UNIVERSITY OF CRAIOVA
FACULTY OF SOCIAL SCIENCES
POLITICAL SCIENCES SPECIALIZATION &
CENTER OF POST-COMMUNIST POLITICAL STUDIES
(CESPO-CEPOS)

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EDITORS' NOTE

Organizations-Administration-Rule of Law: Screening Post-Communist Pitfalls

Note of the Editors of the *Revista de Ştiinţe Politice. Revue des Sciences Politiques*

Issue 59/2018

Anca Parmena Olimid[*]**,**
Cătălina Maria Georgescu[**]**,**
Cosmin Lucian Gherghe[***]

The state of affairs of post-Communist transitions towards democratic regimes has stimulated the efforts to consider and examine various situations and solutions. It is the mission of the *Revista de Ştiinţe Politice. Revue des Sciences Politiques (RSP), Issue 59/2018* to bring forward up-to-date, high quality and original papers exposing different angles, research methodologies and perspectives of the organizations-administration-rule of law matrix:

a) Descriptive historical and political encounters

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b) Analythic thinking of the shifts in the political system

c) Critical and comparative legal thinking and arguing

d) Policy options rendered available through quantitative analyses and strategic management instruments

e) Qualitative research of policy-making and policy-implementation through content analysis, interviews and unstructured questionnaires.

The current Issue 59/2018 of *Revista de Ştiinţe Politice. Revue des Sciences Politiques (RSP)* accumulates the results of studies concentrated around the *Organizations-Administration-Rule of Law* triad. The objective assumed in Issue 59/2018 of *Revista de Ştiinţe Politice. Revue des Sciences Politiques (RSP)* is to ensure the continuity in screening post-Communist pitfalls*:*

(1) The violent 1989 revolution and the first decade of Romanian post-Communism pitfalls claimed a political and historical perspective, combining academia narratives and analyses in the study entitled *„The perception of the West upon the Romanian Transition after the Romanian Revolution from December 1989. A Historical Perspective. The 1990's period"* (Ioan Dragoş Mateescu).

(2) Situated in the context of complications and hindrances generated by any crossing, the next article *"Organizational Change: Framing the Issues"* (Simona Rodat) renders a modern, general framework-generating approach to organizational development, featuring a causes-effects analysis of change resistance and identifying accurate solutions.

(3) In the aftermath of post-Communism fall, a sreeening of both home and foreign affairs in a specific political context inferring on the equation which puts together both inter-ethnic and inter-state relations offers significant insights in the study *"Inter-Ethnic Relations in Albania: The Causality Between Inter-Ethnic and Inter-State Relations"* (Agon Demjaha and Ylber Sela).

(4) More post-Communist transition-related changes are dealt with in the paper entitled *"Media in the Political Context of Post-communist Montenegro"* (Natasa Ruzic) which offers an in-depth description of the changes in the Montenegrin media system and media market, the political context, political pressures and the legislative framework which bound professional relations in the field.

(5) Dwelling on the normative-administrative relation during post-Communism, the article entitled *"Some Considerations about Solutions of the Courts in the Area of Administrative Litigation?"* (Claudiu Angelo Gherghină) concentrates on discussing and analysing the regulatory process within public authorities and the solutions adopted by the judicial system to solve the fallacies in the adoption and implementation of administrative acts.

(6) Mantaining the discussion in the public administrations realm, the study entitled *„Strategic Management in the Local Public Administration Institutions. Case study: Application of the Balanced Scorecard instrument in the Zalău City Hall"* (Andreea Mihaela Niţă and Cristina Ilie Goga) correlates the theoretical perspectives of strategic management studies to the in-depth empirical

institutional assessment of policy-making and policy-implementation through operative analythical instruments specific to this field.

(7) Moving the discussion to the beneficiaries of the administrative act, the study *„Redefining Civil Society in Relation to their Relationship with the State and their Contribution to the Building of the Rule of Law"* (Maria Nicoleta Morar) touches upon the relationship among civil society-state-rule of law. The approach is comparative content analysis applied to legal and constitutional texts.

(8) Meanwhile, the legal approach to the study of criminal law resumes the discussion regarding the rule of law by permuting the principles of criminal law to a postmodern context in the article *"Liberalization of the Principles of Criminal Law. Towards a Postmodern Criminal Law in Romania?"* (Mădălina-Cristina Putinei).

(9) Shifting the discussion to other categories of public services and public policies beneficiaries, the study *"Spaces and Encounters in Romanian Hospitals Make Us Sicker". Romanian Patients' Discourses about Medical System* (Valentina Marinescu) adds a response to the loopholes in the Romanian health care system through „auto-ethnography" qualitative methodology, starting from the assumption that the design and effective management of the medical system requires the meeting of patients' projections and expectation.

(10) A similar perspective is rendered in the study entitled *„Shame and Humiliation of Breast Cancer Patients – Communication Pitfalls with Oncology Cases"* (Ioana Silistraru) which highlights the effects of solid communication policies and practices between doctors and patients in accomplishing the medical act within public healthcare services and units.

(11) Furthermore, the political tensions within the executive relations are brought to light through a historical insight of the political act bearing overwhelming political consequences in the article entitled *"10th/ 11th of February 1938 in Interwar Romanian Politics: an Almighty King and a Political Class on its Knees"* (Mihaela Ilie).

We hope you enjoy Issue 59/2018 of *Revista de Științe Politice. Revue des Sciences Politiques (RSP).*

Wishing you all the best,

The RSP Editors

RSP • No. 59 • 2018: 12-22

ORIGINAL PAPER

The perception of the West upon the Romanian transition after the Romanian Revolution from December 1989. A historical perspective. The 1990's period

Ioan Dragoș Mateescu*

Abstract:
This paper analyzes from a historical point of view the opinions of Western analysts and historians (but also Romanians - especially within foreign papers) the Romanian Revolution and the Transition period from 1989 till 2000. Firstly we have studied the authors opinions pointing in some cases our opinion as well. In this paper we have used the narrative (showing the opinions and indirectly the events) but also the analytical method. We consider that in 1989 we are dealing with a revolution and that from 1990 till 2000 the Iliescu and Constantinescu regimes have assured a transition towards democracy, but a transition characterized by many problems**.** At the same time we have analyzed some economic problems and the geopolitical situation of Romania in the twentieth century.

Keywords: *revolution; transition; political regimes.*

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The Iliescu regime

In this paper we have analyzed especially the opinions of Western journalists and historians but also of Romanian analysts whose writings were taken from foreign journals or books. In our opinion the events from 1989 constitute a revolution. The thousands, then the hundreds of thousands of people who got out in the street, confronted the regime and its order forces to overthrow the communist regime led by Nicolae Ceaușescu (Davies, 2006). No matter how leftist was the regime led by Ion Iliescu (Hlihor, 2014: 16)-in the period 1989-2000 we are dealing clearly with a transition from the communist dictatorship regime to a democratic, multi-party and free market regime.

The foreign authors did not hesitate to analyze both the events from 1989 and the transition period from the 1990's. In the French space, many times it was accredited the idea of a coup d'état in December 1989 and of the continuation of the communist regime with a powerful leftist one, till 1996 (Lucon, 2016). Some authors of the Anglo-Saxon space are more favorable to the idea of a revolution.

One example is Peter Siani Davies. He accurately describes the Romania Revolution from 1989-the events regarding the evacuation of the preacher Laszlo Tokes, the revolutionary movement in Timisoara, the revolution movement in Bucharest, the battle of the demonstrators with the order forces, Ceaușescu's speech on the 21st December, his escape and then trial, the aftermath fights but also the ascension of the National Salvation Front (Davies, 2006).

Another interesting factor is the fact that many cited authors in Davies book were dealing with the Romanian space from the 1980's. They accurately observed the decaying of the regime connected with the lack of energy, of food, of warm water, the dropping ofinvestments in the educational and health systems (Jackson, 1989: 313; Sampson, 1984-1986: 42; Sampson, 1989: 221).

Historically speaking, the communist regime was collapsing and the opening policies followed by the United States and the Soviet Union (Shipler, 1987) probably orientated even more the collective Romanian mental towards rebellion.

The Anglo-Saxon historians were very familiar with the Romanian space and its problems.

Peter Siani Davies and Constantin Hlihor show us that, after 1989, many were towards a left conservativism, with a slow process of reform- and as a proof we had the National Salvation Front-The Democrat Social Party (FSN-PDSR) government from 1990 till 1996 (Hlihor, 2014:16, Davies, 2006: 345).

The author Tom Gallagher (Gallagher, 2001:390) considers that the first Iliescu regime was situated between a type of Western democracy and an autocratic one. Basically, according to the author, the Iliescu regime oscillated between searching better relations with the West and an autocracy (Gallagher, 2001:394). In fact, according to him, till 1992 the regime was not close to the West, giving as an example the fact that: the ambassadors were from the old guard (Gallagher, 2001: 391, 392); a treaty with the Soviet Union was signed (not ratified) (Gallagher, 2001: 392); the miners violence took place (Carter, 1991: 59, 60).

After that the regime got more close to the West (Romania became member of the European Council, a member of the Partnership for Peace, became a candidate for joining NATO). The author considers that the regime wanted Romania to enjoy first of all a good financial relation with the West without becoming a part of the West. But

Romania had to pass the NATO admission criteria- as a consequence it had to keep account of these criteria.

It is considered that a large part of the Iliescu mandates from the 90's were more connected rather as a façade with the European values. But Romania needed the financial and even political support of the West and that is why the Iliescu regime got closer to the West (Gallagher, 2001: 394, 395).

Marius Oprea considers that it was a reform but at the same time a continuation in the first two Iliescu regimes (Oprea, 2010) in the economy it was a huge part owned by the state, in the bureaucratic system we have o rotation of the personnel -many from the old communist regime (in my view it was very hard to change the personnel).

Marius Oprea also speaks about a coup d'étatby bringing the miners (Oprea, 2010). It was not a coup d'état but it was an action which was turned against the human rights of the demonstrators from the University Square. From our point of view it could not have been a coup d'étatbecause FSN was already in power, but its leaders probably feared that they could lose the power in front of the demonstrators and the Historical Parties. On the other hand the author is tough by accusing the communist inheritance from the transition period towards the ex-Securitate but also the denigration campaigns regarding the opposition (Oprea, 2010).

The multi-party system cannot be denied till a certain point. If we apply the realist theory within the internal relations in Romania, we can notice that there was a balance of power between-The Council of National Salvation Front (CFSN), The Historical Parties, The University Square demonstrators and then PDSR-The Democrat Party (PD), The National Peasant Christian and Democratic Party (PNȚCD), The National Liberal Party (PNL), The Hungarian Democratic Union from Romania (UDMR), The Great Romania Party (PRM).

An interesting fact is that the French Wikipedia refers to the miners violence action as being initiated by the ex-communist power (Wikipedia, 2017a).

In the Book Post Communism and the Media in Eastern Europe (edited by Patrick H. O'Neil, within the chapter written by Richard A. Hall) we are shown that in the first Iliescu mandates thedeclassification of the Securitate files was not promoted. Some other ex European communist countries were proceedingto the declassification of the files and their public control in order not to be used politically (Hall,1997:106) According to the author the Romanian Information Service SRI did not have all the communist files of the former Securitate (Hall,1997: 106).

Richard A. Hall considers that at the beginning of the 90's the political and civil institutions were weak and not all the members of the intelligence were on Iliescu's side (some had lost their position, their job or even their freedom) (Hall,1997:106).

In 1996 there were nine intelligence organizations and many from the ex Securitate were infiltrated in the Opposition, being against the regime and taking advantage of the precarious position, politically and economically of the Opposition, and of the past of some members of the Opposition (Hall,1997: 107).

According to Ron Tempest and David Lauter the great weakness of Iliescu (considered capableotherwise) was exactly the communist past (Tempest and Lauter, 1989). Ron Tempest and David Lauter had written this article on the 27Th of December 1989. They considered that Iliescu and implicitly Romania could have become very close to the Soviet Union. Furthermore, the authors showed that FSN was the only political force at that momentin Romania, but also that some demonstrators were against the communist past of some members of the National Salvation Front.

Other authors are showing the big problems of the first Iliescu regimes-the communist past, the FSN decision to candidate as a political party, the orientation towards a slow reform regarding the free market (East and Thomas, 2010).

Alina Mungiu- Pippidi and Dragos Bogdan consider that in 1990 Romania had a very bad grade at the human rights chapter. But through the adoption of the Constitution in 1991, this has changed. Furthermore, in the Romanian Constitution, regarding the human rights the international law was more powerful than the internal law. Being accused with the failure to comply with the human rights, the Iliescu regime and its party made important steps including the adhesion to the Council of Europe in 1993, the ratification of the European Convention of the Human Rights, the application for joining the European Union, in 1995 (Bogdan and Mungiu-Pippidi, 2013: 71, 72).

In the same book we have the Romanian populationpercentage who wanted to adhere to the European Union-80%. More than that, in the period of the 90's and the 2000's the leaders tried a powerfuljuridicalreform (Bogdan and Mungiu-Pippidi, 2013: 72,73).

Clearly we are dealing with theidea that the old structures have taken a part of the power after 1989. Essentially in this sense was the fact that the 8th point of the Timişoara revolution was not taken into account(the 8th point stated that that no one from the ex-communiststructure should be within the new leadership of Romania).

On the web site of Trial International it appears the accusation of crimes against humanity (Trial International, 2017), an accusation formulated against the ex-president Ion Iliescu. Along these accusations we think calling the miners was a grave mistake of the Iliescu regime, a mistake towards a part of the civilian population, which were demonstrating. A solution would have been negotiation, in the worst case using order forces, or calling new elections-but certainly not calling the miners, but probably, at that time, the Romanian state and its political regime were pretty weak.We consider that the gravest mistake of the Iliescu regime was connected with the calling of the miners.

On the other hand the political regimes in Romania, till 2007, were quite stable. This is due to the fact that the Romanian society was at that time quite optimistic and that the Romanian politicians were legitimating themselves through the vote of the citizens. Unfortunately, slowly, this legitimization began to disappear.

How can we explain the optimism of the 90's?

First of all, an important part of the population participated strongly and directly in overthrowing the communist dictatorship having, from historical point of view, a great belief in its own forces. Secondly, the intellectual class was quite strong and not so dominated by internal fights and, thirdly, the hope towards the West was great, the European Union not having its recent problems from now.

In 1996 we have a democratic transfer of power from the Democratic Socialist Romanian Party to the Democrat Convention (National Peasant Christian and Democrat Party, National Liberal Party, Social Democrat Party, Ecologic Romanian Party, the Civil Alliance Party, the Hungarian Democratic Union from Romania) a coalition which successfully proposed Emil Constantinescu as president, and was joined from the second presidential tour by the Democratic Party (Wikipedia, 2017b).

The Constantinescu regime

The Constantinescu regime led even more to the fortification of the Romanian option regarding Romania joining the North Atlantic Treaty Organization and the European Union (actions which were continued also on the Iliescu-Năstase mandate).At

the same time the regime was confronted with governmentinstability and problems generated by the desire and the actions of its governments regarding privatization.

The privatizations were connected many times with controversies. At the same time we have the president's decision to back the NATO actions regarding Kosovo crises.

Lavinia Stan considers that the Constantinescu regime had great problems. First of all the ministry positions were given according to the results of the elections-many were keeping in mind the idea of political interest not that of reforms and many times the administrative actions on the long term were avoided. At the same time, it is shown, that the leaders of the coalition had a communication problem with the population, not succeeding in explainingtheir programs. Furthermore the coalition did not assume its own mistakes blaming the mistakes of the past of the Democrat Socialist Romanian Party (Stan: 2010).

The authorities tried sometimes to open the archives of Securitate (especially regarding those who had positions in the central or local administration) but without notable results (Stan: 2010).

The authors of the article *Shaping Change* consider that the regime led by Constantinescu did not succeed in imposing powerful changes in the management of the Romanian state (Shaping Change, 2018).

Tom Gallagher considers that the Romanian electoral option from 1996 was orientated to parties which were more credible to the West, with other words the Romanian Democratic Convention and the Democratic Party were more credible in the West (Gallagher, 2001: 391).

Dennis Deletant shows us that Constantinescu made powerful changes at the top of the intelligence agencies. (Deletant, 2004: 514, 515).

The problem of the connection with the former Securitate was very powerful in the 90's (Deletant, 2004: 515-516). We have a legitimate revolution which has overthrown the communist regime but at the same time we have powerful structure which could hardly have disappeared over night.

International Relations Regarding Romania in the 1990's

Starting with the 90's we are dealing with a transition and translation of power between East (the Soviet Union, the Central and Eastern Europe) and West (the United States but also Great Britain, France, the Federal Republic of Germany and then, Germany). Basically, we are dealing with a transfer of power from East to West, the West occupying or reoccupying a central place in the policies, economies and the societies from the Central and Eastern Europe. It is true that Romania signed a treaty with the Soviet Union, anun-ratified treaty. The Romanian leaders, both from power and opposition had a strong option for adherence to NATO and the European Union, for reintegration in the West. We have to mention that in the 90's there was an explosion of goods which came from the East but also from the West. It was an explosion of consuming goods-food, clothes, after so many shortages, and there was an import of Western culture (books, movies, music). We can state that the 90's were a starting point for the prosperity of the 2000's.

The Problem of Romanian Politics

Romania has passed in the last 100 of years through numerous changes in the political regimes. It started with a democracy, then Carol the Second's dictatorship, then

the dictatorship of the Iron Guard and Ion Antonescu, the dictatorship of Antonescu, the communist dictatorship and after 1989, a democracy. I would argue that is very hard for the Romanian collective memory (even at a subconscious level) to deal with this type of troubled history. From 1918 we had 20 years of democracy, 51 years of dictatorship (both far right and far left) and then, 29 years of democracy (even if a troubled one). In the beginning I talked about the problems of the intellectual class. For a state a powerful intellectual class is very important (no matter if it is liked or disliked). A powerful intellectual group can at its turn give a meaning to the life of a state (through ideas, works), and even a purpose. We had many important intellectuals in the period after 1918 (Mircea Eliade, Emil Cioran, Lucian Blaga, Marin Sorescu, Nichita Stănescu - and the list can continue). The problem of the Romanian society is that it suffered many changes - not only regarding the political regimes-but also regarding the social regimes. After 1989, the Romanian society is dealing with Globalization, the opportunity but sometimes the necessity of working abroad, and sometimes with the lack of jobs at home. After 1989, many industries were abandoned and that meant not only the loss of jobs but also the loss of social safe systems for those regions. Of course the new wave of globalization (financial globalization) acted in a powerful way –in the Romanian society many are working in the banking system, in multinational companies, in Information Technology. At the same time in January 2018, the unemployment rate was 4.6% (Mediafax, 1 martie 2018), compared with that of Germany of 3.55 (Trading Economic, Germany Unemployment Rate.30.05.2018), or with that of Great Britain of 4.3% (Trading Economics, 17.04.2018. Regarding the economic sectors from the Internal Brut Product with have the industry -23%, the commerce-20% from the Internal Brut Product, the information and communication -6% from the Internal Brut Product, agriculture-4.9% in 2007, and constructions-3.9% (Anghel, 2017).

The geopolitical situation of Romania was not simple being trapped in the Cold War. In fact, we have an interesting parallel, while Charles De Gaulle has played an independent card of France towards Washington, Gheorghe Gheorghiu Dej, and at the beginning, Nicolae Ceausescu, played an independent card towards Moscow. We can say that the Romanian leaders found a middle way between Moscow and Washington cultivating good political relations with France, Great Britain, and Germany Federal Republic.

The middle way was very important for many geopolitical players: France from the 1960's till today (Gaddis, 2007: 138-141). Romania from 1960's till 1970's (Duțu, 2007: 173, 174, 175) when it adopted a new Stalinist middle way (Duțu, 2007: 183) Poland in the 1980's. Even the Soviet Union, during Gorbachev adopted a middle way towards its old hard line ideology (using new reformatory policies in economy but also in politics) (Duțu, 2007:183) Starting with the 60's there were some levels of the Cold War: direct confrontation or collaboration between Washington and Moscow; the relationships between and within the intermediate states: France, Great Britain, Germany Federal Republic, Germany Democratic Republic, Romania, Poland, Hungary etc.

Romania has played well its card of "independence" till the 1970's; it opposed the invasion of Czechoslovakia (Betea), it developed a strong economic collaboration with France especially, and it had a good standard of living compared with the 50's. But all that changed in the 80's when the leadership adopted a hard post Stalinist stance (Duțu, 2007: 208). Externally we have the relations between Romania and countries like: Iran, Iraq, but the most important relation, within the Cold War logic, and also within

the neo Stalinist line of the Romanian leaders, was that with the Soviet Union (Davies, 2006).

In the 1980's Romania lost the "American Most Favored Nation Clause'' and from an European point of view its only backup was the relation with the Soviet Union and with the hard liners of the Warsaw Pact. In 1988, 1989 Ceausescu knew this but it was too late because a part of the Romanian population rebelled and the Soviet leadership renounced somehow to its Empire from Eastern Europe (the Warsaw Pact).

The rebellion of the Romanian people plus the new reality of the Cold War was fatal to the communist regime in Romania.

On the other hand in the 1990's we have a new geopolitical situation. The Warsaw Pact and also, later, the Soviet Union collapsed and part of the Central and Eastern Europe were becoming more and more close to the North Atlantic Treaty Organization and the European Union. It was a translation power process from East to West (accepted and promoted by the Western leaders, by Eastern and Central European leaders and reluctantly accepted by Russian leaders).

On the other hand we have the Yugoslav problem: the Declaration of independence of Slovenia and Croatia, the wars between them and Serbia, the wars in Bosnia and, later, the Kosovo war.

At the beginning of the 1990's Romania played well its card of neutrality tilting towards the West. With all its problems, externally Romania was a stability factor in Eastern Europe and in the Balkans. As stated before, the Iliescu regime and the Constantinescu regime, for better or for worse assured a transition from dictatorship to democracy, and from a Warsaw Pact member to a Western ally. During the Kosovo war, Romania had a neutral and at the same time an ally position towards the West, granting its air space to NATO aviation. It was a risky decision of the Constantinescu regime giving the fact that many Romanians opposed that decision.

From an interventional military point of view Romania adapted well to the new geopolitical situation (Hlihor: 4-8), participating at Western military operations (NATO, UN) in Bosnia-Hertehovina, Macedonia and later, Iraq and Afghanistan. The Romanian military proved to be a valuable player in these operations.

From our point of view improving political, economic, military but also cultural ties with the neighboring countries (like Poland and the Balkans) will be a step in Romanian foreign relations.

From an ideological point of view (but from the perspective of geopolitics or international relations) Ceausescu regime had more than one problem. Firstly, the conservatism of Ronald Reagan and Margaret Thatcher was gaining hearts and minds in the front of the communist ideology. Secondly, and more importantly, Gorbachev was changing Soviet communism by: retreating or giving liberty to the Warsaw Treaty countries; changing the economics in the Soviet Union; changing the politics in the Soviet Union (for the first time the government becomes more powerful than the Communist Party, and later other parties are accepted).

In the 80's, in Romania the president was more important than the party but in a neo-Stalinist sense and we can state that Romanian leaders did not adapt neither to the West, but neither to the Soviet Union.

On the other hand, at first glimpse, after 1989, as for all Central and East European Countries, the most favorable road in foreign relations was acceding in the North Atlantic Treaty Organization and the European Union.

For the Romanian collective mind the idea acceding the EU and NATO meant a continuation of the freedom process (started in 1989) with a lot of advantages at the security level, at the political level and at the welfare level. At the same time the geopolitics of the North Atlantic Treaty space plus the European Union Space and the European space in general was different in the 1990's compared with the years of the 2010 period. It is true there was the Yugoslav problem but in the years of 2010's there were the problems of Greece, of Syria and the migrants, of Ukraine and Russia, of Brexit and of the disunity of the European Union. If the European Union was regarded as an ally but at the same time a possible competitor of the United States in our days the European Union has many, many problems.

And for that, we consider that Romania has to have a good relation with the American superpower, with the big powers (Germany, Great Britain, France) but also with the Balkan space and with the Eastern European Countries (Poland, The Baltic States). It is true in its history Romania was many times caught in the great powers game, but many times in the Cold War and after the Cold War it managed to deal with this game, promoting its own interests (promoting its own interests is decisive for a state).

Conclusion

As a conclusion we can state that despite the violence from the beginning, and the ministerial changes from the late 90's, this period represents a powerful transition from the totalitarian regime to a democratic one. Both regimes - of Iliescu and Constantinescu, opted for the European Union and the North Atlantic Treaty Organization and for Western values. We consider that the regimes led by Ion Iliescu and Emil Constantinescu assured on the long term the transition towards democracy.

Furthermore Romania played and played well in the 1990's the stability card, a fact that led to Romania's integration in the European Union and the North Atlantic Treaty Organization. This paper has showed that the foreign authors did not hesitate to analyze the Romanian political, social and economic space starting with the 1980's. We have as an example Peter Siani-Davies who analyses very well the Romanian Revolution but also the communist context from the 1980's. Tom Gallagher considers that the first Iliescu regime was situated between a Western type of democracy and an autocratic regime. We consider that this was generated also by the fact that Romania was under communist rule from 1947 to 1989 so, for 42 years (if we consider 1947 as the starting point of communist rule giving the fact that the Romanian Communist forces started to gain a lot of power since 1944).This is a very important fact because the power was concentrated at the top of the party, at the top of the state and of the security services. We have analyzed Marius Oprea's writings who deals also with the bringing the miners. We consider that it would be very interestingly to make a sociological and historical description and analysis for the Romanian collective mind in the 1990's giving some important facts: we had at least 42 years of communist rule, we had an important and somehow powerful intellectual class but also we had a powerful and numerous working class. We had the National Salvation Front and we had the historical parties,The National Peasant Christian and Democratic Party (PNȚCD), The National Liberal Party (PNL). There were also The Hungarian Democratic Union from Romania (UDMR) and The Great Romania Party (PRM). We consider that it would be very interestingly to analyze the Romanian perception and preferences about the Romanian political parties from the 1990's period till 2018. In this period there were numerous generations, many

political events (internally but also externally) and the media channels became more diverse and personalized. At the same time dealing with the past can be a problem as Lavinia Stan shows us the problem regarding the declassification of the Securitate files. At the same time we showed that the Romanian public was very inclined to the West (the European Union and the North Atlantic Treaty Organization). It would be very important to analyze what exactly meant and means the West to the Romanians starting with 1989 till 2018 because many things have changed also in the West. From a political and geopolitical point of view the West is very different now from what it was in the 1990's not to mention the 1950's or 1960's. As we stated the biggest problems in the 1990's for the European Union were the conflicts from ex-Yugoslavia and the further integration of new countries. In the years of 2010 the European Union dealt with the economic crisis of Greece, with Ukraine and Russia and with the Brexit (and there are even more problems than these). The European Union meant for the Romanians first of all opportunities for working places. The North Atlantic Treaty Organization meant security, collaboration and the reforming of the Army. All these things could not have been possible in the 1980's. In Europe, the end of Cold War was given by several important facts: Soviet Union was losing the Cold War and under Gorbachev rule was facing numerous reforms, the western ideologies were becoming attractive for the countries from Eastern and Central Europe and the populations from those countries rebelled against communism.

From this point of view the Iliescu and Constantinescu regimes were very important because they assured a transition between communism and democracy, between communism and capitalism.

Analyzing Western views but also Romanian view upon the transition but also upon the communist regime is very important because it helps us to understand better our own past. And we can state that it was a troubled past.

I would argue that the Romanian recent history is a clear case were the internal situation combined with the geopolitical situation defines the main events in politics but also affects the social and economic areas as we can notice clearly in the period of the 1990's.

References:

Angel, I. (2017). Date detaliate de la INS privind creșterea PIB arată că industria este motorul creșterii. Creșterea excepțională a PIB la șase luni este bazată pe industrie, comerț și IT&C, *Ziarul Financiar*. Retrieved from: http://www.zf.ro/eveniment/datele-detaliate-de-la-ins-privind-cresterea-pib-arata-ca-industria-este-motorul-cresterii-cresterea-exceptionala-a-pib-la-sase-luni-este-bazata-pe-industrie-comert-si-it-c-16718787.

Bogdan, D. and Mungiu-Pippidi, A. (2013). The reluctant embrace: the impact of the European Court of Human Rights in post- communist Romania. In Agnostou, D. (editor), *The European Court of Human Rights, Implementing Strasbourg's Judgements on Domestic Politics*, Edinburgh: Edinburg University Press, pp. 71-97.

Carter, H. (1991). Since the Revolution: Human Rights in Romania (New York: Human Rights Watch), 59-60. In Gallagher, T. (2001). Building Democracy in Romania: Internal Shortcomings and External Neglect. In Zielonka, J. and Pravda, A. (editors), *Democratic Consolidation in Eastern Europe, vol 2, International and Transnational Factors*, Oxford: Oxford University Press, pp. 383-413.

Duțu, A. (2007). *România În Istoria Secolului XX*, București, Editura Fundației *România de Mâine*.

Deletant, D. (2004). The Security Services since 1989: Turning over a New Leaf. In Henry, E. and Carey, F. (editors), *Romania since 1989, Politics, Economics and Society*, Oxford: Lexington Books, pp. 503-523.

East, R. and Thomas, R. J., (2010), *Profiles of people in power, the world's government leaders*, Oxon:Routledge, Taylor and Francis group, 2003, transferred to digital printing 2010.

Gaddis, J. L. (2007). *The Cold War*, London: Penguin Books.

Gallagher, T. (2001). Building Democracy in Romania: Internal Shortcomings and External Neglect. In Zielonka, J. and Pravda, A. (editors), *Democratic Consolidation in Eastern Europe, vol 2, International and Transnational Factors*, Oxford: Oxford University Press, pp. 383-413.

Hall, R. A. (1997). The Dynamics of Media Independence in Post Ceaușescu Romania. In O'Neil, P. H. (editor), *Post Communism and the Media in Eastern Europe*, London: Frank Cass, pp.102-124.

Hlihor, C., The Post Cold Era: Romania And The Stability In The Balkans, pp.4-8. Retrieved from: http://www.bundesheer.at/pdf_pool/publikationen/hlih01.pdf

Hlihor, C., Badea, M., Preda, G., Purcăruș, A. (2014), *Revoluția Română Din Decembrie 1989 Și Percepția Ei În Mentalul Colectiv*, Târgoviște: Cetatea de Scaun Publishing.

Betea, L., *Apoteoza lui Ceaușescu-21 martie 1968,* Historia, Adevărul.ro. Retrieved from: https://www.historia.ro/sectiune/general/articol/apoteoza-lui-ceausescu-21-august-1968.

Jackson, M. R. (1989). Statistics and Political Economy in Romania: What Comes Next-Relief or More Exploitation?, in *Pressures for Reform in the East European Economies: Study Papers Submitted to the Joint Economic Committee, Congress of the United States*, 2 vol., 307-327. Washington, D.C. In Siani-Davies, P. (2006), *Revoluția Română Din Decembrie 1989*, Bucharest: Humanitas Publishing, p. 28, reference 25.

Mediafax (2018) În luna ianuarie 2018, șomajul a fost de 4,6%. Retrieved from: http://www.mediafax.ro/economic/in-luna-ianuarie-2018-rata- somajului-a- fost-de-4-6-17045127.

Lucon, G (2016). Roumanie, décembre 1989, une révolution de 4 heures, et un coup d'état minutieusement préparé, în *Reseau International*. Retrieved from: https://reseauinternational.net/roumanie-decembre-1989-une-revolution-de-4-heures-et-un-coup-detat-minutieusement-prepare/.

Oprea, M. (2010). *Transition a la roumaine, de 1989 a nos jours.* Retrieved from: https://www.diploweb.com/Transition-a-la-roumaine-de-1989-a.html.

Sampson, S. L. (1984-1986). Regime and Society in Rumania, *International Journal of Rumanian Studies* 4:1, 41-51. In Siani-Davies, P. (2006), *Revoluția Română Din Decembrie 1989*, Bucharest: Humanitas Publishing, p. 29, reference 26.

Sampson, S. L. (1989). Romania: House of Cards, *Telos* 79, 217-224. In Siani-Davies, P. (2006), *Revoluția Română Din Decembrie 1989*, Bucharest: Humanitas Publishing, p. 29, reference 26.

Shaping Change, (2018). *Strategies of Development and Transformation*. Beterlsmann Stiftung. Retrieved from: http://bti2003.bertelsmann-transformation-index.de/180.0.html?&L=1.

Shipler, D. K. (1987). The Summit; Reagan And Gorbachev Sighned Missile Treaty And Vow To Work For Greater Reductions. *The New York Times*, Archives. Retrieved from: https://www.nytimes.com/1987/12/09/world/summit-reagan-gorbachev-sign-missile-treaty-vow-work-for-greater-reductions.html.

Siani-Davies, P. (2006). *Revoluția Română Din Decembrie 1989*, Bucharest: Humanitas Publishing.

Stan, L. (2010). Romania: In the Shadow of the Past, DOI: 10.1017/CBO9780511803185.021. In: *Central and Southeastern European Politics since 1989*, Ramet, S. P., Cambridge University Press, pp. 379-400. Retrieved from: https://www.researchgate.net/publication/215489695_Romania_In_the_Shadow_of_the_Past.

Tempest, R., Lauter, D. (1989). Romanian Ally of Gorbachev to Head New Regime : East Bloc: Ion Iliescu will be 'provisional president.' State TV shows the executed bodies of Ceausescu and his wife. *Los Angeles Times*. Retrieved from: http://articles.latimes.com/1989-12-27/news/mn-1077_1_ion-iliescu/2.

Trading Economic, Germany Unemployment Rate, 30.05.2018. Retrieved from: https://tradingeconomics.com/germany/unemployment-rate.

Trading Economics, United Kingdom Unemployment Rate, 17.04.2018. Retrieved from: https://tradingeconomics.com/united- kingdom/unemployment-rate.

Trial International, (2017). Ion Iliescu. Retrieved from: https://trialinternational.org/latest-post/iliescu-ion/).

Wikipedia, (2017a). Mineriade. Retrieved from: https://fr.wikipedia.org/wiki/Min%C3%A9riade.

Wikipedia, (2017b). Convenția Democrată Română. Retrieved from: https://ro.wikipedia.org/wiki/Conven%C8%9Bia_Democrat%C4%83_Rom%C3%A2n%C4%83.

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ORIGINAL PAPER

Organizational Change: Framing the Issues

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Abstract:
The study of change is a major concern at present in all fields of science. Traditionally, in philosophy and socio-human sciences, the concept of change was approached as opposed to that of stability, with intense debates about the desirability and importance of order and stability vs. the unpredictability of change. While in classical approaches to organizational change the conceptions that favoured order, stability, and routine prevailed, modern approaches recognize the decisive role of accepting change for the development and progress of organizations. In the field of organization development and organizational becoming nowadays strategies are sought and devised in order to align the organizations not only with their rapid inner changing, but also with the external multiple, complex, and dynamic environments. Starting from an outline of the factors of change and of the term of change as it has been conceptualized in sociology, the present paper aims to delineate a general framework for addressing organizational change. In this regard, after discussing the relationship between organizational change and the social and economic environment and delineating the main areas and agents of change in an organization, the various types of change in the organization and the models of their approach are addressed. Furthermore, since the resistance to change is a common and omnipresent human and social phenomenon, including at the level of groups and organizations, the paper approaches also the causes and manifestations of change resistance, as well as the possible measures for combating this phenomenon, in situations where the change is beneficial and necessary.

Keywords: *change; organizational change; organizational becoming; change management; change resistance.*

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Introduction

Presently, the study of change is a major issue in all fields of science. While traditionally, in philosophy and socio-human sciences, the concept of change was approached as opposed to that of stability, the importance and desirability of order and stability vs. the unpredictability of change being intense debated, modern approaches, especially those regarding organizational change, emphasize the decisive role of accepting change for the development and progress of organizations. Thus, change is treated as the normal condition of organizational life (Mintzberg and Westley, 1992; Tsoukas and Chia, 2002).

Nowadays in the field of organization development there are sought and devised strategies designed to help the organizations to adjust both to the rapid inner changing and to the external multiple, complex, and dynamic environments(Van de Ven and Poole, 2005). That is why factors such as time, history, organizational experiences and actions are taken into account and links between change processes and organizational performance are assessed (Pettigrew, Woodman and Cameron, 2001). Change is an ongoing process and some scholars (e.g. Tsoukas and Chia, 2002), in order to highlight the pervasiveness of change in organizations, talk about 'organizational becoming'.

This paper intends to outlinea framework for addressing organizational change. After some conceptual delimitations, the relationship between organizational change and the social and economic environment is discussed and the main areas and agents of change in an organization are delineated. Moreover, the various types of change in the organization and the models of their approach are addressed. Since the resistance to change is a common and omnipresent human and social phenomenon, including at the level of groups and organizations, the paper approaches also the causes and manifestations of change resistance, as well as the possible measures for combating this phenomenon, in situations where the change is beneficial and necessary.

Conceptual framework

The idea of 'change' began to be debated in philosophy in the eighteenth century as an expression of the conception that the unity of the substance is in fact revealed by the continual change (Cassirer, 1990). Such a viewpoint was in contradiction with the philosophical conceptions of the past, according to which the world that is undergoingchange is merely an imitation of the world of universal and necessary ideas (Ferréol, Cauche, Duprez, Gadrey and Simon, 1998: 197).

Generally speaking, change refers to the transition from one state to another. Specific for the change is the fact that it can itself be seen as a state, even transient, which should be considered as such, but also addressing at the same time the differences between two successive states of the system. Identifying changes involves seeing to what extent there are modifications in the underlying structure of an object or a situation over a period of time. Any reporting of change means therefore also to see what remains stable, as a benchmark for measuring the transformations.

Overall, socio-human sciences, especially sociology, approach change at two distinct levels: a) macro-social, i.e. at the level of global society, referring to growth, evolution, development, progress, regression; b) micro-social, i.e. at the level of certain subsystems or components of society, such as organizations. The two levels are not necessarily and consistently put into relationship, some sociological theories focusing on macro-social changes, and others on the micro-social ones.

Although many theorists have tried over the last two centuries to develop a general theory that explains the nature of all social changes, it is now admitted that no theory based on a single factor canclarify the diversity of the human social evolutions (Giddens, 2000: 560). However, there can be identified three main factors that have constantly influenced change in society (ibid.): physical environment, political organization, and cultural factors. While the physical environment has especially implications on the evolution of social structure, the political organization plays a key role in producing social change. Furthermore, the cultural factors have a significant, even primordial influence in triggering social change. For example, the technological innovations, scientific discoveries, cultural diffusion, religion, etc., are all cultural factors that can become catalystsof social change.

Thus, one can say that changes in the social sphere can occur either as a result of extraordinary challenges of physical living conditions or as a result of political actions (including a variety of factors such as governmental and legislative actions, implementation of political and social programs, changes of political regime, social movements of various forms such as protesting, reforming, orrevolutionary ones, etc.), or as anoutcome of cultural factors, such as the intentional or unintentional consequences of technological innovations, scientific discoveries, the emergence of a new religion, and so on.

The relationship between organizational change and the social and economic environment

Being part of the social environment, which is constantly changing, either slower or more accelerated, organizations must also continually adapt to the changing environment. Thus, adaptability to environmental change has now become a fundamental condition not only for the success of the organization but also, often, for its survival.The scope of environmental changes varies from country to country and region to region, but there are also global changes affecting companies worldwide, such as the crisis of energy resources, environmental pollution, etc.

In order to maintain and develop, organizations have to create structures capable of anticipating the trends in economic and social development, in general, as well as the structural and content-related market changes, in particular. Strategic planning of the organization, including that of human resources, is the most important managerial activity with long-term effects. Performing organizations allocate considerable financial resources for developing strategies, as well as for adopting policies on human resources (Stanciu, Ionescu, Leovaridis and Stănescu, 2003). Organizational changes in recent decades have led to awareness for the need for organizations to create structures to adapt to the environment. In this respect, forms of management have been developed, such as the management by objectives (MBO) or management by results (MBR), participatory management, total quality management (TQM), as well as structures to facilitate and expand internal and external communication.

The current economic, social and political environment determines, in the context of globalization, an increasingly fierce competition, so that the success of an organization depends on its ability to differentiate itself from the competition through a multidimensional contribution. These multiple dimensions refer to(Huţu, 1999): providing value and satisfaction to customers; ensuring the prosperity of owners and investors; ensuring the well-beingof members of the community to which it belongs. In order to address all these dimensions, organizations need to make a series of assessments

regarding(ibid.): their own structure; the flow of fluxes of information and resources, the efficiency of the organization and the level of performances, the adaptability of the organization to the external environment, the capacity of the staff to use new technologies, the ability to finance its own restructuring, the willingness to invest in training and retraining of the staff, etc. Organizations also need to be prepared with strategies that make the organization able, on the one hand, to adapt to the transformation of the environment, and on the other hand, to continue uninterrupted the process of achieving the objectives.

Change in relation to organizations can also be seenin the reverse direction: not only the external environment contributes to changing organizations, but also organizations themselves can contribute to changing the external environment, for example by creating and spreadingnew technologies or products that, in time, can become dominant, can change people's way of life and habits and can even modifythe social and natural environment to a wider level.

Areas and agents of change in an organization

Organizational change can aim various transformations in different areas of an organization, consisting of transitions from states that start to be regarded as deprecated to desired, up-to-date states, suitable to the dynamic and the challenges of the environment.

In order to describe the major changes undertaken in key organizational parameters, such as strategy, structure, technology, the distribution of power, and the people, there are used terms like 'quantum change' (Miller and Friesen, 1984; Greenwood and Hinings, 1993), 'second-order change' (Bartunek and Moch, 1994) or 'organizational transformation' (Wischnevsky and Damanpour, 2006). The different conceptualizations of organizational change have however the similar view that this process is consisting of major changes in multiple dimensions (Van de Ven and Poole, 2005).

Among the most important dimensions that could be subject to change in an organization can be mentioned:basis of the organization (its purpose, nature and level of activity, legal status, ownership form, sources of financing, ways to diversify production, etc.); strategy (planning and directing designs, short-term and long-term goals, schemes and procedures, the vision for the future direction of organization, etc.); tasks and activities (the range of products and services offered, sales markets, beneficiaries, suppliers, etc.); structures and management processes (internal organization, work flow, decision-making procedures, control methods, information systems, the flow of intra-communication, and so on); the technology used (technological processes, office technology, equipment, materials and type of energy used, etc.); people (staff and leadership – type, size, characteristics, structure, skills, conducts, attitudes, values, motivations, behaviour, work efficiency, etc.);organizational culture (influences and processes, values, traditions, leadership style, hierarchical structures, formal and informal relations, etc.); communication (internal and external communication models, image changes, strategies of dealing with the extrinsic environment, etc.).

Currently, many companies and organizations are aware of the importance of change and encourage the entrepreneurial spirit of their members. Some companies even have special departments dealing with innovation, as well as with proposing changes and the required measures to implement them. Such departments comprise people with innovative and avant-garde spirit.

However, other members of the organization may prove to be also agents of change, without necessarily working in specialized departments. More and more organizations are open to the proposals of such entrepreneurial employees, knowing that nowadays novelty and creativity are the keys to the success of an enterprise.

Not only those who have innovative ideas in terms of production are considered to be agents of change, but also those who come up with proposals to restructure and to improve the quality of work, the climate in the organization, etc. From this point of view, it is expectedthat leaders and managers of organizations are agents of change, but other employees also should be encouraged to take the initiative.

There are also situations in which organizations hire agents of change from outside. Based on an audit, observation and analysis of the organization's work, they make specific proposals for changing the aspect of the company for which they were hired.

Types of organizational changes and models of approach

Some changes are foreseeable, such as those related to 'natural', evolutionary processes, like changes that are caused byadaptation to current technology and, in general, any change aiming the modernization of organization, personnel or leadership reshufflings, etc. Although not always entirely, such changes can be in the plans and strategies of the organization.However, other changes, especially those determined by factors from the external environment, are unforeseeable, and the organization must be able to cope with these as well.In the following section, some possible types of organizational change and their approaches are discussed, taking into account criteria such as the predictability and planning of change and the degree of participation of the organization's members to change.

Unplanned change. There exist not only predictable, but also non-predictable changes, which are usually not of an evolutionary nature. This happens when organizations have to react to new situations. For example, a crisis (economic, political, social) that suddenly bursts may limit the sales of a company; the behavior of competing firms may lead to a drastic reduction in prices; a strike can force an organization to raise wages and therefore production costs, etc. Such changes can be characterized as adaptive or reactive.

Even if an organization did not plan and often did not foresee the need for such changes, once the events are triggered, it must react before it would be too late and operate the change to respond to events or trends that threaten the organization, or, on the contrary, offer new, unexpected development opportunities.

Planned change. An organization must be permanently prepared to adapt to the general social and economic environment. However, it should not only wait for unforeseen events in this environment to make unplanned changes. This organizational vision would be a sign of an inefficient management. In order to develop, and even to survive, an organization must be able to 'look into the future' and to take into account the possible evolutions, and the strategies for adapting to them.

Planning does not completely eliminate unplanned changes, but it helps the organization to properly prepare for some transformations that can be anticipated, thus reducing the number of situations in which hastilychanges need to be made, in an atmosphere of panic. Moreover, planning the change allows many organizations to 'create the future', for example by contributing to technological progress or by

launching new products and services, and this is possible when the organization proposes and plans to achieve ambitious targets.

To successfully plan change in an organization, a series of elements and questions should be taken into account:

Evolution and transformations in the environment (economic, social). Related questions: How stable is the economic/ social/ political environment? Which changes are currently taking place in this environment? What are their implications for the organization in question? And so on.

Evolution and cultural developments. Related questions: Which changes are taking place in customer preferences and/ or in their purchasing behaviour? Whichare the trends as regards consuming?Which are the main interests and concerns of people today? Etc.

Aspects related to the own organization. Associated questions: What changes need to be made to the structure/ production/ climate/ staff/ leadership of the organization in order to achieve the goals? To improve activity? To maintain the market segment and/ or to expand it? And so on.

Issues related to the implementation of the changes. Linked questions: What is the time frame and the implementation plan for change? Implementation must be done in stages? Can we allow a long time change or should we act quickly? How will be the relationships between the various changes that the organization intends to make? Howwill be people's reactions to these changes? And so on.

The last mentioned issues are of great importance. It has been found (Cascio, 2012: 87) that both organizations and people can only absorb a limited volume of change over a certain period of time, and this "absorption capacity" may vary by country, region, or people. Therefore, the proper pace of change is one of the main issues to be taken care of and a critical dimension of change planning and achievement.

Imposed change. It refers to that type of change in an organization that is initiated and imposed solely by its leadership. Sometimes such changes are made from a position of power (for example, the staff reductions), in situations where consultations and negotiations would make it difficult rather than facilitating the process. Also, some minor measures and regulations do not justify and require lengthy consultation, and in this case they are implemented through imposed changes.

Another context in which such organizational changes take place is represented by emergency situations, in which case discussing and planning of change is difficult or even impossible. There are situations where making a decision to change is crucial, and any delay can be fatal to the organization. In such cases, the change is imposed from top to bottom. However, after resolving the crisis period, it is recommended that the leader/ manager explain to the subordinates the reasons why he/ she acted as such. Otherwise, they risk losing the adhesion and confidence of the group.

Participatory change. This type of change can be considered to be the opposite of the one described above. It involves modifications that are made through consultations and debates, and decisions that are made by all members of the organization. It is a form of change to which more and more organizations are now joining. Comparing with the process of imposed change, the process of participatory change is much slower, because consultation and participation of members of the organization requires time and effort. However, such changes are considered to have more sustainable results. Furthermore, participatory change helps leadership to benefit from people's experience and creativity, which is harder to achieve if change is imposed.

The process of participatory change may vary with the organizational levels involved. It depends on the nature and complexity of change, the maturity of the organization, the motivation and team spirit of the working group. Generally, as well in this case, the direction of the process is from the top to bottom levels of organization: at a first level, the leader or the consultant hired by the organization informs the staff concerned about the possible measures that may be useful and about the need for change; at a second level, consultations are held with certain key people in the organization to get suggestions, criticism and/ or a prognosis of staff reactions to change;at a next level, ways are sought for all members of the organization to be actively involved in formulating, planning and implementing change; these pathways usually involve the formation of teams, working groups or committees that discuss and participate in the different aspects of change.

Negotiated change.The significance of this form of change is close tothat of participatory change. The focus in this case is however more on negotiation than on participation. Negotiation can take place between groups in the organization directly involved or at least interested in the issues covered by the possible change. The negotiation can be understood simultaneously as: a process through which a person, group or organization succeeds in obtaining what he/ she/ it wants from other people/ groups/ organizations who, in their turn, want something from the first; an interaction between two or more parties with different interests, following which, through discussion, an agreement can be reached;the process of adjusting the viewpoints of different parties so that from an ideal solution to reach a real solution for solving a problem or conflict.

Negotiation is a prerequisite equallyfor achieving goals, resolving conflicts, obtaining agreements, and the dynamics of an organization. It is always done through communication. Negotiation is a voluntary activity. If some people or groups do not want to negotiate, then they should not participate in the negotiations.But if there change, participation in the organization's life and decisions, solving problems, reducing or eliminating certain existing tensions, etc. are aimed or desired, then negotiation is needed, because often the interests of the parties involved are divergent. If the interests or needs of thestakeholders involve, alongside divergent areas, also common areas, then it is preferable to focus attention on these common areas so that, through discussions and decisions involving inclusivecompromises, gains and losses on both sides, a consensus is reached.

In general, at the level of an organization, the negotiated change is combined with the participatory decision, through which the managers, together with the executors, try to find: ways of regulating the activity; opportunities to improve future work; solutions for different issues. It is recommended that leaders and managers to be receptive to the idea of dialogue and negotiation with employees. This does not only increase the probability of receiving support from them, which facilitates the process of implementing change, but italso avoids the tension and conflicts, that are harmful forthe organization.

Resistance to change

The resistance to change is a common and omnipresent human and social phenomenon.The term was introduced by Kurt Lewin (1947) as a systems concept, designating a force that affects managers and employees equally, that tendency of a system to continue its current behaviour, despite the attempts to change that behaviour

(Harich, 2010: 37).The intensity of the resistance to change of groups and organizations depends on their degree of cohesion, their organizational structure and/or their traditions and habits. For example, the church, the military, or the educational institutions have proved to be highly inert and reluctant to change, in comparison to other organizations that have a more flexible structure and are not so strongly anchored intraditions(Giddens, 2000).

It has beenobserved that, within companies, employees show resistance both to changes that directly affect the 'stability' to which they have become accustomedat their workplace, such as those related to their situation, the pace of work, the work conditions, etc., and the changes that do not directly affect them, aiming some neutral aspects, such as the structural and organizational ones. Moreover, employees show resistance to change even when it comes to issues that would be beneficial forthem. The causes of this phenomenon are psychological, both individual and collective (Dent and Goldberg, 1999). Among the causes of change resistance we can mention:

Lack of belief that change is necessary. Unlike managers, who have an overall perspective on the organization, employees have a perspective that pertains only themselves in the organization. Therefore, especially when the purpose of change is not properly explained, they do not see the necessity of change, and therebyas a result they tend to reject it.

The change is perceivedand/or experienced as unpleasant. This happens especially when the change is proposed by agents from outside the organization, even if the measures do not necessarily affect the employees directly. This phenomenon occurs particularly when the employees have not been consulted about the pattern of change, and thus they feel 'betrayed' by the decision-makers, feeling therefore any suggestion of change as unpleasant.

Fear of inability and failure. Many employees are not convinced that they have the ability to meet the new requirements and the new roles required by the change. Even if managers succeed in persuading the subordinates regarding the need for change, this in turn can cause anxiety as it involves trainings, retraining, possibly more work or amendments to work, new and unfamiliar tasks, etc.

Lack of confidence andof positive feelings for the promoters of change. It has been found that resistance to change is directly proportional to the lack of popularity of those proposing change –whetherthey are change agents from inside (managers, people from specialized departments, etc.), or they are external change agents (consultants, experts, etc.).

The more those peoplewho propose changes are more popular, and they have the respect and confidence of the employees, the less is the resistance to change and the chances for its successful implementation increase significantly.

If the resistance to change is too intense because of negative feelings towardsthe promoters of change, it is recommended that intermediary agents are involved for introducing the change measures. Optimally, for the success of the change, these should be neutral agents, at best respected persons within the organization.

The comfort given by perpetuating the existing practices and habits and the fear regarding unknown. Habits represent the most important factor against change. Thus, changes are often rejected simply because they disturb habitualness, the already installed routine, the customs, and the work procedures employees are already accustomed to.

To combat these causes, in order to successfully plan and implement change, effective management communication is essential. Therefore, the phenomenon of

resistance to change requires special attention from those who initiate change, because any change is a renouncement from stability, which, associated with the impossibility of controlling the future announced by change, can cause uncertainty, dissatisfaction, discontent and, last but not least, anxiety. To avoid these phenomena as far as possible, a series of measures are recommended, including:

- streamlining the communication process between those involved in the change process; timely, realistic and responsible communication diminishes the likelihood of hostile reactions to change;
- development of a change project by the initiator of the transformations, in order to anticipate and control the stages of change or unwanted effects; without such a project the quality of change could be questionable;
- correlation of the pace imposed on change with the context of its generation; the idea of an instant change is extremely tempting, but rarely possible;
- involvement and effective participation of individuals in the process of change; sothey have the opportunity to assume both the acting side and the effects, be they successes or failures; here an important role is played by the stimulation of thinking and creativity, simultaneously with diminishing the fear of mistakes;
- last but not least, resistance to change may be diminished if those who initiate and sustain changesare the first to accept those changes and change themselves, according to the principle "change begins with ourselves"; only by thisthose who are asked to accept change may be convinced to change their attitudes, behaviors, practices, habits, etc.

Conclusions

The main focus of this paper was to delineate a general framework for addressing organizational change. This concept was approached starting from a general outline of social change, whose research is currently – as has been over the last two centuries – a major issue in the field of socio-human sciences.As a first conclusion, it can be emphasized, that although many theorists have tried to originate a general theory that explains the nature of all social changes, such a theoretical model remains to the stage of a utopia. At present scientists agree that social changes and evolutions are too diverse, complex and unpredictable to be explained by a single theoretical model. That is why over the time various theories were developed in order to describe, expound, interpret and understand certain social transformations or particular aspects of human developments and changes.

The social environment is one that is continually transforming. As part of this environment, organizations must also constantly adapt to these dynamics. Adjusting to the environmental change has nowadays become a fundamental condition not only for the success of an organization but also, often, for its survival. Therefore, in the field of organization development there are sought and devised strategies designed to help the organizations to adjust both to the rapid inner changing and to the external multiple, complex, and dynamic environments.

Strategic planning of the organization, including that of human resources, is seen as one of the most important managerial activity with long-term effects, since in order to maintain themselves and to successfully develop, organizations have to create structures capable to anticipate the trends in economic and social development, in general, as well as the structural and content-related market evolutions, in particular.

Organizational change is a major process through which the organization adapts to the dynamics of the external environments, as well as to the inherent, also continuously changing internal evolutions. The targets of this process can vary, regarding transformations in different areas of the organization and consisting of transitions from states that start to be regarded as deprecated to desired, up-to-date states, which are considered more appropriate to the challenges of the external and internal environment.

Because ccurrently many organizations are aware of the importance of change, they encourage the entrepreneurial and innovative spirit of their members. Moreover, they develop strategies and adopt measures to combat the frequent phenomenon of resistance to change, i.e. that tendency of a system to preserve the current state, although a new state would be more beneficial, and even when some attempts to change aremade. This phenomenon can be observed both in systems as a whole and in its parts and elements,both in social as well as in individual attitudes and behaviours. The causes of this phenomenon are various, including the fear towards unknown, the comfort given byhabits, the perception of change as unnecessary or as unpleasant, the fear to fail, as well as the lack of trust andof positive feelings towards the promoters of change. The more there is assessed which of these causes most accurately explain the resistance to change in an organization, the more theappropriate measures and strategies can be adopted to combat this phenomenon.

References:

Bartunek, J. M., Moch, M. K. (1994). Third-order Organizational Change and the Western Mystical Tradition. *Journal of Organizational Change Management*, 7(1), 24-41.

Cascio, W. F. (2012). *Managing Human Resources: Productivity, Quality of Work Life, Profits*, 9th Edition, Denver: McGraw Hill Higher Education.

Cassirer, E. (1990). *La Philosophie des Lumières*, Paris: Fayard.

Dent, E. B. and Goldberg, S. G. (1999). Challenging "Resistance to Change". *The Journal of Applied Behavioral Science*, 35(1), 25-41.

Ferréol, G., Cauche, P., Duprez, J.-M., Gadrey, N., and Simon, M. (1998). *Dicţionar de sociologie*, Iaşi: Editura Polirom; Bucureşti: Editura Știință & Tehnică.

Giddens, A. (2000). *Sociologie*, Bucureşti: Editura BIC ALL.

Greenwood, R., Hinings, C. R. (1993). Understanding Strategic Change: The Contribution of Archetypes. *Academy of Management Journal*, 36(5), 1052-1081.

Harich, J. (2010). Change Resistance as the Crux of the Environmental Sustainability Problem. *System Dynamics Review*, 26(1), 35-72.

Huțu, C.-A. (1999). *Cultură organizațională și transfer de tehnologie: premise pentru transformarea competitivă a organizațiilor românești*, Bucureşti: Editura Economică.

Lewin, Kurt. (1947). Frontiers in Group Dynamics: Concept, Method and Reality in Social Science; Social Equilibria and Social Change. *Human Relations*, 1(5), 5-41.

Miller, D. and Friesen, P. H. (1984). *Organizations: A Quantum View*, Englewood Cliffs, NJ: Prentice-Hall.

Mintzberg, H. and Westley, F. (1992). Cycles of Organizational Change, *Strategic Management Journal*, 13(S2), 39-59.

Pettigrew, A. M., Woodman, R. W. and Cameron, K. S. (2001). Studying Organizational Change and Development: Challenges for Future Research. *Academy of Management Journal*, 44(4), 697-713.

Stanciu, Ș., Ionescu, M., Leovaridis, C. and Stănescu, D. (2003). *Managementul resurselor umane*, București: Editura Comunicare.ro.

Tsoukas, H. and Chia, R. (2002). On Organizational Becoming: Rethinking Organizational Change, *Organizational Science*, 13(5), 567-582.

Van de Ven, A. H. and Poole, M. S. (2005). Alternative Approaches for Studying Organizational Change, *Organization Studies*, 26(9), 1377-1404.

Wischnevsky, J. D. and Damanpour, F. (2006). Organizational Transformation and Performance: An Examination of Three Perspectives. *Journal of Managerial Issues*, 18(1), 104-128.

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ORIGINAL PAPER

Inter-Ethnic Relations in Albania: The Causality Between Inter-Ethnic and Inter-State Relations

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Abstract:
Throughout the period of communism, human rights and freedoms of all ethnic groups, both majorities and minorities, had been grossly violated in Albania, while spiritual and ethnic sentiments were forcibly mitigated by the communist regime. Consequently, during the period of communism, the impression from abroad was that ethnically Albania was a rather homogeneous country. Nevertheless, certain neighbouring countries as well as different ethnic minorities living in Albania have constantly questioned such perception. After the fall of communism, the size of different minorities living in the country has emerged as the main inter-ethnic dispute in Albania. Although currently several ethnic groups are officially recognized as national minorities in Albania, the Greek minority is the largest one and the only minority large enough to have sufficient political, economic and social significance. The main aim of the paper is to analyse the state of inter-ethnic relations in Albania, with special focus on relations between ethnic Albanian majority and ethnic Greek minority. The paper also offers an analysis of main factors that contribute to inter-ethnic tensions in the country and explores possible scenarios in the future. The most relevant part of the paper analyses the causality between inter-ethnic and inter-state relations. The paper claims that as in other countries of the Western Balkans, interstate and inter-ethnic relations in essencerepresent components of the same equation. The paper concludes that the overall inter-ethnic relations between Albanians and Greeks in Albania are heavily affectedby inter-state relations between Albania and Greece and vice versa.

Keywords: *Inter-ethnic relations; Albania; Albanians; Greeks; Inter-state relations; causality.*

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Introduction

In the predominantly ethnically mixed region like the Western-Balkans, inter-ethnic relations in different countries represent one of the most important factors for the overall stability in the region. This is especially true for the Central Balkans that was the last part of Southeast Europe to be divided by state borders. The division that took place after the final collapse of the Ottoman Empire in the early twentieth century saw members of different ethnic, religious and linguistic communities becoming citizens of newly created nation states. Such outcome resulted only in one ethnic group occupying the entitled majority status (Wahlström, 2016: 37). In that matter Albania is not an exception, especially having in mind country's long period of isolation during the communist regime. After the collapse of communism Albania emerged as the most isolated and the poorest country in Europe. During communism, the extremely harsh regime in Albania repressed all forms of political dissent and religious affiliation, including any independent civic activity. Throughout this period, human rights and freedoms of all ethnic groups, both majorities and minorities, had been grossly violated in Albania. Furthermore, spiritual and ethnic sentiments were forcibly mitigated by the communist regime, which privileged social identity over primordial identities (Demjaha and Peci, 2014: 8). As a result, during the communist period, Albania was generally viewed from abroad as an ethnically homogeneous state (Pettifer, 2001: 1).

Nevertheless, certain neighbouring countries as well as different ethnic minorities living in Albania have constantly questioned such perception.After the end of communism and the democratization of Albania, such claims have only intensified further. Currently, the main inter-ethnic dispute in Albania is about the actual size of different minorities living in the country and the scope of minority rights that they enjoy within the country. The main aim of the paper is to analyse the state of inter-ethnic relations in Albania, with special focus on relations between ethnic Albanian majority and ethnic Greek minority.

The paper also offers an analysis of main factors that contribute to inter-ethnic tensions in the country and explores possible scenarios in the future. The most relevant part of the paper analyses the causality between inter-ethnic and inter-state relations. The paper claims that as in other countries of the Western Balkans, interstate and inter-ethnic relations in essencerepresent components of the same equation.

The structure of the paper consists of four chapters altogether, including introduction and conclusion. After the introductory chapter, the second chapter the paper gives special attention to the current state of affairs of the inter-ethnic relations in Albania, with special focus on relations between ethnic Albanian majority and ethnic Greek minority. In the third chapter, the paper focuses on the causality between inter-ethnic and interstate relations, namely to the fact that in the countries of the Western Balkans, interstate and inter-ethnic relations in essence represent components of the same equation. The paper ends with a concluding chapter that summarizes the main findings of our analysis.

Current State of Affairs of Inter-ethnic Relations in Albania

According to current legislation in Albania, Greeks, Montenegrins, Macedonians and Serbs are recognized as national minorities, while Roma people and Vlachs/Aromanians are only recognized as linguistic/cultural minorities. Both national and linguistic minorities are recognized under the multilateral treaty of the Council of

Europe - Framework Convention for the Protection of National Minorities (FCNM) that Albania has ratified in 1999 (Minority Rights Group International, 2007). Currently, in addition of being the largest ethnic minority in Albania, the ethnic Greek minority represents the only one large enough to have sufficient political, social and economic significance. The dispute about its actual size is especially sensitivesince it is inseparably linked to the historical territorial claims on southern Albania by various Greek nationalist groups and state representatives.

Namely, such groups have continuously claimed that the part of southern Albania – known to the Greeks as Northern Epirus – has historically been part of Greece (Vickers, 2010: 2). The proximity of the Greek state which nurtures close economic and cultural links with theGreek minority has further amplified the political significance of that minority in Albania (Vickers, 2010: 1). In terms of political representation, the Greek minority ispolitically organised through the Democratic Union of the Greek Minority (OMONIA), and by the political party the Union of Human Rights Party (UHRP). In fact, the UHRP was established only in February 1992 once the enactment of legislation that banned parties based upon "ethnic principles" was introduced. After elections in March 1992, the party became the *de facto* electoral successor of OMONIA by winning two Assembly seats as compared to OMONIA's five seats in 1991 (Demjaha and Peci, 2014: 8).

Otherwise, Albania's commitments towards the protection of minorities started after World War I, when in December 1920the country was admitted to the League of Nations (Xhaxho, 2007: 12). As a result, since 1921, Albania's ethnic Greek population has been registered as a minority living in recognised "minority zones" (Demjaha and Peci, 2014: 9) "Minority zones" were defined as particular districts (Gjirokastër, Sarandë and Delvinë for persons belonging to the Greek minority, and districts of Korçë (municipality of Liqenas) and Devolli (municipality of Vernik) for persons belonging to the Macedonian minority) categorised as such under the communist regime, inhabited by substantial numbers of persons belonging to national minorities (Advisory Committee on the Framework Convention for the Protection of National Minorities, 2011: 11).

An inquiry established by the League of Nations in 1922 concluded that there were about 25,000 Greek speaking people in Albania. However, there is good reason to believe that the estimate was too low since the study was conducted only on limited parts of the southern border (Demjaha and Peci, 2014: 8-9). After the Second World War, the new Albanian Communist regime narrowed the area of southern Albania described as a "minority zone" to just 99 villages in the districts of Gjirokaster and Saranda. Such arrangements excluded the three villages of Himara, Drimades and Palasse that were in 1921 recognised as minority areas by the League of Nations (Demjaha and Peci, 2014: 9).

It also excluded ethnic minorities living outside minority zones in other areas throughout the country. Mixed villages outside this designated zones, even those with a clear majority of a certain ethnic minority, were not considered minority areas and therefore were denied any language cultural or educational provisions (Albania: The Greek Minority, 1995: 6). In addition, as part of the communist population policy to prevent ethnic sources of political dissent, many Greeks were forcibly removed from the minority zones to other parts of the country. Moreover, during this period,the communist regime, has changed Greek toponyms to Albanian ones, while the use of the Greek language was limited only within the minority zones (Pettifier, 2001: 7).

Based on the last census in Albania during the communist rule in 1989, there were 58,758 or 1.8 percent ethnic Greeks living in the country. However, these official figures were fiercely disputed by the Greek authorities as well as the Greek community living in the country. Leaders of the ethnic Greek community claimed that their numbers were around 260,000, while some estimates went as high as 400,000. According to the Greek Helsinki Committee, the figure is around 150,000, while the CIA World Fact Book 1994 estimates the Greek minority at 3 percent of the population, or about 100,000 people (Third Opinion on Albania. 2011: 6). It is worth mentioning that the first census after the fall of communism in 2001 contained no question related to ethnic or religious origin.

As a result, the chairman of the Democratic Union of the Greek Minority urged members of the Greek minority to boycott the census and accused the Albanian authorities of trying to intentionallyreduce numbers of the Greek minority. (International Crisis Group, 2001: 12). After several recommendations by the European Commission against Racism and Intolerance (ECRI), in 2011 the Albanian government finally decided to conduct a country-wide general census that would include a question pertaining to ethnic identity(European Commission against Racism and Intolerance, 2004). However, in the last minute, the Albanian authorities made amendments that introduced fines for incorrect responses to the questionnaire. According to these changes, a response not corresponding with the data contained in the civil registry would be considered as incorrect (Third Opinion on Albania. 2011: 12).

Namely, according to article 20 of the Census law, anyone who would declare anything other than what was written in the civil registrymight be risking a fine of up to 1,000 USD (Macedonia Internet News Agency, 2011).OMONIA and Greek opposition parties heavily criticised such amendments and again called to boycott the census (Krasniqi, 2012). According to official results, the number of ethnic minorities in Albania decreased considerably, with citizens of Greek ethnicity accounting for only 0.87 per cent of the population. The Greek minority and OMONIA reacted furiously, refused to accept the results of the census and claimed that the census figures have been falsified to the disadvantage of ethnic Greeks as well as other Orthodox minorities (Demjaha and Peci, 2014: 10).

The Advisory Committee on the Framework Convention for the Protection of National Minorities also "considers that the results of the census should be viewed with the utmost caution and calls on the authorities not to rely exclusively on the data on nationality collected during the census in determining its policy on the protection of national minorities".It also considered the 2011 census in Albania as unreliable, inaccurate, and incompatible with established standards for the protection of national minorities(Advisory Committee on the Framework Convention for the Protection of National Minorities, 2011: 6).

Nevertheless, it is worth mentioning that the overall population of Albania has also declined for roughly 8 per cent since 2001.As a result, the actual numbers today are extremely difficult to determine due to enormous migration of Albanians and other ethnic minorities since 1991.According to the Albanian Ministry of Labour and Social Affairs, in 1999 there were some 800,000 Albanian emigrants, with 500,000 of them living in Greece and additional 200,000 in Italy (King and Vullnetari, 2003: 25). On the other hand, certain sources state that since the end of the one-party state in 1991, up to two-thirds of the Greek minority population has moved to live in Greece (Demjaha and Peci, 2014: 10). The Greek minority population has moved to Greece in a considerable

number mainly due toa privileged status they enjoy in the country. Members of the Greek minority are among othersgranted highly prized Greek visas including residence and working permits, and also enjoy privileges in terms of employment, schooling and medical assistance (Vickers, 2010: 10).

The main issue regarding the Greek minority in Albania currently has to do with the political, human, educational and cultural rights of the Greek community in Albania (Demjaha and Peci, 2014: 10). After the adoption of legislation aiming atimproving Greek minority rights, one could say that Albania has in principleaddressed the major part of the cultural and educational needs of its minorities. The same is also true in terms of improvements related topolitical representation of the minorities.As a result, if not on a national level,Albania has at least at a local oneensured adequate minority representation. Sincethe Greek ethnic minority can freely participate in Albanian politics, it is unlikely that the group would experience any disadvantages due to deliberate group discrimination (Demjaha and Peci, 2014: 9).

Nevertheless, there are some complains by the Greek minority "about the government's unwillingness to recognize ethnic Greek towns outside communist-era "minority zones," to utilize Greek in official documents and on public signs in ethnic Greek areas, and to include a higher number of ethnic Greeks in public administration" (United States Department of State, 2013). Still, as it will be shown in the next section, it is our firm belief that future inter-ethnic relations between the Albanian majority and the Greek minority will greatly depend on overall inter-state relations between Albania and Greece. Improvement of such bilateral relations between the two countries will undoubtedly contribute to the relaxation of the overall relations between the two ethnicities. On the other hand, stable and good inter-ethnic relations between the two ethnic groups in Albania could undoubtedly serve as a solid foundation for continuous good neighbourly relations between Albania and Greece (Demjaha and Peci, 2014: 11).

It is important to note that other minorities in Albania have also disputed official figures regarding their size in the country, most notably the ethnic Macedonian minority. Albania has given a minority status to ethnic Macedonians after the Second World War, when the Republic of Macedonia was established in socialist Yugoslavia. It should be mentioned that the ethnic Macedonian minority is primarily concentrated in the area of Prespa, a small town located around 30 km northeast from the Korca district. That area belongs to the south-eastern part of Albania, in the border linewith Greece and the Republic of Macedonia (Xhaxho, 2007: 19).

Althoughthe majority of the members of the ethnic Macedonian minority live in compact rural areas, some inhabitants of this ethnicity are also settled in bigger cities such as Korca, Porgradec, and Tirana. Nevertheless, as in the case of the Greek minority, Albania recognizes minority rights of the ethnic Macedonians only within the "minority zones" (World Directory of Minorities and Indigenous Peoples, 2008). According to the last census held in 1989 by the communist regime, the overall number of ethnic Macedonians in Albania amounted to 4,700. Nevertheless, the leaders of the Macedonian ethnic minority have similarly to the Greek minority also boycotted the census in 2001 (Demjaha and Peci, 2014: 11).

In addition, dueto last minute amendments to the electoral legislation, the leaders of the Macedonian minority have also called for the boycott of the census in 2011. While according to official results their make-up of the total population of the country is only 0.2 percent (5,512) (Population and Houses Census, 2011), both ethnic Macedonians as well certain representatives of the Republic of Macedonia have often

insisted on much higher numbers (Demjaha and Peci, 2014: 11). As a result, in 2003 the Association of Macedonians in Albania conducted its own census of the number of Macedonians in Albania. Such informal census estimated the number of ethnic Macedonian population between 120,000 and 35,000 (World Directory of Minorities and Indigenous Peoples, 2008).

Nevertheless, it seems that such exaggerated figures are primarily intended for creating a certain parallel with enormous Albanian minority in Macedonia, rather than representing a factual reality. In addition to their size, main issues regarding the Macedonian ethnic minority in Albania are related to their political, educational and cultural rights. It should be mentioned that in terms of education, within the minority zone the instruction in the Macedonian language has been available since 1945, whilethe textbooks were issued by the state (Demjaha and Peci, 2014: 11). Currently, the main request by the Macedonian ethnic minority is the extensionof the right to instruction in their mother tongueto children of Macedonian ethnic affiliation beyond the minority zones, i.e. in other parts of Albania. Recent cooperation agreements in the field of education signed between Albania and the Republic of Macedonia certainly provide hopes that instruction in Macedonian language might also be introduced in secondary education (Demjaha and Peci, 2014: 11).

As already mentioned, Vlachs/Aromanians and Roma people are also recognized as distinct minorities in Albania, however only with a status of linguistic/cultural minorities. Main claim of these two minorities is related to their request to be considered national rather than linguistic minorities (World Directory of Minorities and Indigenous Peoples, 2007). Nevertheless, one has the feeling that the position of Egyptians and Bosniaks is even more problematic, since they are not recognized either as a national minority or as a linguistic one.

These two ethnic groups have repeatedly asked to be recognised as persons belonging to a national minority, however such claims have so far not yielded any results. While such recognition would certainly enable members of these two ethnicities to benefit from the protection of the Framework Convention, their requests have not been examined by the Albanian authorities and their existence as distinct groups with specific identities has not yet been acknowledged (Demjaha and Peci, 2014: 12). Still, it should be noted that generally Albania is characterised bya climate of respect and tolerance between the Albanian majority population and the national minorities living in the country. In terms of the respect for and protection of minorities, inter-ethnic relations are also generally good (Albania: Minority ethnic groups, 2014: 15).

The most pressing issue remains a nation-wide population census that would provide reliable data on percentages of every national minorities in line with the principles of free self-identification and internationally recognised data collection and protection standards (Third Opinion on Albania, 2011: 34). Although the census held in 2011 has for the first time since the fall of the communism contained questions on ethnic origin, it clearly failed to yield reliable data about the exact number of minorities in the country. On the one hand, the figures produced by the census were questioned by representatives of almost all minorities. On the other hand, the fact that some 14 percent of the population did not answer the question on ethnic origin is certainly quite troublesome.

Such ambiguity regarding numbers of the ethnic minorities provides room for different speculations by both representatives of governments of some neighbouring countries as well as minorities living in Albania. In turn, such reality while burdening

the inter-ethnic relations in the country, also needlessly strains Albania's relationship with its neighbours (Demjaha and Peci, 2014: 12). As a result, despite the achieved progress and improved relations, mistrust still prevail both in relations with different minorities and the Albanian majority, as well as in bilateral relations between Albania and its neighbouring countries.The latter is mainly due to the fear of the Albanian state that ethnic minorities might be used by other neighbouring states for separatist or destabilizing aims.

The Causality between Inter-ethnic and Interstate relations

The most relevant part of the paper analyses the causality between inter-ethnic and interstate relations. Namely, similarly to other countries in the Western Balkans, inter-ethnic and interstate relations in Albania are basically the components of the same equation. This means that the inter-ethnic relations between Albanians and Greeks in Albania are often influenced by inter-state relations between Albania and Greece and *vice versa*. Consequently, improvements or deteriorations of relations between Albania and Greece are an important factor that has a direct impact on inter-ethnic relations between the two major ethnicities in the country. At the same time, the opposite is also true; improvements or deteriorations of inter-ethnic relations between Albanians and Greeks in the country directly influence the bilateral relations between Albania and Greece.

For instance, inter-ethnic relations between the Greek minority and the Albanian majority for quite some time were shaped by Greece's territorial claims over southern part of Albania. During communism, policies of the Albanian authorities designed to hamper the preservation or growth of a distinct Greek ethnic identity in Albania, were significantly influenced by the official irredentist claims of Greece (Pettifier, 2001: 8). In fact, bilateral relations between the two countries have been for years haunted by the existence of a Greek ethnic minority in southern Albania and the issue of contested Cham's land ownership in parts of North-western Greece by Albanian governments (Maroukis and Gemi. 2011: 3). The Cham community comprises ethnic Albanians who were *en masse* expelled from northern Greece after the World War II and accused by Greek authorities of collaborating with the German forces.

Since then, the Cham issue in general and the question of their land ownership in particular have been a continuous source of tensionsin relations between the two countries. On the other hand, the on-going claims by Greece about the discrimination of the Greek minority by the Albanian successive governments have further burdened the relations between the two countries. Such relations have also further deteriorated due to technical state of war that has existed between the two states since the World War Two.

Namely, after the attack by Italian occupation forces situated in Albania,in October 1940 Greece passed a law declaring a state of war between the two countries.Although the two countries signed a friendship agreement in the early 1990s, the law still needs to be abolished by the Greek parliament(Mejdini, 2016).As a result, school books in both countries were full of stereotypes and generally lacked any historical, cultural and geographical elements of national minorities' identity. Moreover, the respective treatment of national minorities has often been a source of discord in the bilateral relations between the two states.

Relations between Albania and Greece during early years after the fall of communism were reserved and occasionally even frosty. In this period, the Greek ethnic minority was often used as a pawn by the two fractious neighbours (Demjaha and Peci,

2014: 10). The direct causality between inter-ethnic and interstate relations was first witnessed in 1993 in the district of Gjirokastra following the expulsion of an ethnic Greek Orthodox priestfor allegedly taking part in anti-Albanian subversive activities. In response to widespread demonstrations in Greek inhabited villages, several local leaders were arrested and obvious human rights violations have occurred. Greek authorities responded immediately by stepping up deportation of illegal Albanians workers from Greece and by cancelling three official visits to Tirana (Pettifier, 2001: 12). Clearly, the increase in the level of repression by Albanian authorities that worsened inter-ethnic relations between Albanians and Greek minority in the country directly resulted in deterioration of the inter-state relations between the two countries.

Similarly, hostilities between the two countries reached its peak in 1995, when Albania arrested and imprisoned five OMONIA activists who were accused for threatening the integrity and sovereignty of Albania in collaboration with the Greek secret service (Demjaha and Peci, 2014: 10). By the same token, the normalization of the inter-state relations after the riots in 1997 and subsequent change of the government, has resulted in overall improvement of Albanian-Greek inter-ethnic relations in the country.

Another issue that increased inter-state tensions between Albania and Greece was related to maritime border agreement signed in April 2009 in Tirana by former Albanian Prime Minister Sali Berisha and his Greek counterpart Costas Karamanlis (Likmeta, 2015). The singing of the agreement that also determined the Exclusive Economic Zones of the two countries has triggered an unprecedented public objection by Albanian experts, academicians and opposition political parties. Overall, it has stirred great controversy in Albania, drawing claims that with such a deal Albania was giving away 225 square kilometres of territorial waters to Greece (Likmeta, 2012).

As a result, in January 2010 the agreement was annulled by Albania's Constitutional Court due to "procedural and substantial violations of the Constitution and the UN Convention of the Law of the Sea" (Ndoj, 2015: 138). Among others, the Court's decision required that the agreement contains clear delimitation, it does not violate the territory of Albania, it is just and equitable, and is in accordance with principles of the international law (Cenaj, 2015: 147). Such court ruling has obviously damaged relations between the two countries, and in turn has also deteriorated inter-ethnic relations between two major ethnicities in the Albania. When Socialists came to power in 2013, the government led by Prime-minister Edi Rama demanded a review of the agreement, however Athens has for some time insisted on the implementation of the agreement of 2009. Since then, experts from both countries have negotiated on a new agreement that would finally resolve the dispute. Nevertheless, such agreement has not been reached yet and the maritime border still remains a controversial issue between the two countries that now and then raises tensions between the two neighbours.

Suchcase was the one in 2015 when Tirana urged Athens to halt oil exploration in the Ionian Sea (Deliu, 2015). The most recent incident was again related to hydrocarbon exploitation in the Ionian Sea. Namely, recently Greece has signed a contract with a joint venture consisting of TOTAL, EDISON and Hellenic Petroleum to exploit hydrocarbon in Ionian Sea. Albania has claimed that certain exploitation zones in the Ionian Sea are located in its Exclusive Economic Zone, and that Greece needs to ask permission from Tirana in order to conduct such exploitation (Albania discovers 'grey zones' in the Ionian Sea, 2017).

Nevertheless, last November the foreign ministers of the two countries held a three-day meeting in Crete to discuss all open bilateral issues that were mentioned throughout

the paper. According to their statements, the talks were an important step forward and "they agreed on further steps which must be taken in order to achieve positive results on the basis of European values and rules and for the benefit of both countries and their peoples" (Kokkinidis, 2017). If the two countries manage to solve all open bilateral issues that would undoubtedly contribute to the overall improvement of their inter-state relations, and by causality to the improvement of inter-ethnic relations between Albanian majority and Greek minority in Albania.

Conclusion

Similarly to other countries of the Western-Balkans, inter-ethnic relations in Albania represent one of the most important factors for the overall stability in the region. Throughout the period of communism, human rights and freedoms of all ethnic groups, both majorities and minorities, had been grossly violated in Albania, while spiritual and ethnic sentiments were forcibly mitigated by the communist regime. During this period, bilateral relations between the two countries have constantly been haunted by the existence of a Greek ethnic minority in southern Albania and the issue of contested Cham's land ownership in parts of North-western Greece. Moreover, inter-ethnic relations between the Greek minority and the Albanian majority in Albania were for quite some time predominantly shaped by Greece's territorial claims over southern part of Albania. After the fall of communism, several ethnic groups were officially recognized as national minorities in Albania, however the Greek minority is the largest and the only minority large enough to have sufficient political, economic and social significance. Consequently, during this period the main inter-ethnic dispute in Albania was about the size of the Greek minority living in the country as well as itspolitical, human, educational and cultural rights in the country. Although in 2011 the Albanian government conducted a country-wide general census that included a question pertaining to ethnic identity, the census results were heavily criticised and were not accepted by Greek and other minorities in the country. The Advisory Committee on the Framework Convention for the Protection of National Minorities also considered the 2011 census in Albania as unreliable, inaccurate, and incompatible with established standards for the protection of national minorities. The fact that some 14 percent of the population refused to answer the question on ethnic origin undoubtedly implies the need for an objective and trustful population census that would clarifyany ambiguity regarding numbers of the ethnic minorities in Albania.The paper has shown that inter-ethnic relations between Albanians and Greeks in Albania and inter-state relations between Albania and Greece are basically the components of the same equation.Throughout the paper a considerable number of examples and arguments that prove such thesis have been put forward.The paper concludes that similarly to other countries of the Western-Balkans, in Albania there also exists causality between inter-ethnic relations between Albanians and Greeks in the country and inter-state relations between Albania and Greece. In conclusion, only an improvement of overall relations between Albania and Greece could ultimately contribute to the relaxation of inter-ethnic relations between Albanians and Greeks in Albania, and vice versa.

References:

Albania discovers 'grey zones' in the Ionian Sea as Greece exploits hydrocarbon (30 May 2017). *Keep Talking Greece*. Retrieved from: http://www.keeptalkinggreece.com /2017/05/30/albania-grey-zones-ionian-sea-greece/.

Albania: Minority ethnic groups (14 November 2014). *Country Information and Guidance*, Home Office United Kingdom.

Albania: State of the Nation (25 May 2001). *International Crisis Group*, Balkans Report N°111.

Albania: The Greek Minority (2 February 1995). *Human Rights Watch/Helsinki*, Vol. 7, No. 4.

Barjarba, Kosta (2004). Migration and Ethnicity in Albania: Synergies and Interdependencies. *Brown Journal of World Affairs*, Vol. XI, Issue 1, 231-239.

Cenaj, Kasëm(2014). Albania - Greece Agreement on Setting Maritime Boundaries, According to International Law. *Academic Journal of Interdisciplinary Studies*, 4 (3), Rome: MCSER Publishing, 143-148.

Country Report on Human Rights Practices 2013: Albania. (27 February 2014). United States Department of State (USSD). Retrieved from: http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year= 2013&dlid=220247.

Deliu, E. (18 May 2015).Kufijtë, tension Tiranë – Athinë. *Shekulli*, Retrieved from: http://shekulli.com.al/tension-mes-tiranes-dhe-athines-per-naften-ne-detin-jon/.

Demjaha, A. and Peci, L. (2014). Interethnic Relations in the Western Balkans Implications for Kosovo. Policy Paper 6/14, Kosovar Institute for Policy Research and Development (KIPRED).

Final census findings lead to concerns over accuracy (19 December 2011). *Tirana Times*. Retrieved from: http://www.tiranatimes.com /news.php?id=14605&cat=1.

King, R. and Vullnetari, J. (2003). Migration and Development in Albania. *Sussex Centre for Migration Research*.

Kokkinidis, T. (13 November 2017). Greece and Albania take 'Step Forward' During Ministers' Talks. *Greek Reporter*. Retrieved from: http://greece.greekreporter.com/2017/11/13/ greece-and-albania-take-step-forward-during-inisters-talks/.

Krasniqi, G. (14 March 2012). The Politics of Numbers and Identity in Albania.*Citizenship in Southeast Europe*. Retrieved from: http://www.citsee.eu/blog/politics-numbers-and-identity-albania.

Likmeta, B. (14 September 2012). Albania Downplays Risks of New Greek Border Talks. *Balkan Insight*, Tirana. Retrieved from: http://www.balkaninsight.com/en/article/albania-downplays-risks-of-negotiations-with-greece

Likmeta, B. (16 July 2015). No Quick Fix to Albania-Greece Maritime Dispute, Minister. *Balkan Insight*, Tirana. Retrieved from: http://www.balkaninsight.com/en/article/no-deal-on-albania-greece-maritime-shelf-border-dispute.

Macedonians and Greeks Join Forces against Albanian Census (19 August 2011). Macedonia Internet News Agency. Retrieved from: http://macedoniaonline.eu/content/view/18930/2/.

Maroukis, T. and Gemi, E. (2011). Circular Migration between Albania and Greece: A Case Study. European University Institute and Robert Schuman Centre for Advanced Studies.

Mejdini, F. (22 March 2016).Albania, Greece Agree to End Forgotten War.*Balkan Insight*, Tirana, Retrieved from: http://www.balkaninsight.com/en/article/albania-and-greece-agree-toabolish-the-war-law-03-22-2016.

Ndoj, D. (2015). The Albanian-Greek Relations Following the Sea Border Issue. *European Journal of Social Sciences Education and Research*, 4 (1), 138-141.

Pettifier, James (2001). The Greek Minority in Albania in the Aftermath of Communism. Conflict Studies Research Centre.

Population and Houses Census (2011). *Institutii Statistikave, Republika e Shqiperise*. Retrieved from: http://www.instat.gov.al/media/178070/ rezultatet_kryesore_t__censusit_t__popullsis__dhe banesave_2011_n__ shqip_ri.pdf.

Third Opinion on Albania (November 2011). ACFC/OP/III(2011)009, Advisory Committee on the Framework Convention for the Protection of National Minorities.

Third report on Albania (17 December 2004). European Commission against Racism and Intolerance.

Vickers, M. (2010). The Greek Minority in Albania – Current Tensions. *Balkan Series* 10/02, Defence Academy of the United Kingdom, 2010.

Xhaxho, M. (2007). Minority Rights and the Republic of Albania: Missing the Implementation. Master Thesis, Faculty of Law, University of Lund.

Wahlström, M. (2016).The Challenges Faced by Three Minority Communities in Albania, Greece and Macedonia. *Balkanija*, 7, 37 – 56.

World Directory of Minorities and Indigenous Peoples – Albania (2007). *Minority Rights Group International*. Retrieved from: http://www.refworld.org/docid/4954cdfe1a.html.

World Directory of Minorities and Indigenous Peoples - Albania: Macedonians (2008).*Minority Rights Group International*. Retrieved from: http://www.refworld.org/docid/ 49749d65b.html.

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Media in the Political Context of Post-communist Montenegro

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Abstract:
The Soviet press model was characteristical for Montenegro during the period of Socialist Federal Republic of Yugoslavia. The fall of communism affected on the media system and media market in Montenegro. After the adoption of the Law on Public Information, the new private media have appeared on the media market, which was a significant change comparing to the previous system. Ten years after the fall of communism, the changes continue to happen on the market, so the ex state media *RTCG* transformed into the public service, and with the support of the international institutions the legislative framework was adopted, as well as the first ethics code of journalists. Furthermore, during that period, the first self-regulatory media body was established, while the formal education of journalists has started, through the Journalism study programme at the University of Montenegro. After gaining the independence in 2006, the trend of increasing the number of media has continued, as well as improving the legislative framework. However, despite of the mentioned changes, Montenegrin media still haven't got the high level of media freedom. Nevertheless, they still possess all the characteristics of the Mediterranean media system.

Keywords: *Media System; Montenegro; Post-communism; Legislative Framework; Political System.*

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Introduction

After gaining independence on 21 May 2006, Montenegro went through changes at the governmental and political level that also reflected on the media system. The changes of a largely formal character have brought the media into a position where they are still dependent on the legislative and executive power that use various forms of leverage to exert pressure and establish control on the market primarily through the legislative framework and advertising. The position of the media is further aggravated by the fact that in a country with 620 029 inhabitants (Monstat data from the last census in 2011) there are as many as 5 daily newspapers, two weekly newspapers, 34 electronic publications, 18 TV channels (two national, 4 local public service broadcasters and 12 commercial ones) and 53 radio stations (two national, 14 local public, 35 commercial, 2 non-profit broadcasters) fighting to attract their target group. These figures best illustrate why the Montenegrin media are focused on mere survival. The economic crisis that has affected the entire world since 2008 has a great impact on media operation and the level of media freedoms. Under the conditions of economic dependence, contemporary Montenegrin media are forced to accept various "compromises and concessions" just to survive, which leads to manipulation of the public in reporting on daily topics. It is evident that economically dependent media no longer think of preserving credibility with the audience, but rather become "flexible" by adapting to the rules of the game imposed on them, while the citizens' trust in the media is constantly declining.

Bearing in mind all these problems, in this paper we will analyze the situation in the Montenegrin media market and abstract the factors that influence the functioning of the media and the work of journalists. In addition, on the basis of the classification of the media systems by Daniel Hallin and Paolo Mancini, we will identify the common characteristics of the Mediterranean media system and the Montenegrin media market.

Development of Montenegrin media in different historical circumstances

Montenegro is still remembered in the history of culture and journalism by the founding of the first state-owned Cyrillic printing house in 1493. The ruler Đurađ Crnojević bought the first printing press in Venice and together with hieromonk Makarije printed books of religious type (Đurić, 2003:492). But, Montenegro couldn't develop publishing activity due to the constant wars with the Turks, so all subsequent publishers, Božidar Vuković Podgoričanin and his son Vicenco, printed books abroad, and delivered them to Montenegro. It was only during the time of Petar II Petrović Njegoš that a new printing press was purchased in 1833, and after two years in the period from 1835 to 1839, the yearbook *Grlica* (Turtledove) started to be published, with texts from literature, discussions on the history of Montenegro, and various geographical and statistical (Miljanić, 2001:26). However, historical circumstances did not favor Montenegro this time either, which in the absence of ammunition in the fight against the Turks was forced to melt this printing press and make it into bullets. However, Prince Danilo promised that as soon as Montenegro is liberated from the Turks, he would buy a new printing press. He fulfilled his promise in 1860 and after the end of the war he bought a printing press in Vienna. However, compared to the European countries in which the first weekly paper appeared as early as in 1605, the first printed newspapers in Montenegro appeared relatively late. It was not before 23 January 1871 that the weekly newspaper *Crnogorac* (*Montenegrin*) was founded by Prince Nikola (this day is celebrated in Montenegro as the day of journalists). The

aforementioned weekly was published until 1873, when it was discontinued under the pressure of Turkey and Austria-Hungary, and in 1873 the newspaper *Glas Crnogorca* (*The Voice of the Montenegrin*) was established, and was used by the Montenegrin ruler to inform the population about his decisions, but also for the propaganda of the ideas of liberation.

During the rule of Prince Nikola in addition to weekly newspapers, daily newspapers appeared as well on the media market, and the first Law on Media was passed. And while the first daily newspaper in Europe was published in 1702, the first daily newspapers in Montenegro: *Dnevne novosti, Telegrafske vijesti, Najnovije telegrafske vijesti, Dnevni list,* were not established until the time of the World War I (Vojičić, 2016: 35). From the founding of the first weeklies, the press was in the hands of the ruler and served primarily his interests, while the opposition media were harshly oppressed by Prince Nikola. The first media law, adopted in 1905 during his reign, guaranteed freedom of the media only on paper. In accordance with this Law the press was free, and censorship and administrative measures, as well as different sanctions, were prohibited. Limitations in the freedom of press existed only with regards to insulting the ruler, call for armed rebellion or changes in the order of succession. Also, media had to publish a rectification submitted by the authorities or the person mentioned in the text because otherwise the newpapers could suffer financial penalties (Vojičić, 28-29). Each newspaper had an editor-in-chief who was a Montenegrin national with permanent residence in the territory of the Principality of Montenegro. However, the conduct of Prince Nikola testifies that the Montenegrin ruler was not very benevolent and democratically inclined towards the opposition press, which is best illustrated by the discontinuance of the newspapers *Narodna misao* (*Thoughts of the People*) and *Slobodna riječ* (*The Free Word*). The first one criticized the work of the Montenegrin government in a direct or indirect manner by ridiculing the members of the political elite of the time, while the other one was also publicly declared as an opposition newspaper, so the Montenegrin authorities took over control over the newspapers considering that these two opposition-oriented newspapers could threaten political stability of the country (Vojičić, 32- 33).

During the rule of prince and later king Nikola, Montenegro was constitutional and parliamentary monarchy. After the First World War in 1918, at the illegal and illegitimate so-called Podgorica Assembly, backed by official Serbia, Montenegro lost sovereignty, although it was on the winning side as an independent country which had suffered great losses. During the entire 20th century Montenegro was a part of wider state unions, more precisely from 1918 to 2006. After illegal annexation to the Kingdom of Serbia, it became a part of the Kingdom of Serbs, Croats and Slovenes, reduced to a geographical and administrative concept, depraved of national and state subjectivity. In the Second World War Montenegro stood out in the fight against fascism and incited the first mass-scale antifascist uprising in the conquered Europe on 13 July 1941. In 1944 as an equal federal unit it became a part of the Federal People's Republic of Yugoslavia which was later renamed the Socialist Federal Republic of Yugoslavia. In that period, the "new media of the 20th century" were founded in Montenegro, i.e. the first radio and television station. The first radio station *Radio Cetinje* started with a one-hour program broadcast in 1944, and after five years it moved to Titograd and changed its name to *Radio Titograd*, while the year 1964 when a report recorded on Montenegrin television was broadcasted on the news program of *TV Beograd* (*TV Belgrade*) is considered as the

start of the television program broadcasting (http://www.rtcg.me/rtcg/istorija.html, 2018).

The influence of the political system on the media system until 2006 and after gaining independence

After the fall of the socialist system, Montenegro underwent a process of democratization with a two-phase transition. The first transition was in the period from 1989 to 1997 and it is characterized by the victory of reformed communists on the first multiparty elections. In this period the work of opposition parties is hampered, level of civil and media freedom was limited, so it was characterized by hybrid, semi-authoritarian regime with elements of oligarchy (Vukićević and Vujović, 2012: 55-56). It should be noted that the 1990s are remembered after the civil war in Yugoslavia, during which all former republics exited the Federal Republic of Yugoslavia, with the exception of Montenegro. The second phase of transition starts after October 1997. In this period there is observance of international standards during parliamentary elections, but despite the progress, there are evident pressures from Belgrade due to unsolved state and legal status and open aspirations of Montenegro for independence (Vukićević and Vujović, 2012: 57). Till 2003 Montenegro was the only republic of the former Yugoslavia that joined the State Union of Serbia and Montenegro. However, after three years, Montenegro also exited the union with Serbia.

Political changes during the 1990s reflected on the media system as well. Until 1990, in Montenegro, as a semi-authoritarian system, there were only state-owned media whose reporting was directed by the interests of the party. In fact, according to the classification of media systems by Fred Siebert, Theodore Peterson and Wilbur Schramm in their book "Four Theories of the Press", Montenegro could be classified under the Soviet media model. After analyzing the situation on the media market in the 1950s, Siebert, Peterson and Schramm classified media systems as authoritarian, libertarian, social responsibility, and Soviet-totalitarian.

Table 1. Media systems according to Siebert, Peterson and Schramm

Authoritarian	Libertarian	Social responsibility	Soviet-totalitarian
Initiator – Britain – 16th and 17th century	First applied in Britain in 1688	America – 20th century	USSR
State and private entities establish media	Mostly private entities	In the hands of private entities until the government takes over the media	Solely in the hands of the State
Function – to serve the politics of the ruling party and the State	To inform, entertain, gain profit, and also to control the government	To inform, entertain, gain profit, and initiate discussions	To promote success of the party
Media are established solely upon approval (royal decree)	Anyone with initial capital	Anyone wishing to make a statement	Loyal and devoted party members
Government	Impropriety,	Violation of human	Party criticism

criticism is prohibited	warmongering is prohibited	rights is prohibited	is prohibited
Media are controlled by way of censorship	Left to the market, and to the courts	Professional ethics	Political and financial control by the government

Source: Table taken from Malović et al. (2014), *Masovno komuniciranje* (*Mass Communication*), p.79

As can be seen from the table above, the Soviet media system is characteristic of the USSR, but it was also adopted by other communist countries. This model is based on Marxist-Leninist-Stalinist teachings with the elements of Hegel's philosophy, and of the Russian philosophers of the 19th century. Under such conditions, media are exclusively state-owned and glorify the achievements of the ruling party. The media companies employ loyal members of the party, and criticism of party tasks is strictly forbidden (Malović et al., 2014: 79-80). Naturally, in comparison with the Soviet communism model, the socio-political system in the SFRY was much less rigid, but the government used the communist party's methods in relation to the media. Until the 1990s, two mainstream media played an important role in informing the citizens, i.e. in state propaganda, in the socialist republic of Montenegro: the oldest daily *Pobjeda*, which was founded in 1944, and the state-owned media company *RTCG*, which started broadcasting the radio program in 1949, and television in 1964.

The first changes that brought hope that things are moving for the better on the Montenegrin media market occurred after the fall of the socialist system, i.e. in 1993, and the reforms reached their peak in 2002. During the 1990s, after the adoption of the Law on Public Informing, the country experienced privatization of the media, media pluralism, inflow of foreign investments on the media market, while the state media remained in hands of the ruling political party. First private media such as *Vijesti* (1997), *Dan* (1998), *Radio Elmag* (1994), *Radio Antena M* (1994), as well as private TV channels emerged on the market. With the Law on Public Information from 1998, media were partially freed of domination by political parties. However, realistic transformations of the media system started from 2000 when Montenegro set out on the journey of European integration and accepted the Media Freedom Charter within the regional table of the Stability Pact (Ružić, 2017: 21).

Owing to the reforms, the Montenegrin media system assumed different characteristics, but despite the establishment of private media and the adoption of the legislative framework and the journalists' code of ethics, and the education of media professionals, Montenegro still has the features of a system that is characteristic of countries with a low level of media freedoms. After Siebert, Peterson and Schramm, a new classification of media systems was presented by Daniel Hallin and Paolo Mancini. Based on the analysis of the market, media relations and political parties (political parallelism), the level of professionalism (autonomy, education and respect for the code of ethics), as well as the degree and nature of government intervention in media, they identified three media systems: Mediterranean, North-European and North-Atlantic models. These three models were created under different historical conditions that reflected the relation of the ruling structure towards the media and the market itself.

Table 2. Media systems according to Hallin and Mancini

Mediterranean model	North-European model	North-American model
France, Greece, Italy, Portugal, Spain	Austria, Belgium, Denmark, Finland, Germany, the Netherlands, Sweden, Switzerland	Britain, USA, Canada, Ireland
Low level of media freedoms	High level of media freedoms	Evident commercial pressures
State has the role of the media founder, regulator and financier	State provides media subsidies	State allocates small subsidies
Development of commercial media started rather late	Early development of mass-circulation media	Early development of mass-circulation commercial media
State model of the public service broadcaster	Strong public service broadcaster with autonomy	Strong public service broadcaster
Low newspaper circulation	High newspaper circulation	Medium newspaper circulation
instrumentalization by the government, political parties and industrials	State bears responsibility for the conditions under which the media operate	State influence on media is limited
Journalism focused on commenting	High level of journalist autonomy	Journalist autonomy limited due to commercial pressure
Problem with self-regulation	Developed media self-regulation	Insufficiently developed self-regulation
Low level of professionalism among journalists as a consequence of political pressure	High level of professionalism	High level of professionalism
Formal education of journalists started rather late	Journalist education started in the period from 1920 to 1960	Journalist education started already in late 19th century

Source: Table taken from Hallin and Mancini, *Comparing media systems*, 2004, pp. 67-68

Why is Montenegro classified into the Mediterranean media system? We will answer this question through the analysis of the situation in the Montenegrin media market. First of all, the mentioned media system is characteristic of countries with low level of media freedoms. From the moment of establishment, the Montenegrin media have been exposed to political pressures. As already mentioned, the media were under political control even in Prince Nikola's time, but the situation regarding this matter did not change significantly in the post-communist era, and has not changed even today. According to the organization ''Reporters without Borders'', the press freedom index in Montenegro has constantly been decreasing since 2009 till 2015. In 2009 Montenegro was ranked 77, whereas in the following year it fell to 104. In 2011/12 it dropped three steps lower and in 2013 it was ranked 113. In 2014-15 it was ranked 114th, and during 2016-2017 it was at the 106th place, and today it holds 103rd place (https://rsf.org/en/ranking/2018, 2018). The assassination of the editor-in-chief of the daily newspaper *Dan,* Duško Jovanović, physical confrontations with journalists Mladen

Stojović, Tufik Softić, Lidija Nikčević, Olivera Lakić setting the cars owned by the media concern *Vijesti* on fire, attacks on the editorial office of the opposition-oriented media contributed to these ratings. It is clear that journalists and media in Montenegro are exposed to pressure from the state or the owners who, through the media, realize their interests and confront their enemies. A survey by CEDEM from 2011 on a sample of 147 journalists showed that over 55% of respondents rated the level of media freedom in Montenegro as negative (Bešić, 2011: 10)

The legislative framework in the countries of the Mediterranean system needs to be improved as political structures always find a way to establish control over the media. Montenegro started the process of extensive media reforms in 2001 when a working group led by the national Secretariat for Information was formed, and worked for as long as eleven months to establish the first legislative framework. International organizations Council of Europe, OSCE, IREX and European Agency for Reconstruction had an important role in this process. The representatives of the Government, Montenegrin civil sector, professional associations, state and private media participated in the working group. The work on the transformation of the media sphere began after the analysis of European experiences, the experiences of countries in transition, the preparation of expert reports, and resulted in the adoption of a set of media laws: Law on Media, Law on Radio-Diffusion and Law on Public Radio-Diffusion Services "Radio of Montenegro" and "Television of Montenegro" (Ružić, 2017: 28). The said laws were adopted in accordance with the international conventions and recommendations of the Council of Europe such as: International Convention on Civil and Political Rights, European Convention on Human Rights and Fundamental Freedoms, Council of Europe Declaration on Freedom of Expression and Information, European Union Directive "Television without Frontiers". According to the adopted legal regulations from 2002 Montenegro committed itself to privatization of the oldest newspaper *Pobjeda* and transformation of *RTCG* into a public service.

The adopted media laws of 2002 were supposed to result in changes in the media market regarding the level of media freedoms. Many media experts explain that all these transformations in the media market were the result of compromises of the government who needed the EU support on the road to Montenegro's independence. However, as of 2006, the position of the media and the conditions under which they operate on the Montenegrin media market have deteriorated as the government tries to limit media freedoms through media laws.

Both Montenegro and the Mediterranean media system are characterized by a state-owned public service broadcaster.Today it is evident that the Montenegrin public service created in 2002 by transforming the former state media has not undergone any significant changes due to political pressures and financial dependence. Control over the public service broadcaster is gained, among other, through the legislative framework, through the appointment of administrative bodies and financial dependence. For example, amendments to the Law on Public Service Broadcaster after 2002 were focused on weakening of the position of the public broadcaster (amendments to the Law on Public Broadcasting Services of Montenegro were passed in 2008, 2012 and 2016). In 2008 first amendments to the Law on Public Radio-Diffusion Services of Montenegro set back the level of media freedom because the funding of the public broadcaster via radio-diffusion subscription and a part of fee for radio receivers in motor vehicles was canceled. This amendment was rather radical because it led the public service to a complete financial dependence from the state. According to Article 15 of the Law on

Radio-Diffusion Services of Montenegro, the public broadcaster is funded from several sources: budget, marketing, production and sale of audiovisual works, from endorsement of program content, organization of concerts and different types of events.

Another type of political pressure is that the amendments to the Law on Public Radio-Diffusion Services of Montenegro, which proposed a new manner of funding of the public service, were adopted by the Parliament only after almost two years. According to Article 16 of the Law on Public Radio-Diffusion Services of Montenegro from 2008 the state is committed to allocate 1.20 percent from the budget on annual level with a view of funding *RTCG*. Due to the economic crisis, it was proposed to amend this article, i.e. that the state is to allocate 0.3 percent of GDP, which would contribute to the stable financing of the public broadcaster. However, from October 2014 until July 2016, the Assembly could not adopt the amendments to the Law because they were blocked by the opposition parties which wanted to take over control over the public broadcaster. In 2016 prior to the parliamentary elections, the opposition parties conditioned the authorities that the resignation of the director of *RTCG* was the basic prerequisite for signature of the Agreement on Free and Fair Elections. By using the blackmail method, the public service broadcaster fell into the hands of the opposition.

Pressures on PSB are visible through appointment of the managing director and the members of the Council of *RTCG* (Administration and Management of *RTCG* is prescribed by the Law on Public Radio-Diffusion Services of Montenegro (Article 20 to Article 54). They are reflected by the fact that the members of the Council of Public Service are appointed and dismmised by the Assembly according to Article 27 of the Law on Public Radio-Diffusion Services of Montenegro. This article of the Law is quite controversial because in 2007 the work of the Council was blocked for the reason that the Parliament did not want to confirm the appointment of five members of the Council. Only after following appeals by the OSCE and the European Commission, a term was confirmed to one of the members.

Last year, the political fight for the public service broadcaster became open. In November and December 2017, the Parliament dismissed two members of the Council due to conflicts of interests which drew great attention from the public and was perceived as a type of political pressure and an attempt by the ruling party to regain control over *RTCG*. In addition, the Council voted for the third consecutive dismissal of the Director General of the public service broadcaster. This situation testifies to the unsuccessful attempt to transform the state-owned media into a public service broadcaster.

Political pressures are closely linked to financial pressures. As we have already said, a large number of media outlets that cannot survive without alternative sources of funding, including, among other, assistance from the state, are fighting for their place in a small market. Marketing stake totals from 9.5 to 10 million Euros, a small amount considering the number of media on the market. The state provides financial aid to media through the Law on the Control of State Aid. For example in 2017, the state provided aid to broadcasters in the amount of 1,847,189.16 Euros (Nenezić and Vuković, 2017: 20). This kind of assistance influences the editorial policy of the media and the method of reporting on important political issues. Montenegrin government has the ability to influence the media not only through state subsidies, but also through advertising. A non-governmental organization Centre for Civil Education accused state institutions in its annual reports ‘’Equal Chances for all the Media’’ of non-transparency regarding advertising, marketing and media financing from the state budget.

Low level of media freedoms and high degree of instrumentalization of the media also affects the level of professionalism. Journalism is focused on commenting instead of informing citizens. The most common form of manipulation is media framing, where the interlocutors are selected in accordance with the editorial policy of the media, and it is already known what they will say. The disempowered position of the journalists and the pressures they face in the editorial office are vividly illustrated by the research of the Trade Union of Media of Montenegro for 2016 (the sample comprises 54 journalists from various media companies, and 12 qualitative interviews with journalists, lawyers, media experts) which found that 55% of the respondents indicated that censorship did have a great impact on their work, and journalists often resort to self-censorship (Camović, 2016: 20, 18). Journalists employed in private media are not free of pressure either, so respondents explain that media owners do not accept critical reporting on powerful business people.

Political pressures also reflected on the level of professionalisation. Since 2002, the ethical norms and self-regulation of the journalistic profession are in the focus of the media community. During that same year the first Journalists Code of Ethics of Montenegro was adopted, and one year later the first media self-regulatory body was established with the help of OSCE. However, due to market polarization, in 2012 three self-regulatory bodies were established in Montenegro. Members of the Media Self-Regulation Council include nineteen media companies that favour the government, while the opposition-oriented media established their Council that did not become reality so they decided to engage an Ombudsman in the editorial office. In addition, the Local Press Council was established, consisting of media, i.e. weekly and monthly newspapers from local Montenegrin municipalities.

In comparison with European countries, Montenegro started formal education of journalists rather late. It was not until 2003 that the Faculty of Political Sciences, where future journalists are educated, was founded. Until the establishment of the mentioned university unit, journalists were educated mainly in courses organized by the Institute for Media.

Journalists are the weakest link of the media chain and not only that they suffer from pressure, but are also poorly paid. Their position is constantly worsening, of which the Trade Union of Media in Montenegro is continuously warning. It is therefore not surprising that many journalists see their profession as a springboard for political career and social engagement. It is enough to have a look at the current Parliament's session where among delegates one can find former journalists from the public service or opposition media. Because of socio-economic status, journalists are leaving the journalistic profession and establishing their own non-governmental organizations. According to the research of the Trade Union of Media of Montenegro, the average journalist salary in Montenegro is EUR 470, and it remains unclear how many journalists have signed an employment contract and how many of them work informally without insurance and pension contributions.

On the basis of all of the above, we can say that the situation on the Montenegrin media market best illustrates all the characteristics of the Mediterranean media system: low level of media freedoms which is a direct consequence of the connections between political parties, businesses and political centres of power, as well as financial dependence; media are not owned by the state, but due to connections with business, they have the ability to control publishing and public manipulation; commercial media were founded only after the fall of socialism, i.e. after the 1990s;

failed attempt to transform the former state-owned media company into a public broadcaster model; self-censorship and censorship as a result of political and financial pressures; underdeveloped media self-regulation due to market division; the legislative framework needs to be improved because modern media laws leave space for public service control. This relates primarily to Article 27 stipulating that the Parliament appoints and dismisses the Council members on the proposal of the Administrative Board; development of formal academic education for journalists did not begin until 2003.

Conclusion

Bearing in mind all the listed problems in the contemporary market, we can conclude that during socialism the Montenegrin media system may be classified into the Soviet press model, while today's market has all the characteristics of the Mediterranean media system. Both systems are characteristic of countries with a low level of media freedoms in which the media are controlled by the ruling structures. In essence, the difference is only in the name, the increase in the number of media and formal changes, since the situation in the Mediterranean media system cannot be changed due to the historical circumstances in which the media developed.

The media in Montenegro are the object of political games and of the fight for dominance by the ruling and the opposition parties, which is particularly evident in the case of the public service broadcaster or they are toys in the hands of powerful individuals with political aspirations that are presented as "independent media". However, it is evident that the media market has not undergone significant changes even today because there is no real political will for change. Control over the media market is established through the deterioration in legislation, the state subsidies, and advertising in media favouring the government. In a polarized market, the media openly cheer for different political options, while the interests and the needs of the public are ignored. The contemporary market is characterized by the quantity of media in which journalists identify with the editorial policy of the media company and use their position to confront the opponents, while the dissatisfied citizens have developed a sceptical attitude towards the "fourth branch of government".

References:

Bešić M. (2011). *Mediji, medijske slobode i demokratija u Crnoj Gori*. Podgorica: OSCE, CEDEM. Retrieved from: http://www.cedem.me/programi/istrazivanja/ostala-istrazivanja/send/31-ostala-istrazivanja/846-mediji-medijske-slobode-i-demokratija-u-crnoj-gori-maj-jun-2011

Camović, M. (2016). *Indikatori nivoa medijskih sloboda i bezbjednosti novinara*. Podgorica: Sindikat medija Crne Gore.

Đurić, D. (2003). *Novinarski leksikon*. Beograd: YU Marketing Press, Novosti.

Hallin, D., Mancini P. (2004). *Comparing Media Systems*. UK: Cambridge University Press.

Malović, S., Maletić F., Vilović G. and Kurtić N. (2014). *Masovno komuniciranje*. Zagreb: Golden marketing- Tehnička knjiga, Sveučilište Sjever.

Miljanić, M. (2001). *Novinarske poduke i douke ili kako postati loš novinar*. Podgorica: Radio Crne Gore, Inproprex.

Nenezić, A. and Vuković, D. (2017*). Jednake šanse za sve medije u Crnoj Gori*. Podgorica: Centar za građansko obrazovanje. Retrieved from: http://media.cgo-cce.org/2017/06/Jednake-sanse-za-sve-medije.pdf.

Ružić, N. (2017). *Public Service Broadcasting in Montenegro*. Sarajevo: Analitika.
Tadić Mijović, M. (2009). *Transformacija RTCG u javni servis (zakonski okvir i praksa*). Master thesis, Podgorica: Faculty of Political Science University of Montenegro.
Vojičić, B. (2016). *Sloboda štampe u Crnoj Gori 1905- 1914*. Nikšić: NVO Civilni forum.
Vukićević, B., Vujović Z. (2012). Ustavno i političko-pravni okvir Parlamenta u Crnoj Gori 1989-2012. In *Demokratske performanse parlamenata Srbije, Bosne i Hercegovine i Crne Gore* (ed. S. Orlović), Beograd, Sarajevo, Podgorica: Fakultet političkih nauka – Beograd, Sarajevski otvoreni centar, Fakultet političkih nauka UCG, pp 55-76.
Reporters without borders. Retrieved from: https://rsf.org/en/ranking/2018.
RADIO TELEVIZIJA CRNE GORE, www.rtcg.me.

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Some Considerations about Solutions of the Courts in the Area of Administrative Litigation

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Abstract:
The provisions of art. 18 of Law no. 554/2004 of the administrative contentious law, establishes that the administrative contentious instance may annul in whole or in part an administrative act. In addition to the application of this sanction, which intervenes for the causes of nullity of the administrative act, causes that may be prior or concurrent with the moment of adoption of the administrative act, the court may order the public authority to carry out certain legal acts or perform certain technical operations. According to the legal provisions, we note the court of administrative litigation may order the public authority to issue an administrative act, to issue another document, or to carry out an administrative operation. A regulatory administrative act contains generic and impersonal rules and may oblige certain legal behaviors from certain legal subjects but can guarantee or protect subjective rights for them. Regarding an administrative normative act, the legal provisions do not determine in concrete terms whether the court can order the obligation of the public authority to adopt such an administrative act. On the other hand, irrespective of whether the answer to such a legal situation is affirmative or negative, the question arises whether the court can apply sanctions for non-fulfillment of the implementing powers. In other words, if the public authority has to adopt a certain administrative normative act for the implementation of legal provisions, the failure to perform this task or the late exercise may cause damage. Therefore, the question then arises whether the opportunity that a public authority enjoys when adopting an administrative act is limited to the content of the act, to the manner in which the legal norm must be regulated, or to that feature must include the choice of when the public authority deems it necessary to adopt an administrative act of a normative nature.

Keywords: *Normative; Administrative; Litigation; Courts; Contentious.*

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The provisions of art. 18 of Law no. 554/2004 of administrative contentious establishes that the administrative contentious court may, in case it seesas founded the action brought by the party allegedly injured in a right or a legitimate interest by an administrative act, order the cancelation in whole or in part of that administrative act (Bogasiu, 2013:255).

In addition to the application of this sanction, which intervenes for cases of nullity of the administrative act, being prior or in the same time with the adoption of the act, the court may order the public authority to issue certain legal acts of an administrative nature or to perform certain administrative technical tasks, "to do" obligations.

According to the legal provisions, we note that the administrative contentious court has the power to oblige the public authority to issue an administrative act or to issue a different document in the possession of the institution, or to carry out an administrative operation (Iorgovan, 2008 et al.: 310).

Consider that this enumeration should notbe regarded as restricting, since the court can force a public administrative institution to carry out another task it has to accomplish, which falls into the generic category called administrative operation.

A normative administrative act contains generic and impersonal rules and may force certain legal conducts from certain legal subjects and at the same time can guarantee or protect subjective rights for them.

If we are referring to a normative administrative act, the legal provisions do not determine in concrete whether the court can order the public authority to adopt such an administrative act, so that the question arises whether such an obligation may be ordered by the administrative contentious court.

Whether the answer to such a question is affirmative or negative, the question arises whether the court can apply sanctions for the non-fulfilment of implementing the competences of adoption. In other words, we wonder whether it can be stated that if the public authority must adopt a certain administrative normative act, for the implementation of certain legal provisions, the failure to exercise that power or the late exercise causes prejudices to the subjects of the law envisaged by the act.

It is therefore necessary to analyze whether the opportunity in appreciation of which a public authority benefits from when adopting an administrative act is limited to the content of the act, to the manner in which the rule of law must be regulated, or whether, in that particular feature, we must also include the choice of the moment when the public authority considers it necessary to adopt an administrative act of a normative nature for the organization of the execution of the law.

The provisions of art. 18 of the administrative contentious law use the verb to oblige the public authority *to issue* an administrative act. This should not lead to the conclusion that the text of the law refers exclusively to the individual administrative act. It is true that in the administrative legal language the issuance of an act concerns, ordinarily, individual administrative acts, while the term of adoption of an administrative act is used in the case of administrative normative acts.

However, from the point of view of the meaning of the term[3], the action of adopting an act refers to the legal act issued by the public authority with a collective management that takes certain decisions by vote, to the action of voting draft legislation. The adoption is the expression of a collective will, while the issuance concerns the act that emanates from public institutions with unipersonal leadership. (This must not lead

to the conclusion that the administrative act, in the latter case, is the result of the single legal will of the head of the institution, but that he goes through the necessary legal procedure for a valid expression of the act, which involves different stages in which several persons, public servants have specific competences).

On the other hand, the legal provisions of art. 11 and 12 of Law no. 24/2000 regarding the technical legislative norms stipulate that a normative administrative act may be issued by a public authority also without the result of a collective expression, of a voting procedure of a collegial body such as the case of local or county council. Moreover, the text of art. 11 par. 5 expressly outlines that "other normative acts shall be published after they have been signed by the issuer".

Consequently, when considering the provisions of art. 18 par. 1 of the Law no. 554/2004, it is acceptable, in principle, the hypothesis in which the administrative contentious court may oblige the public authority also to issuing a normative administrative act, not only of an individual character one.

The text of the law does not make any distinction in this respect, so neither the interpreter is able to make such a distinction, according to the well-known Latin diction, *ubi lex non distinguit, nec nos distinguere debemus*.

In other respects, we note that according to the provisions of art. 4 par. 3 of the Law no. 554/2004 "the normative acts given in the execution of the laws, ordinances or decisions of the Government are issued within the limits and according to the norms which orders them." The primary purpose of any administrative act, including the normative one, is to create the legal framework for the application of a law or the enforcement of a law. As a result, the normative administrative acts enforce legal acts of a legislative nature, the obligation and the competence to adopt the normative administrative act being expressly stipulated by the law.

From this perspective, a court decision requiring the adoption of an administrative normative act, in the situation where the obligation derives from the law, would seem meaningless, it would be pointless. One could say that a double obligation to exercise regulatory competences, a legal one and one of a court of justice would be useless. The public authority is already bound by the law to have a certain conduct; the legislator established its direction of action through the primary regulatory act. The way to act is at the discretion of the public authority.

In this situation, the refusal to act in the manner established by the law or the fulfilment of the attributions with delay can cause damage to the subjects of law. On the other hand, a refusal to comply with the law can also have unfavorable constitutional consequences (eventually being dictated by divergent views of political nature).

The administration cannot refuse to comply with legislative acts adopted by the legislative authority. The primary purpose of the administration in a state governed by the rule of law is of an executive nature, which means that enforcing the law and ensuring that it is always respected by the recipients of the law is defining for the public administration.

The refusal to enforce a law by an administrative authority may result in a constitutional conflict between public authorities, which can be resolved by the Constitutional Court according to the provisions of art. 146 par. 1 let. e from the Constitution.

On the other hand, the administration is managed in its activity according to the principle of legality, which implies the fulfillment of its competences for the purpose of adopting the normative or individual administrative acts which the community or

individuals expect in order to clarify certain legal situations. These attributions must be fulfilled within a reasonable period of time in relation to the specificity of each legal report.

From this point of view, the state of expectation or the express refusal of non-adoption of an act, of non-exercise of the established attributions, is similar to exercising a right of appreciation by violating the competences provided by the law, respectively by fulfilling the legal obligations with excess of power.

In recent specialty theory(Podaru, 2007:35) it was emphasized that the feature of the administrative act to be an exorbitant act, distinct from private law acts must not be overlooked as "the administration is not the owner of the public interest, but rather its slave." To leave a concrete case unresolved is in contradiction with the role of the administration and with the expectations of legal subjects interested in clarifying the legal regime.

Contentious administrative courts may analyze the exercise of regulatory competence expressly granted to the public administration when it has been done with *excess of power*. In this case, the intervention of administrative justice must be accepted, the law of contentious expressly regulating the concept of excess of power.

In a case file (Decision nr. 2785/5.06.2012 of High Court of Cassation and Justice), it was noted that the Romanian Government acted with excess of power when it refused to adopt a motivated position to the legal notification of the Ministry of Agriculture and Rural Development in connection with the declaration of the state of calamity.

According to the provisions of art. 14 of the Law no. 381/2002, in force at the date of the dispute, "The Ministry of Agriculture, Food and Forests notifies the Government, which, according to the natural disasters and the size of the affected areas, declares the state of natural calamity by decision".

By the action filed to the Bucharest Court of Appeal – Contentious Administrative and Fiscal Section, it was requestedthe cancelation of a letter of the Ministry of Agriculture and the defendants to be obliged to fulfill the legal obligations in order to issue a Government decision to declare the state of natural calamity of the agricultural crops within the Calarasi county, withlegal fees.

The Court of First Instance rejected the invoked exceptions and ordered the defendant the Romanian Government, to, according to the notification and documentation submitted by the defendant Ministry of Agriculture and according to Art. 14 of the Law no. 381/2002, depending on the natural disasters, as well as the size of the affected area, to appreciate, reasoned, whether or not to declare the state of natural calamity.

The High Court of Cassation considered the first instance's solution to be well founded. It noted that there is an unjustified refusal by the defendant Romanian Government to resolve the request, within the meaning the provisions of Art. 2 par. 1 let. i and Law no. 554/2004, corroborated with the provisions of art. 2 par. 2 of the same normative act.

The provisions of art. 14 of the Law no. 381/2002 establish that the declaration of the state of calamity, the establishment of damaged areas shall be carried out by the Romanian Government by decision upon the notification of the Ministry of Agriculture.

The Supreme Court held that the recurrent authority, the Romanian Government, being legally notified by the defendant The Ministry of Agriculture and

Rural Development with information on the effects of the drought phenomenon and granting compensation, as well as the request to be submitted for analysis, has returned without justification and unlawfully the information to consider the opportunity, rather than deciding with motivation to the request of the respective ministry.

Consider that in this situation the opportunity analysis belongs to the Romanian Government. The Ministry of Agriculture represents only the public authority that analyzes the state of the facts, elaborates the necessary documentation for establishing the calamity and notifies the Government.

The sidestep and the lack of adopting a reasoned decision represent an exercise of the right to appreciation by violating the limits of competences established by law, by passivity, respectively an excess of power under the conditions of art. 2 par. 1 let. n of the Administrative Contentious Law.

Not least, it should be noted that the contentious courts did not substitute for the appellant's exclusive competences to declare the state of calamity because the pronounced solution orderedonly within the limits of the legality control.

The High Court censured the appellant's unjustified refusal to analyze and motivated appreciated with motivation on the request submitted by the defendant - the Ministry of Agriculture and Rural Development on the effects of the drought and granting of compensations.

On the other hand, the refusal to decide on the submitted complaint and to decide or not on declaring the state of calamity was also made in violation of the rights of the injured persons by the negative effects of natural phenomena. The excess of power of the central administrative authority was achieved by violating the rights of the agricultural producers, who were deprived of the payment of financial compensations to which they were entitled to according to art. 6 of the Law no. 381/2002. In fact, the legal action was brought by a legal person, an agricultural producer, who had various cultures damaged and was injured by the executive's passivity to declare the state of calamity with the specific legal consequences, the payment of legal compensations.

The decision of the High Court is also welcomed in view of the fact that it does not limit the excess of power to the status of a citizen natural person, as the text of the law suggests and observes that a public authority may manifest excess of power also by violating the rights of certain legal persons.

Consequently, we note that if the public administration has delegated a regulatory right to enforce a law, the refusal to exercise this attribute can be considered to be done with excess of power, in the situation when the norm from art. 2 par. 1 let. n of Law no. 554/2004, even if the regulatory obligation is expressly mentioned in a legal provision which was not enforced by the public authority.

In other respects, we consider that the injured person can only request to the administrative contentious court to order the issuing of the administrative normative act, when the obligation derives from a legal provision.

A notification to bring to justice that asks the court to give a decision to take place of a regulatory administrative act is inadmissible. (Râciu, 2009:356)

In this latter hypothesis, the principle of the exercise of the separation of powers in the state was violated. A court has only the power to oblige the public administration to perform its own duties, but it cannot be substituted to it.

Also, the administrative contentious judge cannot oblige to issuing an administrative normative act with certain content. As such acts are characterized as having a high degree of opportunity, the public authority acts with a strong discretionary

character.

The legal provisions establish in principle that a public authority must perform a particular activity, exercise a certain regulatory attribution. For example, according to the provisions of art. 40 and following of Law no. 350/2001 the public authorities have the competence to adopt the plans for the building of the national, county, regional territory, and according to the provisions of art. 44 elaborate urban planning documents regarding the general, regional and detailed urban plan. The elaboration of these urban planning documents and plans, their detailing is the exclusive attribute of the central or local authorities, being an executive administrative task.

Therefore, the court of administrative normative contentious may order only the cancelation of such an act or may oblige the public authority to issue it, if it reaches the conclusion that it is exercising with excess of power of the legal attributions. It cannot, however, oblige the administration to issue urban planning documents with a certain content, to be determined by the administrative contentious judge, since such a solution would constitute an interference with the exclusive competence of the administration.

For the same reason, we note that the administrative contentious judge cannot modify a normative administrative act, unless it issues a judgment canceling in part such an act, which obviously results in a modification of the act.

The overlapping of the judicial attributions and the breach of the powers of the judiciary was found by the High Court of Cassation and Justice in a case, decision no. 551/5.02.2013, in which it was analyzed the possibility of obliging the Romanian Government to issue a decision, in relation to the provisions of art. 58 par. 13 of the Law no. 446/2006 on the protection and promotion of the rights of persons with disabilities, according to which "the amount of the rights is updated annually with the index of the increase of the consume prices, by Government decision".

The Court of First Instance upheld the action and ordered the Romanian Government to adopt the decision in application of Art. 58 par. 13 of the Law no. 448/2006, considering that from analyzing the legal provisions they could not reach the conclusion that the legislator left to the Government's discretion the opportunity to issue a decision in order to update the amount of rights.

In the appeal, the Supreme Court held that the first instance court misinterpreted the legal provisions in question.

The means of evidence handled in this case demonstrates that the competent ministry, the Ministry of Labor, through the General Directorate for the Protection of Persons with Disability, submitted a draft Government Decision on updating the amount of the rights provided by art. 58 of Law no. 448/2006, the respective draft being in the endorsement procedure, following that after it will receive the notice of the relevant ministries and the notice of the Legislative Council, to be subject to the approval of the Government.

The Romanian Government is the only authority able to appreciate the necessity and the concrete possibility of achieving the indexation of the amount of the rights of persons with disabilities. The analysis of the opportunity of adopting the act, which in this case concerns all aspects of budgetary matters, is the exclusive attribute of the Government.

It has been appreciated that the administrative contentious judge cannot analyze in the place of the Romanian Government all aspects of opportunity inherent in issuing the decision.

In addition to the arguments presented by the High Court, I believe that in the

case in question, the factual situation implies the conclusion that the Romanian Government did not act with excess of power, as there is evidence that the decision-making procedure was in progress.

The court cannot require a solution to oblige an administrative authority to issue an administrative act without respecting the substance or procedural conditions established by the law for its valid adoption, by circumventing the prior notice procedure of the draft government decision subject to approval.

Also, Craiova Court of Appeal - Administrative Contentious and Fiscal Section (Sentence no. 108/2014, unpublished, remaining final by non-recurrence) rejected as inadmissible the end of the petition regarding the request of the applicant UAT com. Catane, Dolj County to oblige the Romanian Government to issue normative acts to restore the previous situation, respectively payment of the amounts of money established by the H.G. no. 255/2012, which decided to grant certain amounts of money from the Government's reserve fund to certain territorial administrative units.

By O.U.G. no. 15/2012, in art. V, it was established that "the unused sums up to the date of coming into force of the present Emergency Ordinance, shall be returned by the main authorizing officers from the local budgets to the state budget, in the account from which they were received."

The court held that in relation to the provisions of art. 8 and art. 18 of Law no. 554/2004, an action in administrative contentious seeking to oblige a public authority to issue an administrative act cannot be resolved without verifying the conditions of admissibility set out by law.

It was found that the submitted action did not fall within the scope of Law no. 554/2004, being considered inadmissible, because the Government cannot be forced to exercise the right of legislative initiative.

We consider that the solution of inadmissibility is necessary in the circumstances in which the applicant requires the court to force the Government to exercise the right of legislative initiative, the relations between the two powers, the executive and the legislative being exempt from the judicial control, regulated by Law no. 554/2004 of administrative contentious.

Consequently, the court of first instance rightly held that accepting the hypothesis in which the contentious judge could judicially control such aspects of constitutional nature would have the meaning of a genuine violation of the principle of separation and balance of powers in the state enshrined by the provisions of Art. l par. 4 of the Constitution.

In the present case, we see that the effects of the normative administrative act ordering the payment of the amounts to the local budgets were suppressed by an emergency ordinance, an act adopted by the Government, but which has a legislative nature, being legally superior to any administrative act. In case of contradiction between such acts, in the interpretation of a litigated legal report, the court will be give relevance, according to the principle of hierarchy of normative acts, primarily to the laws and legal acts assimilated to them.

Also, in the practice of the administrative contentious courts (Înalta Curte de Casație și Justiție, Semester I, 2007:17) it was assessed as inadmissible an action which requires the President and the Romanian Government, as representatives of the executive power, and the Romanian State through the Ministry of Finance, to carry out electoral promises.

In the present case, the applicant National Education Federation asked to be

issued a normative act to implement the electoral promise of allocating 6% of gross domestic product for education, according to a political program adopted by Parliament.

In this respect, through the counterclaim submitted in the file which had as main purpose the cessation of the union strike, it was appreciated that the executive authorities must be forced to take the necessary measures to identify the sources of funding for the promised funding to support the national education system.

The Bucharest Court of Appeal dismissed as inadmissible the request submitted by way of counterclaim. In the appeal, the High Court of Cassation and Justice rightfully found in the first instance judging that the applicant's request did not fall within the provisions of art. 1 of the Law no. 554/2004, since there is no contest to an administrative act which has caused an injury and there is no unjustified refusal by a public authority to solve a request within the legal term.

The invocation by the appellant of certain principles stemming from the Constitution and certain constitutional provisions does not exclude the legal obligation requiring that an administrative contentious action to be subject to the conditions and the characteristic object established by Law no. 554/2004 according to art. 1 and 8.

On the other hand, it was noted that the principle of separation of state powers requires the action to be dismissed as inadmissible, because the executive administrative authority cannot be obliged to carry out electoral promises.

The application is also inadmissible also from the perspective of obliging the Romanian Government to issue a normative administrative act, which would contain a specific content, special, in order to identify sources of financing, because the legislative attribute is constitutionally established in favor of the legislative power, the Parliament, such a request being in contradiction with the provisions of art. 1 par. 4 of the Constitution.

In addition, we consider that the adoption by the Parliament of a political program is not meant to establish or guarantee subjective rights, it does not represent a normative act that primarily regulates a certain social domain.

Therefore, there cannot be the case of a violation of a right or a legitimate interest by an administrative act, since the applicant cannot claim to the executive power a certain conduct in a situation where there is no regulated right to financing in a certain amount of the education system, as future and predictable, established by a normative act of the legislative power.

It should be emphasized that the annulment of an administrative normative act requires the abolition of the act with effect for the future, the act being unable to produce legal effects *ex tunc*. Consequently, such a legal penalty ordered by the court also entails the annulment of subsequent individual administrative acts issued under it.

As it happens in the case of the annulment of any legal act, the annulment of the normative administrative act also leads to the abolition of the act and of all subsequent legal acts that have been issued in dependence relation with the normative administrative act.

In this respect(Înalta Curte de Casație și Justiție, Semester II, 2007:181), by a decision of the High Court of Cassation and Justice it was stated that an administrative normative act that was adopted under a law which had not entered into force, should not be considered as valid and must be canceled. Similarly, it was considered that the act subsequent to the administrative normative act could not produce legal effects, and it is to be removed, being equally unlawful.

In the respective litigation it was found that until the date of the settlement of

the appeal at the level of the High Court, several final solutions were pronounced in other cases where Order no. 576/25 May 2006 was canceled, with a consistent judicial practice being established in this respect In that cases, it was considered that the respective order, an administrative normative act, was issued under a law which had not entered into force and consequently cannot produce legal effects.

Order no. 576/23 May 2006 was issued in the application of the Title VII of Law no. 95/2006. As this law entered into force at a later date, expressly provided in the text of the law, 30 days after its publication, namely on 28 May 2006, the administrative act order was issued in the organization of a law that did not come into force.

We recall that according to the constitutional provisions of art. 15 par. 2 of the Romanian Constitution, the law order only for the future, so that Law no. 95/2006 not being in force could not constitute legal support for the administrative authorities in the view of issuing the contested order.

With regard to this order, the High Court considered that the action was void in virtue of the previous definitive solutions of canceling of the legal act.

As regard the subsequent administrative act, Order no. 301/26.05.2006 being issued under the canceled normative administrative act, its validity is strictly connected to the administrative act with superior legal force under which it was issued, so that the annulment solution is also required for this individual administrative act.

Consequently, we appreciate that the Supreme Court has rightly found that it is necessary to admit the appeal, change the decision of the first instance court and cancel the subsequent individual administrative act following the previous declaration of the administrative normative act as unlawful. Regarding this case, we find that the administrative acts have been issued successively, so that there is no question of the transitional situation regarding the validity of the administrative acts issued during the period when the normative administrative act is in force.

From the way in which the provisions of art. 18 of the Law no. 554/2004 are written, we consider that the legislator has devoted an administrative contentious of full jurisdiction (Bogasiu, 2015:502) only by action in its achievement.

The court may annul an administrative act, oblige to carry out legal facts or acts or order the payment of material or moral damages to the injured person.

The court cannot ascertain the existence of a state of fact or the existence of a right. The law of contentious allows the access to the court of justice of the injured persons in a right or a legitimate interest. The existence of the injury is a background condition for submitting an action in administrative contentious. Removing it can only be done by way of an action in its achievement. Consequently, as an action in determination does not have the effect of removing the damage caused by an administrative act or of its annulment, an action for the declaration of the existence of a right is inadmissible.

From the perspective of the constitutional provisions of art. 52 which establish that the complainant is entitled before the administrative contentious court to obtain the recognition of the claimed right or of the legitimate interest, the Constitutional Court(by Decision nr. 87/2015) of Constitutional Court) rejected the exception of the unconstitutionality of the provisions of art. 11 of Law no. 29/1990, provisions that in the current law of the administrative contentious no. 554/2004 were resumed at art. 18, as unfounded, considering that the provisions of art. 48 (now 52 after the constitutional reform), which starts from the preliminary assumption of a right, cannot cause the action in administrative litigation to be transformed into a civil action in its achievement.

As stated above, the administrative contentious court may order the annulment of the normative administrative act in whole or in part, depending on the manner in which the action is submitted, the legal circumstances of the dispute and the means of evidence administered.

The court may also decide on the legality of the administrative operations, which have been the basis of the act contested in justice, according to art. 18 par. 2 of the Law no. 554/2004.

As far as this legal provision is concerned, it has been pointed out in the doctrine (Dragoș, 2005:288) that the court can only determine the legality of the operations and may only decide on their removal from the litigation. It is considered that the court cannot order the cancellation of these administrative operations in the absence of an action that respects certain legal terms and conditions.

In our opinion, the legal text has to be interpreted in conjunction with art. 1 par. 6 of the Law no. 554/2004 to which art. 18 par. 2 makes express reference. According to these provisions, the judge of administrative contentious may decide, in the event that he has been notified by the filed action also on the validity of the legal acts concluded on the basis of the unlawful administrative act, as well as on the legal effects produced by them.

Consequently, as the provision in art. 18 par. 2 is a legal norm that regulates a hypothesis in addition to that of art. 1 par. 6, we consider that the law is based on the premises that the party has expressly notified the court with the control of the validity of the administrative operations.

On the other hand, it should be noted that the administrative, individual or normative act is the result of certain technical-administrative operations that do not produce own legal effects. For the most part, these administrative operations are identified with the conditions of validity of the normative administrative act (Iorgovan, 2005: 17) and do not produce distinct legal effects.

Therefore, we consider that the court can directly decide on the legality of administrative operations in the case they constitute legal acts (for example the situation of complex administrative acts, the case of the agreement when the consent of a third public institution is required for the issuance of an administrative act), the legal provision leaving from the hypothesis in which the applicant expressly requests this in the notification of the proceedings.

These administrative operations, referred to in the text of the Law of Contentious, can produce legal effects in their own right, in which case they have the nature of separate administrative acts, the court being forced to analyze the will of the public authority, the legal consequences produced or the form of the act in order to determine whether that operation is an administrative legal act or not. (Vedinaș, 2017:420)

Where administrative operations are preparatory acts which have no legal effect, they are constituted under the conditions of validity of the contested administrative act, subject to the censorship of the judge in the action for verifying the lawfulness of the act.

If the object of the action is an administrative normative act, we consider that the court can censor directly all the background or procedural conditions necessary for the valid issuance of the act. It can analyze all the internal management operations that concern the entire procedure, by which the administrative normative act is adopted, operations that implement the way the administration achieves its competencies.

In other respects, corroborating the provisions of Art. 18 with those of art. 8 par.

1 of the Law no. 554/2004, we note that the court may order the public authority to resolve the administrative request. This can be done either by ordering the issuance of an individual administrative act or by issuing a document, certificate or performing a specific administrative operation.

As regards the decision to order the public authority to pay compensation or moral damages, we note that it is subsidiary to the main action. In this respect, rule the provisions of art. 18 par. 3, which establish that the court will decide on damages only after it decides on the main request. In my view, this claim for damages can also be formulated subsequently within the limitation period of prescribing, after the decision on the main proceedings has become final. Regarding this, it should be noted that there are situations in which the party cannot know from the time of the filing of the petition the extent of the damages produced, the claim for damages by separate way being regulated by the provisions of art. 19 of the Administrative Contentious Law.

It is underlined in the doctrine (Petrescu, 2009:502) that the actual amount of compensation must be proved by evidence of material damages and appreciated by the judge for moral damages, depending on certain parameters that characterize the human personality. We believe, however, that the assertion of moral damages does not automatically entail the granting of compensation, the applicant having to prove a moral damage.

It is possible that in the course of the trial, the public authority will repeal the administrative normative act. In this case, the court may order the dismissal of the action as being left without an object, only if the action had as its sole object the annulment of the act. If the injured party also claimed damages, the judge is required to decide on damages. This is done only by analyzing the validity conditions of the administrative act and only to the extent that the court would have ordered its annulment if the act had not been revoked / repealed.

No damages can be attributed to the objective contentious situation, when the action is promoted by qualified active subjects, the prefect or the National Agency of Civil Servants, who cannot claim personal injury. The special active quality is provided by the law given the role of these persons in legal terms, distinct aspect from the damage caused by the contested administrative acts.

These can be claimed in actions brought by the Public Ministry or the People's Advocate only if the plaintiff has been brought in the proceedings and added the claim by asking for damages.

Lastly, we note that the award of such damages cannot be made by the court of appeal ex officio, but only at the request of the plaintiff.

The final provisions of art. 18 from par. 5 and 6 of the Administrative Contentious Law are aimed at the celerity execution of the court decision issued by the court of administrative contentious.

The contentious court may determine to the public authority's task, under the sanction of a penalty applicable to the obliged party, for each day of delay for any of the situations of art. 18 par. 1 of the Law no. 554/2004.

In an opinion of the specialized theory (Trăilescu and Trăilescu, 2017: 351) it was argued that the provisions of art. 18 par. 5 have been implicitly abrogated by the legal norm of art. 907 Code of Civil Procedure, which establishes that for the non-fulfillment of the obligations to do or not to do it cannot be granted periodical payment damages.

We do not agree with the expressed opinion because the provisions of art. 907

Code of Civil Procedure shall apply only to the obligations laid down in Chapter IV of the Code of Civil Procedure, as expressly stated in the text of the provision.

On the other hand, the periodical payment damages provided by art. 907 Code of Civil Procedure although essentially represent also a sanction for the late execution of the obligation to do or not to do, established by an enforceable title, have a different legal nature than the delay penalties established for each day of delay according to art. 18 par. 5 of the Law no. 554/2004.

While periodic payment damages tend to compensate for the damage caused to the creditor for the non-execution or late enforcement of the enforcement order, delay penalties governed by the Administrative ContentiousLaw are established in favor of the state and aim at the celerity execution of the obligations imposed on the task of public authorities. For these reasons, these penalties in favor of the state have been doubled,at Art. 18 par. 6,by the fine that may be issued to the head of the institution or the institution itself.

The Administrative Contentious Law establishes two categories of delay penalties, those stipulated in art. 18 par. 5 which are established by the judge when solving the background of the case, being accessories to the main solution and those of art. 23 par. 3 which may be established in favor of the applicant, in case of enforcement proceedings.

It should also be noted that in all cases, therefore including also the situation in which the validity of an administrative normative act is put in question, or where the judge forces the authority to adopt such an act, the court may decide, through the operative part of the judgement, at the request of the interested party, on a term of execution.

This term of execution, which must be set in such a way that it does not coincide with the 30 days term stipulated in art. 24 par. 1 of the Law no. 554/2004, may come along with the fine provided for in art. 24 par. 2 which may be applied to the public institution bound by the contentious court order, of 20% of the gross minimum wage on economy per day of delay.

In conclusion, we appreciate that, in addition to the typical solutions for total or partial annulment of the administrative act, the administrative contentious judge may order a public authority to regulate such an act, if there is a legal provision forcing the administration to take such a measure, and the exercise of this task was done with excess of power.

As the provisions of Art. 18 of the Administrative Contentious Law shall be completed with those of art. 8, which refer to the object of the judicial action, the obligation to regulate cannot be ordered directly, but only to the extent that there is an unjustified refusal from the authority to solve a request. Moreover, as we have shown, it is clear from the judicial practice that the court cannot force the public authority to issue the act, by circumventing the legal conditions requiring the fulfillment of mandatory procedures, notices, etc. necessary for the validity of the act. Last but not least, it should also be emphasized that the administrative contentious judge cannot substitute for the administration's will and legal conception in the assessment of the opportunity of the administrative act or in the determination of the content of such an act, since it would constitute a violation of the principle of separation and balance of state powers enshrined by the provisions of art. l par. 4 of the Constitution.

References:

Bogasiu, G. (2013). *Justiția actului administrativ. O abordare biunivocă*, Bucharest: Universul Juridic Publishing House.

Bogasiu, G. (2015). *Legea contenciosului administrativ. Comentată și adnotată*, *Ediția a 3-a*, Bucharest: Universul Juridic Publishing House.

Decision no. 2785/5.06.2012 of High Court of Cassation and Justice - Administrative Contentious and Fiscal Section. Retrieved from: http://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=84816.

Decision no. 551/5.02.2013 of High Court of Cassation and Justice - Administrative Contentious and Fiscal Section. Retrieved from: http://www.scj.ro/1094/Detalii-dosar?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=200000000278590.

Decision no. 87/2015 of Constitutional Court published in the Official Gazette of Romania no. 251 / 11.01.1995.

Dragoș, D. C. (2005). *Legea contenciosului administrativ. Comentarii și explicații*, Bucharest: All Beck Publishing House.

Iorgovan, A. (2005). *Tratat de drept administrativ, Volumul II, Ediția 4*, Bucharest: All Beck Publishing House.

Iorgovan, A., Vișan, L., Ciobanu, A.S. and Pasăre, D. I. (2008). *Legea contenciosului administrativ, Comentariu și jurisprudență,* Bucharest: Universul Juridic Publishing House.

Înalta Curte de Casație și Justiție, (2007). *Jurisprudența Secției de contencios administrativ și fiscal pentru anul 2007, Semestrul I,* Bucharest: Hamangiu Publishing House.

Înalta Curte de Casație și Justiție, (2007). *Jurisprudența Secției de contencios administrativ și fiscal pentru anul 2007, Semestrul II,* Bucharest: Hamangiu Publishing House.

Sentence no. 108/2014 of Court of Appeal Craiova - Administrative Contentious and Fiscal Section, unpublished , remaining final by non-recurrence.

Petrescu, R. N. (2009). *Drept administrativ*, Bucharest:: Hamangiu Publishing.

Podaru, O. (2007). *Dreptul administrativ. O concepție. O viziune*,, Bucharest: Hamangiu Publishing House

Râciu. I. (2009). *Procedura contenciosului administrativ*, Bucharest: Hamangiu Publishing House

Trăilescu, A. and Trăilescu, A., (2017), *Legea contenciosului administrativ. Comentarii și explicații. Ediția 3,* Bucharest: C. H. Beck Publishing House

Vedinaș, V. (2017). *Drept administrativ. Ediția a X-a Revăzută și actualizată*, Bucharest: Universul Juridic Publishing House.

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ORIGINAL PAPER

Strategic Management in the Local Public Administration Institutions. Case study: Application of the Balanced Scorecard instrument in the Zalău City Hall

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Abstract:
This article, which aims analyzing the strategic management system in the local public administration, consists of three research directions. First, there is an outline of the main aspects which characterize organizational management and strategic planning, and afterwards we sketched the most important elements of the local public administration in Romania, including various planning methods which have been used at this level. The second direction, is the theoretical presentation of the Balanced Scorecard instrument as a method of strategic planning. In the first two sections of this article, the presentation is a theoretical one, based on the analysis of social documents (legislation, books, articles). The fourth direction is an empirical one, and it presents the methodology used for institutional assessment and strategic planning in the Zalău City Hall, by using the Balanced Scorecard instrument. At the end of this article there is an emphasis on the main action channels assumed by the City Hall.

Keywords: *Balanced Scorecard; strategic management; local public administration; Romania; Zalău City Hall.*

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The local public administration system in Romania and the application of strategic management

In order to adapt to the continuously changing environment and face competitiveness and daily challenges, each organization/ institution must make structural changes. They require strategic planning initiated by the manager of the institution, so as to bring about positive changes and set the organization on the path towards the desirable state of things (Baba, Cherecheș, Țiclău and Mora, 2009, 33; Porumbescu, 2018: 42). Most of the times, when the manager wants their organization to change, they tend to plan this process, by choosing one of the classical models: ”debate-synthesis, life cycle, goal setting or evolutionary” (Van de Ven and Poole, 1995: 510-540).

Chandler defined strategy as ”setting the long-term purposes and objectives of the organization, adopting policies and allotting the resources which are necessary in order to reach these objectives” (Chandler, 1962: 9).

Strategic planning requires the ability to effectively intervene in all organizational sectors, and this ability ”can be developed by knowing each of the existing field of activity of the institution or of the organization, of the external environment, by identifying the positive and the negative aspects, by stimulating performance” (Neamțu, 1997: 97). efficiency generates the ability to know how and in which field to intervene, in order to generate the change which is necessary of the development of the organization.

Olsen and Eadie defined strategic planning as ”a deliberative, disciplined approach to producing fundamental decisions and actions that shape and guide what an organization (or other entity) is, what it does, and why” (Olsen and Eadie, 1982 : 4).

The simplest draft of strategic management is based on three key elementswhich Bryson and Alston call ”the ABC of strategic planning” and it starts from three essential questions: ”A- Where we are?”, ”B-Where we whant to be? ”, ”C- How to get there?” (Bryson and Alston, 2005: 3). For a coherent strategic planning, the manager must have an overall vision and determine the best way to interweave the three elements (A, B and C), because, in order to get from A to B they must make a clear statement of the organizational mission and purposes, in order to get from A to C they must determine the necessary strategy, and in order to get from B to C they must implement the respective strategy (Bryson, 2011: 10-11).

In view of a strategic planning, in order to generate a positive change, it is usually necessary to start from an organizational diagnosis. Research in the field of organizational diagnosis, regardless of their instrument of choice (Beldiman and Stepan, 2017: 60; Șerban, 2013: 55; Petcu, 2013: 143) (measuring performances, audits, surveys) provides the managers with the information they need in order to draw an effective management plan (Baba, Cherecheș, Țiclău and Mora, 2009: 33).

Bryson identified different approaches to mangement strategy, such as: strategic planning systems; approaches based on strategic negotiations; participant management; strategic issues management; competitive analysis and logical incrementalism (Bryson, 2011).

The doctrine emphasizes the difference between strategic management and strategic planning, the former being a more advanced form, which encompasses and extends the characteristics of strategic planning, ”the difference between the two terms is that strategic planning focuses of making the best strategic decisions, whereas strategic management focuses on obtaining strategic results” (Ansoff, 1988: 235).

After giving ample examples of definitions of strategic management from the specialized literature, Burduș Eugen and Popa Ion define it themselves as ”the process which involves setting strategic objectives and options while taking into consideration the existing internal and external constraints, making the necessary changes of strategic management and adopting the necessary decisions” (Burduș and Popa, 2013: 277). The authors determine the main steps of strategic management: defining the mission and the existing fields of activity; setting the strategic objectives as targeted performance levels; formulating a strategy enabling the organization to reach their performance levels; implementing and executing the strategic objectives, assessing performance and/or redifining different elements of the strategy (Burduș and Popa, 2013: 277-278).

In the context of this article. public administration, and especially the City Hall, are of the utmost interest. Local public administration is the whole of the general or special competence authorities, which are meant to satisfy the requirements and general interests of the population of a territorial-administrative unit (county, village, city). Article 121, Paragraph 1 of the Romanian Constitution indicates the fact that: The public administration authorities, ensuring local autonomy in villages and cities, are the elected local councils and mayors, as provided by law (Romanian Constitution, Art. 121, Para. 1). The mayor is an eligible public institution and it has a one-person structure (Gîrleșteanu, 2008: 232). In Romania, the framework Law of the local public administration is Law 215/2001, updated, and article 77 of this law provides that ”The mayor, the vice-mayor(s), the secretary of the village, city or territorial-administrative subdivision of a municipality, along with the specialized staff of the local council constitute a permanent functional structure called the Village Hall or City Hall, which implements the decisions of the Local Council and the mayor's dispositions to solve the current issues of the local community” (Law 215, 2001, Art. 91).

Considering our choice of analyzing the management of a public institution, it seems relevant to clarify the concept of public management: Public management is the whole of the management processes and relationships between the components of the administrative system, which implement laws, plan, organize, coordinate, manage and control the activities undertaken in order to organize and provide public services which fulfill the general interest (Marinescu, 2001: 15).

The theory of municipal management, as a separate administrative system, has developed since the second half of the 20th century. Depending on the object, there have been emphasized two sub-systems: municipal administration, the municipality being responsible for its development, and the municipal services, including the organizations and companies located in the respective territory, which make use of the resources thereof, and which are on a state property, privately owned or non-patrimonial property. In its relationship with these components, local administration can only use indirect and contractual influence (Coșerin, 2013: 43; Pricină, 2016: 276). In practical terms, local management imposes both political and managerial control upon all of these organisms (Hințea, Hudrea and Balica, 2011: 116; Sorescu, 2015: 367).

Until recently, public administration has shown little concern with the various aspects of strategic planning. The new management philosophy, on the other hand, focuses on public institutions, on setting long-term strategies and distinctive objectives and purposes, so as to enable managers to overcome potentially problematic situations (Nutt and Backoff, 1992: 45). Within this context, the institutions of public administration, as well as other private institutions and organizations, should design strategies, objectives and priorities as part of their management activity, and strategic

management mostly refers to top and middle management clerks. Thus, Hinţea and Mora consider that ”strategic management refers to that specific part of the activity of a public manager which consists of broadening their immediate perspective in order to create a wider vision of the activity of the respective entity, with some major aspects: defining the objectives, strategies, structures and functioning principles of the entity and measuring the time and space impact of an important measure” (Hinţea and Mora, 2003: 25).

In the field of the strategic management used in the public institutions, Wechleser and Backoff identified four types of strategies: the development, change, protection and political strategy (Wechleser and Backoff, 1986: 321).

On the other hand, it is worth mentioning the fact that the doctrine makes ever more frequent references to the concept of ”New Public Management”, with principles and instruments which can apply to the central, as well as the local administration. However, the local management faces more challenges than the central management, given the fact that it has to adapt and provide the citizens with timely responses to their needs, with legislation and bureaucracy being the most significant obstacles (Bačlija, 2012: 25).

The performance of each organization greatly depends on the manager, and on the methods and techniques they use in order to exercise their functions. Thus, improving organizational performance involves a reassessment and renewal of the management and execution methods and techniques at all levels (Marinescu, 2001: 3). In the specialized literature there are numerous examples of management methods and techniques and models of strategic planning, the most widely used classical ones being: Benchmarking; Management by objectives (MBO); Budget Management (BM); Management by projects (MBP); Product Management (Pr M); (Marinescu, 2001: 31-46), but there are also some other models, such as: Six Sigma; the LEAN model; the Kaizen model; Management by exceptions (MBE); Participatory Management (PM); the Balanced Scorecard model (BSC).

Generally, the purpose of a reforming local strategy is to create administrations which prove able to fulfill their functions in such a way as to set the basic conditions for economic, social and organizational development in a given location (Mureşan, 2012: 69).

Each of these methods could be presented in this article, but it does not seem appropriate to do so, as the main objective of this material is to investigate the application of one of these methods, namely the Balanced Scorecard. Why is it necessary to apply organizational assessment? Because research must look into the reality of various sectors, identify the deficiencies thereof and find solutions to the respective issues. In this case it is necessary to implement a reformation of administration (either public or private), whether it is a level one, level two or level three reform, as classified by Halligan, but it definitely involves a change of strategy at the management level (Şandor and Tripon, 2008: 101). The new management models of the public system in general and of the local public administration in particular have three very important elements in common: 1. assessment of the managers' opinions; 2. assessment of the citizen's opinion, in order to ensure transparency, accessibility and a prompt reaction to the public's demands (Baba, Cherecheş, Mora and Ţiclău, 2009: 6) and 3. adaptation to the new changes by an effective use of information and communication technology (ICT) (Tripon and Urs, 2009: 251). These and maybe other requirements can be met by using the Balanced Scorecard model, therefore the Zalău

City Hall has decided to use it for organizational assessment and for a new strategy of the institution.

An innovative system for strategic planning: the Balanced Scorecard

In 1992, for the first time, Robert Kaplan and David Norton, published an article in Harvard Business Review, called "The Balanced Scorecard- Measures that drive performance", in which they described a new instrument for measuring performance, by means of a set of innovative markers, as compared to those in the classical models. The new instrument enabled the firm to implement and control its strategies (Kaplan and Norton, 1992: 71-79). In its initial form, the Balanced Scorecard model assessed four sectors (finance, the market/the clients, the internal processes and the development/training aspect), by means of a set of markers (Ștefănescu and Silivestru, 2012: 7).

Source: Kaplan and Norton

The same authors published 4 articles and one book in 1993, 1996 and 2000, in which they improve the Balanced Scorecard system, thus making it a model of strategic management (Kaplan and Norton, 1996a: 75-86) and setting an example of translating the strategy into concrete actions (Kaplan and Norton, 1996b; Kaplan and Norton, 2000: 167-176). The authors have other books published in the following years, in which they enlarge upon the concept at hand: "Strategy maps. Converting intangible assets into tangible outcomes"(2004), "Alignment. Using the balanced scorecard to create corporate synergies" (2006), "The execution premium. Linking strategy to operations for competitive advantage" (2008). Ever since its appearance, the concept has raised unprecedented attention, with academic research and the mass press approaching it and public and private institutions applying it (Zelman, Pink and Matthias, 2003: 1).

The Balanced Scorecard instrument is designed to enable the managers to assess the activity of their institution from the four perspectives mentioned above, thus creating a general picture and increasing the likelihood of finding a solution to the identified organizational issues and deficits (Chen et. al, 2010: 1297). As compared to the classical assessment systems, which focus on the financial perspective, the BSC emphasized the non-financial markers, which are important in "assessing the level of general satisfaction of the clients and employees, process duration and the quality of the results" (Ștefănescu and Silivestru, 2012: 8).

There are various methods of analysis and analyzed elements, depending on the type of the institution in which this instrument is used. For a financial analysis it can be observed whether or not investments have proved profitable or whether the assets or the profit have increased (Chen et. al, 2010: 1298), or what the structure of costs and expenses is. The market/client analysis, or the client satisfaction analysis, targets aspects such as: client/beneficiary satisfaction in relation with the quality and functionality of the provided products or services; institutional reputation and favorable image (Ellingson and Wambsganss, 2001: 103-120), as well as institution/firm/ brand awareness (Gumbus and Lyons, 2002: 45-49). The internal processes are measured by analyzing the management system in relation with the clients (by analyzing the way clients are selected, attracted and kept), operation management (by analyzing the process in terms of viability and quality) and innovation (by analyzing the identified opportunities and how promptly they are applied) (Chen et. al, 2010: 1299). The development/ training aspect is analyzed by identifying the ability and expertise of the human capital, by identifying the potential of valuing staff's knowledge and of imposing the shared visions and values within the organization capital and by identifying how accessible the management information and knowledge is in the field of the information capital (Chen et. al, 2010: 1299).

Balanced Scorecard is an effective method used for translating a strategy into a set of objectives that are relevant to each of the four sectors, and the level of meeting these objectives can be measured by using a set of performance markers (Bose and Thomas, 2007: 656). In applying the Balanced Scorecard instrument, some institutions have gone to another level, which has led to the definition of four processes in the new strategic management: transposing vision; communicating and establishing connections; planning actions, business and feedback, and learning (Bose and Thomson, 2007: 656; Motoi, 2017: 176).

Things are slightly different when Balanced Scorecard is applied in public administration. The most significant difference between the public and the private sector is the fact that the financial aspect is not relevant to the public sector in other ways than for making expenses fit into the allotted budget (Kaplan, 1999: 4). For public organizations it is essential to identify the main objectives of the strategy of each structure for the near future by interviewing the managers of the institution. Public organizations must fulfill three missions: ”create value, at a minimal cost and constantly support the financing authority. Starting from these missions, the public organization will have to identify the objectives of the internal processes in terms of development and learning” (Kaplan, 1999: 4). Thus, once the main objectives have been identified, the public organization applies the process to all the existing departments.

Case study: Application of the Balanced Scorecard instrument in the Zalău City Hall

The organizational assessment of the Zalău City Hall, by using the Balanced Scorecard method, was conducted between April and June 2014 in several steps, at the headquarters of the institution.

The first step consisted of the application of a questionnaire to assess the efficiency of the management system used in the Zalău City Hall. This was the basic element for the application of the Balanced Sorecard method. There followed an assessment of all the relevant sectors: finance, the market/the clients, the internal processes and the innovation/training aspect. The final result was the identification of

the main objectives which must be taken into account by the management of the Zalău city hall and an outline of the strategy to be used in the near future.

Self-assessment of the management system maturity in the Zalău City Hall

A self-assessment questionnaire regarding the management system maturity and efficiency was used in order to assess the current situation of the Zalău City Hall, so as to correctly apply the Balanced Scorecard method. This questionnaire was applied to the top and middle management of the institution, which enabled a general view of the current state of affairs in the city hall.

The part of the questionnaire related to the management system maturity and efficiency in the Zalău City Hall consisted of 28 questions, incorporated in matrix-like sections and grouped according to the aspects they encompass.

The purpose was to identify the perception of the people in top and middle management positions, regarding the level of implementation of all the steps in the strategy of the Zalău City Hall: definition of the strategy; transposition of the strategy; organizational alignment; operational integration; assessment and education; revision and test of the strategy.

Several aspects were tested for each of these sectors (between 4 and 6 aspects). The purpose was to identify the efficiency and maturity level of the management system of the organization. Four values were used for the questions: Definitely not = 0 points; Rather not = 1 point; Possibly (uncertainly) = 2 points; Rather yes = 3 points; Definitely yes = 4 points; non-answers were excluded.

According to the resulting number of points, the conclusions could be: *a mature management system,* for values adding to between 84 and 112 points; *maturing strategic management system,* for values between 70 and 80 points; and *immature or nonexistent strategic management system,* for scores of up to 69 points.

Thus, after calculating the number of points awarded for the 6 sectors of the management strategy, resulting from the answers of the people in management positions, there resulted a total number of 72.93 points, which makes the management strategy of the Zalău city hall fit the description of a *maturing strategic management system.* The conclusion was that the management system of the City Hall was incomplete in terms of processes and structure, which led to deficiencies in strategic execution and organizational change. After having identified the level of management maturity of the Zalău City Hall, there followed a review of the weakest strategic aspects, enabling the management to identify faults and to design an improvement plan to rectify those faults. It was also necessary to perform a full audit in order to identify all the deficiencies and causes of the current situation.

Financial assessment

The institutional financial assessment was conducted in two stages:

The first stage consisted of a comparative analysis of the financial indicators for the years 2011, 2012 and 2013. The analysis was based on the financial reports provided by the specialized compartments of the Zalău City Hall.

The second stage consisted of an analysis of the people employed in the Zalău City Hall, in the Zalău Community Social Work Directorate and the Zalău Local Police Department, which are structures of the city hall. This analysis was based on the structured sociological interview of the people who have financial responsibilities (accountants, human resource managers, heads of departments, the mayor, the vice-

mayors etc.). The interviews were conducted in the form of meetings and dialogues during which the relevant information was collected. The sample consisted of 102 people.

Assessment of the beneficiary satisfaction

A number of 200 questionnaires were applied for the beneficiary satisfaction survey, using the Likert scale. The respondents were chosen randomly, among the direct beneficiaries of six departments in the institution. The distribution of the questionnaires to the various offices/departments depended of the general flow of the beneficiaries who use the respective services. Thus, 30% of the questionnaires were applied to the beneficiaries of the Public Relations Office, whereas 25% were directed to the clients of the Directorate for Personal Records. Also, 15% of the questionnaires were filled in by the beneficiaries of the Social Work Directorate, while 40% of the questionnaires were directed to the following offices: Tax Collection, Real Estates Service, Rural Land Registry and the Local Police Department, each with 10% of the sample.

Assessment of the internal processes

The internal processes were assessed in order to investigate the actions taken by the City Hall and to identify those which require more work from the city hall employees in order to achieve higher beneficiary satisfaction.

Three types of instruments were used for this assessment:

- Structured interviews – with employees in the field of quality management. The interview was applied to 22 people;

- A Likert scale sociological questionnaire (the answers were valued between 1 and 5 points) – applied to the City Hall employees which aimed to identify the level of employee satisfaction, their relationship with their superiors and their colleagues, as well as with their beneficiaries. The study was conducted by means of a self-administered opinion survey.

Two types of questionnaires were designed in order to achieve the objectives of the study: a questionnaires consisting of 53 questions with preset answers and four social and demographic questions. The main purpose was to investigate the organizational efficiency of the Zalău City Hall, by applying the questionnaire to representative panel of 65 people, and another questionnaire, consisting of 57 questions with preset answers and four social and demographic questions, which was administered to a representative panel of 66 people. The purpose of this questionnaire was to investigate the level of organizational culture within the Zalău City Hall.

- The observation sheet – which was administered to 20 randomly chosen people at their workplace within the City Hall.

Assessment of innovation and internal development

The process of assessing innovation and internal development aimed at identifying the skills and abilities of the people who are employed within the city hall and the way in which they are able to improve or make their own work more efficient. For this assessment it was used the 360 degree feedback tool in every department of the city hall. The questionnaire enabled the observation of the organizational climate, of the employee attitude, and of their opinion on the values of the institution and on their own colleagues etc.

On the other hand, the organizational communication and behavior was assessed as well, by administering a questionnaire consisting of 60 questions, which allowed the identification of the types of communication and behavior of each employee (assertive, aggressive, manipulative and non-assertive). The purpose was to create a matrix to be used by the people in management positions to improve organizational communication.

Moreover, another type of questionnaire was applied to identify the knowledge of foreign languages among the employees, as well as their computer skills. The questionnaire was based on the opinion survey method and it was either administered by specialized people or self-administered. It consisted of both preset and free answers aiming at collecting customer related information.

The questionnaires based on the 360 degree feedback method assessing employee attitude, the one related to their communication and behavior, and the one which aimed at identifying their training needs were applied to 267 employees.

Formulation of a strategy

The analysis reports comprehensively detailed the financial results, the beneficiary satisfaction, the internal processes, innovation and development, in a systemic approach, by applying the Balanced Scorecard. An outline of the Zalău City Hall strategy could thus be drawn.

The Zalău City Hall management strategy identified by the application of the Balanced Scorecard method	
Finances	**Strategic objectives** 1. Increasing local revenue; 2. Increasing the efficiency of the ratio between acquisitions, costs and benefits; 3. Improving economic and financial knowledge; 4. Increasing the professionalism of the people employed in the economic field; 5. Acquiring further knowledge on the efficient use of the budget.
	Initiatives 1.1. Attracting investors whose activity may widen the tax basis for building, transport, income or other types of taxes; 2.1. Constantly monitoring the ratio between acquisitions, costs and benefits; 2.2. Setting an efficiency threshold for this ratio; 2.3. Fitting into the relevant standards and frequently increasing them; 3.1. Assessing individual professional performances; 3.2. Meeting the training needs identified after the assessment of the employees' professional performances, generated by the constantly changing legislation, or by changes in their job description; 3.3. Providing internal training in order to improve efficiency in various specialties or departments. The training sessions shall be held four times a year by the head of the department and the results will be certified after completion of a test; 3.4. Attending courses related to the practical aspects of the activities in the City Hall; 3.5. Participating to conferences, seminars and other similar events, either home or abroad, in various fields included in their job description; 4.1. Assessing individual professional performances; 4.2. Organizing training sessions related to the fiscal policy; 5.1. Organizing courses related to: I. Preventive financial control; II. Patrimony and investments.
	Performance indicators (Measures/targets) 1. Increasing the tax collection rate; 2. Attracting investors; 3. Obtaining a positive ratio between acquisitions, costs and benefits;

	4. Providing training in the economic and financial field;
Beneficiaries	**Strategic objectives** 1. Maximizing beneficiary satisfaction in relation to the employees of the Zalău city hall; 2. Increasing beneficiary satisfaction in terms of institutional procedures; 3. Increasing beneficiary satisfaction related to communication.
	Initiatives 1.1. Monitoring beneficiary feed-back by constantly applying on-line surveys on the city hall website; 1.2. Regularly administering satisfaction survey instruments; 2.1. Simplifying those institutional procedures that are related to the beneficiaries, if legally possible; 2.2. Developing a user-friendly on-line platform; 3.1. Frequently monitoring the employee-beneficiary communication; 3.2. Organizing various committees specialized in examples of good practice in different relevant fields.
	Performance indicators (Measures/targets) 1. The number of users who take the on-line surveys; 2. Fewer institutional procedures (if legally possible); 3. An on-line platform.
Internal processes	**Strategic objectives** 1. Improving the work atmosphere; 2. Improving the professional relationship between the employees of the various departments and directorates within the Zalău City Hall; 3. Improving the communication between the management staff and the executive staff; 4. Motivating the employees of the Zalău City Hall.
	Initiatives 1.1. Organizing non-formal activities after work; 1.2. Regularly testing employee satisfaction related to the management of the institution 2.1. Appointing one person in each directorate responsible for improved information flow and better inter-departmental communication; 2.2. Regularly identifying inter-departmental cooperation deficiencies by having managers draw monthly reports on this topic. 3.1. Holding short weekly or monthly meetings in each department, during which employees would receive the work tasks from their own managers; 3.2. Encouraging directors, deputies etc., to communicate openly with their subordinates, by using the *open door* method and/or by providing them with detailed explanations of the objectives of their department; 4.1. Holding monthly contests, such as *Employee of the Month*, wherein the employee who achieved the highest number of objectives in the respective month would receive a non-financial reward. For their correlation with the most important objective, the department to which the best employee belongs votes the next winner; 4.2. Creating video proof of the institutional, even personal achievements.
	Performance indicators (Measures/targets) 1. Organizing more non-formal activities; 2. Holding more inter-departmental meetings; 3.Using non-financial rewarding methods to motivate the employees.
Innovation and development	**Strategic objectives** 1. Identifying different ways of obtaining employee feed-back; 2. Developing their ability to face challenges (legislative changes, economic phenomena etc.); 3. Increasing task competitiveness, personal and inter-personal efficiency; 4. Clearly balancing self description and peer description in terms of personal abilities.
	Initiatives

	1.1. Creating a mailing list for each service/department; 1.2. Creating a mailing list for the Zalău City Hall; 2.1. Providing professional training for the City Hall employees; 2.2. Organizing exchange meetings in public local institutions which are more developed than the Zalău City Hall, either home or abroad; 2.3 Illustrating relevant examples of good practice in the local meetings; 3.1. Praising efficient employees; 3.2. Encouraging and supporting the employees of the Zalău City Hall when discussing their work; 4.1. Regularly obtaining 360 degree feed-back; 4.2. Improving/illustrating the skills which are necessary to balance self assessment and assessment.
	Performance indicators (Measures/targets) 1. Improving the communication channels; 2. Providing more specialized training sessions; 3. Obtaining more 360 degree feedback.

By analyzing the above Strategic Map, it can be noticed that there are 16 Strategic Objectives, which could be met by applying 35 activities/actions, measured by means of the suggested performance indicators.

References:

Ansoff, H.I. (1988). *The New Corporate Strategy*. New York: John Wiley.

Baba, C., Cherecheș, R., Țiclău, T. and Mora, C. (2009) Organizational diagnosis – A management tool for change. Case study in Satu Mare County Hospital. *Transylvanian Review of Administrative Sciences*, 25, 32-39.

Baba, C., Cherecheș, R., Mora, C. and Țiclău, T. (2009). Public participation in public policy process- Case study in seven counties from North-Western region of Romania. *Transylvanian Review of Administrative Sciences*, 26, 5-13.

Bačlija, I. (2012). Measuring new public management at the local level: Experiences from EU cities. *Transylvanian Review of Administrative Sciences*, 37, 23-37.

Beldiman, D., Stepan, O.M. (2017). The cohesion policy of the European Union. Alternative funding mechanisms of the Romanian economy. *Sociology and Social Work Review*, 1(1), 58-67.

Bose, S., Thomas, K. (2007). Applying the balanced scorecard for better performance of intellectual capital'. *Journal of Intellectual Capital*, 8(4), 653-665.

Bryson, J. M. (2011). *Strategic Planning for Public and Nonprofit Organisations. A Guide to Strenghthening and Sustaining Organisational Achivements. 4th Edition*, San Francisco: Jossey-Bass.

Bryson, J. M. and Alston, F. K. (2005). *Creating and Implementing Your Strategic Plan - A Workbook for Public and Nonprofit Organizations. 2nd Edition*, San Francisco: Jossey-Bass.

Burduș, E. and Popa, I. (2013). *Fundamentele managementului organizației. 3rd Edition*, Bucharest: Pro Universitaria.

Chandler, A. D., *Strategy and structure. Chapters in the History of the Industrial Enterprise.* (1962). Cambridge: M.I.T. Press.

Chen, C.Y, Yang, Y.F., Chen, C.W., Chen, L.T. and Chen, T.H. (2010). Linking the balanced scorecard (BSC) to business management performance: A preliminary

concept of fit theory for navigation science and management. *International Journal of the Physical Sciences*, 5(8), 1296-1305.

Coșerin, V. (2013). Metode și tehnici de management utilizate în administrația publică locală. *Studia Universitatis Moldaviae. Seria Științe Exacte și Economice*, 7(67), 143-148.

Ellingson, D. A. and Wambsganss, J. R. (2001). Modifying the approach to planning and evaluation in governmental entities: A 'balanced scorecard' approach. *Journal of Public Budgeting, Accounting & Financial Management*, 13(1), 103-120.

Gîrleșteanu, G. (2008). *Organizarea Generală a Administrației*. Craiova: Sitech.

Gumbus, A., Lyons, B. (2002). The balanced scorecard at Philips electronics. *Strategic Finance*, 84(5), 45-49.

Hințea, C., Hudrea, A. and Balica, D. (2011). Patterns of control in the Romanian executive agencies: an exploratory research'. *Transylvanian Review of Administrative Sciences*, Special issue, 115-139.

Hințea, C. and Mora, C. (2003). Management strategic în administrația publică. *Revista Transilvană de Științe Administrative*, IX, 25-33.

Kaplan, R.S. (1999). The Balanced Scorecard for Public-Sector Organizations, Balanced Sorecard Report (article reprint no. B9911C).

Kaplan, R. S. and Norton, D. P. (1992). The Balanced Scorecard- Measures that drive performance. *Harvard Business Review*, 70(1), 71-79.

Kaplan, R.S. and Norton, D. P. (1996a). Using the Balanced Scorecard as a strategic management system. *Harvard Business Review*, 74(1), 75-86.

Kaplan, R.S. and Norton, D.P. (1996b). *Translating strategy into action: The Balanced Scorecard*. Boston: Harvard Business School Press .

Kaplan, R.S., Norton, D. P. (2000). Having trouble with your strategy? Then map it. *Harvard Business Review*, 78(5), 167-176.

Law no. 215, of 23rd of April 2001, of local public administration, republished.

Marinescu, P. (2003). *Managementul instituțiilor publice*, Bucharest: Editura Universității din București.

Motoi, G. (2017). Could Employees' Motivation Be Increased By A Better Organizational Communication? A Sociological Perspective. *Social Sciences and Education Research Review*. (4)1, 174-190.

Mureșan, D. (2012) *Managementul public*, Iași: Institutul EU.

Neamțu, N. (2007). Aplicații ale managementului prin obiective în evaluarea eficacității organizației non-profit și a instituției publice furnizoare de servicii sociale. *Transylvanian Review of Administrative Sciences*, 20, 96-114.

Nutt, P. C. and Backoff, R. W. (1992). *Strategic Management of Public and Third Sector Organisations: a Handbook forLeaders*, San Francisco: Jossey Bass.

Olsen, J. B. and Eadie, D. C. (1982). *The game plan: Governance with foresight*, Washington: The Council of State Planning Agencies.

Petcu, R. (2013). The Evolving European Context for Regional Development and Spatial Planning. *Geopolitics, History and International Relations*, 5(1),142-147.

Porumbescu, A. (2018). The European institutional actors in handling migration. *Sociology and Social Work Review* , (2)1, 41-48.

Pricină, G. (2016). Causes of Economic and Social Decline. Analogy with the Stockholm syndrome. *Anuarul Institutului de Cercetări Socio-Umane „C.S. Nicolăescu-Plopșor"*, XVII, 275-283.

Prisăcaru V. (1996). *Tratat de drept administrativ român*, Bucharest: All Publishing House.

Romanian Constitution of 21st of November 1991, as amended by the Law for revising the Constitution no. 429/2003 published in the Official Monitor of Romania, Part I, no. 758 of 29th of October 2003.

Sorescu, E. (2015). Social Work in the Rural area from Dolj County, Romania. *European Scientific Journal*, Special Edition. May 2015, 367- 379.

Șandor, S. D. and Tripon, C. (2008). Romanian public servants on public administration reforms. *Transylvanian Review of Administrative Sciences*, 23, 100-116.

Șerban, I. (2013). Theories and Concepts in International Relations – from Idealism to Realism. *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, 40, 52-58.

Ștefănescu, D. and Silivestru, M. (2012). Balanced Scorecard- instrument de planificare strategică. *Romanian Statistical Review*, 2, 6-23.

Tripon, C. and Urs, N. (2009). Use of information and communication technologies in the Romanian public administration'. *Transylvanian Review of Administrative Sciences*, 27, 250-261.

Van de Ven, A.H. and Poole, M.S. (1995). Explaining Development and Change in Organizations. *Academy of Management Review*, 20 (3), 510–540.

Wechleser, B. and Backoff, R.W. (1986). Policy Making and Administration in State Agencies: Strategic Management Approaches. *Public Administration Review*, 46 (4), 321-327.

Zelman, W. N., Pink, G. H., Matthias, C. B. (2004). Use of the Balanced Scorecard in Health Care. *Journal of Health Care Finance*, 29(4), 1-16.

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ORIGINAL PAPER

Redefining Civil Society in Relation to Their Relationship with the State and Their Contribution to the Building of the Rule of Law

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Abstract:
If it were conceived that the civil society might be without right, it should be admitted that the individuals who make up this society are by their nature independent of the community. However, since communities that make up the population are a component of the state, if each individual by his nature would deny his belonging to civil society, the concept of "state" would be limited to territory, excluding the idea of a human community, which would be a paradox. The relationship between civil society and the rule of law is based on the principle that the powers emanate from the people themselves, and as a consequence, the sovereignty of the people becomes the basis of government. Comparative analysis of constitutional texts reinforcing the idea that society is a central and defining element of the rule of law, being taken into account: the Constitution of Romania, the Constitution of the Hellenic Republic, the Constitution of the Republic of Austria, the Constitution of Italy and the Constitution of the French Republic. In order to be able to redefine civil society, we will analyze: the relationship of the civil society with the rule of law and the way in which this society participates in building the rule of law.

Keywords: *society; sovereignty; rule of law; Constitution.*

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Introduction

The purpose of civil society is to contribute to defending a democratic legal order. In fact, the expression "democratic legal order" is almost pleonastic, because a democratic order is, by definition, legal. However, not every legal order is democratic, because in a state in which civil society is only allowed to mimic participation in its edification, the organization of civil society means only the procedure by which the state implements and perpetuates its own monopoly of constraint.

The relationship of civil society with the state and the way in which it participates in its construction is of paramount importance for the continuity and consolidation of the rule of law. The current civil society is involved in the decision-making process of the state, being an active, central and defining element of it, well organized, being the source of state sovereignty.

Through the participation of civil society in the exercise of democratic power, individuals defend, promote and exercise their universal and fundamental rights in order to attain their legitimate interests. Thus, the state is for the civil society a mechanism for materializing the rights of its members, while civil society is for the state the source of power.

The rule of law is that state which organizes the civil society in such a way that the individuals that make it can exercise their right to be free only through the state itself, while the rule of law can be built with the support of civil society only by guaranteeing individual freedom that allows citizens to contribute directly to the rule of law.

The relationship of civil society with the rule of law

The law appeared during the time that the individuals grouped and formed the civil society. So, where there is a society, exists the law, the society and the law conditioning each other. This reciprocity derived from the fact that, on the one hand, the individuals who formed the society they can't be protected by failing of any rules which regulate the behaivour and to pass their own rights' limits and obligations, and, on the other hand, in the society's absence, the all regulatory system would become a sum of inexplicable legal texts.

In another train of ideas, if it conceived that the civil society could exist without the law, it should be admitted the fact that the individuals who form this society are independent to the community due by their community. Or, starting to the moment that the communities which form the population, represent a component of the state, if each individual by his nature would deny their membership of the civil society, the concept of the „law" would limit just to the territory, excluding the ideea of the human community, which it would be a paradox.

The relationship of the civil society with the rule of law is based on the principle that the powers emanate by their own nation which are exercised and, as a consequence, the sovereignity of the nation becomes the basis of government. For example, in the Constitution of the Hellenic Republic, the provided texts in the article no. 1 highlights the fact that the nation comes back the role to legitimize the power that it itself obeys and accepts, the lawfulness of the state power turning into a legitimate character: „The national sovereignity is the foundation of governance. All the powers emanate from the nation and exist for it and for nation; it would be exercised due to the provisions of the Constitution". (Constitution of the Hellenic Republic, art. 1, alin. 2 şi alin. 3).

The hellenic constitutional text could be interpreted due to the fact that, although, the legal rules are issued by the state, its are issued in the name of nation and for it. Constitutional provision which states that „all the powers emanate from the nation" include all the states' powers, the hellenic constituent nonmentioning in a specifically or limited way which powers emanate from the nation. So, the legislative power, the executive power and the judiciary power exist for the nation and the people which confered the state the exclusive right to establish the issue of legislation and its application by the coercive force. Starting from this way, the relationship of the civil society and state becomes, essentially, a double sovereignity report. On the one hand, the act of governance is based on the nation sovereignity, and, on the other hand, the sovereign state assigns its normalised and constrainted competence above the civil societies from which emanate the sovereign power.

Of course, the time when it is referred to the civil society, it must be taken into account the fact that it includes not only the individuals who form the nation and the people, but the state itself. Practically, the nation and the state are inseparable, the both component of the civil society being interdependent. If the individual groups who form the nation would exercise the power by their own, the state would not be sovereign, just as if the powers did not emanate from the nation the concept of state law would become an absurdity.

The relationship between state and the civil society trains obligations on the one hand and on the other hand, the state committing in respecting the human's rights as an individual, but also as a member of the society, reserving the right to request to citizens to exercise the obligation of social and national solidarity. It can be highlighted as a headline like an example to this paragraph in an article from the same fundamental law of Greece where are specified not only the guaranteed rights to human being of the state, but also the purpose of their recognition and guarantee: „ The recognition and the protecting of fundamental and inalienable rights of the man from the state follow *the realisation of a social progress concerning to the freedom and justice*. So, at least from this point of view, the protection of fundamental rights and freedom have the right purpose the accomplisment of the human freedom principle, but also the streamline of justice acts. Essentially, the justice it is the one which assures the social order by its subsumption of a normative orders. So, the justice is necessary conducting to social relations and becomes a privilege of the sovereignity of the rule of law. By this fact, probably, it conditioned the hellenic constituent to the recognition and protection the fundamental rights by the realization of a social progress concerning the justice.

Due to the specified report of interdependent between the civil society like a unique source of state sovereignity and the sovereign state, it is necessary to underline the fact that, starting from the moment in which the nation gives the state the exclusive right to exercise the competences based on the sovereignity principle, the nation's sovereignity becomes s virtual one. For example, in the Constitution of the Republic of Austria it is mentioned the fact that the state's sovereignity gives from the nation, no the fact that the state is sovereign or the sovereignty would become to the nation. Even if it seems illogically, by the fact in which is formulated the constitutional text due to the fact that the nation is the source of state's sovereignty and, however, this sovereignty does not belong to it just in the moment in which legitimate the power that becomes subject. The same ideea it breaks out of Italy's Constitution, which provides „ The sovereignty belongs to the nation, which exercises it in the forms and limits of the Constitution".

No matter which point of view would be analised the relationship between the civil society and sovereign state, the nation as a source like the origin of sovereignty becomes the central and defining element of the state law, which follows the implementation of justice by the guarantee of fundamental rights and freedom of the man. Just like this, the state law and the justice become inseparable. What it means, it is the fact the justice becomes a *sine qua non* condition of the state law, and also as the state law imposes the existence of the justice which makes it possible the exercising, by the citizens, for real, of established rights to a constitutional level.

Concerning to all these, it can say that the civil society and state law form a segment between the limits of which is made mutually the transfer of the powers. In support of this idea, the Document of the Meeting from Copenhagen by the 1990 over the human dimension of C.S.C.E., states in the article 6 the fact that the fundamental of the autorities and the legitimacy of a govern represents the free expression and equitable of the nation's will concerning the elections.(International Treaties, No. 1: art. 286). As a consequence, due to the same article, the citizens have the right to participate directly to the governance of their countries, as through the representatives that they elect them by vote, but also in a direct way. In continuation, through the nation's will, the states come back the obligation to protect the democratic order which the nation establishes in a free way.

The essence of this regulation included in the Document of the Meeting from Copenhagen it is also found in the constitutional texts of the states. For example, in the Constitution of French Republic it states that „*the principle of the Republic is: the governance of the nation by the nation and for the nation*". The sovereignty belongs, but, to the nation as a whole, the french constituent highlighting the fact that " *none of the part of the nation and either a human being can not assume the exercising of the sovereignty*", the nation exercising this sovereignty on the referendum way and through representatives.

The essence of the fundamental sovereignty bold in the Constitution of French Republic it is also found in the Romania's Constitution, in the article no.2 "*the national sovereignty belongs to the romanian nation, which exercises through its representative authorities, based on free, periodical and correct elections, also through referendum*". (alin.1) „*None of a group and either a person can not exercise the sovereignty by its own*." (alin. 2). From these constitutional provisions it could deduct the fact that the romanian state conduct in the name of the nation and for the nation and the fact that this has the right to impose the law. But, in the content of the same fundamental law, in the article no.1 alin (1), it states the fact the „*Romania is a national state, sovereign, independent, unitary and indivisible*". This provision contradicts to a certain extent the democratic principle due to the fact a society can impose the law in the sovereign state. The mentioning at a constitutional level due to the fact that Romania is a sovereign state „ assume that the state determines the competence of its competences". (Dănișor, 2009:26) On the same note, the legal rules are issued in the name of the state, this being the only one which can establish „*the extent of the effects of autonomous normative acts*" (Dănișor, 2009:26) and only it can resort to the application of the coercive force over the individuals who form the population found on its territory. By this way, the state seems to be over the right and, of course, over the individuals which form and which submit them through legal rules. As a consequence, this perspective closes to the absolutism of Thomas Hobbes, due the fact that the "*the law it is not a limit for the state*". *The law does not have other source than the State*." (Lavroff, 1994:86). Hobbes

tries to focus on the *Leviathan* paper the fact that the social peace it can not exist if the people oppose some face resistance to the power. So, they have to search and to follow the peace, this thing being a fundamental law by nature. (Mareș, 2008:114) So, the people have to obey, because in its vision, the civil society it is not a power, because the people who form it abandon the own sovereignty to give it to an absolutely authority, the State.

In quite another point of view John Locke presents the civil society, which in his vision exercises a legitimacy and sanctions role which have as a result preserving life and the security of the society's members. For Locke the political society has the purpose to add to the natural condition three elements: „a stable law" , a judge who has to be impartial and a power which enforces the sentences. (Locke, 1999:130) The philosopher argues the fact that the people become free for real only when these obey for their will to the legal rules to which they consent.

On the other notes, the individual freedom it is conditioned by the obeying of the man of the legal state order and, as a consequence, the subjects of legal order are free only just because they are involved in an equally way in by building this order. From this point of view, it can pass three cumulative conditions of the individual freedom of the existence: 1. The individuals to obey to the legal order of the state; 2. The obeying of the individuals to be by their will; 3. The individuals to get involved in an equally way in the form of the order to which they obey in a constient mode.

No matter the point of view it is analised the relationship between the civil society and the state law, it is in an essence a double report of sovereignty. The nucleus of this report is based on the fact that the state of the power exercised in the name of the nation from which provides has as a fundamental the arbitration between the social forces. If the sovereign state weren't equidistant from the socio-economical groups, would exist the risc that a certain group to exercise the sovereignty by its own, and that would annihilate the sovereignty of the state.

Civil Society Contribution to Building the Rule of Law

The fact that the civil society which constitutes the sovereign people contributes to the building of the rule of law has already been established. It must, however, be clarified: the way of how it contributes, the limits of the contribution, the real power that society owns and can use it, the way in which it transfers the power by legitimizing the state authority, or it changes it through the democratic exercise of the right to sanction those originated acts from the legitimate power that would damage the fundamental rights of those who legitimize them.

Starting from the idea that the civil society which constitutes the people is sovereign, leading the state through the existence and direct activity of the individuals that make up it, the state is not only led rationally and through democratic means by individuals, it becomes a form of materialization of the universal and fundamental rights of state members, the latter voluntarily submitting to the laws and principles in order to attain their legitimate interests.

As regards the way in which the civil society participates in the building of the rule of law, it must be taken into account the transition from the universality of rights to their individualization, which implies the reaching of the individual's particular purpose by reference to the universality of a certain right or certain rights. Consequently, the conduct of individuals becomes a *sine qua non* condition for their substantial freedom, the goal pursued by them being the freedom, because if the individual is not free, he can

not participate directly in the building of the rule of law, being compelled only to obey of some rational and universal norms, a situation where the power could not be transferred and either distributed in a balanced and fair manner. For example, if the individual did not have the freedom to vote and thus to legitimize the power of which he is subjected to, the basis of government would become the act of government itself, the basis of which would be an absurdity, because it would exclude the reality that the individual is a member of the state, turning him into a prisoner. Or, the state's role is just that to focus on the fundamental rights, respecting the individuals' right to manifest themselves freely, without intervening in certain spheres, such as, for example, that of the private law which regulates the marriage. By exercising the right of marry, individuals not only perpetuate the species, but also ensure the continuity and consolidation of the rule of law, because before the individual integrates into the civil society and accepts or assumes certain rules of conduct, he develops morally and spiritual within the family. Marriage is essential for the civil society, because this institution allows the creation of orderly communities.

However, although individuals enjoy of the autonomy regarding to the manifestation of the right to marry, the state draws some limits on the exercise of this right, but without these limits being void to the individual as a member of the civil society or the state. In this respect, the constitutional guarantee of the right to marriage in Romania is edifying "in the spirit of the democratic traditions of the Romanian people" (Constitution of Romania, art. 1:3). Thus, the Romanian Constitutional Court was notified of a legislative proposal of citizens whose object was the revision of art. 48 par. (1) by the Constitution, related to marriage and family formation, requesting for the term "husbands" to be replaced by "man and woman".

The initiators of the draft law, entitled "Law on the Review of the Romanian Constitution", argued in the explanatory memorandum that by revising Article 48 (1) ensures of the family's protection made up of heterosexual people, invoking that in Romania, according to some historical, cultural and moral considerations, only one man and a woman make up a family. Further, in the argumentation of the legislative draft, it is mentioned that since the Universal Declaration of Human Rights, the European Convention on Fundamental Rights and Freedoms and the Romanian Civil Code, the term "man and woman" is used in the matter of consecration and recognition of the right to marriage, it is necessary to replace the term "spouses" with "woman and man" in the constitutional article that governs the fundamental right to found a family. Replacing the term, they support the initiators of the legislative project, would remove any risk of unhealthy development of society, otherwise the term "spouses" could suffer "alterations, constraints and interpretations" (Constitutional Court Decision No. 580 of 20 July 2016) would be inconsistent with the interest of family protection.

Forwards, it was argued the fact that other human communities which have not established categorically respecting and promoting the legislative framework designed to protect the family "were disappeared" or "were abosorbed and assimilated" by certain groups which do not have as a fundamental purpose the perpetuation, but only assumption of the family concept.

Considering the legislative proposal for the revision of the Constitution, the Constitutional Court notes that the initiative is constitutional in relation to the provisions of the fundamental law, because the modification would not affect the express and limiting values provided by the same law (national, independent, unitary and indivisible

character of the Romanian state, governance, territorial integrity, independence of justice, political pluralism and official language).

Further, the constitutional judges acknowledge the conformity of the citizens' initiative with the constitutional principles and guarantees, the amendment which is the object of the initiative, which is not capable of suppressing their fundamental rights or freedoms or guarantees and does not affect or abolish the right to marriage or guarantees, through the legal content of art. 26 of the Romanian Constitution regarding the intimate, family and private life.

Regarding to the Article 26 of the fundamental law, invoked by the Court in motivating the constitutionality of the legislative initiative to amend the Constitution of Romania, it is necessary to analyze paragraph (2), which provides that each person can dispose of himself without affecting the rights and freedoms of others, good morals or public order.

Although the individual as a citizen of the state can dispose of himself within the limits set by the law, being protected against of any forms of discrimination, of the category to which it belongs also the discrimination on the grounds of sexual orientation, the Constitutional Court states that the exercise of the fundamental right to marriage can be exercised by partners of different biological sex, leaving it to be understood that the conclusion of same-sex marriage might be contrary to good morals, public order, or could prejudice fundamental rights and freedoms of others.

Certainly, that the individuals belonging to sexual minorities are also holders of the supreme values guaranteed by the Romanian Constitution and can dispose of themselves, as is apparent from the content of the fundamental law, but the recognition of the civil partnership would result in the redefinition of the institution of marriage. The equality of rights invoked by people belonging to sexual minorities to obtain the legal right to marry is a forced one, because not every kind of equality is democratic and compatible with the principles of the state law. Just for this statement that any legal norm "must be interpreted in the sense of maximizing individual freedom" (Dănişor, 2014: 212), it should be taken into account the hypothesis in which "families" made up of the same biological sex would issue claims for the adoption. The moral health of adopted children would suffer, these being forced to develop, to grow, and to form into a pseudo-family abnormality, and to be guided to the same guidelines and marginalized in society.

Although the legal rules in civil matters state that marriage is concluded between a man and a woman, the term "spouses" from the fundamental law is likely to give rise to contradictions and interpretations, just based on the principle of "specialia generalibus derogant". It was therefore imperative that in the Constitution the term "spouses" be replaced by the term "man and woman".

Not granting the right to marry same-sex couples does not mean establishing or perpetuating inequality or discrimination, but rather a state law based on the rights and fundamental freedoms by human being which can not, from a procedural point of view , to correct so-called inequalities so as to affect the rights or freedoms of others.

Therefore, on the one hand, the Romanian state can not grant the right to marry to gay couples because, as is apparent from Art. 1 par. (3) from the Constitution, the supreme values of the state law (dignity, citizens' rights and freedoms, the free development of human personality, justice and political pluralism) are guaranteed "in the spirit of the democratic traditions of the Romanian people". It can therefore be inferred that the supreme values are guaranteed only if their holder exercises constitutional rights

according to the democratic traditions of the people. But, according to these traditions, the marriage ends with a man and a woman, based on a fundamental principle of human society: that to value human breeding. Because of the fact that the institution of marriage is a traditional one and the respect for traditions have been inserted into the constitutional norm, enjoying by supremacy in the internal legislative hierarchy, the recognition of the civil union of people belonging to sexual minorities would be unconstitutional in the limiting sense provided by art. 1 par. (3) from the Romanian Constitution.

Therefore, the exercise by a person of the rights and freedoms guaranteed by the rule of law is possible within the limits of traditions, which means that the socio-moral values of the majority of society are imposed in the face of the trial of sexual minority attempts to demand the guarantee of family values that do not correspond traditions and, therefore, are undemocratic and unconstitutional. This explains the fact why the citizens' legislative initiative for the revision of the Romanian Constitution in the sense of the amendment of art. 48 par. (1) of the Constitution, replacing the term "spouses" with "man and woman" had over 2.6 million supporters.

Another worrying issue that concerns legalization of same-sex marriage legalization is adoption, since once marriage is accepted, the homosexual couples will have the same rights and obligations as heterosexual couples.

The possibility of adoption in the case of people belonging to sexual minorities is a more complex issue than marriage, as it implies the adoption of a child that can come from three totally different situations: the use of a surrogate mother, the in vitro insemination or simply the adoption of a child from another couple.

Already in the world there are jurisdictions that allow gay couples, married or not, to adopt children. However, people belonging to sexual minorities can not guarantee that they do not violate the fundamental rights of the adopted child, a child who may be subjected to major psychological imbalances and may suffer behavioral disorders, being forced to bear marginalization and become a victim of differentiation in the charging society such an attitude. In this case, would that state be the state of law that can not guarantee the protection of free development of human personality ?! For if the development of human personality is a foundation of human dignity, and this foundation is reached in its substance by granting the right to adopt homosexual couples, human dignity, guaranteed in the state law, would turn from supreme value into fictitious value.

Therefore, the tolerance is democratic, but individuals must respect the constitutional right of people belonging to sexual minorities to dispose of themselves, rather of because the Romanian Romanian state is a state law in which the supreme values are guaranteed only if their owners have them the limitation of respect for the democratic traditions of the Romanian people can not be allowed to legalize the conclusion of marriage between people of the same biological sex.

This is only an example of how the contribution of individuals to the building of the rule of law is limited not only through of some constitutional texts, but also through the externalization and manifestation of individuals' will for whom the family is not just a tradition, but also a moral foundation of the state. Hence it follows that the state exists in the consciousness of individuals, and its existence outside civil society can not be conceived, just as the civil society can not rule out the existence of the state. The limiting of the exercise by a certain right, such as the right to marry for people belonging to sexual minorities, does not remove them from the freedom to dispose of themselves, a freedom which enjoyed by all individuals of civil society, but that limitation is necessary

because in a state law the freedom must be organized in such a way as to impose differential application of the protection of individuals rather than uniformity.

Thus, the rule of law is that state which organizes the civil society in such a way that its members can materialize the purpose of being free only by the state itself, whereas the rule of law can be edified only by guaranteeing the individual freedom that permits them citizens to contribute directly to the rule of law.

Practically, the individual freedom as the basis of human dignity is not only the supreme value of the individual, but it is the fundamental truth that, once appropriated by individuals, causes them to control their instincts to rationally contribute to the creation and perpetuation of civilization in an organized manner. Therefore, the individual freedom has a dual quality: it is not only a goal that civil society seeks to attain, but also a means by which it participates directly and directly contributes to defending the democratic order to which it itself obeys. By virtue of the principle of freedom, the civil society can sanction certain acts of legitimate power considered inappropriate in a state governed by the state law. For example, on February 5, 2017, more than 600 thousand people protested in Romania to demand the repeal of an emergency ordinance (Government Emergency Ordinance No. 13/2017) adopted by the Government, which contained a threshold of 200 thousand lei for the abuse of service abuse. Following the pressure of civil society, which considered that the normative act was unconstitutional and immoral, this was abrogated. It can, therefore, admit that the civil society has exercised a sanctioning role, seeking to defend the security of its members, thereby demonstrating that those elected to legislate in the place of the people do not have the power only temporarily, exercising it in a limited way and only by the will of civil society who consented to the transfer of power by legitimizing state authority. This example is meant to emphasize that in a state law the legislative and executive powers must not take legal risks that contradict the will of the majority and the common good that must govern the life of the civil society.

Redefining of the civil society in relation to its relationship with the state and its contribution to the building of the rule of law

The state power is not absolute, just as the individual freedom is not absolute. The state power emanates from the civil society, which is an active element of the rule of law. Taking into account all the arguments which were set out above and taking into account both civil society's contribution to the building of the rule of law, but also its relationship with the state, it can be concluded that: *"The civil society represents that active, vital, central and defining element of the rule of law which legitimizes, oversees, influences and controls the state power to which it confers the competence of normalization and constraint for the defense of the democratic order which the people themselves establish and to whom they voluntarily obeys by the virtue of the fundamental principle related to the individual freedom. "*

Practically, the civil society is the mechanism that makes the democracy work, as the institutions of this society have the role of correcting dysfunctions that could unbalance the democratic order. However, this correction can not only be done through overseeing, controlling and influencing those decisions of the state power that concern the public interest and the common good. As a consequence, the influence exercised by the civil society in the administrative and economic policy of the rule of law is not only a right of it, but also an obligation, the ultimate goal being to administer society in such a way that the individual and the state do not exclude each other. The civil society is

fundamental to legitimizing the democratic power that not only norms, but also applies the coercive force in order to maintain, consolidate and perpetuate that social order subsumed in the legal order.

Conclusions

The civil society is essential for democracy and for democratization, as the process of democratization is one that evolves alongside the civil society. In fact, the mechanisms for achieving the democratic and liberal of the rule of law depend on the way and the limits in which the civil society can use the democracy procedure to participate to the public life, to support or change the political power which legitimizes and oversees it. When the society adopts a certain kind of conduct by obedience to the legal norms imposed by the state, in fact the civil society itself obeys itself, just as the state itself obeys the same norms that it issues. So, if the civil society is not above the law, either the state itself is not above the law.

As a consequence, in a democratized legal order, as the civil society as an active element of the state is a component part of it, also the state, which organizes legal, social, territorial and economic the civil society, is part of it. The political power can control or dominate the civil society only to a certain point and only by some means, just as the civil society can engage in decision-making with certain limits. It is, however, vital for democracy that this double-control should have only one purpose: the realization of the right.

References:

Dănișor, D. C. (2014). *Libertatea în capcană. Aporii ale justiției constituționale*, Bucharest: Universul Juridic, Universitaria Craiova.

Dănișor, D. C. (2013). *Democrația deconstituționalizată*, Craiova: Universitaria, Bucharest: Universul Juridic.

Locke, J. (1999). *Second Treatise on Governance*, Bucharest: Editura Nemira, 1999.

Mareș, P. (2008). *Filosofia dreptului*, Revision and added edition II, Târgoviște: Editura Cetatea de Scaun

DECISION No. 580 of 20 July 2016 on the Citizens' Legislative Initiative entitled "Law on the Review of the Constitution of Romania".

Convenția Europeană a Drepturilor Omului (2015), Bucharest: Hamangiu Publishing House.

The Romanian Constitution, www.constitutiaromaniei.ro.

Constitution of the Hellenic Republic. Retrieved from: www.codex.just.ro..

Constitution of the Republic of Austria. Retrieved from: www.codex.just.ro.

The Constitution of Italy. Retrieved from: www.codex.just.ro.

Constitution of the French Republic. Retrieved from: www.codex.just.ro.

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ORIGINAL PAPER

Liberalization of the Principles of Criminal Law. Towards a Postmodern Criminal Law in Romania?

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Abstract:
One of the main objectives of Romanian new Criminal Code was to adapt the criminal legislation to the liberal principles. Thus, the principles of the Criminal law are nothing else but an application in this domain of the liberal precepts: legality of criminal offences and punishments, subsidiarity of criminal law, the principle of individualization, the principle of personal liability, humanism of criminal law. The study aims to analyse the epistemic rupture in our societies due to the ideas of postmodernism who is trying to overstep the modernity by including it, rupture also reflected in the Romanian criminal law. With this study we wish to see in which degree the modern principles of criminal law are affected by the postmodern ideas: the rising demand for security in a time when the future is perceived as menace full and risk full; the loss of faith in the universal abstract Ration; the multiplication of the instruments to response to crime; the attempt to privatize the alternative responses to the traditional criminal law by creating a "network reaction" instead of an hierarchized one which created a "culture of control"; and the emergence of the "culture of negotiation" in criminal law.

Keywords: *principles of criminal law; liberalism; postmodernism; network reaction; culture of control; securitarian society.*

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A system's general principles are those directing ideas that govern that respective system's structure and development. Considering its constitutional foundation, the principles of criminal law represent the limits of state intervention by criminal means, that govern the elaboration and application of criminal norms.

The principles of criminal law stem from supra-legislative norms and their concrete content is contoured and determined by the European practice used for the protection of human rights. The directing ideas that we suggest as fundament of criminal law are: the principle of the legality of incrimination and penalty; the principle of the subsidiarity of criminal law; the principle of personal criminal liability; the principle of individualisation; the principle of the humanism of criminal law.

1. The principle of the legality of incrimination and penalty

The principle of the legality of incrimination and penalty is the foundation of the modern criminal law system because it establishes the boundaries within the frame of which the state can initiate criminal proceedings. The first consecration of this principle in material criminal law was made by Cesare Beccaria and read as follows: "Laws alone can determine penalties and criminal offences and this power cannot reside but in the person of the legislator, who represents any society united through a social contract" (Beccaria, 2009: 65). Thus, due to lack of an express legal disposition, no law or freedom can be limited by state authorities. The principle imposes the existence of a law that establishes those actions which constitute criminal offences (*nullumcrimen sine lege*) and the criminal penalties that apply to the committed criminal offences (*nullapoena sine lege*). "The legality of incrimination and penalty appears as one of the most important limitation of *iuspuniendi*, representing the main guarantee of the citizens' legal security before criminal law" (Streteanu and Nițu, 2014: 35). Its imposition as main steering principle of criminal law has represented the triumph of predictable law over the arbitrariness of state authority. The imperative of the existence of a law that clearly and predictably establishes which actions are criminal offences and their penalties guarantees persons the possibility to guide their behaviour in the direction set by law and to know the consequences of behaviour that runs counter to law.

The constitutional statute of the principle is guaranteed by its provision in art. 23 para (12) of the Fundamental Law according to which: "penalties shall be established or applied only in accordance with and on the grounds of the law". This constitutional provision directly consecrates the principle of the legality of penalties, without making reference to the legality of incrimination. Nevertheless, the legality of incriminations derives from the corroborated interpretation of the provisions of art. 73 para (3) letter h), according to which organic laws shall regulate criminal offences, penalties, and the execution thereof and of the provisions of art.15 para (2) of the Constitution, which stipulates that the law shall only act for the future, except for the more favourable criminal or administrative law.

The Romanian Criminal Code provides for the principle the legality of incrimination in its first article and underlines in para (1) that "*criminal law makes provision for actions which constitute criminal offences*". Article 1 is consecrated to the principle of the legality of incrimination, the law alone establishing which actions are criminal offences and, consequently, for which actions criminal liability shall arise. The second paragraph stipulates this provision, stating that criminal liability shall arise only

for those actions which were labelled by a law as criminal offences at the time of the offence.

As regards the principle of the legality of penalty, according to which the law provides for penalties for each one of the criminal offences that it regulates, it is distinctly consecrated in art. 2 of the Criminal Code. As is clear from the interpretation of the marginal title of this article, it is not only a question of the legality of penalties, as all criminal law penalties must be provided for by law. Thus, the law must regulate both penalties and educational measures that can be taken in case of a person who has committed a criminal offence, as well as the safety measures that can be taken when an action provided for by criminal law has been committed. Concerning the legality of safety measures, the Constitution distinctly regulates it in the case of some of them (Streteanu and Nițu, 2014: 36). Such a safety measure refers to the special confiscation provided for in art. 44 para (9) of the Fundamental Law, according to which "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". The principle of the legality of penalty provides for penalties to be contained in a law, but it imposes to the legislator a positive obligation with regard to the penalties they adopt by completing the formal criterion with the material one. "No other penalty than the one provided for by the law, but also a penalty that is proportional to the gravity of the criminal offence and a *moderate* penalty: (…) modern criminal law imposes upon itself the principle of punitive economy that, both in utilitarian and humanist scope, intends to be a barrier of repressive escalation" (Cartuyvels, 2008: 7). The criminal legislator is obliged to lead a thrifty politics of imposing penalties, to economize (Dănișor, 2015: 80-81) the arsenal of the penalties available to them".

Moreover, the law must guarantee legal security; therefore the law ought to have provided for the respective penalty at the time of the offence. "To the legality of incrimination corresponds the *legality of penalty* which is also perceived as depositary of the ideal of legal predictability and security and equality between citizens before the penalty" (Cartuyvels, 2008: 7). The predictability of criminal constraint is also ensured by the imposition through art. 2 para (3) of the Criminal Code of some general limits within the frame of which the penalty is established. Here as well we have to understand the notion of penalty as including all criminal law penalties, because undetermined penalties infringe the principle. "Additionally, the principle of the legality of penalties is the depositary of the ideal of 'retained justice' destined to protect citizens and their freedoms counter the Sovereign's power to punish" (Cartuyvels, 2008: 7).

The principle of legality guides both the law-making, and the criminal law enforcement activities. Legislative politics is dominated by this principle in such a way as to oblige the legislator to provide for in a law which actions are criminal offences and their penalties. This obligation concerning the form that the criminal command must adopt is a guarantee of the legal security of the citizens before the administration that can take action only within the boundaries of a legal frame. However, the formal aspect must be completed with the material one, the legislator being also limited in the law-making process. Thus, the legality of incrimination and penalty imposes the law to be public, that is written and accessible, and indisputable, that is to be clearly written so that its readers are able to understand which actions or inactions may fall under it. Form a formal perspective, art. 73 para (3) of the Constitution imposes the form of the organic law that criminal norms must adopt.

In the activity of criminal law, the judge is obliged to strictly interpret criminal law and not permit analogy, and to apply the law non-retroactively in order to guarantee individual freedom and the security of the person.

a) The public character of the law

Criminal law must be public in the sense of being written and accessible. The written character of the law presupposes that the law can stem only from organic laws and from legally binding acts which are equal or superior to it. In this respect, art. 73 para (3) letter h) of the Constitution limits the competence of establishing criminal offences, penalties and their enforcement regime to the category of organic law. The option is justified by how much laws and freedoms are affected through criminal law that requires the legislator to be limited by the rules of procedure specific to the adaptation of organic law, which is more difficult and which denotes a higher legitimacy. The Constitutional Court has decided, in the interpretation of art. 115 of the Fundamental Law that emergency ordinances may intervene in the field of organic law, in the limits of this provision and as long as they respect the provisions of para (6) of art. 115 (Decision no. 1189, November 6th 2008). This means that the criminal law can stem from an emergency ordinance of the Government, provided that this does not affect the rights, freedoms and responsibilities provided for in the Constitution (Gîrleşteanu, 2011: 231-243). What is a paradox is the fact that an emergency ordinance that intervenes in the field reserved by para (3) letter h) of art. 73 of the Constitution to the organic law will inevitably impact adversely on rights and freedoms, as it is a repressive material, criminal law. Thus, the argument of the court of constitutional disputes is at the very least an oxymoron.

The publicity of criminal law presupposes its accessibility as well, which means that any interested person can become aware of the existence and content of the norm. This requirement is achieved in Romanian law through the publication of the law in the Official Gazette. The problem of the accessibility would arise only with regard to the emergency ordinances of the Government, which come into force at the date of the publication, after their prior submission for debate within the frame of the emergency procedure at the competent authority in question.

b) The law must be certain

The automatic fulfilment of the formal requirement in case of the adoption of the criminal law is insufficient for ensuring the legal security of people. Therefore, it is imperative for the criminal law to be certain, i.e. to be drafted with precision and to be sufficiently clear in order for people to easily understand what deeds, actions or inactions, are deemed by the legislator as offences and what consequences they attract.

In other words, the recipients of the criminal law must be able to guide their conduct and to know what type of conduct may fall under the scope of the criminal law. Clear laws determine the predictability of state constraint, it being one of the objectives of the principle of the legality of incrimination and liability. Clarity and predictability, derived from a thoroughly determined legislation, are of key importance to the European Court of Human Rights and represent benchmarks of a system that respects and protects individual freedoms.

In order for the criminal law to be certain, clear and with predictable consequences the legislator must evince precaution when they regulate. It is imperative that the norms of legislative technique be complied with even more strictly in this field. This does not mean that the criminal legislator is condemned to a work devoid of vividness and adaptability, but only that the technique that they use must be

subordinated to the aim of protecting people's freedoms and social values. "It is why the issue of finding optimal solutions for the transposition in reality of the ideal of clarity and precision so often arises in the legislative practice, precisely because the legislator cannot always explicitly mention all the actions by means of which an offence can be committed" (Streteanu and Nițu, 2014: 40). The criminal law must use notions whose meaning is available to those whom it concerns and, when the terms are indeterminate, the existence of a legal definition that can certify the legislator's real will is necessary. "The more restrictive is the norm in the field of freedoms, the higher must be its precision. It is the logic of the principle of the legality of offences and liabilities, which imposes the clear definition of offences and the drastic limitation of the magistrate's power of interpretation through the imposition of a favourable solution to the accused person in case of doubt in the interpretation of the norm" (Dănișor, 2009: 39-40).

None of the techniques of formulation of criminal norms can be exclusively used, be it the descriptive or the synthetic one (Streteanu and Nițu, 2014: 40). When they define the notions for the purpose of clarifying their meaning, the legislator does so under a distinct title from the Criminal Code, the general or the special part, when they regulate the contents of the offences. The legislator defines those notions which are susceptible of several interpretations in the text of the law, the Criminal Code containing a final title in its general part, within the frame of which the meaning of certain terms or expressions used both in the general and the special part is explained.

c) The law must be strict

This requirement concerns the application of the criminal law by the legislator from two points of view: the analogy is forbidden in criminal law and, respectively, the criminal legal norms are strictly interpreted.

The judge is bound to the principle of legality to rule within the limits imposed by the criminal law, which means that the extension of the norm to situations that have not been expressly provided by it is forbidden. "Consequently, the principle is not complied with when the limits of the law are outstretched through an analogical interpretation which goes beyond the possible meaning of the legal text and which aggravates the delinquent's situation" (Pozo, 2008: 52). From this we deduce the conclusion that what is meant by the interdiction of the analogy is the creation through interpretation, in the absence of an express legal provision, of a more difficult situation for persons. Consequently, if through analogy it came to the extension of the beneficial effects of the law to other categories of persons as well, other than the ones expressly targeted by law, then the analogy could be accepted, but only to avoid a rigid interpretation of the law (Streteanu and Nițu, 2014: 46).

Concerning the interpretation of the criminal legal norms, the judge uses the same methods as they do in the case of any legal norm, with the exception of the fact that they subordinate them to the rule of strict interpretation. This rule is a consequence of the requirement for the legal security of those people to whom criminal law applies and of the fact that the restriction of the exercise of the rights and freedoms is exceptional, and the exceptions are strictly interpreted. And this happens due to the fact that "in legal matters, the game of interpretation is perceived as source of arbitrariness and inequality, of adversely affecting the separation of powers, but also of the unjustified extension of a hideous law that must be maintained within the boundaries of rigid norms, established by law" (Cartuyvels, 2008: 5).

d) The law must not be retroactive

For the purpose of guaranteeing the persons' legal security, the criminal law must be predictable both for the future and for the past, i.e. it should be non-retroactive. Thus, those deeds that were not classified as offences at the time they were committed cannot fall under the scope of criminal law and sanctions other than those provided by the criminal law in force at the time of their commission cannot be applied to them. In Romanian law, the principle of legality under the non-retroactivity of the law is constitutionally regulated by art. 15 para (2), according to which "the law shall only act for the future, except for the more favourable criminal […] law". A consecration of this rule is found in the European Convention for the Protection of Human Rights and Fundamental Freedoms that stipulates in art. 7 the fact that "no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed".

2. The principle of the subsidiarity of criminal law

Criminal law is an instrument of social control, one among many other instruments that form part of a complex system. The appeal to criminal law must only be a second option, a last resort, when the means of intervention specific to other branches of law (civil, contraventional, disciplinary etc.) prove their insufficiency and inefficiency. From this perspective, criminal law is a subsidiary law whose interventions must remain to a minimum. "The appeal to it can never be imposed unconditionally, may not even benefit from any favourable presumption. In other words, like any other intervention, be it medical, military, political or humanitarian, an intervention of criminal law requests a justification" (Kerchove, 1994: 449). If freedom is inherent to human nature, the role of criminal law is neither obvious nor incontestable. Nevertheless, we observe a high proneness of persons to accept criminal intervention. "Contrary of a current prejudice, unfortunately often shared by contemporary legislators, the classification of a random conduct by criminal law should not be *a priori* considered as obvious or 'natural'" (Kerchove, 1994: 449).

This is the reason why the subsidiarity of criminal law must be postulated as principle. "From the Latin term *subsidium* which means 'reserve', the notion of subsidiarity refers to the idea of aid or assistance in case of need and to the vocation, as principle of sharing the powers, to govern all types of existing relations between bodies or hierarchically organised groups whose domains of competence – due to the fact that they coincide – need to be structured" (Audouy, 2015: 1).

The principle of subsidiarity is founded in the Constitution, art. 53 implicitly imposing state intervention through measures of restricting the exercise of rights and freedoms to be necessary and proportional. Considering that criminal law highly restricts the exercise of rights and freedoms targeted by criminal sanctions, it should only intervene in situations in which it is absolutely necessary and by complying with strict proportionality.

The compliance with this principle is required both in the drafting, as well as in the application process of the criminal norm. The first whom it opposes is the legislator who must adapt the criminal reaction to the deeds that affect the rights and freedoms of the persons and the social values. Of these, the legislator must choose the ones for which it must guarantee criminal protection. This process is highly important because, on the one hand, criminal law cannot claim to guide and lead all aspects of life in society and,

on the other hand, there are no clear criteria according to which the selection of the deeds that constitute offences and those that exceed the criminal sphere is made. Nevertheless, a few rules of guidance of criminal politics can be emitted, in order for it to uphold its subsidiary position. The discussion must be conducted on two different planes: on the one hand, the subsidiarity of criminal law must occur in the process of regulation; on the other hand, criminal law is subsidiary if,within the frame of legal liability, the criminal liability intervenes only as *ultima ratio*, where the means of other branches of the law are insufficient.

From the point of view of the regulation, criminal law must be alternative to constitutional law within the frame of the relations that concern the authorities of the state, when it comes to the exercise of their constitutional competences. The exercise of these competences cannot give rise to legal liability, i.e. to criminal liability, due to the fact that the infringement of the constitutional limits of the respective competences can only give rise to political liability, bound to the opportunity of its act or to its constitutionality. We speak about the relations between the authorities of the state, governed by political or constitutional law rules, which are traditionally unrelated to legal sanctions, possibly only the sanctioning of the opportunity of the exercise of the respective competence or the exercise of the competences of reciprocal control between the powers, as is for instance the abolition of the Government by the adoption of a no-confidence motion. In conclusion, these relations determine the incidence of a special political liability. Criminal law must not intervene in this case given that sanctions are not usually attached to constitutional norms (Dănișor, 2008: 217). If the likely conflicts between the authorities of the state can be remedied through means which are specific to the separation of powers, criminal law in no option.

Likewise, criminal law cannot intervene and clarify possible ideological or religious differences. It is a consequence of the freedom of conscience, constitutionally consecrated by art. 29 according to which freedom of thought, opinion, and religious beliefs shall not be restricted in any form whatsoever, not even by criminal law. This does not mean that the exercise of these freedoms cannot be constrained, but that any restriction must comply with the conditions of necessity and proportionality imposed by art. 53 of the Constitution. Consequently, any difference that may arise as a result of the noncompliant exercise of the freedom of conscience, in the form of the manifestation of the freedom of thought, opinion or religious beliefs, if legally relevant, must be resolved through a minimally necessary interference in order to ensure the cohabitation of the freedom of conscience and the other rights and freedoms of persons. The subsidiarity of criminal law thus appears more highlighted in matters related to the freedom of conscience, due to the risks that the intervention of the state involves, which would impose ideology, opinions or the official religion.

A further limit of criminal law is represented by the majoritarian moral. Law and moral are two realities that intersect, but the intersecting points are fewer in contemporary societies which promote the freedom of persons to develop their own individuality, in accord with their own opinions about good life, at least in those areas that concern their private life. The dominant moral at a specific moment in history influences opinions, thus creating a majoritarian public moral, the moral of a given society, which legitimises the intervention of criminal law, with regard to both the deeds that shall be considered offences, as well as to the applicable penal sanctions. Criminal law is both held and interested in this social moral, because "the social recognition of the immorality of the incriminated conduct shall be taken into consideration as a condition

of the efficiency of the criminal rule and, solely in this regard, as a criterion which indirectly permits the justification of incrimination" (Kerchove, 1994: 456). Therefore, we do not speak about moral as ethics, but about the particular moral of a society, the only form of moral that is compatible with criminal law. The balance between criminal law and moral is achieved through their inter-conditionality which leadsto mutual limitation. "We consider the immorality of the act […] as a condition which is simply necessary, which, without resulting in the confusion of the moral and criminal rules, leads to a form of mutual limitation of the two rules, the exigency of the immorality of the act delineating limits that are important to the instrumental considerations which we might give preference to in favour of the incrimination of a random act" (Kerchove, 1994: 460). Consequently, for criminal law the majoritarian public moral must be and must remain an instrument for the purpose of education people through the appeal to the values of the society which they form part of.

A further comment is also useful at this point. Even if it tends to respond to a social necessity, the criminal rule is not justified by the mere fact that it is accepted by the majority of the members of the society. Enjoying the endorsement of the majority, criminal law cannot ignore the moral of the minority. "By considering its specific nature, we can therefore say that the criminal rule, political through its source and coercive through its effects, does not necessarily constitute *a priori* and often not even the most adequate vehicle of moral convictions, even if the latter are shared by society as a whole" (Kerchove, 1994: 459). The acceptance of the often passive criminal intervention, must be enforced by the compliance with proportionality, or otherwise we confront with the imposition of a moral order through force. "When the moral order claims to impose itself through force, even if through the force of law, it risks to give rise to a state of mind that is hostile to law and virtue, which represents a prejudice both for morality and for legality" (Dabin, 1969: 382).

Subsidiarity must also be analysed during the stage of the application of criminal law, because the adoption of the criminal norm is unjustified outside its application. "The absence of a reasonable efficiency of criminal law cannot indeed appear from this perspective other than a sign of the inability of the criminal system as a whole and as giving rise to an ensemble of unjustifiable wrongs like the generalisation of the feeling of insecurity and the weakening of the respect for the law" (Kerchove, 1994: 458). The efficiency of the criminal law can be quantified in the process of judicial individualisation of the penalty. Thus, the judge establishes, by taking into account the personal and fact-related circumstances, the right sanction for a certain infringer and may order a harsher one if the first sanction has not attained its finality. We speak about the individualisation of the sanction in case of a plurality of sanctions, in case of ordering safety measure etc. The afflictive and infamous character is inherent to the penalty, regardless of the perspectives surrounding it, retributive or instrumentalist, even reparatory and is, therefore, important for its economy to be covered (Kerchove, 1994: 449 and the next).

3. The principle of the personal criminal liability

This principle presupposes both the personal character of the criminal liability, and that of the criminal sanction. Once a person is held criminally liable, they alone can be responsible for the committed offence, due to the fact that the person cannot be obliged to execute a criminal sanction that is applied to someone else.

The principle is based on the constitutional provisions of art. 23 para (1), according to which "individual freedom and security of a person are inviolable". The only possibility to affect these freedoms through criminal law appears when the person has committed an offence which results in the application of an offence. Thus, through the consecration of the principle of the personality of criminal liability, the security of the person is guaranteed.

Although the principle guarantees the fact that the person who has committed an offence shall be subject to the consequences of the applied sanction, it may be observed that in reality certain "knock-on effects to the detriment of other people" (Streteanu and Nițu, 2014: 57) cannot be excluded. We speak about the effects on those persons whom the defendant sentenced to fine or imprisonment looks after, about consequences that arise with regard to their material situation. In this context we can affirm that the principle imposes the express interdiction of the direct application of "a criminal sanction to a person by taking into account an offence that has been committed by another person" (Streteanu and Nițu, 2014: 58). The principle also presupposes the fact that a person cannot be forced to execute a criminal sanction that has been applied to another person, even if the matter concerned affinity relations. This is the case of parents who could not be forced to execute pecuniary sanctions imposed to their children. For instance, the safety measure of special confiscation applied to minor children who do not receive income, cannot concern the parents, because this would infringe the personality of criminal sanctions (Streteanu and Nițu, 2014: 58).

If in the case of deprivation of liberty or fine, the principle of personality imposes that sanctions shall no longer be executed should the offender has died, things are different in case of the safety measure of the special confiscation, and the good object of the measure has become part of the estate. Due to the fact that the safety measure concerns the good, operating in rem, it is obvious that the good, even if it has become part of another person's estate, shall be subject to confiscation (Streteanu & Nițu, 2014: 60).

4. The principle of the individualisation of criminal sanctions

The individualisation of criminal sanctions is a consequence of the necessity and proportionality of the state measure with the situation that has determined the intervention of the criminal norm, an analysis which is imposed by the provisions of art. 53 of the Fundamental Law. Thus, the criminal sanction must be very precisely adapted both to the person and to the act that they have committed. The principle of individualisation represents the frame within which the consequences of criminal liability (the nature of the criminal sanction, its duration and amount), constantly adapted to the necessities of a democratic society and proportional for the protection of social values, are concretely established.

In the course of establishing the sanction that will be concretely ordered, be they penalties or safety measures or educational measures, all circumstances that concern the offender in relation to the committed deed must be taken into account. Consequently, when we speak about the individualisation of the criminal sanctions, we must distinguish three categories of the process of individualisation (Dongoroz, 1939: 683 and the next): legal individualisation, judicial and administrative individualisation. These categories exist for a most exact adaption of the legal sanction to the gravity of the committed act and to the offender.

Legal individualisation could be understood as "a kind of intervention of the law for the purpose of organising the individualisation of the penalty" (Saleilles, 1927: Cap. VII). Thus, it presupposes the legislator to intervene and decide which the sanctions for each offence are. Consequently, the obligation of this intervention is imposed to the legislator for the purpose of choosing a legal sanction that is appropriate to the protected social value and the degree to which the deed infringed those values. We, therefore, speak about a legal hierarchy of social values that the criminal law protects, by establishing the nature and duration of the criminal sanctions that they provide. From the nature of the penalty which the legislator establishes, we can conclude that certain social values are considered more important for a certain society and, therefore, no harsher penalty can be provided for a deed that infringes the patrimony, by reference to the penalty provided by the legislator for a deed that affects a person's life.

The need for the legislator's intervention in the process of individualisation of the sanctions must be referenced to the concrete establishment by the judge of the sanction that shall be placed for execution for each person who commits a deed covered by criminal law. Thus, a balance between the judge's competence to establish a concrete penalty and the need for certain interpretation and uniform application of the criminal law must be maintained. The judge's freedom is only limited by the need to eliminate arbitrary interpretations. It is the natural consequence of the principle of the legality of penalty. In order for the above mentioned balance to be obtained "the legislator must not take away the judge's right to proceed to judicial individualisation, through the establishment of absolutely determined penalties or through the provision of certain penalties that, due to their automated application, elude any judicial control" (Streteanu and Nițu, 2014: 67). By individualising criminal sanctions, the legislator establishes the limits of these sanctions – the special minimum and maximum of the penalty – within the frame of which the judge shall rule on concrete sanctions, adapted to the peculiarities of the offender and the deed – the attenuation or aggravation circumstances and causes of the penalty.

With regard to the technique used by the criminal legislator, we take notice of several systems of individualisation of the sanctions. Thus, the Romanian criminal legislator establishes a minimum and a maximum level of the penalties for each offence, which the judge is obliged to comply with. In Swiss criminal law the legislator uses a different technique of penalty individualisation that combines several methods. For instance, after establishing the general minimum and maximum of each type of penalty the legislator either imposes to the judge a special minimum, in order for the maximum to which they should make reference to be the general maximum of the penalty (in case of murder art. 11 of the Swiss criminal Code provides that the offence is punishable by imprisonment for at least five years for the maximum to be 20 years, the general maximum of imprisonment), or they establish the special maximum of the penalty for the minimum level to be the general minimum (in case of theft, art. 139 of the Swiss criminal Code provides an imprisonment of maximum five years), or, like the Romanian legislator, they set the special minimum and maximum of the penalty (art. 140 of the Swiss criminal Code punishes burglary with imprisonment from six to ten years).

The second form of individualisation of criminal sanctions is the one that the judge uses to concretely determine the sanction that a person executes for a certain offence. Judicial individualisation is subsumed to the rules established by art. 74 of the criminal Code, which impose the criteria that the court must take into account when the duration or the amount of the penalty is established, the possible complementary or

accessory penalties, the safety measures, if needed, depending on the gravity of the offence and how dangerous the offender is. When they individualise the penalty, the judge must go through several stages. Before determining the duration or the amount of a penalty, the judge must be convinced by the necessity of the application of a penalty in the respective case and, only after having established that the ordering of a penalty is unavoidable, they will choose the type of penalty that should be applied to the respective case, in the case in which the judge provides for alternative penalties. By applying a principal penalty, the court must subsequently decide if it is necessary to order, together with it, the execution of a complementary penalty and to concretely establish the content, if the law provides the mandatory character of the application of the complementary penalty. Judicial individualisation concerns both the concrete determination of the sanction that will be given for execution, as well as the individualisation of its application. Thus, the court shall rule on the way in which the penalty will be executed as well, being able to order and suspend its execution.

Within the frame of the process of judicial individualisation of the penalty, the judge's decision must faithfully reflect the legislator's criminal politics, so that the penalty decided by the court must be in line with the importance that the legislator gives to the values protected by criminal law. Concretely, the penalty established by the judge must reflect the degree to which the deed adversely affected the protected value. We speak about the compliance with proportionality between the gravity of the deed and the damage borne by the value protected by criminal law. "The verification of the way in which the exigency of the proportionality between the concrete deed and the applied sanction has been respected is made by the courts of judicial control through judicial redress" (Streteanu and Nițu, 2014: 70).

The administrative individualisation concerns the way in which the criminal sanction is concretely executed, decided as a result of its individualisation by the judge in the definitive conviction judgement. The different regime of execution depends on the category of offenders which the condemned person is part of, either first or repeat offenders, on the duration of the penalty, as well as on the way in which the person behaves during the execution of the penalty. These rules are based on the principle of proportionality, because the chosen regime of execution is efficient only as long as it maintains the equilibrium between the need for protection and coercion and the degree to which the condemned person's rights and freedoms are infringed.

The general rules concerning the regimes of execution of the penalties involving deprivation of liberty are stipulated by the provisions of Law no. 254/2013 regarding the execution of penalties and measures involving deprivation of liberty decided upon by judicial bodies during the criminal proceedings, which establish the progressive and regressive systems to which the persons move, depending on the executed part of the penalty and on their behaviour during the execution of the penalty. The principle of proportionality is implicitly consecrated by these provisions, due to the fact that, during the execution of a penalty, the aims of the penalty are subordinated to the imperative of respecting and protecting the life, health and dignity of the condemned persons, of their rights and freedoms, being inadmissible that the measures of execute cause physical suffering or abasement to the condemned person.

5. The principle of humanism in criminal law

This principle is based on the provisions of art. 22 para (2) of the Constitution according to which "no one may be subjected to torture or to any kind of inhuman or

degrading punishment or treatment", as well as on the provisions of art.1 para (3) of the Fundamental Law which places human dignity among the supreme values that are guaranteed by the rule of law.

Regardless of the committed offence, criminal law must treat the offender as a human being. From this point of view, criminal sanctions must not induce the persons who execute them physical or psychical suffering, to degrade them by affecting their dignity, by taking into account that any sanction brings about through its binding nature a certain inherent suffering.

This is the reason why the death penalty has been prohibited in the Romanian legal system, why physical punishment is forbidden, why the treatments that affect the physical or psychical health of the persons who are imprisoned are forbidden, being sanctioned as inhuman, degrading treatment or torture, why the places of detention must guarantee the minimum conditions for the persons' dignity not to be affected. Given that the condemned person who executes a penalty must reintegrate into society, the criminal penalty amounts to the role of education and re-networking, without being able to eliminate the binding aspects that it involves.

Conclusions

If the principles that govern the autochthonous criminal law comply with the directions of a liberal regime, we can observe that the Romanian legal system is still trying to adapt to modernity. Nevertheless, the Romanian criminal law has not eluded the current trends that dictate the necessity of transitioning from modernity to postmodernity. The Romanian criminal law makes efforts to respond to the diversification of the sources of law that have changed their configuration by evolving from pyramidal law to network law. These mutations are mostly a consequence of the request for more accentuated legal security against the threats resulting from the commission of offences. But the simple, even exponential extension of criminal law and its occurrence in society can only lead to the increase in the number and influences of social control mechanisms and to a 'culture of control'.

References:

Audouy, L. (2015). *Le principe de subsidiarité au sens du droit de la Convention Européenne des Droits de l'Homme*, Montpellier. Retrieved from : www.archives-ouvertes.fr.

Beccaria, C. (1991). *Des Délits et des peines*, Paris: Flamarion.

Cartuyvels, Y. (2008). *Les paradigmes du droit pénal moderne en période "post-moderne »: évolutions et transformations*. Retrived from: https://dial.uclouvain.be.

Dabin, J. (1969). *Théorie générale du droit*, Paris: Dalloz.

Dănișor, D. C. (2008). *Teoria generală a dreptului*, Bucharest: C.H. Beck.

Dănișor, D. C. (2009). *Constituția României comentată. Titlul I. Principii generale*, Bucharest: UniversulJuridic.

Dănișor, M.-C. (2015). *Eficiența sistemului responsabilității penale*, Bucharest: C.H. Beck.

Dongoroz, V. (1939). *Drept penal [Criminal Law]*, Bucharest.

Gîrleșteanu, G. L. (2011). Regimul juridic al ordonanțelor de urgență în sistemul de drept românesc. *Revista de Științe Politice. Revue des Sciences Politiques*, (30-31), 231-243.

Kerchove, M. van de, (1994). Pour une étique de l'intervention du droit pénal, entre moralisme et instrumentalisme. In *Variations sur l'éthique, Hommage à J. Dabin,* Bruxelles : F.U.S.L, p. 449.

Pozo, J. H. (2008). *Droit pénal. Partie générale*. Zurich: Schulthess.

Saleilles, R.. (1927). *L'individualisation de la peine*, Paris: Felix Alcan.

Streteanu, F. and Nițu, D. (2014). *Drept penal. Partea generală*, Bucharest: Universul Juridic.

Constitutional Court of Romania, Decision no. 1.189 from November 6th 2008, Official Gazette no. 787 from November 25th 2008.

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"Spaces and encounters in Romanian hospitals make us sicker". Romanian patients' discourses about medical system

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Abstract:
The present study aimed to identify the ways in which Romanian patients assess the last visit to the clinic or hospital as a physical "space" and as an environment of social necounters. The methodology used is a qualitative one – the auto-ethnography, an evocative and analytical form of writing which is itself an art, connects personal and cultural worlds by "writing in" these ordinary everyday experiences. The sample was made of sixteen auto-ethnographies of the Romanian patients from Bucharest collected in the period January – July 2017. The study showed that the spaces of the hospitals'and clinics' in Romania were perceived as unfriendly and hostile by the patients. On the other hand, the quality of social encounters within the medical spaces is very low. The discourses about spaces and encounters related to the medical act and illness were, as such, extremely negative as tone and the use of catastrophic metaphors was wide-spread. We can conclude that more researches are needed in order to change the way in which Romanian hospital and clinics were built and maintained in order to increase the patients' satisfaction and trust.

Keywords: *interpersonal communication; social encounter; discourse; health system; medical space.*

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Introduction

Romania has the lowest percentage of total health expenditure in Gross Domestic Product among the European Union's countries, spending only around 5.5% of Gross Domestic Product for health in 2008 (Chanturidze, 2012). The financing of the health system in Romania is considerably lower not only than the European average but as well as compared with the average expenditurs on health of the neighboring countries (Chanturidze, 2012). As regards the balance between public and private financing in Romanian health sector, as the statistics (Chanturidze, 2012) showed, in 2012, public expenditure accounted for 81% of total spending, while 19% was private expenditure. As Björnberg (2018) had noted, in 2017, Romania's system of health was placed last at the level of the European Union. The items which were taken into account in making this hierarchy were: patients' rights and information, treatment outcomes, accessibility (waiting times for treatment), prevention, pharmaceuticals and the range of services offered, (Björnberg, 2018). Despite this negative general situation, no data are available regarding the design of the healthcare built environment in Romania and its impact on medical system and on the doctor-patient relations.

The present study tried to fill a gap in the existing literature with direct connection to Romania. The aim of it is to identify the ways in which Romanian patients assess their last visit to the clinic or hospital as a physical "space" and as an environment for social necounters.

Theoretical framework

In the recent years there is a growing body of research centered on the design of the healthcare built environment which aimed to show how those buildings and amenities improved the health for patients and the working conditions for medical staff. As a 2013 study showed (Anjali & Upali, 2013), healthcare built environment can contributes at te improvement of the medical system on three major axes. First, it can grant a safe and healing environment for patients; secondly, this type of environment could lead to the creation of an environment which has beneficial effects on staff's activities. Thirdly, such an environment has a definite impact on organizational and business objectives related to the health system for a given society, since it increased the pace of activites and favoured positive work-related relations among medical staff.

Research has shown that hospitals that feature new designs and amenities send patient satisfaction scores vaulting skyward. At the same time, a better medical enviroment can have a positive effect on the medical staff's performances (Anjali & Upali, 2013).

In what can be assessed now as a "classical" work about the influence of hospital's environment of patients' physical and emotional well-being, Ulrich (1984) analysed made an important differentiation between two groups of patients: one group that stayed in a room with "tree views" (e.g. with windows) and another one which were located in a hospital amenity with no windows (e.g. the so-called "wall viewers"). Ulrich had showed that those patients who stayed in a room which had a window ("tree viewers") have improved faster their condition after surgery, have had lower scores for post-surgical complications and stayed less time in a hospital (Ulrich, 1984). In the same vein, Goldman and Romley (2010) had showed that amenities were a larger factor in driving traffic to hospitals as compared with clinics. The result of this situation, the above-mentioned authors stated, was the fact that the hospitals which have modern

design features attract more patients and this type of environment is favoured by managers from the health systems (Goldman and Romley, 2010).

At a multi-purpose lounge of an acute psychiatric clinic in the United States, injections of antipsychotic drugs were used to manage patients who exhibit "aggressive and agitated" behavior. According to Anjali and Upali (2013) if the walls of a hospital were decorated with realist scenes taken from nature that could lead to an important decrease (around 70%) in the daily administration of dugst designed for this type of illness. As Zimring, Joseph and Choudhary (2004) had pointed out, the benefits derived from a direct connection between nature and medical settings lead to a lower level of stress for patients and medical staff, a better general health conditions (reduced blood pressure, reduced pain and increased pain tolerance) and a lower number of days for patients' recovery after the medical intervention.

In their research about bipolar disorder, Benedetti, Colombo, Barbini, Campori and Smeraldi (2001) pointed out that the positioning of patients' rooms within the hospital had have an influence on their general well-being. Thus, patients who stayed in rooms with morning sunlight spent fewer days in the hospital than others. In addition, for the same type of illness (dipolar disorder) even the simple image of real nature within their room could have positive effects on their general health-related condition (Benedetti, Colombo, Barbini, Campori and Smeraldi, 2001).

In the same vein, psychiatric patients studied by Nanda, Eisen, Zadeh and Owen (2011) displayed different level of agitation and anxiety when they lived in various hospital environments. Thus, when photos of landscapes were placed on the room's walls, the patients had displayed lower levels of anxiety and agitation as compared with the situation when abstract art objects were placed in the same medical environment. According to the same study (Nanda, Eisen, Zadeh and Owen, 2011), even the simple movie taken in the nature and presented to the patients can also positivel influence their general conditions, leading as such to the decrease in the blood pressure and a higher tolerance for pain.

The study made by Teltsch, Hanley, Loo, Goldberg, Gursahaney and Buckeridge (2011) showed that the transformation of massive and commonly shared intensive care units into private rooms within a Canadian hospital have lead to a drop by half of the bacterial infection in this medical building. In addition, the fact that intensive care units were private rooms had influenced the time of staying of patients in the hospital after the medical treatment or/and intervention (Teltsch, Hanley, Loo, Goldberg, Gursahaney and Buckeridge, 2011).

On the basis of positive effects showed on the patients' general health condition, the redesign of intensive care units into private rooms is now a common standard, generally accepted in the medical world, its main benefits being the important drop in the infectious organisms' transmissions within the medical settings (Chaudhury, Mahmood and Valente, 2016).

At the same time, apart from the physical space it could provided for medical activities, an hospital or a clinic would offer the space for social and communicational encounters between patients and doctors. As Hunter (1991) eloquently noticed, at the heart of the medical act one would find the doctor-patient "dialogue". In this way, medicine is fundamentally communicative at its esence. This is especially true for evidence-based medicine that is usually practiced in hospitals and the most important communications the physician must take into account are those which occur just at the beginning of the interaction with their patient. In a study on physician-patient

communication, Keating, McDermott and Montgomery (2014) had stressed that this is the key element in achieving the goals of the medical act. In their view, this communication has as its main aim to enable the patient to assign real symptomatology. The process in circular, since the information provided by the patients became central in establishing a treatment by medical staff (Keating, McDermott and Montgomery, 2014).

Methodology

Given the exploratory nature of the present study, no research hypotheses were stated, even in the form of qualitative ones. The analysis presented in this article is only descriptive. The methodology used for this study is the triangulation of the methods applied for the same set of research data. From a strictly methodological point of view, we have chosen the analysis of discourse and auto-ethnography. Both methods were qualitative and no satistical data were employed. Understanding the meaning of context is critical in healthcare environments research since the environments are designed for a system that keeps changing. From this standpoint, participant observation is preferred over non-participant observation, although the distinction between the two frequently blurs (Atkinson and Hammersley, 1998; Cohen and Crabtree, 2006).

The auto-ethnography is considered as an evocative and analytical form of writing which is itself an art, connects personal and cultural worlds by "writing in" those ordinary everyday experiences. The auto-ethnography does not have a very long history and, instead, represents a more recent shift to include the researcher within the context of culture (Boylorn and Orbe, 2016). According to the existing literature in the field (Peterson, 2015), the auto-ethnography is the product of an introspective anthropological movement which attempts to include the viewer inside the culture which he or she is exploring. From here, as Young and Meneley (2005) had pointed out, the accent is placed not on the externality of the object of research, but on the redefinition of it (Young and Meneley, 2005) according to a more complete methodology. The observer is, at the same time, the external (the "Other") and the internal (The "Same") researcher of the reality. The sample was made of sixteen auto-ethnographies of the Romanian patients from Bucharest collected in the period January – July 2017. The structure of the sample is presented in Table 1.

Table 1. Structure of the sample used in the analysis

Gender	Age	Marital status	Occupation
14 respondents – female; 2 respondents – male.	7 respondents - 20-35 years old; 9 respondents - 36-55 years old.	12 respondents – married; 4 respondents – single / unmarried.	4 respondents – students; 1 respondent – IT expert; 1 respondent – architect; 2 respondents – economists; 4 respondents – employe in a private company; 3 respondents – owners of a small company; 1 respondent – housekeeper.

Source: Author' own set of auto-ethnographies – January-June 2017

The discourse analysis had been applied on the sample of the auto-ethnographies. As the starting point was taken the fundamental hypothesis that discourse analysis is a method that allowed us to identify the way in which reality is reconstructed by language, in the sense of Sancho, Paniagua, Lopez Garcia, Cremades and Serra Alegre (2003). Discourse analysis was understood as (Deacon, Pickering, Golding and Murdock, 1999: 147):

"…an attempt to understand the systematic relations between texts, discursive practices and socio-cultural practices."

On this basis, we attempted to discover and clarify the ways in which the power relations and structures are built into the daily language and the way in which language contributes to the legitimation of the social relations that exist (Deacon, Pickering, Golding and Murdock, 1999).

Analysis of the results

From the total sixteen (16) autho-ethnographies analised twelve (12) were made in state-owned hospitals and clinics and only four (4) were made in privately-owned ones. As regards the medical specialities where the euto-ethnographies were made their distribution is presented in Table 2 from bellow:

Table 2. Medical specialities where the auto-ethnographies were made

Medical specialities	Number of auto-ethnographies made
Dentistry	1
Medical tests	1
Otorhinolaryngology	1
General (Family) Medicine	2
Neurology	1
Pulmonology	1
Gynecology	4
Pediatric surgery	1
Orthopedics	3
Gastroenterology	1

Source: Author' own set of auto-ethnographies – January-June 2017

Fourteen (14) hospitals and clinics where the auto-ethnographies were made had agreements with Romanian National Health Insurance House (CNAS) and two (2) did not have this kind of agreements (they were privately-owned ones). In the case of two (2) state-owned clinics which had agreements with National Health Insurance House requirements

A-E 4: I must say that, with the exception of the admission fee, all the procedures were free of charge. Even in those circumstances the doctor asked me for 50 lei for analyzes, because, as he said "I have to bring some substances from my home". Oddily enough for me, but I have to pay...

A-E 8: Well, I'm registered with CAS if I work and also if I do not work on the basis of the handicap certificate. The problem is that I have to be careful when going from the work contract to the right to have health insurance on the basis of

my disability. The bureaucracy is killing us, so if I do not go to submit my request for health insurance I automatically lost my health insurance. Ohhh!!! This it's not an automatic process, as usual. Theoretically I did not have to pay in the hospital. OK, this is only "theoretically" because in fact, basically, I bought all my drugs, I paid cesarean operation, give money to nurses, doctors, midwives. The total ammount of money was quite impressive.

The majority of buildings – twelve (12) – in which auto-ethnographies were made had been old buildings, only four (4) being new clinics. Also, the majority of those buildings were big ones – thriteen (13) – and only three (3) were small location for medical services. As some of the authors of the auto-ethographies described those buildings, they were mainly huge spaces with various medical specialities within them:

A-E 3: The hospital is a building with several floors, quite large. It's an old building, but it seems it had been improved. As a hospital I found that there are 496 beds, of which 36 are for day-time ambulatory hospitalizations. The building is divided in different departments such as emergency medicine, various medical specialties, several surgical specialties, paraclinical investigations and other specialties.

A-E 11: The clinic's building is separate, but there are many other buildings on the same campus, such as the Emergency Institute for Cardiovascular Diseases, or sections located in some stand-alone buildings, such as the Gastroenterology Department. We can speak about an entire hospital campus. The clinic is an old, partially renovated building. The corridors are long and the doctors' offices are located on the same floor with the salons where the patients are hospitalized or/and with the nurses' offices. I think there are there are around six rooms on each side of the corridor. Physicians (specialists in gastroenterology) have two offices, one of which is used jointly with the other gastroenterologists, and the other seems to be only for the head of the Department. Also, on the same floor – 2nd floor – there is a mini-room, which is used as a cabinet by one of the doctors from the same section. The Parasitology Section is located at the basement. Here the doctor has his own cabinet next to the lab for analysis. Although located in buildings linked through a passageway, it would be impossible for any patient to travel alone from the gastroenterology section to the parasitology one. Well, the reason is there are no signs to guide this travel. On my first visit, I was accompanied by one of the doctors to the middle of the road, then he had explained to me how to continue my journey alone "lower a floor, turn left, then find a long hall, go to it, make first to the right, find a door, move it, then not the first cabinet, the second …". From tmy third visit (not from the second) I was alone. I have met several times patients who did not know how to get to one of the sections I already knew. We formed a group of three-four (3-4) patients and we were going together from one point to another.

A-E 14: The Hospital Church is located in the courtyard of the hospital and near to the University of Medicine and Pharmacy. This is the place where the Holy Mass is celebrated and where spiritual assistance can be obtained by the patients. The hospital has eleven (11) floors but the building is an old one. There are about

37 cabinets within the building. The Emergency Receiving Unit is located on the ground floor to provide an easier access for the emergency cases. This is open to all patients, either they came with ambulance or by themselves. At the 1st floor there is the Large Amphitheater of the Hospital, on the 2nd floor there are located Anesthesia and Intensive Care Clinic, on the 3rd floor there are Orthopedics and Trautamology, at the 4th and 5th floors are the Sections of Obstetrics and Gynecology, on the 6th floor is the Clinic 1 of General Surgery, on the 7th floor it is the Clinic 2 of General Surgery, at the 8th floor it is otorhinolaryngology, on the 9th floor it is Neurology, on the 10th floor it is Cardiology and at the 11th floor there is Neurosurgery. Well, this can be a rather accurate description of the entire building since I am not good at drawing the plan.

Almost all buildings had offered an easy access for the patients and their attendants. Some exceptions mentioned "narrow-scale access" or "darker and long corridors between parts of the same buildings".

A-E 14: The access in this building as extremely strange - either on a ladder, and then through the entire access hall in the lounges, or on a very narrow staircase and you arrive in the same place.

As regards the dominant colours of the medical spaces included in auto-ethnographies the dominant colours were white (eleven – 11 – buildings) and blue (four – 4 – clinics and/or hospitals). It is a sort of "trademark" of the Romanian hospitals and clinics. Sometimes those two colours were used in the same building but in different rooms:

A-E 15: I stood in two reserves in the hospital. My first reserve was white, with the more dirty tiles, it had to be renovated. Well it was dirty but not unimaginably dirty, I've seen much worse. But it was a brighter room. The second salon was recently renovated. Here the blue color predominated. Also, it was much darker than the first one.

The furniture in all hospital buildings was minimal, all auto-ethnographies mentioning only the existence of chairs, sometimes of the sofas. In privately-owned clinics there were sometimes (two – 2 – times) alsp a television-set as a device where the programs of a Romanian generalist television station were broadcasted:

A-E 3: Upstairs there is a sofa for two people, and at the entrance to the salons there are chairs for maximum four or five (4 or 5) people. Most patients are standing, being prepared to be the first their doctor saw. This is that way because there was made no appointment based on time-attendance of the patients. There is no playground for children, or anything else with any aesthetic or decorative function. But there is a buffet with an outdoor patio with chairs and tables, where the patients' companions can take a snack or something to eat.

No auto-ethnography mentioned spaces for children or internal decration with green plants. Instead everyting was presented as minimalist, white-and-blue dominated spaces.

Although a necessary sign of medical profession medical uniforms of doctors and nurses were all only white, a colour that is general associated with cleaning and the antiseptic environment.

> *A-E 4: They have uniforms, but, hmm…, there is no clear distinction between doctors and nurses about that or it is not clear for me. They look all the same; I cannot make any difference among them.*
> *A-E 8: The physicians have white gowns, and nurses, either they wear white gown or white blouse and colored pants (mainly blue).*
> *A-E 15: Oh, the uniform differentiates medical staff from all the rest of the people, but for me it is quite unclear, it is difficult to understand who is a doctor and who is a nurse.*

In all autho-ethnigraphies analysed one can notice the fact that the Romanian medical spaces were overcrowded, full of patients waiting not so much on the chairs or sofas but standing beside the walls. As such, inter-personal communication was made only among the partients and their attendants. No auto-ethnography mentioned any interaction between the medical staff and the parients plus their attendants during the attendance times.

> *A-E 6: Oh, there were many chairs in the waiting room ... but the there were much more people than chairs, so they stood still, because many children were also sitting in the chairs. People communicate one to another or they remain silent all the time while they attend the doctor Well, the major problem discussed was the illness or the disease they came to see the doctor ... then about the health of the children, and about the children in general.*

> *A-E 10: Sitting near the halls there are always more than ten people, most of them with their attendants. Those who stand on the (insufficient) waiting chairs are the elderly / seriously ill patients; the rest, patients / patients, most often seek their doctor on corridors, wandering, or staying still. Most of the patients were over fourty years old or seniors. And many of them were from the province, many retired. No hipster / corporatist seen there. Most of them are standing still but some of them (or their attendants) are constantly moving. They communicate quite a lot: "what did you think the doctor will gave you", "what will be this 'something'", "for what kind of problem you came here". I have never entered immediately; I waited for hours (three – 3 - hours or maybe even more!!!). There was no "tail", it was important who would "slip" faster to the doctor. Certainly, those with the doctor's mobile number entered before us.*

The interaction with the medical staff (doctors, nurses or technicians) was minimal in all auto-ethnigraphies analysed. When it appeared it was based either on the fact that patients knew the doctor (or nurse) directly or on the "bribes" offered directly by the patients and/or their attendants.

> *A-E 7: The staff was friendly only if it is rewarded, for any information you have to pay (as much as you should). In fact, the nurses first looked to see what you put*

in their pocket …well...envellope…and then answered the question addressed to them.

A-E10: *It is a precarious situation. There is no good communication in the system. What should make ease the lives of doctors and patients in fact put a burden on them. And I refer here at the bureaucracy, at the health cards that do not work, and the payments that are not done in time for the suppliers of different services….*

A-E 16: There is no concern for the patient's well-being and for the creation of a well-functioning system in which both those who work within it and those who benefit from it to be satisfied. I must add that, generally, good health systems are not cheap.

In the case of some auto-ethnographies there are long and detailed descriptions of their social encountering in the medical setings.

A-E 1: I got there due to an unfortunate and unpredictable event in my life ..... a motorcycle accident… I could draw a parallel to my experience for a few hours at XXXX Emergency Hospital where I was taken first date. Such a terrible experience it was.... A hospital that has no orthopedist, a hospital that has not been given any kind of soothing, and that had lasted until my relatives get something in order "to be friendly with the employees from the Emergency Room". I had a rather severe fracture in my leg, and they only wanted to do me worse, moving my foot in several ways ....Nobody said anyting to me, I know nothing. I felt like a corpse, a body and not like a person. It was terrible, awfull. After that I was transported with an ambulance to Bucharest, in the place described above. And YES, I can say that I was lucky enough to enter contact with professional people here. But this was not the case of the first hospital.

A-E 12: The staff brutally addressed pregnant women; they said harsh replies to them. Frequently they talked as if you were a cow sent to a butcher, not a person. It was probably the most humiliating and lasting experience in my life. Especially a university professor, called to attend the surgery, who discusses issues that could scare anyone in front of me as if I were not present or I would not have been able to understand. The nurses lifted your feets; they broke them apart brutally, without warning you, as if you were just a body on a table. And even now I get embarrassed when I remember. It was horrible when I was felt treated simply as a body lacking autonomy and soul, manipulated by everyone as if it were dead. I was waiting for anesthesia with my soul, I felt like I was doing a panic attack on that table (I do not know if it's a real memory that I was tied up or something delicate, but I subjectively felt drunk), with all the hands on my body. When I got back from anesthesia I was extremely sorry for about five, six hours, and the doctors said only that it was normal that they would pass. I'm not afraid of the pregnancy, but I'm terrified of fear of having a baby in a hospital in Romania and spent a lot of time in various hospitals. You can ignore misery, poverty in hospitals, but violence and emotional, psychological abuse from the medical staff were unprecedented. I have not felt in my life so much as a simple

body, refined, devoid of any human quality like there. It's a trauma that you usually remember in the cold, you can even amuse yourself on it afterwards, but I'm crying even now when I remember.

As the above two examples showed the lack of communication between doctor and patients can lead to extremely negative opinions of the patients about the medical system and health professionals.

Conclusions

In the last decades the health system can be assessed as a specific topic in Romania due to it under-financement mixed with bad management and frequent accusations of corruption (Suciu, Stam, Picioruş and Imbrişcă, 2012). Romanian medical system it is a centralised and weak one, almost incapable to react to present demands in the health domain world-wide (Suciu, Stam, Picioruş and Imbrişcă, 2012).

The present study was centered on the Romanian patient's assessments of the design of the healthcare built environment in Romania and of the medical space's impact on the doctor-patient communication.

As the autho-ethnographies analysed had showed, the spaces of the hospitals' and clinics' in Romania were perceived as unfriendly and hostile by the patients. There was no attempt to reduce the patients' stress, to faster recovery times, or, simply, to offer a pleasant escape from stressful situations, as the study made by Zimring, Joseph and Choudhary (2004) already showed. The Romanian hospital and clinics were not designed and built to contributes at a safe and healing environment for patients and a positive environment for staff, as other studies (Anjali and Upali, 2013) showed that it is possible. Instead, they are old buildings, overcrowded with people, painted almost exlusively in white and blue colours and where the patients seemed to be compelled only at a certain type of behaviour – that of a sick person.

An interesting aspect noticed was related, also, to the relationship between patients and medical uniforms. In general (Castledine, 2004) it is assumed that the uniforms derives a clear legitimacy to the surrounding world and it allows a person or group to engage in socio-cultural associated activities specific to the occupation to which a particular uniform is associated. In medical professions this legitimacy, on the one hand, allows the doctor or nurse to approach patients and enter their physical and psychological space, and, on the other hand, it sends a clear message about the medical expertise they have acquired through education and training (Castledine, 2004). Those elements were obvious in the case of auth-ethnographies analysed in the case of the present paper.

Also, as our data showed, the quality of social encounters within the Romanian medical spaces is very low. The discourses about spaces and encounters related to the medical act and illness were, as such, extremely negative as tone and the use of catastrophic metaphors among patients was wide-spread. Much more, due to the lack of communication with medical staff, the Romanian patients which completed the autho-ethnographies often had experienced feelings related to body's objectification and rejection of the medical system as a whole.

Although this is only an exploratory and descriptive study one can conclude that the lack of trust in Romanian medical system and medical staff which is noticeable nowadays could be directly linked not only to the economic and logistic conditions (lack of proper financing, massive migration of doctors, etc.) but also to other factors. One of

those various factors could be the improper use of medical space and the "neutral", impersonal general medium in which the medical act took place. This space could also have some influences on the lack of interpersonal communication between the patients and the Romanian medical staff. On the other hand, we could agree with Stewart's (2005) thesis that the practice of healing medicine involves emotional and rational change. From here, we asses that the "communicative gap" presented withn the auto-ethnigraphies analysed would requests new strategies and plans for improving interpersonal communication among patients and medical staff.

We can conclude that more researches are needed in order to change the way in which Romanian hospital and clinics were built and maintained in order to increase the patients' satisfaction and trust towards the medical system in general.

References:

Anjali, J. and Upali, N. (2013). *Development of Tools for Healthcare Environments - Research and Practice.* Environmental Design Research Association (EDRA). HOK Publications.

Atkinson, P. and Hammersley, M. (1998). Ethnography and Participant Observation. In N. Denzin & Y. Lincoln (Eds.), *Strategies of Qualitative Inquiry*. pp. 110-136. London: Sage.

Benedetti, F., Colombo, C., Barbini, B., Campori, E, and Smeraldi, E. (2001). Morning sunlight reduces length of hospitalization in bipolar depression. *Journal of affective disorders*, *62*(3), 221-223.

Björnberg, A. (2018). *Euro Health Consumer Index -2017 Report,* Health Consumer Powerhouse.

Boylorn, R. M. and Orbe, M. P. (Eds.). (2016). *Critical autoethnography: Intersecting cultural identities in everyday life*. Routledge.

Castledine, G. (2004). Professional misconduct case studies. Case 108: Theft. Staff nurse who wore her uniform off duty to steal from hospital. *British Journal of Nursing*, 13(3), 129.

Chanturidze, T. (2012). *Technical Assistance for Project Management Unit APL 2, within the Ministry of Health of Romania - Final Report*. Oxford Policy Management, Oxford.

Chaudhury, H., Mahmood, A. and Valente, M. (2016). The use of single patient rooms versus multiple occupancy rooms in acute care environments. Coalition for Health Environments Research (CHER). 2005.

Cohen, D. and Crabtree, B. (2006). *Qualitative research guidelines project.* Retrieved from: http://www.qualres.org/HomeSemi-3629.html

Deacon, D., Pickering, M., Golding, P., & Murdock, G. (1999). *Researching communications.* London: Arnold.

Goldman, D. and Romley, J. A. (2008). *Hospitals as hotels: the role of patient amenities in hospital demand* (No. w14619). National Bureau of Economic Research.

Hunter, K. M. (1993). *Doctors' stories: The narrative structure of medical knowledge*. Princeton University Press.

Keating, M., McDermott, A. and Montgomery, K. (2014). *Patient-centred health care: achieving coordination, communication and innovation*. Houndsmills, Basingstoke: Palgrave Macmillan

Nanda, U., Eisen, S., Zadeh, R. S. and Owen, D. (2011). Effect of visual art on patient anxiety and agitation in a mental health facility and implications for the business case. *Journal of Psychiatric and Mental Health Nursing*, *18*(5), 386-393.

OECD/European Observatory on Health Systems and Policies (2017). *Romania: Profilul Sănătății în 2017*, State of Health in the EU, OECD Publishing, Paris/European Observatory on Health Systems and Policies, Brussels.

Peterson, A. L. (2015). A case for the use of autoethnography in nursing research. *Journal of advanced nursing*, *71*(1), 226-233.

Sancho, G., Paniagua, B., Lopez Garcia, J. M., Cremades, P. and Serra Alegre, E. (2007). *Critical Discourse Analysis of Media Texts*, Valencia, Universitat de Valencia.

Stewart, M. (2005). Reflections on the doctor–patient relationship: from evidence and experience. *British Journal of General Practice*, *55*(519), 793-801.

Suciu, M. C., Stam, C. A., Picioruș, L. and Imbrișcă, C. I. (2012). The Post-Crisis Healthcare System: Effects of the Economic Crisis in Romania. *Theoretical & Applied Economics*, *19*(5).

Teltsch, D. Y., Hanley, J., Loo, V., Goldberg, P., Gursahaney, A. and Buckeridge, D. L. (2011). Infection acquisition following intensive care unit room privatization. *Archives of internal medicine*, *171*(1), 32-38.

Ulrich, R. S. (1984). View through a window may influence recovery from surgery. *Science*, *224*(4647), 420-421.

Young, D. J. and Meneley, A. (2005). Introduction: Auto-ethnographies of academic practices. *Auto-ethnographies: The anthropology of academic practices*, 1-21.

Zimring, C., Joseph, A. and Choudhary, R. (2004). *The role of the physical environment in the hospital of the 21st century: A once-in-a-lifetime opportunity.* Concord, CA: The Center for Health Design.

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ORIGINAL PAPER

Shame and Humiliation of Breast Cancer Patients – Communication Pitfalls with Oncology Cases

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Abstract:
Effective patient-doctor communication within Romanian healthcare system is one key element that could compensate the lack of resources, often blamed for the great distress patients and their families experience while being in contact with Romanian medical personnel. Oncology is above many other medical specialties in great need of implementation of good, effective patient-doctor communication, to alleviate sufferance and conduct to more effective healthcare. Inadequate communication may cause much distress for patients and their families, who often want considerably more information than is usually provided. Many patients leave consultations unsure about the diagnosis and prognosis, according to Fallowfield, L. and Jenkins, V. (1999). According to Maguire, P. (2002) doctors usually fail in listening to their patients' complaints and concerns, almost to half of the issues raised. The study reveals that medical personnel stops at obtaining information about patients' perceptions of their problems, either physical, emotional, or social impact of the above-mentioned problems. The article proposes a short review of a relevant life-history narrative of breast cancer patient, that emphasizes the importance of humane, clear and professional communication to better healthcare, alleviation of sufferance and clearer view on the patient's health challenges. Based on Eurostat data (updated in September 2017) more than one and a quarter million people died from cancer in the EU-28, just over one quarter (26.0 %) of the total number of deaths. Among the EU Member States, the share of deaths from cancer in the total number of deaths exceeded 30.0 % in Slovenia and the Netherlands. By contrast, 20.0 % of all deaths or less were from cancer in Bulgaria, Lithuania and Romania. Romanian patients witness that better communication in oncology wards would significantly strengthen their morale. The presentation shall provide access to patient's narratives, given through informal semi-structured interview, as life history analysis. The outcome shall point out the preponderance of concepts as of shame and humiliation in therapeutic approach in Romania, among other concepts established in the academic literature for oncology and patient in general narratives.

Keywords: *oncology; patient-doctor communication; narrative medicine; breast cancer.*

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The patient exposed to shame and humiliation

The literature examining the communication in doctor-patients encounters suggests that shame and humiliation are important concepts frequently described in those encounters but insufficiently explored (Lazare, 1987). The wide palette of emotions experienced by patients, especially by cancer patients, ranges from fear to rage and blame, going through the phase of guilt and shame. A life-threatening disease as cancer sets patients in a state expecting and needing support, care, help and trust (Stiefel and Krenz, 2013) therefore appropriate communication with their healthcare practitioners and team contributes to the patient's welfare. Being able to care about their patient's emotions is part of their cure.

> "It happened to me that a doctor, although a celebrity among oncologists, to ask me, mocking me, whether is Facebook where I find my information. Actually, it wasn't the social network the source of my information, but the medical reviews and journals. This is the point where I dismiss such a doctor, either because he's too sick and tired to practice his profession, he's either just so self-absorbed that he thinks there is nothing new he could ever learn. (M.C., life history, oncological patient)"

The chapter "Improving Communication Effectiveness in Oncology: The Role of Emotions" by Maria Antonietta Annunziata and Barbara Muzzatti (Stiefel and Krenz, 2013) explores the role of emotions in oncology patients, in relation to shame and humiliation experience and explained in life-threating illnesses. In oncology cases there are two main concepts which encapsulate the importance of emotions – emotional distress and cancer-related fatigue:

> "These two aspects can interfere with medical communications (reducing the reception, comprehension, and recollection of information); they can also be an explicit object of communication, as they are the possible outcomes of treatments and could elicit the request for specific supporting interventions (Stiefel and Krenz, 2013)".

Thirty years ago, shame and humiliation were not widely researched in the medical setting, although the quality of medical care is extensively explored in patient-doctor communication literature. Only in recent years, communication professionals and healthcare providers became aware of the benefits of effective communication (Charon, 2011).

> "...the subject of shame and humiliation in medical encounters is rarely discussed, studied, or written about. Only one article in the medical literature during the past 20 years has the word "shame" or "humiliation" in the title. Highly regarded books on the doctor-patient relationship and interpersonal aspects of patient care do not even index the subject (Lazare, 1987)".

Especially in the oncology field, patient-doctor communication is to be considered a key element to better care and better health outcomes (Fallowfield and Jenkins, 1999). Taking into consideration the time span of an oncology clinician carrier and the number of patients he's seeing over the time, the investment into communication training of doctors is mostly recommended.

> "During a clinical career spanning approximately 40 years, an oncologist is likely to conduct between 150 000 and 200 000 consultations with patients and their families. Thus, communication should be viewed as a core

clinical skill that merits a considerable investment of time and resources in training. (Fallowfield and Jenkins, 1999)".

Life-history and narratives of breast cancer patient in Romania

The impact of doctor-patient communication is explored through single case story, recollection and narratives of female breast cancer patient, 50 years old at the moment of diagnosis, MC. The patient consented to a semi-structured interview on her life-history with breast cancer and the interaction with her multidisciplinary team of health practitioners. The moment narrated by the patients follows the moment of diagnosis and the subsequent medical consults, prior and after chemotherapy, surgery (double mastectomy) and radiotherapy. The patient's life history is condensed in a short, full of medical events year and the availability to recollect the medical encounters that shaped the path to recovery. By education and profession, as a lawyer, M.C. has requested an important amount of information regarding her illness, especially on innovative procedures and treatments. According to (Fallowfield and Jenkins, 1999) women receiving a breast cancer diagnosis would play a rather passive role, but simultaneously demand a large amount of information from their healthcare practitioners. Setting up the relationship based on trust and mutual respect is the key to a better care, according to the findings of "Doctors' communication of trust, care, and respect in breast cancer: qualitative study" (Wright, 2004).

> "A doctor who explains to you your illness and he's not reluctant to depict it to you is a doctor who understands the illness and he's not afraid to state it to the patients, he's not afraid to talk to them. For me, this is the main challenge which sets up my relationship with a doctor. After some time in our relationship, I manage to observe the medical results as well - mainly if my illness confirms even if partially the facts I initially found out about from my doctor and if the prescribed treatment is working for me."

According to Wright, a patient with breast cancer would rather be concerned with the doctor's level of expertise, than his communication skills. The priority would be for the medical practitioners to show respect and give their patients the choice and autonomy in the medical decision and compliance to treatment. The autonomy of the patient, according to the study, is the main sign of respect.

> "As a rule, from my conversations with my doctor, I am able to pick up whether he is updated with the latest information in his profession, if he is a dedicated medical professional, a passionate one, or he is one of those just waiting anxiously the end of the working day to get out from the hospital. (M.C., life-history of the oncological patient)".

Paying attention to their patient's narratives is crucial to effective and humane healthcare (Charon, 2011a). The aim, according to Charon is to build the bridges between doctors and their patients, "bridging the divides that separate physicians from their patients (…) for respectful, empathic, and nourishing medical care" (Charon, 2011b).

> "As a patient with cancer, I interacted with many doctors (a lot of them, actually) who just cannot bear a patient opening his mouth, asking about treatment, especially the revolutionary or experimental ones. I am not sure whether this behaviour is the result of sheer incompetence or they are just fed up with their work and their patients. Whichever the case, I have my serious doubts about their abilities to heal their patients (M.C.)".

Good communication, bad communication

The mandatory element of building a relationship with the patient is good, satisfying communication (Stiefel and Krenz, 2013). Once established through the exchange of information, the relationship changes how both actors see the illness, once more difficult in a narrowly defined environment as the hospital or in life-threatening conditions like cancer. The importance of quality doctor-patient communication is analysed based on the data from British National Health Service Ombudsman regarding patient complaints on the quality of their medical care (Fallowfield and Jenkins, 1999) showing that the complaints ”usually concern communication failure rather than technologically negligent medical practice”. What makes communication successful in medical encounters, especially in cancer patients regards the amount of adequate given information, which will be ”understood, believed, remembered and acted upon” by the patient. (Fallowfield and Jenkins, 1999)

> “There are a lot of doctors I see quite often for consults. My oncologist amazes me each and every time we meet because she knows with great accuracy, in every detail, what my medical record says about my illness, she remembers that I have a family and she inquires me about my family every time we meet. I trust this doctor because I feel she is involved and she cares about me. I am absolutely convinced that this doctor is trying to help me every way she can. She couldn’t help herself but hug me when the good test results came in. I also must tell you that she doesn’t accept any cash!” (M.C., oncological patient, life history).

Humanizing the medical act is perceived in connection with the humanization of the society itself (Accad, 2001), as stated that during medical procedures in breast cancer “The breast becomes an object, cancer a thing, the person a number. A dehumanized society cannot induce humane medical procedures.” M.C., being interviewed for the purpose of the article recollected that patients were often reduced to their tests and procedures. As a single case history, it shows that in most of the encounters she had during her treatment, doctors seemed to ignore the patient’s integrity and focus on the biomedical elements of the illness. “The Case Of The Vanishing Patient” (Blaxter, 2009) suggests that patients often “disappear” behind tests, procedures, lab results, and people end up reduced to their illnesses. Professional distancing, expressed by use of medical speech or technical information, appears in doctor-patient communication, which is, as the patient recollects, mostly one-way conversation, as defined by Mildred Baxter (Blaxter, 2009).

> “… the doctor that operated on me has no idea what my name was and I found out for sure that he has no clue what’s in my file. He’s feeding me contradictory information every time I see him. He’s operating non-stop, 3 to 4 patients in the morning, at the state hospital, and he does the same in the afternoons, at the private hospital. I accepted him as my surgeon because I knew he had an amazing expertise, he most probably knew exactly his thing during my surgery, this is something that we will find out eventually (M.C)”.

Respect as a pivotal concept in healthcare

According to Wright (Wright, 2004) women diagnosed with breast cancer would rather prefer being given a voice, rather than a therapeutic choice. The freely expressed opinion, thus respect shown to the patient, is correlated with another pivotal concept and trend in modern healthcare, which is patient empowerment and shared decision making.

> "However, the option did not equate to choice as this is usually understood (Wright, 2004)".

The Romanian patient interviewed for the purpose of this study recollects clearly that although invited to have an opinion, the result was as if she was invisible.

> "On the other hand, every time I have a consult, he has no idea who I am. He cannot stand me speaking to him, although initially, he's the one inviting me to speak, and then he's mad at me because I interrupt him (M.C., oncological patient, life history interview)".

Respect for the patient expressed in the medical ward is a matter of cooperation (Wright, 2004). Listening to the patient's story and observing details is defined in "The Chief Concern of Medicine" (Schleifer and Vannatta, 2013), as respect and honor for the patient's story and for the patient himself. Listening to narratives of illness coming from patients with life-threatening diseases is a form of connection, thus respect, a relationship based on trust and emotional affinity. The narratives of breast cancer women often recollect the pitfalls of patient-doctor communication, therefore connection, as the one of M.C.

> "He always seems so unaware of the details. For instance, I just had started my radiotherapy, I already had my marks on my skin, you could clearly see the radiation traces and he kept asking me when in the world I am going to start my radiotherapy. He actually wasn't aware of my physical presence in his exam room, although I was just standing there in front of him. Note that a huge number of patients was waiting outside the room for a consult because he is one of the most reputed doctors! (M.C., oncological patient, life history interview)".

Compassion, alongside humility, is the core concept of the "white coat ceremony" at Columbia (Nussbaum, 2016). The ritual has been adopted in the majority of medical schools worldwide, to symbolize the induction of graduate students to the medical profession. Humanism, as defined by William Osler, whose assertion "it is a safe rule to have no teaching without a patient for a text, and the best teaching is that taught by the patient himself" (Swanwick, Education and Ebrary, 2010, p. 195), sits at the core of medical training, though there are cases where doctors fail in behaving with empathy and humanism towards their patients. The ritual of seeing outpatients in oncology is depicted by the patient herself, describing the details of the failed medical act.

> "In the Oncological Institute in Bucharest, it happens that appointments are not scheduled, and I consider it a great lack of respect for the patients. As it happens, you discharge yourself after surgery and you have to return to consult and change of bandages 2-3 times a week. All of one surgeon's patients (around 20 to 30 patients a day) are called in at 8.30, as the doctor comes in whenever he can, which might be after 11.00 as well. It happened to me that once the doctor just went out the consulting room during appointments and just came back after 2 hours, while his patients were still waiting outside the room.

> Waiting for hours is a regular thing at the Institute. People are queuing by dozens of daily chemotherapy treatments as outpatients and I've seen people faint while waiting in line. (M.C., oncology patient)".

The neglect of the concepts of shame and humiliation is mentioned by A. Lazare, explaining that both have been massively ignored by the literature (Lazare, 1987). Lazare offers three possible explanations: first, doctors are not taught to inquire on their patient's well-being apart from the treatment they offer, secondly, it is quite difficult to evaluate the shame in patients while trying "to do no harm" and thirdly, neither patients, nor the doctors are largely willing to talk about shame and humiliation.

Shame and humiliation in breast cancer – life history of Romanian patient

The narrative of the female oncology patient exposing her life history of battle with breast cancer shows that shame and humiliation in Romanian patients go beyond the concept depicted by A. Lazare, being more of a social phenomenon, affecting a large number of patients with cancer.

> "Respect is something that you see from the very first encounter with the doctor. The doctor who diagnosed me with my breast cancer is considered a great professional. But during our first consult, I had this distinct feeling that she considers me at least imbecile, that patients generally bore her and are plain idiots because they didn't perform the usual investigations – mammograms, ultrasounds and biopsies at her private medical facility. (M.C., oncology patient)"

Wright's study with breast cancer patients emphasizes that while being interviewed, patients participating in the study focused very little on communication skills of their doctors. Therefore, the study has been organizing around attributes of doctors, as perceived by the patients: expertise, care and respect (Wright, 2004).

The patient interviewed for the purpose of this article recollects her doctor's attitude at the first encounter they had while discovering the mass which was, eventually, cancer. The recurrent word used by the patient, reproducing the dialogue with her physician is "contempt", which results in an unbalanced and shameful to the patient conversation.

> "She started dictating to the nurse some medical terms like a nodular mass of some kind and I bluntly asked, 'do I have cancer'?
>
> The doctor's answer is full of contempt 'it's not like I talk about small cysts, no?'
>
> 'How serious do you think it is?'
>
> Again, profoundly bothered by my question 'how should I know how serious it is! You need more tests. I don't even know where to start. You might also have metastases, you know, that's how this illness work. You need MRI, biopsies and many more.'
>
> Actually, I didn't have metastases, as proved later.
>
> Apart from that, any other question I might have asked, she just answered like she was bothered by my presence. If she had a question for me, though, I was looked down as if I was stupid, no matter what I answered.
>
> For instance, she asked me whether I had previous cases of cancer in my family with relatives of first and second-degree.
>
> I asked for clarification 'you mean straight lines like parents and grandparent?'

She looked at me in contempt 'it's not like I ask about your husband, no?'

Well, I was asking because I had an aunt with breast cancer and I needed to know if she meant aunts as well. I am a lawyer and technically, the aunt is not first or second-degree relative.

I found out that this was a common attitude toward a patient, treating him like he's an idiot, asking idiotic questions. When a person finds out she has cancer, she doesn't necessarily react very smart, because of the shock. But a doctor has serious issues of communication if he or she cannot take that into account.'

The good doctor

Scientific literature often provides analysis of how patients portrait their ideal doctor, listing the virtues of the healthcare provider (Centor, 2007). Sir William Osler has provided a definition, recaptured in a teaching video addressed to medical students by Robert Centor, MD. "Sir William Osler said," The good physician treats the disease; the great physician treats the patient who has the disease." The great physician understands the patient and the context of that patient's illness. For you, physician readers, take Osler's challenge. Be a great physician. Understand the full story. Make correct diagnoses. Consult the patient in designing the treatment plans that best fit that patient"[1].

Schleifer and Vannatta (2013) mention that the list of virtues of the ideal physician is provided starting with Aristotle, whose list comprises all the traits of the moral agent.

"Aristotle offers a long— but not exhaustive— list of the virtues of a moral agent. Those that are most fully useful in examining the ethics— and the ethical narratives— of everyday medical practices include competency, conscientiousness, discernment, compassion, trustworthiness, and common decency (as well as *phronesis* conceived as a virtue possessed by a *phronimos*)."

Empathy is mentioned in close relation to the medical profession(Charon, 2012). Empathy, as other skills in the medical profession, can be practiced and actually taught, therefore the literature offers the scheme of practicing empathy. (Schleifer and Vannatta, 2013: 402).

'Schema for Expressing Empathy (from chapter 5)

1. Attend to the primary emotion of the patient.

2. When an emotion is expressed, explicitly acknowledge its importance.

3. When the patient agrees with the physician's identification of the primary emotion, then the physician should legitimize this feeling and empathize with it.

4. Identify the patient's "chief concern" as demonstrated by steps 1– 3.

5. Paraphrase the expressed concern to the patient.'

[1] Centor, R. M. (2007). To Be a Great Physician, You Must Understand the Whole Story. *Medscape General Medicine*, *9*(1), 59.

Attending to patient's emotion is quite the last thing described by the patient M.C. in relation to some of the medical personnel from the oncology ward in a Romanian hospital. Here she recollects how her consent was never asked before showing her off as a teaching material for residents. As defined by M.C, the fact that she never consented to a consult, ordered to get undressed with a group of terrified residents, was equal humiliation both to the patient, and the young doctors. A cancer patient is, by the definition from "The Wounded Breast: Intimate Journeys Through Cancer", a person in a weak position, feeling powerless in a medical environment (Accad, 2001).

> 'I was called in by the professor, who specifically asked the resident to come in with me. When I entered the room, there were some other residents, and he asked them to feel my breasts, not even asking me whether I was ok with that – he just ordered me to get undressed. Once the residents performed the manoeuvres, he started yelling at them for not knowing things, humiliating them and myself, as well. I witnessed how the young doctors were so afraid that they couldn't spell their names if they were asked to do so. And that was not the last time I was treated like teaching material without my consent.'

The literature concerning shame and humiliation of breast cancer patients in particular state very clearly how important the hospital environment is to the patients and how the doctor's behaviour impact a person with a fragile state of mind (Lazare, 1987). Doctors, according to Lazare, have the ability to influence their patients during medical procedures. On the other hand, all patients feel 'frightened, depersonalized and dehumanized' while being examined. Therefore, the healthcare provider's behaviour is crucial to producing an environment where the patient feels cared for and respected (Lazare, 1987).

> **"**It all depends on how he let me down – professionally or personally. If he was a professional disappointment, it is pretty much obvious that I will have nothing to do with that doctor in the future. If he had disappointed me as a human being, I might accept some behaviour, within limits, but I am capable of accepting and moving on. I try to balance the good and bad. It is very hard to find an oncologist who always smiles and behave calmly. We must understand that one working in the oncology ward for years cannot be in his right mind all the time, regardless of all the routine he goes through. I came across with unbalanced behaviour even of doctors whom I care about and with whom I hold a very good relationship. I've seen those reacting badly to patients, especially to those who do not follow their recommendations. But people are very sensitive in oncology, they get depressed from the illness, from the chemo. I've seen people bursting into tears when de doctor raises the voice at them. I myself cried once when my doctor shouted at me just because I dared to ask questions. The cleaning lady came to me afterwards saying that what I did was a mistake, that I should have kept my mouth shut and bow my head. This is what the majority of those patients did. Everybody was shaken with fear and they didn't even dare to blink when the doctor was performing his rounds."

Conclusions

Practicing the ethics of doctor-patient communication had been a concern, once stated that communication can be taught (Mauksch *et al.*, 2008) (Aspegren, 1999) (Roter, Hall and Katz, 1988) (Schiavo, 2007). In everyday practice of medicine the authors of "The Chief Concern of Medicine" (Schleifer and Vannatta, 2013) offer a simple, yet effective solution to rehearsing empathy.

> 'We can apply the virtue ethics (…), specifically the schema of virtue ethics embedded in the heuristic phrase: Doctor Dogood Comforts the Crying Child (Decency, Discernment, Conscientiousness, Trustworthiness, Compassion, Competence).'

American and European medical associations joined in the effort of publishing in 2002 the physician's chart 'Medical Professionalism in the New Millennium', the one document that identifies the three principles of practising medicine.

> 'The charter identifies three principles—patient welfare, patient autonomy, and social justice—and expands them into ten commitments. The commitments are all reasonable— engaging in lifelong learning, being honest with patients, maintaining patient confidentiality, respecting appropriate boundaries, improving the quality of care, increasing access to care, pursuing cost-effective care, appropriately using science and technology, avoiding conflicts of interest, and self-policing the profession—but toothless.'(Meakins, 2003a)

According to the document issued by ABIM Foundation, ACP-ASIM Foundation and European Federation of Internal Medicine, medical practitioners today are subjected to different challenges due to fundamental changes within society, technology and science, and markets (Meakins, 2003b). Frustration is present within medical profession according to Jonathan Meakins, as those changes threaten the core values of the medical profession. Therefore, stating the three principles, although abstract, will guide doctors on their professional path of caring for their patients. There, the fundamental principles are: 1) the principle of primacy of patient welfare, which in Meakins' opinion it serves primarily the interest of the patient, and the doctor-patient relationship is built on positive emotions as trust and altruism; 2) the principle of patient autonomy which resides in the respect that the suffering patient receives from his healthcare practitioner, while honest, informed decision-making process is deeply ethical and empowering; and 3) the principle of social justice, which primarily means the righteous distribution of healthcare resources to patients, which are by no means discriminated based on race, gender, age, socio-economic status, religion or ethnicity[2]. Patient's real expectation of a doctor is guidance to the safe harbor of health, according to Abraham M. Nussbaum (Nussbaum, 2016). Very few physicians are aware of fact that professional associations have joined on their behalf the charter, defined as an attempt to enhance curricula, ideas and initiatives of doctors, eventually regulating their behaviour related to patients. One doctor can choose to engage or to ignore those principles, but he will respond to systems that govern his profession in the present (Nussbaum, 2016). In recent years, once developing as a scientific discipline, Rita Charon was able to distil and emphasize the importance of patient-doctor

[2] „Medical Professionalism in the New Millennium: A Physician Charter", 2005.

communication through narratives of illness. Through the stories of illness, sick people would connect to their doctors, who will better understand the impact of the disease and how his patient's quality of life has changed. 'The effective practice of medicine requires narrative competence, that is, the ability to acknowledge, absorb, interpret, and act on the stories and plights of others.' In Charon's opinion, if to reclaim a new model of medical practice, the proposed model is the medical act performed with narrative competence, therefore narrative medicine is the suggested path to better patient-doctor communication. Although it doesn't imply that narrative medicine is the one substitution for traditional evidence based medicine (EBM), with an enhanced narrative competence the physician joins his patient in his illness-marked personal journey (Charon, 2011).

While acknowledging that only scientifically competent medicine cannot alone help one patient who is experiencing a change in his health, narrative medicine could help him make sense of his journey, accompanied by his physician with narrative skills. (Charon, 2001, p. 1897)

> 'Illness is not algebra, but a journey into dark waters. When you are ill, you need a captain.' (Nussbaum, 2016).

References:

Accad, E. (2001). *The Wounded Breast Intimate Journeys through Cancer*.

Aspegren, K. (1999). BEME guide no.2: Teaching and learning communication skills in medicine--a review with quality grading of articles. *Medical Teacher*, 21(6), 563-570.

Blaxter, M. (2009). The case of the vanishing patient? Image and experience. *Sociology of Health and Illness*, 31(5), 762-778. doi: 10.1111/j.1467-9566.2009.01178.x.

Centor, R. M. (2007). To be a great physician, you must understand the whole story. *MedGenMed : Medscape general medicine*. ©2007 Medscape, 9(1), p. 59.

Charon, R. (2001). Narrative Medicine A Model for Empathy, Reflection, Profession, and Trust. *Jama*, 286(15), p. 1897. doi: 10.1001/jama.296.21.2622.

Charon, R. (2011). Narrative Medicine: A Model for Empathy, Reflection, Profession, and Trust. *October*, 286(15), 1897-1902. doi: 10.1001/jama.286.15.1897.

Charon, R. (2012). At the membranes of care: Stories in narrative medicine. *Academic medicine.*, 87(3), 342-347. doi: 10.1097/ACM0b013e3182446fbb.

Fallowfield, L. and Jenkins, V. (1999). Effective communication skills are the key to good cancer care. *European Journal of Cancer*, 35(11), 1592-1597. doi: 10.1016/S0959-8049(99)00212-9.

Lazare, a (1987). Shame and humiliation in the medical encounter. *Archives of internal medicine*, 147(9), 1653-1658. doi: 10.1001/archinte.1987.00370090129021.

Mauksch, L. B., Dugdale, D. C., Dodson, S. and Epstein, R. (2008). Relationship, Communication, and Efficiency in the Medical Encounter: Creating a Clinical Model From a Literature Review. *Archives of internal medicine*, 168(13), p. 1387. doi: 10.1001/archinte.168.13.1387.

Meakins, J. L. (2003). Medical professionalism in the new millenium. *Journal of the American College of Surgeons*, 196(1), 113-4.

Medical Professionalism in the New Millennium: A Physician Charter (2005). *Annals of Internal Medicine*, 136(3), p. 243. doi: 10.7326/0003-4819-136-3-200202050-00012.

Nussbaum, A. M. (2016). *The Finest Traditions of My Calling: One Physician's Search for the Renewal of Medicine*. Yale University Press.

Roter, D. L., Hall, J. A. and Katz, N. R. (1988) Patient-physician communication: A descriptive summary of the literature. *Patient Education and Counseling*, 12(2), 99-119. doi: 10.1016/0738-3991(88)90057-2.

Schiavo, R. (2007) *Health Communication: From Theory to Practice*, *Jossey-Bass*. doi: 10.3163/1536-5050.96.1.72.

Schleifer, R. and Vannatta, J. B. (2013). *The Chief Concern of Medicine. The Integration of the Medical Humanities and Narrative Knowledge into Medical Practices*, Michigan Publishing: University of Michigan Press.

Stiefel, F. and Krenz, S. (2013). *New Challenges in Communication with Cancer Patients*, *New Challenges in Communication with Cancer Patients*. doi: 10.1007/978-1-4614-3369-9

Swanwick, T., Education, A. for the S. of M. and Ebrary, I. (2010). *Understanding medical education: evidence, theory, and practice*, Chichester: Wiley-Blackwell.

Wright, E. B. (2004). Doctors' communication of trust, care, and respect in breast cancer: qualitative study. *Bmj*, 328(7444), 864-0. doi: 10.1136/bmj.38046.771308.7C.

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ORIGINAL PAPER

10th/ 11th of February 1938 in Interwar Romanian Politics: an *Almighty* King and a Political Class on its Knees

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Abstract:
The paper presents the internal context that led to the establishment of the authoritarian regime and also describe the unfolding of the events of February 10th/ 11th, 1938. It is also analyzed the plan for establishing the regime and, at the same time, the way that the King Carol II positioned at that moment on the Romanian political scene. Another purpose of the research is to identify the relation between the King and the Romanian political class and to observe the manner in which the Sovereign has capitalized on the authoritarian position that the new regime has offered him.

Keywords: *King Carol II; political class; coup d'état; authoritarian regime; Council of Ministers.*

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Introduction

The monarchical authoritarian regime established on the 10th/11th of February, 1938, although lasted for a short period of time – just over two years, until September 1940 – had a deep political significance. Thus, the actions undertaken in February 1938 by King Carol II put an end to that period of interwar Romanian democracy, during which, despite various shortcomings that can be mentioned, Romania experienced a democratic regime. From the perspective of Great Romania, this is the only period that can be seen as a landmark of Romanian democracy until what followed after December 1989. One should not forget that the authoritarian monarchy, viewed at a historical scale, was the first of the undemocratic stages which Romania experienced successively over the next 5 decades. After the abdication of Sovereign Carol II, the Antonescu regime followed and, after some preliminary stages, the communist regime was established.

Thus, a simple calculus shows that the last one hundred years of Romanian history were divided in approximately equal proportions between the democratic and the undemocratic regimes, for which reason I consider very important to study and to understand this regime of the authoritarian monarchy, as well as the dictatorial periods that followed it.

In my opinion, the understanding of the Romanian non-democratic periods is essential, because it allows us to have a pertinent opinion on the Romanian political culture and, more importantly, a clearer picture of how politicians and common people perceive politics and how should they make things happen on the political stage. In other words, studying and analyzing the mechanisms and essential aspects of undemocratic regimes, facilitate the understanding of the way in which, in democratic times, politicians and populations, whose mentality was created during undemocratic periods or at least influenced by those periods, understand to act or relate with the political plan.

The context of establishing the monarchical authoritarian regime

Although I will not insist on depicting the external plan, there must be pointed out some essential aspects that characterized the period between the two World Wars, aspects that influenced to a great extent what happened in Romania between 1938 and 1940. Thus, the interwar period, although it was characterized by a relative stability for Europe, represented, at the same time, the period in which the extremist left and right (Communism and, respectively, Fascism and Nazism) were developed and strengthened. Towards the end of the interwar period, there were already two extremely powerful totalitarian regimes in Europe that manifested their expansionist intentions in an ostentatious manner. In the 1930s, there was a significant increase in the undemocratic actions taken by influential political leaders; it was therefore created a climate of uncertainty that led to the emergence of authoritarian and dictatorial regimes in most European countries (Nolte, 2005; Cîrstea and Buzatu, 2007; Berstein and Milza, 1998).

Returning to the internal plan, the prerequisites for the establishment of a new regime were primarily created by the outcome of the December 1937 elections; at that moment, for the first time in the interwar legislative elections, none of the political parties participating in the elections had reached the 40% threshold, in order to benefit of the first majority and, thus, to form a parliamentary majority (*Official Gazette* no. 301 from December 30th, 1937; Carol II, 2001: 132; Preda, 2011: 168). The direct consequence was that none of the parties was entitled to ask to be the leader of the executive branch (Mamina and Scurtu, 1996: 122).

This result allowed King Carol II to appoint Octavian Goga as the head of the Government; Goga was the leader of the Christian National Party, the party ranked fourth in the elections, with only 9,15% of the votes. The Monarch's plan – as he himself stated in his diary – was to replace the Council of Ministers, after a short period of time, as the new cabinet did not have any legitimacy to lead. About the Government led by Goga, the Sovereign wrote in his daily notes: "[...] it cannot be a long-lasting one, and, after that, I will be free to take more forceful measures, measures that will unleash both the country and me from the unpatriotic tyranny of the sneaky party interests" (Carol II, 2001: 134).

Without detailing the composition of the new Government headed by Octavian Goga, it should be specified that Armand Călinescu was appointed in the new Council of Ministers in a key ministry, namely the Ministry of Interior. Why can this be important? Because, as one will see, Călinescu had become one of the King's trustworthy men (Carol II, 2001: 135; Călinescu, 1990: 364, 366) and, at the same time, he was one of the most important supporters of the Sovereign's desire to move towards an authoritarian government.

According to the practice of the interwar period, after the appointment of a new government, legislative elections were to be held; thus, on January 18th, 1938, by his royal decree, Carol dissolved the parliament just before its first meeting and, at the same time, he set the dates for the next parliamentary elections – March 2nd for the Chamber of Deputies and March 4th-6th for the Senate (Argetoianu, 2002: 42; Preda, 2011: 170). As a result, less than a month after the end of the previous elections (December 1937), a new electoral campaign started in late January and proved to be even more intense than the previous one. In this new electoral campaign, which obviously did not bring stability, but even stirred the spirits, there were numerous acts of verbal and physical violence (Argetoianu, 2002: 63, 92).

In order to complete the overall picture of the context for establishing the authoritarian regime and understanding how precarious the internal situation became, it is necessary to recall three other essential aspects: the situation inside the Government, the slight repositioning of the parties on the political scene and the international reactions to coming to power of an extreme right party in Romania.

Regarding the Government, there were major dissensions within it, a situation that was far from effective collaboration; three groups could be identified within the Cabinet: the group around the President of the Council of Ministers, Octavian Goga, a group that had its own vision of the anti-Semitic measures the Government had to take, obviously formed around the professor A.C. Cuza and, last but not least, the national peasant group around Armand Călinescu (Argetoianu, 2002: 10). The latter was the one who was leading the Ministry of Interior and the one who was only responsible for orders coming directly from the King. Paradoxically, this has led, in the context of the electoral campaign, to repressive actions of the police against the representatives of the National Christian Party – the Government leading party (Scurtu and Buzatu, 1999: 335). The divergences within the Council of Ministers were notorious in the era, Constantin Argetoianu calling them as *the three roses war*, alluding to the three groups mentioned above (Argetoianu, 2002: 10).

Regarding the repositioning on the political scene, I would like to underline a sensible tendency of regrouping, as it was the reunification of the National Liberal Party by the union of NLP led by Constantine I.C. Brătianu with NLP headed by Gheorghe Brătianu (Scurtu, 1983: 393). As far as the National Peasant Party is concerned, there

were some discussions of "rebuilding" the party by uniting it with the Romanian Front, a political party led by one of the former NPP presidents, namely Alexandru Vaida Voevod; the reluctance of Vaida Voevod prevented the unification (Călinescu, 1990: 365; 367). Another example in the direction of regrouping on the political stage was represented by the discussions on creating a *constitutional block*, but the negotiations among Gheorghe Brătianu, Iuliu Maniu, Alexandru Averescu and Grigore Iunian, did not materialize (Scurtu and Buzatu, 1999: 337).

A different repositioning can be seen with regard to the two largest parties on the Romanian political scene, namely the National Liberal Party and the National Peasant Party. Thus, both parties declared to be against the Legionary Movement; this situation resulted in an improvement in the relations between the two political groups (Scurtu, 1983: 393-394). It is worth mentioning that, after a long period, both were at the time in opposition. Moreover, after the discussions between the leaders of the two parties a possible collaboration was in sight; this collaboration had as a starting point the desire to maintain the democratic regime and, externally, to respect the traditional alliances of Romania (Scurtu and Buzatu, 1999: 337).

Concerning NPP, it is worth mentioning the exclusion of the centrist group, consisting of Armand Călinescu, Virgil Potârcă, Vasile Rădulescu-Mehedinţi and Dinu Simian; the explanation of their exclusion is that they had accepted the Monarch's offer to enter the Government led by Octavian Goga (Chivulescu, 1998: 72-79).

Regarding the Legionary Movement, it is important to underline the refusal of the representatives of this political party to continue their collaboration with NPP (Scurtu, 1983: 394), a collaboration that took place during the electoral campaign from December 1937, on the basis of the Non-Aggression Pact, signed between Iuliu Maniu and Corneliu Zelea Codreanu (Scurtu and Otu, 2003: 374). In the meantime, the Legionnaires undertook actions aimed at suggesting a takeover of power in the near future by the Iron Guard; these actions included the setting up of a commission for the development of a new constitution and the establishment of schools for mayors and prefects (Țurlea, 2001: 27).

Various tensions were recorded within the governing party – the National Christian Party (Călinescu, 1990: 366). One of the main reasons for the dispute was that NCP had been formed by joining the National Christian Defence League (the leader of which was Professor A.C. Cuza) and the National Agrarian Party (led by Octavian Goga). The merger had been a formal one in many counties, which led to even violent conflicts between the Goga and Cuza groups, the main factor determining the tensions being the division of administrative positions (Scurtu and Buzatu, 1999: 335).

Concerning the international reaction, it should be noted that both politicians and the Western press, especially those in London and Paris, were worried about the establishment of a new Government in Romania led by a party with an extreme right-wing orientation (Călinescu, 1990: 365).

To those reluctances coming from outside, Sovereign Carol responded by ensuring on maintaining the country's foreign policy, faithful to Great Britain and France. In this respect, for example, Istrate Micescu was appointed as head of Foreign Ministries. He attended the university courses in Paris, being a law graduate and a law doctor in Paris. At the time of taking over the Foreign Ministry, Istrate Micescu was a professor at the Faculty of Law in Bucharest, Carol calling him "the smartest of all", referring to the members of the Government (Carol, 2001: 135).

The plan and the preparations for regime change

The accentuation of the internal contradictions, on the one hand, worried the Western democracies, and on the other hand, concerned the population, which seemed to expect an action meant to stop the aggravation of the Romanian political scene and the numerous acts of violence recorded within the new electoral campaign.

It was, apparently, exactly the atmosphere that King Carol wanted; moreover, in that context, he chose to play the saviour's role. It is important to keep in mind that the plan for the events from February – March 1938 was drawn by Armand Călinescu. He was truly the man behind the scene of the authoritarian regime; he was, in fact, the mastermind that elaborated the strategy under which the authoritarian regime was to be imposed. The sovereign chose to take into account Călinescu's opinions, because he began to trust him and he appreciated the clarity and the efficiency with which Călinescu managed to transpose his authoritarian ideas in the form of concrete solutions.

A detailing of that plan can be found in Călinescu's journal in which he reports the audience to the King he had on January 31st, 1938. To observe the defining role played by Armand Călinescu, I will mention some of the proposals that he exposed to the Sovereign during the meeting, ideas that will be found transposed into practice, point by point, in the immediate future. Călinescu spoke initially about the decline of political parties, considering them unable to manage the internal political situation and qualifying them as "true associations of speculating the benefits of the power". The Interior Minister continued by emphasizing the anarchy of the electorate, the serious situation in which the country was found and the role of the sovereign as arbitrator.

After the bleak radiography he made on the political situation, Armand Călinescu finally came to present the possible solutions. Thus, he considered it necessary to change the constitution, but to maintain the individual rights and the parliamentary regime (Călinescu, 1990: 372). According to the Interior Minister's view, the constitution was to be subjected to a plebiscite, and with the changes introduced, a government with enlarged powers would be established, a government that can no longer be changed by the Parliament. At the same time, he proposed that a strong personality should be brought to the leading of that Council of Ministers. The King was supposed to be the only decision maker within the state and a proposed solution was the outlaw the political parties (Călinescu, 1990: 372-373).

The plan proposed by Armand Călinescu was finalized the next days and on February, 9th, the small team proposed for implementing the plan organized a meeting. This group was led by the Sovereign, who brought his trusted man, Ernest Urdareanu, at that time Administrator of the King's Domains; they were joined by Armand Călinescu and Gheorghe Tătărescu (Călinescu, 1990: 377). The last two were the leaders of the young generation of each of the two major Romanian parties, NPP and NLP.

10th/11th of Februarie, 1938: the unfolding of the events

In order to establish a new regime that would have given him even more freedom regarding the decision making process, the Monarch had theoretically two solutions: either he would give a coup d'état and impose by force his plan, or he would try to persuade the political leaders to join him in order to give to the public the impression of a consensus regarding the change of the political regime. The solution chosen by Carol II did not fit perfectly into any of the two scenarios.

Realizing that he could not implement the plan to establish a personal regime by force without arousing reactions of disapproval from both the population and the political class, the King sought to obtain the approval of as many politicians as possible for his political project. An important aspect of the internal context, capitalized by the Sovereign, was the division of the political class, which led to the emergence of two political blocks at the end of 1937 – the pro-carlist and the anti-carlist one (Chistol, 2007: 601; Ilie, 2018: 83-84).

Helped by the precarious internal situation and showing political ability, the King managed to choose the most favourable solution for himself. Thus, without resorting to violent alternatives and at the same time without accepting any deals with the politicians – deals that could have compromised his initial plan – the Sovereign managed to persuade most of the personalities consulted to join him in the attempt to impose his authoritarian ideas. It should be noticed that the lack of cohesion of the Romanian political class has turned Romanian political parties and their leaders into an easy prey for the dominant King, who used them as puzzle pieces, each having its own role in legitimizing the royal actions.

Regarding the unfolding of the events, the February 10th, 1938, was a busy day, with the Sovereign discussing with most of the former presidents of the Council of Ministers and most of the leaders of the major political parties. Regarding the leaders of the two large political parties, they had different views on approving Sovereign's ideas. If both C.I.C. Brătianu and Iuliu Maniu refused to participate personally as part of the new governmental team, regarding the participation of the members of the political groups they were leading in forming the Council of Ministers, the opinions were different. Thus, the president of NLP agreed to the accession of Gheorghe Tătărescu and other national liberals to the government, while the president of the NPP said he would not support the presence of national peasants within the Council of Ministers; the latter, however, said he would not try endanger the King's plans (Scurtu and Otu, 2003: 385; Mușat and Ardeleanu, 1988: 792). The major resemblance was thus that the two political leaders positioned neutrally, by actions and affirmations; none of the two were at that moment ready to criticize or oppose to the actions of the Sovereign. The only political leader that did not take part at the negotiations was Corneliu Zelea Codreanu, whose opinion was not requested since at that time he was the fiercest opponent of the King (Călinescu, 1990: 372).

Following those prior discussions that the Monarch had with some of the country's major political leaders about his intentions (Argetoianu, 2002: 119-121), Carol II invited at the Royal Palace, the politicians who were to be part of the future Government, on the evening of February, 10th (Argetoianu, 2002: 120).

In short, the team formed by the Sovereign had three essential components, the overall intention being to create a government that the public opinion will accept and even support. The three major components were: the President of the Council of Ministers, position where a prestigious person had to be placed; the group of the state secretaries without a specific portfolio in which former Prime Ministers entered, and last but not least, ministers with portfolio; those last positions were filled by well known politicians that the Sovereign accepted at the end of the negotiations with the party leaders.

The first move regarding the establishment of the new Government was to put the Council of Ministers under the leadership of Patriarch Miron Cristea. He was a respected personality in Romania and he was involved in the events that led to the union

from 1918. Miron Cristea was also elected as the first patriarch of the the Romanian Orthodox Church in 1925, in a country that was overwhelmingly Orthodox Christian (Nedelea, 1991: 145-150). For the patriarch this was not the first attempt to enter Romanian politics; during the period 1927-1930, he was one of the tree regents in charge with leading Romania. From the perspective of the King's plans, Miron Cristea's anti-Semitic position was another advantage.

In order to strengthen the approval from the political leaders, the Government also included ministers without portfolio – the title used was that of *state secretaries*. Those positions were occupied by former Prime Ministers: Constantin Angelescu, Gheorghe Tătărescu, Arthur Văitoianu, G.G. Mironescu, Alexandru Vaida Voevod, Alexandru Averescu and Nicolae Iorga (Argetoianu, 2002: 121; Mamina, 1997: 163). From the list of former Prime Ministers, only three of them did not join the new Government – Iuliu Maniu and Octavian Goga, who did not accept King's proposal and Barbu Ştirbey, who was not invited because of Sovereign's personal reasons (Scurtu and Buzatu, 1999: 344).

That group of state secretaries without portfolio was named by Carol as the Patronage Committee, as the King mentioned in his daily notes, inside that committee, Gheorghe Tătărescu proved to be the person that Carol was relying on. At the same time, the King's trustworthy man in the Government continued to be Armand Călinescu (Călinescu, 1990: 377).

"The Labor Government" – as Argetoianu called it (Argetoianu, 2002: 118) – had the following members: Armand Călinescu – Ministry of Interior, Gheorghe Tătărescu – Ministry of Foreign Affairs (interim), Mircea Cancicov – Ministry of Finance and interim at the Ministry of Justice, Victor Iamandi – Ministry of National Education and interim at the Ministry of Cults and Arts, General Ion Antonescu at the Ministry of National Defense and interim at the Ministry of Air and Marine, Gheorghe Ionescu-Sisesti – Ministry of Agriculture, Domeins and Cooperatives, Constantin Argetoianu – Ministry of Industry and Trade, Constantin Angelescu – Minister of Public Works and Communications, Voicu Niţescu – Ministry of Labor and Dr. Ion Costinescu – Ministry of Labor, Health and Social Welfare (Scurtu and Otu, 2003: 782).

After the establishment of the new Council of Ministers and the finalization of the declaration that the Monarch was to address to the country in the attempt to justify his decisions (Argetoianu, 2002: 123-124), for maintaining the order in the state, special actions were taken. The most important document in this respect was the law-decree through which the siege was introduced (*Official Gazette* no. 34 from February 11th, 1938). According to this document, all that was related to the maintenance of public order and state security passed into the hands of the military authorities; it was stated that the Ministry of Interior, a minister under the direction of Armand Călinescu, was the one supervising the police actions and also ensuring the general safety. Thus was stated that the military authorities had the right to search "wherever and whenever it will be require". Censorship of the press and any publications was instituted; at the same time, meetings of any kind were forbidden.

In order to have the entire country under control and at the same time to prevent possible negative reactions from the population, during the night between 10th and 11th of February, was decided that the prefects of counties would be replaced with senior officers (*Official Gazette* no. 34 from February 11th, 1938). The reason is easy to understand, since among the leaders of the Romanian Army Carol II not only had officials who were devoted to the Crown but also a real support given by the army

leaders since his return to the country in June 1930 and manifested throughout all his reign.

Thinking perhaps that problems might arise if elections were held, the Monarch also decided to revoke the elections (*Official Gazette*, no. 35 from February 12th, 1938). The situation of the legislative power became clear: the parliament emerged after the elections held in December 1937, as we mentioned earlier, had been dissolved and the organization of the new elections was cancelled (Ghițulescu, 2015: 212). Thus, taking the representatives of the legislative power out of the scene, the Sovereign could concentrate only on controlling the executive forum.

Reactions regarding the events from 10th/ 11th of February 1938

As far as the political leaders were concerned, they did not hurry to take action against Carol II's decisions; moreover they approved the Sovereign's authoritarian plans, showing that they were willing to collaborate within the Government established by the King. It is important to note that the political class not only lacked the necessary cohesion to act as a whole and to form a strong legislative power, but more precisely those politicians whose main mission was to legitimate the democratic parliamentary system and thus to limit the authoritarian tendencies of the executive branch, namely those chose to join the Monarch's political team and support his authoritarian plans.

Regarding the approval that the King received from the political class in the establishment of the new regime, I would like to note that a simple calculus of the results of the December 1937 elections shows that the political parties supporting Carol II represented, best case scenarios, less than half of Romanians' votes. The two political leaders Iuliu Maniu and Corneliu Zelea Codreanu and hence two political parties NPP and the Legionary Movement obtained 35,92% and respectively 15,58%, thus together more than 50% of the votes. We can conclude that the two political leaders were speaking in behave of more than 50% of the voters when they were expressing their opposition regarding the authoritarian regime of the Monarch.

The two were the only political leaders that challenge the establishment of the new regime. Thus, if initially Iuliu Maniu stated that he would not oppose the royal plans, shortly after, he manifested his disapproval regarding the King's decisions through a speech held in front of his party members and also trough a letter he addressed to the Patriarch Miron Cristea (National Archives of Romania, Fund Inspectoratul General al Jandarmeriei, file no. 6/1938, p. 20-21). Corneliu Zelea Codreanu positioned himself also against the new regime, but realizing that the new political context was not at all favourable, on February 21st announced the dissolution of the party he was leading – "Everything for the Country".

Regarding how the population perceived the change of the political regime, the limited information available in this regard proved that the events of February 10th, 1938 did not determined vehement reactions among citizens. For the common people those decisions were meant to put an end to the political instability registered since 1937. Thus the population expressed the hope that the rather poor internal situation would improve and the aggravation on the political scene will diminish.

One of the main actions of the Government was to develop a new constitution, subjected to a plebiscite (Constantinescu, 1973: 412) and adopted on 27th of February; this fundamental law had the role of legislating King's actions. Another important decision, that paradoxically struck the political class – which had not only claimed it but actually helped Carol II to establish the new regime – was to outlaw the political parties

trough the law-decree from March 30th, 1938 (*Official Gazette* no. 75 from March 31st, 1938).

The year 1938 thus appears to be an extremely favourable one for the Sovereign, who become the only one in charge of the decision-making process. Carol II, together with the political team gathered around him, managed to implement the authoritarian plans and at the same time annihilate the actions of the so-called opposition.

Conclusions

In my opinion, a better plan to impose Carol II's authoritarian ideas could not have been outlined. Thus, with the proposed cabinet, where politicians of various political colors entered, except the two mentioned before, Iuliu Maniu and Corneliu Zelea Codreanu, the King succeeded in obtaining the support of the political leaders and formally of the political parties lead by them. In other words, many of the Romanian political leaders put "their signatures" on the act of the coup d'état orchestrated by the Monarch. From this point of view, it is essentially to observe the political abilities that Carol II showed in February 1938.

Because in February 1938 the Monarch did not exclude the leaders of the political parties from the plan he wanted to impose, it is the reason why I chose to put in the title that the political class was *brought on its knees* and not that it was *defeated*. Moreover, those leaders became the main support that King Carol II had in the early 1938. As it was previously mentioned, the second allied for the Sovereign was represented by the army through which he managed to control the situation in the whole country.

Recalling the proposed wording of the title, that the King was *almighty* and the political class was *on its knees*, February 10th/11th truly represents a moment of utmost domination of the Sovereign who became a very powerful leader and who succeeded to subordinate a large number of politicians; excluding Iuliu Maniu and Corneliu Zelea Codreanu, the rest of the relevant political leaders, and implicitly the parties led by them, gave their consent to the Monarch to impose the authoritarian regime.

In conclusion, wishing to speculate the difficult situation existing at the European level, which among the Romanian population produced, if not panic, at least worry, Carol II decided to undertake the power and to become de only leader of the country. Helped by the disorganization and conflicts within the political class, the Sovereign even attempted to pose as the saviour of the Romanian nation. Either he did not took into account the possibility of a failure of his plans, or simply chose to ignore the possible negative results of his actions, it is certain that the Monarch, by monopolizing the state power, assumed a huge responsibility. In violation of the principle of the balance between privileges and obligations, Carol II put himself in the precarious position of becoming the main person responsible of possible failures. The outcome was not a good one for the King who, as we know, in September 1940 paid with his throne the decisions he made.

References:

Argetoianu, C. (2002). *Însemnări zilnice*, 4th volume: 1 ianuarie – 30 iunie 1938, edited by Stelian Neagoe, Bucharest: Machiavelli Publishing House.

Berstein, S. and Milza, P. (1998). *Istoria Europei*, 5th volume: *Secolul XX (din 1919 până în zilele noastre)*, Iași: Institutul European Publishing House.

Buzatu, G. and Cîrstea, M. (2007). *Europa în balanța forțelor 1919-1939*, Bucharest: Mica Valahie Publishing House.

Carol II (2001). *Însemnări zilnice. 1937-1951*, 1st volume, 11 martie 1937 – 4 septembrie1938 (Caietele 1-6), edited by Viorica Moisuc, Nicolae Rauș, introduction by Ioan Scurtu, Bucharest: Scripta Publishing House.

Călinescu, A. (1990). *Însemnări politice 1916-1939*, edited by A. G. Savu, Bucharest: Humanitas Publishing House.

Chistol, A. (2007). *România în anii guvernării liberale Gheorghe Tătărescu (1934-1937)*, Târgoviște: Cetatea de Scaun Publishing.

Chivulescu, N. (1998). *Armand Călinescu, om de stat și conducător de țară*, Bucharest: Lucman Publishing House.

Constantinescu, I. (1973). *Din însemnările unui fost reporter parlamentar. Camera deputaţilor 1919-1939 (note şi memorii)*, Bucharest: Politică Publishing House.

Ghiţulescu, M. (2015). *Domnie şi guvernare: Organizarea şi funcţionarea instituţiei guvernului României (1866-1940)*, Craiova: Aius Publishing House.

Ilie, M. (2018). The game of power: King Carol II and the political parties at the end of the year 1937 in *Analele Universității din Craiova*, History, year XXIII, no. 1(33), pp. 77-86, Craiova: Universitaria Publishing House.

Mamina, I. (1997). *Consilii de Coroană*, Bucharest: Enciclopedică Publishing House.

Mușat, M. and Ardeleanu, I. (1988). *România după Marea Unire*, 2nd volume, 2nd part, *noiembrie 1933 – septembrie 1940*, Bucharest: Științifică și Enciclopedică Publishing

National Archives of Romania, Fund Inspectoratul General al Jandarmeriei, file no. 6/1938.

Nedelea, M. (1991). *Prim-miniștrii României Mari. Ideile politice*, Bucharest: Viața Românească Publishing.

Nolte, E. (2005). *Războiul civil european 1917-1945. Naționl socialism și bolșevism*, itroduction by Florin Constantiniu, translated by Irina Cristea, Bucharest: Runa Publishing – Corint Publishing Grup.

Official Gazette no. 301 from December 30th, 1937.

Official Gazette no. 34 from February 11th, 1938.

Official Gazette no. 35 from February 12th, 1938.

Official Gazette no. 75 from March 31st, 1938.

Preda, C. (2011). *Rumâni fericiți. Vot și putere de la 1831 până în prezent*, Iași: Polirom Publishing House.

Scurtu, I. (1983). *Din viața politică a României (1926 – 1947), Studiu critic privind istoria Partidului Național Țărănesc*, Bucharest: Științifică și Enciclopedică Publishing.

Scurtu, I. and Buzatu, G. (1999). *Istoria românilor în secolul XX*, Bucharest: Paideia Publishing House.

Scurtu, I. and Mamina, I. (1996). Guverne și guvernanți (1916 – 1938). Bucharest: Silex Publishing House.

Scurtu, I. and Otu, P. (coord) (2003). *Istoria românilor, România Întregită (1918 -1940)*, 8th volume, Bucharest: Enciclopedică Publishing.

Țurlea, P. (2001). *Nicolae Iorga între dicatura regală și dictatura legionară*, Bucharest: Enciclopedică Publishing.

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CEPOS NEW CALL FOR PAPERS 2019
9TH INTERNATIONAL CONFERENCE AFTER COMMUNISM. EAST AND WEST UNDER SCRUTINY

Craiova (Romania), House of the University,
29-30 March 2019

Dear Colleagues,

We are delighted to invite you to participate in the 9th International Conference AFTER COMMUNISM. EAST AND WEST UNDER SCRUTINY in Craiova, Romania, 29-30 March 2019. More than two decades after, an event is both history and present. The annual conference organized by CEPOS involves both the perspectives of the researches in the field of Communism and Post-Communism: research experiences and scientific knowledge. Like a "pointing puzzle", 30 years after the fall of communism, the conference panels explore emotional detachments, but also a peculiar involvement creating and exploiting the inter-disciplinary developments of the East-West relations before and after the crucial year 1989 in the fields such as: political sciences, history, economics and law. The conference will be hosted by the University House and during two intense and exciting days, participants all over the world (professors, professionals, doctoral and post-doctoral researchers) are invited to raise the issue of the study of recent history of the former communist space in connection with the Western world. We are confident that all of us will focus during these two days on what is important to move the research in the field forward. We dear to state that we even bear the moral obligation to do that.

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Biblioteca Electronica de Ciencia y Technologia
http://www.biblioteca.mincyt.gob.ar/revistas/index?subarea=148&area=34&gran_area=5&browseType=discipline&Journals_page=17

University of Huddersfield UK
http://library.hud.ac.uk/summon/360list.html

Saarlandische Universitats-und lasdesbibliotek Germany
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http://innoserv.library.drexel.edu:2082/search~S9?/aUniversitatea+%22Babe%7Bu0219%7D-Bolyai.%22/auniversitatea+babes+bolyai/-3%2C-

1%2C0%2CB/marc&FF=auniversitatea+din+craiova+catedra+de+stiinte+politice&1%2C1%2C

Impact Factor Poland
http://impactfactor.pl/czasopisma/21722-revista-de-stiinte-politice-revue-des-sciences-politiques

Pol-index
http://catalogue.univ-angers.fr/OPD01/86/61/40/00/OPD01.000458661.html

ILAN University Library
http://muse.niu.edu.tw:8080/1cate/?rft_val_fmt=publisher&pubid=ucvpress&set.user.locale=en_US

Dowling College Library
http://wwwx.dowling.edu/library/journaldb/keyword4.asp?jname=revista

Universite Laval
http://sfx.bibl.ulaval.ca:9003/sfx_local?url_ver=Z39.88-2004&url_ctx_fmt=info:ofi/fmt:kev:mtx:ctx&ctx_enc=info:ofi/enc:UTF-8&ctx_ver=Z39.88-2004&rfr_id=info:sid/sfxit.com:azlist&sfx.ignore_date_threshold=1&rft.object_id=1000000000726583&rft.object_portfolio_id=&svc.fulltext=yes

For more details about the past issues and international abstracting and indexing, please visit the journal website at the following address:

http://cis01.central.ucv.ro/revistadestiintepolitice/acces.php.

CONFERENCE INTERNATIONAL INDEXING OF THE PAST EDITIONS (2014-2018)

CEPOS Conference 2018

The Eighth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 23-24 March 2018) was evaluated and accepted for indexing in 15 international databases, catalogues and NGO's databases:

Conference Alerts, https://conferencealerts.com/show-event?id=186626
Sciencesdz, http://www.sciencedz.net/conference/29484-8th-international-conference-after-communism-east-and-west-under-scrutiny
ManuscriptLink, https://manuscriptlink.com/cfp/detail?cfpId=AYAXKVAR46277063&type=event
Maspolitiques,http://www.maspolitiques.com/ar/index.php/en/1154-8th-international-conference-after-communism-east-and-west-under-scrutiny
Aconf, https://www.aconf.org/conf_112399.html
Call4paper,https://call4paper.com/listByCity?type=event&city=3025&count=count
Eventegg, https://eventegg.com/cepos/

10 times, https://10times.com/after-communism-east-and-west-under-scrutiny
Biblioteca de Sociologie, http://bibliotecadesociologie.ro/cfp-cepos-after-communism-east-and-west-under-scrutiny-craiova-2018/
Science Research Association http://www.scirea.org/topiclisting?conferenceTopicId=5
ResearcherBook http://researcherbook.com/country/Romania
Conference Search Net, http://conferencesearch.net/en/29484-8th-international-conference-after-communism-east-and-west-under-scrutiny
SchoolandCollegeListings, https://www.schoolandcollegelistings.com/RO/Craiova/485957361454074/Center-of-Post-Communist-Political-Studies-CEPOS
Vepub conference, http://www.vepub.com/conferences-view/8th-International-Conference-After-Communism.-East-and-West-under-Scrutiny/bC9aUE5rcHN0ZmpkYU9nTHJzUkRmdz09/
Geopolitika Hungary, http://www.geopolitika.hu/event/8th-international-conference-after-communism-east-and-west-under-scrutiny/

CEPOS Conference 2017

The Seventh International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 24-25March 2017) was evaluated and accepted for indexing in 10 international databases, catalogues and NGO's databases:
Ethic & International Affairs (Carnegie Council), Cambridge University Press-https://www.ethicsandinternationalaffairs.org/2016/upcoming-conferences-interest-2016-2017/
ELSEVIER GLOBAL EVENTS LIST http://www.globaleventslist.elsevier.com/events/2017/03/7th-international-conference-after-communism-east-and-west-under-scrutiny
CONFERENCE ALERTS-http://www.conferencealerts.com/show-event?id=171792
10TIMES.COM-http://10times.com/after-communism-east-and-west-under-scrutiny
Hiway Conference Discovery System-http://www.hicds.cn/meeting/detail/45826124
Geopolitika (Hungary)-http://www.geopolitika.hu/event/7th-international-conference-after-communism-east-and-west-under-scrutiny/
Academic.net-http://www.academic.net/show-24-4103-1.html
World University Directory-http://www.worlduniversitydirectory.com/conferencedetail.php?AgentID=2001769
Science Research Association-http://www.scirea.org/conferenceinfo?conferenceId=35290
Science Social Community-https://www.science-community.org/ru/node/174892

CEPOS Conference 2016

The Sixth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 8-9 April 2016) was evaluated and accepted for indexing in the following international databases, catalogues and NGO's databases:

ELSEVIER GLOBAL EVENTS-http://www.globaleventslist.elsevier.com/events/2016/04/6th-international-conference-after-communism-east-and-west-under-scrutiny/
Oxford Journals – Oxford Journal of Church & State-http://jcs.oxfordjournals.org/content/early/2016/02/06/jcs.csv121.extract
Conference Alerts-http://www.conferencealerts.com/country-listing?country=Romania
Conferences-In - http://conferences-in.com/conference/romania/2016/economics/6th-international-conference-after-communism-east-and-west-under-scrutiny/
Socmag.net - http://www.socmag.net/?p=1562
African Journal of Political Sciences-http://www.maspolitiques.com/mas/index.php?option=com_content&view=article&id=450:-securiteee-&catid=2:2010-12-09-22-47-00&Itemid=4#.VjUI5PnhCUk
Researchgate-https://www.researchgate.net/publication/283151988_Call_for_Papers_6TH_International_Conference_After_Communism._East_and_West_under_Scrutiny_8-9_April_2016_Craiova_Romania
World Conference Alerts-http://www.worldconferencealerts.com/ConferenceDetail.php?EVENT=WLD1442
Edu events-http://eduevents.eu/listings/6th-international-conference-after-communism-east-and-west-under-scrutiny/
Esocsci.org-http://www.esocsci.org.nz/events/list/
Sciencedz.net-http://www.sciencedz.net/index.php?topic=events&page=53
Science-community.org-http://www.science-community.org/ru/node/164404/?did=070216

CEPOS Conference 2015

The Fifth International Conference After Communism. East and West under Scrutiny (Craiova, House of the University, 24-25 April 2015) was evaluated and accepted for indexing in 15 international databases, catalogues and NGO's databases:

THE ATLANTIC COUNCIL OF CANADA, CANADA-http://natocouncil.ca/events/international-conferences/
ELSEVIER GLOBAL EVENTS LIST-http://www.globaleventslist.elsevier.com/events/2015/04/fifth-international-conf
GCONFERENCE.NET-http://www.gconference.net/eng/conference_view.html?no=47485&catalog=1&cata=018&co_kind=&co_type=&pageno=1&conf_cata=01
CONFERENCE BIOXBIO-http://conference.bioxbio.com/location/romania
10 TIMES-http://10times.com/romania
CONFERENCE ALERTS-http://www.conferencealerts.com/country-listing?country=Romania
http://www.iem.ro/orizont2020/wp-content/uploads/2014/12/lista-3-conferinte-internationale.pdf
http://sdil.ac.ir/index.aspx?pid=99&articleid=62893
NATIONAL SYMPOSIUM-http://www.nationalsymposium.com/communism.php

SCIENCE DZ-http://www.sciencedz.net/conference/6443-fifth-international-conference-after-communism-east-and-west-under-scrutiny
ARCHIVE COM-http://archive-com.com/com/c/conferencealerts.com/2014-12-01_5014609_70/Rome_15th_International_Academic_Conference_The_IISES/
CONFERENCE WORLD-http://conferencesworld.com/higher-education/
KNOW A CONFERENCE KNOW A CONFERENCE-http://knowaconference.com/social-work/
International Journal on New Trends in Education and Their Implications (IJONTE) Turkey http://www.ijonte.org/?pnum=15&
Journal of Research in Education and Teaching Turkey-http://www.jret.org/?pnum=13&pt=Kongre+ve+Sempozyum
CEPOS CONFERENCE 2015 is part of a "consolidated list of all international and Canadian conferences taking place pertaining to international relations, politics, trade, energy and sustainable development". For more details see http://natocouncil.ca/events/international-conferences/

CEPOS Conference 2014

The Fourth International Conference After Communism. East and West under Scrutiny, Craiova, 4-5 April 2014 was very well received by the national media and successfully indexed in more than 9 international databases, catalogues and NGO's databases such as:

American Political Science Association, USA-http://www.apsanet.org/conferences.cfm;
Journal of Church and State, Oxford-http://jcs.oxfordjournals.org/content/early/2014/01/23/jcs.cst141.full.pdf+html;
NATO Council of Canada (section events/ international conferences), Canada, http://atlantic-council.ca/events/international-conferences/
International Society of Political Psychology, Columbus, USA-http://www.ispp.org/uploads/attachments/April_2014.pdf
Academic Biographical Sketch, http://academicprofile.org/SeminarConference.aspx;
Conference alerts, http://www.conferencealerts.com/show-event?id=121380;
Gesis Sowiport, Koln, Germany, http://sowiport.gesis.org/; Osteuropa-Netzwerk, Universität Kassel, Germany, http://its-vm508.its.uni-kassel.de/mediawiki/index.php/After_communism_:_East_and_West_under_scrutiny_:_Fourth_International_Conference
Ilustre Colegio Nacional de Doctores y Licenciados en Ciencias Politicas y Sociologia, futuro Consejo Nacional de Colegios Profesionales, Madrid, http://colpolsocmadrid.org/agenda/.

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References:

The references cited in the Article are listed at the end of the paper in alphabetical order of authors' names.
References of the same author are listed chronologically.

For books

Olimid, A. P., (2009a). *Viaţa politică şi spirituală în România modernă. Un model românesc al relaţiilor dintre Stat şi Biserică*, Craiova: Aius Publishing.
Olimid, A. P., (2009b). Politica românească după 1989, Craiova: Aius Publishing.
For chapters in edited books
Goodin, R. E. (2011). The State of the Discipline, the Discipline of the State. In Goodin, R. E. (editor), *The Oxford Handbook of Political Science*, Oxford: Oxford University Press, pp. 19-39.

For journal Articles

Georgescu, C. M. (2013a). Qualitative Analysis on the Institutionalisation of the Ethics and Integrity Standard within the Romanian Public Administration. *Revista de Ştiinţe Politice. Revue des Sciences Politiques*, 37, 320-326.

Georgescu, C. M. (2013b). Patterns of Local Self-Government and Governance: A Comparative Analysis Regarding the Democratic Organization of Thirteen Central and Eastern European Administrations (I). *Revista de Ştiinţe Politice. Revue des Ştiinţe Politice*, 39, 49-58.

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