membership in a national or ethnic minority, property, birth, or other status" (article 3 § 1-3).
5	**Greece**	The Greek Constitution states particular developments concerning the prevailing religion, freedom of religious conscience, the exercise of worship, other rights and obligations of religions (see the Second Part of the Constitution of Greece entitled "Individual and Social Rights" (articles 4-25). The most relevant provisions are focused on the prevailing position of the Orthodox Church in Greece (article 3 § 1),

		freedom of religion (article 13), the protection of the property of the Patriarchates in Greece (article 18 § 8) and to the situation of Mount Athos (article 105).
6	**Hungary**	The Fundamental Law of Hungary (April 2011) provides legal regulation for the freedom of religion, free choice or acceptance of a religion, freedom to manifest, freedom to exercise religion[18].In the first page of the fundamental Law of Hungary ("National Avowal"), it is recognized "the role of Christianity" in the preservation of nationhood in Hungary. The "National Avowal" also recognizes and protects religious pluralism: "we value the various religious traditions of our country".
7	**Latvia**	The Latvian Constitution guarantees "the right of thought, conscience and religion" in article 99.
8	**Lithuania**	Constitution of Lithuania guarantees "freedom of thought, conscience and religion" in article 26. The same article particularizes "the right to freely choose any religion or belief in private or in public".
9	**Poland**	The Constitution of Poland provides legal provisions regarding: the rights of religious organizations, the relationship between church, state, and the Holy See, the protection of religious identity, the guarantee of freedom of conscience and religion.Moreover, the right to disclose religious convictions or belief may not be compelled by organs of public authority (article 53 § 7).
10	**Romania**	With respect to the Constitutional developments on the church-state relation, the Romanian Constitution (1991) provides particular provisions on the following directions[19]: freedom of thought, opinion, and religious belief, freedom of conscience, the proclamation of the principle of equality for all religions before the law and the principle of autonomy of all religious cults from the state[20].
11	**Slovakia**	The Constitutional developments guarantee "freedom of thought, conscience, religious creed and faith" (article 24 § 1). According to the same article, the constitutional provisions state that the Slovak state is non-denominational and religiously neutral. The same stipulation is included in article 1 of the *Law on the freedom of religious belief ad on the status of churches and religious societies.*
12	**Slovenia**	The Constitution of the Republic of Slovenia provides particular provisions on: freedom of conscience, separation of church and state, the principle of equality in rights of all religious communities, religious and moral education of children.

In essence, the status of state commitments towards religious communities (groups) / political position of religious communities (groups) often decouples religious identity from the above described national self-

determination and affiliation. This wide spectrum of provisions endorses a key factor: *church involvement in political affairs*. Even considering the constitutional framework, the conceptualization of this relationship is missing. The recognition of the political position of religious communities (groups) plays an important place being inserted in constitutional design with the aim to recognize the right for choosing representatives in national assemblies or parliaments. In many countries, constitutional settings governing the political representation or church-politics relationship is whether directly stated or indirectly arising from the procedure of registration, the framework of activities or the procedure of finance of religious communities or groups.

However, In Bulgaria it is forbidden to use religious communities or religious institutions or religious convictions for political purposes. Per *a contrario*, in Cyprus, according to articles 87, 90 and 109, 160 of the Constitution, each "religious group" has "the right to be represented, by elected member or members of such group, in the Communal Chamber of the Community to which such group has opted to belong as shall be provided by a relevant communal law". Furthermore, in Greece, Greek Orthodox Church enjoys extended rights in the field of the self-administration. More specifically, the Church has the right of promulgation of its own acts in the Official Government Gazette without asking the permission of the State authorities previously (see the other constitutional provisions on the status of state commitments towards religious freedom in Table 3. Item 3 for comparison: status of state commitments towards religious freedom/ Political position of religious communities (groups).

Table 3.Item 3 for comparison: status of state commitments towards religious freedom/ Political position of religious communities (groups)

No.	Country	Item 3 for comparison: status of state commitments towards religious freedom/Political position of religious communities (groups)
1	**Bulgaria**	Article 13§ 4 of the Constitution introduces a strict prohibition concerning the activity of religious communities and religious institutions. Furthermore, it is forbidden to use religious communities or religious institutions or religious convictions for political purposes.
2	**Cyprus**	According to articles 87, 90 and 109, 160 of the Constitution, each "religious group" has "the right to be represented, by elected member or members of such group, in the Communal Chamber of the Community to which such group has opted to belong as shall be provided by a relevant communal law".
3	**Croatia**	The Church-state regulationis focused on the following key issues: the recognition of church and state as "independent bodies" and the regulation of the "ecclesiastic" field. Article 6§ 1 of the *Law on Legal Position of Religious Communities*

		recognizes to religious communities and their organizational units the right to register under the legal provisions of the law by the ministry competent in the Register in accordance with the Constitution of Croatia.
4	**Czech Republic**	According to Article 16 of the *Charter of Fundamental Rights and Freedoms* it is guaranteed the right to appoint priests and organs and to establish religious orders or to organize and conduct institutions independently from the organs of the State.
5	**Greece**	Under the provisions of the *Law 590/1977 "On the Statutory Charter of the Church of Greece",* Greek Orthodox Church enjoys extended rights in the field of the self-administration. More specifically, the Church has the right of promulgation of its own acts in the Official Government Gazette without asking the permission of the State authorities previously[21].
6	**Hungary**	The new law on church conditions, the recognition of a church in terms of the recognition by the National Assembly. Furthermore, the new law differentiates the recognized churches from other religious communities. According to Section 7 § 2, a church is a "legal person".
7	**Latvia**	The Board of Religious Activities is a legal entity created in 2000 under the Cabinet of Ministers, Ministry of Justice to implement state policies in the field of religious affairs, the church-state relations and the impact of regulations on religious exercise. According to article 5 § 5, the Board is in "charge of handling relations between state and religious organizations".
8	**Lithuania**	The "legalization of legal person rights of traditional religious communities and associations" (especially for newly established traditional religious communities is conditioned by the submission of "a report in writing" addressed to the Ministry of Justice "by their authorities".
9	**Poland**	The Polish Constitution provides particular provisions regarding the public authorities in the Republic of Poland and their attitude toward "personal conviction, whether religious or philosophical" (article 25 § 2). Article 53 § 5 states that the freedom "to publicly express religion" is limited only by the "means of statute" and if it is necessary for "the defense of state security, public order, health, morals or the freedom and rights of others".
10	**Romania**	Legislation recognizes "the important role of the Romanian Orthodox Church" in Romanian historical and political life (article 7 § 2 of the *Law on the Freedom of Freedom of Religion and the General Status of Denominations*). Under the provisions of the same law, "recognized denominations" and their components are public utility entities (article 8 § 1). The law is accompanied by a list of 18 recognized denominations in

		Romania.
11	**Slovakia**	The procedure for the registration of a church of religious society is "authorized" by a central bureau ("registering authority") of the national government (articles 10-13 of the *Law on the freedom of religious belief and on the status of churches and religious societies*).
12	**Slovenia**	RFA governs the respect of individual and collective exercise of religious freedom, including particular provisions about churches and other religious communities, prohibition of discrimination, fundamental principles governing the activities of churches and other religious communities, exercise of religious freedom, legal procedure for registration, rights and activities, state authorities responsible for religious communities.

Much over, in majority countries the constitution and other legal settings have major relevance to church-state relations and the prevailing religion. In Bulgaria, for example, Article 10 § 1 of RDA stipulates that Eastern Orthodox is the "traditional denomination" in Bulgaria and in Greece, Section II *Relations of Church and State* of the Part One *Basic Provisions* proclaiming the "Eastern Orthodox Church of Christ" as "the prevailing religion in Greece".

The legal settings governing the church-state relation in Central and Eastern Europe provide alternative understandings as an attempt to mix tradition with the perspective of the European integration: in Cyprus there no prevailing religion, in Czech Republic, political parties and political movements, as well as other associations are separated from the State", in Hungary, the new Constitution proclaims the principle of autonomy of the churches and the principle of the cooperation with all Churches for community goals, in Latvia, the separation between Church and State is stated in article 99 of the Constitution: "the church shall be separated from the state", in Lithuania, Article 2 of the *Law on Religious Communities and Associations* states that "Lithuania does not have a state religion", in Romania, the principle of the autonomy of the church from the state is proclaimed in article 29 § 5 of the Constitution.

In Slovakia, the principle of equality of all churches and religious societies before the law is stated in article 4 § 2 of the *Law on the freedom of religious belief and on the status of churches and religious societies* and in Slovenia the principle of separation of religious communities from the state and the principle of equality in rights for all are stated in article 7 of the Constitution (for a detailed conceptual framework of church-state relations in Central and Eastern Europe see Table 4. Item 4.for comparison. Church-state relations).

Table 4.Item 4.for comparison. Church-state relations

No.	Country	Item 4. for comparison. Church-state relations
1	**Bulgaria**	According to article 13 § 2, religious institutions are separated from the State. According to article 13 § 3, the Orthodox religion prevails: Eastern Orthodox Christianity is considered as the *traditional religion* in the Republic of Bulgaria. Article 10 § 1 of RDA also stipulates that Eastern Orthodox is the "traditional denomination" in Bulgaria.
2	**Cyprus**	The system of relations is similar to the system of Greece according to the "state of law". There is no prevailing, official, or recognized official religion in Cyprus. Furthermore, there are five important religions: the Orthodox Christian, the Islamic, the Maronite, the Armenian, and the Roman Catholic.
3	**Croatia**	According to article 41, all religious communities are equal before the law and they are separated from the State. Moreover, the *Law on Legal Position of Religious Communities* specifically declares the independence of religious communities concerning the "internal organization, governing bodies, hierarchy and competences". According to the *Agreement between the Holy See and the Republic of Croatia on Legal Questions* (1996), the Catholic Church is independent, autonomous (article 1)[22].Article 2 of the same Agreement recognizes the legal status of the Catholic Church and its role in the area of social, cultural and educational endeavor.
4	**Czech Republic**	According to article 20 § 4 of the *Charter of Fundamental Rights and Freedoms*, "political parties and political movements, as well as other associations are separated from the State".
5	**Greece**	The Greek Constitution mentions religion and the relationship between Church and State on its title page (see the official declaration that is mentioned "*In the Name of the Holy and Constitutional and Indivisible Trinity*"[23]). Section II *Relations of Church and State* of the Part One *Basic Provisions* proclaims the "Eastern Orthodox Church of Christ" as "the prevailing religion in Greece".
6	**Hungary**	The new Fundamental Law of Hungary specifically provides the separation of Church from the State in Section entitled "Freedom and Responsibility", Article VII § 2.In It also proclaims the principle of autonomy of the churches and the principle of the cooperation with all Churches for community goals. Under the new Law on churches, from 300 churches registered only 14, and then 27 churches

		were officially recognized after the hearing in the Hungarian Parliament in February 2012[24]. The initiative for the recognition Is primarily addressed to the "parliamentary committee dealing with religious affairs" (Section 14) .
7	**Latvia**	The separation between Church and State is stated in article 99 of the Constitution: "the church shall be separated from the state". The fundamental legal sources regarding the church-state relations are comprised by the *Law on Religious Organization* (1995). The purpose of the Law was to "regulate social relations established through exercising the right to freedom of conscience and through engaging in the activities of religious organizations" (see article 2 § 1). The same law specifically states that "the state is separate from the church in the Republic of Latvia" (article 5 § 1) and "the state shall protect the legal rights of religious organizations". Furthermore, article 5 § 2 specifically state that the state, municipalities and other institutions, nongovernmental and other organizations" will not be authorized to interfere with the religious activities of religious organizations".
8	**Lithuania**	Article 2 of the Law on Religious Communities and Associations states that "Lithuania does not have a state religion". In this direction, the same law also guarantees the principle of equality before the law regardless the religion they practice, their religious beliefs or their relationship with religion.
9	**Poland**	Article 25 § 1 of the Polish Constitution states that churches and other religious organizations enjoy "equal rights". Furthermore, the Constitution states two principles as basis for the relationship between the state and churches in Poland: "the principle of respect" for the "autonomy and the mutual independence of each in its own sphere" and "the principle of cooperation for the individual and the common good" (article 25 § 2 and 3). The special relationship between the Republic of Poland and the Roman Catholic Church is treated in article 4.In conformity to article 9 § 2 of the *Law regarding the guarantees of freedom of religion and belief*, it is guaranteed the principle of separation of church (religious associations) from the state according to their legal situation. The same law proclaims the secularity and neutrality of the Polish state and the independence of churches (religious associations) "in performing their religious functions" (articles 10-11 of the above mentioned law).

10	**Romania**	The principle of the autonomy of the church from the state is proclaimed in article 29 § 5 of the Constitution: "religious cults shall be autonomous from the State". The *Law on the Freedom of Freedom of Religion and the General Status of Denominations* specifies that there is no state religion (as prevailing religion) in Romania (article 9 § 1).
11	**Slovakia**	The principle of equality of all churches and religious societies before the law is stated in article 4 § 2 of the *Law on the freedom of religious belief and on the status of churches and religious societies.* The same Law states that the forms of cooperation between churches and religious societies and the state are the "cooperation agreements".
12	**Slovenia**	Article 7 of the Constitution of the Republic of Slovenia proclaims the two legal principles that are crucial in legal settings of the church-state relations: the principle of separation of religious communities from the state and the principle of equality in rights for all religious communities. Accordingly, the Constitution provides that in Slovenia there is no prevailing religion (no state church).

On this legal ground, however, while some constitutions prefer the formula of the prevailing religion ultimately the constitutional settings protect religious freedom. As new, the process of guaranteeing religious freedom is a typical item for comparison requiring citizens access to religious agenda. For these reasons, the challenge of the legal provisions on religious freedom lies in changing citizens' interest in an emerging conception about "freedom" and "religion".

Examples to this item are abundant and the comparative research involves prohibitions and controversies: right to religious freedom, the exercise of religious beliefs, forms of expression, the rights included, particular restrictions (Bulgaria), freedom of religions and to demonstrate religious (Croatia), freedom of thought, conscience and religious conviction (Czech Republic), freedom of religious conscience and enjoyment of civil and individual rights (Greece), freedom of thought, conscience and religion (Hungary), the right of thought, conscience and religion (Latvia), freedom of religion, right to choose freely any religion or faith (Lithuania), freedom of conscience and religion (Poland), freedom of thought, opinion, and religious belief (Romania), freedom of religious creed and faith (Slovakia), freedom of conscience and belief (Slovenia).

Table 5.Item 5 for comparison. Guaranteeing freedom of religion

No.	Country	Item 5 for comparison. Freedom of religion
1	**Bulgaria**	It is guaranteed according to article 37 of the Constitution. Freedom of religion shall not be restricted in the detriment of national security, public order, public health and morals etc.RDA specifically develops the ”right to religious freedom” in Chapter Two, articles 5-7 establishing the following approches: the exercise of religious beliefs, forms of expression, the rights included and other particular restrictions.
2	**Cyprus**	It is guaranteed according to articles 18 and 28 of the Constitution.
3	**Croatia**	It is guaranteed according to articles 40, 14 and 17 of the Constitution. Article 40 of the Constitution specifically guarantees freedom of religions and to demonstrate religious. Article 7 also guarantees the freedom to exercise religious services and the inviolability of the places of worship.
4	**Czech Republic**	Freedom of thought, conscience and religious conviction is protected according to article 15 § 1 of the *Charter of Fundamental Rights and Freedom.* The same article establishes that “nobody may be forced to perform military service against his or her conscience or religion”.
5	**Greece**	According to Article 13 § 1, freedom of religious conscience is guaranteed and the “enjoyment of civil and individual rights” independently from the religious conviction of each citizen.
6	**Hungary**	It is guaranteed in Section “Freedom and Responsibility”, Article VII § 1:”every person shall have the right to freedom of thought, conscience and religion”. The legal provision expressly includes in this right “the freedom to choose or change religion or any other persuasion, and the freedom for every person to proclaim, refrain from proclaiming, profess or teach his or her religion or any other persuasion by performing religious acts, ceremonies or any other”. However, the new law on churches guarantees “the right to freedom of conscience and religion”, without including “the right to freedom of thought” or “the right to freedom of conviction”[25].
7	**Latvia**	The right of thought, conscience and religion is guaranteed in article 99 of the Constitution. The same right is also guaranteed in the *Law on Religious Organization* in article 2 § 2 which states that “the purpose of the this Law shall be to grant the inhabitants of Latvia the right to freedom of

		religion, including the right to freely state one's attitude towards religion, to adhere to some religion", individually or in a community.
8	**Lithuania**	Freedom of religion expressly is guaranteed by article 26 of the Constitution. It is also guaranteed by the *Law of Religious Communities* in article 2 entitled "Right of Freedom of Religion". According to the same article every citizen "shall have the right to choose freely any religion or faith and to also change his choice individually or with others".
9	**Poland**	Freedom of conscience and religion are guaranteed in article 53 § 1 of the Polish Constitution. Article 53 § 2 of the Constitution also states that "freedom of religion" includes "the freedom to profess or to accept a religion by personal choice as well as to manifest such religion, either individually or collectively, publicly or privately". The *Law regarding the guarantees of freedom of religion and belief* recognizes in art. 1 § 1 "freedom of conscience and belief to all citizens".
10	**Romania**	Article 29 § 1 of the Romanian Constitution states that "freedom of thought, opinion, and religious belief" shall not suffer any restriction "in any form whatsoever"[26]. Furthermore, article 30 § 1 of the Constitution guarantees the inviolability of "the freedom of expression of thoughts, opinions, or beliefs, and freedom of any creation, by words, in writing, in picture, by sounds or other means of communication in public". The *Law on the Freedom of Freedom of Religion and the General Status of Denominations* guarantees "the fundamental right to freedom of thought, conscience and religion" for all individuals (article 1 § 1).
11	**Slovakia**	Freedom of religious creed and faith are stated in article 24 § 1 and 2 of the Slovak Constitution and Title One. *General Stipulations*, article 1 § 1 of the *Law on the freedom of religious belief and on the status of churches and religious societies.*
12	**Slovenia**	Freedom of conscience and belief is protected by the Constitution. Under the same provisions, the profession in private and public life of religious and other belied is free.In addition, article 2 § 1 of RFA states that religious freedom is "inviolable and guaranteed".

The constitutional or other legal aspects regarding the rights of religious organizations (communities, denominations, groups) is governed in

selected countries by a various set of specific settings taking into account the following areas: religious communities (denominations, groups) as legal entities, organizational entities, particular groups with specific rules covering internal structure, family relations, procedure of registration. The various laws on church, religious associations (denominations, or groups) mainly focus on: 1. recognizing religious communities and their subunits functioning as non-legal entities (see the case of Croatia); 2. making the difference separately between the following terms: ”religious denomination”, “religious community”, “religion institution” (Bulgaria); “church”, “religious community” (Croatia); “church”, “religious societies” (Czech Republic); “church”, “other religious groups” (Hungary);“religious activities”, “religious denominations”, “officials of religious organizations”, “ecclesiastics of religious organizations”, “ritual items”, “Christian teaching”, “religious teaching”, “chaplain” (Latvia), “religious community”, “religious associations”, “religious centers” (Lithuania), churches and other religious associations (Poland), “religious group” (Romania), “church”, “religious societies” (Slovakia), “church”, “other religious community” (Slovenia); 3. proclaimingthe maintenance of the autocephalous regime and the principle of self-governance or autonomy for a certain church, in particular, or for all religious groups, in general: (Greece, Hungary); 4. stating the procedure of registration or termination of a certain religious of a religious community, religious associations and religious centers (Lithuania).

Table 6.Item 6 for comparison: rights of Religious organizations (communities, denominations, groups)

No.	Country	Item 6 for comparison: Rights of Religious organizations (communities, denominations, groups)
1	**Bulgaria**	Religious denominations are recognized as legal persons only if they are registered at the Directorate of Religious Denominations. Chapter Three, articles 14-17 of RDA details the conditions and procedures needed for the religious communities to acquire legal entity status: registration and the by laws of a religious denomination. The transitional and final provisions of the RDA define separately the following terms and concepts: ”religious denomination”, “religious community”, “religion institution”.
2	**Cyprus**	There are three “religious groups” according to article 110 § 3 of the Constitution and Appendix E of the Treaty of Establishment between United Kingdom, Greece, Turkey (1960) (“Statement concerning the Rights of Smaller Religious Groups in Cyprus”). According to article 2 § 3, a

		"religious group" means a "group of persons ordinarily residents in Cyprus professing the same religion and either belonging to the same rite or being subject to the same jurisdiction thereof the number of whom, on the date of the coming into operation of this Constitution, exceeds one thousand out of which at least five hundred become on such date citizens of the Republic"[27]. Beside the five mainly religions, other religions such as the Jews, the Jehovah's Witnesses etc. are not recognized as "religious groups" in Constitutional understanding, but, however, they enjoy constitutional freedoms such as: religious freedom.
3	**Croatia**	*Law on Legal Position of Religious Communities* guarantees also "the promotion of faith" for all religious communities in their activity. The same Law defines "a church" or "a religious community" in its article 1 guaranteeing "equal public performance of religious ceremonies and other manifestations of their faith" for all religious communities registered in the *Register of religious communities in the Republic of Croatia* (see articles 20-22). According to article 6 § 3 religious communities and their subunits function as non-legal entities.
4	**Czech Republic**	Religious instruction is governed by the provisions of the *Charter of Fundamental Rights and Freedoms* (article 16 § 3). The Czech legal system refers to "church" or "religious societies" without any legal distinction between the two of them.
5	**Greece**	As part of the religious freedom, the Constitution of Greece particularizes the profession of religion referring only to "every known religion". Article 13 § 3 guarantees the profession of religion as an individual or social right. Furthermore, the right to profess religion is individually or in a community recognized without offending public order or moral of the Greek social conditions. The Constitution of Greece (article 3 § 1) establishes the basic principles for the organization of the Orthodox Church in Hellenic Republic: a. the inseparable unity with the Ecumenical Patriarchate and with all other Church of the same denomination; b. the maintenance of the autocephalous regime in Greece and c. the principle of self-governance for the Greek Orthodox Church.
6	**Hungary**	Chapter III "Rules of the recognition as church and the registration" details the legal conditions for an association to be recognized as a church. According to the new law of churches, Section 7 § 3, the field of activities accepted for a church includes only religious activities "which are not

		contrary to the Fundamental Law, do not conflict with rules of law, and do not violate the rights and freedoms of other communities, or human dignity". The new establishes a clear distinction between churches and different other religious groups. In terms of organizations, a church is considered as an autonomous organization sharing similar principles of faith ad operating in order to practice its own religious activities[28]. Section 6 of the new law details 15 activities not considered as religious activities *per se.*
7	**Latvia**	The first article of the law "Terms Used in This Law" distinguishes the following key terms: "religious activities", "religious denominations", "officials of religious organizations", "ecclesiastics of religious organizations", "ritual items", "Christian teaching", "religious teaching", "chaplain". Concerning the organization of religious groups in Latvia, the law states three types of organization: "church congregations, religious associations and dioceses" (article 3§ 1-3). According to article 5 § 2, the state is engaged to protect "the legal rights of religious organizations as prescribed by law". Article 7 of the same Law regulate the "procedure for establishing religious organizations" and nominating the institutions of religious organizations according to their own Charter. The rights and activities of a religious organization are stated in articles 13 and 14. The procedures for dissolving and reorganizing religious organizations as well as the termination of activities of a religious organization are stated in article 17 and 18 of the same law.
8	**Lithuania**	Articles 4 and 7 of the *Law on Religious Communities* and Associations state: the definition of a religious community, religious associations and religious centers, the traditional recognized religious communities and associations in Lithuania, the recognition of other religious activities and the basic principles of state and religious community and association relations (see also article 42 of the Constitution). "The right to freely organize in accordance with their hierarchic and institutional structure" is recognized to religious community and associations in article 6. The procedure for the legalization of legal rights of traditional religious communities and associations is regulated in article 10 of the Law on Religious Communities and Associations. The procedure for the registration internal cooperation and suspension or cessation of activity of a religious community or association is detailed in articles 11-12 and 18-20. All recognized religious communities have

		the "right to engage in publishing, production and economic activity".
9	**Poland**	With respect to right to create religious organizations, article 2 § 1 and 2 of the*Law regarding the guarantees of freedom of religion and belief* grants to all its citizens the right to "create religious organizations", named "churches and other religious associations" with the purpose "to practice and promulgate religious faith" in accordance with "the principles of their religion". In conformity to article 5 of the same law, citizens have the right to join churches or other religious associations. The same law in Section II entitled "The relation of the state to churches and other religious associations" specifically states that the activity of churches and other religious activities has to limit to the constitutional framework. In Section III it presents the legal procedure of creation (registration) of churches and other religious associations. Article 19§ 1 distinguishes the religious functions of churches and religious associations.
10	**Romania**	The right of religious communities to freely choose "the association structure" under the safeguarding of the Romanian Constitution and laws (article 5 § 3 and 4) is recognized by the *Law on the Freedom of Freedom of Religion and the General Status of Denominations*. The same law distinguishes the religious group as "a form of association" of individuals without a legal entity who freely "adopt, share and practice the same religion" and a religious association as "a private-law legal entity" who "adopt, share and practice the same religion" (article 6 § 1 and 2).
11	**Slovakia**	In conformity with the legal provision of the *Law on the freedom of religious belief and on the status of churches and religious societies,* all churches and religious societies are legal entities (article 4 § 1) and they are recognized by the state only if they are officially registered (article 4 § 4). The legal procedure regarding the registration of churches and religious societies is detailed in Title Three. *Registration of Churches and religious societies*. All the specific activities that churches and religious societies may fulfill are described and detailed in article 6 § 1 of the same law.
12	**Slovenia**	Article 7 of RFA defines church or other religious community as "a voluntary, non-profit association of mutual persons of identical religious belief", created, organized and structured with the purpose to profess religion. The legal procedure for the registration of a church or other religious community is detailed in articles 13-20 including: application, registration procedure, and entry in the

		register, restrictions and refusal of application. RFA establishes the legal settings and rights of recognized churches such as: religious spiritual care in army, police, prisons, hospitals.

Many of the laws, treaties and agreements described in previous items include typical legal provisions on religion and education and/ or family relations. Examining the item of religion and education and/ or family relations requires the examination of the legal procedure concerning the establishment of ecclesiastical schools, the doctrine followed in primary and secondary schools, the right of parents to secure children education in accordance with their religious convictions or beliefs, the right to manage and conduct and manage religious services, open schools, academies or other educational institutions, the right to offer religious education at all levels, the religious education in public schools.

Table 7.Item 7 for comparison: Religion and Education/ Family relations

No.	Country	Item 7 for comparison: Religion and Education/ Family relations
1	**Bulgaria**	According to article 53 § 1, the right to education is recognized to everyone. Moreover, citizens or organizations are free to found school in accordance with conditions and procedure established by law. RDA specifically stipulates that legal provisions concerning the establishment of ecclesiastical schools (secondary schools and higher education institutions) according to the needs of every registered religious community upon the permission by the Minister of Education and Science (see Chapter V. *Medical, Social, and Educational Institutions of Religious Denominations*).
2	**Cyprus**	The Doctrine of the Eastern 0rthodox Church is followed in primary and secondary schools. According to article 19, the right to receive or to give instruction or education, including the right of parents to secure children education is in accordance with their religious convictions. According to article 111, "any matter relating to betrothal, marriage, divorce, nullity of marriage, judicial separation or restitution of conjugal rights or to family relations" were governed by the law of the Greek Orthodox Church.
3	**Croatia**	According to article 41 of the Constitution, all religious communities have the right to manage and conduct "religious services, open schools, academies or other institutions"'. Article 11 § 1 of the *Law on Legal Position of*

		Religious Communities guarantees also the right to establish schools and educational institutions according to the law.
4	**Czech Republic**	According to Article 16 of the *Charter of Fundamental Rights and Freedoms*, churches have the right to offer religious education at all levels.
5	**Greece**	According to article 13 § 3, all religions have the obligation towards the State and to the same state authority supervision: especially Ministry of National Education and Cults (with the following subunits: Department of Ecclesiastical Administration, Department of Ecclesiastical Education and Religious Instruction, Department of Persons of a Different Cult and a Different Religion[29]).
6	**Hungary**	According to Section 2 the right to decide on the moral or religious education belongs to the parents or guardians. The state will assure the "costs of religious and moral studies" and "the public institution" will ensure the material conditions.
7	**Latvia**	The *Law on Religious Organizations* regulates the legal aspects regarding religious teaching in article 6 entitled "Religious Organization and Education". Religious education is conditioned by a written application submitted by the parent or guardian if the minor is less than 14 years (article 6 § 2). The right to establish educational institutions belongs only to registered religious associations or dioceses.
8	**Lithuania**	The legal settings providereligious and moral education belongs to parents and guardians (article 2 of the same law and article 26 of the Constitution). Article 6 of the same law states that all religious communities and associations as legal entities "may obtain state support for culture, education and charity" in accordance with the procedures and conditions of the law (see also article 40 of the Constitution). Furthermore, "religious instruction" may be provided in houses of prayer or other educational and training institutions "upon request by parents" (according to article 9).
9	**Poland**	Article 53 § 2 states that parents are in charge "to ensure their children a moral and religious upbringing and teaching in accordance with their convictions".
10	**Romania**	In conformity to legal settings, freedom of religious education is guaranteed by the state according to the specificity of each religious cult. The same article provides a special provision regarding the religious education in public schools. In legal conditions, religious education "is organized and guaranteed by law". The constitutional framework also

		establishes in article 29 § 6 that in accordance with their convictions, the education of minor children is in charge of parents or legal tutors (a similar provision is comprised in the *Law on the Freedom of Freedom of Religion and the General Status of Denominations* article 3). Section II of the same Law provides the legal procedure of recognition as a denomination. The procedure requires an application at the Ministry of Culture and Religious Denominations.
11	**Slovakia**	The Constitution also guarantees for religious communities the right to organize and constitute their internal structure, to appoint the clergyman, to organize the religious education under the respect of law (article 24 § 3). The same Law in Title II. *Churches and religious societies*, article 4 § 1 defines, "a church or religious society" as "a voluntary association of individuals of the same religious faith organized on the basis of their common adherence" to the same religious faith in accordance with the internal organization of that particular church or religious society.
12	**Slovenia**	According to the provisions of the Constitution, parents have the right to a religious and moral teaching in accordance to their belief and conviction. The guidance must be in accordance with their age and maturity (article 41). Article 10 of RFA states that religious education of children is in charge of parents with the respect of "their body and mental inviolability".

Even if the state guarantees the principle of equality of all religious communities before the law, there are some controversies concerning the finances. In the case of finance of religions, the research deals with the decision to finance religious activities: in Bulgaria, all religious activities are subject to an "annual financial statement" and "an independent financial audit", in Cyprus, there is no special religious tax. The state does not fund religious groups, but it contributes to the operations of construction or repair of religious edifices, in Croatia, the state budget provides the funds that will be allocated for religious communities, in Czech Republic,the right to administer and regulate their own affairs is independently separate from the organs of the State, in Greece, the "synodal committees" are in charge with the Christian education, the interfaith relations, the social conditions and the finances of the Church, in Hungary, churches may receive funding "from the subsystems of general government, in Latvia a registered religious organization may be engaged in a business activity in compliance with the Law, in Lithuania, the state may support religious instruction according "to procedure established by law and other normative acts", in Poland, religious communities are exempt from tax on revenues from their non-profit activity", in Romania, all expenditures of denominations for

their activities are financed from "their own income", in Slovakia, recognized churches and religious communities have the right to administrate their own affairs, and in Slovenia, the state may support for the payment of social security contributions.

Table 8.Item 8 for comparison: Finance of religion

No.	Country	Item 8 for comparison: Finance of religion
1	**Bulgaria**	RDA details the legal rights of religious denominations concerning property and finance in Chapter Four, articles 21 – 29. All religious denominations that have acquired legal entity status according to the procedures and conditions provided by RDA, shall have the right to own properties, or produce or sell goods in direct connection with their "activities, rituals, and rites". According to article 25 § 2 of RDA all activities under these articles are subject to an "annual financial statement" and "an independent financial audit".
2	**Cyprus**	There is no special religious tax. The state does not fund religious groups. The state contributes the operations of construction or repair of religious edifices.Beginning with 1999, the state pays the salaries of the clergy of the "religious groups".
3	**Croatia**	Article 17 of the *Law on Legal Position of Religious Communities*, the stateprovides the resource for operations of religious communities. The state budget also provides the funds that will be allocated for religious communities and the annual amount according to the type and importance of religious structures and activities in the fields of "upbringing, education, social issues, health and culture and contribution to national culture" (article 17 § 2 and 3).
4	**Czech Republic**	According to Article 16 § 2 and 3, churches and religious societies have the right to administer and regulate their own affairs independently of organs of the State. The state support and sustain Church activity. It also offers financial support for the payment of the salaries of the clergy and the repairs of the buildings.
5	**Greece**	According to the *Statutory Charter of the Greek Orthodox Church*, the "synodal committees" are in charge with the Christian education, the interfaith relations, the social conditions and the finances of the Church.
6	**Hungary**	According to Section 24, state or local governments may finance "instructive or educational institutions" "according to the needs of students and their students". According to

		Section 19, churches may receive funding "from the subsystems of general government, from programmes financed from EU funds on the basis of international agreements".
7	**Latvia**	According to article 6 § 5, Christian religion is financed by the state budget. According to the articles 15 and 16, a registered religious organization may be engaged in a business activity in compliance with the *Law "On Entrepreneurial Activities"* and it may possess movable property and real estate including "church buildings, objects of art and other property".
8	**Lithuania**	The property rights of religious community, associations and centers are stated in article 13 and it includes: "the right of ownership to houses of prayer, residential houses and other building". The state may support religious instruction according "to the procedure established by law and other normative acts" (see article 14).
9	**Poland**	The legal foundations of the finance of churches (religious associations) are regulated in article 13 of the *Law regarding the guarantees of freedom of religion and belief* stating that they "are exempt from tax on revenues from their non-profit activity".
10	**Romania**	According to the *Law on the Freedom of Freedom of Religion and the General Status of Denominations,* the finance of denominations isalso supported by public authorities in "matters of common interest (see article 9 § 3). All expenditures of denominations for their activities are financed from "their own income" (article 10 § 1). The state support the activity of denominations by paying "on request" "funds for the clerical and non-clerical staff" (article 10 § 4 and article 32).
11	**Slovakia**	According to article 24 § 3, recognized churches and religious communities have the right to administrate their own affairs.
12	**Slovenia**	Article 27 § 1 of RFA describes the legal settings for churches and other religious communities to obtain "the right to targeted state financial support from the national budget" for the purpose of covering the social security contribution. Article 27 § 2 states that the state may support the salaries of the clergy under the conditions of the law.Article 28 of the same law details the procedure of "financing of state support for the payment of social security contributions".

Annex 1. **Specific legislation on church-state relation and freedom of religion in selected countries**

No.	Country	Specific legislation on church-state relation and freedom of religion in selected countries
1	**Bulgaria**	Constitution of Bulgaria (1991) articles 6, 11, 13, 58; The Religious Denominations Act (RDA) was adopted by National Assembly of the Republic of Bulgaria on December 20, 2002[30]
2	**Cyprus**	Constitution of Cyprus, articles 2, 18, 19, 22, 37, 87, 109, 110, and 111, 160; Treaty of Establishment between United Kingdom, Greece, Turkey (1960).
3	**Croatia**	Constitution of Croatia, articles 14, 17 40; Law on Legal Position of Religious Communities (2002);Agreement between the Holy See and the Republic of Croatia on Legal Questions (1996).
4	**Czech Republic**	Law on Churches and religious societies (2002); Constitution of the Czech Republic; Charter of Fundamental Rights and Freedoms (1991).
5	**Greece**	Constitution of Greece (1975), articles 4-25; Law 590/1977 "On the Statutory Charter of the Church of Greece";Statutory Charter of the Greek Orthodox Church.
6	**Hungary**	Fundamental Law of Hungary, Section "Freedom and Responsibility" (2011); Law on the Right to Freedom of Conscience and Religion, and on Churches, Religions and Religious Community (2012).
7	**Latvia**	Constitution of Latvia; Law on Religious Organizations (1995).
8	**Lithuania**	Constitution of Lithuania; Law on Religious Communities and Associations (1995 and amended in 1997, 2000).
9	**Poland**	Constitution of Poland (1997); Law regarding the guarantees of freedom of religion and belief (1989).
10	**Romania**	Constitution of Romania (1991); Law on the Freedom of Freedom of Religion and the General Status of Denominations (2007).
11	**Slovakia**	Constitution of the Slovak Republic (1992); Law on the freedom of religious belief and on the status of churches and religious societies (2001).
12	**Slovenia**	Constitution of the Republic of Slovenia. Religious Freedom Act (2007).

In conclusion, the legal settings on state, church, religion and freedom of religion tends to fall into two categories: provisions of particular developments with respect to the dominant position of especially one church and provisions

with respect to the principle of equality and autonomy of all religious denominations (communities, groups) before the law. Nevertheless, the past five years have an important role in the comparative analysis of selected countries and the effects of legal settings on interfaith relations. Moreover, these provisions seek to find a European model of church-state relations linking the guaranteeing of religious freedom and other fundamental freedoms and rights.

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Notes:

[1] The term "law and religion" is defined by Russell Sandberg as a concept of how "law and religion interact" involving two dimensions: the external dimension: "religion law", laws "made by the State" and the second dimension: "religious law", including norms, instruments and internal regulations "made by the religious groups" (see other historical, cultural and legal development on religion law and religious law in Russell Sandberg, *Law and Religion (Chapter What is "law and religion")* , Cambridge, Cambridge University Press, 2011, pp . 1-16.

[2] In addition, to propound a "complete constitutional framework" of religion and religious freedom in European context after the Orthodoxy integration in 2007, we take into account the case study of Greece .

[3]According to the translation by Kristijan Lepesic in W. Cole Durham, Silvio Ferrari, *Laws on Religion and the State in Post-Communist Europe*, Leuven, Uitgeverij Peeters, Leuven (Belgium), 2004, pp. 93-104.

[4] See Resolution of the presidium of Czech National Council Nr. 2/1993 Coll.to republication of Charter of fundamental rights and freedomsas component part of constitutional order of the Czech Republic CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS amended by constitutional act Nr. 162/1998 Coll. *(came into force 1st of January 1999)* available at the following address: http://spcp.prf.cuni.cz/aj/2-93en.htm.

[5]According to the official translation into English of the Constitution of Cyprus available at the following address:http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf?openelement.

[6] According to the translation by Balázs Schanda in W. Cole Durham, Silvio Ferrari, *op. cit.*, pp. 153-162

[7] According to the translation by Nemzeti Kulturalis in W. Cole Durham, Silvio Ferrari, *op. cit.*, pp. 153-161

[8] Translation by European Commission for Democracy Through Law (Venice Commission), *Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, denominations and Religious Communities of Hungary* (Strasbourg, February 2012) available at the following address: http://www.venice.coe.int/docs/2012/CDL-REF(2012)009-e.pdf.

[9] Translation by Latvian Board of Religious Affairs in W. Cole Durham, Silvio Ferrari, *op. cit.*, pp. 163- 176.

[10] Translation by the Office of the Seimas of the Republic of Lithuania in W. Cole Durham, Silvio Ferrari, , *op. cit.*, pp. 177- 187.

[11] For more details about the social conditioning of church after 1989 in Poland see Michaeł Pietrzak, *Church and State in Poland* in W. Cole Durham, Silvio Ferrari, *op. cit.*, pp. 218-219.

[12] See the official translated version of the Polish Constitution on the website of the Polish Parliament at the following address: http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm.

[13] According to the translation by Robert Schwartz in W. Cole Durham, Silvio Ferrari, *op. cit.*, pp. 213-232.

[14] The *Law on the Freedom of Religion and the General Status of Denominations* was published in the Official Journal, Part I, issue 11, January 8, 2007.

[15] According to the translation by Jonathan Tichy in W. Cole Durham, Silvio Ferrari, *op. cit.*, pp. 301-310.

[16] According to the unofficial translation by the Religious Freedoms Act in Slovenia available at the following address: http://www.arhiv.uvs.gov.si/fileadmin/uvs.gov.si/pageuploads/anglesko/zakonodaja/RELIGIOUS_FREEDOM_ACT_-_koncna_verzija.z_odlocbo_DZ.pdf.

[17] According to the official translation into English of the Constitution of Bulgaria available at the following address http://www.parliament.bg/en/const.

[18] The official version of the Fundamental Law of Hungary is available on Hungarian Government website at the following address: http://www.kormany.hu/download/2/ab/30000/Alap_angol.pdf.

[19] For a detailed presentation of the general provisions of the Romanian constitutionalism in a comparative analysis see: Cosmin Lucian Gherghe, *The evolution of constitutionalism in Romania beyond 1989. Case study: The Constitution of 1965 and the Constitution of 1991* in "Revista de Ştiinţe Politice. Revue des Sciences Politiques", no. 35/ 2012, pp. 401-407.

[20] According to the official translation of the Romanian Constitution available on the website of the Romanian Parliament at the following address: http://www.cdep.ro/pls/dic/site.page?id=371.

[21] More about the fields of legislative initiative of the Greek Orthodox Church in Charalambos K. Papastathis, *Religious Self-Administration in the Hellenic Republic* in Gerhard Robber, *Church Autonomy: A Comparative Survey*, Frankfurt am Main, Peter Lang, 2001. Article available online at the following address: http://www.strasbourgconsortium.org/content/blurb/files/Chapter%2020.%20Papastathis.pdf (Strasbourg Consortium. Freedom of Conscience and Religion at the European Court of Human Rights)

[22] More details on the *Agreement between the Holy See and the Republic of Croatia regarding their collaboration in the fields of education and culture* (December 19, 1996) are available at the following address: http://www.vatican.va/roman_curia/secretariat_state/index_concordati-accordi_en.htm.

[23] According to the official translation into English of the Constitution of Greece available at the following address http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf.

[24] For a detailed report on the consequences of the new law on churches in Hungary see the Report of the European Commission for Democracy Through Law (Venice Commission), *Opinion*

on Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, denominations and Religious Communities of Hungary, adopted by the Venice Commission at its 90th Plenary Session (Venice, 16-17 March 2012) available at the following address: http://www.venice.coe.int/docs/2012/CDL-AD(2012)004-e.pdf, p. 14.

[25] *Ibidem*, p. 6.

[26] Cosmin Lucian Gherghe, *op. cit.*, pp. 403-405.

[27] According to the official translation into English of the Constitution of Cyprus available at the following address http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf?openelement.

[28] Report of the European Commission for Democracy Through Law (Venice Commission), *Opinion on Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, denominations and Religious Communities of Hungary* …, p. 6.

[29] More about the Greek national education system and the supervision of religion see Charalambos K. Papastathis, *Greece: A Faithful Orthodox Christian State* (national report) available at the following address http://www.iclrs.org/content/blurb/files/Greece.2.pdf (International Center for Law and Religion Studies http://www.iclrs.org/index.php?pageId=4).

[30] According to the translation by Kalina Miller in W. Cole Durham, Silvio Ferrari, *op. cit.*, pp. 77-92.

Bibliography:

Cosmin Lucian GHERGHE, *The evolution of constitutionalism in Romania beyond 1989. Case study: The Constitution of 1965 and the Constitution of 1991* in "Revista de Ştiinţe Politice. Revue des Sciences Politiques", no. 35/ 2012, pp. 401-407.

Charalambos K. Papastathis, *Religious Self-Administration in the Hellenic Republic* in Gerhard Robber, *Church Autonomy: A Comparative Survey*, Frankfurt am Main, Peter Lang, 2001

Charalambos K. Papastathis, *Greece: A Faithful Orthodox Christian State* (national report) available at the following address http://www.iclrs.org/content/blurb/files/Greece.2.pdf (International Center for Law and Religion Studies http://www.iclrs.org/index.php?pageId=4)

MichałPietrzak, *Church and State in Poland* in W. Cole Durham, Silvio Ferrari, *Laws on Religion and the State in Post-Communist Europe*, Leuven, UitgeverijPeeters, 2004

Russell Sandberg, *Law and Religion (Chapter What is "law and religion")* , Cambridge, Cambridge University Press, 2011.

Translation into English of the Constitution of the Republic of Bulgaria available at the following address http://www.parliament.bg/en/const

Translation into English of the Constitution of Croatia available at the following address: http://www.sabor.hr/Default.aspx?art=2405

Translation into English of the Constitution of the Republic of Cyprus available at the following address:http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf?openelement.

Translation into English of the Constitution of the Czech Republic available at the following address: http://www.hrad.cz/en/czech-republic/constitution-of-the-cr.shtml

Constitution of Greece available at the following addresshttp://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf.

Translation into English of the Fundamental Law of Hungary is available on Hungarian Government website at the following address: http://www.kormany.hu/download/2/ab/30000/Alap_angol.pdf

Translation into English of the Constitution of the Republic of Latvia available at the following address: http://www.saeima.lv/en/legislation/constitution

Translation into English of the Constitution of the Republic of Lithuania available at the following address: http://www3.lrs.lt/pls/inter/w2008_home.home?p_kalb_id=2

Translation into English of the Polish Constitution on the website of the Republic of Poland available at the following address: http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm.

Translation into English of the Constitution of Romania available at the following address: http://www.cdep.ro/pls/dic/site.page?id=371

Translation into English of the Constitution of the Slovak Republic available at the following address> http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_128037.pdf

Translation into English of the Constitution of the Republic of Slovenia available at the following address: http://www.dz-rs.si/wps/portal/en/Home/PoliticniSistem/UstavaRepublikeSlovenije

Agreement between the Holy See and the Republic of Croatia regarding their collaboration in the fields of education and culture (December 19, 1996) are available at the following address: http://www.vatican.va/roman_curia/secretariat_state/index_concordati-accordi_en.htm.

Report of the European Commission for Democracy Through Law (Venice Commission), *Opinion on Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, denominations and Religious Communities of Hungary*, adopted by the Venice Commission at its 90th Plenary Session (Venice, 16-17 March 2012) available at the following address: http://www.venice.coe.int/docs/2012/CDL-AD(2012)004-e.pdf

Resolution of the presidium of Czech National Council Nr. 2/1993 Coll. to republication of Charter of fundamental rights and freedoms as component part of constitutional order of the Czech Republic CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS amended by constitutional act Nr. 162/1998 Coll. *(came into force 1st of January 1999)* available at the following address: http://spcp.prf.cuni.cz/aj/2-93en.htm.

European Commission for Democracy Through Law (Venice Commission), *Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, denominations and Religious Communities of Hungary* (Strasbourg, February 2012) available at the following address: http://www.venice.coe.int/docs/2012/CDL-REF(2012)009-e.pdf.

ORIGINAL PAPER

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DEMOCRATIZATION OF SECURITY AND DEFENCE POLICIES OF POLAND (1990 – 2010)

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Abstract: *The following paper concerns democratization of security and defence policies of Poland after 1990. It consists of four parts. First, the main principles of Polish security and defence policies before 1989 are briefly presented. Second, the main problems related to democratization process of Poland's security and defence policies between 1990 and 1992 are mentioned. Third, a legal framework for the Defence Institution Building in Poland is explained and finally several conclusions are presented. The article addresses mainly the period of 1990 – 2010.*

Key words: *defence, democratization, Poland, Polish Armed Forces, security, security and defence policies.*

Introduction

The Republic of Poland is situated in the Central Eastern Europe; the country became democratic after the collapse of bipolar world order and seems to be an interesting case of the Defence Institution Building as well as remarkable changes which have occurred in Polish security and defence policies during recent twenty years.

First of all, on the one side, a newly-established Polish democracy had to find its place in a new political landscape of Europe after 1989: "(...) the security of Poland cannot be dissociated from that of Europe as a whole"[1]. On the other side, however, Polish society was strongly interested in strengthening relations with the United States: "Such sympathies were often accompanied by anti-communist sentiments which in many cases have not been abandoned"[2]. Moreover, Poland gained new neighbours, a group of countries which appeared after the collapse of the Cold War order: a united Germany, the Czech Republic, Slovakia, an independent Ukraine, Belarus, Lithuania and Russia (the Kaliningrad Oblast). In the 90's Polish authority was focused on new trends in Polish foreign policy: on the one hand, involving in the European integration process, and, on the other hand, a political will of accession to the North Atlantic Treaty Organization (NATO). Subsequently, these pro-European and, at the same time, pro-Atlantic tendencies manifested by Polish government in the 90's[3] had a profound influence, obviously, not only on security and defence policies, but also on the process of (re)building civil-military relations.

Poland is an active NATO and European Union (EU) member and Polish soldiers take part in various operations and missions abroad, but a current state of civil-military relations is not a matter of considerations. According to a recent sociological research on the relationship between civilians and militaries in Poland Polish society stops being interested in security and defence. This tendency might be observed in other democratic countries, as well[4]. Security and defence issues are considered as a matter of military what, in an extreme situation, may lead to the lack of control of society over the army. Furthermore, both civil society and military support fostering democratic rules in Poland, however this support is smaller among soldiers[5]. The most probable reason is that the Polish Armed Forces (PAF) trace back to a previous regime which did not respect human rights and civil liberties etc. Therefore, since 1989 the Polish Armed Forces have faced numerous challenges in order to meet the NATO's conditions. The NATO (and the EU) membership was a priority for a new democratic regime. The most significant tasks in the 90's were to reduce a number of soldiers and to transform armed forces from conscript to professional army based on voluntary entrance and reserves: from about 400.000 in 1989 (conscript army) to 100.000 in 2010 (regular army) during only twenty years (*sic!*). Moreover, other key changes were: dissociating from a communist past and returning to a patriotic rhetoric, starting the de-

politicisation process of the Polish Armed Forces, introducing democratic rules and involving civilians in military affairs (what meant changing the path of professional military education, as well), establishing civilian control over military, respecting human rights, providing transparency of defence and military budget.

Obviously, the process of (re)constructing of civil-military relations as well as transforming of security and defence policies of Poland has not been completed yet. Although significant changes have occurred since 1989, still several problems should be resolved in order to face new threats and challenges such as an international terrorism, asymmetric threats or an effective contribution to the NATO collective defence and security system.

1. Poland's security and defence policies before 1989

In consequence of the World War II a new state was constituted, the People's Republic of Poland (*Polska Rzeczpospolita Ludowa* – PRL) which was influenced by the Soviet Union.

Evidently close links with the USSR affected (and restricted) Polish security and defence policies that since May 14, 1955 (the date of signing in a capital city of Poland *The Warsaw Treaty of Friendship, Cooperation and Mutual Assistance* between the USSR and its allies, so-called The Warsaw Pact) had been pursued within the framework of the Warsaw Treaty Organization (WTO). Thus, in the Polish defence system were included such leading principles of the WTO as a common defence doctrine adopted by all signatories, unity of strategic planning and commanding, unity of operational forces designed for collective defence of all signatories[6]. Furthermore, in accordance with the treaty's provisions the Soviet troops could garrisoning in a satellite territory and, consequently, in Poland were stationed about 50 000 Soviet soldiers in 1991[7]. Regarding the military service, in 1967 an obligatory military duty was established.

However the WTO rules were imposed on the treaty's signatories, some countries either tried to carry out an independent defence policy more openly, for instance Romania and Albania, or to promote their own ideas on defence and strategy issues (Poland, Hungary, and Czechoslovakia). Christopher D. Jones has noticed that although Polish authority applied Soviet rules to defence system they demonstrated a practical possibility to disengage Polish military from the WTO and to pursue independent security and defence policies[8]. Particularly relevant example might be so-called *The Rapacki Plan* from 1957 that called for creating a non-nuclear zone in Poland, and both Western and Eastern Germany, Czechoslovakia and it was proposed by the Polish Minister of Foreign Affairs Adam Rapacki in Władysław Gomułka's government[9]. Rapacki argued that "(...) Poland is vitally interested (...) in (...) peaceful co-existence. This aim may be attained by introducing a *détente* in relations between both

groups [the West and the East blocks], by developing peaceful co-operation between the states belonging to both alignments, and by building up a system of collective security through general and complete disarmament"[10]. Although Rapacki's idea was not successful, it was discussed widely, in particular by the United Nations Organization as well as it was perceived as an (partly) autonomous Polish contribution to the European defence and security system.

The Warsaw Pact was dismantled after the democratic breakthrough of 1989 in the Eastern Europe and it was formally declared non-existent on July 1, 1991 during a summit of its members in Prague. As well, Poland withdrew from the WTO in 1991. Regarding deployed Soviet troops, they were gradually withdrawn from Poland and finally they left the country in 1993 during the presidency of Lech Wałęsa.

The People's Republic of Poland existed till December 29, 1989 when the Parliament agreed a new name for the country – the Republic of Poland (*Rzeczpospolita Polska*). According to a new Constitution adopted on April 2, 1997 by the National Assembly Poland is democratic, obeys the rule of law, and the nation exercise power through the Parliament voting in democratic elections.

2. Democratization of Poland's security and defence policies (1990 – 1992)

Bearing in mind a previous WTO membership of Poland, it is possible to divide such stages of Polish security and defence policies as: 1955 – 1989 (restricted national defence policy within the WTO); 1990 (adopting by the Polish authorities the 1990 *Defence Doctrine*) – 1991/1993 (the process of disengagement from the WTO; adopting the first independent defence doctrine; withdrawing the Soviet troops from Polish territory); 1994 – 1999 (reforms of military as well as security and defence policies before the accession to the NATO, so-called a pre-accession period, and the NATO's Partnership for Peace program membership); 2000 – present (the NATO membership). Additionally, in 2004 Poland became a member of the European Union what also had a profound impact on security and defence policies. The most important, however, seems to be the period 1990 – 1992 when significant documents on security and defence affairs were passed.

Polish autonomous security and defence policies trace back to the mid 80's, thus the period of *perestroika* in the USSR as well as the time when it was passed a new defence doctrine by the WTO (1987). Therefore, the first step on the path to democratize Polish defence policy was to replace a former WTO's defence doctrine with a national strategic conception in 1990.

After a political breakthrough in 1989 Poland welcomed the chance to enact an independent national strategic conception, however the country was still remaining the WTO member. Thus, a former Committee for National

Defence (*Komitet Obrony Kraju* – KOK) passed resolution *The Defence Doctrine for the Republic of Poland* on February 21, 1990 which replaced a former KOK's resolution *The Key Guidelines for the People's Republic of Poland* from June 29, 1985. The 1990 *Defence Doctrine* was an unclassified document, and although it was adopted when Poland was the WTO member it contained provisions on defence policy of Poland in a new geopolitical situation in Europe. Among regulations of the 1990 *Defence Doctrine* the most crucial statements concerned reducing the number of soldiers of the Polish Army as well as cutting military budget. Moreover, the NATO had not been perceived yet as an aggressor[11].

The 1990 document, however, was valid only until 1992. Stanisław Koziej, a retired general and a former Deputy Minister of National Defence and a present Head of the National Security Bureau of the Polish President has pointed out that, paradoxically, when the 1990 *Defence Doctrine* was adopting it has already been irrelevant to a contemporary political situation due to a weak position of the WTO at the beginning of the 90's. Consequently, there was no chance to implement rules proposed in 1990 document[12]

Formally, the Warsaw Pact existed until July 1, 1991. A new political landscape which appeared after dissolution of the WTO as well as dismantling the USSR (1991) were key factors which influenced Polish security and defence policies. Obviously, after almost forty years of the WTO membership „Poland was not ready to think on defence independently (...)"[13]. The Committee for National Defence passed two documents (November 2, 1992): *The Guidelines for the Polish Security Policy* and *The Security Policy and the Defence Strategy of the Republic of Poland*. In fact both of them contained provisions on strategy, national security as well as defence policy. It is necessary to point out that security was understood broadly by the authors of these documents, including its political, military, economic, ecological, social and ethnic dimensions (what expressed so-called Copenhagen School of security by Barry Buzan and his colleagues[14]). On the one hand, national security and defence were understood as crucial concerns for Polish state, and, on the other hand, modern threats for security were elaborated (non-military threats and regional conflicts)[15]. Moreover, according to these documents the most imperative aim for Poland in the 90's was the NATO and the Western European Union membership. Stanisław Koziej has pointed out that the 1992 strategy emphasized a necessity to build up a European security system in which Poland could participate, as well[16]. This idea was popular at the beginning of the 90's not only in Poland, but also in Europe. "Both in Poland and in other countries of the region the idea of a sub-regional union, which would have a special role as regards security, appeared in assorted variants. (...) The suggestion of creating NATO-bis, presented by President Wałęsa at a NACC [The North Atlantic Cooperation Council] meeting in April 1992 proved to be highly controversial. This rather unclear conception assumed the establishment of a quasi-collective security

system under NATO patronage and embracing the Central European states (...)"[17].

To sum up, the 1992 strategy was the first independent document on defence and strategy issues after the World War II in Poland and it was in power until 2000. In the meantime Poland became the NATO member, so the main strategic goal was achieved.

One should note that the Polish Armed Forces' reforms after 1989 were focused on reducing the number of soldiers, modernizing and transforming military in order to meet the NATO's conditions (transformation, professionalization and interoperability). According to the 1990 *Defence Doctrine of the Republic of Poland* Polish army had to be able to defence; subsequently, the 1992 provisions called for establishing a part-regular army consisted of operational forces as well as the Territorial Defence. However, it was necessary to reform the army's structure, because it was composed of such elements as above-mentioned Territorial Defence. Moreover, at the beginning of the 90's, during the presidency of Lech Wałęsa emerged an idea to establish the National Guard of the Republic of Poland which, *de facto*, had never been created[18]. The conception of the National Guard appeared in other countries of the Central Eastern Europe as well, for instance in Ukraine at the time of presidency of Leonid Kuczma[19]. Newly-established democracies of the 90's, such as Poland, wanted to create a tool which could support President Office. Therefore, in 1992 the first project of *The National Guard of the Republic of Poland Act* was presented by the Committee for National Defence. According to its provisions the Guard would be an independent and armed unit focused on internal security tasks, being up to the President, however excluded from the Armed Forces. Only during the war the Guard might become a component of the Army. The law followed example of several constabulary forces (so-called 'carabinieri/gendarmerie like forces') from the Mediterranean countries, for instance the Italian Carabineers, the French National Gendarmerie or the Turkish Gendarmerie which are military units, but perform internal security tasks. The idea of creating the Polish Guard collapsed, because it was perceived as a new tool which might support the authoritarian ambitions of the President[20]. However, later the conception was discussed several times – in 1996, and during the last decade, as well.

3. A legal framework for the Defence Institution Building in Poland

The strategic goal from 1992 i.e. the NATO membership was achieved by the Polish authorities in 1999 when Poland, together with Hungary and the Czech Republic became a member of the Alliance. Earlier, in 1994, Poland joined the NATO's Partnership for Peace Program. The NATO membership initiated the process of adapting to the Alliance's standards. In particular, the Polish Armed Forces had to achieve interoperability in order to increase

efficiency during joint military exercises etc. Furthermore, according to *The Program of Development of the Polish Armed Forces 2007 – 2012* the PAF had to be professionalized and counted 100 000 soldiers until 2010.

A direct consequence of the NATO membership was the necessity to establish a robust legal framework for defence and security as well as civil-military relations. In addition, the General Staff of the Polish Armed Forces adopted a new document *The NATO Standards for the Armed Forces of the Republic of Poland* where were elaborated standards of command, reconnaissance and logistics for the PAF. According to defence policy rules, the operational troops should be ready to be commanded by the NATO's Command during the war while only the Territorial Defence might be command by the national authority. Moreover, Poland intended to participate in military operations abroad, thus the country had to modernize weaponry of the Polish Armed Forces.

A legal framework for security and defence policies in Poland encompasses such documents as: the 1997 *Constitution of the Republic of Poland*, the 1967 *Military Duty Act*, the 2000 *Emergency States Acts* (*The Natural Disasters Act*, *The Martial Law*, *The State of Emergency Act*), the 2007 *Crisis Management Act*, the 2007 *National Security Strategy* (previous versions passed on 2000 and 2003), the 2000 *Defence Strategy of the Republic of Poland* and the 2009 *Strategy of Participation of the Armed Forces of the Republic of Poland in International Operations*. Obviously, there are several specific acts such as the 2001 *Military Police Act* or the 2006 *Military Counterintelligence Service* and *The Military Intelligence Service Act* etc. The duties of the Minister of National Defence are established by the 1995 *National Defence Minister Office Act*.

The 1997 Constitution describes a new role of the PAF which is "(...) protecting the independence of the State, the integrity of its territory and securing safety and inviolability of its borders"[21]. It is necessary to emphasize that particularly the 1967 *Military Duty Act*, amended several times, is a significant law, because it determines the system of national defence in Poland[22]. Since 1990 the key element of the Polish defence system has been, obviously, the Polish Armed Forces (Land Forces, Navy and Air Force). In 2007, when the 1967 *Military Duty Act* was amended again, a new service was established, the Special Forces as well as the Special Forces Command. Furthermore, in 2003 the Minister of National Defence created the Armed Forces Operational Command that became operational in 2005. The Operational Command took command over the Polish military units which were fighting for instance in Iraq and Afghanistan. In 2010 for the Operational Command worked about 220 officers and civilians[23]. One should notice that the Special Forces are commanded by the Special Forces Command and they are not up to the Operational Command. Finally, in 2010, after amendment of the 1967 *Military Duty Act* the National Reserve Forces (*Narodowe Siły Rezerwowe* – NSR) were established.

Likewise the American Army National Guard, the Polish National Reserve Forces base on volunteers (mainly former soldiers, but also civilians) who are trained in accordance with military rules. The main goal is to support the Army during a crisis situation. Therefore, such kind of service like the NSR had to support a regular military.

In particular, official documents devoted to military and defence reforms were the 2000 *Security Strategy of the Republic of Poland* and the 2003 *National Security Strategy of the Republic of Poland* replaced with another strategy in 2007. These documents were passed after accession of Poland to the NATO, therefore they were in accordance with the Alliance's rules. Moreover, they enumerated contemporary threats for Poland, determined strategic goals and provided a new assessment of international situation[24].

4. Civil-military relations

Democratic control over the Polish Armed Forces

Civilian control over the Polish Armed Forces, including executive and legislative, is a result of the main goal of Polish defence policy from the beginning of the 90's, it means the NATO membership.

Regarding the executive control, it is exercised by the President of the Republic of Poland who "(...) shall be the Supreme Commander of the Armed Forces of the Republic of Poland"[25]. Furthermore, "[t]he President of the Republic, in times of peace, shall exercise command over the Armed Forces through the Minister of National Defence"[26]. The President, however, has the right to nominate the Chief of General Staff[27]. "The article does not oblige the President even to consult the choice of person with the Minister of Defence which is a weird regulation considering that those will be the closest collaborators of the Minister"[28]. Thus, the President does not possess a direct executive power; however the National Security Bureau (NSB) that is up to the President is focused on defence and military issues. The NSB's tasks are to give its opinion on security and defence affairs as well as to advice to the President. Moreover, the NSB's Head is Secretary of the National Security Council, a constitutional body which is "[t]he advisory organ to the President of the Republic regarding internal and external security (...)"[29]. The Council is led by the President. In 2010 among members of the National Security Council who were appointed by the present President Bronisław Komorowski were: the Speaker of the Senate, the Prime Minister, the Deputy Prime Minister, the NSB'S Head, the Minister of Foreign Affairs, the Minister of National Defence, the Minister of Interior as well as leaders of the main political parties[30]. Other bodies which are involved in executive control are the Prime Minister and the Council of Ministers, especially the Minister of National Defence. The Minister of National Defence has to ensure workable relationship with the General Staff.

Since 1990 a number of civilian employers of the Ministry of National Defence have increased gradually. Therefore it was a need to educate civilians in order to work for military institutions. For instance, the University of Warsaw together with the Ministry of National Defence and the National Security Bureau run a postgraduate National Security Study at the beginning of the 90's.

As far as the legislative control and oversight is concerned, they are exercised by the Parliament of the Republic of Poland which consists of two chambers: *Sejm* and Senate. The Parliament's tasks are: to establish laws, budget, to address parliamentary questions, to organize hearings as well as to work within the framework of permanent and *ad hoc* committees. Within the Polish Parliament act a permanent Committee for National Defence and the Committee for Secret Services. In accordance with democratic rules the decision-making as well as policy-making processes are led by civilians rather than militaries whose role is mainly consultative (the PAF should be politically neutral). The last, but not least the Polish civil-military relations are monitored by media whose role is to observe and to comment current events in order to inform public opinion about a state of military reforms. Thus, the media exercise an informal oversight over military transitions.

De-politicisation of the Polish Armed Forces

During the Warsaw Treaty Organization membership of Poland in the Polish Armed Forces were serving so-called political officers as well as in the army's structure acted the Main Political Administration (until 1992). The Constitution adopted only in 1997 and respected Western democratic standards provided political neutrality of the Armed Forces. However, in 1992 the Polish Parliament amended the 1970 *Professional Military Service Act*. Since then soldiers have not been allowed to participate in any political organization (a political party). If one would like to be politically active, should leave the Army.

The 1997 Constitution has confirmed democratic standards pointing out that "[t]he Armed Forces shall observe neutrality regarding political matters and shall be subject to civil and democratic control"[31]. As Agnieszka Gogolewska has noticed, the above-mentioned "[a]rticle 26 point 2 [of the 1997 Constitution] refers specifically to the civil-military relations and it obliges the military to political neutrality and subordination to the democratic civilian control, thus fully embracing the principles of democratic model of civil-military relations"[32].

Effectiveness and Efficiency of the Polish Armed Forces

The Polish army, counting about 400 000 soldiers before 1991, was rather offensive than defensive. Moreover, the cost of maintaining such a

numerous military was very high and the army was not efficient and effective. Therefore, the PAF had to be reduced, modernized and transformed.

Thus, since the beginning of the 90's Polish authorities several times have prepared plans of reform of the PAF. In particular, the first and the most comprehensive plan was a classified document of government from 1997 named *Army 2012* and concerned modernization of the PAF during 15 years (1997 – 2012). The *Army 2012* plan called for reduction of the PAF to 180.000 in 2004 from 220.000 in 1997[33]. Polish authorities claimed that realization of the plan could lead the Polish Army to integration with the NATO; however after election in 1998 the document was questioned by a new Minister of National Defence[34].

In 2001 the Parliament passed *The Restructuring, Technical Modernization and Financing of the Armed Forces of the Republic of Poland Act* and attached *The Program for Technical Restructuring and Modernization of the PAF in 2001 – 2006* in classified and unclassified versions. The act enumerated necessary changes of the structure of the Polish army, its weaponry and budget. A basic target of the 2001 act was to achieve interoperability of the PAF. However, it was mentioned that until December, 31 2008 about one-third of the PAF would meet NATO standards and would be capable of conducting operations with the required level of combat services support. The number of soldiers was fixed at 150 000. Regarding military budget, the 2001 act devoted for military expenditures no less than 1.95% of the GDP of Poland. The next document which implemented provisions of the 2001 act was *The Program of Development of the Armed Forces of the Republic of Poland 2007 – 2012*. The later *Program of Development of the Armed Forces of the Republic of Poland 2009 – 2018* from 2008 put emphasis on professionalization of the PAF in order to make the army more efficient (what meant that expenditures of the Ministry of National Defence for the army should increase)[35].

In 2008 the Ministry of National Defence issued a document entitled *The Vision of the Armed Forces of the Republic of Poland in 2030* where were elaborated main guidelines on development of the PAF during the next 20 – 25 years. Hence, the document has mentioned a new character of the PAF that seemed to be expeditionary rather than defensive. In future the main task for the PAF will be to participate in interventions outside of the Polish territory within the framework of the European Union and the NATO operations[36]. The document has ensured that in 20-25 years the PAF would be "efficient, flexible and mobile"[37] as well as equipped with modern weaponry[38].

One should notice that the Ministry of National Defence in order to be able to fulfil the NATO's requirements and to fix guidelines on the Polish defence policy decided to conduct the first *Strategic Defence Review* (SDR) in 2004. The final document was classified, it was evaluated as very well-done, but, unfortunately, useless[39]. In 2010 the Ministry announced that the second SDR would be conducted in the nearest future. Furthermore, the Head of the

Polish Supreme Chamber of Control in his statement before the *Sejm* on July, 21 2010 warned the Minister of National Defence who had restricted military expenses in the 2009 budget of the Ministry that it might lead to slowdown of the modernization process of the Army[40].

Conclusions

Analysing the process of military reforms in Poland in the last decade one should notice that Polish security and defence policies have changed under the influence of internal and external factors. First, internal factors which affected Polish security and defence policies were: collapse of the Cold War order and, in consequence, establishing a new authority in Poland, begging of the process of democratization of the state, passing a new Constitution in 1997, and, last but not least, a political will of accession to the NATO and to the EU. Second, among external factors should be mentioned: dismantling of the USSR and the WTO, withdrawing of the Soviet troops from Polish territory, a new political landscape in Europe after 1989 and emerging new neighbours of Poland. Moreover, Polish authority included into the main strategic documents (starting from 1992) a new, broad approach to security encompassing not only military, but also non-military threats for it. To sum up, during the 90's Poland was focused on finding her place in a new Europe.

Regarding reform of the Polish Armed Forces, during the last two decades it was conducted in accordance with the NATO's standards (transformation, professionalization and interoperability). In 1999 Poland became the NATO member, so further reforms of security and defence policies as well as military were necessary. A profound analysis of the main documents lead to conclusion that the key elements of reform were: reduction of the PAF, professionalization, reform of the civil-military relations and introducing the NATO rules in command, reconnaissance and logistics. Furthermore, particularly during the last decade the nature of the PAF has been changed – the army became expeditionary rather than defensive. For instance, in 2003 was established the Operational Command which took command over the Polish units fighting abroad.

As far as a legal framework for the Defence Institution Building and civil-military relations are concerned, one should note that several significant acts were adopted. In spite of the fact that a present legal system seems to be robust, it also seems that some security institutions could be more effective, such as the National Security Council that is only an advisory body to the President of Poland. However, enhancing competences of the NSC means empowering the President office, as well what might lead to a change of the Constitution.

The reform of the Polish Armed Forces started after 1990 and it has not been finished yet. One of the main tasks of the PAF is to increase its

effectiveness and efficiency. Therefore, the most significant challenge was to reduce approximately 400 000 conscript military (1989) to 100 000 regular army (2010) in twenty years. Obviously, this process was not easy and it has not been completed yet. Approximately 300 000 soldiers have withdrawn from the army during last years; the problem of management of human resources of the PAF might become another important talking point.

As well, the structure of the PAF was transformed and two new services were introduced: in 2007 the Special Forces (apart from Army, Navy and Air Force), and in 2010 the National Reserve Forces. A serious challenge was to establish national security and defence policies through passing strategic documents which since 2000 have been prepared in accordance to the NATO's rules. On the other hand, there were a plenty of reform plans of the PAF adopted by a one government, criticized by its successor and replaced with a new plan. Finally, a recent economic crisis affected in a negative way reform process of the Polish Armed Forces. Since the 2001 *Restructuring, Technical Modernization and Financing of the PAF Act* the budget of the Ministry of National Defence had been maintaining at the level 1.95% of GDP. Due to the world's economic crisis the GDP of Poland decreased, and, consequently, a real amount of money for military decreased, as well what influenced situation of the PAF. According to the 2008 *Vision of the Armed Forces of the Republic of Poland in 2030* the PAF should be "efficient, flexible and mobile"[41], however if the military budget would not be increased, this goal might be difficult to reach. On the other side, Polish authority accomplished the first *Strategic Defence Review* (SDR) in 2004 and called for conducting another one what seems to be a good example for promoting transparency and efficiency of military.[42]

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[1] M. Grela, *The Debate on European Security in Poland*, in O. Weaver, P. Lemaitre, E. Tromer (ed.), *European Polyphony: Perspectives beyond East – West Confrontation*, Basingstoke: MacMillan 1989, p. 110.

[2] *Ibidem*, p. 112.

[3] Further see: R. Kupiecki, *Atlanticism in Post-1989 Polish Foreign Policy*, in R. Kuźniar (ed.), *Poland's Security Policy 1989 – 2000*, Warsaw: Scholar 2001, pp. 229-285; S. Parzymies, *European Orientation in Polish Security Policy*, in *ibidem*, pp. 286-320.

[4] Further see: M. Baran-Wojtachnio, J. Łatacz, A. Kołodziejczyk, W. Nowosielski, M. Wachowicz, *Cywile a wojskowi: bezpieczeństwo i promocja wojska w odbiorze społecznym*, Toruń: Adam Marszałek 2006, p. 165.

[5] Further see: *ibidem*, p. 169.

[6] Further see: A. Marcinkowski, *Polska w Układzie Warszawskim*, Warszawa: Wydawnictwo Ministerstwa Obrony Narodowej 1985, p. 6.

[7] See: *Chicago Tribune* 10.04.1991, <http://articles.chicagotribune.com/1991-04-10/news/9102010956_1_presence-of-soviet-troops-soviet-soldiers-soviet-plans>, (31.07.2010).

[8] See: Ch. Jones, *National Armies and National Sovereignty*, in D. Holloway, J.M.O. Sharp (ed.), *The Warsaw Pact: Alliance in Transition?*, New York: Cornell University Press 1984, p. 89.

[9] Christopher D. Jones has mentioned another example of Polish "autonomous" defence policy of the 50's: "In Poland in October 1956, when Władysław Gomulka prepared to call soldiers and

civilians to defend him against a threatened Soviet intervention, there is evidence that certain officers of the Polish armed forces began to take preliminary steps toward disengagement from Soviet control mechanisms. In the late 1950s General Zygmunt Dusynski headed a group of high-ranking officers who attempted to draw up plans for establishing within the Warsaw Pact a separate, compact, well-defined 'Polish Front' intended as an exclusive theatre of operations for the formulation of *a specifically Polish military doctrine, an independent national defence system, and a separate armament industry*" (italics marked by the author; Ch. Jones, op. cit., p. 90).

[10] A. Rapacki, *The Polish Plan for a Nuclear-Free Zone Today*, in "International Affairs", vol. 39, 1963, no. 1, p. 3.

[11] Further see: *Załącznik Doktryna obronna Rzeczypospolitej Polskiej do uchwały Komitetu Obrony Kraju z dnia 21 lutego 1990 r. w sprawie doktryny obronnej Rzeczypospolitej Polskiej*, in "Monitor Polski", 16.03.1990.

[12] See: S. Koziej, *Ewolucja bezpieczeństwa narodowego Rzeczypospolitej Polskiej w latach dziewięćdziesiątych XX wieku: skrypt internetowy*, Warszawa 2008, p. 4, <http://www.koziej.pl>, (31.07.2010).

[13] *Ibidem*, p. 11.

[14] The Copenhagen School of security was developed in the early 90's by Barry Buzan. Further see: B. Buzan, *People, states, and fear: an agenda for international security studies in the post-cold war era*, Boulder: L. Rienner 1991.

[15] A new approach to threats for security, adopted by Polish authority in 1992, coincided with the 1991 NATO's Strategic Conception. Further see: *The Alliance's Strategic Concept. Agreed by the Heads of State and Government participating in the meeting of the North Atlantic Council in Rome on 7 – 8 November 1991*, <http://www.nato.int/docu/basictxt/b911108a.htm>, (04.08.2010).

[16] See: S. Koziej, *Między piekłem a rajem: szare bezpieczeństwo na progu XXI wieku*, Toruń: Adam Marszałek 2006, pp. 221-222.

[17] R. Kuźniar, *Security Policy in Polish Foreign Policy*, in R. Kuźniar (ed.), op. cit., pp. 42; 45.

[18] Further see: K.P. Marczuk, *Trzecia opcja. Gwardie narodowe w wybranych państwach Basenu Morza Śródziemnego*, Warszawa: Fundacja Studiów Międzynarodowych 2007, pp. 128-134.

[19] Further see: T. Krząstek, *Gwardia Narodowa Ukrainy*, in "Wojsko i wychowanie", no. 5, 1999, pp. 93-94.

[20] Further see: K. Kubiak, *Policjanci i żołnierze. Włoski korpus Karabinierów*, in "Raport: Wojsko, Technika, Obronność", no. 2, 2005, p. 12.

[21] Art. 26, *The Constitution of the Republic of Poland of 2nd April, 1997*, <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>, (08.11.2012).

[22] See: S. Koziej, *Ewolucja bezpieczeństwa narodowego Rzeczypospolitej Polskiej...*, op. cit., p. 7.

[23] See: Dowództwo Sił Zbrojnych, *Serwis informacyjny*, Warszawa 2010, <http://www.do.wp.mil.pl/komorka.php?idkomorka=78>, (26.08.2010).

[24] See: M. Celewicz, *Ewolucja pojęcia bezpieczeństwa narodowego w strategiach bezpieczeństwa Polski*, Lublin: Instytut Europy Środkowo-Wschodniej 2004, p. 5.

[25] Art. 134, *The Constitution of the Republic of Poland...*, op. cit.

[26] Ibidem.

[27] Ibidem.

[28] A. Gogolewska, *The Restructuring of Civil – Military Relations in Poland, Ukraine and Russia – a Comparative Study*, Warsaw: The NATO 1998, p. 35.

[29] Art. 135, *The Constitution of the Republic of Poland...*, op. cit.

[30] Further see: *Biuro Bezpieczeństwa Narodowego*, <http://www.bbn.gov.pl/portal/pl/15/18/Rada_Bezpieczenstwa_Narodowego.html>, (26.08.2010).

[31] Art. 26, 2, *The Constitution of the Republic of Poland...*, op. cit.

[32] A. Gogolewska, op. cit., p. 36.

[33] See: M. Mróz, *"Program przebudowy i modernizacji technicznej Sił Zbrojnych Rzeczypospolitej Polskiej*
w latach 2001- 2006" w świetle informacji Rady Ministrów o jego realizacji w 2001 roku, Warszawa: Kancelaria Sejmu – Biuro Studiów i Ekspertyz 2001, p. 2.
[34] See: ibidem.
[35] Further see: L. Kościuk, *Transformacja a model Sił Zbrojnych RP 2018. Paper for the Conference „Model Sił Zbrojnych RP 2018"*, Warsaw 11.02.2009, <http://www.dt.wp.mil.pl/pl/64_77.html>, (27.08.2010).
[36] Further see: Ministerstwo Obrony Narodowej, *Wizja Sił Zbrojnych RP – 2030*, Warszawa: Departament Transformacji MON 2008, p. 14.
[37] *Ibidem*, p. 17.
[38] Further see: *Sejmowe wystąpienie Prezesa NIK na temat budżetu państwa 2010*, Warszawa 2010, <http://nik.gov.pl/news.php?cod=2700>, (27.08.2010).
[39] Further see: *Rzeczpospolita* 21.12.2009, <http://www.rp.pl/artykul/68342,409101.html>, (27.08.2010).
[40] Further see: *Sejmowe wystąpienie Prezesa NIK...*, op. cit.
[41] Ministerstwo Obrony Narodowej, op. cit.

ORIGINAL PAPER

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SOCIAL DIALOGUE IN THE EUROPEAN UNION: GOALS, MECHANISMS, DEVELOPMENTS

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Abstract: *Social dialogue involves holding of consultations and negotiations between the social partners in the EU for the purpose of concluding agreements on social policy initiatives and ensuring social peace. Over the time, the notion of social dialogue took shape at EU level, being encouraged through the establishment of Community institutions with responsibilities in this area and the establishment of mechanisms for negotiation and consultation of the social partners. From this point of view it is important to know the content of the Community rules on social dialogue, the activity of employers' and employees' organizations, their objectives and mode of interaction with the Community institutions which are presented in this paper.*

Key words*: dialogue, partner, committee, consultation, organization.*

Outlining and regulating the notion of social dialogue at EU level

As it began to take shape, the social policy community demonstrated its role of "social control" instrument because it includes programs that balance economic efficiency, being concerned with the quality of life, and is not intended to replace welfare programs in the Member States[1].

The first mean of achieving the goal of social policy consists in the functioning of the common market, in this sense, being neccessary to be taken into account the forces affecting the market at the level of working conditions, i.e. employers and workers' organizations, negotiations in the framework of social dialogue, as well as the pressure exerted by these organizations in terms of content and approval of governmental measures in the social field.

For the first time, the concept of "social dialogue" was introduced in 1985 by the Single European Act, reflecting the need for the participation of the social partners to the achievement of the internal market.

Setting up the social dialogue involved the holding of consultations and negotiations between the social partners in the Community for the purpose of concluding agreements on social policy initiatives.

The objective of the social dialogue is to achieve social peace. In the Member States of the EU, social dialogue is carried out after national models and practices, but the fundamental frame of its legal exercise it has been set up by the Agreement on Social Policy (annex to the Treaty of Maastricht). It was, in particular, outlined the sectorial social dialogue institutionalized by the Decision no. 98/500 on the establishment of sectorial dialogue committees. Subsequently, through Articles 138 and 139 of the Treaty of Amsterdam, the social partners have received „the role of political and institutional actors in the decision-making process"[2].

The dialogue between the social partners, based on mutual recognition, was institutionalized through Article 138 (4) and 139 (1) of the EC Treaty, according to which „the dialogue between social partners at Community level may lead, if they wish, to conventional relations, including agreements".

Specific Community rules provide for the obligation to inform and consult employees' representatives in certain circumstances: Directive no. 2001/230 relating to workers' rights in the event of enterprise's transfer, Directive no. 89/391 on safety and health of workers during work, Directive no. 98/59 relating to collective dismissals, Regulation no. 4064/89 on the control of enterprises concentration operation, Directive no. 94/45 concerning the establishment of the european enterprise committee.

The EC Treaty contains a mechanism by which representatives of employers and employees, who are meeting in the framework of social dialogue, can adopt contractual agreements under the auspices of Article 139, and these agreements, through a simplified procedure, it can turn into Community legislation. As long as the agreements comply with the attributions conferred by Article 137, the social partners may request the Commission to

submit a proposal and the Council to adopt a decision to give legal effect to these agreements. This is the procedure included in the Agreement on Social Policy, annexed to the Treaty of Maastricht.

Social dialogue is achieved in practice through various means such as, for example, the exchange of information between social partners, consultations on issues of common interest, negotiations concluded with the signing of documents/agreements, the drafting of principles and projects of economic and social policy, taking the form of agreements or social pacts.

Following the collective relations between the social partners to be able to take place in optimal conditions, on the basis of full equality and in order to achieve a real social peace, it is necessary to recognize, in principle, at both national and European level, the tripartite mechanism in the process of making essential decisions concerning employment relationships

The problem is that not all social partners are represented in the process of participation in decision-making mechanism. Such was the case of UEAPME (Case T-135/96 UEAPME vs. Council [1998] ECR II -2335), which concerned a claim of a Federation representing small and medium-sized enterprises against the Parental Leave Directive, based on the non-inclusion in the social dialogue. There is, however, no requirement that social dialogue should be the default and, as a consequence, the Court of first instance dismissed the action as inadmissible.

Through Directive 94/45/EC of 22.09.1994 were laid the foundations of an European Enterprise Committee and a procedure in enterprises and groups of Community-scale enterprises undertaking the information and consultation of workers. In accordance with Section I, Article 2 of the directive, „Community-scale enterprise" represents an enterprise with at least 1000 employees within the Member State, or at least 150 employees in each State, if the enterprise exists in at least two Member States. Section II, Article 5 mentions the stages of setting up the European Enterprise Committee through employer' s own initiative or by initiating negotiations or consultations with at least 100 employees or their representatives, when the enterprise is present on the territory of at least two Member States.

Community institutions involved in the social dialogue

From the Community's point of view, it was and it still is important to involve employers' associations and unions in the operation of the EC[3]. The formal structures established by The Paris and Rome Treaties – notably the ECSC Consultative Committees and the Economic and Social Committee – associated representatives of employers and labour with EC affairs. Subsequently, various advisory committes were constituted with joint representation.

*The Economic and Social Committee (ECOSOC).*The first and oldest institution representing the social partners is the Economic and Social

Committee of the European Community, which was established by the EEC and EURATOM Treaties[4]. It was decided from the outset to organize a single Committee for the two communities, but not to merge with the ECSC Consultative Committee. Economic and Social Committee in Brussels did not cover the range of powers of the ECSC Treaty.

According to Article 4 of the Treaty of Rome, ECOSOC is a consultative body that gives representatives of employers, trade unions and various socio-economic groups, the opportunity to give their views on issues related to the EU. The inclusion of ECOSOC in the Treaty of Rome reflects the desire of the Community founders to involve representatives of the social and economic groups in the formulation of Community policies[5].

Although much time was regarded as the most discreet of the community bodies and without real influence, the Committee has been able, over the years, to arrogate powers increasingly more important. Thus, in 1972, he obtained the right to issue opinions on its own initiative and to publish them in the official journal, its meetings became public. The European Commission shall send the proposals simultaneously to the Committee's and the European Parliament. Social partners, becoming aware of the importance of communities, join the Commission in a more closely manner.

The Committee is an institution whose authority never ceases to assert itself. ECOSOC ensures, at Community level, the representation of the economic and social activities, the aspirations of the various categories of interest with which European citizens can identify. Its members are representatives of the various categories of economic and social life, mainly of producers, farmers, carriers, workers, craftsmen, liberal professions and of general interest sectors.

Consultative Committees. Consultative Committees are attached to the Commission to enable it to know the views of socio-professional partners and Governments on the various aspects of Community policy and to assign them to the action of the communities.

There are many consultative committees that constitute a framework for consultation of the economic and social organizations whose importance cannot be underestimated: Permanent Body for Safety and Health in Coal Mines[6]; The Consultative Committee on Vocational Training[7]; The Consultative Committee on the Free Movement of Workers[8]; The Consultative Committee on Social Security for Migrant Workers[9]; The Consultative Committee on Safety, Hygiene and Health Protection at Work[10]; The Consultative Committee on Equal Opportunities Between Women and Men[11].

Parity Committees. The parity committees are institutions composed solely of representatives of socio-occupational organisations and have an advisory role to the Commission. They are differentiated from the Consultative Committees by the fact that, while the last ones are tripartite bodies, in the parity committees the Governments are not represented, but only the social partners.

The parity committees were established by the Commission: The Parity Committee for Social Problems of Agricultural Employees[12]; The Consultative Committee on Social Problems of Agricultural Exploiters and Their Family Members[13]; The General Commission for Safety and Health in The Iron and Steel Industry[14]; The Parity Consultative Committee on Social Problems of Internal Navigation[15]; Consumers Consultative Committee[16]; The Joint Commission for The Harmonisation of Working Conditions in The Coal Industry[17].

The European Centre for Industrial Relations (ECIR). ECIR was set up in October 1995, as part of the European University Institute in Florence. The Center promotes the harmonious relations through the development of educational programs for employers and trade unions and by providing information on the structure and activity of the employers and trade unions, as well as social and economic policies of the Union.

Sectoral Dialogue Committees. Sectoral dialogue committees have been set up by Decision no. 98/500 of 20 May 1998 on the establishment of sectoral dialogue committees designed to promote dialogue between social partners at european level. They work in those sectors where the social partners are asking together to participate in the european social dialogue.

Each Committee is composed of not more than 40 members who participate in meetings, delegations representing the employers and workers having an equal number of representatives.

Each Committee draws up, together with the Commission, its own rules of operation, the work being led by a representative of the employers' or workers' delegation or, at the joint request of the delegates, by a representative of the Commission. Social dialogue committees meet at least once a year, and the Commission shall examine regularly their work.

According to the Article 7 of the Decision nr. 98/500, the sectoral dialogue committees shall replace the parity committees from shipping, inland navigation, civil aviation, transport, rail, post and telecommunications, agricultural wage earners, sea fishing. Also, the sectoral dialogue committees replaced the informal working groups through which the Commission has promoted social dialogue in some areas for which there were not set up parity committees. In the sectors for which the parity committees were set up, they have two important tasks: they are consulted on developments at Community level having social implications, also they develop and promote social dialogue at european level.

The Standing Committee on Employment. This Committee was created[18] as a result of the Conference in Luxembourg on employment issues (27-28 April 1970), which was attended by representatives of employers and trade unions. Within the framework of this Conference, the European Confederations of Free and Christian Trade Unions (CESL and OE-CMT) have called for the creation of an *ad hoc* body which brings together representatives of the

economic and social world and the Governments of the Member States. Thus was established the Standing Committee on employment, in order to ensure better collaboration of the socio-professional partners and to promote an active policy of employment at european level.

According to its constitutive act, „The Committee shall have the task to ensure, on an ongoing basis, in respect of treaties and the powers of the Community institutions and bodies, the dialogue, concertation and consultation between the Council, the Commission and the social partners, in order to facilitate the coordination of Member States' policies on employment and their harmonisation with the Community objectives. The role of the Committee will exercise before any decisions of competent institutions be taken"[19].

On the occasion of their joint participation at the Laeken European Council of 14 and 15 December 2001, the social partners pointed out that the work of the Standing Committee on Employment had not led to an integration of efforts and has not satisfied the need for coherence and synergy between the various processes in which it was involved. Therefore, they proposed to be abolished and to establish a new form of tripartite consultation.

With the same occasion, the social partners proposed to formalize their meetings with the Troika at the level of Heads of State or Government and the Commission that, since 1997, took place in the context of the Luxembourg process, during the period immediately preceding European Council meetings.

Since December 2000, these meetings are known as social summits and benefit from the participation of the President of the Commission and the Troika of Heads of State or Government along with the Ministers of Labour and Social Affairs and with the social partners represented by the Union of Industrial and Employers Confederations of Europe (UNICE), the European Centre of Public Enterprises and of Enterprises of General Economic Interest (CEEP), The European Association of Small and Medium-Sized Craft Enterprises (UEAPME), the European Trade Union Confederation (ETUC), Eurocadres and the European Staff Confederation (CEC).

The Tripartite Social Summit for Growth and Employment. Taking note of the social partners' willingness to develop and improve coordination of concertation on the various aspects of the Lisbon strategy, the European Council of Laeken agreed on the organization of such a social summit before each spring European Council. Thus, by the Council decision of 6 March 2003 was established The Tripartite Social Summit for Growth and Employment, which is meant to ensure continuous concertation between the Council, the Commission and the social partners.

Meetings within the Tripartite Social Summit can give the social partners the opportunity to contribute, at European level, in the context of the social dialogue, at the various components of the integrated economic and social strategy, including as regards the sustainable development dimension as

launched at the Lisbon European Council in March 2000 and supplemented by the European Council in Göteborg in June 2001.

The Summit included representatives from the highest levels of the Presidency-in-Office of the Council, as well as the next two presidencies, the Commission and the social partners. Participants in the Summit are also the Ministers of Labour and Social Affairs which are part of the three presidencies and the Commissioner responsible for employment and social affairs.

The Summit shall meet at least once a year. One of the meetings is held prior to the spring European Council. The Summit shall be chaired jointly by the President of the Council and the Commission. The Summit meetings are convened, on its own initiative, by the two co-chairs, in consultation with the social partners. The co-chairs make a summary of the discussions of the Summit to inform the relevant configurations of the Council, and the general public.

Organizations of employers and workers: attributions and objectives

As regards the status of organizations created by the social partners, on the community scene of social dialogue, one can distinguish the following objectives pursued by these organizations[20]:

- defending the interests of their members in the face of the EU institutions to avoid that a common policy harm them and to ensure that, on the contrary, those decisions should be considered favorable to their members. To achieve this goal, their representatives should promote the interest in question to the Council, the Commission, the European Parliament, to explain and justify certain claims and requests, to collaborate with other groups who have the same interests, likely to influence the Union. All these means of action reveals the classic goal of any pressure group;
- informing their members on the activities of the EU in order to enable them to better understand the community's actions in order to know how to prepare and, if possible, to take advantage of these actions. Certain groups (Permanent Conference of Chambers of Commerce and Industry of the EEC, Agricultural Professional Organizations Committee, European Environmental Bureau) is even aiming to promote European integration and to help develop a consensus on allowing the conduct of common policies in their sectors of activity;
- carrying out of studies, the necessary documents, promoting a policy of public relations and other means which allow and facilitate the action of groups within the objectives already defined.

The main organizations set up at Community level by the social partners shall be divided into: employers' organizations, organizations of employees, organizations with diverse interests.

*The Union of the Confederations of Industry and Employers of Europe (UNICE). C*reated in 1958, UNICE is a very active community, which groups employers' confederations from EU's member states and from associated states who are not members of the EU. UNICE is one of the most important and active socio-occupational organisations present on the community scene. UNICE has close contacts and regular with all Community institutions: shall appoint a Commissioner who shall make an address to the Council, watches Parliament debates closely, is consulted by the Council and meets with the President before each meeting of the European Council.

The European Centre of Enterprises with Public Participation (CEEP). CEEP was created in 1961 and is a body that brings together, at European level, public enterprises from industrial, commercial and financial sector existing in the Member States. CEEP aims to bring the contribution of these enterprises to European construction and, on the other hand, to influence the resolution of problems that occur between members of the EU. Members of CEEP can be public enterprises of the EU member countries, as well as their groups. In this sense, are considered to be public enterprises those in which State, regional or local authorities or other public law legal persons are exercising, in law or in fact, through their representatives or through delegates, the power of control.

CEEP maintains regular contacts and close links with the Community institutions by explaining the views of their members and initiating certain proposals (in the field of energy, transport etc.). CEEP does not have a role as important as UNICE. By the force of things, member companies are related to the position of Governments and national policies promoted by them, and the CEEP has no influence on them.

Standing Conference of Chambers of Commerce and Industry of the EEC (CPCCI). Founded in 1958, CPCCI comprises titular members – national Chambers of Commerce and Industry, associate members and corresponding members. CPCCI presents a balance of activity and maintain sustained relations with the Commission and the Council to whom presents its opinions on the community issues and draft decisions.

The Banking Federation of the European Community (FBCE). Created in 1960, the Federation aims to help achieve, in bank context, the European aims laid down in the Treaty of Rome, to facilitate discussions on matters of common interest, to submit its observations, to deal with the banking problems affecting the European Community's relations with third countries. FBCE groups the national banking federations of member states. The Federation has a discreet but often useful activity, frequently interfering in addition to Commission officials.

European Trade Union Confederation (ETUC). ETUC is the only representative organization of the workers at European level. It groups the confederations from 20 countries of Western Europe and speaks on behalf of more than 43 million workers. Created in 1973 by 17 organizations from 15

States, all affiliated to the International Confederation of Free Trade Unions (ICFTU), ETUC presents itself as an important actor of the social dialogue.

In addition to the most representative trade union confederations of the Member States, ETUC brings together trade unions' committees and other various organizations. It has managed to attract more unions from the same State even though they pursue different objectives at national level.

According to its Statute, ETUC has the objective „to represent and promote the common interests of the social, economic and cultural needs of employees at the level of Europe in general and, in particular, in addition to all the European institutions, especially near the European communities and the European Free Trade Association. To achieve this goal, ETUC shall prepare a basic program and coordinates the activity of organizations affiliated through European action programs".

The means of action of ETUC are diverse: negotiations within the European courts in which ETUC is officially represented, scheduled meetings with the President-in-Office of the Council, with the Commission, Ministers or the European Parliament; consultations or common trade union action on issues of major interest. For example, in June 1983, ETUC organized for the first time, in Stuttgart, a demonstration intended to warn the European Council over concerns about the situation of employees.

The action of ETUC reveals also a particular significance: they perform, in fact, a pressure on employers' organizations in agriculture, industry and other areas, in order to improve the working conditions and the situation of their members. Undeniably, ETUC has reached, over the years, a representation that allows it to play an essential role in European social policy.

Other organizations representative of various sectors of interest are: agricultural organizations – Committee of Professional Agricultural Organizations of the EEC, The European Council of Young Farmers; The European Office of Consumers; European Community of Consumer Cooperatives (EUROCOOP); European Confederation of Family Organizations from the European Community (COFACE).

These organizations were set up due to insufficient awareness of the importance of communities and national structures. European interest groups seek to obtain a direct influence over Community bodies. Their action is similar to that taken at national level by the socio-occupational organizations on political and administrative institutions. To this end, they constitute a permanent secretariat in Brussels whose agents are responsible to inform about the ongoing projects and to establish relations with the representatives of the Commission and the Council in the area of activity that presents interest to the group.

The Commission, given its role in the development of regulations and directives and in the control of the execution of rules already adopted, is an institution with which the social partners seek to establish the closest relations.

The Council is also had in view by the contacts established with the national ministers and officials, even if the President-in-Office of the Council meets periodically the representatives of the most representative groups (ETUC, UNICE, EUROCOOP). In addition, the European Parliament, thanks to its election by direct universal suffrage, is the subject of attention of these groups. It is observed that the actions of these groups are very diverse. Although there are no collective contracts or agreements concluded at European level, however a negotiation at Community level is wearing between COPA (Committee of Professional Agricultural Organizations) and farm workers on time, overtime, night work, rest time and working conditions.

Mechanisms and development of the social dialogue at European level

The social dialogue at Community level is carried out by employers' organisations and trade unions' claims and thorugh consultation with the social partners by the Commission, before submitting proposals in the social policy field on the possible orientation of social policy. This obligation of the Commission was established by Article 138 (2) of the EC Treaty.

Social dialogue can begin when the Commission announces that it intends to act in a specific social area and ask the social partners to negotiate as a legislative substitute. If negotiations are successful, the Council can give to the agreement obtained the force of law. By contrast, if the negotiations fail, the Council can legislate on its own, without being necessarily at the convenience of the social partners.

For the first time The Council used this default threat „negotiate or we approve the law" in 1994 to initiate the too much postponed European Labour Councils. The social partners have received the message: shortly after, it was concluded the first collective agreement on parental leave. The social partners, through representative organisations at european level (European Trade Union Confederation – ETUC and the Union of Industrial and Employers Confederations of Europe – UNICE), have an active role in the debate on the future of Europe, applying common European Council's documents and resolutions adopted within the Economic and Social Committee of the EU.

For example, the position of the ECOSOC has been synthesized in the Resolution of 19 September 2002 addressed to the Convention on the Future of Europe, which argued the following: the introduction of the Charter of fundamental rights into the future Constitution (Constitutional Treaty); achievement of full employment should be explicitly mentioned in the Constitutional Treaty as one of the objectives of the Union, and the respective articles of the Treaty should afirm more clearly that economic and monetary policy must contribute to the achievement of the objective of economic growth and full employment; the building of the european model of society should continue.

To this iniative the social partners were associated with pensioners and elderly people in the European Union, meeting under the aegis of the European Federation of Pensioners and the Elderly-FERPA[21], asking: common fundamental rights improved through the inclusion of the Charter of fundamental rights of the EU in the future European Constitution, for strengthening and improving the european social model as part of the Constitution; the right of pensioners to fully and actively participation in the process of drafting European policy at all levels; a higher concentration and several initiatives on behalf of the EU with regard to the living conditions of the retired people, addressing social exclusion and poverty; ensuring and promoting public services and services of general interest; reinforcement of the EU role in the world by reaffirming the fundamental values of peace, respect for the fundamental rights and solidarity.

The succes of this initiative is ilustrated by the Lisbon Treaty, signed at December 13, 2007, by the EU leaders, which have modified Treaties currently in force, as well as the Treaty on European Union, without replacing them. One of the most important aspects of Lisbon Treaty is the consolidation of the fundamental rights and liberties, among which social and economic rights play an important role[22]. The Treaty gurantees the application of the European Cart of Fundamental Rights and open the way of adhesion to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The most relevant principle is the principle of solidarity which stands at the base of some socio-professional rights such as: the right to consultation and information, the right to collective bargaining and actions, strike inclusive, the right to social security benefits[23]. In order to improve and strengthen social dialogue, the notion of social partnership and social dialogue, and collective bargaining arrangements freely negotiated within the framework of the autonomy of the social partners must play an important role both at national and european level.

Member States, but also the candidate countries are expected to participate actively in the European social dialogue so that, when they become members, to be fully integrated into this dialogue. The social partners have a huge responsibility and competence in Europe. Therefore, the *acquis communautaire* in the social field is vital for the process of enlargement.

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[1] G. Majone, *The European Community Between Social Policy and Social Regulation*, *Journal of Common Market Studies* 3, no. 2 (June), 1993, p. 168, cited in D. Dinan, *Encyclopedia of The European Union*, MACMILLAN, 2000, p. 425.
[2] J. Shaw, *Law of The European Union*, Palgrave Law Masters, 2000, p. 267.
[3] A. M. El-Agraa, *The European Union. History, Institutions, Economics and Policies*, Prentice Hall Europe, 1998, p. 408.
[4] Article 193-198 of EEC Treaty and Article 167-170 of EURATOM Treaty.
[5] D. Dinan, *cited work*, p. 153.
[6] It was created by a decision of the representatives of the Governments of ECSC Member States of 9 July 1957 (O.J., no. 28 of 31 august 1957).
[7] Created by a decision of the Council of Ministers of 18 December 1963 (O.J., nr. L 190 of 30 December 1963).

[8] Created on the basis of art. 24-31 of the Council of Ministers Regulation no. 1612/68 of 15 October 1968 for the establishment of a definitive system of free movement of workers within the Community (O.J., no. L 257 of 19 October 1968).
[9] It was set up by Council Regulation no. 1408/71 of 14 June 1971 (O.J., no. L 49 of 5 July 1971).
[10] It was set up by Council of Ministers Decision of 27 June 1974 (O.J., no. L 185 of 9 July 1974).
[11] Established by Commission Decision no. 43/82 of 9 December 1981.
[12] This Committee was created in 1963 by a Commission Decision (O.J., no. L. 80 of 29 May 1963).
[13] It was set up by the Commission in 1963.
[14] The decision to create this commission was taken in 1964 by the Commission, but it was not published in the official journal.
[15] This Committee was set up in 1967, and its status has been the subject of a Commission Decision of 9 October 1980 (O.J., no. L 297 of 6 November 1980).
[16] Was born in 1973, but his status was changed by a Decision of the Commission of 3 December 1976 (O.J., no. L 341 of 10 December 1976).
[17] This Committee was created by a Commission Decision of 24 November 1975 (O.J., no. L. 239 of 23 December 1975).
[18] By a decision of the Council of Ministers of 14 December 1970.
[19] Article 2 par. 1 of the constitutive decision of 14 December 1970.
[20] C. Philip, *Droit social européen*, MASSON, 1985, p. 121-122.
[21] FERPA is an umbrella organization for all national associations of retired people affiliated to ETUC.
[22] Roxana Radu, *Statuarea drepturilor sociale şi economice şi includerea principiului solidarităţii în Trat atul de la Lisabona*, în *Evoluţia sistemului legislativ românesc şi european în contextul Tratatului de la Lisabona* (f.a.), Universitatea Spiru Haret, Editura Sitech, Craiova, 2008, p. 36-43.
[23] *Ibidem*.

ORIGINAL PAPER

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DEFENDING HUMAN RIGHTS FROM ITS CONTEMPORARY MAIN CRITICS

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Abstract: *In present days, the concept of human rights is challenged by new strong critiques such as cultural relativism, state sovereignty and counter-terrorist war. The article argues that the tensions between internationally recognized human rights and these contemporary critiques should be weighed in favour of the former. It analyses these tensions and challenges the main counter-arguments. Finally, it presents some solutions provided by the international law to these problems.*

Key words: *human rights, cultural relativism, state sovereignty, counter-terrorist measures.*

In the twenty-first century, the concept of human rights, as universal and equal rights, based on human dignity, recognized to every individual simply because he or she is a human being, has known a great political success. Nevertheless in the contemporary world the critiques of this concept are raising more powerfully than in other ages. While in the nineteenth century human rights had to endure the intellectual critiques of Jeremy Bentham, Edmund Burke or Karl Marx, in present days they must face new strong challenges such as cultural relativism, state sovereignty or counter-terrorist measures.

These contemporary critics are mainly directed against the principle of universalism of human rights, which means that every human being should be recognised such rights regardless the culture or the state he/she belongs to. This universalism can be perceived as dangerous for some specific cultures or for state sovereignty. To these critiques we should add another important challenge for human rights: the counter-terrorist actions that exist everywhere in the world, including in western democracies.

The internationally recognized human rights as universal values represent a landmark achievement of our days, created to protect every human being, and, for this reason, they should be defended from their contemporary critics by finding solutions to harmonize some critical arguments with human rights values. Therefore, in the beginning it is necessary to answer to the cultural relativism critique to human rights, followed by an answer to the sovereignty critique. Ultimately, the security critique shall be addressed.

Cultural relativism holds that culture is the main source of validity of a right. According to that, human rights are an individualistic western creation which contrasts with the traditions of other societies where the rights of the community prevail. This leads to a new tension between the universality of human rights and the relativity of the culture where they should be implemented.

Sometimes this "culturalist" argument is used by leaders of non-western countries in order to justify oppressive practices of their authoritarian regimes. On the one hand, they usually consider the equalitarian human rights universalism as western cultural imperialism, even if its origin was a reaction to Nazi imperialism[2] and even if the principle of equality is obviously opposite to the idea of imperialism. On the other hand, they claim to have a preference for economic and social rights, justifying the violations of civil and political rights by the necessity of rapid economic development of their countries. The accusation according to which western countries prefer to implement mainly the political and civil rights is not true: the European model of welfare state promotes both categories of rights, whereas in non western countries even the "accepted" social and economic rights are far from being really implemented.

It is true that in the last years, this European model of state was strongly challenged not by ideological critics but by the economic reality.

Created in the cold war era to face the soviet propaganda concerning the alleged importance of economic and social rights in communist world, the welfare state involved big public expenses and has shown its vulnerabilities during the recent economic crisis. Even under these conditions, the real protection of economic and social rights is far more substantial in contemporary democratic societies than in authoritarian regimes of the third world.

However, at a deeper level, human rights universalism should take seriously the idea of cultural diversity. Although there is a substantial core of internationally recognized human rights, listed in the Universal Declaration of Human Rights, a certain limited relativity should be accepted, especially at the implementation level of these rights in different societies. Some cultural relativity in application of human rights exists even in western societies. For example the cultural differences between the western European democracies which founded the Council of Europe and adopted the European Convention on Human Rights conducted the Court of Strasbourg to mention, from its early case-law, that in these states there are different ways to conceive the protection of morals in a democratic society[3]. These cultural differences, permitting to a state to define public morals in its own way and, consequently, to limit in some situations the freedom of expression, was included by the Court in the broader concept of "margin of appreciation" of the states.

Nevertheless the cultural relativism could contribute to an effective application of general principles of human rights contained in international declarations and treaties to particular situations of each society, characterised by a specific culture. "Culture may properly enter into the implementation of human rights in a different way. Human-rights principles are abstract and general, but must always by implemented in complex, particular situations. These situations will always include local cultures. If the justification of human rights is the protection and promotion of human dignity, the implementation of human rights must take into account local cultures and the contribution that they may make to human dignity."[4]

The argument of cultural relativism is used sometimes together with arguments based on the idea of state sovereignty. From the Westphalia peace treaty in seventeenth century, the state sovereignty was seen as the paramount of international public law. From this classical perspective, state sovereignty has had mainly two different meanings. On the one hand, at international level, sovereignty means the independence of a state in relations with other states, the fact that a state doesn't depend on a higher authority[5]. These international relations between sovereign states are characterized by formal equality. On the other hand, at national level, sovereignty means the self-determination of the state[6], the fact that the state exercises exclusive power inside its borders. This classical concept of sovereignty had been put forward by the states in order to prevent any external attempt to intervene inside their territory, according to

the old dictum used at Westphalia *"cujus regio, ejus religio"*[7]. Thus it has been viewed rather as an unconditional power of the state that may act in domestic sphere without any external influence.

Nevertheless the sovereignty critique is distinct from that of cultural relativism, the principle of state sovereignty being as universal as the one of human rights: on the ground of its own sovereignty, whatever a state does in the field of human rights within its borders is its own business, and other states or international organizations cannot interfere. "Sovereignty is one standard ground for rejecting international human rights standards. (…) In fact, sovereignty is typically the mantle behind which rights-abusive regimes hide when faced with international human rights criticism."[8] Thus a new tension appears between state sovereignty and human rights.

Obviously this critique cannot be accepted. The sovereignty should not be used as a protection for authoritarian regimes. Sovereignty is not an absolute right of the state, but an exclusive competence on its own territory, recognized by other sovereign states. Therefore sovereignty implies non-intervention in the internal affairs of the state; but as a party that has signed and ratified the Universal Declaration of Human Rights and other International Covenants, a state should exercise its sovereignty in accordance with internationally recognized human rights standards. Thus, the classical doctrine of sovereignty, presented above, has been changed by the development of human rights movement, especially after the Second World War. The necessity to protect internationally recognized human rights and the development of civil society, fostered by this movement, have transformed the concept of unconditional sovereignty into a concept of responsible sovereignty[9]. According to this new evolution, a state is responsible to protect the fundamental rights of its citizens. If the state cannot protect its own citizens against mass human rights violation or acts itself against their fundamental rights, the international community has the right to intervene. After some tragic events when international community hesitated to act, this humanitarian intervention has been transformed in an obligation to intervene in order to protect the civilians against mass abuses[10]. Thus, the sovereignty is no longer an absolute right of a state but a qualified sovereignty weighed by the responsibility to protect, concept endorsed by United Nation General Assembly[11].

An interesting example from this point of view is offered by the European Convention on Human Rights which limits the sovereignty of the states in order to protect the human rights. Ratifying the Convention and accepting the jurisdiction of the European Court of Human Rights, a state voluntarily renounces a part of its sovereignty, because the Court is allowed to check the way national institutions respect, in particular cases, the rights guaranteed by this European treaty. Thus, by the judgements of the Court, the state becomes liable for individual violations and should cover the damage of the person involved. This limitation of sovereignty has become broader in the

last years when the Court, on the ground of article 46 of the Convention, has verified not only the state actions in particular cases, but also legislation and general state policy on specific issues generating a large number of violations of human rights.[12] In these cases, where the Court used a "pilot-judgment procedure", the states were demanded to take general measures amending national legislation and administrative practice in order to protect the property rights of all people in similar situations. "The respondent State must therefore ensure, by means of the appropriate legal and administrative measures, respect for the ownership rights of all persons in a similar situation to that of the applicants, taking into account the principles of the Court's case-law concerning the application of Article 1 of Protocol No. 1" (Judgment in *Maria Atanasiu* case, § 232). Thus, the Court extended by itself its competence to check even the political and general measures adopted by a state, in order to protect the fundamental rights of a large number of people. This recent evolution of the Court's case-law involves a broader limitation of state sovereignty, aiming to protect such individual rights.

At the same time and more significantly, state sovereignty could justify another type of state actions which may become very dangerous for human rights, namely counter-terrorist measures. This critique of human rights based on the necessity of defence of national and personal security leads to another big tension between security and rights. The right balance is not obvious because the repression is sometimes viewed as necessary to prevent the destruction of the human rights system itself.

Counter-terrorism could affect even the core of human rights by justifying to a certain extent torture and ill treatment. The vagueness of definitions used both in international and national legislation on this matter creates wide administrative discretion, undermines the rule of law and challenges important civil, political and economic human rights such as the right to a fair trial, *habeas corpus*, the right to private life, the freedom of association, the freedom of speech, the freedom of movement and the property right. Thus, counter-terrorist measures imply themselves a lot of "legitimate" terror and bring up severe limitations to human rights. At a political level, some rulers see the international support for counter-terrorist action as a very good opportunity to justify the repression against internal opposition groups by stigmatizing them as “terrorist” movements.

In this complicated framework, a state should react by the ordinary means provided by criminal law and the internationally recognized human rights standards. It should not give in to the temptation of using emergency situation or even war situation measures on the ground of their apparent efficiency. This last type of reaction, uncharacteristic for a democratic and liberal state, would lead, sooner or later, to an irreversible damage to the integrity of human rights. Or, this is exactly the opposite of the purpose aimed by the counter-terrorist measures. The right answer of the states to terrorist

attacks should be a criminal law model which permits to avoid unlawful limitations to human rights.

For example, the European Court of Human Rights seems to accept this last point of view imposing a general judicial control of the counter terrorist measures adopted by states. "The Court has already noted on a number of occasions that the investigation of terrorist offences undoubtedly presents the authorities with special problems (…). This does not mean, however, that the investigating authorities have *carte blanche* under Article 5 to arrest suspects for questioning, free from effective control by the domestic courts and, ultimately, by the Convention supervisory institutions, whenever they choose to assert that terrorism is involved (…)."[13]

In conclusion, every policy measure of the states and of international bodies should be subordinated to the rule of law and to the values of the human rights system. Only in this way, concepts such as cultural relativism, state sovereignty or even national security can be harmonized with this landmark achievement of the contemporary world.

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[1] The author is currently postgraduate student in the Master program in International Human Rights Law of the University of Oxford (2012-2014), receiving for this program of study a Clarendon Fund Scholarship.

[2] For example, the Council of Europe, created by the Statute signed on 5 May 1949 in London, as a reaction to the totalitarian regimes which have led to the World War II, had among its principal aims the protection of human rights in order to preserve the democratic character of the European societies. In the preamble, the parties to this Statute affirm "their devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy".

[3] Judgment from 7 December 1976, delivered in the case of *Handyside* v. United Kingdom (application no. 5493/72) § 57.

[4] Michael Freeman, Human Rights, Polity Press, Cambridge, 2008, p. 109.

[5] Georges Abi-Saab, The Changing World Order and the international Legal Order: The Structural Evolution of International Law Beyond the State-Centric Model, in Y. Sakamoto (ed.), Global Transformation: Challenges to the State System (1994), p.439, cited by Henry J. Steiner, Philip Alston, Ryan Goodman, International Human Rights in Context, Third Edition, Oxford University Press, Oxford, 2007, p.693.

[6] Martti Koskenniemi, From Apology to Utopia: The Structure of International Legal Argument (1989), Ch.4, cited by Henry J. Steiner, Philip Alston, Ryan Goodman, ibid., p.690.

[7] Georges Abi-Saab, ibid., p.693.

[8] Jack Donnelly, Universal Human Rights In Theory & Practice, Second Edition, Cornell University Press, Ithaca and London, 2003, p. 108.

[9] Richard Falk, Sovereignty and Human Dignity: the Search for Reconciliation, in Francis Deng, Terrence Lyons (eds.), African Reckoning: A Quest for God Governance (1998), at 12, cited by Henry J. Steiner, Philip Alston, Ryan Goodman, ibid., p.696.

[10] Richard N. Haass, Sovereignty: Existing Rights, Evolving Responsibilities, Remarks presented at Georgetown University, School of Foreign Service, 14 January 2003, cited by Henry J. Steiner, Philip Alston, Ryan Goodman, ibid., p.698.

[11] Luke Glanville, The Responsibility to Protect Beyond Borders, 12 (1) Human Rights Law Review (2012), p. 1-32.
[12] See Judgment from 22 June 2004, delivered in the case of *Broniowski* v. Poland (application no. 31443/96) and also Judgment from 12 October 2010, delivered in the case of *Maria Atanasiu and others* v. Romania (applications nos 30767/05 and 33800/06).
[13] Judgment from 12 May 2005, delivered in the case of *Ocalan* v. Turkey (application no. 46221/99), Grand Chamber.

ORIGINAL PAPER

Valentin RĂU

THE POLITICAL IMPACT OF REGULATORY STANDARS IN THE COUNTRIES LEGISLATION

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Abstract: *In line with the current globalization movement, the trend of quality management systems evolution was directed towards standardization, paving the way for a new conceptual leap of quality management systems, namely excellence in quality. One of the engines of the quality management system implementation in the context of the actual globalization is the "certification bodies for quality management systems." The evolution of these organisms on the Romanian indirectly shows the interests and trends of implementing quality management systems in the Romanian machinery producing organizations*.

Key words: *quality management systems, standards, excellence in quality.*

Standardization of management concepts

Ever since the '80s, worldwide, all these concepts of quality management systems have been concentrated, for the first time, in the body of a standard - ISO 9000 developed by ISO (International Standard Organization).

The International Standardization Organization (ISO) is a network of national standardization institutes of 157 countries, with a single representative per country, having a Central Secretariat in Geneva, Switzerland, acting as the coordinator of the entire system. [1]

The International Standardization Organization (ISO) is a non-governmental organization: its members are not, as in the United Nations system, delegations of national governments. However, ISO takes a special position between both private and public sectors.

This is due, on the one hand, the fact that many members of institutes are part of the governmental structure of their countries, or are mandated by their governments. On the other hand, other members have roots only in the private sector; their presence is the result of national partnerships of industry associations. For this reason the International Standardization Organization (ISO) is able to act as a liaison agent through which consensus can be reached on solutions that meet both the requirements of business activities and the broader needs of society.

ISO supports the concept of a globalized world governed by international standards. When the vast majority of products and services in a particular business or industry sector is in line with international standards, we can say that there a comprehensive industry standard situation was created. This is achieved by mutual agreement between the national delegations representing all the economic pillars involved: suppliers, users, government regulators and other stakeholders, as well as consumers. They agree that the specifications and criteria should be applied fully in classifying materials in the manufacturing and supplying of products, in testing and analysis, in terminology and in the provision of services.

In this way, International Standards provide working reference models or a common technological language between suppliers and their customers, aiming at facilitating transactions and technology transfer.

Principles

The International Standard status and meaning will be respected so that any of the Standards represent a possible unique international solution.

A commitment to participate to the development and feasibility of international standards, so that they are relevant for all markets. It is recognized that in some cases, different solutions are necessary to meet the unique requirements of certain local markets in different regions. In this case

the organization will take the matter under consideration "out of the box", to find the best solution in order to develop a standard globally applicable and relevant.

Emphasis will be put on developing performance standards rather than prescribing norms. Whenever possible standardization body shall specify standards focused on product requirements in terms of performance rather than in terms of design or descriptive characteristics. Given the differences between legitimate different markets, an International Standard will go through an evolutionary process with an ultimate objective the publishing, at some moment in tine, of an International Standard which is a unique international solution in all its aspects.

Norms/Standards

Standard: a document developed by consensus and approved by a recognized body that established for common and repeated use, rules, coordinate or characteristics for activities or their results, in order to achieve the optimum degree of order in a given context. Standard should be based on the consolidated results of science, technology and experience and is aimed at achieving optimum community benefits.[2]

The specialists nucleus which started developing ISO stressed that "for a qualified to be effective, procedures must to be defined and developed in a coherent way". For that reason, starting the 50s, industrialized countries have put together well documented rules/standards consisting mainly of specifications that are applicable to certain sectors. These rules have been refined over time as to be applicable in the concerned fields in all countries or even suitable for all fields, as is the case with the quality management standard ISO 9001:2000, perceived as "a world standard". Refining these rules has ensured their evolution from a national to an international level, for which reason standardization, although sometimes seen as a constraint, is certainly necessary in order to ensure the products and the company's value in the eyes of customers.

If there were no standards, we would notice immediately. Standards make an enormous contribution to most aspects of our lives although very often that contribution is invisible. When standards are absent, their importance is appreciated. For example, as purchasers or users of products, we notice immediately when they are found to be of poor quality, do not fit, are incompatible with equipment that we already have, not safe or dangerous. When products are in accordance with our expectations, we tend to consider this as natural.

Most of the time, we are not aware of the role standards play in raising quality, safety, reliability, efficiency, interchangeable as well as in providing such benefits at an economical cost. The International Standardization Organization (ISO) is the largest creator of standards. Although its main activity

is to develop technical standards, ISO standards also have important economic and social repercussions. ISO creates a positive difference and counts not only for engineers and producers for which it solves basic problems in terms of production and distribution, but to society as a whole. The International Standards created by ISO are very useful for industrial and commercial organizations of all kinds, governments and other regulatory bodies, trade offices, conformity assessment professionals, suppliers and customers of products and services in both public and private sectors, and, ultimately, to people generally in their roles as consumers and end users.

ISO standards contribute to:

- A more efficient, safe and clean development, manufacturing and supply of products and services.
- Easier and fairer trade between countries.
- Providing governments with a technical basis for health, safety and environmental legislation.
- Assisting technology transfers needed to support developing countries.
- Protecting consumers and general users of products and services, making their lives life.

To businessmen - the widespread adoption of International Standards leads to acceptance of their products in wider areas of their sector. This in turn means that businesses that adopt International Standards are free to compete on many more markets around the world.

To customers – global technological compatibility when products and services are based on international standards, a wider range of opportunities, while benefiting from the effects of competition among bidders.

To governments - International Standards provide the technological and scientific bases underpinning legislation on health, safety and environment.

To developing countries - International Standards represent a global consensus, constituting an important source of technological know-how. By defining the characteristics that products and services must meet when they attempt to entry onto a foreign market, International Standards give developing countries a basis to make the right decision when allocating resources and avoid wasting them.

To consumers - compliance with International products and services helps guarantee the quality, safety and reliability. For everyone, International Standards contribute to improving the quality of life in general, ensuring that the transport, machinery and tools used are safe.

To the planet we all inhabit - International Standards on air, water and soil quality and on radiation and gas emissions contribute to the environment preservation efforts.

According to the scope of quality management systems standards, they

are classified as illustrated in figures 1, depending to their specific field:

- Field-independent and
- Field-specific.

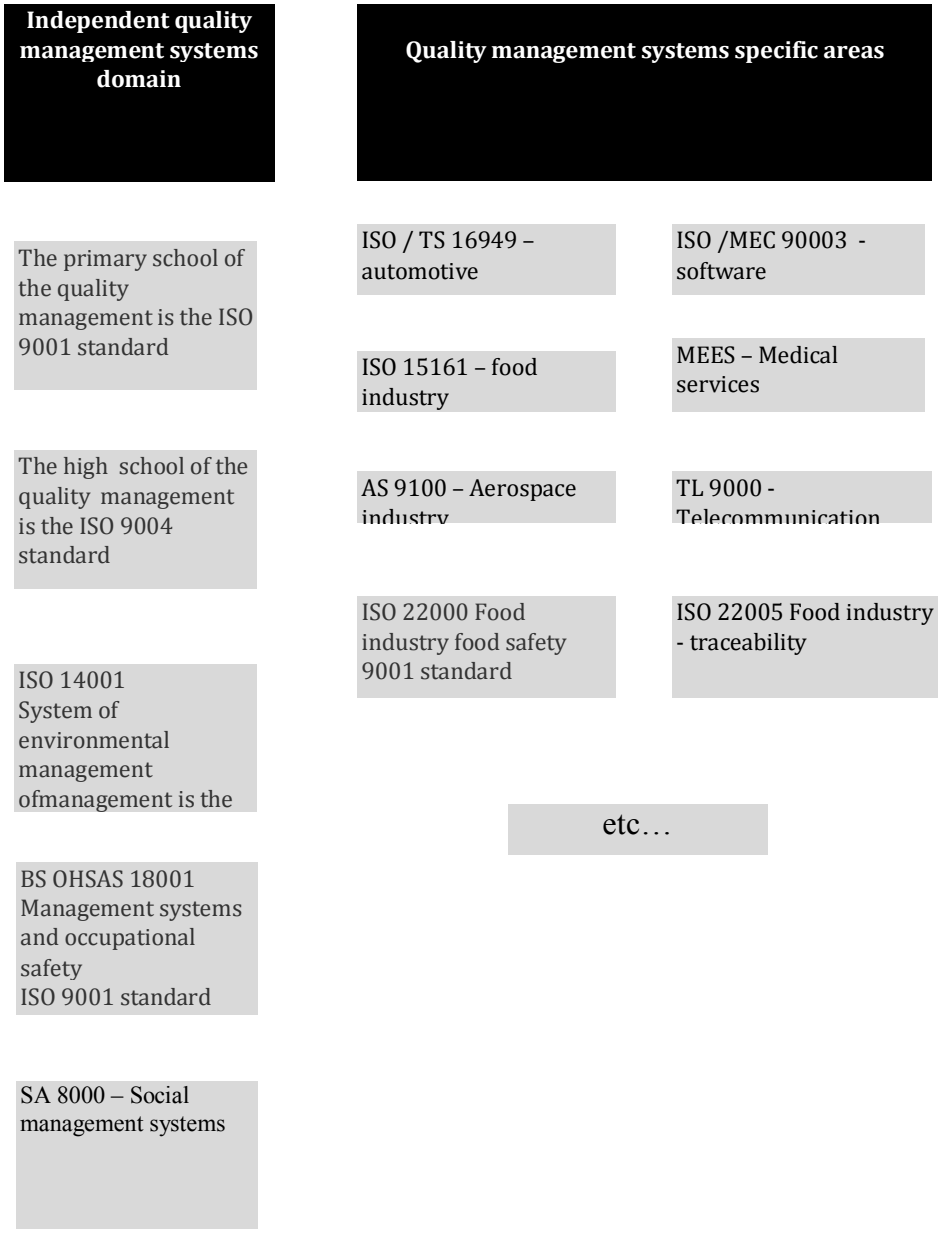

Figure nr.1. Quality Management Systems from A to Z,[3] (Papp Laszlo TEQUA- QMF TUV 2009)

Quality management current trends

There are three basic guidelines for QUALITY MANAGEMENT: techno-managerial orientation, the rationalist-accountable orientation and the management effectiveness orientation on achieving financial and economic benefits.

- According to the first approach, the quality management system needs to improve those processes that are essential for the development of products compliant to customer requirements. Process-based approach is the representative concept for this approach.
- At its core, the second orientation maintains that responsibility for quality lies with each employee individually. This guidance emerged in the 60s and is a practical application of the "zero defects" theory first formulated by Crosby. Responsibility for poor quality lies, according to this orientation, to workers negligence along the production processes. Therefore emphasis should be on personnel training and awareness rising regarding their role in achieving quality. For the purpose of training and awareness, it is necessary that all activities should be regulated and that authority and responsibility are well defined. Regulating all activities of an organization, defining a quality manual and standardizing documentation is representative of this approach concept.
- According to the third orientation, economic benefits are usually achieved through effective management of resources and implementation of management principles, processes applied to improve the overall value and welfare of the organization. The financial benefits are a result of organizational improvements under a monetary expression and achieved by efficient cost management practices throughout the organization. Effective application of management principles and methods, together with selecting such instruments and methods able to support the success of an organization are representative of this approach concept.

All these three approaches are actually preparing the next evolutionary leap of quality management to a new concept that is E**xcellent in Quality**.

[1] http://www.iso.org/ accesat la data : nov 2010
[2] http://gsi.nist.gov/global/docs/training/MartinezNov30.pdf
[3] Papp Laszlo, TEQUA- QMF TUV, 2009, pag. 15.

Bibliography:

1. http://www.iso.org/ accesat la data : nov 2010
2. http://gsi.nist.gov/global/docs/training/MartinezNov30.pdf
3. Papp Laszlo TEQUA- QMF TUV 2009 ; pag 15
4. Crosby, Ph. Quality is free: The Art of Making Quality Certain, Managementul Calitatii Graw-Hill, 1979.

ORIGINAL PAPER

Veronica ION

THE RELIGIOUS CHANGES OF THE POST-COMMUNIST BALKAN SOCIETIES[1]

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Abstract: *Radical social changes that have undergone in recent decades of European countries have been accompanied by radical religious changes. Thus, the relation between religion and other components of social life took a different path in the former communist European countries and those who were not part of the communist bloc. Hence, we can see a strong contrast between countries in the north-western and south-east part of Europe, with regard to the public and private religious participation, the arrangements of the recruitment of clergy, the quality of parishioners and the global influence of the main churches.*

In most of the Balkans countries, as a result of the fall of the totalitarian regime, are noticed different development paths of the religious life. In some countries there is a resurgence of religion and a development of the religious field, while in others the secularization is advancing and imposes a decline of religious beliefs and values.

Therefore, the study aims to analyze the relationship between State and Church, the role that it plays in the process of institutional and social reconstruction, but also the religious transformations in the countries of the Balkans, in the last two decades.

Key words: *religious changes, Balkan societies, religious revitalization, communism.*

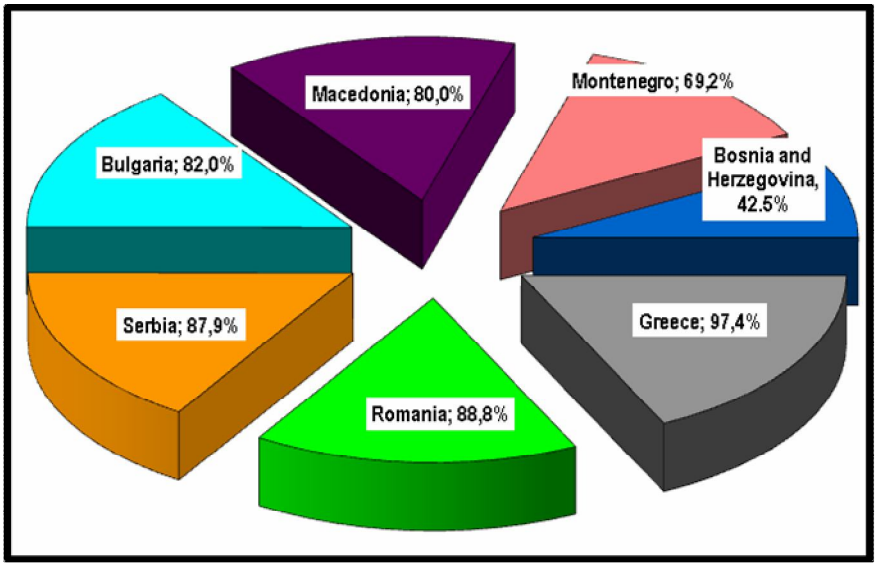
Religious map of Europe shows that there are two categories of countries: those that are dominated by atheism and those where religion plays an important role in the lives of individuals. Thus, there is a strong contrast between Northern Europe dominated by the process of secularization and the Southern, strongly religious, between Western Europe completely free of religious pressure and the eastern dedicated exclusively to divinity.

In this context, in south-eastern countries, known as the Balkan countries, religious life had a different path compared to other European countries. Religious changes are obvious in the external manifestation of religious beliefs, population level of religious affiliation and the level of religious practice (practice in public space, is operationalized by *church attendance*, while in private practice is analyzed by *moments of prayer* and *meditation*).

Balkan states include both countries that are entirely or largely within the Balkan Peninsula (Albania, Bosnia and Herzegovina, Bulgaria, Greece, Kosovo, Montenegro, Macedonia, Croatia and Serbia), but also others which have a small part of its territory here (Romania, Slovenia and Turkey).

Research reveals that in the Balkan states, the dominant religion is orthodoxy, followed by Islam and Catholicism. Therefore, 7 of 12 countries declare themselves as having Christian Orthodox majority, 90% of them belonging to the Balkan Peninsula, while the rest (in this case Romania) is in its neighborhood.

Balkan countries majority christian-orthodox



Source: *European Values Survey*

Islam predominates in Albania (75.8%), Kosovo (77.0%) and Turkey (99.7%). High weights are recorded in Bosnia and Herzegovina, the percentage of 42% being at a distance of 0.5 percentage points from that of those who declare themselves as Orthodox.

On the other hand, Roman Catholicism represents the majority in Croatia and Slovenia, over 93% of the population of both countries have declared membership in this denomination. Therefore, religious affiliation is among the most elevated in the Balkans, 96.1% of Croats and 93.4% of Slovenes claimed their affiliation to Roman Catholicism.

Small percentage, under 0.6%, also, have been registered by other religions as the Protestant (in Bosnia and Herzegovina, Bulgaria, Montenegro, Macedonia, Serbia, Croatia, Romania and Slovenia), the Jewish (in Bosnia and Herzegovina, Montenegro, Macedonia and Turkey) and Buddhist (Republic of Macedonia).

The commnunist regime has been instrumental in shaping the religious affiliation of the population in the Balkans. In the period 1990-2010[2], was observed an increase of religious affiliation in Bulgaria and Hungary, and a decrease of a few percent of religious affiliation in Croatia, Romania, and Slovakia[3]. There is noted a slight descendet trend in the states that have not been undergone to a communist regime, during 1999-2010 the religious affiliation decreased by 0.3% in Greece and 0.1% in Turkey.

Also, the studies made on the evolution of religious field in post-communist Balkan countries show the influence of socialism in the development of beliefs, practices and religious institutions of the states.

From the beginning, religion was a threat to the communist regime. Therefore, it was tried to remove all manifestations of religion in social life by imposing an atheist behavior. Regardless of religious affiliation (orthodoxy, catolocism, islam) the Soviet state used the same aggressive methods of punishing the adherents of a religion.

"The communist regime not just created an ideology, but an entire cult of idol worship. It replaced the saints with the political leaders, whose icons were found in every public institution, and the religious symbols with specific insignia[4]". To declare yourself a religious person meant marginalization, persecution, even accepting to put you and your family's life in danger.

Predominantly Catholic countries survived the forced secularization process in a greater measure than Orthodox countries. Thus, while Catholicism has found significant support in the international structure of the church, orthodox had to collaborate with the state to survive, not to interpret this principle as an exclusion of church and religious associations from individuals' life.

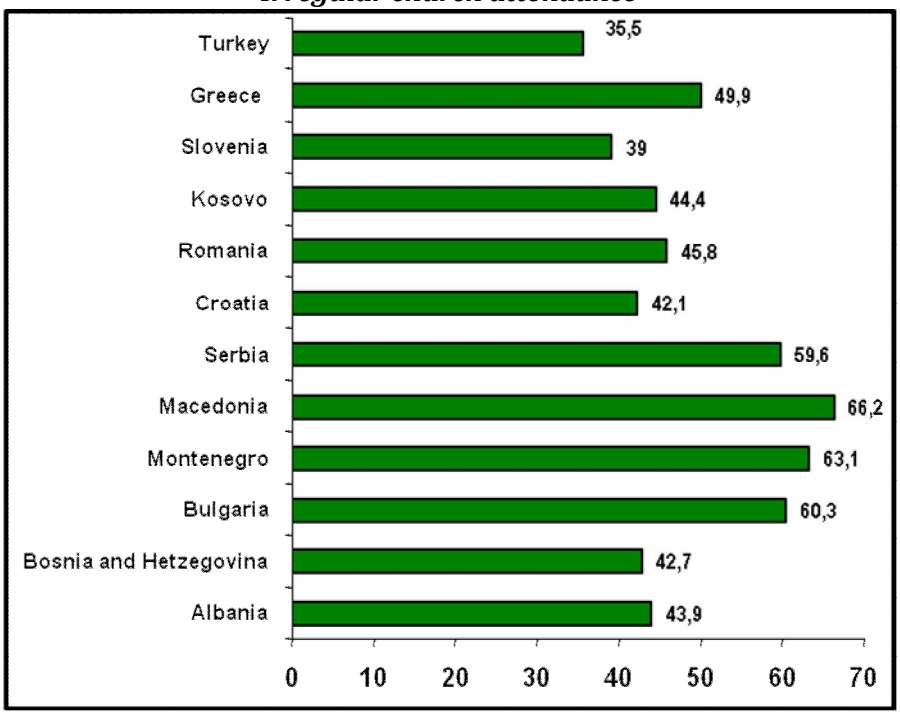
Religious practice indicates the existence of a religious revitalization among the countries of the Balkan states. Investigated by two items (*religious*

practice in public space and private space), it is used as an indicator of integration into a moral community.

Religious practice in public space was analyzed by eight-point scale to measure answers, directed backwards from "more than once a week" to "never". These responses may be restricted to three categories: *regular church attendance* (at least once a month), an *irregular church attendance* (on holidays, once a year or less) and *no church attendance*[5].

The highest percentage is observed at the "irregular church attendance|" category, all countries recorded percentages over 35%. The highest values, over 60%, have been registered in Orthodox countries Macedonia, Montenegro and Bulgaria, while the lowest value of 35.5% belongs to Turkey, a predominantly Muslim country and non-orthodox.

Irregular church attendance

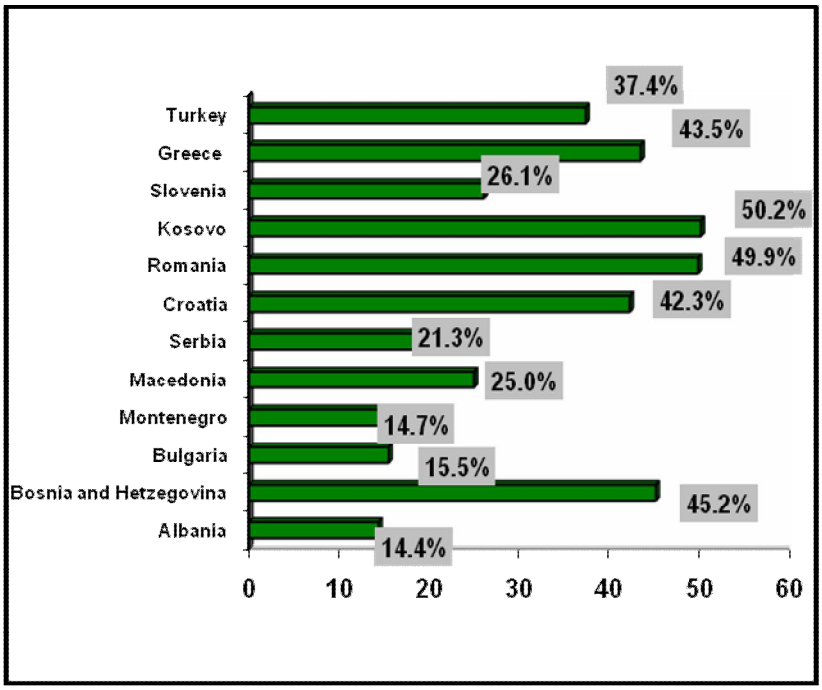


Source: *European Values Survey, Wave 2008-2010*

Reported under the "regular church attendance" category, Romania is the Orthodox country with the highest participation in religious services, being followed by Bosnia and Herzegovina and Greece.

Over half of the population of Kosovo declared that participates at religious services at least once a month, at a difference of about 35% being Albania and Montenegro.

Regular church attendance



Source: *European Values Survey,Wave 2008-2010*

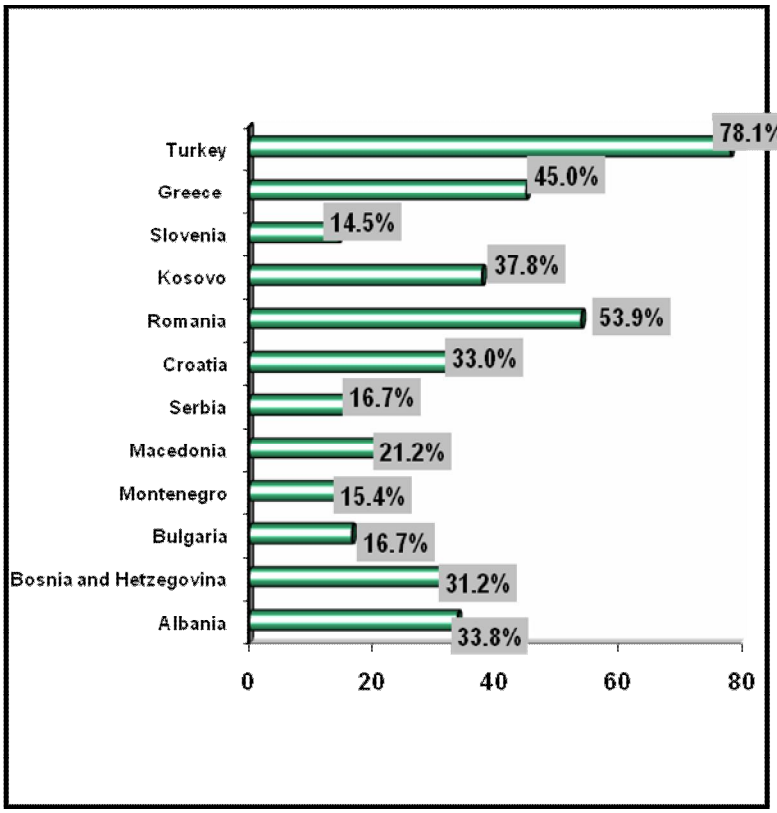
Therefore, the countries with the lowest frequency to the church are Albania (41.7%), Slovenia (34.9%) and Turkey (27.1%), on the opposite being Romania (4.3%), Kosovo (5.4%) and Greece (6.6%).

Private practice is measured by frequency of prayer outside of religious services. In specialized studies the measures ar made by specific questions asked in questionnaires: *outside religious services, how often do you pray?* or *do you have moments of prayer and meditation?*

The findings of the last wave of European Values Survey research has placed Turkey at the forefront of the Balkan countries with the highest private practice. Among Orthodox countries Romania and Greece were the first, the last place being occupied by Bulgaria and Montenegro. Catholic countries recorded a maximum of 33% in Croatia and a minimum of 14.5% in Slovenia.

For the answer "pray at least once a week", there is the same order in the top, Kosovo (40.5%) and Romania (26.8%) are the countries with the highest values. Percentages above 20% were found in Bosnia and Herzegovina (26.7%), Croatia (24.3%), Serbia (22%) and Greece (21.5%)

Proportion of those who declare that they pray daily

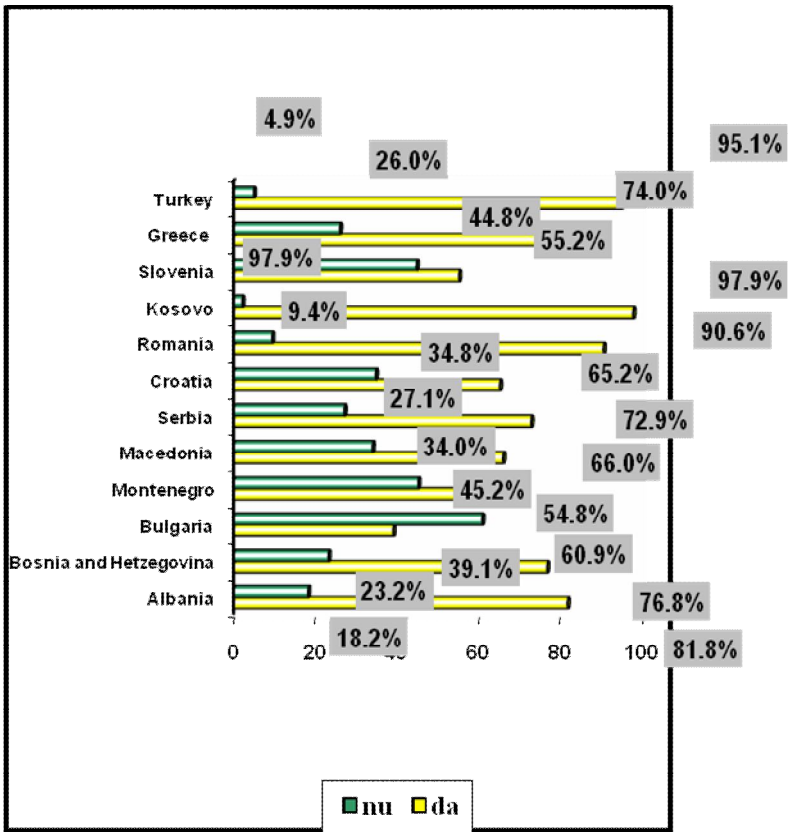


Source: *European Values Survey, Wave 2008-2010*

Higher percentage for those who pray "rarely" or "never" were recorded in Bulgaria (48.6%), Montenegro (49.1%) and Macedonia (45.5%). On the other hand, the lowest values were reported in Islamic countries (Turkey, 2.8% and 7.4% Kosovo).

Prayer is understood as a practice imposed by organized and accepted forms of traditional religions, while meditation is known as a private practice of alternative beliefs. Over 90% of the population in Turkey, Kosovo and Romania say they have moments of prayer or meditation, and in Bulgaria, Montenegro and Slovenia have been reported significant negative values.

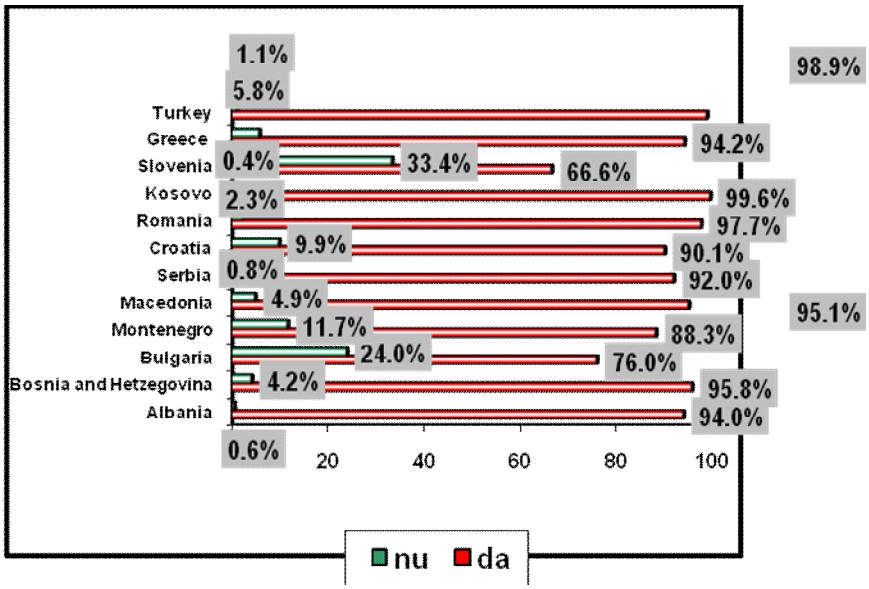
Percentage of those who declare that they have moments of prayer/meditation



Source: *European Values Survey, Wave 2008-2010*

In most countries in the Balkans over 90% of the population declared a high level of belief in God, placing them among the countries with the highest declarative level of religious beliefs in Europe. Lower percentages are found in countries where the communist regime exerted strong pressure to remove Christianity, having a hostile attitude towards any manifestation of religious sentiments in society.

Belief in God



Source: *European Values Survey, Wave 2008-2010*

Conclusions

Baltic countries, Romania is among the most religious countries in Europe, both in terms of religious practice and belief of shared values. Within these are recorded high phenomena of religious affiliation, as in all former communist states and in those who were not under a totalitarian regime.

The success of the communist regime varied depending on the dominant religious cult, institutional support of the church and its identification with the national culture. Thus, it stands relatively secular countries (such as Albania) and countries predominantly religious (especially Islamic and Orthodox).

The overall level of religiosity is high, over 40% of the population of Kosovo, Romania, Greece and Bosnia and Herzegovina declares that they go to church at least once a month, while the private religious practice, such as prayer, is also largely widespread in Turkey, Romania and Greece.

Divinity is a fundamental part of everyday life of individuals, 9 of 12 countries affirms, in percentage of over 88%, their belief in God. In collective consciousness, He is represented as a *personal God, a kind of spiritual power or life force.*

Notes:

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[2]. Data were obtained by statistical processing of the data offered by European Values Survey
[3] In other former communist states can not be observed variation in religious affiliation (Albania, Montenegro, Serbia, Macedonia, Kosovo, Bosnia and Herzegovina) because they were not included in the study, during 1990-2008.
[4] Alfeyev, Hilarion, European christianity and the challenge of militant secularism, in The Ecumenical Review; January 2005; 57, 1; ProQuest Central, p. 83-84
[5]Pascal Siegers, Mapping Religious Orientations across Europe: Church Religiosity, Alternative Spiritualities, and Unbelief. Evidence from the fourth wave of the European Values Study (2008/2009), paper prepared for the ECPR Graduate Conference in Dublin, Cologne, June 2010, p. 7.

Bibliography:

1. Jenkins, Philiph, *The next Christendom,* Oxford University Press, 2011;
2. Sandu, Dumitru (coord.), Comşa, Mircea, Rughiniş, Cosima, Toth, Alexandru, Voicu, Mălina, Voicu, Bogdan, *Viaţa socială în România urbană,* Politom, Iaşi, 2006;
3. Voicu, Mălina, *România religioasă,* Institutul European Publishing Press, Iaşi, 2007;
4. Webb, Jeffrey B., *The complete Idiot's guide to Christianity,* Alpha Books, United States of America, 2004;
5. Mawson, T.J., *Belief in God. An Introduction to the Philosophy of Religion*, Oxford Publishing Press, New Tork, 2005;
6. Rotariu, Traian, Voineagu, Virgil (coord.), *Inerţie şi schimbare. Dimensiuni sociale ale tranziţiei în Romînia,* Polirom Publishing Press, Iaşi, 2012;
7. Trigg, Roger, *Religion in Public Life:Must Faith Be Privatized?*, Oxford Publishing Press, Marea Britanie, 2007;
8. Alfeyev, Hilarion, Article: *European christianity and the challenge of militant secularism*, în Review *The Ecumenical;* January 2005; 57, 1; ProQuest Central.

Media resources:

1. The Pew Forum on Religion and Public life, http://www.pewforum.org/
2. European Values Survey, www.europeanvaluesstudy.eu

ORIGINAL PAPER

Simona Ionela MIHAIU

ROMANIA AFTER 1989. TRENDS OF VIOLENT CRIMINALITY

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Abstract: *The aim of this study is to highlight the fact that violent criminality is now a social phenomenon that records very high weights compared to other acts of criminality , both at national and European level. This first stage of our research on violent criminality was completed by conducting a secondary analysis of statistical data from national and European professional bodies (The Statistics Commission of the European Union, the National Institute of Statistics, the General Inspectorate of Romanian Police). Our results point out that the transition Romanian society has seen significant increases in the expression of violent criminality. Another result that we consider important is the fact that most of the violent criminality acts were committed in rural areas, making it a more "criminogenic" than urban area.If we consider the last two decades, we believe that the social etiology of the acts of violent criminality is linked to socio-cultural, economic and political changes undergone by our country.*

In this context, knowledge of the main manifestations of violent criminality in Romania and their statistical weight is an important step which is to create prerequisites for further thorough studies. Therefore, actual results will be complemented by quantitative and qualitative analysis designed to identify the causes of violent criminality and possible strategies to reduce this social phenomenon.

Key words: *violent criminality, forms of manifestations, social etiology.*

Introduction

" Every crime is too much".
Jurgen Habermas

Analyzing the phenomenon of criminal deviance is a central objective for researchers and professionals in various fields especially concerned with the identification of the determinant factors, the size and forms of expression and the development of intervention models on this social phenomenon. *Specialized studies conducted worldwide and nationally show a statistic increase in acts of deviance in general but also the multiplication and aggravation of some forms of manifestation of this social phenomenon.*

Clearly, these states of fact are caused at least at macro-social level by some problems such as rural-urban migration and overcrowding of cities, industrialization with massive population displacements and the establishment of communities with low social cohesion, lower living standards, globalization, etc.

Also, the phenomenon of criminal deviance is closely linked to the existence of internal determinant (psychological, medical, biological) factors the importance of which is not diminished of the social nature of our object of study. Conflictual family environment, violence, sexual and psychological abuse, alcohol and prohibited substances, health problems are just some of the mechanisms producing deviant behaviour.

Thus, although criminal deviance occurs as a legal phenomenon, governed by the rules of criminal law this is a complex social phenomenon that includes statistical, sociological, psychological, legal, economic, cultural features, etc.

Starting from multiplying and worsening manifestation forms of criminal deviance, in its most general meaning, the study centers around one form of its manifestation that presents a high degree of danger - *crime*. Extremely complex social phenomenon, crime involves a number of features that directly disrupts social order, safety of individuals, drawing disfunctionalities in both the public and private sectors. Of all forms of crime, our attention is especially drawn by violent crime, because in Romania it is currently a very serious social problem both by the large number of criminal acts and the damage they cause, damage which is amplified due to a general state of anomie.

Violent crime as a form of criminal deviance

The sociological approach of violent crime involves in the first phase the correct placement of this social problem in the general framework of criminal deviance as its aggravating form of manifestation.

Therefore, in defining violent crime concept, we present for the beginning the point of view belonging to researchers Maurice Cusson, Marc Quimet and Jean Proulx, according to whom this social phenomenon includes "acts forbidden by law and punishable by application of criminal sanctions." (Proulx & all, 1999, p.62).

In this context it is important to bring up the definition given by Philippe Bonfils according to whom "criminal violence can be understood as those serious acts that affect directly, intentionally and physically victims" (Bonfils, 1999), including in the area of manifestation of this concept "murder (attempted murder), beatings and injuries, sexual offenses (rape and indecent assault) and aggravated theft (robbery). (Bonfils, 1999, p.64).

Criminologists Michel Levi and Mike Maguire go beyond the sphere of violent criminal acts provided by the authors mentioned previously considering that this concept implies equally: "violence (murder, rape, domestic violence, aggression on minors) killings and injuries due to some road accidents or killings and injuries included in *corporate crime*, due to lack of working conditions meant to ensure labour protection (accidents in mines or marine platforms, contamination with microorganisms), bomb terrorist attacks, aggressions between gangs, their aggressions on residents or passers-by, conflicts between individuals who spend their time in clubs, street robberies, intimidation based on gender and race generally and specifically expressed. " (Maguire, Reiner, 2002, p.795).

If we take into account how the Romanian legislation frames certain acts within in the field of violent crime, we define this social phenomenon by including some offenses against the person and property from the Romanian Criminal Code:

Offences against the person

- Offences against life, bodily integrity and health: homicide (murder, aggravated murder, infanticide, manslaughter, causing or facilitating suicide) beating, bodily or health harm (beating or other violence, grievous bodily harm, beatings or injuries causing death, negligent harm);

- Offences concerning sexual life: rape, sexual intercourse with a minor, sexual perversion, sexual harassment.

Offences against property: robbery. (Codul Penal Român, 2010, pp.88 - 106).

We chose to correlate violent crime definition advanced by Jean Proulx and his collaborators with the legal classification of offences presented in the Romanian Criminal Code, reducing the sphere of this social phenomenon to those acts that lead to direct serious physical harm of the victim.

Thus, we include in the area of violent crime acts sanctioned by the Romanian legislation as offenses against the person: murder, beating causing death, attempted murder, rape, grievous bodily harm and robberies, dual aspect offenses: offenses against the person and of its property.

Also, given the lack of intent in committing some offences against the person and the psychological, medical, situational singularities, we will not include in our work the infanticide, manslaughter or suicide facilitation. Beating offences or other violence and negligent harm are not covered by our analysis due to the low seriousness of the facts; the Romanian Criminal Code stipulates that reconciliation of the parties leads to the removal of criminal liability. Also, we must keep in mind that for instance the negligent harm offence does not imply committing offences with intent, which is it is not in the interest of our study. Sexual intercourse with a minor, seduction, sexual perversion, incest, sexual harassment, abortion, also are not covered by our study for legal reasons related to the nature of the offence.

Purpose of the study

In Romania violent crime has recorded significant statistical increases since 1990. For example, data came from the Statistical Commission of the European Union (EUROSTAT), draw attention on the fact that in the year 2009, of 34,226 people unappealably sentenced to prison, 5,801 had committed acts of violent crime against the person (murder, beatings resulting in death, grievous bodily harm, rape, robbery).

Moreover, statistical data at European level indicate an increased number of acts of crime committed in Romania compared to other countries. For example in 2007-2009, Lithuania and Estonia had the highest incidence of violent crime with 5-8 victims/100.000 inhabitants and Austria, Germany, Slovenia and Spain recorded 1victim/100.000 inhabitants. Romania, along with countries such as Finland, Bulgaria and Ireland record 2 victims/100.000 inhabitants (Comisia de Statistică a Uniunii Europene, 2012, Criminalitatea şi Justiţia Criminală).

In this context we consider it important to present a statistical picture of violent crime committed on the Romanian territory, aimed at highlighting a social issue with strong socio-cultural, economic and psychological implications.

We note that this study presents the results of the first phase covered by us in the research of violent crime. It will be supplemented with other quantitative sociological and criminological information but also qualitative information regarding the perpetrators and victims of violent crime in Romania.

Given the fact that during the communist regime it was not fully known the true state of crime, we are currently unable to make a comparative study, however, our hypothesis refers to the social changes of the last two decades which facilitated the perpetuation of violent crime.

Method used

In completing this first phase of our research on violent crime in Romania we opted for a secondary analysis of existing statistical data at European and national level, using the sociological method called *analysis of documents*.

In Anglo-Saxon specialized literature, *unobtrusive research* usually refers to the analysis of content, analysis of existing statistics and comparative - historical analyses (Babbie, 2008, p. 311), as well as the analysis of archives, public and private documents, secondary analysis (Sedlack, Stanley, 1992, p. 295).

Thus, by the statistical analysis based on SPSS 11 program, we present trends in violent crime in Romania for the period 1990-2009.

The documentary basis of our study consists of the statistical data came from the Statistical Commission of the European Union, the European Committee on Crime Problems, the National Institute of Statistics, the General Inspectorate of the Romanian Police.

Results

Our survey, based on the statistical data from the national and international professional bodies, shows the fact that Romania has an increasing number of acts of violent crime compared to other countries in Europe. Hereinafter we present the statistical analysis of violent crime offences: murder, beatings resulting in death, grievous bodily harm, rape, robbery.

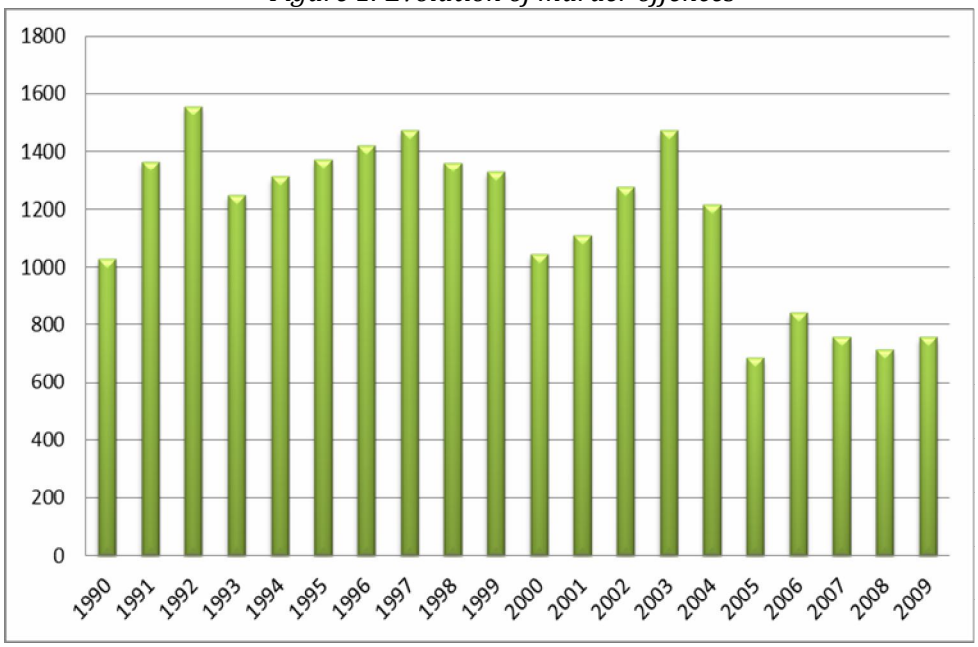
- *Trends of murder offences rate development*

Killing a person with intent, regardless of the motivation of the perpetrator, the relationship between perpetrator and victim, or how it is committed, is punishable by criminal law in all societies as the most serious manifestation form of violent crime. Given that the Romanian legislation does not currently have a system to define different types of homicide (family murder or murder committed in public space, murder with several victims and unknown persons, sexually motivated murder, murder committed at the workplace, murder motivated by revenge or settling of scores), hereinafter we shall refer to the offence of murder as defined by the Romanian Criminal Code.

Of all the manifestation forms of violent crime in Romania, murder recorded the highest figures after robbery in an analysis of statistics from the year 1990 to 2009. Between the years 1990-2004, approximately 1,500 murder offences /12 months were committed, and since 2005 they have not record higher values than 1,000 offences/12 months. However in the last two years we found new increasing trends in the number of murders, reaching 715 in 2008 and 756 in the year 2009. Adding up all offences of murder of the 19 years analyzed by us in Romania 23,332 murders were committed in this period (Institutul Naţional de Statistică, 2010, Anuarul Statistic al României).

Regarding the offence of attempted murder, data from the General Inspectorate of Police statistics show that between the years 2004-2009 were investigated 2,702 cases. However there is no public information on the number of offences of attempted murders that were tried and sentenced, therefore currently a comparative analysis with other violent crime offences is not possible. Hereinafter we present the offences of murder developments in Romania for the period 1990-2009 **(Figure 1).**

Figure 1: Evolution of murder offences



Source: Processing of data coming from the National Institute of Statistics, Romanian Statistical Yearbook, Chapter Justice, 2010.

After the fall of communism in the year 1989 the Romanian society has undergone a series of political, social, economic and cultural transformations, often getting dramatic dimensions. By the analysis of the statistical data pertaining to the National Institute of Statistics we find that in the first three years after the fall of communism, the number of murders committed in our country has been steadily increasing, reaching the peak in the year 1992, when 1,556 people were sentenced for committing murder offences. If we consider the changes undergone by the Romanian society beginning with the year 1989, we can easily find the inner turmoil of individuals, the emergence of the feeling of social imbalance, of fear and disharmony. Amid these feelings and state of facts, society has lost its power of regulating agent and individuals were unable to adjust their behaviour and personal actions to the times of crisis the community underwent.

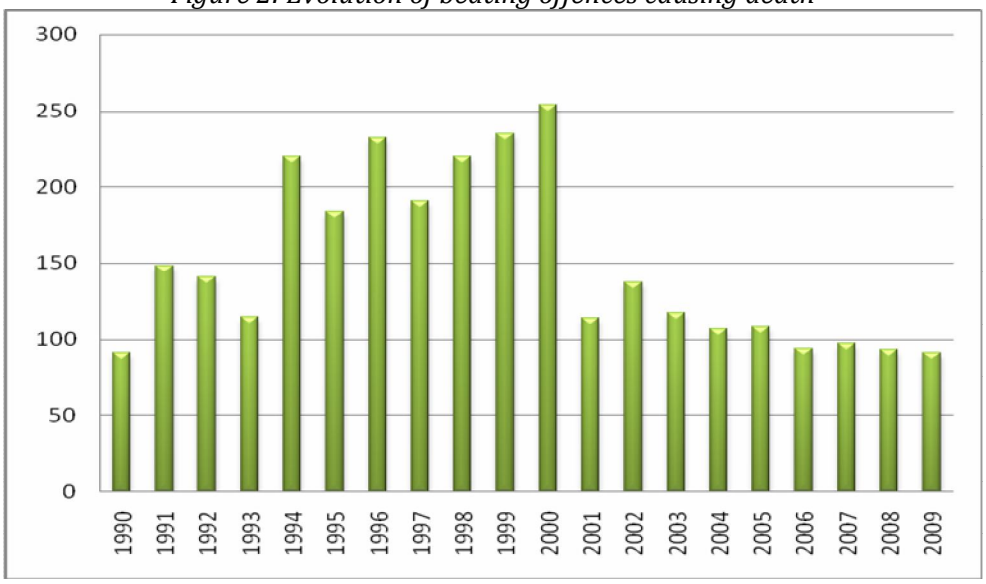
- *Trends in the evolution of the rate of beatings resulting in death offences*

Manifestation forms of violent crime, beatings or injuries resulting in death are acts "causing integrity or health harm to the victim, injury followed by death of the victim". (Codul Penal Român, 2010, p. 93). The offence of beatings or injury resulting in death is a praeterintentional offence because beating or bodily harm offence is committed with intent and the more serious result consisting of the victim's death is attributable to its fault-based offender. (Codul Penal Român, 2010, p. 93).

The inclusion of the offence of beating resulting in death in the category of violent crime offences raises a number of discussions, generally based on legislative differences between societies. The Romanian legislation frames under the category of criminal acts of moderate and high level of seriousness the following criminal acts: bodily injury, grievous bodily harm and beating resulting in death. We believe that of these acts, beatings causing death match our criteria of defining violent crime because they have social, psychological, physical implications of the same sphere with the acts of high level seriousness, such as murder or rape.

The share of crimes of beatings causing death in the total violent crime is relatively low in comparison to the crimes of murder and robbery. Hereinafter the data provided by the National Institute of Statistics, for the period 1990-2009 are presented **(Figure 2).**

Figure 2: Evolution of beating offences causing death



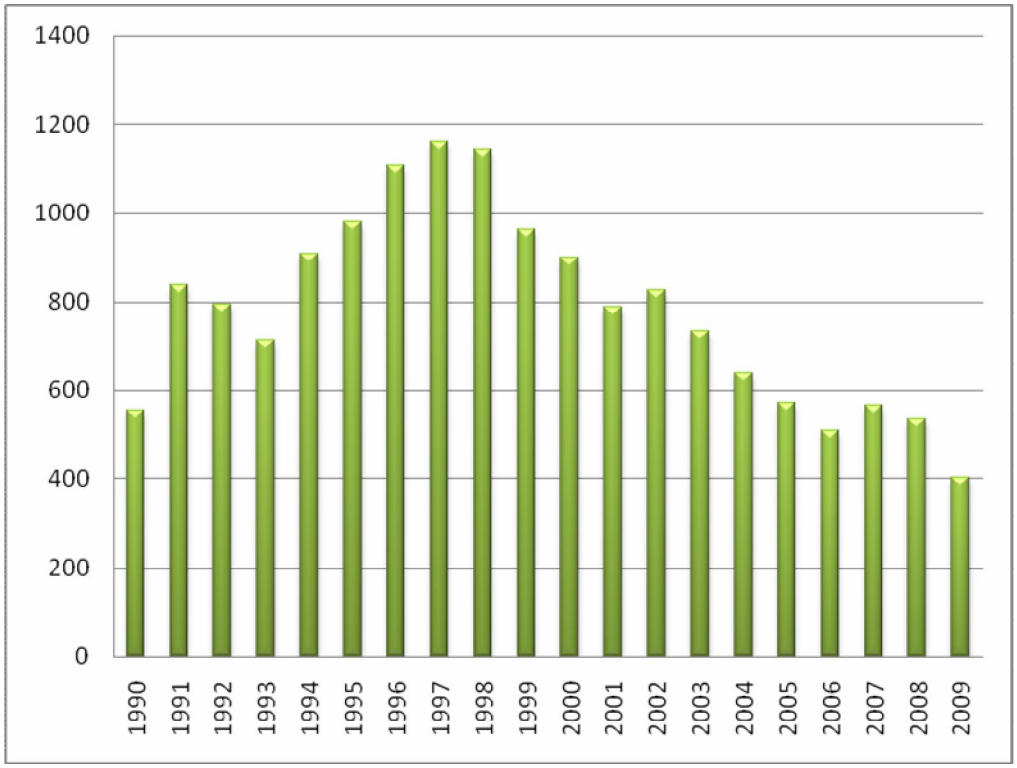
Source: Processing of data coming from the National Institute of Statistics, Romanian Statistical Yearbook, Chapter Justice, 2010.

- *Trends in the evolution of grievous bodily harm crime rate*

Grievous bodily harm is the act that causes the impairment of "bodily integrity or health, an injury that requires medical care for more than 60 days" (Codul Penal Român, 2010, p. 93). The category of violent acts circumscribed to the offence of grievous bodily harm also includes those that can result in loss of "a sense or organ, cessation of their operation, a permanent physical or psychological infirmity, disfigurement, abortion, or endangering human life" (Codul Penal Român, 2010, p. 93).

Of all bodily injury offences, between the years 1990-1996 approximately a fifth represented by the offences of grievous bodily harm. Between the years 1990 – 2007, 17,539 offences of grievous bodily harm were recorded, in average 974/12 months, states Ecaterina Balica, in the study *Violent Crime* (Balica, 2008, p. 204). In the year 2008, the number of offences of this type was lower than in previous years, reaching 535 offences and in 2009 it decreased to 402 acts of grievous bodily harm (**Figure 3**).

Figure 3: Trends in the evolution of grievous bodily harm offences



Source: Processing data coming from the National Institute of Statistics, Romanian Statistical Yearbook, Chapter Justice, 2010.

The analysis of data came from the National Statistical Institute show that in recent years (2006-2009) there was a significant decrease in the number of offences of beating causing death compared to the crime rate of grievous bodily harm. It is also important to note that the evolution of the number of acts of grievous bodily harm follows a similar trend to that of attempted murder and beatings causing death.

- *Trends in the evolution of rape crimes*

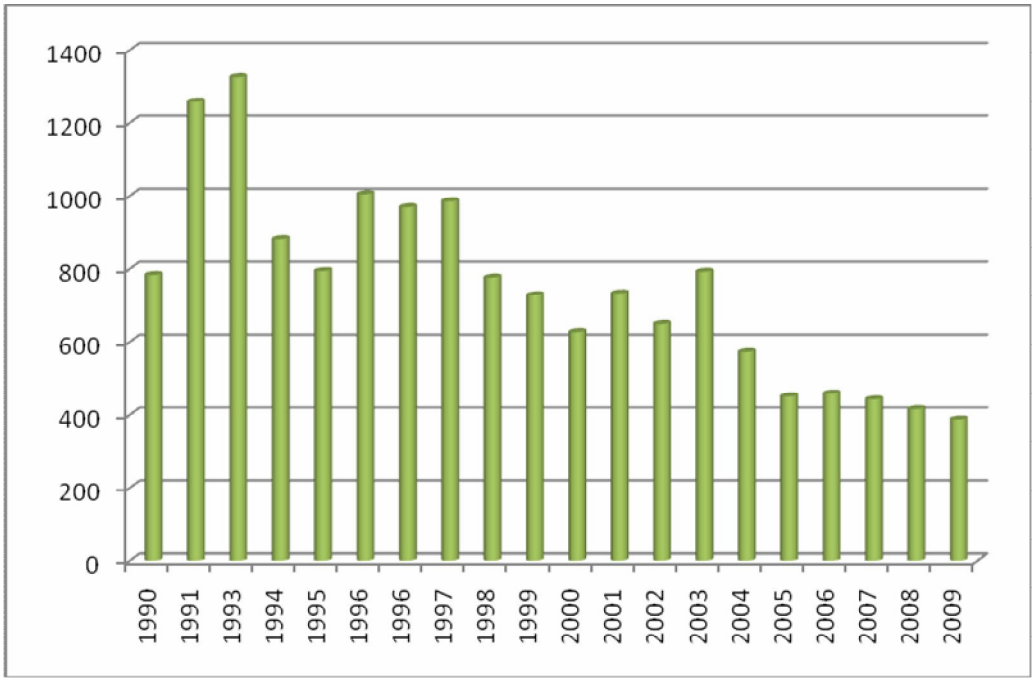
The rape offence is one of the most serious types of interpersonal violence, causing the victim irreparable consequences. The Romanian legislator understands to respond to the need to discourage such acts, bringing specific changes: for example, Article 197 paragraph 1 of the Romanian Criminal Code which defined rape as "sexual intercourse with a female person by coercion or taking advantage of her inability to defend or express her will" was amended by the law 197/2000. Thus acts of rape committed by persons of the same sex were introduced and presented for prosecution and punishment: "sexual intercourse of any kind with another person by coercion or taking advantage of his/her inability to defend or to express his/her will "(Codul Penal Român, 2010, p. 102).

Physical constraint assumes the use of violent acts or any other acts involving the use of physical force of the perpetrator to defeat the victim's resistance (.....) Moral constraint involves threatening the victim with the occurrence of a harm pointing directly toward the victim, the spouse or to a close relative, harm that can only be avoided by accepting sexual intercourse (....) The victim's inability to defend or express its will assumes the situation where due to a physical disability, a morbid condition, excessive fatigue or due to other circumstances, the victim has no physical capacity to fight against the perpetrator (Toader, 2007, p.107)

Also, by law 197/2000 it is excluded the possibility to eliminate criminal liability in case of reconciliation between victim and aggressor or the conclusion of a marriage between them. The rape crime as defined and presented in the Romanian legislation highlights the concern of specialists in the field for trial and punishment of the act as a crime that would seriously harm the victim.

Hereinafter statistical data on rape offences for the period 1990-2009 **(Figure 4)** are presented:

Figure 4: Trends in the evolution of rape crimes



Source: Processing data coming from the National Institute of Statistics, Romanian Statistical Yearbook, Chapter Justice, 2010.

From the statistical analysis we find that the number of rape offences had an evolution similar to other acts of violent crime (beatings causing death, grievous bodily harm, murder), meaning that from the year 1990 until the year 1997 it has increased. Staring with the year 1998 the number of offences of rape began to decline, but a new peak was recorded in 2003.

- *Trends in the evolution of rate of robbery offences*

According to the Romanian legislator, robbery is "the theft committed by use of violence or threats or by making unconscious or impossible to defend, as well as theft or the use of such means for keeping the stolen property or for the removal of traces of crime or for the perpetrator to provide himself escape "(Toader, 2007, p. 147).

From a sociological perspective, the robbery offence has a double aspect, of act committed with violence, directed both against property and against the person. This is reflected in the Romanian legislation as well, which provides three aggravated forms of the offence of robbery:

a) The first aggravated form is when: the perpetrator is masked, transvested or disguised, when the act takes place at night in a public place or in a means of transport.

b) The second aggravated form is when the robbery is committed by two or more persons together, when the perpetrator has an intoxicant or paralysing substance, in a house or its outbuildings during a disaster.
c) The third aggravated form is when the robbery caused serious consequences caused or resulted in death of the victim. (Toader, 2007, pp. 152-153).

Starting from the classification provided by the Romanian legislator, we shall analyze the third aggravated form of the offence of robbery, namely when the act caused serious consequences or resulted in the death of the victim.

In Romania, according to the National Institute of Statistics, the robbery offence records slightly decreasing trends in the year 2009 when 1,780 cases of robbery were convicted, compared with 2008 when 1,895 cases were convicted. After the year 2000, robbery as a crime against property is in second place as convicted figure following the acts of theft. In 2009, of the 1,780 offences of robbery sentenced to prison, 11 resulted in the death of the victim. According to the data pertaining to the General Inspectorate of Police, between the years 2004 -2008, 84 robbery offences resulted in the death of the victim (Inspectoratul General al Poliţiei Române, 2009, Statistica principalelor activităţi desfăşurate de Poliţia Română în perioada 2004-2009).

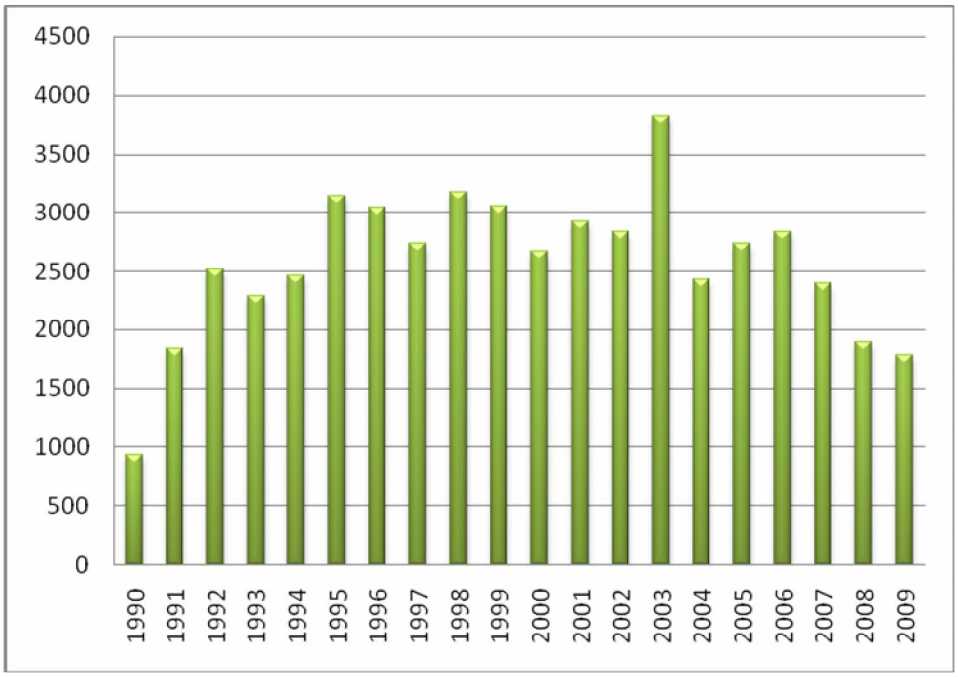
Unlike acts of violent crime against the person, committed especially in rural area, acts of violent crime against property are committed mainly in urban areas. Details of the residence environment of perpetrators of violent crime acts are particularly important because we are dealing with a well-defined phenomenon, in the sense that it emphasises a specific crime based on the rural – urban analysis.

For example, in the year 2009, a number of 5,175 crimes against property were committed in rural areas and 8,516 such crimes in urban areas. (Inspectoratul General al Poliţiei Române, 2009, Statistica principalelor activităţi desfăşurate de Poliţia Română în perioada 2004-2009).

Dan Banciu and Ecaterina Balica point out that ".... if we consider the distribution of crimes committed with violence directed only against the person, excluding therefore robberies and taking into account only murders, attempted murder, beatings causing death, grievous bodily harm, infanticide and rapes, the situation is reversed in the sense that, from the environment perspective in which they were recorded, the rural environment has weights over the investigated urban environment". (Banciu, Balica, 2009, p. 159).

Hereinafter statistic data coming from the National Institute of Statistics, for the period 1990-2009 are presented **(Figure 5):**

Figure 5: Trends of robbery crimes



Source: Processing data coming from the National Institute of Statistics, Romanian Statistical Yearbook, Chapter *Justice*, 2010.

Besides acts of robbery, the other violent crime offences are committed especially in rural areas, this trend being found for a period analyzed between the years 1997-2009. In the year 2008, for example, 61.3% of all murders were committed in rural areas from the total murders in Romania, 56.5% of the beatings causing death, 53.9% of the acts of grievous bodily harm and 50% of cases of infanticide (Inspectoratul General al Poliţiei Române, 2009, Statistica principalelor activităţi desfăşurate de Poliţia Română în perioada 2004-2009).

Conclusions

The damages that violent crime brings to society and to the life of individual are big and often irreversible. Whether we are talking about crimes of murder, beatings causing death, grievous bodily harm or robbery, we believe it is important to draw the attention on the fact that each act of violent crime involves costs too high if we consider the integrity and life of individuals.

From a sociological point of view we can explain the high number of acts of violent crime in Romania by the social anomie states that we go through, by delinquent subcultures that develop in major cities, by the low education and living level etc. If during the communist regime Romanians were forced to restrict their expenses and necessities, in the period after 1989 when political

changes took place and the economy started to grow, people became more eager, wanted to improve their living conditions, they became more anxious in waiting for the establishment of new laws, the old or traditional ones having lost their authority. Also democratization had a strong impact on family and professional life of Romanians, the moral power and authority being weakened by the sudden shift to a different political regime and interpersonal relationships were influenced by new values and social norms.

Therefore, Romania needs time to overcome the generalized state of social anomie in recent decades. While overcoming this period, it is important to turn our attention to evaluating, explaining and social prevention of violent crime because, as highlighted in the statistics came from European and national level, we are facing a social phenomenon gains momentum.

Bibliography:

Babbie E. (1998). The practice of Social Research. Wadsworth Company: Belmont.
Balica E. (2008). *Criminalitatea violentă. Tendinţe şi factori de risc.* Oscar Print:Bucureşti.
Banciu D., Balica E., (2009). *Tendinţele ale criminalităţii violente în comunităţile rurale. Evaluare şi percepţie public*. Revista Română de Sociologie, no. 1/2, Bucureşti.
Bonfils P. (1999). *Les violences criminelles en France*. Proulx J., Cusson M., Quimet M. (Eds.). *Les violences criminelles.* Les Presses de L'Universite Laval:Quebec.
Codul Penal Român (2010). Hamangiu:Bucureşti.
Eurostat (2012). *Crime and Criminal Justice Statistics.*
[Online]. http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database
Inspectoratul General al Poliţiei Române (2009). Statistica Principalelor Activităţi Desfăşurate de Poliţie în Perioada 2004-2009.
[Online]: http://www.politiaromana.ro/statistici_2004_2009.htm
Institutul Naţional de Statistică, (2008). *Anuarul Statistic al României*, Capitolul *Justiţie.* [Online]. www.insse.ro
Maguire M.,Reiner R. (Ed.), (2002). *The Oxford Handbook of Criminology*, Third Edition. Oxford University Press: Oxford.
Proulx J., Cusson M., Quimet M. (Eds.). *Les violences criminelles.* Les Presses de L'Universite Laval: Quebec.
Toader T. (2005). Drept penal. Partea specială, Ediţia a – II- a. Hamangiu: Bucureşti.

List of abbreviations

1. EUROSTAT **–** Statistical Commission of the European Union
2. CEPC - European Committee on Crime Problems
3. C.P.R. - Romanian Criminal Code
4. I.N.S. - National Institute of Statistics
5. I.G.P.R. – General Inspectorate of the Romanian Police.

ORIGINAL PAPER

Elena OANCEA

LEGISLATIVE REGULATIONS AND PERSPECTIVES REGARDING THE PROTECTION OF VICTIMS OF DOMESTIC VIOLENCE

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Abstract: *One of the smallest and oldest forms of human community, the family enjoys legal protection in a wide range of regulations. In this context, the present article presents the legislative regulations and perspectives regarding the protection of victims of domestic violence.*

Key words: *legislative regulations, protection, domestic violence, family relations, education.*

One of the smallest and oldest forms of human community, the family enjoys legal protection in a wide range of regulations. As a distinct form of the social cohabitation relations, family relationships are governed by various rules of conduct (moral, ethical, legal, etc.).

Protecting the family relations is based on increasing the role of education. The complexity of these relationships has determined the defence for the violation deeds of low intensity by means of some civil, administrative rules, etc.

Against the deeds of greater severity, the protection is done by means of criminal law. Traditionally, the Romanian civil legislation establishes marriage as the family base. The new Romanian civil code coming into force on 1 October 2011 is not eloigned from the legislative tradition. In the 2nd book of this normative act called "The Family", the family relationships are outlined as legal relations arising from marriage, kinship, adoption or similar to these.

The family is subject of regulation in the scope of applying certain special laws. Among these, "Law 217/2003 on preventing and combating domestic violence" is worth noting – a normative act defining its purpose from its preamble as the family protection and support.

Previously, by Law no. 197/2000, the criminal rules defining some terms were amended (art.149[1] Criminal Code – introduced by art. I item 4 of Law no. 197/2000 defines the phrase "family member" as being "the spouse or close relative, if the latter lives and households with the offender").

The current regulation has an approach that rather takes into account the social reality compared to the classical civil approach (or the regulation included in art. 149 and 149[1] Criminal Code), because it defines the phrase "family member", *as* having a mainly sociological *dimension*.

The scope of individuals enjoying the protection of this special law has grown. If within the common law legal protection as family member was provided to the spouse or close relative (by close relatives, one is to understand "the ascendants and descendants, brothers and sisters, their children, as well as the individuals becoming such relatives by adoption, according to the law" – art. 149 of the Criminal Code), in Law 217/2003, the same protection is provided not only to the individuals listed in the common law, but according to art. 5: to the ex-wife/ex-husband: to the individuals who established relationships similar to those between the spouses or between parents and children, should they cohabit; to the tutor or another individual exercising actually or rightfully the rights to the child, legal representative or another individual caring for the individual with mental illness, intellectual or physical disability , except for those meeting these attributions when exercising their professional tasks.

This step was undoubtedly necessary given that "the freely constituted unions" (the so-called "de facto marriages") significantly increased and in the context where the dynamics of social life provides a diversification of contracts, connections, interests of the relations which sometimes have a volatile feature,

and sometimes become rather permanent or at least they get a continuity that cannot be ignored since they actually cause effects. Naturally, these effects must also have a legislative coverage.

By illustratively listing the forms of domestic violence, by defining the terms violence is exercised in, by defining the violence itself (as being "any intentional action or inaction, except for the self-defence or defence actions, manifested physically or verbally, committed by a family member against another member of the same family, who causes or can case an injury or physical, mental, sexual, emotional or psychological suffering, including the threat of such actions, coercion or arbitrary deprivation of liberty – art. 3 par. 2 of Law no. 217/2003), by widening the scope of individuals beneficiaries of the norms, by thoroughly regulating the obligations of state-owned institutions to take actions in order to prevent the repeated violation of the fundamental rights of the domestic violence victims, by achieving some novel institutions in the Romanian legal system (for example, "the restraining order"), as well as by sanctioning specific deeds regarded as contraventions[1], this normative act gives expression to the need of legislative evolution to the strong dynamics of the social relations in general.

In the plan of administrative organisation, it is however noted that the structures considered to be necessary for the implementation of the purpose of the law are either formally organised, or a good knowledge is not provided to them (by informing the public), or there is really not a situation where the purpose of the law (domestic violence prevention and combat) remains to a large extent at the level of good intentions.

The lack (or incoherence) of the mechanism to implement the law, the lack of the efficacy normative act or at best it reduces its scope.

On the other hand, even in its content, Law no. 217/2003 is not safe from criticism. Thus, if regarding art. 3 par. 2^2 it can be argued that the circumstantiation of only the woman as qualified passive subject of domestic violence would not undermine the constitutional principle of the equality in rights[3] (a matter disputed in the doctrine being in the presence of the so-called "positive discrimination"), regarding the scope of application, of law given by comparison with the criminal law norms substantially in force at this moment (art.149, 149^1, art.180 par.2^1, etc. of the current criminal code) there is a lack of correlation under the conditions where by Law no. *217*/2003 the scope of individuals widens, who are included in the "family member" phrase, certain individuals expressly listed in this normative act and who exercise the forms of violence defined in the precise terms are not criminally liable according the classification that corresponds to the "family member" concept of the criminal code[4].

This is because in the Romanian law regarding the substantial criminal law norms the principle according to which the rules are strictly interpretative applies. Only in the situation where the criminal rule does not have in its content

the meaning of a term (phrase, expression), the meaning of the term determines through the rules of the law branch which that term belongs to.

Specifically, in the Criminal Code in force the "family member" is however defined in art. 149[1]. The quality of the passive subject of the crime in the person of "family member" is governed as a distinct form of the crime sanctioned with a higher special minimum than the other forms of the same crime, within the same normative act, in the section "Hitting and harming the bodily integrity or health", on the crime of "Hitting and other violence".

The new Criminal Code (Law no. 286/2009 which shall come into force on 01.02.2014) harmonises even only partially the criminal rules with the content of Law no. 217/2003 because it also includes "the individuals who established relationships similar to those between spouses or between parents and children, through the provisions of art. 177 letter c into the concept of "family member", should they cohabit.

The new text is also a necessary harmonisation with art. 8 of the European Convention regulating the right to the respect for family life, a concept which is not limited only to the marriage relationships.

The new Criminal code has a distinct chapter called "Crimes committed against a family member", which begins with a common aggravated form regulated by art. 199 called "Domestic violence".

In terms of the criminal law, the family relationships continue to be protected both by governing them as distinct crimes or as aggravated forms within the regulations on the individual's life, health, integrity and by maintaining a distinct chapter exclusively intended for the participants in the family relationships, a chapter called "Crimes against the family"[5].

These specific relationships are viewed as component of the relationships concerning social cohabitation.

In the presence of an obvious recurrence of the domestic violence crimes, it is responded in the new regulation by rendering the main punishments more strict, *in the case of the crimes committed [6] violently*, by increasing the number of crimes which the criminal action can be set going and ex officio, by reconfiguring the action of safety currently regulated in art. 112 letter g called "the interdiction to return to the family home for a determined period of time" within the range of complementary punishments in art. 66 par. 1 letter n (Law no. 286/2009 – the new code) as the interdiction of the right "to communicate with the victim or with their family members… or to come near them" because complementary punishments have a punitive deep feature by their nature.

The need for incriminating their prevention to the mandatory education is reasoned by the alarming increase of the school abandonment rate by increasingly younger students should the parent act abusively, withdrawing the child from the studies or preventing them to attend them without the presence of a poor material situation.

In the explanatory statement, the legislator has shown that the main purpose is to restrict the freedom of movement and indirectly, the removal of the danger state and prevention to commit new crimes. The effort in the direction of correlating the Romanian legislation with the legislation of the other community states is currently obvious.

In the context where art.8 par.1 of the European Convention has its origin in art. 12 of the Universal Declaration of Human Rights (which stipulates that nobody shall be subject to an arbitrary interference in their private life, in their family, home or correspondence)[7] both the obligation to not prejudice the right to private life and family, home and correspondence and the obligation to protect these rights against the undue interferences of the authorities or other private individuals are attached to the state authorities.

It is both necessary and difficult to regulate by criminal law rules the conflict situations in the family due to the specificity of the individuals involved, the variety, context, place (violence is often exercised at home) in the context where the purpose of the rules is to stop the violence by maintaining the family entity as much as possible. Vulnerable individuals in a family are often children or are dependent in some way (emotionally, housing, financially, etc.).

Traditions (of which some erroneously understood), the tolerance sometimes excessive or on the contrary, the abusive behaviour can be the causes of an aggressive behaviour in the family.

The legislator's concern for protecting vulnerable individuals and correlating the protection rules with those concerning the respect of private life related to the public interest is certain.

The normative configuration presented succeeds to a large extent to protect the moral family bases, to simultaneously develop the civic responsibility, to focus the health and education of minors and also ensure the proportionality between the interest of the individual and that of the society.

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[1] Art. 40 par. 2 of Law no. 217/2003:

"The following deeds are contraventions, if according to the law, they are not crimes and are sanctioned by fine:

a) the refusal to accept in the house or refusal to provide free medical care to and obviously suffering individual upon the social worker's motivated request, in order to remove the consequences of violence;

b) changing the destination of the shelter, etc.

[2] Art.3 par. 2: "Domestic violence is also when preventing the woman to exercise her rights and fundamental freedoms".

[3] Art. 16 of the Constitution of Romania:

(1) Citizens are equal before the law and public authorities, without privileges and discriminations.

(2) No one is above the law.

(3) Under the law, the public, civil or military functions and titles can be held by the individuals who have Romanian citizenship and residence in the country. The Romanian state guarantees the equality of chances between men and women for holding these functions and titles.

(4) Under the conditions of Romania's accession to the European Union, the EU citizens meeting the requirements of organic law have the right to elect and be elected in the authorities of the local public administration.

[4] For example, the concubine who commits the deed described in art. 4 letter c) (physical violence) of Law no. 271/2003 is liable based on this law only for failing to uphold the requirements of law. However, a spouse hypothetically committing the same deed as that committed by a concubine can yet be liable based on Law no. 271/2003, but cannot also be liable through the aforementioned criminal provisions (art. 149, 149[1] and art. 180 par. 4 of the Criminal Code).

[5] Law 286/2009 governs the following as "Crimes against family": "Bigamy"; "Incest"; "Family abandonment"; "Failure to follow the measures on child custody"; "Prevention of the access to a mandatory general education".

[6] The punishments in other crimes have either remained unchanged (for example, at "Family abandonment"), or were diminished (for example, at "Bigamy").

[7] This right is also guaranteed and protected by the International Covenant on the civil and political rights (art. 17). Similarly, art. 17 of the Charter of Fundamental Rights of the European Union stipulates: "Everyone has the right to respect for his or her private and family life…" .

ORIGINAL PAPER

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REGULATING ETHICAL VALUES, INTEGRITY AND TRANSPARENCY IN ROMANIAN PUBLIC EMPLOYMENT: STRATEGY AND LEGAL PROVISIONS

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Abstract: Anti-corruption policies requested by international institutions have been approached in Romania through a series of strategies and pieces of legislation, designed to strengthen ethical values, integrity and transparency within both central and local public institutions and authorities. This paper discusses the legal measures taken by Romanian authorities in an attempt to highlight the importance of consolidating the current institutional framework.

Keywords: anti-corruption measures, integrity, public employees, transparency.

Fighting corruption has engaged the Romanian government into adopting strategies and pieces of legislation, designed to strengthen ethical values, accountability and transparency in the public sector, an approach deemed necessary by the Romanian citizens and through different international engagements and recommendations formulated by international organizations. After the fall of the Berlin Wall and the dissolution of the Warsaw Pact, Romania, as the rest of the former Communist Central and Eastern European countries, experienced the transition from the centralized political, social and economic regime to democracy, decentralization and the market economy. The Romanian transition[1] involved a complex institutional, political, juridical, economic and social reform process of the public and private spheres marked by the perspectives of Europeanization/integration[2] and importing Western European values and models. The reform of the Romanian institutional and legal framework was thus marked by a public condemnation[3] of Romania's Communist political and institutional heritage[4] and by the challenges imposed by the need to answer the European requests of establishing and strengthening the public authorities and institutions capacity in order to join the European and North-Atlantic structures. Increasing the administrative capacity of the Romanian state was one of the major themes on the political agenda as it quickly became obvious that owning a strong public administration was a prerequisite for the European integration[5].

The quest for strengthening the administrative capacities was supported by the legislative process, the adoption of the Romanian fundamental law in 1991 and its amendment in 2003 marking a milestone in the process of strengthening the Romanian rule of law[6]. The succeeding legislatures engaged in the administrative reform process with various normative acts aimed at delivering the necessary instruments to increase the accountability and transparency within central and local public institutions and authorities.

Defined as "the abuse of public roles and resources by private parties"[7], corruption is one of the main challenges for economic growth and democratization of both past and nowadays societies[8].

Contrary to the tendency of adopting new anti-corruption measures, researchers emphasize the need of a stronger accent on implementation and assessment by national agencies since, at present, it is argued that the assessment of anti-corruption mechanisms is carried out mainly by international organizations such as the OECD, the Council

of Europe (GRECO)[9] and the UN. The official statistics of the cases of corruption brought before justice stand as a clear argument for the functioning of these mechanisms.

International treaties such as the *United Nations Convention against Corruption* (2004) prescribe standards against corruption and mark the importance of implementation and constant assessment of integrity-assurance mechanisms such as the universal use of the merit-based system for the recruitment, selection, promotion of civil servants and all non-elected officials[10]. Public employment is dealt with in Article 7 which provides for preventive measures such as the use of the "principles of efficiency, transparency and objective criteria such as merit, equity and aptitude" (paragraph 1.a), "adequate procedures" that eliminate integrity vulnerabilities for the selection and training of public personnel (paragraph 1.b), "adequate remuneration and equitable pay scales" (paragraph 1.c), training and education (paragraph 1.d), financial transparency for public offices candidatures and political parties (paragraph 3), the avoidance of conflicts of interests (paragraph 4). Moreover, Article 8 of the Convention prescribes for the implementation of codes of conduct within public authorities that would limit the susceptibility of conflicts of interest by making public the office bearer's assets, financial interests, gifts received in the exercise of the function and other activities. Other focal points which interest our discussion prescribed as preventive measures by the Convention are dealt with in Article 9 (public procurement and the management of public finances), Article 10 (public reporting), Article 11 (judicial sphere), Article 13 (cooperation of the civil society), Article 14 (preventing money-laundering). Criminalization of corruption is institutionalized pursuant to Articles 15 and 16 (bribery), Article 17 (embezzlement and misappropriation), Article 18 (trading in influence), Article 19 (abuse of functions), Article 20 (illicit enrichment). We have to note at this point that at international level the measures set to increase the integrity, accountability and transparency of public, be they national, international or local authorities, cover prevention, education and criminalization of corruption activities. It appears thus normal to assert that the Romanian authorities followed a similar approach.

Strengthening ethics, integrity and transparency as national strategical objectives

Aiming at strengthening integrity and good governance within national public institutions and authorities the Romanian Government adopted the Decision no. 215 of March 20th 2012 regarding the approval of the National Anti-Corruption Strategy during 2012-2015, of the Inventory of anti-corruption prevention measures and of the assessment indicators, as well as of the National Action Plan for implementing the National Anti-Corruption Strategy 2012-2015 published in the Official Gazette no. 202 of March 27th 2012.

The document styled National Anti-Corruption Strategy for the period 2012-2015 is joined by the strategy of the National Integrity Agency Strategy for combating and preventing the accumulation of unjustified assets, conflicts of interest and incompatibilities 2011-2014 and the efforts of the Superior Magistrature Council to increase the accountability of the judiciary. The National Anti-Corruption Strategy was supposed to work in line with the Commission's Reports on the Cooperation and Verification Mechanism in order to increase the institutional coordination of consolidating integrity within the public sector.

The Romanian National Anti-Corruption Strategy recognizes the classical three types of action in the fight against corruption: prevention, education and repression (p. 9) still it is centered on prevention measures and their specific indicators: introducing and enforcing ethical, deonthological, behaviour codes, enforcing the compulsoriness of assests and gifts declarations, identifying and dismissing conflicts of interests, enforcing ethical values through the use of ethical advisors, identifying and removing incompatibilities, consolidating the transparency of the decision-making process, strengthening transparency by increasing the access to public interest information, increasing the protection of personnel notifying integrity infringements, assurig the random distribution of files and office duties, imposing post-employment interdictions (Pantouflage measures)[11]. This special attention on prevention is noticeable if one analyses the eight specific prevention objectives included in the Strategy:

> *"1. Remedy vulnerabilities specific to public institutions through the systematic implementation of preventive measures.*

2. Increase institutional transparency by enhancing the degree of open data availability placed at service by public authorities.

3. Consolidating the integrity and transparency of the judiciary system through the promotion of anti-corruption measures and professional ethical standards.

4. Increasing transparency of political parties and electoral campaigns financing.

5. Consolidating integrity within members of Parliament.

6. Increasing the efficiency of mechanisms for preventing corruption in the field of public procurement.

7. Promoting a competitive, correct and integer business environment.

8. Consolidating integrity, efficiency and transparency at the level of the local public administration."[12]

In the Strategy one also claims the need to meet international integrity standards with a new coherent institutional vision that would surpass the legislation approach and insist on implementation. This change of optics envisioned by the government is in line with some researchers' arguments that regulation alone without proper implementation and promotion of a coherent and comprehensive integrity policy cannot guarantee for success. Thus the Strategy announces the implementation of periodic organisational self-assessments of the use of integrity measures such as "assets declaration, respecting the rules which bind the receival of gifts, managing conflicts of interests, incompatibilities, ethical and deonthological codes, decisional transparency, access to information of public interest, managing public funds, public procurement, random repartition of files or office duties, personnel selection and promotion procedures"[13] completed by "a mechanism dealing with thematic assessment missions made by mixt teams, constituted by experts of different public institutions and nongovernmental organizations"[14], thus drawing onto the international practices. However, in line with "measures to promote institutional integrity, having as main landmarks: implementing ethical codes, applying internal/managerial control standards and consolidating the appropriate administrative sanctioning mechanisms, the protection of integrity notifier, the management of weaknesses specific to each institution"[15], the anti-corruption strategy marks some loopholes in the current legislation that can only be addressed by adopting other pieces of legislation[16].

Thus, promoting integrity, transparency of the decision-making process, dismissing conflicts of interest and incompatibilities in the

exercise of public duties, performing in the interest of citizens are part of a wider institutional scenario of anti-corruption actions.

Progress has been made through the adoption of legislation aimed at strengthening anti-corruption measures and integrity of civil services, transparency and open access for the civil society to the decision-making process. Nevertheless, a study commissioned by the European Commission notes that Romania, as well as the other new EU Member States, is more regulated than old Member States[17] as regards the conflicts of interests within public institutions and authorities.

Legal provisions

The legal framework designed to enhance ethics and ensure integrity in the public sector regulates the conduct of public employees, the regime of assets, financial interests, gifts received in the exercise of their duties, conflicts of interests, introduces ethical advisors, the regime of incompatibilities, strives to increase the transparency of the decision-making process, the access to public interest information, regulates the notification of integrity infringements etc. A discussion on the legal anti-corruption measures adopted by Romanian public authorities has in our view to begin with the regulation of the status of public employees.

In Romania, there are three categories public employees: civil servants subordinated to the National Agency of Civil Servants, special status civil servants and contractual employees[18]. The provisions of Law no. 140/2010 for the amendment and completion of Law no. 188/1999 regarding the Statute of public employees (published in the Official Gazette, Part I, No. 471 of July 8th, 2010) apply to the first category of employees, regulating the public function, the rights and obligations of civil servants, measures applicable to recruitment, selection, training, promotion, remuneration, special provisions for the category of senior civil servants. The law prescribes the possibility for the other categories of public employees (including contractual employees, healthcare and education sectors personnel, magistrates etc.) to be regulated through special statutes applicable to each institution in part (Article 5), and through the labour code (Article 6). This regulation discriminates between general and specific public functions, first class, second class and third class public functions, and state, territorial and local public functions (Article 7).

Law no. 140/2010 stipulates in Article 3 that Romanian civil servants must observe the following principles when on duty: compliance to the law, political neutrality, objectivity, transparency, efficiency and effectiveness, accountability (according to the law), prioritising public interests, stability in the exercise of public office, hierarchical obedience. Also, the law provides Romanian civil servants with the right to express their opinions, to asociate in unions, and to strike. Moreover, the law forbids civil servants to exercise leadership functions in political parties and express their political options, while senior civil servants are forbidden to join in political parties (Article 44).

The law prescribes the principle of open competition for the recruitment of public employees according to the merit-based system with vacancies published in the Official Gazette at least 30 days before, stipulating the compulsoriness of a national competition by an independent, permanent commission for senior civil servants (Article 18). The law also prescribes that some public employees are recruited through open competition. In this case, recruitment for civil servants positions falls under the competence of the National Agency of Civil Servants which is endowed by law with the power to "approve the participation conditions and the recruitment and promotion procedure for public offices selected through competition and endorses and monitors recruitment and promotion for the other public positions" (Article 22.j). The creation of the National Agency of Civil Servants was envisaged so as to ensure the professional, stable and neutral character of public employees, an objective adherent to the managerial paradigm of public administration[19].

The anti-corruption legal framework is founded on Law no. 78/2000 on the prevention, discovery and sanctioning of corruption actions, with the subsequent amendments and supplements[20] which introduces special rules of behavior for persons in the exercise of public positions in order to prevent corruption such as the obligation to observe the law and professional behavior rules, to follow the solicitors' rights and interests without ensuring for themselves inadequate benefits, to declare their assets (Article 2), and discriminates among different categories of crimes of corruption: corruption offences, breaches assimilated to corruption offences, breaches in direct connection to corruption offences, and offences against the financial interests of the European Communities.

Anti-corruption measures applicable to persons in the exercise of public positions were further regulated through the adoption of Law no. 176/2010 regarding integrity in the exercise of public positions and dignities, amending Law no. 144/2007 regarding the establishment, organizing and functioning of the National Integrity Agency, as well as amending other normative acts (published in the Official Gazette, Part I no. 621 of September 2nd, 2010). Law no. 176/2010 regulates on declaring assets and interests, and institutes further procedures of ensuring integrity and transparency in the exercise of public positions and dignities establishing the regime of integrity inspectors within the National Integrity Agency, assets assessments, conflict of interests and incompatibilities assessments. Moreover, Law no. 161/2003 regarding some measures for ensuring transparency in the exercise of public offices, civil service and in the business environment, the prevention and sanction of corruption, with subsequent amendments and Law no. 251/2004, regarding some measures referring to the goods received on the occasion of protocole actions in the exercise of the mandate or office, stand at the basis of the compulsory nature of completing assets, gifts and interests declarations and are part of a wider set of legal instruments to increase transparency of public administration at local and central level. Thus, transparency of the decision-making process is enhanced since the adoption of Law no. 52/2003 regarding decision transparency within public administration, with further amendments and Law no. 544/2001 regarding free access to information of public interest, with further amendmnets.

Legal provisions aimed at removing conflicts of interests and strengthening transparency within public organizations includes, without being limited to, Law no. 176/2010 regarding integrity in the exercise of public positions and dignities, amending Law no. 144/2007 regarding the establishment, organizing and functioning of the National Integrity Agency, as well as amending other normative acts and Law no. 161/2003 regarding some measures for ensuring transparency in the exercise of public dignities, public positions and businesses, preventing and sanctioning corruption, with subsequent amendments. Integrity was further enhanced through the adoption of Law no. 571/2004 regarding the protection of personnel within public authorities, public institutions and other units who notice breaches to the law. In addition, increasing ethical values was sought legally through the adoption of legislation imposing professional codes[21] for public employees such as Law no.

7/2004, republished, regarding Civil Servants Behavior Code and Law no. 477/2004 regarding the Behavior Code for the contractual employees in public institutions and authorities.

Conclusions

After reviewing part of the Romanian anti-corruption legislation[22] we have to note the growing tendency to regulate this field by imposing preventive measures at a high extent. In this sense we have to mention the measures adopted by the Romanian legislator as regards the obligation of introducing ethical professional codes, declaring one's assests and interests, regulating conflicts of interests, incompatibilities, increasing transparency in the decision-making process, increasing the access to public interest information, increasing the protection of personnel notifying integrity infringements, ensuring the random distribution of files and office duties, imposing post-employment policies.

Notes:

[1] For an outlook on the transition challenges for public administrations of former Communist countries we recommend the study of the United Nations, Department of Economic and Social Affairs, Division for Public Economics and Public Administration, *Professionalism and Ethics in the Public Service: Issues and Practices in Selected Regions*, New York, 2000, pp. 10-20, source: http://unpan1.un.org/intradoc/groups/public/documents/un/unpan000112.pdf

[2] For an inquiry into the main themes of the transition debate we recommend the interest readers the paper of professor Anca Parmena Olimid, *Politică românească după 1989 (Romanian Politics after 1989),* Craiova: Aius PrintEd, 2009, pp. 11-47.

[3] For an insight into the manner the press related to communism during recent years we recommend the interest readers the research of professor Xenia Negrea, *Communism in the Romanian Press during the Economic Crisis,* in "Revista de Ştiinţe Politice. Revue des Sciences Politiques", no. 33-34/2012, pp. 269-278.

[4] Anca Parmena Olimid, *op. cit.*, p. 15.

[5] Since the public administration of the European Union unites all the 27 public administrations of its Member States, it becomes natural to consider the administrative capacity when calculating the potential of a Candidate Country. See, for that matter, the considerations expressed by the author Diana-Camelia Iancu, *Uniunea Europeană şi administraţia publică (European Union and Public Administration),* Iaşi: Polirom, 2010, pp. 49-109 and also Cătălina Maria Georgescu, *EU competences in the field of public administration of Member States and Candidate Countries,* in "Revista de Ştiinţe Politice. Revue des sciences politiques", Universitaria Publishing House, Craiova, no. 21-22/2009, pp. 106-112.

[6] See for this matter the views on the foundamental principles of the Romanian constitutional system expressed by Cosmin Lucian Gherghe, *The evolution of constitutionalism in Romania beyond 1989. Case study: The Constitution of 1965 and the Constitution of 1991,* in "Revista de Ştiinţe Politice. Revue des Sciences Politiques", no. 35/2012, pp. 401-407.

[7] Johnston, Michael, *Corupţia şi formele sale. Bogăţie, putere şi democraţie (Syndromes of Corruption: Wealth, Power, and Democracy),* Iaşi: Polirom, 2007, p. 24.
[8] Ibidem, p. 31.
[9] C. Demmke et al., *Regulating Conflicts of Interest for Holders of Public Office in the European Union. A Comparative Study of the Rules and Standards of Professional Ethics for the Holders of Public Office in the EU-27 and EU Institutions. A study carried out for the European Commission*, European Institute of Public Administration in co-operation with the Utrecht School of Governance, the University of Helsinki and the University of Vaasa, Maastricht, June 2008, p. 9, source: http://ec.europa.eu/dgs/policy_advisers/publications/docs/hpo_professional_ethics_en.pdf
[10] United Nations Office on Drugs and Crime, *United Nations Convention against Corruption*, New York, 2004, source: http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf. Romania is a party to the *United Nations Convention against Corruption* (date of signature – 9 Dec 2003, date of ratification – 2 Nov 2004).
[11] See Annex 2 to Decision no. 215 of March 20th 2012 regarding the approval of the National Anti-Corruption Strategy during 2012-2015, of the Inventory of anti-corruption prevention measures and of the assessment indicators, as well as of the National Action Plan for implementing the National Anti-Corruption Strategy 2012-2015 published in the Official Gazette no. 202 of March 27th 2012, source: http://www.mai-dga.ro/downloads/Strategia/HG_nr_215-2012.pdf
[12] See Annex 1 to Decision no. 215/2012.
[13] Ibidem, p. 9.
[14] Ibidem, p. 9.
[15] Ibidem, p. 8.
[16] See, in this sense, Annex 2 to Decision no. 215/2012 in which one argues for new normative acts to address, for instance the breaches in the behaviour of high officials, civil servants and contractual personnel carrying duties in the field of protecting EU financial interests, or the behaviour of personnel exercising control duties in the field of protecting EU financial interests.
[17] C. Demmke et al., *op. cit.*, p. 11.
[18] In this sense we recommend the comparative analysis delivered in the study of Ministere du Budget, des Comptes Publics et de la Fonction Publique, *Administration and the Civil Service in the EU 27 Member states. 27 country profiles,* source: http://www.fonction-publique.gouv.fr/files/files/publications/
etudes_perspectives/Administration_and_the_Civil_service_in_the_27_EU_Member_states.pdf
[19] For a complete analysis of this perspective we recommend the interested reader the work of the authors David H. ROSENBLOOM and Deborah D. GOLDMAN, *Public administration: understanding management, politics and law in the public sector*, New York: McGraw-Hill, 1993.
[20] The following normative acts amended Law no. 78/2000 on the prevention, discovery and sanctioning of corruption actions (published in the Official Gazette, Part I no. 219 of May 18th 2000): Government Emergency Ordinance no. 43/2002, Law no. 161/2003, Law no. 521/2004, Government Emergency Ordinance no. 50/2006, Law no. 69/2007.
[21] A list of normative acts supporting the government anti-corruption measures is presented in Annex 2 to the National Anti-Corruption Strategy during 2012-2015, available at: http://www.mai-dga.ro/downloads/Strategia/HG_nr_215-2012.pdf
[22] For the Romanian country profile in the field of regulating conflicts of interests see C. Demmke et al., *op. cit.*, pp. 293-298.

Bibliography:

Decision no. 215 of March 20th 2012 regarding the approval of the National Anti-Corruption Strategy during 2012-2015, of the Inventory of anti-corruption prevention measures and of the assessment indicators, as well as of the National Action Plan for implementing the National Anti-Corruption Strategy 2012-2015 published in the Official Gazette no. 202 of March 27th 2012, source: http://www.mai-dga.ro/downloads/Strategia/HG_nr_215-2012.pdf

DEMMKE, C., M. BOVENS, T. HENÖKL, K. VAN LIEROP, T. MOILANEN, G. PIKKER, A. SALMINEN, *Regulating Conflicts of Interest for Holders of Public Office in the European Union. A Comparative Study of the Rules and Standards of Professional Ethics for the Holders of Public Office in the EU-27 and EU Institutions. A study carried out for the European Commission*, European Institute of Public Administration in co-operation with the Utrecht School of Governance, the University of Helsinki and the University of Vaasa, Maastricht, June 2008, source: http://ec.europa.eu/dgs/policy_advisers/publications/docs/hpo_professional_ethics_en.pdf

GEORGESCU, Cătălina Maria, „EU competences in the field of public administration of Member States and Candidate Countries", *Revista de Ştiinţe Politice/Revue des sciences politiques*, Universitaria Publishing House, Craiova, no. 21-22/2009, pp. 106-112.

GHERGHE, Cosmin Lucian, *The evolution of constitutionalism in Romania beyond 1989. Case study: The Constitution of 1965 and the Constitution of 1991* in "Revista de Ştiinţe Politice. Revue des Sciences Politiques", no. 35/ 2012, pp. 401-407.

IANCU, Diana-Camelia, *Uniunea Europeană şi administraţia publică (European Union and Public Administration),* Iaşi: Polirom, 2010.

JOHNSTON, Michael, *Corupţia şi formele sale. Bogăţie, putere şi democraţie*, Iaşi: Polirom, 2007.

Ministere du Budget, des Comptes Publics et de la Fonction Publique, *Administration and the Civil Service in the EU 27 Member states. 27 country profiles,* source: http://www.fonction-publique.gouv.fr/files/files/publications/etudes_perspectives/Administration_and_the_Civil_service_in_the_27_EU_Member_states.pdf

NEGREA, Xenia, *Communism in the Romanian Press during the Economic Crisis,* in "Revista de Ştiinţe Politice. Revue des Sciences Politiques", no. 33-34/2012, pp. 269-278.

OLIMID, Anca Parmena, *Politică românească după 1989,* Craiova: Aius PrintEd, 2009.

ROSENBLOOM, David H., Deborah D. GOLDMAN, *Public administration: understanding management, politics and law in the public sector*, New York: McGraw-Hill, 1993.

UNPAN, Division for Public Administration and Development, Department of Economic and Social Affairs, *Report of the Experts Group Meeting on Ethics, Integrity, and Accountability in the Public Sector: Re-Building Trust in Government Through Implementation of the United Nations Convention against Corruption*, St. Petersburg, Russia, 2006, source: http://unpan.org/publications/PDFs/E-Library%20Archives/2006%20EGM%20Ethics,%20Integrity,%20and%20Accountability%20in%20the%20Public%20Sector.pdf

BOOK REVIEW

Ali PAJAZITI, *Culturological Studies: Education, Politics, Identity*, Dauti Foundation & Institute for Political and International Studies, Skopje, 2012, ISBN 978-608-65469-0-8, 237 pages.

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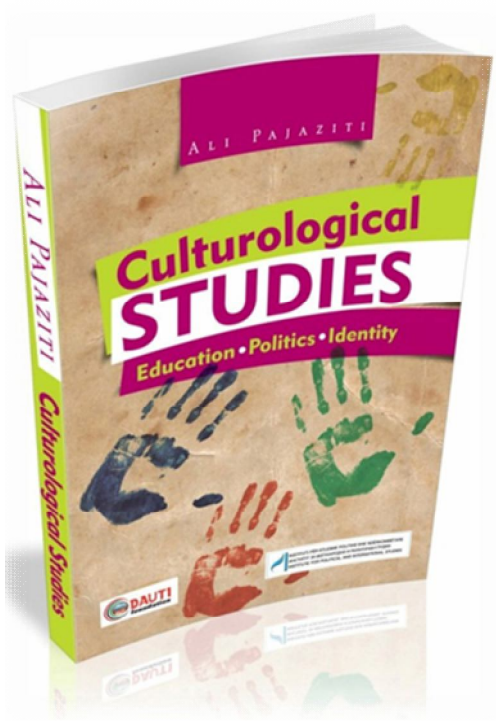

This book deserves to have its own place in the specialized literature relevant to the new visions of sociological, cultural and anthropological studies on contemporary Balkans. The main scope of this book is to foster the knowledge on cultural changes, "values of lifestyles" and "the feeling of being". Each chapter is a new experience in which the author talks about past lived events and phenomenas: new visions of multiculturalism, interethnic coexistence and higher education, society building, religion,, modernity, nationalism and morality, religion and education, Islam as a global provocation, information society and the Bologna process (case study Macedonia), the effects and consequences of ethno-urbanization, and politics in post-transitional Macedonia, etc. Essentially, professor Pajaziti uses the concepts of multiculturalism, multi-confessional and multiethnic at different levels of study. Furthermore, the purpose of Pajaziti's book is to find out how cultural studies move educational and political interest on the public agenda introducing the idea that: "Starting from this thesis, we would try to focus on what is going on "here and now" in the Republic of Macedonia, on the basis of the turbulent reality to express our positions related with *new landscape* in our society" (p. 9).

Professor Pajaziti's book is often grounded on the idea of the "new": "new… society" (p. 23), "new page" (p. 23), "new vision" (pp. 24, 104), "new era" (p. 28), "new civilizational vitality" (p. 32), "new spirit" (p. 33), "new intellectual spirit" (p. 37), "new developments" (p. 47), "new… institution" (p. 48), "new problems", "new Balkanian nations" (p. 76), "new perception" (p. 77). "new phase" (p. 94), "new millennium" (pp. 95, 111, 123, 128), "new global agenda" (p. 95, "new generation" (p. 97), "new understanding" (p. 101), "new philosophy" (p. 103), "new environments" (p. 103) "new mission" (p. 110), "new states" (p. 113), "new systems" (p. 113), "new universities" (p. 115), "new challenges" (p. 123), "new changes" (p. 123), "new requests" (p. 130) etc. All these concepts appear to set the new educational, political and cultural borders

of the "millennium". Author's arguments highlight the puzzle of democracies in transition where the major issue is related to "cultural and ethnic features" (p. 16).

In author's conception, Macedonia is a "born again identity" and the measure of its increasing importance in the specialized literature is that academics, researchers and experts are highly paying attention to find solutions for the "new page of society". In a politically changed arena, *"Culturological Studies. Education, Politics, Identity"* shows that the "multicultural concept" is a rational choice (p. 15).

A more theoretical discussion of the particular connection between education and multiculturalism finds an excellent theoretical development in this book. The author emphasizes the case of SEEU (South-East European University) established in 2001 as a major crossroad facing the challenges of the Macedonian society at the beginning of the new millennium.

The major topics of this essay collection are quite various, "visualizing" the items of the individual and community identities in transition as follows: from a theoretical point of view, professor Pajaziti states the objective considerations of multiculturalism and interethnic coexistence and from a practical point of view, the book resonates in a *sui generis* combination with tradition and post-transitional phase.

The book goes on to discuss the Macedonian society-building and interethnic coexistence from a sociological, political and educational approach. The ramification of concepts, ideas, theories and studies in professor Pajaziti's book is extraordinary. Further away, the perceptions of citizens, ideological elitism and the Turkish element offer the factual premises for a new comprehension of contemporary Balkans. Essentially, chapters "*Capital-Division and Ethno-Urbanization in Macedonian Way: Case of "Skopje 2014*" and "*University Youth and Politics in Post-Transitional Macedonia (FYROM)"* are needed to combine a socio-cultural understanding with an educational comprehension of the Macedonian context in the present.

At the same time, for an essay collection so intensively constituted around the concept of "cultural studies", one item is rediscovered *a priori*: *religious education* throughout an empirical research. In the Macedonian context, the author advocates the need to move to a new model, "following of the line and example of most democratic European countries that operate according to the demand of the demos, of *vox populi* (voice of the people)". (p. 239).

The impact of professor Pajaziti's book on the specialized literature recaptures the real "culturological studies" agenda as a "mirror effect" of ""new vision for the future of Macedonia". *"Culturological Studies. Education, Politics, Identity*" provides a multi conditional environment of a variety of social, cultural and institutional practices. This essay is an "eyewitness" of the contemporary Balkans, bringing together vivid events and subtle approaches

about education, politics and identity. Professor Pajaziti's book demonstrates that all these three concepts have become "the only game in town", a genuinely combination of cultural differences and life experience. Such books foster the objective hypothesis on multiculturalism as a bridge aimed to build model of equal treatment and social justice.

BOOK REVIEW

George GÎRLEŞTEANU*, Drept Constituţional şi instituţii politice (Constitutional Law and Political Institutions)*, Bucharest, Universul Juridic Publishing, 2012, ISBN 978-973-127-604-5, 468 pages

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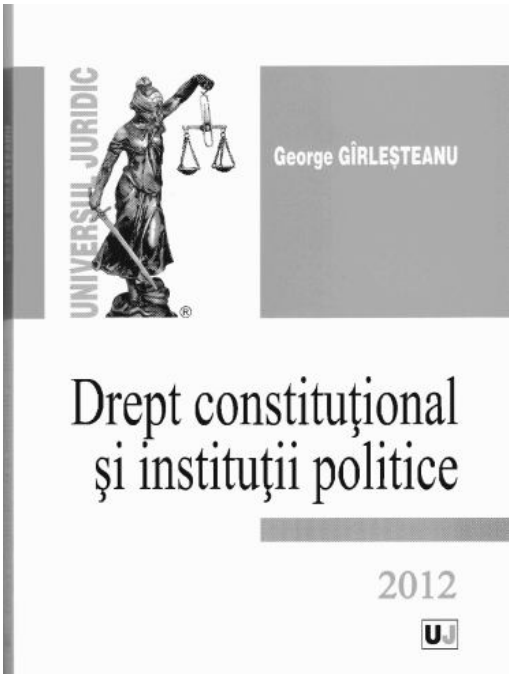

After the Revolution of 1989, the Constitutional law experienced a legitimate revival and transparency. A new Constitution came into force (1991), revised in 2003 and laws were elaborated in the vision and perspective of a democratic and rule-of-law state. In this context, came out the course under the signature of the Assistant Professor George Gîrleşteanu, professor at the Faculty of Law and Administrative Sciences of Craiova who distinguished by a prodigious activity of writing; if we consider the two books: *The general organization of the administration* and The *Autonomous administrative authorities,* which were published by the Universul Juridic Publishing from Bucharest in 2011 and various articles published in trade journals.

Right from the beginning is accentuated the fact that the author proposed and succeeded to approach, as other authors in similar papers (D.C. Dănişor, *Constitutional law and Political institutions, vol. I, General theory,* C.H. Beck Publishing, Bucharest 2007 to mention only this) in the 468 pages of the paper, issues on the *General theory of the State* (Part I) and *The Regime of the Political institutions* (Part II).

In the structure of the paper, *Part I* comprises six titles as follows: Title I. *The Territory,* which consists of four chapters (pages 7-14*); Title II. The Population* comprises two chapters (pages15-33); Title III. *The Suzerainty and the State relations with the law* also comprises two chapters (pages 34-53); Title IV. *Associative structures of the civil societies* is organized in three chapters (pages 54-70); Title V. *Constitutional principles and organization of the Romanian unitary state* which comprises three main chapters(pages 71-107) and Title VI. *The official language, the minority languages and the public administration* summarizes four (pages 108-120). Altogether Part I has 120 pages in which the author with the exactness specific to the committed researcher, approaches and succeeds to competently particularize each „issue" proposed for study, using the bibliography brought „to date" and even internet sources.

Part II of the paper is also structured on six titles which are ordered as follows in the economy of the paper: Title I*. Parliament of Romania,* in its turn made up of five chapters (pages 121-191); Title II. *President of Romania,* organized on two chapters (pages 192-243); Title II. *Government and specialized central public administration,* made up of two chapter (pages 244-281); Title IV. *Judicial authority,* with three subchapters (pages 282-306); Title V. *The means of pressure between powers in the Romanian state to the rule-of-law*, made up of three chapters (pages 307-343) and Title VI. *Romanian Constitutional Court,* also structured on four main chapters (pages 344-438). 317 pages have been allocated to these two parts, as it results from the economy of the paper.

The paper concludes with an ample and varied *General bibliography* (pages 439-458), structured according to the methodology (recommended by the specific of the work) on main areas: I. Treaties, courses, monographs, where 148 authors are listed; II. Articles and studies which make reference to 75 authors and conclude with section III. Regulations and case law, the paper amounting to a total of 468 pages.

On the whole, the course is well documented, the exposition is clear, concise, coherent, which proves that the author masters the treated issues. This summary is intended to be, by the approached set of issues, an useful guide for the students of the faculties of „law, administrative sciences or political sciences and form (as also mentioned on the cover IV) a detailed scan of the constitutional system of the institutions of the current Romanian state".

Also, the paper critically and professionally examines the "Jurisprudence of Romanian Constitutional Court".

Each chapter and subchapter is well structured, reasoned, an important aspect representing the analytical approach and less the descriptive approach based on an ample documentary base, which gives the paper consistency and scientific support.

Also, the paper *Constitutional law and political institutions* proves to be a scientific approach, balanced in terms of economy of volume on chapters and subchapters and offers a sufficiently relevant image on the approached issues.

Exploring person, familiar with scientific research, and the paper is based – as we have also emphasized above – on an ample and varied alphabetical bibliography.

We can not conclude this presentation without noticing the flawless graphic conditions which give an additional quality to the course, making it easily readable and interesting.

In conclusion, we can say that the paper to which I have made reference responds to the distribution of students' knowledge under the curriculum on the two main parts: Constitutional law and Political institutions and recommends itself as an important and useful summary.

BOOK REVIEW

Ligia Stela Florea (coord.), Ion Maxim Danciu, Andra Teodora Catarig, Andreea Mogos, Iulia Mateiu, Aura Chereches, *Gen, text si discurs jurnalistic. Tipologia si dinamica genurilor in presa scrisa romana si franceza*, Tritonic, Bucuresti, 2011,
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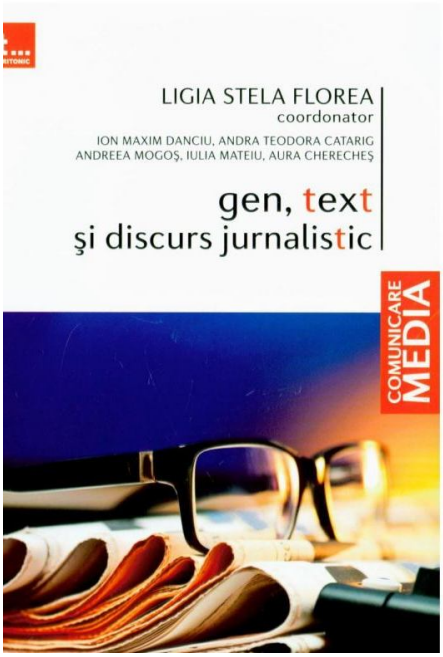

The Romanian research in the field communication and more than that in the field of journalism lives its timid beginnings. Therefore, the journalistic education is hesitant as well as the professional status itself. Teachers have compulsory internships abroad, and the bibliographies that sustain the content of a course are dominated by foreign translated titles. The books published by Romanian researchers are mostly summaries of internships in foreign libraries, accidentally or not at all related to Romanian realities.

In turn, translations do not represent a selection or a hierarchy of what is published in the domain abroad, but rather personal affinities of those in charge or just the result of a long series of giving-up.

Research and education does not assume a normative and formative, but a descriptive and marginal one. So that, studies have more of a text-book behavior pure descriptive and not at all evaluating, and most of the time the professional realities exceed by far the scientific results. Between research and profession there is a relationship of vassalage imposed by the latter. Perhaps that's why the research in the domain of journalism have the character of obligation (PhD thesis, work conceived as a stage in professional advancement), and less professional status in itself.

Consequently, it is more than to justify the enthusiastic receiving of a book with an original subject which could enter in the foreign researchers' bibliographies and that seems to surpass the status of an obligatory work for achieving a professional advancement. It is the case of the work that I have been exposed to analyze in the following lines.

The authors are researchers from Cluj, working together in a research project about the journalistic genre, project financed meeting a journalistic genre research project, funded by NCSR (perhaps The National Council Scientific Research).

Researchers use the tools of the discourse analysis and they aimed being to define the concept of journalist and it particulars items (news, interview, reports, story, articles, *feature*, opinion texts). Secondly, they follow the way in which these theoretical assemblies function in the Romanian and French newspaper page. Then the two types of journalism, the Romanian and

the French one, are placed face to face and are inventoried through their similarities and differences.

The book has a reluctant profile – it combines elements form the text book with elements form a hard work research in the Romanian version. This hybrid character can be explained by the fact through the fact that neither translations nor theories from the hard zone are not to numerous. About the discourse analysis or other research methods those interested could find out in Romania only though the medium over taking and of some selections developed in accordance to the scientific interest of those who have access to the foreign bibliography.

The major merit of the book is, in our opinion, the fact that the book brings into light the notion of editorial concept through its two accomplishments, hyperstructure and multitext.

More than that, another very important gain is that it brings to light the ideas of foreign researchers based on the notion of „journalistic genre". From here comes a great achievement of this work that of reunion of the majority of bibliographical references on a certain subject respectively „journalistic genres". Another essential through the book is valued is the intention to compare some Romanian publications with some French ones.

Unfortunately, however, the work takes some of the Romanian research shortcomings. First of all, one of the major shortcomings of the book comes from the editor. The impression that the editorial product gives is that there was no editorial intervention than what so ever with respect to the authors proposal did not include the proposal authors' editorial intervention. There are missing illustrations (fig. 1, page 37, fig. 2, page 38, fig. 3, page 40, fig. 4, page 42), there is a subchapter missing (pp. 89, 90), there are so many typing mistakes, including the author's name - Aura Chereches / Ghereches, and even in the title: „Rease(r)chers form the Romanian space ..." (p. 55).

Moreover, there are enough hesitation and stylistic errors. For example, the texts are riddled with idioms coming from a wooden language, idioms that a lecture would have being signaled and corrected. would be reported and corrected „press organs" (p. 64), „the controversial businessman" (p. 115); „very important for the economy of a newspaper front page" (p. 116) „In contemporary society, information enjoys a privileged position" (p. 125), „One of the most important genres in the structure of written press is the interview" (p. 180).

Sometimes, common areas develops into a comic effect, in which, for example, recognize Caragiale's language: „well informed public interested in burning issues" (p. 125). Sometimes the prudence of sentences is doubled by a logical syncope. For example, we read: „...the newspaper *Ziua* (The Day) retain the attention through graphic mend to attract the readers" (p. 125), and at the end of the same paragraph they note: „The paper does not come with pretentious architecture of the pages, but it has as its aim to provide those who

read it with a big amount of information (p. 125). Besides the contradiction between the beginning and the end, here comes the result of an evaluation without mentioning the source. Or: „In reality, the notion of section and column overlap" (p. 64).

Andreea Mogoş misunderstood feature with synthesis of opinion and Aura Chereches also misunderstood soft news with feature: „Cheky Girls Bankrupt" (p. 127). Another problem is defining and explaining the genders. For example, the story is defined as „related event" (p. 229), creating the confusion with the notion of RELATARE and the type of text feature is called „specific gender of the Romanian media" (p. 292). The same problem comes when we define news. For example, if we refer to the notion „news" of Claudiu Saftoiu this is inserted as it is, without no intervention and no comment: „In the political journalism, the best answer to the what news means as fallows *news is what the reporters, editors and producers decide that it is* (Saftoiu, 2003: 21)" (78). It is clearly that this statement is ironical. As it is known, there are news criteria that nobody can ignore. Reporters, editors and producers - beyond their relationship problems among them – they do not decide, but select.

Conceptual confusions come into light at a deeper level. Andreea Mogoş is indistinct when it comes to metaphor, quote, personification with word-game: „Sometimes the title of a photo goes on word-games: Cutting edge moment, Oct. 9, 2009, There was a military fanfare, November 30, 2009, The Assault Innocence, December 2, 2009" (p. 106).

As far as the concept application and study case is concerned, many questions could arise. The argumentation regarding selected publications is not very clear. We are told that they are „representative" (p. 14), but form the three newspapers selected two disappeared in the meantime. The case studies do not probe the depths. They are pure descriptions of surface or takeover of popular beliefs such is the case of evaluating the publication *Cotidianul* „the change of the owners leads to changing in the editorial team and along with this, of the editorial policy: if Cristoiu gives the publication a left orientation at the end of the 90's (sic), in 2008 the newspaper was considered pro-Basescu and after Nistorescu became manager (in august 2009) the editorial policy changed with 180 degrees (pp. 115-116).

At the same time, the British and North American media is ignored. As we know, journalism as it is understood today is a creation of these spaces, especially the latter. We don't believe that we can refer to an aspect of communication domain and journalism without referring to a ritual to this area. At the same time, the French press and the French journalistic theory practices this reference and even takeover these practices, if we think of the fact that the French journalism began as a very poor and ignorant relative of literature and today came to put the problem of facts, objectivity, detachment.

A work in perspective

At the time we write this review, but even at the time in which the work was published, the topics of journalistic debate are oriented towards the relations with the online journalist. The researchers decided to ignore (p. 382) on the hole this fact, the analysis having in the middle of it the written press on printed support. Of course, a discussion would have been useful, at least a subchapter about types of discourses and about genders in online media.

In the subtext, we can deduce the equivalence between the online text and printed text, that the authors suppose, taking into account the fact that given the very fact that the news issues in what the evolution of journalistic structures is concerned is explained through terms generated by the online medium (hyperstructure and multitext). More than that, the research results can be applied both in understanding the online media, as well as printed press. In fact, we believe that it was an achievement in gaining some concepts and even the reinvestment of them, in such a way as to explain both the written print and the online one. „Journalistic genres changes and goes to through a process of hybridization. For the majority of articles we have access starting with their opening. These contain not only the title of the photo and a summary of the event, but they are followed and one or more titles of the articles on the same theme, offering ways of lecturing. Most of the time, the journalists and even the readers have the possibility to post reactions and comments on the articles they read" (p. 384). This explains both the online writing and the print writing.

That's why we believe that after a second edition with the necessary corrections and revisions, the work could be a very fine tool for understanding the journalistic writing, regardless of the medium.