

**“CONSTANTIN BRÂNCUȘI” UNIVERSITY OF TÂRGU-JIU
INSTITUTE FOR PUBLIC POLICY, ADMINISTRATION AND
EDUCATION SCIENCES**

RESEARCH AND SCIENCE TODAY

~ Scientific Review ~

No. 2(10)/2015

November 2015

ISSN-p: 2247 – 4455

ISSN-e: 2285 – 9632

ISSN-L: 2247 – 4455

Târgu-Jiu 2015

Cover: Batcu Alexandru

Editing: Mărcău Flavius-Cristian

Director: Mărcău Flavius-Cristian

Contact:

Mail: flaviusmarcau@yahoo.com

Web: www.rstjournal.com

Tel: +40766665670

ACADEMICA BRÂNCUȘI PUBLISHING
ADDRESS: REPUBLICII AVENUE, NO. 1
Târgu Jiu, Gorj
Tel: 0253/218222

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CENSORSHIP IN TRANSYLVANIA DURING FIRST WORLD WAR: CORRESPONDENCE OVERVIEW*

Ioana Elena IGNAT KISANOVICI**

ABSTRACT: *WORLD WAR I LED TO THE FIRST STEPS TAKEN BY THE AUTHORITIES. ONE OF THEM WAS THE INTRODUCTION OF CENSORSHIP. WE CAN TALK ABOUT CENSORSHIP OF THE PRESS, TELEGRAPH ETC., BUT NOW WE'LL TALK ABOUT CENSORSHIP OF THE CORRESPONDENCE IN TRANSYLVANIA. ALTHOUGH WE'LL BE FOCUSING ON THE ORGANIZATION OF THE COMMISSIONS FOR CENSORSHIP, WE'LL ALSO TALK ABOUT CORRESPONDENCE AND ANALYSES HOW IT HAS AFFECTED COMMUNICATION BETWEEN THOSE WHO WERE AT HOME AND THOSE WHO WERE ON THE FRONT. EVEN IF A NECESSARY MEASURE IN WAR TIME, HOW WAS IMPOSED HAD LEFT AN IMPRINT ON THOSE WHO CORRESPONDED, INFLUENCING THE MENTALITY OF THE POPULATION.*

KEY WORDS: FIRST WORLD WAR, TRANSYLVANIA, CENSORSHIP, CORRESPONDENCE.

INTRODUCTION

First World War is a very present topic in historiography, approaching mainly military and political subjects, the economical, demographical and social being in expansion. Censorship is a topic that is present in some studies but mostly related to communism, the period after Second World War or contemporarily events. When it comes to combine censorship and First World War in the same research, there aren't so many writers that have stopped to analyses them together. That's one of the reasons I decided to make a short analyses of the way that censorship during First World War had influenced peoples life. I'll start with an overview of the organization of the Censorship Commissions then I'll continue with the analyses of some letters from the County Department of National Archives Cluj-Napoca. I choose correspondence as first step in analyses censorship during First World War, because it was the most direct way of communication between home and the front, between beloved ones, and censorship had contaminated it. Trough letters, both soldiers and those from home, were supposed to talk to each other about their problems, feelings, sadness or joy, but my conclusion was that in fact none of this had happened. As I'll show in this article, people weren't allowed to say the truth, although there could have been some situations in which the truth concurred the message what they supposed to transmitted, which was only good things and happiness.

Censorship is a negative form of propaganda and is always an instrument used by authorities. It is a process of banning the circulation of information, ideas or opinions that do

* This research was made possible through financial support provided by the "Minerva - Cooperation career elite doctoral and postdoctoral research" Contract Code: POSDRU / 159 / 1.5 / S / 137832, co-financed by the European Social Fund through Sectoral Operational Programme for Human Resources Development 2007-2013.

** Postdoctoral student at Romanian Academy Cluj-Napoca, Romania; ioanaeignat@yahoo.com.

not agree auditor or the company represents that censor.¹ Originally censorship was created by the Church and didn't have a pejorative meaning, as nowadays.² Later has changed its meaning, receiving a negative value and sometimes came to be misused.

Wartime censorship was, and still is currently used to prevent the enemy to find out information about military operations, but also to prevent its own soldiers and citizens to find out news that could demoralize them. The morale is very important both for the army and the entire population to achieve victory.³

Once the outbreak of First World War, came into effect the press censorship, the control of post, telegraph and telephone communications.⁴ Now was the time when censorship became legitimate and, more than that, it becomes directly subordinate to the Army. Civil censorship turned into military censorship and thus became much tougher than before.

On 14 July 1914 was introduced censorship. Newspapers were forbidden to publish any information about the war and even less about the preparations which were made in the army.⁵ On 25 July 1914 it was gave the Order on restriction and supervision of telegraph and telephone communications, and established procedures for the creation of the Commission's censorship of telegrams in 12 cities, Budapest being the city responsible for Transylvania. Also now have been empowered the state institutions Police and Prefecture, with control of external postal correspondence.⁶ On 27 July 1914 the War Control Service was set up in Vienna, having as President Field Marshal Leopold Edler von Schleyer. This service has jurisdiction in the territory of the whole Empire.⁷

Management of the post and telegraph office from Cluj announce based on the Order of Minister of Commerce Nr. 59807 of August 4, 1914, that "camp post offices" had started work since that time, and that sending telegrams or telephone calls to soldiers who had left to the camp was strictly forbidden.⁸

One of the censorship's aims was preserving the positive morale of those at home, very important to ease the burden of State efforts to achieve victory.⁹ We must not forget that soldier's morale was very important to get the coveted victory in this war. Censorship helped for this purpose too. Press, letters and any information reached those who were fighting on the front was previously censored, to stop transmitting any demoralizing information which could lead to possible desertions or other actions contrary to the mission that soldiers had.

Since 17 September 1914, was allowed to send or receive parcels from Austria and from 1 October it was permitted the exchange of letters with Germany. From 13 October were

¹ Richard Shambert, *Propaganda* (London: Thomas Nelson and Sons, 1939); 120.

² Marian Petcu, „Cenzura în românia” in *Cenzura în spațiul cultural românesc*, ed.: Marian Petcu (Bucharest Comunicare.ro, 2005); 15.

³ Richard Shambert, *Propaganda*, 120.

⁴ Zoltan Szász, „L'époque des sociétés nationales bourgeoises” in *Histoire de la Transylvanie*, ed. Béla Köpeczi (Budapest: Akadémiai Kiadó, 1992); 599; Paul Brusanowski, *Reforma constituțională din Biserica Ortodoxă a Transilvaniei între 1850-1925*(Cluj-Napoca: Presa Universitară Clujană, 2007); 148; Ferenc Pölöskei, „The Crisis Period of the Dual Monarchy (1890-1918)” in *The Hungarian State. Thousand Years in Europe*, ed. András Gergely, Gábor Máthé (Budapest: Korona, 2000); 246.

⁵ *Olteanul, foaie săptămânală, socială, culturală și economică*, Făgăraș, 1914, No. 29.

⁶ Dan-Simion Grecu, „Cenzura corespondenței poștale în spațiul românesc (1914-1946)” in *Cenzura în spațiul românesc*, 373.

⁷ Grecu, *Cenzura corespondenței poștale în spațiul românesc*, 373

⁸ *Olteanul*, 1914, No. 30.

⁹ Mark Cornwall, *The Undermining of Austria-Hungary. The Battle for Hearts and Minds* (London, New York: Macmillan, St. Martin's Press, 2000); 26.

received in the domestic traffic simple and parcel delivery, 20 kg, printed. As regards external traffic were allowed parcels to Romania, Switzerland, Bulgaria, Germany etc.¹⁰

Three days later, all letters for abroad had to be submitted open at the post offices for censorship, except official letters and letters addressed to the authorities of Bosnia and Herzegovina, which could be sent closed. These conditions were also valid for parcels, but in this case it was not allowed to contain any entry or any written statement and they were closing in the front of the postal office employees, like letters did.¹¹

Postal censorship offices were subordinate to headquarters from military regions of the Empire. Regarding Transylvania, Bureau of Sighetul Marmăției belonged to Military Command VI Kassa and Bistrita, Brasov, Cluj, Năsăud, Prundu Bârgăului and Târgu Mureș belonged to military command XII Sibiu.¹²

Initially, Postal Censorship Bureaus were called "Military Commissions Censorship" (Militärzensurkommission) and since 8 November 1916 changed their name into "Offices or Posts of Censorship" (Zensurstellen). Their running time varied, some have worked throughout the war and others were active in the shorter term. Regarding the periods of operation of these offices in Transylvania, we have the following information: Bistrița censorship office functioned from November 1915 to October 1917, Cluj from January 1917 to August 1918, Năsăud from July 1915 to August 1917 at Târgu Mureș from December 1917 to October 1918. Brașov office of censorship began its operations in August 1914, working steadily until August 28 to 29, 1916 when the Romanian army entered and occupied the city. It has relocated to Cluj, where worked from September to November 1916 and censored correspondence for residents of Cluj, Târgu Mureș, and Abrud. Since December 1916 is reinstalled in Brașov, but for January to October 1917 this office lacks specific stamps, which led to the assumption of a suspension of activity. Information about the censorship office reappears in November 1917 then it has probably resumed and remained in operation until September 1918.¹³

In late summer of 1916 on August 14, it amended the decree on the state of curfew. Since that moment, police were empowered with searches including editorial and cinemas, have the right to "censor the press and any publications, [having the right to prevent any newspaper or publication, or only occurrence of certain news or articles]", and have the right to verify the correspondence, both the domestic and foreign, and have a duty to keep those telegrams or letters that they will see unfit to reach the recipient.¹⁴

During World War I Austro-Hungarian censorship was under military rule, as mentioned above, but was implemented by different bodies. From July to October 1914 postal censorship was carried out by police, after this period the police continued to censor the correspondence, random, especially people residing compulsory boarding or considered suspect under police surveillance. Transylvanian police dealt with censorship especially in the period 1916-1917.¹⁵ Probably deals especially with those suspected of collaborating with the enemy, with Romania.

Police censorship had carried out a high level of efficacy. Then was the establishment of the Verification Commission for mailing (Überprüfungskommissionen für Briefsendungen, UK). These commissions were created in 21 cities of the monarchy, Brașov and Timișoara being among them.¹⁶

¹⁰ Călin Marinescu, *Cenzura poștală militară în România 1914-1918 (Cenzura corespondenței civile)* (Bucharest: Medro, 2004); 242.

¹¹ Marinescu, *Cenzura poștală militară*, 243.

¹² Marinescu, *Cenzura poștală militară*, 244.

¹³ Marinescu, *Cenzura poștală militară*, 245- 246.

¹⁴ Marian Petcu, „Cenzura în România”, 46

¹⁵ Călin Marinescu, *Cenzura poștală militară*, 248.

¹⁶ Dan Simion Grecu, „Cenzura corespondenței poștale, 373.

Then comes the censorship applied by the military authorities. In this case, there are several steps. The first began in October 1914 lasted until the end of February 1915 and was more a period of adjustment. The local military units were busy organizing military postal censorship office, equipping them with what was necessary and selection of military personnel, auditors etc. With the ending of this period, until the beginning of November 1916, the instructions related to censorship were very strict.¹⁷

The next stage begins on the date of November 8, 1916 when censorship of the internal correspondence was abolished, except in war zones and major postal centers in the vicinity of these areas, where censorship continued sporadically throughout 1917 and 1918, before the breakup of the Austro-Hungary. However, prior censorship of newspapers remained until November 1918.¹⁸

Regarding foreign postal censorship, on October 5, 1914, it was issued a decree which establishes 21 "verification commission for mailing (letters)" for the entire Empire. Correspondence addressed, arrived or just in transit through Transylvania was censored in Braşov, Timișoara, and Budapest. Braşov was censoring most of the correspondence between Austro-Hungary and Romania, between Bulgaria and Austria-Hungary, which transit through Romania; Timișoara was censoring some correspondence of Romania and Austria-Hungary with the Balkan countries and Turkey. Finally, in Budapest it was censored correspondence sent from the central areas of Hungary in Romania and arrived in Banat and Transylvania from Western European countries.¹⁹

On 7 November 1916 the Ministry of Commerce issued a decree to be censored correspondence with Germany and the occupied areas of Poland, Serbia, Montenegro, and Albania. On November 15 same year, it was established that all the correspondence with non-German countries to be censored in four centers: Vienna, Teschen, Budapest and Feldkirch; packages were controlled at Vienna, Bodenbach, and Feldkirch; and for censoring telegrams were established 12 committees throughout the empire, of which the Banat and Transylvania responsible for was located in Budapest.²⁰ External packages were censored in 16 offices in Austria and 4 in Hungary; the center responsible for the censorship in Transylvania was Braşov.²¹ As far as we know, the things remain the same till the end of the war.

Regarding the organization of the Censoring offices, these are the main information we have. Unfortunately, there is no information, or just didn't find them yet, about what exactly censors did. What kind of information they cut out from correspondence or media, we do not know. We have only some letters that get to their recipient and a few who were stopped by the Censoring Commissions to get to their final destination.

Getting to this point, after I've seen some of those letters, a couple of thousands, I can say that the information that is transmitted through them isn't that surprising. If we talk about the ones that were totally censored, meaning seized, then we can notice a predominating of the information from war prisoners, mainly from Russia and Italy. These men were writing about their situation in the camps they were detained. Some of them were saying that they are "alive and healthy"²² in Russia and advise them "not to be worried"²³ for them. Others were saying that are prisoners in Italy and they were healthy and very well there. They were describing what they had there "we are in barracks and we have beds and mattresses and clothes and food we

¹⁷ Călin Marinescu, *Cenzura poștală militară*, 248.

¹⁸ Marinescu, *Cenzura poștală militară*

¹⁹ Marinescu, *Cenzura poștală militară*

²⁰ Marinescu, *Cenzura poștală militară*, 249-250; Dan Simion Grecu, „Cenzura corespondenței poștale, 374.

²¹ Marinescu, *Cenzura poștală militară*, 250.

²² Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial. (National Archives Cluj County, Fond Letters from WWI.), 226.

²³ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 226.

acquire enough”²⁴. Others were talking about the fact that they were put to work but still are pretty well and do not lack anything.²⁵ These descriptions show that it wasn’t that bad to be a war prisoner, maybe even better than to be a soldier, at least for some of them. So, if this information gets to their families, most likely won’t stop there. People talk, and in those times war and loved ones were the main subjects they talked about. And if this kind of information spread among soldiers, they might choose to desert. First they’ll be demoralized thinking that their comrades are having a better life as being prisoners, meaning they didn’t have to fight anymore, to kill or waiting to be killed, suffering of cold, hunger different disease etc. I think, all those who were fighting unwillingly were waiting for any reason to desert and this could be one. Because authorities were afraid not to increase the number of desertions, they tried to stop any way of getting any information that could give the idea of a better life in prisoner camps than tranches.

There are some letters from families who were totally censored, meaning they were stopped to get to the destination. Usually those talk about how hard is life at home. Some of them say that are suffering a lot for the husband who had left for going to war,²⁶ that the corn is weak,²⁷ or that it’s cold and they are weak²⁸. This information might be considered dangerous by the censors because it may be understood as a subtle request of coming home. If those who are in tranches find out that their wife, children, parents are having a difficult life, a lot of problems etc. without them, it’s possible that their filings for the family to overcome the war duty or the loyalty to the Emperor. In this case probably they would be tempted to desert, or if they decided to remain in tranches they’ll lose their focus, become negligent and easier to defeat by the enemy. So, probably this could be a good enough reason to censor those letters. There’s always a “but”, and in this case it’s about why are some letters with similar content were allowed to get to the addressee. We have a letter in which the wife is complaining about how her father-in-law was asking her to pay for the help he give it to her with the household, and their son did not listen to her, doing only what he likes.²⁹ It’s clear that it’s nothing good about the life she has without her husband, and this might make him wanting coming back to her as soon as possible, but it seems that still get to destination without being censored. Unfortunately, we can’t explain this kind of situations, how decided censors what to stop and what not to stop.

There are a few letters that did pass through censorship but slipped unnoticed, I think. I say that because we have an example of a wounded soldier, who wrote home from a hospital saying that he saw lame and unhealed men going back to war, regretting that he couldn’t stay there any longer and transmitting to acquaintance not to rush leaving from there “as today nowhere is as good as there (meaning in hospital)”.³⁰ So this is instigation to avoiding as much as possible, going back to war for those who can prolong their stay in the hospital. Another soldier wrote about some young men from Bistrița, a city from Transylvania, and some acquaintances which have desert to Romania, mentioning that it's not the first time he hears news about someone deserting.³¹ Again, I think it’s surprising that this information wasn’t cut out, or the letter destroyed, because it could increase the desertion among soldiers if and when they find out that there are many other men who succeeded escaping in Romania. But, as before, we don’t know how was possible that these letters to pass through censorship without being stopped.

²⁴ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 226.

²⁵ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 226.

²⁶ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 228.

²⁷ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 548.

²⁸ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 228.

²⁹ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 551.

³⁰ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 245.

³¹ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 548.

The communication between soldiers and their families wasn't always easy. Some of the letters get to the addressee with missing words or phrases which have been cut out literally or just being blacken so couldn't be read.³² This happened when censors considered those words inappropriate because of their meaning. In this case, it's hard to give an example because there are much too many letters like that and unfortunately I can't guess what words were there so it's difficult to know why were censored. We know only that they were important, those words were considered a threat to the authorities, otherwise why had to be censored? Then there are the letters that never got to their destination. In this case, we have two situations. First, we have the letters that were censored; a couple of them still exist, kept in archives, as I mentioned a few earlier, but not all. And then are the ones that were lost for different reasons. Anyway, the main idea is that a lot of the letters exchanged between soldiers and beloved ones didn't get to their addressee. This affirmation it's supported by a lot of letters in which the sender mention that he, the soldier, or they, the family, send a lot of letters and didn't receive any answer, or that haven't receive any letter for a very long time, things that worries all of them.

Then we have the letters that did get to their addresses and transmitted a message. Mostly the messages were wrapped in short positive personal information. I think I'm not exaggerating if I'm saying that some of them were written after a template or just written by the same man. This affirmation is sustained by the letters I have seen till now. A lot of them started with "I'm healthy/we are healthy, wishing God gives you the same health"³³ or "I'm alive and fully healthy wishing you health"³⁴. Many other say the same thing using almost exactly the same words, probably 80-90%.³⁵ I think it's kind of difficult to be just a coincidence. It's hard that people that are miles away from each other, born in different places with different habits, to use the same words. Even people living in the same house usually do not use exactly the same type of words. I think that maybe in these cases the writers were told what to write by their superiors or priests, people who had a great influence on them, or there was a man who wrote the letters for most of his colleagues. When it come to the letters send from home, it might be the influence of the priests or the schoolteacher.

Information transmitted by this letters is related to the household, of course, written by the families of those who were left to war. Usually, they inform the householder how things were going in his absence. Some of them talk about how they mowing the rye or not mowing the wheat and about how they handle with the cattle.³⁶ Mostly they say they are fine, that they can handle by themselves and him, the soldier didn't need to worry about them. Related to this kind of letters, we can say that either is fake, meaning not telling the truth, either is real and those people are having a nice life. We can't ignore the first possibility because it's not impossible that some families care so much about their husband, son, brother, father that they feel the need to lie to him for his own good, without having to think about the problems that were at home. The other way around it's also possible, meaning the soldier felt the need to lie to his family because did not want to burden them with his dreadful life. In these cases, there was no need for the censors to apply their filter on the letters.

In conclusion, I think that censorship in First World War in Transylvania was harsh enough to create a situation of misinformed people regarding their beloved ones. Correspondence exchanged during this period was under a strict surveillance of the authorities through their Censorship Commissions and the authorized bodies. Although, during this war

³² Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 260, 550.

³³ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 550.

³⁴ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 550

³⁵ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 245, 233, 548, 521.

³⁶ Direcția Județeană Cluj a Arhivelor Naționale, Fond Scrisori din Primul Război Mondial, 230.

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the organization wasn't constant and it fluctuated with changing the front line and with prolonging the war, censorship was always present everywhere. People learned to live with it and didn't have a choice but to accept it. This is just a small part of a research in progress, which intends to find out more about what have mean censorship in First World War in Transylvania. I hope this scrap of research made you became more interested in the subject.

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ASPECTS ON THE QUESTION OF TRANSYLVANIA IN THE ROMANIAN-HUNGARIAN POLITICAL AND DIPLOMATIC RELATIONS (1946-1947). THE PERSPECTIVE OF THE FRENCH DIPLOMACY*

Livia-Andreea PĂTRU¹

ABSTRACT:

THE QUESTION OF TRANSYLVANIA CONSTITUTED A SENSITIVE AND CRUCIAL ISSUE IN THE ROMANIAN-HUNGARIAN POLITICAL AND DIPLOMATIC RELATIONS IN THE PERIOD FOLLOWING THE SECOND WORLD WAR. TRANSYLVANIA'S STATUS PROBLEM, LONG DEBATED DURING THE PARIS PEACE CONFERENCE LED TO THE RECRUDESCENCE OF THE ACTIVITY OF THE DIPLOMATIC REPRESENTATIVES FROM BOTH COUNTRIES, ANIMATED BY THE DESIRE TO CONVINCE THE GREAT POWERS THAT THEIR SOLUTION WAS THE VIABLE ONE.

THE FRENCH DIPLOMATS, WHO HELD A POSITION WITHIN THE LEGATION OF FRANCE IN BUCHAREST AND BUDAPEST, WATCHED THIS ISSUE CLOSELY, THEIR DIPLOMATIC CORRESPONDENCE WITH THE FRENCH MINISTRY OF FOREIGN AFFAIRS, DURING THE YEARS 1946-1947, REFLECTING THE FRENCH VIEW ON THE COURSE OF THESE RAPPORTS.

KEY WORDS: ROMANIA, HUNGARY, TRANSYLVANIA, FRENCH DIPLOMACY, 1946-1947

„La cause de Transylvanie est la cause de la justice et la justice est de notre côté ... (Emil Hațieganu)”²

Le problème de la Transylvanie a marqué profondément les relations politiques et diplomatiques entre la Roumanie et la Hongrie, et le retour de son territoire à la Roumanie n'a pas amélioré immédiatement ces rapports.

Comment se sont déroulées les relations entre la Roumanie et la Hongrie pendant les années 1946-1947 et quel fut le rôle de la diplomatie française sur la question de la Transylvanie?

* This work has been possible due to the financial support received through the project POSDRU/187/1.5/S/155559, strategic grant “Competitive multidisciplinary doctoral research at European level” (CdocMD), co-financed by the European Social Fund within the Sectorial Operational Programme for Human Resources Development 2007-2013.

¹ Phd student, the Doctoral School of History, the University of Bucharest, Romania, e-mail address: livia_andreea21@yahoo.com

² Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Roumanie”, vol. no. 26 – „Relations avec la France” (septembre 1944-juin 1949), le télégramme no. 11/18.01.1946 adressé à la Centrale, concernant la politique roumaine à l'égard des minorités hongroises, 144-149.

En regardant en arrière, grâce aux dispositions de l'article 19 de la Convention d'armistice entre la Roumanie et les Nations Unies, signée à Moscou, le 12 septembre 1944, conformément à laquelle le camp respectif était d'accord avec la restitution de la Transylvanie ou de la majorité de son territoire à la Roumanie, fut possible la réintégration de cette province³. Toutefois, à peine dès 9 mars 1945, après la formation du gouvernement Groza, sous la pression de Moscou, l'URSS a exprimé son consentement à l'adoption de l'administration gouvernementale roumaine de la Transylvanie. À cet égard, à la sollicitation du gouvernement roumain du 8 mars 1945, Joseph Staline a adopté une décision⁴ prévoyant l'introduction de l'administration roumaine dans la Transylvanie, invoquant l'article 19 de la Convention d'armistice.

La position du gouvernement roumain vis-à-vis de la Transylvanie a été ferme, le premier ministre Groza et le ministre des Affaires étrangères, Tătărescu partageaient la même attitude en ce sens, en luttant pour garder le territoire de la Transylvanie à la Roumanie⁵.

En ce qui concerne les relations politiques et diplomatiques roumano-hongroises, le ministre hongrois des Affaires étrangères, János Gyöngyösi, mentionnait, dans l'entretien accordé au journal „Vilag”, le 31 mai 1945⁶, l'appréciation du geste de Groza de reconnaître officiellement les droits de la minorité hongroise de Transylvanie, à Cluj, le 13 mars 1945, et de sa participation du 18 mai 1945, à la réunion du Congrès hongrois de la Transylvanie, où il avait parlé de l'espoir d'un bon voisinage entre les deux pays.

Quant à la situation de la Transylvanie au cours des années 1946-1947 et à l'impact sur les rapports roumano-hongrois, la vision de la diplomatie française est soulignée par le moyen des notes diplomatiques envoyées à la Centrale, par les représentants français en Roumanie et en Hongrie.

Ainsi, le chargé d'affaires de la Légation française à Bucarest, Jean-Paul Boncour, communiquait à la Centrale, par le télégramme no. Z-378-78/16.01.1946⁷, que, relativement à la Transylvanie, Moscou appuyait le retour aux frontières existantes avant l'Arbitrage de Vienne, en rappelant la promesse de Andrei Vychinski, le vice-ministre soviétique des Affaires étrangères, faite au ministre roumain des Affaires étrangères, Gheorghe Tătărescu, afin de gagner la sympathie des Roumains.

³ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Roumanie”, vol. no. 20 – „Politique étrangère - Dossier général. Textes d'accords internationaux. Frontières. Propagande” (août 1944-décembre 1947), la note diplomatique de la Direction Générale des Affaires politiques no. Z-378-1/20.09.1945 sur les asupra frontières roumaines entre 1920-1945, 99-103.

⁴ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Roumanie”, vol. no. 45 – „Documentation”, l'analyse du Ministère hongrois des Affaires étrangères – „Le problème hongrois par rapport à la Roumanie”, Budapest, 1946, 122-123.

⁵ Mihály Fülöp, La paix inachevée. Le Conseil des Ministres des Affaires Etrangères et le traité de paix avec la Hongrie, Association des Sciences Historiques de Hongrie, Budapest, 53.

⁶ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Hongrie”, vol. no. 14 – „Documentation générale” (décembre 1945-août 1946), les commentaires de Agnès Szekula sur l'aide-mémoire-ului du diplomate hongrois François Honti concernant la situation de la Hongrie libérée, 67-68.

⁷ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Roumanie”, vol. no. 20 – „Politique étrangère - Dossier général. Textes d'accords internationaux. Frontières. Propagande” (août 1944-décembre 1947), le télégramme no. Z-378-78/16.01.1946, 122-123.

Le diplomate Boncour transmettait, également, au ministre français des Affaires étrangères, Georges Bidault, par le télégramme no. 148/149 du 8 février 1946⁸, que, suite à une discussion avec le ministre roumain des Affaires étrangères, Gheorghe Tătărescu, celui-ci lui a dit que la Roumanie comptait sur le rôle de la diplomatie française de médiateur entre l'URSS et les puissances anglo-saxonnes et l'appui de la France dans la question des frontières avec l'Hongrie. Dans ce télégramme, J. P. Boncour informait Bidault qu'il a assuré Tătărescu du soutien de la France.

Au sujet des relations roumano-hongroises, Robert Faure, le chargé d'affaires de la Légation française à Budapest, relatait au ministre français des Affaires étrangères, Georges Bidault, par le télégramme du 19 mars 1946⁹, que, selon l'avis du ministre hongrois de l'Instruction publique, Keresztúri, exprimé lors de sa visite rendue au celui-ci avant de partir en Roumanie avec une délégation hongroise, à l'invitation du gouvernement roumain, le premier ministre Petru Groza manifestait des sentiments magyarophiles, ce qui avait renforcé l'espoir de ce politicien dans la normalisation des relations entre les deux pays.

En ce qui concerne la question de la Transylvanie, on doit signaler le fait que ce sujet a été un élément central et un point critique, un enjeu majeur dans les négociations pour la conclusion des traités de paix avec la Roumanie et la Hongrie. Comme noté dans le compte-rendu de la 11ème session du Conseil des ministres des affaires étrangères¹⁰, présidé par Molotov, datée du 7 mai 1946, consacrée aux discussions sur le traité de paix avec la Roumanie, Byrnes et Molotov avaient accepté le retrait des amendements concernant la Transylvanie, proposés par leurs délégations (américaine et russe), étant d'accord avec l'annulation de la sentence de Vienne du 30 août 1940 et avec le rétablissement de la frontière entre la Roumanie et la Hongrie au sein des limites du 1er Janvier 1938.

La décision de Paris, adoptée suite au refus des grandes puissances de réviser la frontière roumano-hongroise, a produit de profondes répercussions sur la situation politique en Hongrie, signalait l'ambassadeur français à Londres, dans la note adressée au ministre français des Affaires étrangères, le 27 mai 1946¹¹.

En outre, dans la lettre datée du 1er juin 1946¹², adressée au ministre français des Affaires étrangères, Georges Bidault, Robert Faure l'informait que la Hongrie était menacée par une crise politique intérieure, en affirmant que, à son avis, les dirigeants politiques hongrois pensaient que, s'ils proclamaient la démocratie sous les communistes, l'URSS les aiderait et récompensait. Toutefois, aux élections, les communistes hongrois avaient obtenu seulement 14% des votes, ce qui avait provoqué le mécontentement de Moscou, qui avait donc suggéré d'en discuter le problème de la Transylvanie directement avec la Roumanie, mais le gouvernement roumain refusait ce sujet.

⁸ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Roumanie”, vol. no. 26 – „Relations avec la France” (septembre 1944-juin 1949), le télégramme no. 148/149/08.02.1946, 159.

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¹⁰ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Hongrie”, vol. no. 22 – „Paix - dossier général” (septembre 1944-juin 1946), compte-rendu no. 62-Z-199-7/07.05.1946, 170-171.

¹¹ Idem, la note no. 1699/Z-199-7/27.05.1946, 209-210.

¹² Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Hongrie”, vol. no. 14 – „Documentation générale” (décembre 1945-août 1946), la lettre no. 3/01.06.1946, 236-237.

D'ailleurs, le diplomate Boncour relatait, par le télégramme no. 394/11.05.1947¹³, adressé au Centrale, sur la façon dont la visite du président du Conseil des ministres, Groza, à Budapest, était allée. Il communiquait que, selon Tătărescu, la visite n'avait eu aucun but politique. Aussi, suite au discussion avec le chargé d'affaires hongrois, Istvan Gyöngyössi, qui avait accompagné Groza, il a appris que l'accueil était cordial.

En analysant la correspondance de Boncour¹⁴ sur le sujet de la visite de Groza à Budapest, on observe l'intérêt de la diplomatie française vis-à-vis de ce voyage et des relations politiques entre la Roumanie et la Hongrie. Par conséquent, après le retour de Groza dans le pays, il a prononcé un discours à Breaza, le 17 mai 1947, dont il a mentionné que les frontières de la Transylvanie ont été définitivement établis à Paris car, selon le président de la République de Hongrie, Zoltan Tildy, les Hongrois reconnaissent les décisions adoptées lors de la Conférence de Paix et n'avaient pas l'intention de contester ces arrêts. Aussi, dans son discours, Groza associait ces déclarations avec l'amitié entre les deux peuples. Pertinent est que, vers la fin du télégramme¹⁵, Boncour demandait à la Direction Europe du Ministère français des Affaires étrangères de vérifier la véracité des déclarations de Groza sur les affirmations de Tildy relatives à la Transylvanie. Puis, la Direction Europe Orientale a envoyé la sollicitation de Boncour¹⁶ à la Légation française à Budapest. Le représentant de la France à Budapest, Henry-Louis Gauquié a communiqué, le 21 Juin 1947¹⁷, le texte de discours de Tildy, ce qui démontrait l'exactitude des déclarations de Groza.

Pendant ce temps, les relations diplomatiques entre la Roumanie et la Hongrie, rompues entre le 30 août 1944 et le 9 mai 1945, furent repries le 10 décembre 1946, lorsque l'état roumain a ouvert un bureau politique à Budapest. À partir du 1er novembre 1947, la Légation de la Roumanie à Budapest a été dirigée par Ion Vincze (du 4 novembre 1947 à 20 mai 1948)¹⁸.

Dans la période suivante, les relations politiques et diplomatiques roumano-hongroises ont progressées entre les états-satellites dans le système soviétique, sous l'influence et l'impulsion de Moscou¹⁹, qui a imposé la conclusion des traités d'amitié, la Roumanie et la Hongrie en signant, le 24 janvier 1948, un traité d'amitié, de coopération et d'assistance mutuelle.

En conclusion, étant donné l'activité de la diplomatie française, mise en évidence par les documents existants aux archives diplomatiques françaises, on envisage que les diplomates français, respectivement Quai d'Orsay, ont joué, immédiatement après la signature de l'armistice par la Roumanie, et notamment entre les années 1946- 1947, le rôle-clé de fines observateurs des relations roumano-hongroises et des rapports entre les deux pays et l'URSS.

¹³ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le Fonds „Z-Europe” (1944-1949), la sous-série „La Roumanie”, vol. no. 20 – „Politique étrangère - Dossier général. Textes d'accords internationaux. Frontières. Propagande” (août 1944-décembre 1947), le télégramme no. Z-376-1/19.05.1947, 167.

¹⁴ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le télégramme no. 421/21.05.1947 / Z-376-1/28.05.1947, 172.

¹⁵ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le télégramme no. 421/21.05.1947 / Z-376-1/28.05.1947, 172.

¹⁶ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le télégramme no. Z-376-1/02.06.1947, 176-177.

¹⁷ Archives diplomatiques du Ministère français des Affaires étrangères et du Développement international, le rapport no. 252/21.06.1947.

¹⁸ Ion Mamina, George G. Potra, Gheorghe Neacșu, Nicolae Nicolescu, *Organizarea instituțională a Ministerului Afacerilor Externe. Acte și documente, vol. II (1920–1947)*, (București: Fundația Europeană Titulescu, 2006), 561.

¹⁹ Anna Fülöp, *La Transylvanie dans les relations roumano-hongroises. Vues du Quai d'Orsay (septembre 1944-décembre 1947)*, (Cluj: Centre de ressources pour la diversité ethnoculturelle, 2006), 169-171.

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RELOADING THE PRINCIPLES OF GOOD GOVERNANCE WITHIN THE NEW COHESION POLICY OF THE EUROPEAN UNION¹

Cristina Alina CIORA²

ABSTRACT:

THE PAPER ARGUES THAT THE FINANCIAL, ECONOMIC AND SOCIAL CRISIS OPENED A NEW WINDOW OF OPPORTUNITY FOR THE REVALORIZATION OF THE EUROPEAN GOOD GOVERNANCE PRINCIPLES AND SUBSEQUENTLY FOR THE STRENGTHENING OF THE EUROPEAN COMMISSION WITHIN THE INTER-INSTITUTIONAL TRIANGLE BY THE CONSOLIDATION OF ITS TECHNOCRATIC LEGITIMACY. IN THIS CONTEXT, AFTER IDENTIFYING THE MILESTONES IN THE DEVELOPMENT OF THE EUROPEAN GOVERNANCE, THE PAPER FOCUSSES ON THE WAY THE GOOD GOVERNANCE PRINCIPLES HAVE BEEN RELOADED AND TRANSLATED WITHIN THE NEW 2014-2020 COHESION POLICY IN COMPARISON TO THE TWO PREVIOUS POLICIES AND QUESTIONS THE DELAY IN THE PRACTICAL IMPLEMENTATION OF THE EUROPEAN GOVERNANCE REFORM. THUS, THE CO-DECISION PROCEDURE IS APPROACHED AS A POTENTIAL RELOADER OF THE GOOD GOVERNANCE PRINCIPLES WITHIN THE NEW COHESION POLICY.

KEY WORDS: GOOD GOVERNANCE, COHESION POLICY, EUROPEAN GOVERNANCE, CO-DECISION

INTRODUCTION

"Together I am sure we can make this policy a real driver for the economic recovery of Europe" said, relating to the cohesion policy of the European Union, Jose Manuel Barroso in an interview with Panorama Magazine in 2013³.

The outburst of the financial, economic and social crisis in 2007, the somehow weak practical outcome of the managerial reform of the European Commission launched in 2000 and the subsequent consequences have triggered a deep reflection on the functioning of the European Union in general and of the European policies in particular, structurally changing the approach of the outside world by the public administration. If, in 1998, a crisis of internal nature (the resignation of the Santer Commission) failed to achieve a sound and functional

¹ Paper elaborated for the International Scientific Conference *Development, Governance and Cooperation*, Constantin Brâncuși University, Târgu-Jiu, 29-31 May 2014

² Phd Candidate in Administrative Studies, National School of Political Studies and Public Administration, Bucharest, Romania, Email: cciora22@gmail.com

³ European Commission, "Cohesion policy – A real driver for Growth in Europe", Interview with the President of the European Commission, José Manuel Barroso, in Panorama Magazine - Cohesion policy 2014-2020 Momentum builds, 48, 4-7, Brussels, 2013, 7.

reform of the European administration, the recent financial, economic and social crisis entailed changes of systemic nature.

From an “instrument for adapting the world”, the administration had to change into an instrument “for adapting to [the world]”⁴ and the regulation has had to meet the new requirements of efficiency and effectiveness. In 2012, the Commission codified that trend (which had begun to take shape since mid-2000s, being accelerated by the multiple crisis of 2007) through a communication on *"Regulatory fitness": Making the best of EU law in difficult times*⁵, marking a systemic revolution of the public administration in general and of the legislative process in particular.

The European Union has practically entered a new era of active management with the outbreak of the financial crisis that opened a window of opportunity for increasing the efficiency and effectiveness of the European administration and for exploring any means and level to streamline the European Union's action. As the European Union actions are codified by legislative acts, improving the governance and the way the EU legislation is made has been one of the main ways of driving EU out of crisis.

It is in this context that the paper analyzes the new cohesion policy in the light of the principles of good European governance as defined ever since 2001 and questions a decade of delay in the practical translation of the concept of good governance in the cohesion policies.

After presenting the beginnings of the reforming process of the European governance and the definition of good European governance, the paper analyzes the link between good governance and the last three cohesion policies of the European Union, focussing on the first over-arching principle, i.e. the principle of partnership and multi-level governance. The paper also tries to explain the configuration of the 2014-2020 cohesion policy in terms of good governance by the use of co-decision procedure acting as reloader of the good governance principles.

THE BEGINNINGS OF GOOD EUROPEAN GOVERNANCE

After the resignation of the Santer Commission in 1999, in the early 2000s, Commissioner Neil Kinnock launched a reform of the institution in order to internalize the trends of the public sector reform of the time, namely the principles of new public management influenced by the best practices of the private sector such as competition, customer satisfaction as beneficiary of the public service, externalization of certain services, etc. The European Commission could not remain isolated from the reforms of the Member States, practically reflecting, at European level, the reforming mutations from national bureaucracies⁶.

That reform of the administration as a whole was meant to be a major reform occurring once in a generation: "This Reform is a once-in-a-generation programme" being codified through a *White Paper on Reforming the European Commission*⁷. Furthermore, that reform had been only the first stage towards a more complex reform regarding the governance of the European Union as a whole, not just the Commission, but of all the European institutions directly involved in the decision-making process. That reform had been outlined in a *White*

⁴ Timsit, Gerard, *The French Administration Reflected by Words – and Safe from Crises*, [Online]. Retrieved http://www.iiias-iiisa.org/wp-content/uploads/G%C3%A9rard-Timsit-Paper_en.pdf, accessed 01/08/2014.

⁵ European Commission., *"Regulatory fitness": Making the best of EU law in difficult times*, Press Release, IP/12/1349, Brussels, 12 December 2012. Retrieved http://europa.eu/rapid/press-release_IP-12-1349_en.htm.

⁶ See Peterson, John; Shackleton, Michael, *The Institutions of the European Union*, 2nd Edition. (New York: Oxford University Press, 2006), 155-158.

⁷ European Commission, *Reforming the Commission - A White Paper - Part I*, COM/2000/0200 final, Brussels, 2000, [Online], Retrieved [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0200\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0200(01):EN:HTML)

*Paper on European Governance*⁸. Basically, the managerial reform of the Commission had a spillover effect on the whole European Union governance supposed to impact appropriately upon all European policies.

In 2000, the European Commission's programmatic document stated: "The challenges of globalization and future enlargement require better governance at all levels, including the EU. All political institutions in Europe must rise to this challenge and so must the Commission. Reform is, therefore, an essential pre-condition for realizing our vision for Europe".⁹

A year later, the *White Paper on European Governance* explains the contents of the reform: "Reforming governance addresses the question of how the EU uses the powers given by its citizens. It is about how things could and should be done. The goal is to open up policy-making to make it more inclusive and accountable. A better use of powers should connect the EU more closely to its citizens and lead to more effective policies"¹⁰.

A decade later, 2010 had been marked by the launch of the Europe 2020 strategy and the publication of the report of the Reflection Group on the future of the EU 2030—entitled "Project Europe 2030. Challenges and Opportunities".¹¹ In the section concerning the EU and its Citizens, the reflection group repeatedly stresses out that "strengthening this sense of [public] ownership [of the EU] must become the driving force" of all collective action of the European Union, while "good governance is by far the most powerful means available to the EU for the benefit of the continuous commitment of its citizens"¹².

Moreover, the reflection group draws attention once again on a serious approach of the principles of good governance. After almost a decade since the launch of the *White Paper on European Governance*, its interpretation grid must be reinvented according to the specific parameters of the new socio-economic environment. In this context, the reflection group recommends "developing new objectives and a more results-oriented rationale", as „at the end of the day, good governance will be judged by its results". In the end, „good governance and a stronger focus on output are *sine qua non* for citizens to support the EU"¹³.

Basically, the beginnings of the last two decades had been both marked by a discourse on good European governance, emphasizing in a way a certain immobilism in that field for a decade. The 2010 new discourse on good governance could even betray an insufficient operation of sound governance in the forerunner decade.

THE DEFINITION OF GOOD EUROPEAN GOVERNANCE

In the 2001 *White Paper on European Governance*, the notion of governance "means rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence"¹⁴, five principles which, at a supra-structural level, have to reinforce, through their application, the proportionality and subsidiarity¹⁵. One should note that the above quoted pseudo-definition of European governance had been given in a footnote of the White Paper. It is very curious that in a *White Paper on European Governance*, there is no formal definition of European governance, but only complex definitions of the principles of good governance:

⁸ European Commission, *European Governance — a White Paper*, COM(2001) 428 final, Official Journal of the European Communities, C 287/01, Brussels, 2001.

⁹ European Commission, *Reforming the Commission - A White Paper - Part I*, op. cit.

¹⁰ European Commission, *European Governance — a White Paper*, 5.

¹¹ Reflection Group on the Future of the EU 2030, *Project Europe 2030. Challenges and Opportunities*, A report to the European Council by the Reflection Group on the Future of the EU 2030, Brussels, 2010.

¹² Reflection Group on the Future of the EU 2030, *Project Europe 2030. Challenges and Opportunities*, 39

¹³ Reflection Group on the Future of the EU 2030, *Project Europe 2030. Challenges and Opportunities*, 39 -40.

¹⁴ European Commission, *European Governance — a White Paper*, 5.

¹⁵ European Commission, *European Governance — a White Paper*, 8.

*openness, participation, accountability, effectiveness and coherence*¹⁶, intrinsically endowing the concept of European governance with the indirect qualifier of *Good European Governance*.

It is true that most of the researchers and studies refer to the 2000 definition of *good governance* provided by the European Union under article 9(3) of the Partnership Agreement between the States of the African, Caribbean and Pacific Group and the European Community (Cotonou Agreement) as following:

“In the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. [Good governance] entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aiming in particular at preventing and combating corruption.”¹⁷

Although that definition has in its center the concept of *transparent and accountable management*, in our opinion, it would be absurd to carry out an analysis of a policy of the European Union in terms of good governance on the basis of a definition designed for developing countries.

Thus, in the context of the strategic objectives of the European Union laid down in the Europe 2020 Strategy, the definition given above could be updated and adjusted as follows: *Good European governance means the transparent and accountable management of human, natural, economic and financial resources for the achievement of smart, sustainable and inclusive growth*.

GOOD EUROPEAN GOVERNANCE AND THE NEW COHESION POLICY

With a budget of 351.8 billion euros representing 32.5% of the budget of the European Union (2014-2020), the cohesion policy represents “EU's principle investment tool for delivering the Europe 2020 goals: creating growth and jobs, tackling climate change and energy dependence, and reducing poverty and social exclusion”¹⁸.

In a 2013 interview, at the question “What would be your main piece of advice to the regional authorities implementing the operational programmes for 2014-2020?”, Jose Manuel Barroso, President of the European Commission at the time, answered: “Good governance at national, regional and local levels is crucial. The reform of the cohesion policy could never have been achieved without the successful cooperation with the managing and regional authorities”¹⁹.

Basically, good governance seems to be the core concept of the new cohesion policy, although it did emerge in the conceptual discourse of the EU since the very beginning of the current millennium in the background of a sound managerial reform by the European Commission after a huge corruption scandal leading to the resignation of the Santer Commission in 1999. The question is, given the fact that the concept of good governance had been launched in 2001, why did the European Commission not put it at the core of the 2007-

¹⁶ See the complete definitions in European Commission, *European Governance — a White Paper*, 7- 8.

¹⁷ Article 9(3) of the Partnership Agreement between the States of the African, Caribbean and Pacific group of States on the one part, and the European Community and its member States on the another part, available at: http://ec.europa.eu/development/icenter/repository/agr01_en.pdf (last visited on 28 August 2008). quoted in Council of Europe, European Commission for Democracy through Law - Venice Commission, Stocktaking On The Notions Of “Good Governance” and “Good Administration”, Study no. 470/ 2008, Strasbourg, 2011, 6-7 .

¹⁸ European Commission, *Cohesion Policy 2014-2020*, [Online], Retrieved http://ec.europa.eu/regional_policy/archive/what/future/index_en.cfm

¹⁹ European Commission, Cohesion policy – A real driver for Growth in Europe, Interview with the President of the European Commission, José Manuel Barroso, in *Panorama - Cohesion policy 2014-2020 Momentum builds*, 48, Brussels, 2013, 7.

2013 cohesion policy, but only at the core of the 2014-2020 policy? Could that have changed in any way the very performance of the cohesion policy for the 2007-2013 period?

The current cohesion policy (2014-2020) had been codified by a legislative package consisting in a common regulation, three specific regulations and two thematic regulations. "The legislative architecture" for the 2014-2020 cohesion policy is made up of:

“ - an overarching regulation setting out common rules for the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD), the European Maritime and Fisheries Fund (EMFF), and further general rules for the ERDF, ESF and Cohesion Fund;

- three specific regulations for the ERDF, the ESF and the Cohesion Fund; and
- two regulations on the European territorial cooperation goal and the European Grouping of Territorial Cooperation (EGTC)”²⁰.

Among the innovations of the new cohesion policy, we may identify as most important the following:

- 1) the internalization of the supra-principle of good governance as a strategic European configuring vector;
- 2) the macro-coherence by linking the cohesion policy to the objectives of the Europe 2020 Strategy and to the European Economic Governance, providing thus additional security clauses of systemic performance;
- 3) the meso-coherence by bringing together under the same "legislative umbrella" five investment funds underpinning the cohesion policy: ERDF, ESF, Cohesion Fund, EAFRD, EMFF and by an integrated programming approach (using more funds for a program);
- 4) the encoding of multilevel governance through partnership agreements approved by the European Commission;
- 5) the encoding of a systemic effectiveness by developing a well-defined performance framework in Annex II to the Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006²¹ (hereinafter referred to as “Common Regulation”).

As already shown above, the five principles of good European governance defined in the White Paper on European governance are: “*openness, participation, accountability, effectiveness and coherence*” underlying in their turn the principles of proportionality and subsidiarity²².

In the table below, there have been summarized, in chronological order, the principles which formed the basis of the last three multiannual cohesion policies as provided by the specific regulations, as well as the principles set out in the 2001 *White Paper on European Governance*.

²⁰ European Commission, *Cohesion Policy 2014-2020 Investing in growth and jobs*, Luxembourg: Publications Office of the European Union, 2011, 1.

²¹ Published in the *Official Journal of the European Union*, L 347, Brussels, 20/12/2013.

²² European Commisison, *European Governance — a White Paper*, 7- 8.

Table no. 1 - General Principles of the last three cohesion policies of the EU and principles of European good governance

Cohesion policy (2000-2006) Regulation (EC) no. 1206/1999 ²³	White Paper on European Governance (2001)	Cohesion policy (2007-2013) Regulation (EC) no. 1083/2006 ²⁴	Cohesion policy (2014-2020) Regulation (EU) no. 1303/2013 ²⁵
4 main general principles	5 principles of good governance + 2 supra-structural principles	9 main principles of intervention	4 main general principles of Union support for the ESI funds
1) <i>Complementarity and partnership</i> 2) <i>Coordination</i> 3) <i>Additionality</i> 4) <i>Compatibility</i>	1) <i>5 thematic principles</i> a) openness, b) participation, c) accountability, d) effectiveness e) coherence and 2) <i>2 supra-principles</i> a) proportionality and b) subsidiarity	1) <i>Complementarity, consistency, coordination and compliance</i> 2) <i>Programming</i> 3) <i>Partnership</i> 4) <i>Territorial level of implementation</i> 5) <i>Proportional Intervention</i> 6) <i>Shared Management</i> 7) <i>Additionality</i> 8) <i>Equality between men and women and non-discrimination</i> 9) <i>Sustainable development</i>	1) <i><u>Partnership and multi-level governance</u></i> 2) <i><u>Compliance with Union and national law</u></i> 3) <i><u>Promotion of equality between men and women and nondiscrimination</u></i> 4) <i><u>Sustainable development</u></i>

Source: Own creation on the basis of the mentioned regulations

At first sight, one may note that the last three cohesion policies had been underpinned by 4, 9 and 4 general principles respectively and the *White Paper on European Governance* appears, at least at terminological level, not to have had a significant effect on the 2007-2013 cohesion policy²⁶.

Thus, the 2007-2013 cohesion policy, the first one to be codified after the reform of European governance stands out through:

1. the almost *ad litteram* takeover and the *split of* the principles specific to the 2000-2006 cohesion policy, as follows:

- a) splitting the binomial principle of “complementarity and partnership” from the first policy and creating an independent principle of “partnership” in the second policy;

²³ Council Regulation (EC) no 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds, Official Journal of the European Communities, L 161, 26 June 1999.

²⁴ Council Regulation (EC) no 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, Official Journal of the European Union, L 210, 31 July 2006.

²⁵ Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, Official Journal of the European Union, L 347, 20 December 2013.

²⁶ In this paper, we refer to the 2000-2006 cohesion policy as „first policy”, to the 2007-2013 cohesion policy as „second policy” and to the 2014-2020 cohesion policy as „last /current/third policy”.

- b) recovery of the principle of "complementarity" and "coordination" and the integration of the principle of "compatibility" from the first policy in a quadrilateral principle "complementarity, consistency, coordination and compliance" in the second policy²⁷;
- c) taking over *ad litteram* as standing principle the principle of additionality.
- 2. the introduction of 6 new principles and a new sub-principle, namely:
 - a) the sub-principle of coherence;
 - b) the principle of programming;
 - c) the principle of the territorial level of implementation;
 - d) the principle of proportionate intervention;
 - e) the principle of shared management;
 - f) the principle of equality between men and women and non-discrimination and
 - g) the principle of sustainable development.

3. the reloading of the *principle of coherence* from the 2001 *White Paper on European Governance* in the second cohesion policy as a sub-principle within the quadrilateral principle of "complementarity, consistency, coordination and compliance" and of the over-arching principle of proportionality underpinned by all five principles of good governance.

In this realm, we may conclude that the Union's governance reform does not seem to have had a big effect on the second cohesion policy, given the fact that only one principle is taken over as a sub-principle. On the other side, the Charter of fundamental rights of the European Union seems to have had a much larger influence as two new thematic principles stem from two fundamental rights: 1) the equality between men and women (article 23 of the Charter) and non-discrimination (article 21 of the Charter) and 2) sustainable development. Equality (Title III of the Charter) and non-discrimination represent fundamental rights codified as such in the Charter of fundamental rights, whereas the sustainable development stood out amid debates caused by climate change and consecration of the human rights of third generation. The principle of sustainable development is provided for under article 37 - Environmental protection of the Charter, which stipulates: "A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of *sustainable development*"²⁸.

As concerning the other new principles, one may observe the integration of some new fundamental principles of the European Union, such as proximity (the principle of the territorial level of implementation) and proportionality (the principle of proportionate intervention), while the principle of programming and the principle of shared management stem from the lessons learned during the practice of the good management of European funds during the previous cohesion policy (1999-2006).

On the other hand, the present cohesion policy (2014-2020) stands out in terms of principles through the following:

- 1) the reduction of the number of general principles from 9 to 4;
- 2) the takeover of 4 principles from the previous cohesion policy (2007-2013), namely:
 - a) the principle of partnership;
 - b) the compliance with Union and national law;
 - c) the promotion of equality between men and women and non-discrimination;
 - d) the sustainable development.

²⁷ We consider that the conformity principle may encompass the compatibility principle.

²⁸ See Charter of fundamental rights of the European Union, Official Journal of the European Union, C 83, 30 March 2010.

3) the conversion of the *partnership principle* into a sub-principal of an over-arching binomial principle of first degree, namely: "*the principle of partnership and multilevel governance*".

THE PRINCIPLE OF PARTNERSHIP AND MULTILEVEL GOVERNANCE

This first principle embodies, at rhetorical level, both a new and an old principle:

- a) the principle of partnership is the principle maintained as such throughout the last three cohesion policies, while
- b) *the principle of multi-level governance* represents the great novelty at both rhetorical and practical level, through its codification as first strategic driving principle.

Basically, the new cohesion policy (2014-2020) has, as we have seen above, at its very heart the concept of good European governance which, moreover, is elevated to the rank of cross-cutting over-arching principle of the whole policy of cohesion. Thus, if in the previous cohesion policies, there had been mentioned only certain principles of good governance, in the current cohesion policy, the partnership and multi-level governance themselves become a binomial over-arching principle defined as first strategic principle. This principle encompasses both managerial traditionalism and modernism, between the traditionalism of the partnership specific to the first cohesion policy (1999-2006) under review herein and the modernism of the new EU governance released in 2001, but integrated in the new cohesion policy only in 2013²⁹.

At simple search of the term *governance* in the basic regulations of the 2007-2013 and 2014-2020 cohesion policies respectively, we find out that in the Regulation (EU) No. 1303/2013, the word governance appears 18 times while in the Regulation (EC) No 1083/2006 it is not mentioned at all. Moreover, in the table below, we present some statistics relating to the incidence of certain terms specific to good governance both in the Regulation (EC) no. 1083/2006, and in the Regulation (EU) nr. 1303/2013.

Table no.2 - Comparative incidence of terms specific to good governance in Regulation (EC) no. 1083/2006 and in Regulation EU no. 1303/2013

Term	Regulation (EC) No 1083/2006 (how many times the term is mentioned)	EU regulation no. 1303/2013 (how many times the term appears)
Governance	0	18
Openness	0	0
Transparency	3	3
Participation	6	15
Partnership	22	155
Accountability	0	1
Responsibility	0	24
Performance	8	90
Coherence	5	17
Efficiency	5	38
Effectiveness	9	29
Effective	11	80

Source: Own searches

At a first analysis of the table above, it is remarkable the increase in the use of the concepts specific to good governance in the third cohesion policy in comparison to the second

²⁹ We mention the year 2013 as it is the year of adoption of the Common Regulation (EU) no. 1303/2013 codifying the third cohesion policy.

cohesion policy. The fact that the term *governance* is not even mentioned in the 2006 Regulation whereas it appears 18 times in the 2013 Regulation is more than significant. At the same time, there should be noted the progressive evolution of the principle of partnership in the rhetoric of the cohesion policy. If in the Regulation codifying the second cohesion policy (2007-2013), the *partnership* appears 22 times, in the current Common Regulation it appears 155 times. We obviously see *partnership* as a more sophisticated variant of *participation*. Another surprising trend is the use of the terms *effectiveness* and *effective*. Thus, if in the 2006 Regulation, effectiveness occurs 9 times and effective 11 times, the Common Regulation words them 29 and 80 times respectively, with an obvious steering of the new cohesion policy towards a systemic performance measurable by fulfilled objectives. Even more, the term *performance* itself conceptually encapsulating effectiveness appears 90 times in the new 2013 Regulation, more than tenfold compared to the previous 2006 Regulation where it appears only 8 times. Not to mention that Annex II to the Common Regulation provides even the *Method for establishing the performance framework*, which had not at all been the case for the previous cohesion policy.

The terminological analysis reveals that the good governance had not been applied consistently within the framework of cohesion policy, be it directly or indirectly. Of course there are some relativizing factors of this analysis in the sense that the present Common Regulation (EU) no. 1303/2013 regulates common provisions for 5 European funds (ERDF, ESF, Cohesion Fund, EAFRD, EMFF), whereas Regulation (EC) no 1083/2006 concerned 3 funds (European Regional Development Fund, the European Social Fund and the Cohesion Fund).

As regards the *principle of partnership and multilevel governance*, this is codified under article 5 of the Common Regulation. The principle of partnership and multilevel governance is the first general principle, the overarching principle configurating the whole management of EU funds, being the very first principle provided for under Title I - *Principles of Union Support for the ESI Funds* of Part Two - *Common Provisions applicable to the ESI Funds* of the Common Regulation.

The general principles are also detailed in the *Common Strategic Framework* contained in annex I to Common Regulation. For instance, the *principle of partnership and multilevel governance* is provided for as follows:

„ 5.1 Partnership and multi-level governance

1. In accordance with Article 5, the principle of partnership and multi-level governance shall be respected by Member States in order to facilitate achieving social, economic and territorial cohesion and delivery of the Union's priorities of smart, sustainable and inclusive growth. In order to respect those principles coordinated action is required, in particular between the different levels of governance, carried out in accordance with the principles of subsidiarity and proportionality, including by means of operational and institutional cooperation, with regard to the preparation and implementation of the Partnership Agreement and programmes.

2. Member States shall examine the need for strengthening the institutional capacity of partners in order to develop their potential in contributing to the effectiveness of the partnership”³⁰.

In the interview given to *Panorama Magazine*, Jose Manuel Barroso considered that “The partnership principle is at the heart of the reforms and it is now crucial that all relevant

³⁰ Annex I to Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, Official Journal of the European Union, L 347, Brussels, 20/12/2013.

stakeholders are involved in the implementation of the programmes: relevant ministries, regions, municipalities, professional organisations, research centres, businesses or social partners"³¹. It is precisely in this context, that one of the innovations of the new cohesion policy is the "partnership agreements" defined under article 2 point 20 of the Regulation (EU) no. 1303/2013.

In our opinion, the partnership agreements represent secondary codification tools of *the partnership and multilevel governance principle* at national level, providing upstream the cohesion policy, certain legal guarantees given by each country for the intention of effectively implementing the regulation, namely for an efficient and effective management of EU funds in order to reach final concrete results. The partnership agreements represent preliminary safety clauses for the national implementation of European cohesion policy, so much more that the approval by the European Commission is subject to *ex ante* conditionalities.

On the other hand, returning to the principles of good governance codified by the European Commission in 2001, the *participation* had been defined as the second pillar of good governance as follows:

„Participation. The quality, relevance and effectiveness of EU policies depend on ensuring wide participation throughout the policy chain — from conception to implementation. Improved participation is likely to create more confidence in the end result and in the institutions which deliver policies. Participation crucially depends on central governments following an inclusive approach when developing and implementing EU policies"³².

The four sections of proposals for change provided in the White Paper on European Governance related to 1) “improving involvement in shaping and implementing EU policy”, 2) „improving the quality and enforcement of EU policies”, 3), „a stronger link between European governance and the role of the Union in the world and 4) the „role of the institutions”.³³

In terms of "multilevel governance", although the phrase appears as such only once in the 2001 White Paper, its message is of utmost importance even in 2014:

"The white paper showed a tangible Europe, which is growing; a Union based on multilevel governance in which each actor contributes, in accordance with his capacities or knowledge to the success of the exercise. In a multilevel system, the real challenge is to establish clear rules for how competence is shared-not separately; only non-exclusive vision can ensure that the best interests of all Member States and all citizens of the Union "³⁴.

CO-DECISION AS RELOADER OF GOOD GOVERNANCE PRINCIPLES

At this point, one may wonder why it is only a decade after its official launch that the concept of European good governance has become a driving vector for the entire configuration of the cohesion policy (2014-2020), which had not happened in the case of the previous cohesion policy (2007-2013)?

One of the explanations may be the new legal basis for the adoption of the cohesion policy. With the entry into force of the Treaty of Lisbon, the cohesion policy has entered, in terms of adoption, under the ordinary legislative procedure (co-decision). Therefore, it did involve, as co-legislator, the European Parliament which must primarily protect the interests of Europeans who are first and foremost concerned about the unemployment and the economic situation of their country. Furthermore, the European Parliament's effectiveness can be measured precisely by the reactivity of concrete policies to the needs of European citizens.

³¹ European Commisison, „Cohesion policy – A real driver for Growth in Europe”, 7.

³² European Commisison, *European Governance — a White Paper*, 7.

³³ European Commisison, *European Governance — a White Paper*, 8.

³⁴ European Commisison, *European Governance — a White Paper*, 29.

Therefore, given the amount of the budget of the third cohesion policy and its potential implications on the everyday life of Europeans, the European Parliament had been more than interested in the negotiations thereon.

The 2013 autumn and the 2014 spring two Eurobarometers (EB 81 and EB 80) identified, through questioning European citizens, as most important issues at national level and at personal level: unemployment, economic situation and rising prices/inflation. In the table below, we synthesized comparatively the data obtained from the two Eurobarometers.

Table no.3 - Main concerns of Europeans at national and personal levels in 2013-2014

Main concerns of Europeans at national and personal levels	EB 81 (Spring 2014)		EB 80 (autumn 2013)	
	National level	Personal level	National level	Personal level
Unemployment	48%	21%	49%	20%
Economic Situation	29%	15%	33%	17%
Rising prices/inflation	16%	32%	20%	40%

Source: Own creation based on figures provided in the EB 80³⁵ and EB 81³⁶

If we go back to the strategic objectives of the cohesion policy already listed above, one should recall that the cohesion policy represents “EU's principle investment tool for delivering the Europe 2020 goals: creating growth and jobs, tackling climate change and energy dependence, and reducing poverty and social exclusion”³⁷. The first two strategic goals of the Europe 2020 Strategy and subsequently of the 2014-2020 cohesion policy respond to the concrete needs of European citizens. Furthermore, the title of a 2013 Memorandum of the European Commission underlined the clear orientation of the cohesion policy towards economic growth and job creation: “Refocusing EU Cohesion Policy for Maximum Impact on Growth and Jobs: The Reform in 10 points”³⁸.

At the same time, it is also the ordinary legislative procedure of the cohesion policy, which turned the negotiations on the Common Regulation (EU) no. 1303/2013, into a true procedural show directed by the European Parliament eager to affirm itself on the stage of co-decision as protector of the Europeans’ interests. Thus, the negotiations on that regulation entailed more than 50³⁹ trilogues⁴⁰. A head of unit from the Committee of regions, refers in an article, to even more than 70 meetings in trilogues under the Irish Presidency⁴¹.

Considering that, under Irish Presidency in the first half of 2013, there occurred around 400 trilogues targeting about 100 of dossiers in co-decision⁴², which means an average of 4

³⁵ European Commission, *Standard Eurobarometer 80. Public Opinion in the European Union*, First Results. Autumn 2013. Retrieved . http://ec.europa.eu/public_opinion/archives/eb/eb80/eb80_first_en.pdf

³⁶ European Commission, *Standard Eurobarometer 81. Public Opinion in the European Union*, First Results. Spring 2014. Retrieved http://ec.europa.eu/public_opinion/archives/eb/eb81/eb81_en.htm

³⁷ European Commission, *Cohesion Policy 2014-2020*, [Online]

³⁸ European Commission, *Refocusing EU Cohesion Policy for Maximum Impact on Growth and Jobs: The Reform in 10 points*, MEMO/13/1011, Brussels, 2013. Retrieved, http://europa.eu/rapid/press-release_MEMO-13-1011_en.htm

³⁹ European Parliament, Conciliations and Codecision Secretariat, *20 Years of Codecision*. Conference report, Brussels, 2013, 27.

⁴⁰ Trilogues represent informal negotiation structures between the Council of the EU, the European Parliament and the Commission and had been set up ever since 1994.

⁴¹ Petzold, Wolfgang, “Conditionality, Flexibility, Unanimity: The Embedded 2013 Reform of EU Cohesion Policy”, *European Structural and Investment Funds Journal*, 1, 2013, 11.

⁴² European Parliament, Conciliations and Codecision Secretariat, *20 Years of Codecision*, 26-27.

trilogues per adopted legal act, the number of 70 trilogues for the legislative package on the Cohesion Policy is more than impressive. According to a Report of the European Parliament, it usually takes three trilogues to reach an agreement, while, in the case of more complex dossiers, there may be necessary 5 or more trilogues⁴³.

Consequently, the co-decision procedure and subsequently the European Parliament might have acted upon the very *ex ante* effectiveness of the new cohesion policy by reloading the principles of good European Governance. In our opinion, at least at terminological level, the practical translation of the good governance principles in the Regulation (EU) no. 1303/2013 is impressive.

A second explanation concerns the economic and financial crisis emerged in 2007 which determined, much more than the resignation of the Santer Commission in 1999, the systemic reform of the European Commission. It is obvious that the 2001 White Paper codified the European governance reform, but it determined rather a rhetorical than a practical reform of European governance. How could one otherwise explain that the cohesion policy of the EU had been configured only after 12 years on the basis of an over-arching good multilevel governance conceptualized ever since 2001?

Furthermore, the 2001 White Paper on European Governance represented for the European Commission a window of opportunity to counterbalance the loss of power within the “interinstitutional triangle”. Vlad Constantinesco identified two ways in which the Commission sought to respond to “its loss of influence” against the other European institutions, namely: a) *the launch of the White Paper on European governance in 2001* and b) *the reformation of its mode of action in accordance with the principles of proportionality and subsidiarity with a view to „better regulation”*⁴⁴.

In this framework, *good governance* represents a means to strengthen and revitalize the *technocratic legitimacy* of the Commission within co-decision, opening a complex experimental field for the European Commission itself. The visible application of good governance principles in all policies could only strengthen the European Commission. Therefore, it is still difficult to understand why they have been fully activated only in the 2014-2020 cohesion policy?

One explanation could be the ordinary legislative procedure as new legal basis for the cohesion policy and the subsequent strengthened role of the European Parliament in the negotiations on the 2014-2020 cohesion policy. All that might have entailed a subsequent higher pressure on the European Commission within the co-decisional triangle. Thus, reloading the good governance principles within the new cohesion policy of the EU represented a means for the Commission to reactivate its technocratic legitimacy and strengthen its inter-institutional position in front of a more powerful European Parliament. Practically, the ordinary legislative procedure might have acted as a reloader of the good governance principles within the 2014-2020 cohesion policy of the EU.

INSTEAD OF CONCLUSIONS

In the present article we have shown how the concept of good European governance launched in 2001 by the European Commission waited 12 years to be encoded in the common Regulation (EU) no. 1303/2013 which underlies the new cohesion policy (2014-2020) to be implemented from now on. What would have been the fate of the 2007-2013 cohesion policy, if the European Commission would have granted more importance to the multilevel governance and performance issues at least ever since 2006, just five years after the launch of the White

⁴³ European Parliament, Committee on the Environment, Public Health and Food Safety, Activity report for the 7th parliamentary term 2009 – 2014, Brussels, 2014, 9.

⁴⁴ Constantinesco, Vlad, *Le nouvel équilibre institutionnel* in *Revue des affaires européennes*, 2, 2006, 218.

Paper on European governance? What would have been the fate of the governance reform itself if its 2001 rhetoric would have been translated much earlier into practical functioning?

Does the European Commission, as a *sui generis* institution, have such a strong institutional personality that it has become refractory to any change and it needs more time (12 years in this case) and some external shocks (the financial crisis) in order to move on and to undergo a practical reform, in this case, the reform of the cohesion policy governance?

If the European Commission is unable to reform itself from inside, and the reform of European governance launched in 2001 was supposed to be an extra-institutional extension of the managerial reform of the Commission, to what extent is it ready to steer an effective European governance reform and, consequently, a reform of the European policies in order to respond in a timely manner to the unforeseen requirements of the current world?

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THE TRANSITION OF THE EUROPEAN WORLD. THE POST-COMMUNIST CHALLENGES

Mădălina Laura CUCIURIANU¹

ABSTRACT: *THIS ARTICLE EXAMINES THE REGIONAL AND GLOBAL CONSEQUENCES OF THE EUROPEAN TRANSITION PROCESS AFTER THE COMMUNIST EXPERIENCE. ONE OF THE MOST IMPORTANT CONSEQUENCES OF THIS TRANSITION IS THE FACT THAT EUROPE WILL BECOME A TERRITORY OF MILITARY AND POLITICAL CONFLICTS FOR ITS MEMBER STATES AND FOR OTHER EUROPEAN COUNTRIES. THE PERIOD OF 1989-1991 WAS FULL OF REVOLUTIONARY EVENTS IN CENTRAL AND EASTERN EUROPE AND THE MAIN REASON WAS THE COLLAPSE OF SOVIET UNION AND THE COMMUNIST BLOC. AS A CONSEQUENCE OF THIS SITUATION, THE EUROPEAN STATES PASSED THROUGH A DRAMATIC PROCESS EXPERIENCING THE TRANSITION CHALLENGES AND THE GEOPOLITICAL CHANGES WHICH AFFECTED ALL LEVELS OF EUROPEAN LIVE, SUCH AS POLITICAL, ECONOMIC AND MILITARY SYSTEM AND ALSO THE RELATIONS BETWEEN EUROPEAN COUNTRIES AND THE REST OF THE WORLD.*

KEYWORDS: EUROPEAN WORLD, POST-COMMUNIST CHALLENGES, TRANSITION PROCESS, EUROPEAN UNION, INTERNATIONAL RELATIONS.

INTRODUCTION

This article examines the transition period of the European world, with focus on the challenges of this process and on the consequences for the European countries during this process and after it. As we well know, after 1989, the European world encountered a dramatic process experiencing the transition challenges and the geopolitical changes which affected all levels of European live, such as political, economic and military system and also the relations between European countries and the rest of the world.

The article is structured in three parts and all of them are focused on the effects of the transition process on the European world. Primarily, there is a discussion on the consequences and challenges of the post-communism transition process for the European countries, and after that there will be analyzed some of the most important regional and global consequences and challenges of the transition process. In this part we will see also what is the context of the transition process and the theoretical approaches of this process. The second part of the paper is concentrated on the political choice of the european countries in the period of the transition process and after it. The last part of the paper examines the european integration process in and after the transition period. The process of integration is the most important in the history of European Union and also of the Europe and that's why we focus our analysis on it.

¹ PhD Candidate in Political Science, Alexandru Ioan Cuza University of Iași, Romania, laura.cuciurianu@gmail.com

There are some lessons that can be learned from the transition period, lessons important, especially for those countries which were affected at all levels. In the economic field, there were some differences in the transition economies because the economic performance in Central and Southeastern Europe in 1989 was seriously affected. After the transition period, some countries have progressed faster than others and have strengthened their economy. Other countries remained in the middle of the transition process and still need to be sustained from the economic perspective by the developing countries.

CONSEQUENCES AND CHALLENGES OF THE POST-COMMUNIST TRANSITION

The post-communist transition period is considered to be the one after the collapse of the Soviet Union and also the fall of the Communist bloc in 1989, and also the end of the Cold War with the conflict of the two biggest powers in the world, the United States and the Soviet Union. The European countries, which were under the soviet influence, needed to reorganize their institutions and to redefine their identity and their own territory. As a result of this process, there are some consequences of the post-communist transition, and the most important are the fact that Europe will become itself a scene of military and political conflicts, not only for its member states, but also for all the European countries and for its neighbors. Some of these conflicts which affected the European world are: the Romanian Revolution (1989), the Ten-Day War (1991), the Georgia war against Russo-Ossetia Alliance (1992), the Croatian War of Independence (1991-1995), the War of Transnistria (1992), the Bosnian War (1992-1995), the Rebellion in Albania (1997), the Kosovo War (1996-1999) and the list continues. Another consequence of the transition period can be the crisis of the European integration process because the European Union was not ready for new waves of integration and the instability of the post-communist countries affected the process of European integration, especially on economic and political levels. The biggest wave of European integration was in 2004, when the European Union decided to integrate 10 post-communist countries because they realized to fulfill the criteria. Beside the conflicts in Europe in that period of transition and beside the crisis of European integration, the transition period brought another consequence like the transformation of Russia's identity and the instability of Eastern Europe in the international relations and the erosion of the political and military importance of NATO and the aggravation of transatlantic relationships. This is due to the end of the Cold War and to the rise of the United States as a single global power.

The collapse of the communist regime across Eastern Europe in 1989 represented the end of a particular type of political and economic system and a particular type of welfare state². The so-called bureaucratic state collectivist system of welfare, which was established by the Soviet Union under the Stalinist system in the Eastern Europe countries after the World War II is no longer functioning. This represents the end of the communist era in some european countries and the beginning of the transition period.

The period of transition brought consequences and also some challenges for the European world. First challenge that Europe faces is the fact that European Union's strategic goal is not so well defined and this could lead to taking difficult political decision. The European Union passed also through some identity crisis in the economic and political levels and the lack of a stable foreign policy affected the decision-making. After the collapse of the Communist bloc, other countries arised and made from the international system a global competition of the EU with the United States, China and Japan for the influence and power of the world. The European Union was created with a clear purpose, and that was to maintain a

² B. Deacon ed., *The New Eastern Europe. Social Policy Past, Present and Future* (London: Sage Publications, 1992), 1.

democratic and secure world but the incapability of European Union to reform its institutions in order to harmonize the interests of all its member states and to readapt, represents a big challenge that must be solved.

The context of the transition period

After the end of Cold War, the bipolar system has no longer divided the European continent and the Europe had the chance to reorganize itself. There was the perfect time for the liberal democracy and it was possible to imagine a Europe that would be peaceful, dynamic and progressive.³

We could wonder why the process of transition for the European world is so important and in order to answer to this question we should think on the Europe, as a continent, before and after 1989 to see the differences and the changes. The transition process can be considered an important phenomenon in the modern economic history and there is a major difficulty for standard economic theory to build a pattern and to explain the evolution of centrally planned economies in transformation. That's why is not easy to explain and to analyze the process of transition because it implies a lot of processess of changes the european society.

The creation of Soviet bloc in the Eastern Europe was possible with some political shocks. In 1989 the history was repeating and a socio-political upheaval was at the basis of the process of returning back to market economies. These events created the context for the transition period of the European world.

The transition period: theoretical approaches

The transition process implies the political, the economic and the social levels, so our analysis concerns the connection between these areas and their effects on the European world. The economists sustain that the shape and incentives of the institutions have a big influence on economic growth so the specialists should find the solution to have a stable economy and efficient institutions.⁴

An important theoretical approach for the transition process is the Washington Consensus⁵. This theory is based on the neoclassical theory and on the standard micro-economic approach of stabilization or shock therapy. In order to create an appropriat legal framework, there is an assumption that the markets will be developped spontaneously through the trio method of liberalization-stabilization-privatization.

THE POLITICAL CHOICE IN THE TRANSITION PERIOD

Europe must rely on itself and must be stronger to face the problems encountered along the time. The United States was a serious enemy for Europe in some situations and this has changed after the colapse of the Soviet Union because Europe needed an ally to become a stronger global power and the most suitable partner in this context was the US. But to become a global power Europe should promote an european will, identity and goals, should rely on a democratic system, should be capable to defend itself and to have a prosper economy and a

³ P. M. Heywood et al., *Developments in European Politics* (Hampshire: Palgrave Macmillan, 2006), 1.

⁴ K. Hoff and J.E. Stiglitz, "The Transition Process in Postcommunist Societies: Toward a Political Economy of Property Rights" in *Toward Pro-Poor Policies-Aid, Institutions and Globalization*, B. Tungodden, N. Stern, and I. Kolstad (eds.), World Bank/Oxford University Press, 231-245. 2004. Also circulated under the title "The Transition from Communism: A Diagrammatic Exposition of Obstacles to the Demand for the Rule of Law," World Bank Policy Research Working Paper 3352. 2004.

⁵ J. Williamson, *A Short History of the Washington Consensus*, Institute for International Economics, Paper commissioned by Fundación CIDOB for a conference "From the Washington Consensus towards a new Global Governance," Barcelona, September 24–25, 2004.

stable foreign policy⁶. We will see if this will happen and if Europe is capable to sustain its position in the international relations.

In the transition process there are a lot of levels in which the citizens and the society are affected. The most important changes are the in economic level, in the political and in the social one. In the political field the citizens suffer because of the severe regimes from their countries (authoritarianism, totalitarianism, post-totalitarianism, and sultanism).⁷ From the history experience we found out that these different regime types can influence the paths of democratic transition. The recommended regime for the European world is the democratic one but what about the countries in which there are other regimes types? There is one path of democratization and this is the transitions to democracy⁸. What does it mean? Because of the severe measures of the other regimes, the democratic one will have priority and will be chosen by people who want to be free and to build a political society with democratic basis.

After the collapse of Communist bloc, European countries, ex-communist, need to redefine their identity and the liberal orientation seems to be a good solution. The aim of the liberal orientation is a European integration based on the Copenhagen criteria (the candidate countries need to achieve a functioning market economy and to be able to face the competitive pressure of the European Union single market. Furthermore, even if liberalization seems to be necessary in the context on transitional process, it represents, in the same time, a risk of market power which is captured by some groups of interest and by the incapacity of the European countries to build a competitive economic framework.

A fundamental difficulty in the transition process can be the institutional reform because it must support a real market economy. An institutional reform refers also to a structural reform which can be understood through restructuring institutions to promote integrity and legitimacy, by building independence, ensuring representation and respect for human rights. In the economic field, the problem is difficult and the transitional process is long because the underdeveloped countries which were influenced by the Soviet Union needed time to adapt and to rebuild their economy, their trust in a democratic regime and also in each other.

We are discussing about democracy in the transition period because it should be analyzed the regimes types from the European states after the fall of the Communist bloc. But, what does democracy mean in term of governance? Democracy is a form of governance in a modern state.⁹ Without a state, a modern democracy cannot exist. To have a theoretical background we should take into consideration the definition of the state given by Max Weber, who provides a classic and also an important discussion of the most important attributes of the state in the modern societies :

The formal characteristics of the modern state are as follows: It possesses by legislation an administrative and legal order to change, to which the organized corporate activity of the administrative staff, which is also regulated by legislation, is oriented. This system of order claims authority not only over the members of the state (the citizens, most of the them have obtained membership by birth) but also to a very large extent, over all action which are taking place in the area of its jurisdiction. It is thus a compulsory association with a territorial basis. Furthermore, today, the use of force is regarded as legitimate only so far as it is either accepted by the state or recommended by it...The claim of the modern state to monopolize the use of force is as essential to it as its character of compulsory jurisdiction and of continuous organization.¹⁰

⁶ L. Barzini, *The Europeans* (London: Penguin Books, 1983), 23.

⁷ J.J. Linz and Alfred C. Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore: MD: Johns Hopkins University Press, 1996), 45.

⁸ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 47.

⁹ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 17.

¹⁰ M. Weber, "The Fundamental Concepts of Sociology", in Talcott Parsons, ed., *The Theory of Social and Economic Organization* (New York: Free Press, 1964), 156.

The definition of Max Weber for the state is very important because it describes the principal attributes of the modern states and it is essential for the state in the transition period because it is institutionally affected by the political, economic and social crisis.

THE TRANSITION OF THE EUROPEAN WORLD

The enlargement of the European Union represents the most important part of the transition process because it offers a chance for the institutional manifestation of the new post-Cold War Europe.¹¹ The European Union's instruments needed to respond to common challenges with common policies and this provides also the management of the interdependencies between the European countries.

The European integration is based on some measures and on some criteria that the candidate countries should fulfill. The process of integration is not only about economic measures, but is also about developing a coherent European policy for the global challenges in the foreign policy. The motivation of the European integration process is based on some assumptions such as: the political identity crisis in the region of Europe may be solved with the integration of new countries, especially the ex-communist ones; through the creation of the European Union and the progress of the European integration, the territory of Europe may achieve the necessary stability, peace and progress. To solve the European economic, political and social crisis it was needed an important transformation and the solution can be achieved through the process of European integration. The enlargement of the European Union can be seen as a positive sum game because it offers the perspective of more growth in the frame of market opening and globalization of the economy.

European integration: some problems

At the beginning of the twenty century, the Europeans believed that Europe has dominated the globe because of its unity, but at the beginning of the twenty-first century the world has started to believe that globalization is the one who dominated the Europe and also the rest of the globe. This happened because some countries from Europe turned on one-another in the two world wars and their global dominance was diminished.

Globalization is seen like a challenge and the European countries still preserve their identity. The term of globalization became a leitmotif of the contemporary debate¹² and it can be defined like a process of increasing the speed of communication, the spread of mass-media all over the world, the spread of internet connections, the growth of trade, jobs, capital and services.¹³ For Europe, the main global challenge is not the process of globalization, but its effects on the European integration. The problem of economic trade, understood in terms of movement of goods and services across national borders, it's very important because it influences the basic economic structures. The new way of doing trade implies trade necessitates adjustment.¹⁴

The European Union enlargement was built as a policy initiative for the globalization process so the global changes played an important role in shaping the European integration agenda. A problem of the enlargement process is the fact that it promised an economic growth and some economic advantages for the European integration from West to East, but it will also stimulate the flow of migrants from East to West¹⁵.

¹¹ Heywood et al., *Developments*, 2.

¹² Heywood et al., *Developments*, 15.

¹³ A.T. Kerney, "Measuring Globalization: The Top 20", *Foreign Policy* (May/June), 2005, 52-60.

¹⁴ A.S. Millward, *The Reconstruction of Western Europe: 1945-1951* (London: Routledge, 1984).

¹⁵ M.A. Vachudova, *Europe Undivided: Democracy, Leverage, and Integration after Communism*, (Oxford: Oxford University Press, 2005).

To resume the problems implied by the process of integration, we can say that there is a fundamental question after a number of waves of integration: what governance is needed for a European Union with 28 member countries? To respond to this question we should have in mind some aspects: the authorities of the European Union have limited powers and here we can bring in discussion the debate of enlargement vs. deepening; the problem of the Convention and the future of the European Constitution is not solved and, in some cases, former European political elite has perpetuated under a modern capitalist form, allowing money laundering and capital drain – reforms are thus deviated in a more or less visible way.

The main consequences of the European integration

The European integration has brought some consequences in different level of the European society: on the economic level, there is the developing of the internal market, the perspective of extended growth and prosperity in the region. But with what costs of the integration and who will pay for it? On the political level there is the main perspective of the European Union which goes to the East. Here it is recommended to analyze the concept of “Mitteleuropa” and the role of Germany. Finally, on the social and cultural levels it is observed a high educational level of the new member states, great diversity of cultures, but the European unity is still in question.

CONCLUSIONS

It is believed that the political and the economic transition is related¹⁶ and there is an interdependent relation between them and it's recommended that both, the economic and political transitions, to be analyzed together in order to understand the transition process fully. By doing this it can be observed that the political transition, which is considered an important move from dictatorial rule to democracy, cannot be enough for a successful economic transition. But it is also possible that a simple move to democracy will lead to relatively poor long-run performance due to the dynamics of policy determination.¹⁷

Besides changes in the economies and in the institutional framework, in the transition period there were also some changes of perceptions on the situation¹⁸ because of the institutional instability and the social problems of the society. The transition process was based on a strategy of transition¹⁹ which included some measures like liberalisation of prices and foreign trade, economic stability and institutional reforms. It was thought that this measures could lead the countries from the transition economy to a stable one, with economic growth. But the problem encountered was in the perception of the citizens on the transition process because their lives were affected and they needed stability in the economic, social and political fields.

Analyzing the process of transition in the European space, we should have in mind some objectives such as: to examine the regional and global consequences of the European transition process after the communist experience; to understand the global context and the future of Europe (from its position of a major political actor, the European Union has the main responsibility to protect its member states and need to face the challenges of the transitional period) and to analyze the major challenges of the european tranzition process (after the Maastricht Treaty, the European Union has encountered some challenges.

¹⁶P. Krusell and J.V. Rios-Rull, *Politico-Economic Transition*, Institute for International Economic Studies, and CEPR, December 2001, First version, August 1995, 1.

¹⁷ Krusell and Rios-Rull, *Politico-Economic Transition*, 3.

¹⁸ D. M. Nuti and M. Uvalic, *Post-Communist Transition to a Market Economy. Lessons and Challenges* (Ravenna: Longo Editore, 2003), 11.

¹⁹ Nuti and Uvalic, *Post-Communist Transition*, 12.

The period of 1989-1991 was full of revolutionary events in Central and Eastern Europe and that was because of the collapse of Soviet Union and the Communist bloc. Analyzing the effects of the fail of Communist bloc and of the transition process on European world, we can conclude that the the major problems of the post-communist period are the global crisis (on economic, political and social levels) and also the institutional disorganisation of the states.

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GENDER ROLES IN SAUDI ARABIAN SOCIETY AND POLITICS

Dragoș TÎRNOVEANU¹

ABSTRACT:

THIS ARTICLE TRIES TO UNDERScore THE IMPORTANT ROLE THAT GENDER EQUALITY OR INEQUALITY HAS IN SHAPING SOCIAL ORDER, INTERNAL AFFAIRS, FOREIGN POLICY AND ECONOMICS. IT DOES THIS BY STUDYING HOW GENDER EQUALITY IS PERCEIVED AND APPLIED IN SAUDI ARABIA – A KEY MIDDLE EAST ACTOR AND A MUSLIM STATE. WE WILL SEE HOW GENDER GAP IS OFTEN DEFINED BY A SET OF FACTORS SUCH AS RELIGION, ECONOMICS, HISTORIC CONTEXT OR EVEN FOREIGN POLICY. IN SOME CASES, GENDER INEQUALITY IS FORMALIZED BY LAW, AS IS THE CASE OF SAUDI ARABIA. BASED ON STATISTICS AND EXAMPLES WE WILL SHOW THE PROPORTIONATE RELATIONSHIP BETWEEN GENDER EQUALITY AND DOMESTIC VIOLENCE, ECONOMIC GROWTH OR SOCIAL ORDER AND HOW THE SOCIAL FABRIC AND PERFORMANCE OF A STATE IS INFLUENCED BY HOW IT TREATS ITS FEMALE POPULATION. SAUDI ARABIA HAS ITS SHARE OF WOMEN ACTIVISTS, NOTABLY MANAL AL-SHARIF, THAT MAKE A STRONG ARGUMENT FOR GENDER EQUALITY.

KEY WORDS: GENDER EQUALITY, GENDER GAP, SAUDI ARABIA, HUMAN RIGHTS, RELIGION.

INTRODUCTION

Analyses regarding gender equality have been developing in the public discourse and in the international academic environment together with the development of feminism, a paradigm that took over political science as an extension of realism through rethinking concepts like power and security. Man, in the feminist view on power, doesn't need to control the person next to him, but he must cooperate with him, while, at a political, social and economical level, the role of women was, is and will be tremendous. Critical theory or marxist, liberal, constructivist and postmodern, are the most important variants of this paradigm, through which gender equality has been analyzed.

The Muslim world, rich through his history and its culture, represented one of the most important subjects in these studies, being marked by an immense diversity of gender equality at state level, where, from one extreme to the other, we see societies where Western-style make-up and clothes are real industries or states where Sharia substitutes the Constitution.

In this second category, the Kingdom of Saudi Arabia is the central point of interest, being branded as the most conservative Muslim state, while polygamy, the obligation to wear *burka*, the mandatory accompanying of women in public by men or the denial of the right to drive are constant in the social life of women.

Of course, in order to understand Saudi social reality we must not exclude history and the role the Kingdom is playing in the midst of the Muslim world, the Saudi king being the Guardian of the two Sacred Mosques: Mecca and Medina. Although through wahabbist doctrine, the Kingdom justifies

¹ Editor in chief of newsint.ro, dragos.tirnovanu@newsint.ro

its existence by tearing itself from the age of ignorance – *jalahilia*, international reports place Saudi Arabia as a state where women's rights are most abridged.

Within the Arab world, according to a survey taken by Thomson Foundation, Saudi Arabia, Egypt, Iraq and Yemen are the countries where the living standard for women is the lowest, whereas at the opposite pole states like Oman, Kuwait, Qatar or Jordan offer better living standards for women.² The Saudis are a paradox because their position in this survey is due to gender discrimination, including free movement and the right of women to own property. Even so, the Kingdom is much better positioned than other states with regards to gender violence or the access of women to education and health.³

Examples of gender inequality⁴



All of this proves that social progress that started as a consequence of economic development, will give birth, step by step to pressure that will modify in a gradual fashion the entire social paradigm. Thus, just a few years ago women obtained the right to take part in the Shura Council, dominated still by a male majority. At the same time, Bayan Al Zahran is the first woman in the Kingdom's history to obtain the right to work as a lawyer and her statements showed faith in progress: *"The license is one of our rights and we did not get it until the systemic conditions were applied as set in Article 3 of the legal system. As we all know our father and biggest supporter King Abdullah is the one who proved us right and lightened our way to the future to serve our beloved country. This license enables us to be recognized in the registrar of practicing lawyers"*, said Al Zahran.⁵

A similar message came from Somayya Jabarti, who spoke of the importance of women in Saudi society, immediately after she became the first chief-editor of a newspaper in Saudi Arabia. *"The fact that I am the first woman in Saudi Arabia that holds such a position, creates a double responsibility for me, and many of the decisions I will make will reflect on the other Saudi women. My success will*

² Egypt 'worst for women' out of 22 countries in Arab world, BBC, November 12, 2013, available on <http://www.bbc.com/news/world-middle-east-24908109>, accessed at 12th May 2015

³ Egypt 'worst for women' out of 22 countries in Arab world

⁴ Shakir Ahmed Alsaleh, *Gender Inequality in Saudi Arabia: Myth and Reality*, available on <http://www.ipedr.com/vol39/025-ICITE2012-K00003.pdf> accessed at 12th May 2015

⁵ Saudi Arabia grants license to first female lawyer, English Al Arabiya, October 7, 2013

not be complete until other Saudi women will be able to achieve similar positions“, said Somayya after taking over the leading position at the Saudi Gazette.⁶

WOMENOMICS

Womenomics is a term generally referring to the role women have in shaping the global economy or specific economic sectors. The role women play in the economy is itself shaped by social, cultural and religious factors that intertwine and form a mechanism in which women function. This mechanism varies in its leniency towards what women can or cannot do, depending on the region or state we are referring to.

Womenomics also refers to two key economic aspects: an ever growing trend of capital and resources recirculation from men to women and the increased penetration of women on the labor market. Even though gender equality is seen differently by different cultures and religions, the economic vista on this topic tends to be universal, in the sense that higher levels of gender equality delivers several fundamental benefits such as poverty reduction and significant increase in the welfare of children. When scaling the macroeconomic level to a global level, is hard not to take note of the simple and basic fact that a little over half of the total population is made up of women, thus having a dramatic impact on economic performance.

According to an IMF report, *Women, Work, and the Economy: Macroeconomic Gains from Gender Equity*⁷, there are several proved key implications of enhancing or degrading gender equality within the labor market, implications that reverberate onwards in the economy: the rise of the female labor force participation rate (FLFPR) to levels similar to that of males would have an impact of +5% of the GDP in the United States, +9% in Japan, +12% in the United Arab Emirates and an astonishing +34% for Egypt; women tend to invest higher percentages of their income into education which in turn gives them an edge in the labor market; companies that have women in decision-making bodies tend to make them less prone to high risk financial decisions in comparison to male dominated boards of management. According to the same IMF report, the facts regarding women in the labor force are heterogeneous across global regions and tend to be rather worrisome than optimistic: the average global female labor participation rate is about 50%, but varies greatly depending on the region. The lowest rate is seen in the MENA regions with 21% while East-Pacific and sub-Saharan Africa experiences 63%. Upon achieving a greater role in the economy and starting to acquire more capital, women tend to lead more and be involved in politics.

A Pew Research Center study on *Women and Leadership*⁸ in the United States of America taken on 1,835 randomly selected adults conducted online Nov. 12-21, 2014, reveals some interesting facts. In the most advanced economy in the world, approximately four in ten Americans think that the American public is just not ready to elect/promote women in top political or corporate positions. In fact about 55% of the women questioned believe that in the future, men will continue to monopolize top positions in politics and private companies. About 19% of the members of Congress are women and the percentage for CEOs of Fortune 500 companies is at 5%, with only 26 women leading top business across the US. A positive trend is the fact that in America, young women are outpacing young men in college subscription and completion as seen in fig. 2. which probably will define the role of women in the next century and how a next American generation works.

But the overall picture is not that optimistic or drastically changed, neither in America, or in the rest of the world, compared to two decades ago, when the Declaration on Women's Rights was signed in Beijing, the biggest gathering of this kind. In fact, ILO Director-General Guy Ryder said:

⁶ For more details, please read Răzvan Munteanu, *Somayya Jabarti: Un pas mic pentru omenire, un pas mare pentru Arabia*, Adevărul.ro, 2 martie 2014, available at http://adevarul.ro/international/in-lume/somayyajabarti-pas-mic-pentruomenire-pas-mare-arabia-1_531336f3c7b855ff56ccc61b/index.html, accessed at 13th May 2015

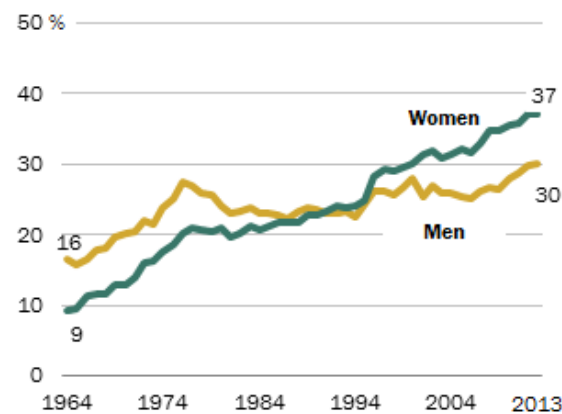
⁷ KatrinElborgh-Woytek, Monique Newiak, Kalpana Kochhar, Stefania Fabrizio, Kangni Kpodar, Philippe Wingender, Benedict Clements, Gerd Schwartz, *Women, Work, and the Economy: Macroeconomic Gains from Gender Equity*, available at <http://www.imf.org/external/pubs/ft/sdn/2013/sdn1310.pdf> accessed at 13th May 2015

⁸ *Women and Leadership Public Says Women are Equally Qualified, but Barriers Persist*, Pew Researcher Center, January 14, 2015, available at <http://www.pewsocialtrends.org/2015/01/14/women-and-leadership/>

“Are working women better off today than they were 20 years ago? The answer is a qualified yes. Has this progress met our expectations? The answer is decidedly no”. Shauna Olney, Chief of the Gender, Equality and Diversity Branch of ILO said that “the overriding conclusion 20 years on from Beijing is that despite marginal progress, we have years, even decades to go until women enjoy the same rights and benefits as men at work.”⁹ Efforts are being made around the world to promote women in the economy and society, first and foremost in respect of their fundamental rights as human beings and because by doing so, it has a profoundly positive effect on the economy and on the social fabric. The European Union has in place the *Strategy for equality between women and men 2010-2015*¹⁰ and world leaders have reiterated a clear goal in their 2014 Brisbane statement, article 9, to reduce the gap in participation rates between men and women by 25% by 2025, meaning to introduce in the labor market approximately 100 million women.¹¹

Young Women Outpacing Young Men in College Completion

% of adults ages 25 to 29 with at least a bachelor's degree



Note: Based on adults ages 25 to 29. Prior to 1992, those with at least a bachelor's degree refers to those with four or more years of college.

Source: Pew Research Center analysis of the March Current Population Survey, Integrated Public Use Micro Series (IPUMS)

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Be it the economic argument, the fundamental human rights argument or both, women are slowly gaining ground in gender role within our society, which can only benefit us as a whole. Discrimination against women is harmful, unfair but most of all is unsubstantiated and devoid of reasonable arguments.

GENDER ROLES IN SAUDI ARABIA

Gender roles in Saudi Arabia are deeply influenced by religion. Saudi Arabia is a Muslim state which means it looks to Sharia (Islamic law), specifically Salafism, a particular strain of Sunni Islam, in order to determine benchmarks to measure against social norms. This *status quo* has a lot of implication on women. First of all, Saudi Arabia, as well as most Gulf Monarchies, is a patriarchal society, which means men have the leading role, provide the workforce that propels the economy and

⁹ ILO: *Progress on gender equality at work remains inadequate*, available at http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_348035/lang--en/index.htm accessed at 14th May 2015

¹⁰ *Strategy for equality between women and men 2010-2015*, available at http://ec.europa.eu/justice/gender-equality/files/strategy_equality_women_men_en.pdf accessed at 14th May 2015

¹¹ *G20 Leaders' Communiqué Brisbane Summit*, 15-16 November 2014, available at https://g20.org/wp-content/uploads/2014/12/brisbane_g20_leaders_summit_communique1.pdf accessed at 14th May 2015

are tasked with providing for women. Also central to Arabian culture is the concept of *namus*, roughly translated to *honour* which is of key importance for men. *Namus* is influenced, amongst others, by women's behavior in society, thus incentivizing men to enforce a strict code of conduct in order to preserve this concept.

Saudi Arabia has gone a long way in recent years in term of reducing the gender gap but still has a lot of issues regarding gender roles, issues that ultimately undermine the Kingdom's status and political stability, thus endangering its regional and global role. Let's have a brief look at some data made available in the World Gender Gap Report 2014, report made available by the World Economic Forum.¹² Currently Saudi Arabia is ranked 130th from 142 countries with a 0.606 score (where 1 means equality and 0 means inequality). Female unemployment rate is at 18.6% while male unemployment rate is 3.2% which is a big gap. The percentage of women that have an account at an official financial institution is 15% while men stand at 73%. The gap is smaller with regards to PhD degrees with women achieving a 45% rate while men reach 55%. In the Rights and Norms category, Saudi Arabia has 1.0 in the indicator *Inheritance rights of daughters*, 0.5 for *Women's access to land ownership* and 0.0 for *Women's access to credit* (1 is the worst score and 0 the best score). These figures show that women have different challenges and benefits while living in Saudi Arabia.

With regards to religion as a key factor in shaping gender roles in Saudi society, it is not necessarily a given fact that it dictates a discriminatory or negative behavior towards women. In fact, there are many references in the Quran to strong female role models that lead and have powerful statements to make. The gender gap is also a consequence of the nomadic and tribal culture that underpins Arabian history.

Another extensive report that can shed a clearer light on gender roles in Saudi Arabia is OECD's Social Institutions and Gender Index (SIGI)¹³. SIGI is a complex instrument which details discrimination against women per country and region taking into account multiple variables, with five main dimensions: discriminatory family code, restricted physical integrity, son bias, restricted resources and assets, and restricted civil liberties. The family code section details legislative data that is very relevant. For instance, article 8 requires that the government be premised on equality in accordance with Sharia law, but under Sharia law, women are considered to be legal minors, under the control of their *mahram* which is a person with whom the female is related to and is not able to marry him; men are allowed to divorce in an unilaterally fashion while women can only do so in very specific circumstances; women generally inherit less than men and are overlooked when inheritance capital is distributed because they are considered to be dependent on their fathers or husbands; there is no legally defined minimum age for marriage and it is a subject which has the approval and backing of religious leaders.¹⁴

Regarding domestic violence, a law criminalizing domestic abuse was passed only in 2013 but the effectiveness of this law is questionable, taking into account the fact that this subject is rarely brought to surface due to social taboo and norms. In the *son bias* section, the report draws attention on a gap between the male/female ratio of individuals aged 15-64 which is 1.29 and the same ratio at birth, which is 1.05. This gap means there are missing women who create this gap due to intra-household income being diverted to sons rather than daughters.

Recent years have seen an improvement in Saudi Arabia's drive to create the tools necessary for women to expand their role in society. Legislation that required women to hire a male manager was abolished in 2005.

The report gives a grim view on the freedom of movement of women in Saudi Arabia, which is severely restricted by the fact that in almost all cases women need the permission of their *mahram* in order to move outside the premises of their own household. In fact, for movement outside and inside the country, they need the written approval of their guardian.

¹² *World Gender Gap Report Country Profiles Saudi Arabia*, available at <http://reports.weforum.org/global-gender-gap-report-2014/economies/#economy=SAU> accessed at 14th May 2015

¹³ Saudi Arabia Country Profile, Gender Index, available at <http://genderindex.org/country/saudi-arabia> accessed at 15th May 2015

¹⁴ *No minimum age for marriage of girls – Grand Mufti*, ArabianBusiness, December 22, 2014, available at <http://www.arabianbusiness.com/no-minimum-age-for-marriage-of-girls-grand-mufti-576044.html> accessed at 15th May 2015

STUDY CASE: MANAL AL-SHARIF

Manal al-Sharif is a women's activist from Saudi Arabia that portrays the struggle of women in Saudi Arabia in order to achieve a more gender equal society. She became an important name for human rights on the global stage after her 2011 campaign called *Women2Drive* for the removal of driving ban legislation for women. In order to attract attention, she intentionally got in a car and drove while Wajeha al-Huwaider, another famous women activist from Saudi Arabia, filmed her. This led to her arrest for nine days. She was influenced by the events of the Arab Spring and also by the power of social tools like Twitter or Facebook, which became a stage on which she could air her opinions on gender equality.

Her role evolved from just asking the right to drive for women, to being the voice of change for women in Saudi Arabia. In her opinion, *"a Saudi woman can't make any decision in her life—study, work, marry, obtain a passport, and travel—without written permission from her legal male guardian, effectively treating her as a minor all her life,"* she says. *"For the religious establishment, this is like their last castle, so if they lose this castle, they lose their grip on women, on controlling women. For us, the status quo of women in Saudi Arabia—being controlled, being minors, being second-class citizens—is the key to change."* She received great recognition from the Western world for her work and she was selected as one of 2012's Time magazine's "100 Most Influential People in the World" and awarded the Václav Havel Prize for Creative Dissent at the Oslo Freedom Forum while Foreign Policy magazine named al-Sharif one of the Top 100 Global Thinkers of 2011. While the fundamental basis of her speech is made up of human rights, the changes that she proposes to Saudi society could have far-reaching economic consequences. For example, her push for women be allowed to drive a car could mean a dramatic boost to the auto industry. More rights, access and freedom of movement could trigger growth in basically all sectors, from transportation to financial services. This can be crucial for a fossil-based economy such as Saudi Arabia, which actively searches for ways to invest its petrodollars, into infrastructure and other future growth sectors that will be able to sustain Saudi society once fossil fuels will run out.

CONCLUSIONS

Despite the small steps achieved with regards to women rights, Saudi Arabia remains the most conservative state, worldwide, with the religious clergy criticizing every policy of opening up that the King is putting to practice. Even so, dialogue is present and socio-political pressure is rising. Immediately after 9/11, in order to distance itself from extremist violence, Riyadh began to fight against stereotypes in education and issues regarding Saudi Women, by promoting social policies. More so, women started to be part of official delegations.¹⁵ Afterwards, a series of reforms regarding gender equality were put into place by the wish of the Monarchy to stop social tensions that came together with events of the Arab Spring, but this type of *"state sponsored feminism"*, by this referring, among others, to examples from the former Soviet Union, or from North Africa, produced only superficial reforms with regards to the role of women in society and politics.¹⁶

Taking into account extremely complex and difficult geopolitical factors that influence the current regional status quo in the Middle East towards a direction not favorable to Saudi Arabia, it needs and egalitarian and open society, without social tensions, which can back foreign policy in a robust and vigorous manner, thus increasing the chances to keep its leading Muslim status.

¹⁵ LE RENARD, Amelie, The Politics of "Unveiling Saudi Women": Between Postcolonial Fantasies and the Surveillance State, available at http://www.jadaliyya.com/pages/index/20259/the-politics-of-unveiling-saudi-women_between-post, accessed at 15th of May 2015

¹⁶ LE RENARD, Amelie, The Politics of "Unveiling Saudi Women": Between Postcolonial Fantasies and the Surveillance State, available at http://www.jadaliyya.com/pages/index/20259/the-politics-of-unveiling-saudi-women_between-post, accessed at 15th of May 2015

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10. *World Gender Gap Report Country Profiles Saudi Arabia*, available at <http://reports.weforum.org/global-gender-gap-report-2014/economies/#economy=SAU> accessed at 14th May 2015
11. Saudi Arabia Country Profile, Gender Index, available at <http://genderindex.org/country/saudi-arabia> accessed at 15th May 2015
12. *No minimum age for marriage of girls – Grand Mufti*, ArabianBusiness, December 22, 2014, available on <http://www.arabianbusiness.com/no-minimum-age-for-marriage-of-girls-grand-mufti-576044.html> accessed at 15th May 2015
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ANTI TOTALITARIAN REVOLUTIONS FROM CENTRAL AND EASTERN EUROPE. POWER TRANSFER

Flavius-Cristian MĂRCĂU¹

ABSTRACT

HOW TO PASS POWER FROM THE 1989 FROM CENTRAL AND EASTERN EUROPE IS NOT COMMON AMONG THE SIX COUNTRIES WHO PASSED THROUGH ANTITOTALITARIAN REVOLUTION. THUS, WE INTEND TO ANALYZE THE PROCESS BY WHICH POWER WAS TRANSFERRED FROM THE SINGLE PARTY GROUPS FORMED IN DEMOCRATIZATION. WE WILL ALSO NOTICE THAT NOT ALL STATES HAVE TARGETED THE SAME MODE OF TRANSFER OF POWER, CONSIDERING THAT THE ANTI-TOTALITARIAN REVOLUTIONS, BUT ALSO MEASURES THE CHANGE IN THE STATE HAVE BEEN DIFFERENT.

KEYWORDS: REVOLUTION, 1989, POWER TRANSFER , DEMOCRATIZATION, COMMUNIST , POST-COMMUNISM.

Decomunized States in Central and Eastern Europe went through antitotalitarian revolution in 1989 and headed to democracy. But we mention that these revolutions, first of all, have not enjoyed a heterogeneous and in the second, the transfer of power, aspect covered in this study, known differences among decomunized states .

Before continuing our exposure, we want to define a definition of the *transfer of power*, with which we will work further. Thus, the acceptance period, *transfer of power* can mean *the process of moving power from one structure to another, from one person to another or from one government to another*. However, our attention is focused on this concept of trapped takeover, and transfer by the totalitarian regime, through Communist Party, to pro-democracy groups from decomunized states.

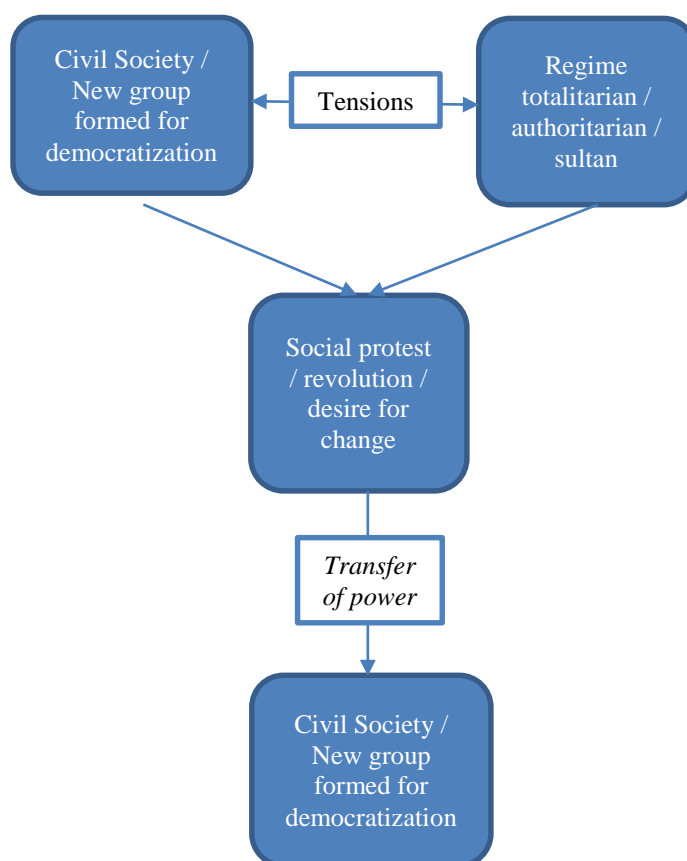
1989 can be understood as the year of *societies renewal* , perceived as a struggle between the old and new leaders between totalitarianism and democracy-building desire. This year could see a chain of events - understood as an interrelation - between the USSR and Central and Eastern Europe. Timothy Garton Ash commented in an absolutely inspired when he raised revolutions anti-totalitarian in Central and Eastern Europe, pointing out that they were based on the number ten: ten years in Poland, ten months Hungary, ten weeks Czechoslovakia ten days RD Germany and ten hours Romania.²

¹ Research Assis, Research Institute of Development, University "Constantin Brancuși" of Târgu-Jiu, Romania; Phd. C., Babes-Bolyai University of Cluj-Napoca, flaviusmarcau@yahoo.com

² See Flavius Cristian Marcau, "Short analysis of the fall of Communist Regimes in Central and Eastern Europe in 1989 and the domino effect" in *Astra Salvensis*, An III, Nr. 5, 2015, 159-164

Recent history has shown us that not all post-totalitarian states of the former Soviet bloc have enjoyed a smooth transfer of power, occurred on the model *Communist Party - Civil Society - Group created to democratize the state*. The transfer is different from state to state, a sign that track a particular typology of obtaining power. We observe along our approach, the process of change has worked on more coordinated, some of which are common in all states.

But earlier study we defined the concept of *power transfer*, but without explaining how it can be done. I missed this very fact that the Member shows significant features when it comes to extreme situations (like revolutions). This can be easily seen if we look at how civil society action during the events of 1989. In this sense, in theory can be described (idealistic) the transfer of power, before presenting the case of six former Soviet bloc states. Thus :

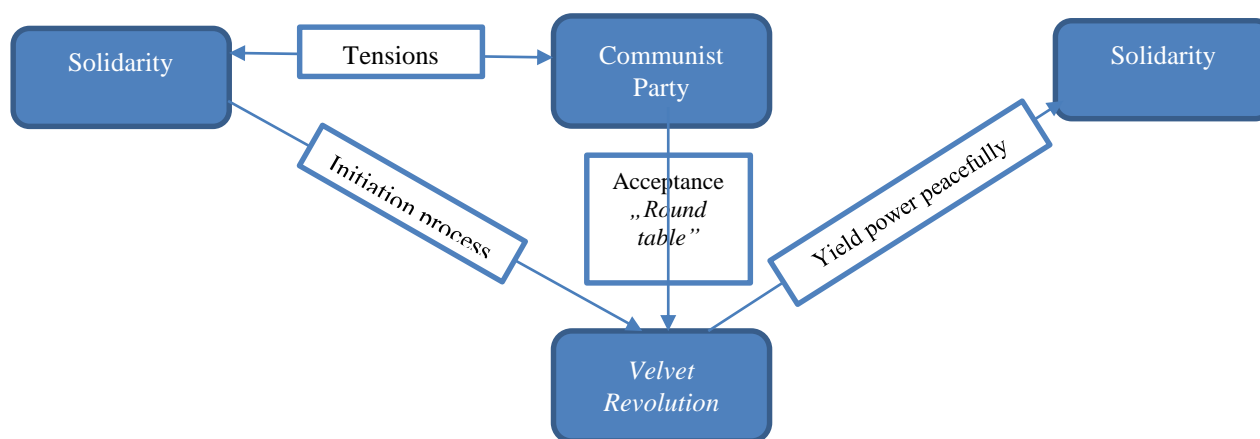


Scheme 1

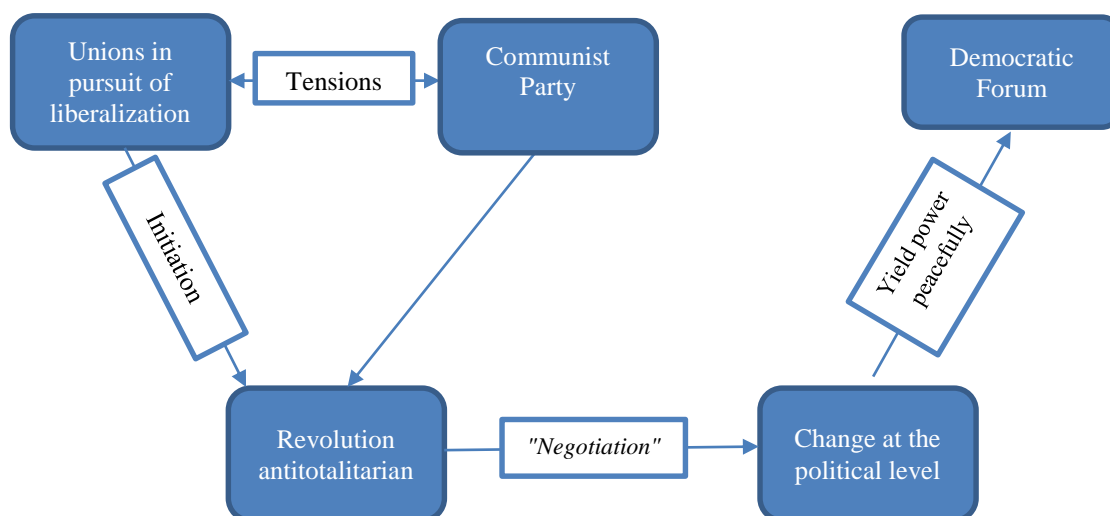
This is a scheme, in terms of ideal, which *power transfer* can be achieved even say ideal given for comparison what happened on the political scene in the year 1989, namely that stripping power single party known different weights, including violent materialized (in some states), issues that we will see further.

Poland through the *Velvet Revolution*³, known as the initiator liberalization with the Solidarity trade union. The pressures of the latter, carried out on communist leaders led to the acceptance of the round table negotiations. If this state was one particular period due to stretching of the transfer process (10 years). Undemocratic government has demonstrated a capability well defined in terms of resistance to change trend.

³ See the cause of the revolution in Poland in general Adrian Pop, *Origins and types of revolutions of Eastern Europe*, (Bucharest: Ed. Encyclopedia, 2010); Flavius Cristian Marceau, "Revolution of the ten years << >> from Poland" in *Research and Science Today*, Supplement 3/2015, July 2015, 124-129

Scheme 2⁴

Hungary, unlike Poland, experienced a rebound that came from within the party. Regarding the change of power at the state level, we find, in 1988, different political projects - from among communist leaders - in pursuit of liberalization (based model Gorbachev *Perestroika*)⁵. In this situation, the transfer of power was found the following form:

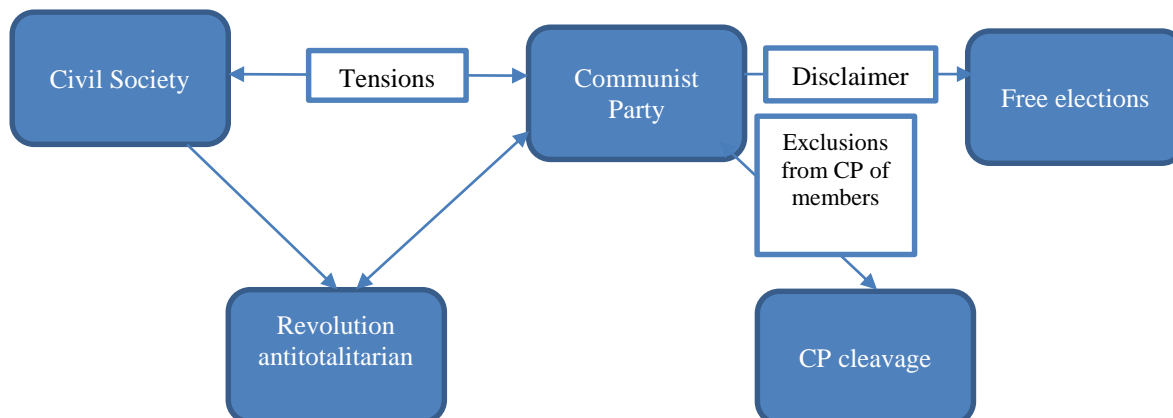
Scheme 3⁶

⁴ We see how the pressures of the Solidarity trade union and Communist Party led to the initiation of the transfer process by velvet revolution. On this occasion, the communist leaders have agreed to start negotiation process roundtable, which resulted in giving up power is done in a peaceful way.

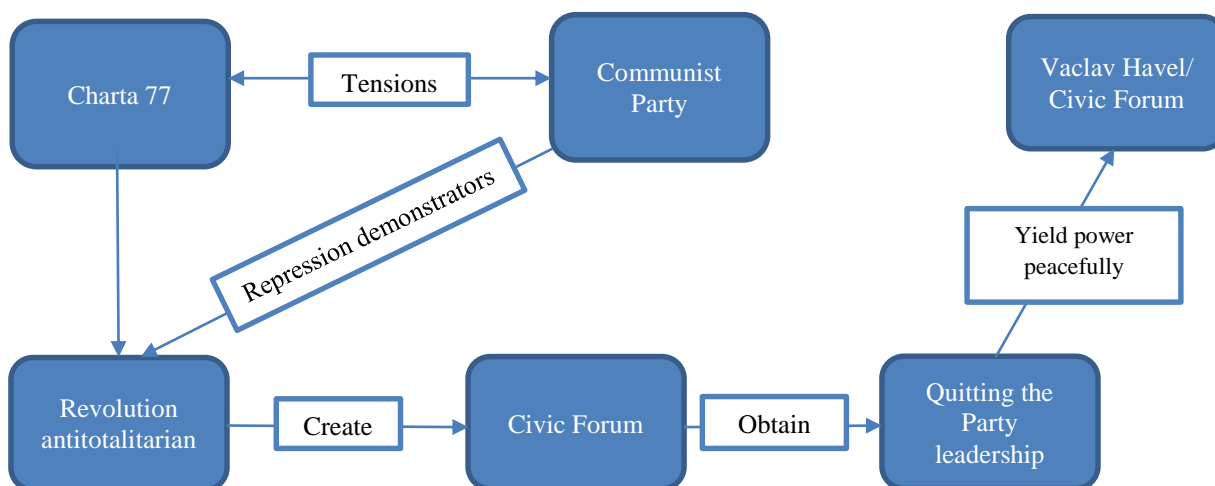
⁵ Adrian Pop, *Attempted transition. A history of the collapse of communism in Eastern Europe*, (Bucharest: Corinth, 2002)

⁶ Note that in the case of Hungary, like that of Poland, initiating the process of changing power of trade unions created *pressures* aimed to liberalize the Hungarian Communist Party. The result of these pressures was reached anti-totalitarian event that generated a series of changes at the political level. As a result, power was ceded by the communists, the democratic form created to democratize the state.

Bulgaria, following the revolution anti-totalitarian, experienced an orderly transfer of power. The changes occurred within the Communist Party by giving it the leading role in society and initiate the process of democratization. Revolution in Bulgaria was made possible initially by using ecological farming of. The pressures of civil society and the Communist Party took catalyst chemical plant pollution from Giurgiu which is the Romanian bank. These demonstrations have created a momentum to liberalization of state is like switching to democracy.

Scheme 4⁷

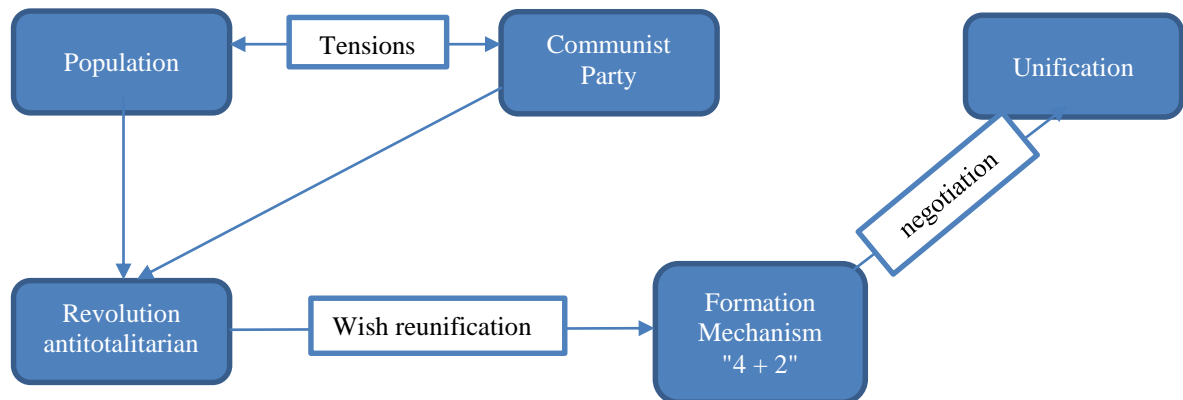
Czechoslovakia is the first state that has experienced violence during the transfer of power. At this level could see a reluctance of communist leaders in terms of changing. In this situation, the party carried out a campaign of repression of demonstrators who attended the rally organized by Charter 77. As a result, two days of protest arose Civic Forum which organized the demonstrations, obtained resignation of party leadership communist. The transfer of power took place following coordinates: *rally - aggression - rally - negotiation*.

Scheme 5⁸

⁷ Such pressures have led to revolution Anti-totalitarian, and the exclusion of a number of partial turn, led to its cleavage. Shortly communist leader Zhivkov, we support having Gorbachev is changed Mladenov, who decides to initiate the democratization process.

⁸ Czechoslovakia was the first state to repression of demonstrators known. Under the pressure of Charter 77 and the PC, it was Antitotalitarian revolution, but communist leaders found it necessary to intervene with force to stop

German Democratic Republic was faced with demonstrations against totalitarian coming from people without them to benefit from the guidance of a group (the model states above). Transfer of power came amid public desire to unite the two Germanys. But the novelty factor, compared to other states, was the reactivation mechanism quadripartite (after 18 years) negotiated between the four states rights over Germany (US, USSR, France and Great Britain) represent the will of their clear to prevent German reunification. It arose when negotiating mechanism known as the "4 + 2" which was made up of foreign affairs ministers of the four countries and two Germans.

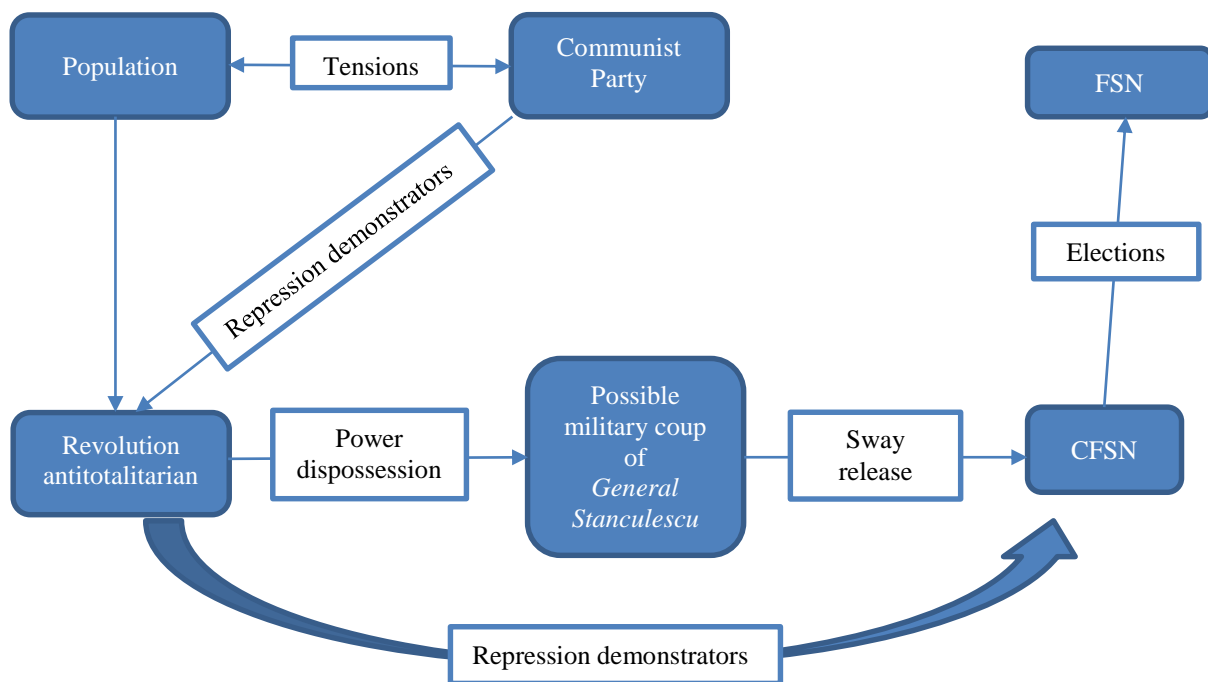


Scheme 6⁹

Romania's case is different from other states that have passed through anti-totalitarian revolution, and it is because of Ceausescu's refusal to cede power. It is the only state of the six who went through a particularly bloody anti-totalitarian event. Communist leaders did everything he could to maintain their positions. The repression of demonstrators was made in a brutal manner by using security, police, border guards, especially the military. But power failure did not follow the original course - the dictator to the group formed to take over power and initiating the process of democratization. The news is, though few authors have noted this aspect in that power, before being transferred to the National Salvation Front Council, belonged to the army. After taking off dictators of the Central Committee building (December 22), was recovered power for a short time in the hands of General Stanculescu, shortly, gave a NSFC leader. The transfer of power has occurred in the following coordinates: rally - aggression - NSFC.

the demonstrations. As a result of suppression is created Civic Forum party which obtained the resignation of the scale of protests in the country. Following these resignations, giving up power knows a peaceful manner.

⁹ Notice the pressure of population and led to the revolution Antitotalitarian PC that generated the desire for unification of the two Germanys among the demonstrators. Thus, from this desire, 4 + 2 mechanism is reactivated, and after negotiations to reach unification.

Scheme 7¹⁰

In conclusion, noting models developed during our approach, we understand that the transfer of power has undergone different approaches for decomunized states by anti-totalitarian revolution in 1989. Linearity and heterogeneity missing in these situations and countries differ from one another, including understanding how action situations. In this situation it is not possible to develop a *pattern* of power transfer, because of the peculiarities that are found in the individual member states. But post-communist states that have shown us the power can be transferred in several ways, either as a principal element is *violent* or *peaceful*. With the escalating violence, the regime can understand cede power or civil society to resist up to a certain point. Anti-totalitarian Revolutions to describe the point where each individual state has wanted. Romania, for example, through its leaders, proved he could carry out a strong campaign of repression of demonstrators, in comparison with Hungary to understand that violence must be excluded.

¹⁰ Romania is the only state of the six who are facing serious difficulties of the transfer of power. Living hard that the state population felt totalitarian regime, led to pressure between the government and the people that were materialized in December 1989 in a bloody revolution Antitotalitarian. But stripping power is not aimed at removing single party and getting power by the newly formed group (NSF). During the events, for a short period of time, the army was the one who held power (via General Stanculescu), later being transferred Council and leader of the National Salvation Front (Ion Iliescu).

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SAUDI ARABIA, IRAN AND THE GEOPOLITICAL GAME IN YEMEN

Răzvan MUNTEANU¹

ABSTRACT:

THE PRESENT ARTICLE ANALYZES THE POWER STRUGGLE IN THE MIDDLE EAST IN A MUCH MORE COMPLEX FRAME THAT TRANSCENDS THE LEVANT, TOWARDS THE SOUTHERN ARABIAN PENINSULA. YEMEN, APPARENTLY A NOT SO IMPORTANT ACTOR IN THE GLOBAL EQUATION, IS IN FACT THE MAIN BATTLEGROUND FOR REGIONAL INTERESTS AND A POSSIBLE FAILURE OF THE ARAB STATES TO MANAGE THE YEMENI CRISIS WILL PROBABLY REPRESENT THE BIGGEST SECURITY RISK WHICH GULF MONARCHIES FACE ON THE MEDIUM AND SHORT TERM.

KEYWORDS: GEOPOLITICS, MIDDLE EAST, POWER, IRAN, SAUDI ARABIA, YEMEN, AXES, SHIITES, SUNNIS, HOUTHIS, DECISIVE STORM

YEMEN, THE FAILURE OF UNION

Yemen, under the current state organization, was created in 1990, when North Yemen which included Sana'a, and the Southern with Gulf of Aden in its possession, had merged, with the Western backing.

But the political situation from the first months, however, was to confirm the failure of the union between North and South.

Power sharing between the two regions was expected to be equal, for which the North representative, Ali Abdullah Saleh was elected president, while the Southern one, Ali Salim al-Beidh took over as vice - president. However, economic issues as well as political marginalization of the southern tribes had led to the split of relations between the two leaders, stirring a civil war won by the camp led by Saleh, fact that brought into his own hands the entire power². This is the reason why al- Beidh was forced to flee to Oman.

Saleh regime governed until the end of 2011, when the Arab Spring revolts swept Yemen, corruption and political marginalization being some of the reasons that have bequeathed a state on the verge of bankruptcy.

¹ Ph.D. Candidate Faculty of Political Science, National School of Political Studies and Public Administration/ POSDRU Scholar: POSDRU/187/1.5/ S/155589 Beneficiary Institution: National School of Political Studies and Public Administration

² Martin Reardon, *South Yemen and the question of secession*, Al Jazeera, December 3, 2014, available online at <http://www.aljazeera.com/indepth/opinion/2014/12/south-yemen-question-secession-201412351732176656.html>

As a result, the national security is affected on every level. Thus, in economic terms, the Gross Domestic Product (GDP) is 75% resulted only out of oil resources, resources that are expected to run dry in the next two years. Yemen is the poorest of Arab countries and water reserves are, in turn, increasingly scarce, which causes severe internal migrations and at the same time gives birth to more than 80 % of the intertribal conflicts.

We must add that over 50% of the population lives in extremewhile over 50 % of the population is made of illiterate people. All of these factors contribute to weaken the society to the extent of being vulnerable to extremist speeches. Given the situation, Al Qaeda in the Arabian Peninsula (AQAP), taking advantage of the weak capacity of the national army to control the whole territory, has developed in Yemen, succeeding in becoming the most powerful branch of the terrorist group founded by Osama bin Laden.

The transition, started in 2012, was a peaceful one under the mediation of GCC and the United States, Saleh submitting his resignation after two big compromises: keeping in charge in the new government some of his close leaders and judicial exemption from any action taken during his mandate as President. A new beginning rung, when Abed Rabbo Mansour Hadi came to power in February, but economic problems have continued to fuel social tensions, underlying perhaps the biggest Yemeni problems: secessionist tendencies from South and Houthi's power expansion.

In the South, through Hirak movement, the requests are for a return to borders before the 1990, Houthi is striving for political influence in Sana'a. In fact, this is nothing else but a game with major geopolitical implications.

Founded in the early 90's, the Houthi group took the name of its founder, *Hussein al-Houthi Addian Bader*, a Zaidi tribesman, under the Shiite influence of Iran.

In its early years, the group was influenced by a modernist current, being, afterwards, subject to a conservative one, apparently influenced by Tehran, and transposed after Bader al-Houthi had spent a few months in *Qom*³.

Bader al- Houthi was elected Member of Parliament and became sharply critical of President Saleh, whom he has been accusing for its rapprochement with the US. He died in 2004, when the Yemeni army carried out a raid in Sadah region⁴.

Saleh had put down a reward of 55.000 USD for his murder, suspecting him of pursuing a theocratic Shiite state in northern Yemen⁵.

His son, Abdel-Malek al-Houthi is the current leader of the group, succeeding, in first taking control over the capital of Sana'a in September 2014.

He used the same tactics as in the assault over Mosul by the Islamic State, the rebels soon taking control over the governmental buildings, the international airport, and managing to replace preachers and imams paid by the government with others agreed⁶.

The dismissal of the Prime Minister Mohammed Basindwa, the taking over of some government positions and the peace agreement signed last autumn, couldn't bring the internal stability of the country.

Houthi rejected the constitutional draft of President Hadi, which sought territorial reorganization of the state in six administrative provinces, proposing instead an administrative model based on the two regions: the North and the South⁷.

³ Jacques Neria, *Yemen Changes Hands. Will an Iranian Stronghold Emerge Near the Entrance to the Red Sea?*, Right Side News, October 07, 2014

⁴ Neria, *Yemen Changes Hands*.

⁵ Neria, *Yemen Changes Hands*..

⁶ Neria, *Yemen Changes Hands*.

⁷ Martin Reardon, *The ungovernable Yemen*, Al Jazeera, January 22, 2015, available online at <http://www.aljazeera.com/indepth/opinion/2015/01/ungovernable-yemen-houthis-201512374240683455.html>

Of course, the President's request did not seek only the ramp down the splits, but he also wanted to avoid that all the political power and influence to be on the tribe's side, aspect seen as a trap situation by rebels⁸.

Houthi insurgency has been resumed in January 2015, but it has ended with another failure concerning the negotiations, leading to the dismissal of President Hadi and the government of Sana'a, creating a political chaos that can shape a future civil war.

THE GEOPOLITICAL GAME

Political chaos and power vacuum that emerged led inevitably to both social crisis and the expansion of AQAP, turning Yemen into an insecure climate which is likely to expand and threaten the stability of the Gulf monarchies.

Accusations are pointed out to Iran, presumably aiming destabilizing the Gulf Cooperation Council members in his desire to become a regional hegemon.

In 2004 Houthi was turning into a paramilitary group, but three years later, Sana'a directly accused both Iran and Libya for their support⁹.

Moreover, in recent years, there have been various evidences showing that Houthi rebels were trained by the Iranian Revolutionary Guards and Hezbollah (pro-Iranian Lebanese groups), while last year it was discovered a ship carrying Iranian arms illegally to Yemen¹⁰.

Gerald Feierstein, in turn, stated in 2012, as US Ambassador to Yemen, that "to expand its influence in Yemen, Iran supports Shiite rebels in the country and other forces that are interested in secession state¹¹". In response, Nasser Mohammed al-Bakhit, the Iranian ambassador to Sana'a, claimed that US, by the accusations it brought was trying to justify its own actions in Yemen.

It seems hard to believe how a state just about to fail, with natural resources on the verge of exhaustion, can have such an important role in regional geopolitics. But, if we look carefully at its geographical location we can understand its strategic importance, since Yemen is at the entrance of the Gulf of Aden and Bab el Mandeb Strait, crossed daily by over 3 million barrels of oil leaving the Persian Gulf to the West¹².

With a Yemen divided or not, but coming effectively into its own sphere of influence, in practice, Iran would control, in addition to the Strait of Hormuz the Strait of Bab el Mandeb too, thus holding a capability of total power projection over shipping of hydrocarbons from the Persian Gulf to Europe and the United States. Then, it would have access to the Red Sea which would allow it to arm Hamas more easily, through seaway; therefore reinforcing the assumed role of defender of the Palestinian cause and Muslims everywhere, but the most resonant advantage could be given by the *awakening of Shiite axis*. The rise of *Zaidi* correlated with events in Lebanon, Syria or Iraq can export inside the Gulf monarchies the deepening of sectarian conflicts, unavoidably leading to the risk of social anomie, secessionist bias or regime changes. In the case of such a scenario, Kuwait and especially Bahrain and Saudi Arabia are feeling the most exposed, and that because the regime in Manama is ruled by a Sunni monarchy, in a majority Shia state (over 75 % of the population of Bahrain is Shiite), while Saudi Arabia hosts on its territory two compact groups of Shiite minority: one in Saddah region on the border with the Yemeni government, and the other in the Eastern province of the country, placed precisely in the oil fields near the Persian Gulf. Divided by tribal struggles and irredentist conflicts, Yemen is living, in fact, *its own geostrategic curse*, becoming in time a battle field

⁸ Reardon, *The ungovernable Yemen*

⁹ Neriah, *Yemen Changes Hands*

¹⁰ Neriah, *Yemen Changes Hands*

¹¹ Michael Segall, *Iran Targets Yemen*, Jerusalem Center for Public Affairs, Vol. 12, No. 9 April 22, 2012

¹² Tim Lister, *Why we should care about Yemen*, CNN, November 23, 2011

of geopolitical rivalries and interests. Saudi Arabia has always opposed to the union in 1990, fearing the birth of a powerful actor at its Southern border able to endanger its territorial integrity and the rule of hegemonic power. The glorious past under the governance of Queen Sabaa, the architecture old more than 2.000 years, or the huge role in the spread of Islam to India and Indonesia are just some of the arguments that could have changed Sana'a into the center of Arab world.

Against this background, Riyadh has always been interested in maintaining breakaway tensions in the South, but the complexity of security made the Saudis to be cautious about a failed state at their border, hereby aiming to maintain a weak Yemen, but at the same time preventing to reach the point of turning itself into a new Somalia¹³. But Yemeni failure has proved to be inevitable given the corrupt system based on political marginalization, transmuting the country not in a new Somalia, but most likely into a future Afghanistan. Moreover, all these have allowed diversification of the Iranian strategic game and expanding Tehran's sphere of influence into Yemen.

In an interview for the *Yemen Times*, the director of *Abaad Center for Strategic Studies*, Mohamed Abd Al-Sallam, said that subversive actions of Iran in Yemen have increased both along with economic sanctions imposed by the US vis a vis the Central Bank of Iran and at the same time with the bans of oil exports. As Al-Sallam has noticed, Iran's actions were not aimed only at arming and training Houthi Shiites but also the Sunni members of Hirak group¹⁴, ultimately demonstrated us the complexity of this geopolitical game.

CONCLUSIONS

Since we, lately, are assisting to a reshaping of power centers in the Middle East, Yemen, apparently a marginal state is, in fact, a genuine field of the geopolitical battle. The strategic advance at the disposal of Tehran seems to strengthen the Sunni axis around Saudi Arabia, and if the stances of Pakistan and Egypt are already known, the latest talks from Riyadh between Erdogan and King Salman unveil a rapprochement between Turkey and Saudi Arabia in order to curb Iranian influence. Of course, all this must be understood from the perspective of realist paradigm, where the big players will always follow momentary alliances to diminish the opportunity of another state actor to gain hegemonic power status. What we expect is that, beyond the proximity to Saudi Arabia, Ankara to try also to mediate the Yemeni crisis in a bid to bring both Riyadh and Tehran to dialogue.

In an economically collapsed Yemen, whose territories are controlled by Houthi and AQAP rather than the national armed forces, outside military intervention led by the Arab states was being a plausible scenario since January 2015.

Regarding the issue of sending ground troops to Yemen, such an action would not only legitimize a similar intervention of Iran in Syria or Iraq, but mountains and massive expanses of desert which make Yemen into a hostile battlefield would make ground operations unworkable, and a failure of the Arab coalition would question furthermore their power projection¹⁵.

Unlike air raids, rough relief makes any ground campaign extremely critical, the best example being given by Egypt intervention to Yemen in 1960, when Egyptian troops have lost over 10.000 soldiers, which caused the decrease of the popularity of President Gamal Abdel Nasser¹⁶.

¹³ Abubakr Al-Shamahi, *Saudi Interest in its Yemeni Neighbour*, Fair Observer, February 20, 2012

¹⁴ Ali Saeed, *Negligence of the Southern issue threatens international security*, Yemen Times, February 23, 2012

¹⁵ Abdulrahman Al-Rashed, *Gulf countries standing idly by in Yemen*, Asharq Al-Awsat, 5 October, 2014

¹⁶ Joshua Rogers, *Yemen's First Civil War Offers Lessons for Ending the Country's Current Conflict*, Muftah.org, April 21st, 2015

Meanwhile, a ground invasion could lead to the perception of foreign occupation of Yemen, uniting some of the tribes in the fight against Arab states¹⁷.

Therefore we expect that monarchies would opt, essentially, for strengthening the Yemeni army and providing political and economic support in order to unify Sunni tribes.

Even the former President Saleh, in exile after he resigned following the protests in 2011, and the General People's Congress Party (GPC) - still under his influence - have announced that they are open to discussions for solving the crisis. The statements came in the context of the political agreement signed between the GPC and Houthis, in order to support them-? Who GPC Or HOUTHİ?¹⁸.

Secession, otherwise a highly plausible scenario, is, at least for the moment, out of the areas of paramount importance to dialogue.

Firstly, the *Hirak* movement does not have a unified policy, being divided into three camps with their own, different agendas. And that happens because, besides those, which are majority and want secession and independence of the South, there are also the advocates of increased autonomy through a federalist system and those who want a technocratic government that includes the *Hirak*¹⁹.

Then, although Houthi, currently, holds control over Sana'a capital, it is hard to accept secession as long as the frail national economy depends entirely on natural reserves available in the South²⁰, reason why the rebels are still tempted to continue the dialogue in order to achieve their goal as having a government controlled by their key positions. The failure of negotiations will, eventually, likely lead to a civil war, where the two geopolitical blocs will continue to preserve their interests.

In the meantime, AQAP continues to take advantage of the created power vacuum, trying to advance towards the oil fields of *Marib*²¹, while the Islamic State announces its presence in Yemen²².

Whether we like it or not, in a context when the attention of international public opinion is drawn to the crisis in Syria, Iraq or Ukraine, to the outbreaks of Ebola or the Iranian nuclear issue, the geopolitical game of the centers of power in the Middle East is playing beyond Levant, in the southern of Arabian Peninsula, and Yemen could be one of the main points that will lead to the shift of the existent regional *status quo*.

¹⁷ Rogers, *Yemen's First Civil War*

¹⁸ Fernando Carvajal, *The Next Step in Yemen's War*, Fair Observer April 30, 2015

¹⁹ Reardon, *South Yemen and the question of secession*,

²⁰ Reardon, *South Yemen and the question of secession*,

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²² *ISIS video claims 'we've arrived' in Yemen*, Al Arabiya News, April 26, 2015

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MANAGING THE ILLEGAL MIGRATION WITHIN THE CONTEXT OF THE EUROPEAN NEIGHBOURHOOD POLICY IN THE EAST

Snejana SULIMA¹

ABSTRACT:

EXTENDING SAFETY BEYOND THE EU FRONTIERS, ESPECIALLY IN ITS IMMEDIATE VICINITY, IS ONE OF THE EUROPEAN UNION'S TOP PRIORITIES. IN THIS RESPECT, ART. 8 FROM THE EUROPEAN UNION TREATY STIPULATES THE DEVELOPMENT OF PRIVILEGED RELATIONS WITH THE NEIGHBOURING COUNTRIES. IN THE SAID NORMATIVE CONTEXT, EU'S ACTIONS ARE DIRECTED TOWARDS SEVERAL DIMENSIONS: A PRIVILEGED POLITICAL DIALOGUE, A GROWTH IN THE ECONOMIC CO-OPERATION, AS WELL AS FINANCIAL SUPPORT, AND THE REGULATION OF PERSONS' MIGRATION. THE LAST DIMENSION, ABOUT THE PERSONS' MOBILITY, IS VERY MUCH INFLUENCED BY OTHER FACTORS, SUCH AS THE DEGREE OF THE INDIVIDUAL'S ECONOMICAL-FINANCIAL STABILITY, AS WELL AS THE PRESUMABLE MIGRANTS' HOME COUNTRY DEMOCRACY STAGE. QUESTIONS RELATED TO PERSONS' MOBILITY FROM EAST TO THE EU ARE STUDIED IN THIS ARTICLE WITH A VIEW TO REVEAL THE EUROPEAN REGULATIONS IMPACT ON MIGRATION WITHIN THE FRAMEWORK OF THE EUROPEAN NEIGHBOURHOOD POLICY (ENP) IN EAST. TAKING INTO CONSIDERATION THE INSTRUMENTS CONCEIVED FOR REGULATING MIGRATION FROM THE EAST TOWARDS THE EU, THE STUDY REVEALS THE IMPORTANCE OF THE DIALOGUE AND COOPERATION OF THE DECISION MAKERS INVOLVED IN FIGHTING CLANDESTINE MIGRATION IN THIS SPACE.

KEY WORDS: MIGRATION, EUROPEAN NEIGHBOURHOOD POLICY, EASTERN COUNTRIES, ILLEGAL IMMIGRATION.

INTRODUCTION

Europe is one of the most traversed regions of the world by numerous migration flows. In this context, we are witnessing the increase of constraints by the authorities of the European countries, especially in the Community, for obtaining a legal entry visa. These constraints are generated by the incapacity of the European countries' authorities in efficiently managing the migration flows, but also by populist movements in these countries that point migration as one of the essential problems of their societies. In the same time, we cannot ignore the perseverance of illegal immigration, determined, most of the time, by the situations of economic

¹ Senior researcher, CIDE, Geneva University (Switzerland) snejana.sulima@etu.unige.ch, PhD Lecturer, Alexandru Ioan Cuza University (Romania).

This paper is a result of a research made possible by the financial support of the Sectorial Operational Programme for Human Resources Development 2007-2013, co-financed by the European Social Fund, under the project POSDRU/159/1.5/S/132400 - "Young successful researchers – professional development in an international and interdisciplinary environment".

precariousness in their countries of origin or by armed conflicts that generate real humanitarian crises.

In Europe, the shock of the two World Wars generated massive population movements. Therewith, the emergence of a totalitarian block of communist states restricted the outflow of citizens, and the right to leave one's country became a fundamental human right. At the international level, it became a politicized measure that has been used to indicate the level of liberalism and democracy in a given state². The enlargements of the European Union eastwards in May 2004 and January 2007 pose the biggest demographic change in Europe since the devastation and flux at the end of the Second World War³. One by one, formal restrictions on the free movement of East Europeans are being given up, and a new East – West migration system is being established on the continent⁴. Leaving aside the movements of the new European citizens from the countries that have been integrated in the EU towards the Occident, in the present study we are interested in analysing how are carried out the movements from the counties situated at the recently established borders, after the enlargement, from the East towards the member states.

The ENP is one of the EU tools of relating with the neighbouring countries. After a first phase of generalized approach of the Southern and Eastern neighbours, in the years 2002-2003, lately we are witnessing an increasingly pronounced differentiation of the Union's relationships with the neighbours included in this policy, based on criteria related to these partners' different situations. Initially conceived in an 'euphoric' context⁵ related to the EU enlargement in 2004, the ENP allowed the overcome, to some extent, of the recurring discussions related to the limits of the EU enlargement, being conceived as an alternative to it⁶. The famous expression used by the President of the European Commission at that time, Romano Prodi, of "sharing everything but institutions"⁷ with the EU, although was meant to clear the situation, induced, on the contrary, some opposite, or at least different, interpretations. This has fuelled dangerous ambiguities, which, in the case of Georgia, Moldova, and especially Ukraine, weighted heavily on the internal evolutions⁸. However it is, the ENP objective is to develop closer relationships with these countries based on some common values such as democracy, respect for human rights and the rule of law.

On March 4, 2015, Johannes Hahn, the European Commissioner for Neighbourhood Policy and Enlargement Negotiations, and Federica Mogherini, Vice-President of the European Commission and High Representative of the Union for Foreign Affairs and Security Policy, announced a "fundamental reform" of the ENP, after a three-months consultation in which fall the recently organized summits, on one hand in Barcelona, on April 14, 2015, for the Southern partners (Syria, Libya, Tunisia, Morocco, Palestine, Egypt, Lebanon, Israel, Algeria, Jordan), and, on the other hand, in Riga, on May 21-22, 2015, for the Eastern partners (Ukraine,

² Agnieszka Weinar, "Emigration Policies in Contemporary Europe," *CARIM-East Research Report* 01 (2014), 3.

³ Adrian Favell, "The New Face of East – West Migration in Europe," *Journal of Ethnic and Migration Studies* 34 (2008), 701.

⁴ Favell, *The New Face of East – West Migration in Europe*, 702.

⁵ Édith Lhomel, "La politique européenne de voisinage en débat," *P@ges Europe*, 2015. Accessed May 3, 2015. <http://www.ladocumentationfrancaise.fr/pages-europe/d000779-la-politique-europeenne-de-voisinage-en-debat-du-sud-a-l-est-par-edith-lhomel/article>.

⁶ Florent Parmentier, "The reception of EU neighborhood policy." In *EU Foreign Policy in a Globalized World, Normative power and social preferences*, ed. Zaki Laïdi, (New York: Routledge/ GARNET Series: Europe in the World, 2008), 103-117.

⁷ Romano Prodi, "A Wider Europe - A Proximity Policy as the Key to Stability", Peace, Security And Stability International Dialogue and the Role of the EU, Sixth ECSA-World Conference. Jean Monnet Project, Brussels, 5-6 December 2002. Accessed April 30, 2015. http://europa.eu/rapid/press-release_SPEECH-02-619_en.htm.

⁸ Édith Lhomel, "La politique européenne de voisinage en débat," *P@ges Europe*, 2015.

Moldova, Georgia, Belarus, Armenia, Azerbaijan). Referring to the Arab Spring of 2011 and the conflicts in Eastern Ukraine, F. Mogherini admitted that "the ENP has not always been able to offer adequate responses to these recent developments, nor to the changing aspirations of our partners. Therefore, the EU's own interests have not been fully served either"⁹. Remains to be seen how the European officials will respond to the challenges arisen lately in relation to the EU policy regarding migration or security. With all the hopes it raised at first, lately the ENP is increasingly criticized for its incapacity of ensuring efficient means of cooperation between the EU and its neighbours. Among others, this policy seems to be incoherent even in what concerns migration issues, being unable to conform the action of the European officials with the values regarding human rights, which it claims to protect, in relation to migrants.

After reviewing the instruments included in the EU policy regarding migration (I), we will further, on one hand, attempt to discern how and if the ENP works as a tool of regulating legal migration (II), and to what extent, on the other hand, can it contribute to combating illegal migrant flows from Eastern Europe (III).

I – EUROPEAN UNION'S INSTRUMENTAL FRAMEWORK ON MIGRATION

The migration flows exert a pressure on Europe that no reasonable spirit can objectively deny¹⁰. This pressure requires adequate responses, both from the authorities of each European state and from the European community as a whole. In the same time, the management of the movements of people on the European continent must be the subject of a collaboration between the European authorities and those of the non-EU states of origin for the purpose of efficiently coordinating legal migration and combating illegal migration.

At the Community level, the policy regarding immigration remained for a long time an area of exclusive competence of the states. The common management of immigration and asylum is assumed for the first time by the signing of the Schengen Agreement (June 14, 1985)¹¹. The Treaty of Maastricht (February 7, 1992) provides the inclusion of the matters regarding the conditions of entry, movement and residence, as well as the fight against the illegal immigration of the inhabitants in the Union's "Third Pillar", which was to find its application through the intergovernmental cooperation of the states. The Union only obtains competences in this field with the Treaty of Amsterdam (1997). This "emerging" policy¹² became one of the essential elements of the space of freedom, security and justice. Taken into consideration first from the perspective of security¹³, the migratory policy progressively emancipated in relation to security, without managing, though, to completely detach from it¹⁴.

⁹ European Commission, Home Affairs, *European Agenda on Migration, Why a new European Agenda on Migration?* Accessed June 13, 2015. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/index_en.htm.

¹⁰ Rostane Mehdi, "La politique européenne d'immigration au prisme du réel." In *La gestion des frontières de l'Union Européenne. Défis et perspectives en matière de sécurité et de sûreté*, ed. Jean-Christophe Martin (Paris : Edition A. Pedone, 2011), 107.

¹¹ The Schengen Agreement refers to the progressive suppression of control of persons at the internal borders. The Agreement is implemented through the 1990 Schengen Convention, into force since 1995. Currently the Schengen space includes almost all EU states, as well as several non-EU states.

¹² Henri Labayle, "Un espace de liberté, de sécurité et de justice," *Revue trimestrielle de Droit européen*, 33 (1997), 105.

¹³ Hugues Dumont, "La politique européenne d'immigration, synthèse des travaux en atelier." In *L'étranger face au droit, XXème journées d'études juridiques Jean Dabin*, ed. Jean-Yves Carlier (Bruxelles: Bruylant, 2010), 351.

¹⁴ Rostane Mehdi, "La politique européenne d'immigration au prisme du réel." In *La gestion des frontières de l'Union Européenne. Défis et perspectives en matière de sécurité et de sûreté*, ed. Jean-Christophe Martin, (Paris : Edition A. Pedone, 2011), 107.

In the same time, from the member states we constantly notice the preoccupation for ensuring a comfortable margin of manoeuvre in this area. The Tampere European Council (October 15-16, 1999) defines a common immigration policy founded on the evaluation of the EU economic and demographic necessities and on the situation of the country of origin. The Treaty of Nice confirms the qualified majority in the Council for the acts adopted in the matter of migration, and, thus, the communitarisation of the field. However, the control competence of the Luxembourg Court of Justice remains limited, since it lacks the jurisdiction to rule on the acts taken in what concerns suppressing borders control and the faculty to interpret the matters regarding the free movement of persons. Since June 13, 2002, through the Council Regulation is instituted an uniform model of the residence permit for third-country nationals. The European Pact on Immigration and Asylum from 16-16 October, 2008, is based on the principle of immigration chosen to favour the immigration of highly skilled professionals, to the detriment of low-skilled immigrants. Not being binding to the member states, the architecture of this pact rather suggests a "program of work" or a five-point roadmap than a text that enounces objectives¹⁵.

Currently, according to Article 79 of the Treaty on the Functioning of the European Union, the objective of the common policy on migration is threefold: the effective management of migration flows, the fair treatment of third-country nationals residing legally in the member states, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings. The mobilization of financial means in the field of migration is subjected to the principle of solidarity (TFEU, Article 80). The recoil of unanimity, the generalization of co-decision to the whole of asylum and immigration policies, an increased jurisdiction, the constitutionalisation of the Charter of Fundamental Rights notify welcomed progress in this area.

Immigration for economic purposed constitutes on of the volleys of EU 2020 strategy. In this perspective, the Commission intends to favour a global policy of the workforce immigration directed towards the future and which would enable the finding of a flexible response to the priorities and necessities of the labour markets¹⁶.

In addition to the emergency situations, which require an immediate reaction, the Union and the member states carry out substantive actions against illegal migration. In this sense, the actions of the Union comprise a strategy that is conducted on two levels. It intends to ensure the coherence and effectiveness of its policy in the matter of return, attacking in the same time the factors that favour the development of this complex phenomenon.

From an institutional perspective, the EU equipped itself with several control mechanisms of migration flows. The FRONTEX agency¹⁷ (the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) coordinates the cooperation of member states regarding the management of the external borders, especially in situations that require a consolidated assistance at its borders, in organizing the return operations and in the training of the persons charged with guarding the national borders. The RABIT system¹⁸ (Rapid Border Intervention Teams) allows the establishment, in the case of massive movements of illegal immigrants, of rapid intervention teams at the borders (managed by Frontex) in order to provide assistance to a member state at

¹⁵ Christine Bertrand, "Les conditions d'une politique commune de l'immigration : apport et limites du traité de Lisbonne." *Europe 2* (2010).

¹⁶ Communication de la Commission du 3 mars 2010, Une strategie pour une croissance durable intelligente et inclusive, COM (2010) 2020. Accessed April 28, 2015.

http://europa.eu/legislation_summaries/employment_and_social_policy/eu2020/em0028_fr.htm.

¹⁷The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, established by Council Regulation (EC) 2007/2004.

¹⁸ Established by the Council Regulation of July 11, 2007.

its request. Eurosur¹⁹ (the European External Border Surveillance System) aims to help the member states to monitor by satellite the situation at their external borders, for the purpose of limiting illegal immigration and increasing the response capacity of the services of information and control of the borders.

II - ENP AS A TOOL FOR REGULATING LEGAL MIGRATION

In 2003, the European Commission called the Union to "assist in reinforcing the neighbouring countries' efforts to combat illegal migration and to establish efficient mechanisms for returns, especially illegal transit migration"²⁰. The following year, the ENP strategy paper confirmed the relevance of "cooperation in the fight against illegal immigration, and management of legal migration and implementation of migration plans"²¹. In what concerns the positions of the European officials, Benita Ferrero-Waldner, European Commissioner for External Relations and European Neighbourhood Policy in 2006, highlighted that migration should not be approached as a problem, but as a reality that Europe actually needs at present: "Immigration is an important part of the solution. It will help us make the transition to a new economic situation, and maintain a certain level of growth"²². When asked to assess the first 5 years of the ENP, Štefan Füle noted that "the ENP is a win-win game: the higher our partners' reform ambitions, the stronger our response"²³. Nevertheless, the debates still remain critical, pointing out that some of the political and economic reforms that the ENP demanded from its Eastern neighbours are much tougher than those required by the EU of the Central Eastern European countries accessing in 2004. On this ground, some Polish officials have argued that internal reforms should not necessarily condition accession status, maintaining that the Action Plans for both Ukraine and Moldova should be in the form of Partnerships for Association²⁴.

At the moment of the ENP launch, in order to promote effective management of migration flows, the concerned countries were altogether called to respect legislation based on international principles and standards, in particular the 1951 Geneva Convention and its 1967 Protocol. For preventing and combating illegal migration, the ENP countries were invited to take part in a constructive dialogue with the EU on the facilitation of visa regimes and to cooperate on legal migration, transit migration, return and readmission²⁵. Relying on the initial enthusiasm from its years of debut, the ENP was supposed to determine its neighbours to adopt

¹⁹ Established on February 13, 2008.

²⁰ Commission of the European Communities, Communication from the Commission to the Council and the European Parliament, *Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, Brussels, 11.3.2003, COM(203) 104 final. Accessed May 1, 2015. <http://eur-lex.europa.eu/procedure/EN/181231>.

²¹ Commission of the European Communities, *European Neighbourhood Policy. Strategy Paper*, Brussels, 12.5.2004, COM(204) 373 final. Accessed May 2, 2015. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52004DC0373>.

²² Benita Ferrero-Waldner, "Migration, external relations and the European Neighborhood Policy," *SPEECH/06/30*, Accessed May 1, 2015. http://www.europa-eu-un.org/articles/en/article_5604_en.htm.

²³ European Commission, "Five years of European Neighbourhood Policy: more trade, more aid, more people-to-people contacts," *IP/10/566* (Brussels, 12 May 2010). Accessed May 5, 2015. http://europa.eu/rapid/press-release_IP-10-566_en.htm?locale=en.

²⁴ Nicole Gallina, "Ukraine knocking at the door? The EU-Ukraine relationship after the orange revolution." In *Ukraine on its meandering path between east and west*, ed. Andrej N. Lushnycky and Mykola Riabchuk, (Bern: Peter Lang, 2009), 58.

²⁵ Branislav Radeljić, "The European Neighborhood Policy and Its Capacity to Manage Mobility and Migration." In *Territoriality and Migration in the E.U. Neighbourhood. Spilling over the Wall*, eds. Margaret Walton-Roberts and Jenna Hennebry, (New York: Springer, 2014), 199.

the European values. Brussels was intending, through its policy, to transform its neighbours, yet keeping them at a distance²⁶.

While analysing the sectorial progress, in its report in 2010 the European Commission listed among the main achievements of the ENP, such as the visa facilitation and readmission agreements with Moldova and Ukraine, the implementation of two mobility partnerships in Moldova and Georgia, and the improvement of border controls and surveillance, which helped the detection of smuggling, illegal migration and custom fraud²⁷. At that time, the Mobility Partnership with Moldova was expected to foster the country's capacity to regulate legal migration flows, to promote the use of remittances for the local economy, to support the implementation of the visa facilitation and readmission agreements, and to protect the victims of trafficking²⁸. The Moldovan government was expected "to regulate legal migration flows, promotion of sustainable use of remittance and their attraction into the local economy"²⁹ in order to achieve the visa-free travel of Moldovan citizens to the EU. The dialogue on this issue has led to the opening of the EU borders to the Moldovans since April 2015.

In what concerns the South Caucasus partner countries, when analysing the ENP effects, the European Commission describes Armenia as a neighbour that is committed to reforms, which is expected to prevent identity fraud, irregular migration, migrant smuggling and human trafficking. Both Armenia and Azerbaijan were expected to show commitment to mobility by providing greater mobility of students, researchers, academics and business operators, by encouraging participation in the EU's Erasmus Mundus program³⁰.

The EU and Eastern Partnership countries signed visa facilitation and readmission agreements, as a key component of the rules for managing the mobility of the citizens of Eastern neighbour states to the EU and the return of the irregular migrants. The EU-Ukraine visa facilitation agreement and readmission agreement entered into force in June 2007. The EU and Moldova signed a Mobility Partnership in May 2008, and the EU-Moldova visa facilitation agreement and readmission agreement entered into force in October 2007. The EU and Georgia signed a Mobility Partnership in 2009, and the EU-Georgia visa facilitation agreement and readmission agreement entered into force in March 2011. The EU and Armenia signed a Mobility Partnership in 2011. The visa facilitation Agreement was signed in December 2012 and the readmission agreement in April 2013. Both agreements entered into force in January 2014. The EU and Azerbaijan initiated the readmission agreement in July 2013, and signed the visa facilitation agreement in November 2013. Both agreements entered into force in September 2014. The Mobility Partnership between the EU and Azerbaijan was signed in December 2013.

²⁶ Dov Lynch, "The Security Dimension of the European Neighbourhood Policy." *The International Spectator: Italian Journal of International Affairs*, 40 (2005). Accessed May 4, 2015. <http://www.tandfonline.com/doi/abs/10.1080/03932720508457109?journalCode=rspe20>.

²⁷ European Commission. (2010a), "Commission Proposes Better Management of Migration to the EU", Press release IP/11/532, 4 May. Accessed April 29, 2015. http://europa.eu/rapid/press-release_IP-11-532_en.htm.

²⁸ Branislav Radeljić, "The European Neighborhood Policy and Its Capacity to Manage Mobility and Migration." In *Territoriality and Migration in the E.U. Neighbourhood. Spilling over the Wall*, eds. Margaret Walton-Roberts and Jenna Hennebry, (New York: Springer, 2014), 200.

²⁹ Radeljić, *The European Neighborhood Policy...*

³⁰ Council of the European Union, "Joint Declaration on a Mobility Partnership between the European Union and Armenia", Brussels, October 6, 2011. Accessed May 1, 2015. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/mobility-partnerships-visa-facilitation-and-readmission-agreements/index_en.htm; European Commission. (2011d), "Implementation of the European Neighborhood Policy in 2010. Country report: Azerbaijan". (SEC(2011). Accessed May 1, 2015. http://ec.europa.eu/world/enp/pdf/progress2011/sec_11_640_en.pdf.

Most of the movement in the region can be defined as spontaneous circulation³¹. The only noted case of regulated circular migration programs was between Portugal and Ukraine and, more recently, between Republic of Moldova and Italy. There are some innovative policy frameworks targeting diaspora and migrant communities abroad (especially in Armenia and Republic of Moldova). Other countries have only been developing policy solutions (Georgia, Azerbaijan) or have limited policy interest in the matter (Belarus, Ukraine).

III - ENP AS A MEANS TO COMBAT ILLEGAL MIGRATION

The definition of illegal migration involves the persons who during their journey, at arrival or during their stay or employment are found in conditions that contravene the international, multinational or bilateral pertinent instructions or agreements or the national legislation³². The study of clandestinity is not reduced to the person of the clandestine migrant. The analysis of the phenomenon and the definition of the policies to combat it should refer to the whole chain of clandestinity, which includes a series of actors: the migrant, the intermediary that facilitates the passage, the enterprise where the migrant works³³.

According to Eneko Landaburu, General Director of DG External Relations of the EU (2000-2009), the ENP was designed as an instrument of Europeanization of the neighbourhood, which would, once Europeanized, provide mechanisms to address and minimize issues such as organized crime, extremism, and terrorism³⁴.

The "return Directive"³⁵ aims at establishing the common norms and procedures for organizing the return of non-EU nationals who are illegally on the territory of the member states, while respecting their fundamental rights. In spite of some criticism it has been subjected to, it establishes a legal framework aiming to ensure the effective return of the foreigners in an irregular position while respecting their fundamental rights. Directive 2009/52/CE regarding the sanctions against employers should dissuade the tendencies of exploiting the migrants. The effectiveness of these "fundamental legal instruments" is, however, questionable. Thus, it is less useful to adopt a directive that incriminates the reprehensible behaviours based on the majority of domestic laws than to apply effective prosecutions against the authors of the crimes³⁶.

According to the Commission document of March 2015³⁷, the EU relationship with its neighbours will be built further starting from four priority areas: differentiation, focus, flexibility and ownership-visibility. In what concerns "migration and mobility [it] is a key area of co-operation for the EU and its partners. Enhancing mobility, especially for education,

³¹ Anna Di Bartolomeo et al., "Circular Migration in East Partnership Countries, An overview." *CARIM-East Research Report* 30 (2012).

³² Yann Moulrier-Boutang, "Dynamique des migrations internationales et économie souterraine : comparaison internationale et perspectives européennes." In *Espaces et travail clandestin*, ed. Solange Montagné-Vilette, (Paris : Masson, 1991), 113-121.

³³ Georges Tapinos, "Les enjeux économiques et politiques des migrations clandestines." In *Les théories de la migration*, dir. Victor Piché, (Paris: Ined, 2013), 505.

³⁴ Eneko Landaburu, "From Neighbourhood to Integration Policy. Are there concrete alternatives to enlargement?" *CEPS Policy Brief* 95 (2006), 3.

³⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

³⁶ Philippe De Bruycker, "L'émergence d'une politique européenne d'immigration." In *L'étranger face au droit, XXème journées d'études juridiques Jean Dabin*, ed. Jean-Yves Carlier, (Bruxelles: Bruylant, 2010), p. 361.

³⁷ European Commission, Joint consultation paper: Towards a new European Neighbourhood Policy, Brussels, 4.3.2015 JOIN(2015) 6 final. Accessed May 5, 2015. ec.europa.eu/enlargement/neighbourhood/consultation/consultation.pdf.

scientific, cultural, training and professional purposes, has positive effects on economies and societies alike. Tackling people smuggling and illegal migration is a common challenge”³⁸.

Given this general framework, each partner state tries to participate, managing, more or less, to face the fight against illegal migration. A study regarding the situation of workforce migration reveals that "in recent years the State made significant steps towards the prevention of illegal emigration: border protection was increased, including the introduction of highly secure personal identification documents and efficient systems to fight against trafficking in human beings. Georgia has been included in the list of 30 countries which are the most successful in fighting trafficking. Presenting the statistical data on border-crossing would have made sense because it would have shown what progress Georgia is making in this area”³⁹. However, despite significant efforts on the part of the Ukrainian government to eliminate human trafficking, Ukraine, for example, does not yet fully correspond to even minimum world standards in this field⁴⁰. In spite of the efforts in combating the illegal migration, one of the main goals of the contemporary migration policy of Republic of Moldova, it can be concluded that Moldova cannot become an economically attractive country for its population and reduce labour emigration and the risks associated with illegal migration. Without a specific long-term policy of targeted investment on the part of the European Union, all measures undertaken by the Republic of Moldova will not lead to the desired success⁴¹.

CONCLUSION

As a consequence of the shipwreck that led to the death of approximately 400 clandestine immigrants of the Lampedusa Italian island in 2013, the member states provided, at the 24-25 October European Council in the same year, the adoption of some measures after the June 2014 elections. As a result, the new Common European Asylum System was adopted. After the shipwreck of more than 800 migrants in the Mediterranean Sea in April 2015, the EU chiefs of state and government decide, at the exceptional Summit of April 23, to triple the means of the Triton surveillance operation, conducted by Frontex, to seize and destroy the boats carrying immigrants, to intervene militarily in Libya against the networks of carriers and to split 5000 Syrian refugees on the European territory.

These tragic situations don't directly concern Eastern Europe, however, in addition to the immediate measures adopted by the European officials in such situations, the EU engages each time to find long-term solutions that would regulate legal migration flows and efficiently combat clandestine immigration towards this region.

By its nature, clandestine immigration is difficult to control and quantify⁴². It is the manifestation of an imbalance between an unlimited offer of candidates for emigration and the limited acceptance of the new entries by the recipient countries⁴³. Starting from these observations, Europe is a region in which, since the entries and legal stay are limited, illegal entry becomes in many cases the only option.

³⁸ European Commission, Joint consultation paper: Towards a new European Neighbourhood Policy, Brussels, 4.3.2015 JOIN(2015) 6 final. Accessed May 4, 2015.

ec.europa.eu/enlargement/neighbourhood/consultation/consultation.pdf.

³⁹ Ekaterine Kardava, "Legal Aspects of Labour Migration Governance in Georgia. A Reply to Prof. G. Gabrichidze," *CARIM-East Analytic and Synthetic Notes*, 10 (2012).

⁴⁰ Oleksii Pozniak, "Human trafficking trends in Ukraine." *CARIM-East Explanatory Note* 13/67 (2013), p. 3.

⁴¹ Mosneaga, Valeriu; "Illegal Moldovan Migration to the European Union." *CARIM-East Explanatory Note* 13/85 (2013), 8.

⁴² Georges Tapinos, "Les enjeux économiques et politiques des migrations clandestines." In *Les théories de la migration*, dir. Victor Piché, (Paris: Ined, 2013), 503.

⁴³ Tapinos, *Les enjeux économiques et politiques...*, 504.

The institutional arrangements of the ENP are unable, for the time being, to ensure the efficient securing of the EU borders⁴⁴. The policy was characterized by a strong centre-periphery complex towards the neighbouring regions of the EU⁴⁵. The EU needs its neighbours' cooperation in order to tackle problems of illegal migration, terrorism and cross-border crime, as much as they need access to partial EU programs. If it does not offer more than is currently on the table, the Union may find itself "a ring of states in distress rather a ring of friends"⁴⁶ (Cameron, Balfour, 2006, p. 17).

The control of illegal migration regards measures of efficient control at the borders, the control of the duration of stays, the control of employment and the sanctioning of the employers of illegal migrants, efficient policies that would stimulate the reduction of emigration. All of these measures involve the constant collaboration of the decision makers from both sides, the EU and the Eastern partner countries. The efficacy of these measures involves legal options for entry, stay and exit. The numerous entry barriers induce the temptation of clandestine entry. A greater freedom of coming and going can generate a reduction of illegal immigrations.

⁴⁴ Branislav Radeljić, "The European Neighborhood Policy and Its Capacity to Manage Mobility and Migration." In *Territoriality and Migration in the E.U. Neighbourhood. Spilling over the Wall*, eds. Margaret Walton-Roberts and Jenna Hennebry, (New York: Springer, 2014), 204.

⁴⁵ Stephan Stetter, "Theorising the European Neighbourhood Policy: Debordering and Rebordering in the Mediterranean," *EUI Working Paper*, 34 (2005), 11.

⁴⁶ Fraser Cameron and Rosa Balfour, "The European Neighbourhood Policy as a conflict prevention tool." *EPC Issue Paper* 47 (2006), p. 17. Accessed May 3, 2015. <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?id=25156&lng=en>.

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THE NUCLEAR DIPLOMACY: FROM CONSENSUS TO ACCEPTABLE COMPROMISE

Andreea Emilia DUTĂ¹

ABSTRACT:

INSTITUTIONAL ARRANGEMENTS ARE CRUCIAL, SCAFFOLDING TOOLS BUILT ON THE FOUNDATIONS OF INTERNATIONAL LAW NPT² ESSENTIAL FOR NUCLEAR SAFETY. "A WORLD WITHOUT NUCLEAR WEAPONS", PROPOSED BY THE OBAMA ADMINISTRATION'S GOAL FOR A LONG HORIZON AND SERIOUS UNCERTAINTY, EACH STEP REQUIRED BY THE TREATY TO REDUCE NUCLEAR DANGERS. THE MAIN OBSTACLE IS THE AMBIGUOUS ATTITUDE TO THE OBLIGATIONS UNDER THE NPT, TO THE NEED FOR NUCLEAR DISARMAMENT. A SIGNAL BOOST FOR THE INSPECTION SYSTEM, EXPORT CONTROLS, STRONG ATTITUDE AGAINST VIOLATING INTERNATIONAL REGIME. INCREASING THE NUMBER OF REACTORS WILL BRING AN INCREASE OF NUCLEAR MATERIAL FOR BOMBS EVEN IF INTERNATIONAL RULES COULD RESTRICT THE DEVELOPMENT OF TECHNOLOGIES THAT OPTION HEU MEMBER IS NOT LIMITED. CONSTRAINTS AND NON-PROLIFERATION REGIME STIPULATED BY THE NPT RESTRICTIONS SHOULD BE BASED ON THE CONSENT OF THE MAJORITY OF STATES AND A STRONGER ROLE OF THE IAEA THROUGH INCREASED POWERS OF INVESTIGATION THAT CAN BE OBTAINED BASED ON ACCEPTANCE OF ALL MEMBER STATES.

KEYWORDS: INSTITUTIONAL ARRANGEMENTS, NUCLEAR DISARMAMENT, INTERNATIONAL REGIME

The achievements of the three summits security³, according to opinions should be taken over by IAEA by expanding its role in security, an opportunity denied due to the lack of a mandate from the member states in this regard.⁴ Note that there can be a clear desire to continue

¹ Andreea Emilia DUTĂ attends the Bucharest University and actually is engaged a study program within "A.S. Puskin" Institute, Moscow. Email: deea.emilia@ymail.com

² The Nuclear Non-Proliferation Treaty – NPT. Nonproliferation, disarmament, and peaceful use – the three pillars of the Treaty on the Nonproliferation of Nuclear Weapons (NPT). The treaty isn't signed by India, Pakistan, Israel and North Korea.

³ The first nuclear security summit was held in 2010 in Washington, D.C., the second in Seoul in 2012, and the third in 2014 in The Hague.

⁴ Despite the opportunity that the end of summitry might present to the Agency to expand its nuclear security role, the IAEA Secretariat, for its part, appeared not to be seeking or preparing—at least not actively or openly—to step into the breach. IAEA Director General Yukiya Amano clearly felt that he did not have a mandate from the Agency's member states to do so. Yet at the same time Amano insisted in his Carnegie speech that the IAEA was "the global platform" for nuclear security, suggesting perhaps that it was the logical home for additional nuclear

this kind of summit, the obvious need to find some form of continuation of efforts in the field, since only managed IAEA ministerial summit on nuclear security issues (2013), which established a conference in the same year IAEA final summit (2016). It is estimated that future summits are at least unclear, unable to continue without institutionalization, personnel and funds.

Framework of the IAEA, slow in new developments of security could be strengthened by initiatives of some states.⁵ There is an agreement with safety standards, verification procedures, mechanism for increasing confidence that states are responsible for nuclear safety. A possible option could be building groups of states in good faith. A political statement in favor of international security standards as an agreement on setting up a working group to develop a strategy in this field.

IAEA safety standards and guides began to be applied and enforced as security chrestomathies series that do not have standard regime. While in the safety field, the IAEA / NEA / WANO⁶ self analysis and dissemination for security can not speak of it. Also, if in terms of safety, WANO member reactors possessing agree with peer reviews, in security just HEU and plutonium facilities have undergone peer reviews.

Between summits and IAEA, the agency has a institutional structure, continuity and responsibility to pursue the implementation of the commitments of states in its field of competence as well as other UN agencies.⁷

In 1956, the IAEA statute established jurisdiction for the nuclear and radiological material used for peaceful purposes, excluding military issues. IAEA is an agency or negotiating forum for disarmament⁸, non-proliferation efforts, however, depend on developments in the disarmament process. According to the statute, the agency can ensure the birth and amending treaties by supporting negotiations or conferences to discuss amendments being and storage of such treaties.⁹

As a UN agency, joined by 159 countries, it is responsible for nuclear global governance - check nonproliferation, nuclear safety, the use of atomic energy for peaceful

security responsibilities in the future. Trevor Findlay, *Beyond Nuclear Summitry: The Role of the IAEA in Nuclear Security Diplomacy After 2016*, Cambridge, Mass.: The Project on Managing the Atom, Belfer Center for Science and International Affairs, Harvard University, March 2014, 1.

⁵ "Friends of Nuclear Security", Expand Global Initiative focus on nuclear security.

⁶ The World Association of Nuclear Operators – WANO. WANO is an industry organization that includes the operators of all the world's nuclear power reactors among its members, provides for exchanges of information on safety incidents, lessons learned, and best safety practices, and organizes international peer reviews of safety arrangements at member reactors. See International Nuclear Safety Advisory Group (INSAG), *Strengthening the Global Nuclear Safety Regime, INSAG-21*, Vienna, International Atomic Energy Agency, 2006. http://www.iaea.org/About/Policy/GC/GC52/GC52InfDocuments/English/gc52_inf_-2_en.pdf (Accessed May 3, 2014).

⁷ Voluntary confidence-building measures (CBMs) information voluntarily submitted to the Geneva-based Implementation Support Unit by parties to the Biological Weapons Convention, The Comprehensive Nuclear Test Ban Treaty has provision for voluntary notification of large conventional explosions to the Comprehensive Nuclear Test Ban Treaty Organization.

⁸ Article VI of the Treaty on the Nonproliferation of Nuclear Weapons (NPT) legally obligates the nuclear weapons state parties to negotiate in good faith toward nuclear disarmament, and at the 2000 NPT Review Conference, they agreed that the treaty represented an "unequivocal undertaking" to "accomplish the total elimination of their nuclear arsenals." *Reinforcing the global nuclear order for peace and prosperity: The role of the IAEA to 2020 and beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, GOV/2008/22-GC(52)/INF/4, May 2008.

⁹ ARTICLE IX - Co-operation with the Security Council. The Agency shall co-operate with the Security Council by furnishing to it at its request such information and assistance as may be required in the exercise of its responsibility for the maintenance or restoration of international peace and security. See Agreement Governing the Relationship Between the United Nations and the International Atomic Energy Agency.

purposes - depending on the authorization from the member states.¹⁰ A possible extension of its responsibilities in the area of nuclear security can not ignore the agreement and Russia's non-aligned states in this regard. Option or options for the future - reducing nuclear materials and radioactive substances or / and establishing recommendations and assistance in nuclear safety - depend IAEA member states vote in the General Conference or in the front of Governing Council.

In 1970, it launched the initiative chrestomathies issuing recommendations for the physical protection of nuclear material, continually updated,¹¹ followed by the Convention in this field.¹²

In 1980, IAEA opened for signature the Convention on the Physical Protection of Nuclear Material (CPPNM). After the Cold War, it established an advisory service missions¹³ entrusted with land turned into office¹⁴ after the division, security plans and funding multi-own advisory group for nuclear safety (AdSec)¹⁵ and a committee recommendations for the nuclear safety (NSGC).¹⁶

In 2005, following the study the rules of use, storage and transport of nuclear material and after intense negotiations and conferences are offered a series of amendments to CPPNM. With the entry into force of CPPNM, IAEA will be responsible for the review conferences of the Convention.¹⁷

In 2009, in Vienna at the IAEA office, it took place the first symposium on nuclear safety to assess achievements in the field of nuclear safety from 2002-2009 on which it had been developed security plans for proposals to improve the global nuclear safety regime and the future security plan. Conclusions drawn by the chairman of the symposium are their own opinions and conclusions, not being negotiated, voted or adopted by consensus suggests that the emergence of a multilateral international nuclear security.¹⁸

In 2013 it took place the first ministerial conference on nuclear safety issue¹⁹ as an important signal for approval by the IAEA Board of Governors of the nuclear safety plan 2014-

¹⁰ Help enable a safe and secure expansion of nuclear energy; Make it possible for nuclear technologies to expand their role in the developing world; Reduce the dangers of nuclear accidents and nuclear terrorism; and Provide a path toward dramatically reduced dangers to humanity from nuclear weapons and nuclear proliferation. *Reinforcing the global nuclear order for peace and prosperity: The role of the IAEA to 2020 and beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, GOV/2008/22-GC(52)/INF/4, May 2008.

¹¹ INFCIRC/225.

¹² 1980 Convention on the Physical Protection of Nuclear Material (CPPNM). Work begins at this treaty in 1974, the improved versions being discussed by government representatives from 1978 to 1979 and in 1992 organized its results in a conference.

¹³ The International Physical Protection Advisory Service – IPPAS.

¹⁴ The Office of Nuclear Security in the Department of Nuclear Safety and Security.

¹⁵ Advisory Group on Nuclear Security – AdSec.

¹⁶ The Nuclear Security Guidance Committee (NSGC).

¹⁷ Fabrizio Nocera, *The Legal Regime of Nuclear Energy: A Comprehensive Guide to International and European Union Law*, Antwerp, 2005: Intersentia.

¹⁸ A “President’s Findings” document, An emerging multilateral nuclear security community. See *International Symposium on Nuclear Security*, March 30–April 3, 2009, Vienna, Austria, http://www-pub.iaea.org/MTCD/Meetings/PDFplus/2009/cn166/cn166_Announcement.pdf; (accessed March 5, 2014). “consider advancements and achievements in global efforts to enhance the security of nuclear and other radioactive material since 2002 and to identify areas and efforts for further improvements.” *International Symposium on Nuclear Security*, March 30–April 3, 2009, Vienna, Austria, IAEA, document IAEA-CN-166, March 2009.

¹⁹ *The International Conference on Nuclear Security: Enhancing Global Efforts*. IAEA document IAEA-CN-203, International Conference on Nuclear Security: Enhancing Global Efforts, IAEA Headquarters, Vienna, Austria, July 1–5, 2013: Announcement and Call for Papers,

2017. The record of 1300 participants from 125 countries and the works of a ministerial session followed by six sessions on topics regarding safety and 12 technical sessions it is a proof that nuclear safety is a very particularly important issue.²⁰ The conference concludes with a summary prepared by the president of it, without adopting any working plan (prepared by the Secretariat and approved by the Governing Council IAEA) regarding commitments from the states.²¹ However, one can speak of an increased level of interest and competence in nuclear safety. It is necessary to be mentioned that there were ignored in all official statements supported by nuclear security summits, intergovernmental²² relations, UN²³ initiatives and treaties that are not within its competence.²⁴ Ministerial declaration adopted by consensus, the first in the history of the IAEA, underlined the need for the IAEA to play a role in nuclear safety, lists in the areas of action in this regard.²⁵

In 2016, further expansion of the role of IAEA in the field of nuclear safety requires a process of diplomacy and it is highly sensitive.²⁶ Nuclear security treated as a challenge to global governance - the main idea of the cycle of summits - could still be at least as a careful process if not a solid construction of all states.²⁷ Opening a new diplomatic format is unproductive and taking their benefits but new responsibilities of IAEA could be a solution. Note that the representatives of the states participating in summits are represented in the IAEA Board of Governors in which they can promote their achievements.

IAEA is required to play the lead role in checking the use of nuclear technology by states without nuclear weapons for peaceful purposes only by overcoming obstacles that do not allow them to exercise oversight and undeclared sites where they could develop nuclear weapons. IAEA poor position due to insufficient funds, political games within its members, past failures spectrum, the challenges of the inability of some states issue will bring serious harm to full participation in the new global nuclear order. Perspective deprive a substantial role in non-proliferation significance in controlling the relationship between the reactors and

http://www-pub.iaea.org/MTCD/Meetings/PDFplus/2013/cn203/cn203_Announcement.pdf (accessed March 5, 2014).

²⁰ The IAEA will play a central in non-proliferation efforts and in the implementation of international conventions on safety and security. In other areas, it has a more supportive role, working in partnership with other inter-governmental bodies, NGOs and industry groups. In the development area, the IAEA plays a more modest, but nevertheless important, role. "IAEA Ministerial Meeting concludes with stronger focus on nuclear security," <http://www.iaea.org/newscenter/news/2013/nsfocusconcludes.html> (accessed March 5, 2014).

²¹ President's Summary of the week's proceedings at the end of the meeting.

²² Global Initiative to Combat Nuclear Terrorism – GCINT.

²³ UN Security Council resolution 1540.

²⁴ The International Convention for the Suppression of Acts of Nuclear Terrorism - ICSANT.

²⁵ Russian Ambassador-At-Large Grigory Berdennikov make complain about the references to nuclear disarmament (inappropriate for this forum) and nuclear material for military purposes (allegedly outside the IAEA's mandate) and to emphasize that nuclear security was primarily the responsibility of states (which is actually a consensus view). Statement by the Head of Delegation of the Russian Federation Ambassador-at-large Grigory Berdennikov at the IAEA International Conference on Nuclear Security: Enhancing Global Efforts, Reservation at the Adoption of the Outcome Document, July 1, 2013, <http://www-pub.iaea.org/iaea meetings/cn203p/RussianFederation-PDF.pdf> (accessed March 5, 2014).

²⁶ Dutch Sherpa Piet de Klerk, who is charged with organizing the Hague summit, noted that "not all parts of the nuclear security summit process fit in the IAEA," but admitted that "I'm not sure where the missing dimension is." See "Securing the 2014 Summit: An Interview with Dutch Nuclear Security 'Sherpa' Piet de Klerk, *Arms Control Today*, December 2013, 18.

²⁷ The role the IAEA can be expressed by three "yes's" and three "no's": A safe and secure expansion of nuclear energy for countries that seek it; Enlarging the contribution of nuclear applications to human well-being; Substantive and rapid progress in nuclear disarmament; No nuclear proliferation; No nuclear terrorism; No nuclear accidents. *Reinforcing the global nuclear order for peace and prosperity: The role of the IAEA to 2020 and beyond*, Report prepared by an independent Commission at the request of the Director General of the International Atomic Energy Agency, GOV/2008/22-GC(52)/INF/4, May 2008.

nuclear weapons that will become worthless, blocking the institutionalization and consequently a nuclear global governance.

For countries that signed the nuclear safety regulations²⁸, the provision of information on nuclear activities are conducted under the supervision of IAEA standards, ensuring the non-proliferation requirements.²⁹ But if states have not acceded to these regulations, the situation is different; verification of certain activities do not have a well defined legal framework, being recommended at least a future Security Council resolution relating to a wide range of obligations on states including IAEA inspections and investigations.³⁰

Even if the reform of UN agencies impose serious financial restrictions, the importance of nuclear safety requires financial resources to allow inspections of nuclear safety but recruiting personnel.

It is necessary to maintain the highest level of attention, especially if an emergency occurs in nuclear safety - Security Council is empowered to intervene - which suggests the attraction Group 20 (G20) along with the focus on economic issues that may give special attention and nuclear safety.

It is being discusses the increased responsibilities of IAEA extensively to promote nuclear safety - from guide to standards, financial support, technical of program IPPAS - as the main but not the only forum.³¹

In a nonproliferation³² perspective the proposal to create a bank material necessary for its reactors under IAEA auspices, ensure an impartial mechanism to supply to everyone and saving efforts uranium enrichment facilities on their own states as well as removing the future proliferation risks that accompany these facilities.

There is a tendency to exercise control over international enrichment and reprocessing processes, both by converting existing reactors or building new ones with funding and / or multinational control so as to be eliminated sole responsibility of a single state under the material umbrella to produce nuclear weapons.³³

Non-proliferation measures are both technological and institutional. In the category of technology, future discusses about "nuclear batteries" found to be cost-optimal configuration of economic efficiency. Analysis technologies are being developed in the areas of nuclear installations particles, real-time monitoring of nuclear material circuit, finding hidden installations (centrifuge enrichment plants), continuous monitoring equipment operating circuits of reactors (the enrichment).

²⁸ the "Additional Protocol" to safeguards agreements.

²⁹ Access to an expanded set of sites, allows for short-notice inspections, and is intended to provide at least limited confidence not only that a state is not diverting nuclear material from declared nuclear facilities, but also that the state does not have secret, undeclared nuclearrelated activities.

³⁰ Pierre Goldschmidt, "IAEA Safeguards: Dealing Preventively with Non-Compliance", http://www.carnegieendowment.org/files/Goldschmidt_Dealing_Preventively_7-12-08.pdf (accessed May 15, 2014).

³¹ Findlay, Trevor. "Unleashing the Nuclear Watchdog: Strengthening and Reform of the IAEA." Policy Brief, Centre for International Governance Innovation, June 2012.

³² See Tariq Rauf and Zoryana Vovchok "12 Proposals on the Table" *IAEA Bulletin*, vol. 49, no. 2 (March 2008), pp. 62-63, <http://www.iaea.org/Publications/Magazines/Bulletin/Bull492/49204845963.pdf> (accessed May 15, 2014).

³³ See Evgeniy Velikhov, Vyacheslav Kuznetsov, and Vladimir Schmelev, "Proposal for Nuclear Power Development on the Basis of Serial Medium-Capacity NPP in Non-Proliferation Conditions," paper presented at Achieving a World Free of Nuclear Weapons: International Conference on Nuclear Disarmament, Oslo, Norway, February 2008, http://disarmament.nrpa.no/wp-content/uploads/2008/02/Paper_Kuznetsov.pdf (Accessed May 15, 2014).

Institutional arrangements are crucial, scaffolding tools built on the foundations of international law NPT³⁴ essential for nuclear safety. "A world without nuclear weapons", proposed by the Obama administration's goal for a long horizon and serious uncertainty, each step required by the Treaty to reduce nuclear dangers. The main obstacle is the ambiguous attitude to the obligations under the NPT, to the need for nuclear disarmament. A signal boost for the inspection system, export controls, strong attitude against violating international regime. Increasing the number of reactors will bring an increase of nuclear material for bombs even if international rules could restrict the development of technologies that option HEU member is not limited. Constraints and non-proliferation regime stipulated by the NPT restrictions should be based on the consent of the majority of states and a stronger role of the IAEA through increased powers of investigation that can be obtained based on acceptance of all member states.

If South Africa is a case for nuclear disarmament, North Korea is a case of acquiring nuclear weapons; although it provided programs secretly producing nuclear weapons in Iraq, Libya, Syria, Iran and North Korea, there are positive signs of proliferation observed in that countries engaged in nuclear weapons production programs and abandoned them. It is obvious that non-proliferation agreements and correlative institutions should be developed and expanded.

Security Council resolutions in support of the IAEA to conduct inspections that frame non-proliferation requirements depend on the consent of that state. The only resolution condemning North Korea for violations of nuclear safety standards and resolutions imposed sanctions for Iran's enrichment related and reprocessing which had major effects. Security Council Resolution 1540 required each member state a range of measures for export control, nuclear security deposit and any attempt to help criminalization non-state actors with nuclear, chemical and biological weapons. However, no special measures were taken for the purposes of this resolution.

In the near future, several developing countries - Egypt, Iran, Malaysia, Indonesia - will be part of the club as nuclear powers and supporters of the NPT with different visions of the five nuclear powers that nuclear will reshape the future global order.

In an inclusive consensus based on diplomacy and proper interests of the participating states in the NPT review conferences there is an opportunity to promote new rules for nuclear policies consistent non-proliferation regime.

There are discussed more extensively about certain restrictions on the principle of the NPT consensus about the legitimacy of ignoring the vote of one or more states granted by a resolution of the NPT Review Conference.³⁵ The key to a solid and coherent nonproliferation regime is to support the legitimacy of sanctioning non-compliance range as generally accepted rules.

³⁴ The Nuclear Non-Proliferation Treaty – NPT. Nonproliferation, disarmament, and peaceful use – the three pillars of the Treaty on the Nonproliferation of Nuclear Weapons (NPT). The treaty isn't signed by India, Pakistan, Israel and North Korea.

³⁵ In April 2009 speech in Prague, President Obama also emphasized the importance of enforcing nonproliferation commitments: Rules must be binding. Violations must be punished. Words must mean something. The world must stand together to prevent the spread of these weapons. Remarks by President Barack Obama, Hradcany Square, Prague, Czech Republic, April 5, 2009, http://www.whitehouse.gov/the_press_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered/. See also, Cecilia Albin, *Justice and Fairness in International Negotiation*, Cambridge: Cambridge University Press, 2001.

IAEA has limited political and legal powers to check civil programs likely to be a prerequisite for the production of nuclear weapons by imposing standards and procedures verifiable through inspections and investigations.³⁶

The relationship between non-nuclear weapons states' interests (NNWS)³⁷ and nuclear-weapon states (NWS)³⁸ oscillates between two solutions - disarm or common collective action. The compromise solution - NPT regime and the IAEA inspections - provide theoretical premises of increasing confidence in the nonproliferation allows for criticism of unfair character of constraints on NNWS while NWS to nuclear disarmament.

From the perspective of international politics, nuclear power interests are more effective than international rules imposing international control of nuclear resources of a state cycle which it considers a threat. Also, there is a concern for two neighboring countries about nuclear danger that may be common acceptance for the solution of international control over nuclear cycle and resource constraints of national nuclear programs.

Certainty peaceful use of nuclear energy requires investment supported by the IAEA through an institutionalized under compliance and monitoring standards developed through the development of 1540 Security Council Resolution as a valuable contribution to non-proliferation and nuclear disarmament invitation NWS .

The absence of rules on the acquisition of nuclear weapons would allow the emergence of new NWS, which will ignore the NPT and will withdraw from the IAEA. Moreover, in areas that prone conflicts which states have access to the nuclear cycle, spiraling nuclear arms is more than possible.

³⁶ The former IAEA Director General El Baradei stated, "Our ability to detect possible clandestine nuclear material and activities depends on the extent to which we are given the necessary legal authority, technology, and resources. Regrettably, we face continuing major shortcomings in all three areas, which, if not addressed, could put the entire nonproliferation regime at risk." Mohamed El Baradei, "Statement to the Sixty-Fourth Regular Session of the United Nations General Assembly," November 2, 2009.

³⁷ The non-nuclear-weapons states – NNWS.

³⁸ The nuclear-weapons states – NWS.

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THE OSCE STRATEGIES OF MEDIATION AND NEGOTIATION CARRIED OUT IN MOLDOVA AND UKRAINE

Paul DUTA¹

ABSTRACT:

THE STRATEGY FOR MOLDOVA IS VERY CONFUSED: FROM A UNITARY STATE, A CONFEDERATION, AND FEDERATION TO THE REUNION WITH ROMANIA. ANYWAY, "THE MESEBERG INITIATIVE" PROPOSES THE POSSIBLE ESTABLISHMENT OF A CONSULTING MECHANISM ON SECURITY ISSUES FOR THE EUROPEAN UNION-THE RUSSIAN FEDERATION. THIS ARRANGEMENT IS WITHOUT ROMANIA.

IN UKRAINE, CRIMEA AND THE DONBAS REGION STATUS IS VERY CONFUSED, ALSO. IN THE CASE OF THE CIVIL WAR IN UKRAINE, THE EFFORTS OF MEDIATION SANCTIONS AND NEGOTIATION HAVE MADE CERTAIN STEPS, ON THE INITIATIVE OF GERMANY AND FRANCE, COMPLEMENTED BY THE OSCE.

"THE NORMANDY FORMAT" – RUSSIA, GERMANY, FRANCE AND UKRAINE – CAN SUPERVISE THE COMPLIANCE AND THE IMPLEMENTATION THE ARRANGEMENT, AND CAN INVITE USA TO PARTICIPATE. HOWEVER, IS NOT USUAL TO IGNORE THE USA AND THE GREAT BRITANY IN THIS VERY HOT ISSUE NOT ONLY FOR EUROPE BUT FOR THE ENTIRE WORLD.

KEYWORDS: MOLDOVA, UKRAINE, OSCE, "THE NORMADY FORMAT", USA, UK

To restore international peace and security several political-diplomatic steps must be completed.

Some methodological details are required from the very beginning. First, because the differences in regulation and theoretical explanations between "threat to international peace and security", "conflict situation", "crisis", "conflict", "low-intensity war" ("small war", "low intensity conflict", "guerrilla") are not the subject of this study, we will still use the phrase of "violation of international peace."

Second, the United Nations terminology draws the distinction between "armed conflict" and "international armed conflict", we will overcome this altered approach especially important coming under the phrase of "violation of international peace," giving up this simplifying vision only in the cases that are strictly defined, and where the meanings of the United Nations rules impose a specifically defined approach.

Third, the practice of the last few decades of multinational intervention in intrastate crises to impose certain solutions by force - Iraq, Somalia, Bosnia, Haiti, Kosovo, Afghanistan - configures the new dimensions of international policy, by promoting new types of

¹ Roamnian Diplomatic Institute, ppduta@yahoo.com.

multinational operations - "peace enforcement", "no fly zone", "humanitarian corridors and protected areas", "counter-insurgency operations", to which the phrase of "violation of international peace" can be withheld with the appropriate customizations on a case by case basis.²

In the fourth, but the emergence of corollary theories "of the human security"³, "global war on terror", "the responsibility to protect" (R2P)⁴, of the "right to secession as a remedy" - situations that are below the standards of "the armed conflict"/"international armed conflict" - but with connotations and meanings especially worrisome in the light of the new global perspectives, can be subsumed under the term of "violation of international peace."

A few interesting aspects can be found in the two strategies of mediation and negotiation carried out in Moldova and Ukraine.

In August 25, 1991, just two days before Chisinau proclaimed the independence of the Republic of Moldova, including Transnistria, it declared its independence. In 1997, "the Primakov memorandum" introduces the concept of the "common State" differently perceived in Chişinău - as an unitary state and in Tiraspol - a confederation of the two players with an equal status (including different subjects of international law); in 2002, the OSCE provides a federated organization plan; in 2003, Dmitri Kozak proposed a draft constitution for the future Moldovan Federation and has been proposed directly to Moldova without the OSCE agreement.⁵ In 2004, Stanislav Belkovsky proposes that, in exchange for the recognition of independence of Transnistria, Russia has to accept the reunion with Romania.⁶ In 2005, Petro Poroshenko, takes and adapts Yevgeny Primakov's plan in his own interest by proposing a status of equality between Moldova and Transnistria as part of an agreement with Russia, Ukraine and the OSCE, the last three players were to be the guaranteeing powers of the implementation of the agreement, which would have led to excluding Romania from the conflict resolution format.⁷

² Upon the invasion of U.S.-led forces into Iraq in 2003, the world turned its attention to the Middle East, and especially to the north of Iraq, Kurdistan. This region has been controlled by Kurds since the withdrawal of Saddam Hussein's forces in 1991. Kurdish Parties have established the Kurdistan Regional Government (KRG), and the world has recognized it as a *de facto* state. To be a new nation-state in the international community and recognized as a *de jure* state under international law, it must meet various qualifications, some of which have already been satisfied by the KRG. See Radpey, Loqman, "The Legal Status of the Kurdistan Regional Government (KRG) in International Law" *The Journal of Social, Political, and Economic Studies* 39.4 (Winter 2014): 397-435.

³ See Jeong Ho-Won, *Human Security and Conflict*. George Mason University.

<http://www.gmu.edu/academic/hsp/Jeong.htm>

⁴ ICISS "The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty, Ottawa: International Development Research Council" (2001) şi Neil Macfarlane, *The Responsibility to Protect: is Anyone Interested in Humanitarian Intervention?*, Third World Quarterly, 2004, Vol.25, No.5, 977-992.

⁵ "The Basic Principles of the State of the Unified State Structure". See, Paul Dănuţ Duţă, Teodor Frunzeti, Ion Panait, *Operaţiuni şi misiuni OSCE. Studiu de caz: Moldova*, Tehno Media, Sibiu, 2008, pp.234 and the next.

⁶ The initiative is known as the "the Belkovsky Proposal"; the proclamation of an independent Transnistrian state, without being solved the problem of the military arsenals would have brought NATO and the EU in the direct vicinity with a kind of Kaliningrad to the Black Sea. See, Paul Dănuţ Duţă, Teodor Frunzeti, Ion Panait, *op.cit.*, 236.

⁷ A negative aspect of the plan was that it did not provide changing mechanisms of the Transnistrian status quo, offering instead legitimacy to the current regime by holding elections under its control and lacking a democratic framework. Basically, the reunified Moldova was to be placed under the tutelage of Russia and Ukraine, and the right of veto was stated for Transnistria related to Moldova's foreign policy issues and there was no reference to the withdrawal of Russian troops from Transnistria. See, Paul Dănuţ Duţă, Teodor Frunzeti, Ion Panait, *op.cit.*, 245.

In 2005, "Vladimir Voronin's initiative" claims the OSCE to arrive at a stability and security pact for Moldova, which to be granted together with the actors of the negotiating process and the EU, the US and Romania.⁸

In 2010, the German chancellor Angela Merkel proposes "the Meseberg Initiative" (also known as the "the Meseberg Memorandum" or "Meseberg Agreement") and the possible establishment of a consulting mechanism on security issues for the European Union-The Russian Federation (the so-called political and security Committee).

THE CRIMEA AND THE DONBAS REGION STATUS

In 2014, Crimea and the Donbas region status issues have led to a series of reactions at the level of international organizations.

Russia continues to build up its military presence in Donbas and along the Ukrainian borders, clearly making preparations for the new offensive of "separatists." This military preparation simultaneously performs two functions: put a psychological pressure on Kyiv and European capitals in order to persuade them to make concessions, and actually prepare the offensive to capture more Ukrainian territories.

On April 30th and on May 11th 2015, Ukrainian President Petro had repeatedly made clear that he plans a third invasion of Donbass, and, ultimately, also to invade and retake Crimea.

The events at the beginning of 2014 bring into power an interim government which is trying to promote a policy of limiting the rights of ethnic minorities, including the Romanian intention to block the intervention of the international community. An extremist current that takes advantage of the turmoil in the East, has made its faith heard for some time in the Ukrainian press.⁹

The Security Council has many meetings, but fails to take a position over Ukraine's situation.¹⁰

The UN General Assembly has adopted a resolution entitled "Territorial integrity of Ukraine" that does not recognize the referendum for independence of Crimea and Sevastopol nor Crimea and the Russian Federation reunion.¹¹

⁸The Moldovan experts have called for a new format of negotiations that would alter the current framework of "2 plus 3"; the architecture of the proposed format is "3 plus 3", which precludes the Transnistrian authorities and includes the EU, the USA and Romania. See, Paul Dănuț Duță, Teodor Frunzeti, Ion Panait, *op.cit.*, 246.

⁹Romania does not give up to its claims over a portion of the territory which is now in Ukraine, says a report of the Center for civil society issues in Kiev, quoted by Novyi Rezhion. "The normal development of interstate relations is hindered by the tendentious exploiting of some historical problems made by the officials in Bucharest, primarily talking about the national-territorial membership of Northern Bukovina, Hertza and Hotin territories and the Ismail region in Basarabia. See Cornelia Roșoga, *Ucraina fears România while Russia is working on disruption*, Evenimentul Zilei, 30-10-2008. The Ukrainians in Romania have automatic representation in the Parliament of Bucharest and Tymoshenko does not even recognize the existence of Romanians in Ukraine. See *Romania represents a greater danger for Ukraine than it does for Russia*, 22-10-2008.

¹⁰The Russian Federation's representative reiterated that his country had not implemented the use of force, but the Ukraine's takeover by radical extremists was breeding serious risks, and his country was concerned about the rights of minorities. See also *Meeting this afternoon to consider the situation in Ukraine*, Security Council members had before them a letter from that country's delegation addressed to the Secretary-General (document S/2014/136). See also the Security Council on the situation in Ukraine, 3 March 2014 SC/11305.

¹¹By a vote of 100 in favor to 11 against, with 58 abstentions, the Assembly adopted the resolution entitled "Territorial integrity of Ukraine" (document A/68/L.39). Assembly Adopts Resolution Calling upon States Not to Recognize Changes in Status of Crimea Region, Sixty-eighth General Assembly, 80th Meeting (AM), GA/11493.

NATO's relations with Russia after a beneficial dialogue, cooperation and development (1991-2008),¹² are suspended due to events in Georgia (2008-2009) resumed and suspended due to events in Ukraine in 2014.¹³

The EU relations with Ukraine are subordinated to a political association and a gradual and economic integration.¹⁴ EU-taking into consideration the deterioration of the situation in Ukraine has adopted a series of sanctions and restrictions, sending a civilian mission to strengthen the operative rule of law¹⁵ on 1 December 2014, and supports the OSCE activities in this country.

The EU gets involved for the de-escalation of the crisis in Ukraine through a multilateral mechanism, but also by a series of penalties. A series of sanctions has been adopted including: the suspension of bilateral negotiations: a New EU-Russia Agreement, for the G8 Summit preparations in Sochi preparations, the accession to the OECD and the International Energy Agency, the granting of visas.¹⁶ A couple of cooperating programs are revalued, and a number of restrictions are established.

The EU did not respond to Ukraine's request to announce a list of sanctions to be imposed on Russia if it crossed another "red line", in particular if it dares to capture the city of Mariopol.¹⁷ "European capitals should finally understand that it is impossible to stop the creeping Russian aggression with the policy of appeasement, demanding from Kyiv the unilateral implementation of peace agreements in the Kremlin's interpretation. Only the preventive measure in the form of a clear list of severe sanctions able to collapse the Russian economy might force Moscow to refrain from crossing another *red line*."¹⁸

In general the EU position on Russian aggression becomes increasingly weak.¹⁹

Moscow demands from Kyiv to unilaterally implement the Minsk agreements in the Kremlin's interpretation, namely, to launch a 'political dialogue' with separatists, to federalize Ukraine through the constitutional reform, and to restore budget funding of separatist regions. Under the threat of attack, these requirements looks more like an ultimatum, and Berlin and Paris put pressure on Kyiv, hoping that new concessions to Moscow would prevent the

¹² A framework for development is created by: The North Atlantic Cooperation Council/The Euro-Atlantic Partnership Council (1991), the NATO-Russia Act on Mutual Relations (1997), Cooperation and Security, the Rome Declaration (2002) on "NATO-Russia relations: A New Quality", which established the NATO-Russia Council.

¹³ The suspension of the practical cooperation between NATO-Russia within the NATO Council but also under the aegis of the Euro-Atlantic Partnership Council (EAPC) and the Partnership for Peace (PfP), and the continuation of the political dialogue only within the embassies and higher, as needed.

¹⁴ See the European Neighborhood Policy (ENP), the Eastern Partnership (EaP), the political provisions of the Association Agreement.

¹⁵ The EU Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM).

¹⁶ First suspended bilateral talks with the Russian Federation on visa matters and discussions on the New (EU-Russia) Agreement

¹⁷ "Another escalation and large-scale offensive of separatists on Mariopol will not remain unanswered with the European Union", German Foreign Minister Frank-Walter Steinmeier.
http://wyboreza.pl/1,75477,17819746,Berlin_demonstruje_jak_scisle_sawiezi_z_Warszawa.html.

¹⁸ Foreign Policy Research Institute, *International weekly* # 7 (17.04.2015 — 01.05.2015).

¹⁹ Commenting on the possibility of arms assistance to Ukraine, the EU ambassador to Russia Vygaudas Ušackas called it a risky idea, adding that: "We must admit that we do not go to war and die for Ukraine." <http://ru.delfi.lt/news/politics/posol-es-v-rossii-my-ne-pojdem-voevat-i-umirat-za-ukrainu.d?id=67633740>. Being no longer burdened by diplomatic etiquette, former Polish president Aleksander Kwasniewski said that "any form of the EU military intervention is out of the question." Answering the question if the EU was ready to turn a blind eye to the annexation of Crimea, Mr. Kwasniewski said: "You are right, it is. This is a problem of compromise between values and real politics." <http://www.eurointegration.com.ua/interview/2015/04/9/7032776>. Speaking to the Sofia-based TV channel, Bulgarian prime minister Boyko Borisov has criticized Berlin and Paris for the "swallowing" the annexation of the Crimea and not even mentioning this issue in Minsk agreements. <https://euobserver.com/beyond-brussels/128238>.

resumption of large scale hostilities. Thus the EU exactly repeats its own mistakes made after the first Minsk arrangements, unilateral fulfilment of agreements from Kyiv and turned a blind eye on Russia's military building.²⁰

In the case of the civil war in Ukraine, the efforts of mediation sanctions and negotiation have made certain steps, on the initiative of Germany and France, complemented by the OSCE.

The start of OSCE mission in Ukraine²¹ was at Ukraine's request followed by the deployment of two checkpoints at the Ukrainian-Russian border,²² in accordance with the previous agreements.²³

Thus, the Protocol in Minsk²⁴ negotiated in a trilateral format, "The Trilateral Contact Group" - the President Poroshenko, President Putin, the Swiss Foreign Minister and the OSCE Representative Didier Burkhalter²⁵ based on "the plan for peace" of President Poroshenko and President Putin "initiatives" refers, *inter alia*, to some very important issues: ceasefire; the verification of ceasefire by the OSCE Monitoring Mission; decentralization of power; monitoring of the border between Ukraine and Russia and the creation of a security zone along the border; the release of the war prisoners and those detained; the amnesty for the persons involved in the separatist incidents of Donetsk and Luhansk; promoting national dialogue; improving the humanitarian situation; anticipated poll elections in Donetsk and Lugansk; the withdrawal of illegal armed groups, heavy weapons and mercenaries in Eastern Ukraine; economic recovery in Donbas; ensuring the safety of the individuals participating in the negotiations.

It is pointed out that it is an important step for de-escalation of the crisis and to promote national dialogue if requested by the Ukrainian authorities.²⁶

In the joint statement the participants of the summit EU-Ukraine condemned the "acts of aggression by the Russian armed forces" and stressed the non-recognition of Russia's annexation of Crimea.²⁷ That means that the EU has grown ripe to talk about the fact of Russian aggression, but it is not ready yet to officially name Russia the aggressor state (while it is clear that Russian armed forces could not launch aggression without the order from Moscow). The parties also expressed their support for the Minsk agreements and for the efforts of the Normandy format, thus actually authorizing Berlin and Paris to be the EU representatives at peace talks.²⁸

²⁰ Foreign Policy Research Institute, *International weekly* # 7 (17.04.2015 — 01.05.2015).

²¹ The OSCE Special Monitoring Mission to Ukraine, Decision No. 1117 of 21 March 2014. The Mission is headed by the Chief Monitor, Ambassador Ertugrul Apakan of Turkey. The Chief Monitor is assisted by two Deputy Chief Monitors, Mark Etherington of the United Kingdom and Alexander Hug of Switzerland.

²² Decision no. 1130 deployment of OSCE observers to two Russian checkpoints on the Russian-Ukrainian border.

²³ The Joint Declaration made in Berlin on 2 July 2014.

²⁴ *Protocol on the results of consultations of the Trilateral Contact Group*, signed in Minsk, 5 September 2014 implementation of President Poroshenko's Peace Plan and of President Putin's initiatives. See also *Memorandum of September 19 2014 outlining the parameters for the implementation of commitments of the Minsk Protocol of 5 September 2014*.

²⁵ OSCE Chairperson-in-Office and Swiss Foreign Minister.

²⁶ See Chairperson-in-Office welcomes Minsk agreement, assures President Poroshenko of OSCE support, BERN, 5 September 2014, <http://www.osce.org/cio/123245>.

²⁷ At the conference President Poroshenko urged to invest more in Ukraine, and Prime-minister Yatsenyuk requested to increase financial aid, stressing that a nuclear power was waging war against Ukraine (not the most attractive information for investors). After all, it was not reported at the conference about any considerable investment projects, but was said about the financial assistance, mostly in the form of loans and grants. The EU promised additional €1.8 billion, Germany offered prospects of €1.4 billion, and the U.S. promised \$1 billion in the nearest future and the same amount at the end of the year being subject to successful reforms. The issue of previously promised funds for the restoration of Donbas was postponed till the stabilization of the situation in the region. See <http://www.president.gov.ua/en/news/32762.html>.

²⁸ Foreign Policy Research Institute, *International weekly* # 7 (17.04.2015 — 01.05.2015).

A possible development of the negotiations in addition to OSCE monitoring is about to develop in the future through "The so-called Normandy Format."²⁹ In December 2014, Normandy Format agreed to carry out two meetings of the "Trilateral Group of Contact" with representatives of the regions of Donetsk and Luhansk concerning – ceasefire, implementation of the disengagement plan, the release of prisoners and detained persons, granting humanitarian aid.³⁰

The outbreak of the Ukrainian crisis might represent a new opportunity for OSCE to play a neutral role within the tensioned relations between the West and Russia.

The OSCE missions in Kosovo, Georgia and Moldova brought a specific contribution to assess the situations of these states. Other OSCE missions were preoccupied with the status of certain ethnic groups, the Russians in the Baltic states and the Tartar's electoral representation from Crimea.

Because of its status with serious political and military limitations, OSCE signed several agreements on territorial disputes (the regime of Nagorno-Karabakh region by means of an Armenia-Azerbaijan agreement), the status of the ethnic minorities (the regime of the Serbs in Kosovo) and the consolidation of democracy (Albania, Bosnia and Herzegovina, Croatia, Kosovo).

Eloquent but disputed examples³¹ – the conflict between Moldova-Transnistria and the mission in Chechnya (1995-2003).

The status of Crimea and the civil war in Eastern Ukraine are hot issues on the international agenda which OSCE can activate itself to, and carry out specific activities to its role. The arrival of a new frozen conflict in Ukraine will bring costs³² which will be reckoned only through the de-escalation of the crisis and a compromise by the acceptance of de facto control of Russia over Crimea in exchange for the reintegration of the East in Ukraine.

In the first place, by it will be establishing a formal framework for discussion between the struggling sides in the process from Minsk. "Russia does not possess enough resources for the full-scale occupation of the entire Ukrainian territory; therefore the Kremlin continues applying the "salami" strategy, cutting off one by one the areas of Donbas region. Such strategy gives Moscow an opportunity to avoid tougher Western sanctions, and Russia was not punished at all for the seizure of Donetsk airport territory and Debaltsevo city."³³

²⁹ The leaders of Ukraine, Russia, Germany and France.

³⁰ *Minsk talks must resume to rapidly advance peace efforts, Swiss Chair says*, Bern, December 26, 2014, <http://www.osce.org/search/pages/Minsk%20Protocol>

³¹ At the 2007 Munich Security Conference, Russian president Vladimir Putin asserted, "[Western countries were] trying to transform the OSCE into a vulgar instrument designed to promote the foreign policy interests of one or a group of countries. And this task is also being accomplished by the OSCE's bureaucratic apparatus, which is absolutely not connected with the state founders in any way." http://www.nkrusa.org/nk_conflict/osce_minsk.shtml. (accessed December 21, 2014).

³² pseudo-state 'Novorossiya' (New Russia). http://www.nkrusa.org/nk_conflict/osce_minsk.shtml. (accessed December 21, 2014).

³³ Foreign Policy Research Institute, *International weekly* # 7 (17.04.2015 — 01.05.2015).

THE MINSK-2 AGREEMENT (M2A)

“The Normandy format” – Russia, Germany, France³⁴ and Ukraine – can supervise the compliance and the implementation of the Memorandum on the 20th of September 2014 by the special monitoring mission in Ukraine.³⁵

“Kyiv should also keep in mind that Berlin and Paris have neither capacity nor intention to study all the details of conflict development, and being the political guarantors of the Minsk agreement they do care for the formal aspect of its implementation.”³⁶

The OSCE Mission in Ukraine deployed observers in the buffer zone between the government and the rebel forces. “The time is working against Ukraine, and therefore Kyiv should use it more efficiently by focusing efforts on the most important directions and abandoning the unpromising ones. In particular, it hardly worth expending efforts on promoting the idea of international peacekeeping mission for Donbas, given that Western partners lack the political will to send the EU mission without a UN mandate; and it is hopeless to count on positive decision of the UN Security Council due to the Russia’s position. Therefore it makes sense to pay more attention to intensification the OSCE mission, including the extending of its mandate and increasing of its technical capacities and number of personal. Despite all the disadvantages, the OSCE Special Monitoring Mission is currently the only possible option.”³⁷

The Minsk Agreement contains necessary regulations for a cease-fire action but it does not contain the capability to stop its violations by imposing measures, and the infringement of a cease-fire action can be imputed without the implication of a mechanism to impose compliance with the regulations of the agreement.³⁸ Ongoing attacks of separatists at the areas to the north of Mariupol as well as statements of militants’ leader Alexander Zakharchenko about possible surround of the city indicate that Russian plan might envisage simultaneous attacks at Mariupol from the north and east.³⁹

³⁴ As a signalling ‘coincidence’ might be considered the fact that only three days before the Berlin meeting the French side released a transcript of the parliamentary hearings of 25 March, when director of French Military Intelligence (DRM) General Christophe Gómara said that his service did not revealed the presence of Russian troops in Donbas as well as the evidences of Russia’s preparations for invasion. <http://www.assemblee-nationale.fr/14/cr-cdef/14-15/c1415049.asp>.

³⁵ Russia should be also pleased with the position of the OSCE representatives, who took part in Berlin meeting and stated that “both sides” violate ceasefire. Inexplicably they did not clarified which side was first to begin fire as well as what Ukrainian troops should do when being shelling by separatists. The OSCE representatives also ‘forgot’ to mention that separatists had opened fire towards the SMM patrol on the outskirts of Shyrokyne, near Mariupol, on 7 April 2015, as it was noted in Spot report by the OSCE Special Monitoring Mission. Therefore the Berlin Agreed Statement “called on all sides to stop fighting”, thus actually accusing both separatists and Ukrainian troops of the truce violations. The Special Monitoring Mission to Ukraine. The Belarusian president Alexander Lukashenko said, “[This is] one of the few occasions when the OSCE has played exactly the role for which it was created, and has made a concrete contribution to regional peace and security.” See also Edwin Bakker and Hinke Pietersma, “The OSCE in Search of a Meaningful Reform Agenda”, *Atlantisch Perspectuf* 29, no. 78 (2005), 2.

³⁶ Moscow skilfully takes advantage of such situation and assures its European partners as if separatists are fulfilling their obligations by officially declaring a cease-fire and reducing the intensity of shelling. At the same time the Kremlin insists as if Kyiv sabotages its commitments to the political and economic settlement of the conflict. Judging by the latest ‘Normandy’ Quartet’s statement, Moscow has so far managed to impose its vision on Berlin and Paris. Foreign Policy Research Institute, International weekly # 6 (02.04.2015 — 16.04.2015).

³⁷ Foreign Policy Research Institute, International weekly # 6 (02.04.2015 — 16.04.2015).

³⁸ “Following an extensive six hour discussion between US Secretary of State John Kerry, Russian Foreign Minister Sergey Lavrov, and President Putin, Kerry stressed that any Ukrainian efforts to seize the Donetsk Airport through force would violate the Minsk Protocol and would face strict opposition from Washington.” *Sputnik International*, <http://sputniknews.com/politics/20150512/1022049994.html>

³⁹ <http://www.pravda.com.ua/news/2015/04/16/7064949>. Other potential areas of aggression, where Russian-separatist forces most actively test the strength of Ukrainian defence by constant shelling, are the following: Schastya village to the north of Luhansk city; Pisky village to the north of Donetsk city; and the area to the north

The cease-fire action provides a period of time for diplomatic negotiations, but also possible certain tactical advantages which doesn't mean the extinction of the crisis. On the other hand, the OSCE members deployed in Eastern Ukraine can have a valuable contribution regarding data collection and information on the parties involved in the current crisis.

„The Obama Administration now had slammed Poroshenko down on the key issue of whether to resume the war against Ukraine's former Donbass region, and also slammed him on whether Ukraine should invade Crimea, which is Russian territory and would therefore mean a war against the Russian armed forces.”

The issue of international peacekeepers for Donbas were not even mentioned in the text of the Agreed Statement (13 April 2015), and according to the DW report, this issue "was not substantively discussed."

“The "political process", economic and humanitarian issues are exactly the requirements on which Russian side insisted the previous weeks, implying the amendments to Ukrainian Constitution with the legitimization of self-proclaimed separatist ‘republics’ in Donbas and the restoration of their funding by Kiev. Including of the main Kremlin's requirements to the Agreed Statement even without causing them with the full implementation of ceasefire, gives grounds to believe that Berlin and Paris put a pressure on Kyiv persuading it to agree on those point.”⁴⁰

“Obama is on-board with the “Plan B” for Ukraine, which Francois Hollande and Angela Merkel had put into place, the Minsk II Agreement, which brought about the present ceasefire, which now has become clearly the utter (even accepted by Kerry) capitulation of Obama's Plan A on Ukraine, which plan Nuland had been carrying out.”⁴¹

of Horlivka city, especially towards the road to the Artemivsk city. Foreign Policy Research Institute, *International weekly* # 7 (17.04.2015 — 01.05.2015).

⁴⁰ So it is not surprising that Sergei Lavrov was pleased with the results of the meeting, calling it "useful", Ukrainian minister Pavlo Klimkin described the meeting as "difficult." Foreign Policy Research Institute, *International weekly* # 6 (02.04.2015 — 16.04.2015).

⁴¹ Obama's message in this, through Kerry, to Ukraine's President Poroshenko, and indirectly also to Ukraine's Prime Minister Yatsenyuk (the leader whom Nuland herself had selected), is: we'll back you only as long as you accept that you have failed our military expectations and that we will be stricter with you in the future regarding how you spend our military money. We're getting in line now behind the Hollande-Merkel peace plan for Ukraine. See Obama Gave Up on Ukraine, Press Simply Ignored It, May 12th 2015, <http://rinf.com/alt-news/featured/obama-gave-up-on-ukraine-press-simply-ignored-it/>

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THE STRATEGIES OF ENTERPRISES DEVELOPMENT

Corina Ana BORCOȘI*

ABSTRACT

CREATING DEVELOPMENT ENTERPRISES STRATEGIES, MEANS TO THINK ABOUT THEIR FUTURE, BUT ALSO TO TRY TO CONTROL THE FUTURE, TO ACTION ABOUT THE FUTURE. DEVELOPING ENTERPRISES STRATEGY INVOLVES DESIGNING A DESIRED FUTURE AND AN EFFECTIVE WAY TO MAKE IT HAPPEN. BY STRATEGY, IT IS PLAN THE FUTURE ACTION DIRECTIONS OF THE COMPANY, DIRECTIONS DESIGNED TO MEET CERTAIN GOALS.

KEYWORDS: STRATEGY, STRATEGIC MANAGEMENT, ENTERPRISE, ECOSYSTEM ENTREPRENEURIAL

INTRODUCTION

Given the global economic context for the coming period it is necessary to define a new strategic framework to support future development of the large enterprise sector and especially small and medium enterprises sector (SMEs). "Governmental Strategy for SMEs development", update the policy priorities of Romania in the field of SMEs to new developments in Europe. This general framework will have to comply with the policies promoted by the European Commission in the context of the "Europe 2020", which provides priorities as: smart growth (developing an economy based on knowledge and innovation); sustainable growth (promoting a more efficient economy in terms of resource use, greener and more competitive); Inclusive growth (promoting an economy with a high rate of employment, ensuring social and territorial cohesion). Develop a viable national entrepreneurial ecosystem, on 2020, allows interconnected operation of productive chains of SMEs, both locally spread throughout the country and on a regional or global.

Ecosystem entrepreneurial national will be created after the implementation of the development strategy. It will be based on consolidated structure of the sector of SMEs, which will become more numerous, more active economic and competitive than they are currently, capable to contribute to Romania's economic growth in the long term and therefore to social progress and prosperity for all its citizens¹.

At the enterprise level, the development strategy it is essentially a process by which the company management sets the action and long-term results, ensuring a careful formulation, proper implementation and continuous evaluation of the strategy developed.

* Researcher II PhD, „Constantin Brâncuși” University, Târgu-Jiu, Romania

¹ HOTĂRÂRE Nr. 859 din 7 octombrie 2014 privind aprobarea Strategiei guvernamentale pentru dezvoltarea sectorului întreprinderilor mici și mijlocii și îmbunătățirea mediului de afaceri din România - Orizont 2020

The role and importance of developing enterprise strategy is to identify risk factors that may be subject of company during its activities and application of necessary measures to ensure its long life and a more profitable.

1. DEFINITION OF STRATEGIC MANAGEMENT

Strategic management is a complex process of elaboration the future of the company, its long-term evolution, within which occurs strategy formulation, implementation and monitoring-evaluation. Strategic management is a modern form of management of the company, forecasting², based on anticipating change the environment, evaluation of the internal potential of the company and the changes that are necessary in order to harmonize with the environment to achieve the goals and objects set.

Strategic management is based on internal and external factors affecting the company and, from here, are developed and implemented strategies rigorous and clear allowing the company to make the changes likely to occur in the environment that will allow it to survive and adapt. Strategic management helps determine the position currently occupied by the company and the position that is intended to be occupied in the future, which involves, necessarily, analyze and forecast the evolution of all factors that can influence the company. This implies: knowledge competition, market, identifying objectives and developing skills from the company aimed to contribute to the successful implementation of enterprise strategy.

Strategic management is a concept influences, both economic and socio-political. He is considered to be:

- a process that aims to facilitate management of a company and use the strategy to guide the action;
- a form of management to ensure the best combination of environmental requirements, internal and external partners requirements and management objectives;
- process by which managers establish long-term orientation of the company, are proposed specific performance objectives, develop strategies to achieve these objectives, in accordance with external and internal factors, and the implementation of the action plans established.

2. NATIONAL STRATEGY BUSINESS DEVELOPMENT

Today, no national economy cannot operate in a singular, but only interconnected with other regional or global economies. Currently, very few local SMEs do business across borders. These problems, real and substantial, the Romanian economy, the government and stakeholders in strengthening the SMEs sector must find viable solutions and to implement them in the appropriate public policies³.

The overall objective is to create a favorable environment for: business, private initiative and entrepreneurial spirit, stimulate the creation and growth of SMEs and support increased: competitiveness domestic business environment locally, regionally, nationally; the number of SMEs economically active, development of existing businesses and creating new jobs by the end of 2020. It will work to create programs and projects aimed at creating new jobs, the creation of start-ups, supporting innovative SMEs, increasing competitiveness of local SMEs and their ability to export.

The main actions conducive to achieving: the targets outlined above and to the general objective of the strategy are:

² Popa, I. – Management strategic, Editura Economică, București, 2004, p. 95

³ HOTĂRÂRE Nr. 859 din 7 octombrie 2014 privind aprobarea Strategiei guvernamentale pentru dezvoltarea sectorului întreprinderilor mici și mijlocii și îmbunătățirea mediului de afaceri din România - Orizont 2020

- a) support and promoting entrepreneurship through: support to start-ups, focusing on sectors with creative potential, rural areas; supporting the development of entrepreneurial education at all levels; promotion of ethical behavior in business and supporting honest entrepreneurs who want to start a business;
- b) the access to adequate financing SMEs through: support to the creation and development of operational mechanisms and instruments for financing SMEs; supporting the creation and development of networks of private investors; increasing accessibility to micro-credit funds for SMEs in rural areas⁴;
- c) innovative SMEs: encouraging technology transfer; development and management of vocational education; business development consultancy services for SMEs; developing a support system for innovation at national level; encourage economic and technical cooperation of SMEs with large enterprises; supporting the implementation / management system certification;
- d) access to international markets and internationalization of SMEs by: stimulating the use of information technology in business for SMEs; support e-commerce and other forms of online business; strengthening domestic capabilities of SME participation in international trade.
- e) reactivity of government to SMEs needs: stimulating associative forms to increase the bargaining power of SMEs; transposing Community legislation SMEs and ensuring its compliance with internal regulations; improving the legislative framework of the activities of SMEs; improving consultation mechanism SMEs in the making process of the legislation; improving the quality and timeliness required for the creation of good public services and doing business.

3. ENTERPRISE DEVELOPMENT STRATEGY - CASE STUDY: SC ILIANA SRL

a) Principles of enterprise development strategy⁵

The company's development strategy is envisaged, explicitly and implicitly; achieve well-defined goals, specified as mission and objectives. The strategy aims future periods in the life of the company, most often 3-5 years. Hence the high degree of risk and uncertainty associated with. The strategy includes major objectives, main ways of achieving and resources⁶.

Strategy formulation must be a consciously controlled process. The strategy must be unique, explicit, simple and then implemented⁷. The strategy is based on correlative approach of the organization and the environment in which it operates. The strategy envisages organization foreshadowing competitive behavior in the long term, taking into account both company culture and contextual developments. Obtaining a bigger synergies approach is always the goal of developing the strategy.

By the way it is conceived strategy, it is necessary to consider and to favor the deployment of an intense process of organizational learning. Organizational learning takes into account the organization's ability to sense changes in the operating environment and response them.

The strategy involves achieving the following elements:

⁴ HOTĂRÂRE Nr. 859 din 7 octombrie 2014 privind aprobarea Strategiei guvernamentale pentru dezvoltarea sectorului întreprinderilor mici și mijlocii și îmbunătățirea mediului de afaceri din România - Orizont 2020

⁵ www.rove.ro Model integrat de dezvoltare antreprenorială în centrele urbane din trei regiuni: Strategia unei firme: concept, componente, factori de influență, etape de elaborare, 2011

⁶ Nicolescu, O. – Managementul întreprinderilor mici și mijlocii – Ed. Economică, București, 2001, p. 284

⁷ Mintzberg, H. – Ascensiunea și declinul planificării strategice, Editura Publica, București, 2008, p. 54

1. domain;
2. the level and structure of the organization's resources and enhance the skills that contribute to the realization objectives and goals;
3. competitive advantage, aimed unique position that an organization develops in relation to its competitors;
4. synergy, defined as the effects of what is expected, due to the implementation of decisions and the use of resource organization.

In particular, developing an enterprise strategy means following steps: setting the mission of the enterprise, the basic objectives, establish strategic options, resources, deadlines and competitive advantage.

- a) The mission of the enterprise – consist in comprehensive enunciation of the fundamental goals and enunciation of the concept of evolution and activities of the company that make it different from similar businesses.
- b) The fundamental objectives - designate that objective that consider the long horizons, usually 3-5 years and covers all company activities.
- c) The strategic options - define major approaches, with implications for the contents of a considerable part of the firm's activities, on which it is establish how possible and rational fulfillment strategic objectives is.
- d) Resources - are provided in the form of funds and of investment assets. Their sizing is very important economically rational.
- e) Time limits - defines the operationalization of the strategy period, specifying the start moment and the end of major strategic options.
- f) The competitive advantage - means performance by a firm of consumer products and superior service compared to similar offerings of most competitors. Competitive advantage is the component that gives sustainability strategy and long term business competitiveness.

**b) The development strategy of the enterprise - case study:
SC Iliana SRL**

SC Iliana SRL has as main activity, manufacturing of engineered wood products, code CAEN 2020 - Manufacture of wood laminated plywood, hardboard, plywood, wood chip boards, fiber boards, etc⁸. The company is a medium-sized enterprise with a number of 120 employees, of which over half are women. The head office is located in the town of Targu Jiu, Gorj County. Qualified personnel are 70%, with the following specializations: economist-engineer, economist, engineer, carpenter, electrician, fireman, locksmith, car mechanic. The staff worker represents 98% of its workforce.

SC Iliana SRL is equipped with advanced machinery used in the manufacture of windows and doors from wood (numerical control machining centers, grinding machines, multiple circular etc.). The products manufactured are of the highest quality and unique design. Most customers (90%) are external customers (Germany, Austria, and Italy). The company managed to overcome the economic crisis relatively easy, keeping it constant, increasing slightly on an upward direction in terms of annual profit made. Because he wants to prosper increasingly, he has developed the next 5 years development strategy, to strengthen his position on the existing market and help to explore new markets with new products and having a staff augmented. The success of a business and its growth can be given by the vision, objectives and amount company owner⁹.

⁸ Borcoși, C. A. – Metode și tehnici de management aplicate în IMM-uri, Editura Academica Brâncuși, Târgu-Jiu, 2011

⁹ Walters, J. S.– Marea putere a micii afaceri – Ed. Curtea Veche, București, 200

Strategy development SC Iliana SRL for the next five years is as follows:

- A. company mission - maintaining the market share of the company at the highest possible performance;
- B. The fundamental objectives:
 - Increase profits;
 - Increased turnover;
 - Increasing market share;
 - Labor productivity growth;
 - Increasing product quality and services market;
- C. The strategically options -
 - Reengineering;
 - Redesigning the management system;
 - Diversification of production;
 - Assimilation of new products;
 - Entering new markets;
 - Specialization into new fields;
 - Computerization.
- D. Resources - sources of funding for reaching these objectives are: equity, access grants, and loans to banks.
- E. Deadlines
 - for the first year - aims accessing grants for development of new products; use own funds for the sale of existing products in new markets;
 - for the second year - new product development; increasing the number of employees;
 - year three, four, five - keeping upward trend of supply of products and services to market, increased productivity, increased turnover and profit.
- F. Competitive advantage - the company offers products and services of quality to price, sometimes lower than those of competition (because the company acquires equipment with grants, purchases a large amount of raw material at low prices in the period in which price bids low, increase the skills of the workforce, the company implement: the project management, management by objectives, participatory management; increase motivation of employees).

Applying this strategy development next five years, SC Iliana SRL will fulfill the mission that used to develop the strategy, that of maintaining on the market at the highest possible performance levels.

CONCLUSIONS

It is necessary the partnerships between public and private, between internal and external environment for the successful implementation of "Government Strategy for development of small and medium enterprises and improving the business environment in Romania - Horizon 2020 ". Strategic management will help the management to take the best decisions according to the changes that will occur in the business, taking every precaution when exploiting all opportunities and threats. Implementation of strategic management significantly improves the company's financial results, develop and strengthen the company's market position, increase its competitiveness. The analyze reveal that the enterprises which apply strategic management are generally more performant than others, and their staff is better motivated.

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AIR QUALITY MONITORING SYSTEM BASED ON LARGE-SCALE WSN: A STEP TOWARDS A SMART CITY

Alexandru LAVRIC¹
Valentin POPA²

ABSTRACT:

THIS PAPER PRESENTS THE DEVELOPMENT, IMPLEMENTATION AND TESTING OF AN AIR QUALITY MONITORING SYSTEM. THE SYSTEM IS BASED ON THE ARCHITECTURE OF A METROPOLITAN WSN SENSOR NETWORK OF THE LARGE SCALE TYPE, SPREAD ON A WIDE GEOGRAPHICAL AREA AND THUS COMPLYING WITH THE SMART CITY CONCEPT. THUS, THE LOCAL AUTHORITIES CAN MAKE DECISIONS CONCERNING THE REDUCTION OF THE POLLUTION LEVEL IN TERMS OF THE QUANTITY OF PM10 PARTICLES IN THE AIR. THE ARCHITECTURE IS OF THE CLIENT SERVER TYPE, USING THE JENNET COMMUNICATION PROTOCOL AND THE SYSTEM CAN INTEGRATE A LARGE NUMBER OF NODES. THE OBTAINED RESULTS SHOW THAT THE SYSTEM HAS A HIGH EFFICIENCY LEVEL AND CAN BE INTEGRATED IN THE SMART CITY CONCEPT.

KEY WORDS: AIR QUALITY MONITORING, LARGE-SCALE, PM10, SMART CITY, WSN.

INTRODUCTION

The reduction of air pollution is a very topical issue and is the focus of numerous research centres. More than half of the world's population now lives in urban areas³ and, thus, technologies that can contribute to economic development must advance at a rapid pace. According to Schaffers H.³, the Smart City concept entails the use of technologies for the citizens' well-being and for economic development. Additionally⁴, analyses this concept in terms of the economic need for local authorities to take part in this process, through the efficient management of the natural resources, through investments in human and social capital and, last but not least, through the development of the transport and telecommunications infrastructure.

One of the objectives of the Smart City concept is to increase the quality of life, all the while protecting the environment. Fig. 1 presents the architecture of the ecosystems within a Smart City.

¹ PhD, Computers, Electronics and Automation Department, Stefan cel Mare University of Suceava, Romania, lavric@eed.usv.ro.

² PhD, Prof. Computers, Electronics and Automation Department, Stefan cel Mare University of Suceava, Romania.

³ Schaffers H., Komninos N., Pallot M., Trousse B., Nilsson M., Oliveira A., *Smart cities and the future internet: Towards cooperation frameworks for open innovation*, Springer Berlin Heidelberg, (2011), 431-446.

⁴ Vilajosana I., Llosa J., Martinz B., Domingo-Prieto M., Angles A., Vilajosana X., *Communications Magazine*, IEEE, 51(6), (2013).

Thus, we are here referring to the monitoring and control of the systems: water and sewage, transport and environment, smart metering and street lighting, water and environment protection and, last but not least, waste management.

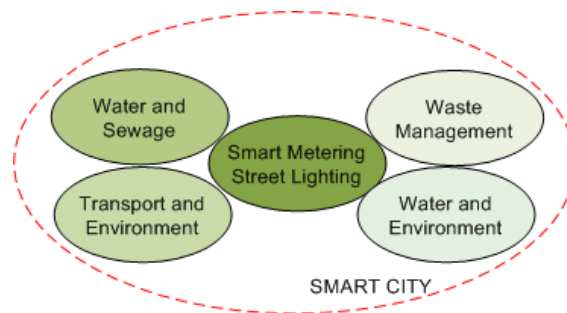


Fig. 1. Smart City concept.

There are a series of papers in the professional literature, that approach the issue of air quality monitoring^{5,6,7,8,9}, but none of these research papers allow for the integration of a very large number of monitoring points and, at the same time, entail very low implementation costs. Many of these papers discuss or present results obtained by using professional measurement equipment¹⁰. The main contribution of this paper is the implementation of a low cost air quality monitoring system that allows the integration of a large number of monitoring points.

SYSTEM OVERVIEW

The system is based on a WSN wireless network of the large scale type, spread on the geographical area of a town and used for transferring information. Thus, we can identify two types of communication: local communication, on short distances, from one monitoring module to another, and long distance communication, such as the one between the control centre that processes the information, and the WSN network. The local communication is enabled by using a JenNet type of protocol, based on the IEEE 802.15.4 standard and providing the possibility to integrate a very large number of nodes, without any additional license costs. Long distance communication is enabled by using a TCP/IP connection. Fig. 2 presents the general structure of the system.

⁵Davila S., Beslic I., Pecar-Ilic J., Sega K., *Automated web-based system for air quality monitoring*. MIPRO, Proceedings of the 34th International Convention (2011), 816-819.

⁶T. Q. Ngoc, J. Lee, K. J. Gil, K. Jeong, S. B. Lim, *An ESB Based Micro-scale Urban Air Quality Monitoring System*, 2010 IEEE Fifth Int. Conf. Networking, Archit. Storage, (2010) 288–293.

⁷T. Lin, H. Lu, J. Liu, *Application of a Reliable MAC Protocol for the Urban Air Quality Monitoring System Based on the Wireless Sensor Network*, Southeastcon, (2012) 1-6.

⁸J.-A. Jiang, *Developed urban air quality monitoring system based on wireless sensor networks*, Fifth Int. Conf. Sens. Technol, (2011) 549–554.

⁹S. Mansour, N. Nasser, L. Karim, A. Ali, *Wireless Sensor Network-based Air Quality Monitoring System*, Computing, Networking and Communications (ICNC), (2014) 545–550.

¹⁰I. Ionel, G. Apostol, F. Popescu, C. Talianu, M. Apascariței, *Air quality monitoring in an international Romanian airport*, Journal of Environmental Protection and Ecology, 3, (2010) 815–821.

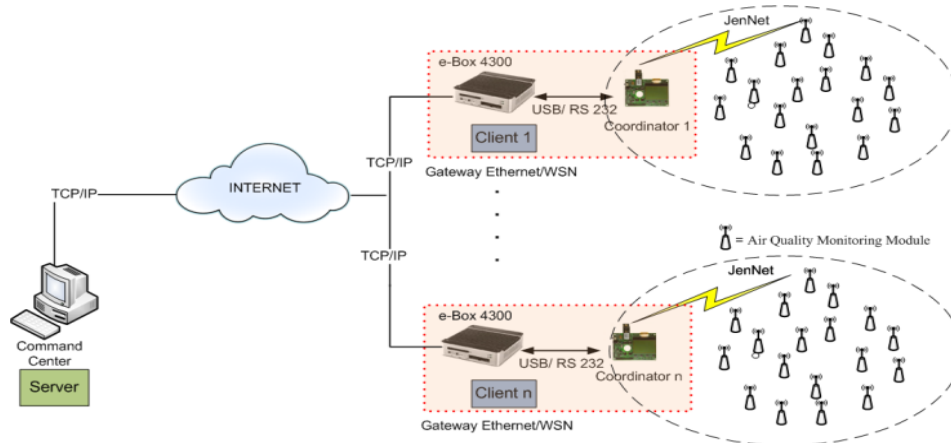


Fig. 2. Air Quality Monitoring system.

In a previous paper¹¹ the authors developed an automatic channel selection algorithm (ACS) that can be implemented in a large-scale, WSN network in order to avoid the interference caused by other wireless communications operating in the same frequency band. This ACS algorithm is used in the air quality monitoring WSN network.

The monitoring system consists of: the control centre, the monitoring modules and the gateway modules. The monitoring nodes incorporate sensors that measure the level of PM10 (Particulate Matter) particles in the air. The control centre collects and processes the received information

The Gateway module enables the transfer of information within the WSN network, compliant with the IEEE 802.15.4 standard, and the TCP/IP network. The module consists of the WSN network coordinator, connected through a UART (Universal Asynchronous Receiver/Transmitter) communication interface to the e-Box 4300 module. The WSN nodes are of the NXP JN5148 type¹².

Thus, when the values are measured, the information is sent through the JenNet wireless network to the coordinating node which further sends it to the e-Box 4300 module from where it is subsequently dispersed through the TCP/IP network to the control centre.

SYSTEM DEVELOPMENT

The air quality monitoring system integrates an optic sensor of the Sharp GP2Y1010AU0F type¹³, that measures the air PM10 particles. The sensor output voltage is directly proportionate to the level of particles in the air.

Ample research has been conducted in the past two decades in order to identify the negative effects of the particulate matter suspended in the atmosphere on the human body. The research shows that the long term effects of having been exposed to PM 10 (Particle Pollution – particles smaller than 10 μm) and PM 2.5 (particles smaller than 2.5 μm) can seriously affect health¹⁴.

¹¹ Lavric, A., Popa V., Sfichi, S., *Adaptive Channel Selection Algorithm for a Large Scale Street Lighting Control ZigBee Network*, Elektronika ir Elektrotechnika. 19(9), (2013) 105-109.

¹² On-line: Datasheet JN5148, http://www.nxp.com/documents/data_sheet/JN5148.pdf. (14.01.2015).

¹³ On-line: Datasheet Sharp GP2Y1010AU0F, http://sharp-world.com/products/device/lineup/data/pdf/datasheet/gp2y1010au_appl_e.pdf. (20.12.2014).

¹⁴ M. Budde, M. Busse, M. Beigl, *Investigating the Use of Commodity Dust Sensors for the Embedded Measurement of Particulate Matter*, Networked Sensing Systems (INSS), (2012) 1-4.

Suspended particles are a complex mixture of microscopic solid and liquid particles that remain suspended for a long time. They have negative effects on the vegetation and can be inhaled by people, leading to serious respiratory conditions. Road transport causes particle pollution, resulting from car tires when braking and from the incomplete burning of the fuel. Almost 70 % of the pollution recorded in Bucharest is caused by road traffic and, therefore, the most exposed areas of the city are those where the average road traffic is very high. The most polluted area of the country has been identified as the Titan neighbourhood in Bucharest, where the monitoring station has recorded PM10 values ranging between 75 and 95 $\mu\text{g}/\text{m}^3$, above the maximum approved level of 50 $\mu\text{g}/\text{m}^3$. According to the national monitoring network, the daily maximum level of PM10 particles people can be exposed to without endangering¹⁵ their health amounts to 50 $\mu\text{g}/\text{m}^3$.

The size of the particles is directly related to the probability of causing effects. One particular problem is the case of the particles with an aerodynamic diameter smaller than 10 micrometers that enter through the nose and the throat and go directly into the lung lobes, causing inflammation and intoxication¹⁶. The most affected are especially people who suffer from cardiovascular and respiratory conditions, children, the aged and those suffering from asthma. Particle pollution aggravates the asthma symptoms, i.e. coughing, chest pains and difficulty breathing. The long term exposure to a low concentration of particulate matter can cause cancer and premature death¹⁶.

An optical sensor for monitoring air particles, of the GP2Y1010AU0F type is integrated in the air quality monitoring system, as can be seen in Fig. 3.

The sensor is installed in the WSN modules. An infrared diode (IRED) and a phototransistor detect the light reflected by the particles in the air. The optical detection process is highly efficient in detecting very fine particles¹⁷. The sensor has a very low power consumption (maximum 20 mA) and can be powered with a DC voltage of maximum 7 V. The sensor output has an analogical voltage that is directly proportionate to the measured particle density, with a sensitivity of 0.5 V per 0,1 mg/m^3 .

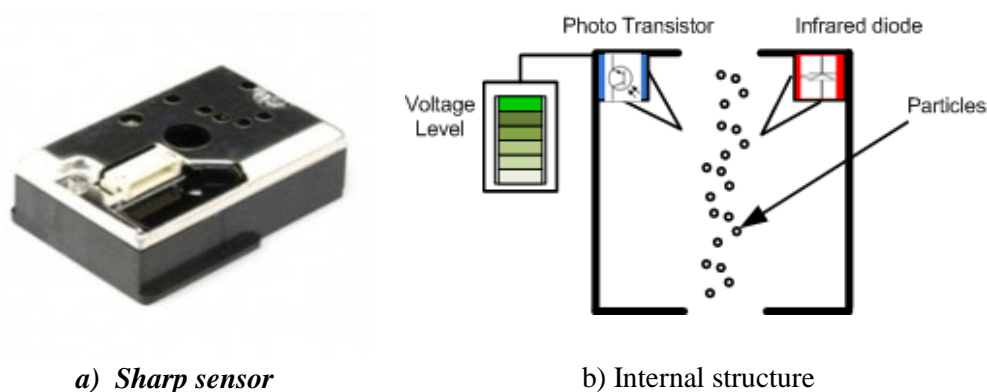


Fig. 3. The Sharp sensor.

¹⁵ On-line: *Reteaua Nationala de Monitorizare a Calitatii Aerului*. <http://www.calitateaer.ro/parametri.php>. (15.01.2015.).

¹⁶ M. I. Khadem, G. Stamatescu, *Wireless Measurement Node for Dust Sensor Integration*, SENSORCOMM 2012, no. c, (2012) 159–164.

¹⁷ Alexandru Lavric, Valentin Popa, Codrin Males, Ilie Finis, *A Performance Study of ZigBee Wireless Sensors Network Topologies for Street Lighting Control Systems*, International Workshop on Mobile Ad-Hoc Wireless Networks iWMANET, France, (2012) 130-133.

The diode must be powered through a PWM signal that has a frequency of 100 Hz, a period of 10 ms, and the length of a pulse is of 0.32 ms, as can be seen in Fig. 4 that presents the sensor's supply circuit.

An optical sensor for monitoring air particles, of the GP2Y1010AU0F type is integrated in the air quality monitoring system. The sensor output has a voltage that is directly proportionate to the density of the particles that are present in the air.

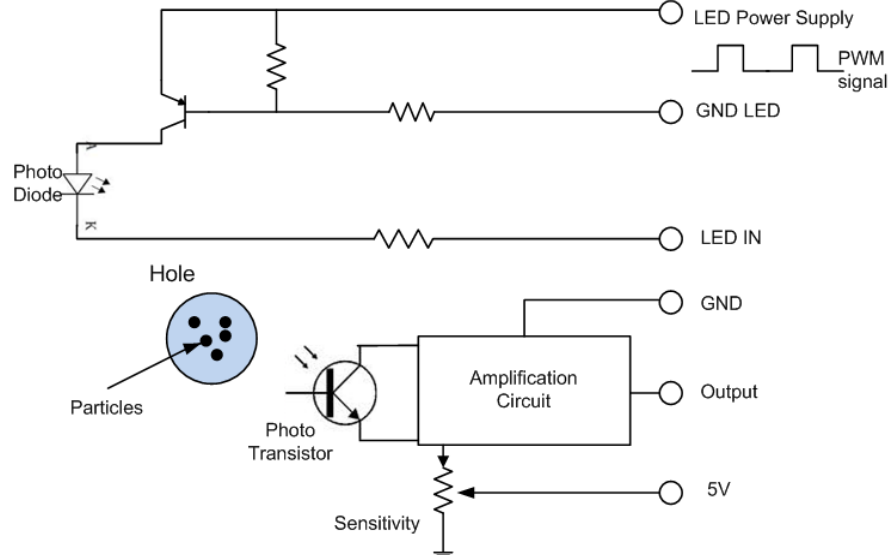


Fig. 4. Sharp sensor supply circuit.

Fig. 5 presents the assembly made for integrating the sensor within the system. The careful monitoring of the air quality is conducted by integrating the sensor within the system. Thus, note the JN 5148 module that has the Sharp sensor connected at the ADC converter input. The network topology used in the WSN network is of the tree type, as it ensures a high efficiency level and provides the possibility of integrating a very large number of nodes¹⁷. The main advantage of this system is the very low implementation cost, since the system does not require additional data transfer subscriptions, as the data transfer is conducted through TCP/IP.



Fig. 5. Air Quality Monitoring System.

Fig. 6 presents the logical operations conducted by the WSN module. It reads the values from the Sharp sensor output and sends it to the coordinating WSN node.

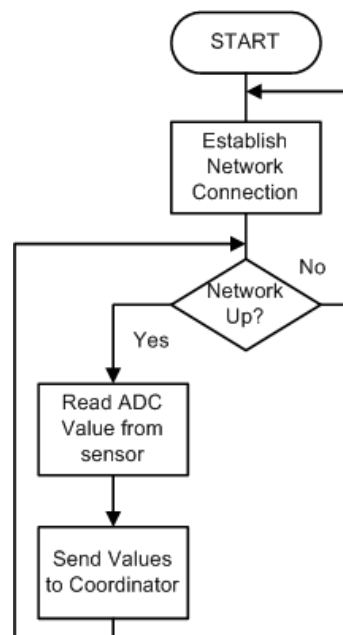


Fig. 6. WSN logical diagram.

Fig. 7 presents the logical operations executed by the coordinating node. It monitors the radio activity and resends the information received from the WSN network to the e-Box 4300 module, and the information will be further sent through the TCP/IP network to the control centre where it is saved in a data base.

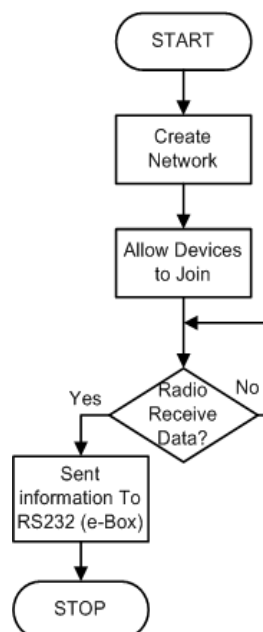


Fig. 7. Coordinator logical diagram.

TEST RESULTS

This section presents the experimental results acquired after installing the proposed system in the field. Fig. 8 presents the signal sent from the sensor output. It is applied to the

ADC converter input. As can be seen, if the level of the particle density in the air increases, the voltage will directly increase at the sensor output.

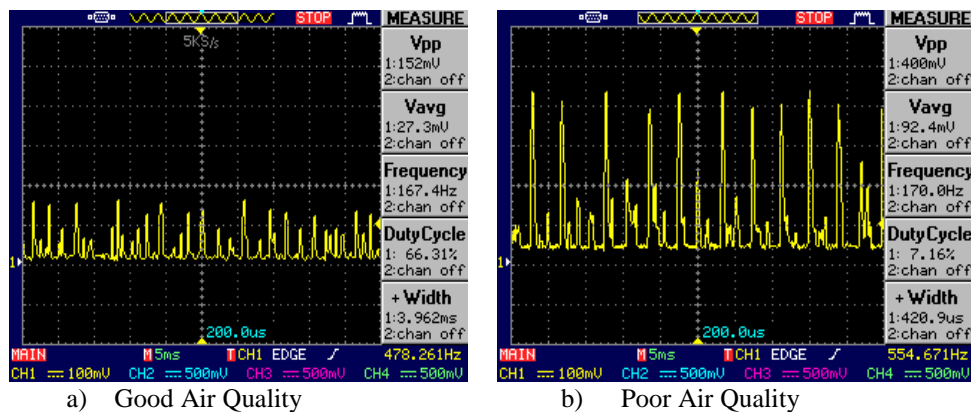


Fig. 8. Sharp sensor output signal.

Fig. 9 presents the variation of the values recorded by the ADC converter from two different locations where they have been installed. The acquired results show that the air quality in the second location is much worse and, implicitly, the number of PM10 particles is much higher, as compared to the results recorded in the first location. We should mention that with the second location, the monitoring module had been installed in the vicinity of a heavy traffic road in Suceava city, Romania.

The values collected from the sensor are sent through the TCP/IP network to the control centre where they are saved in a database.

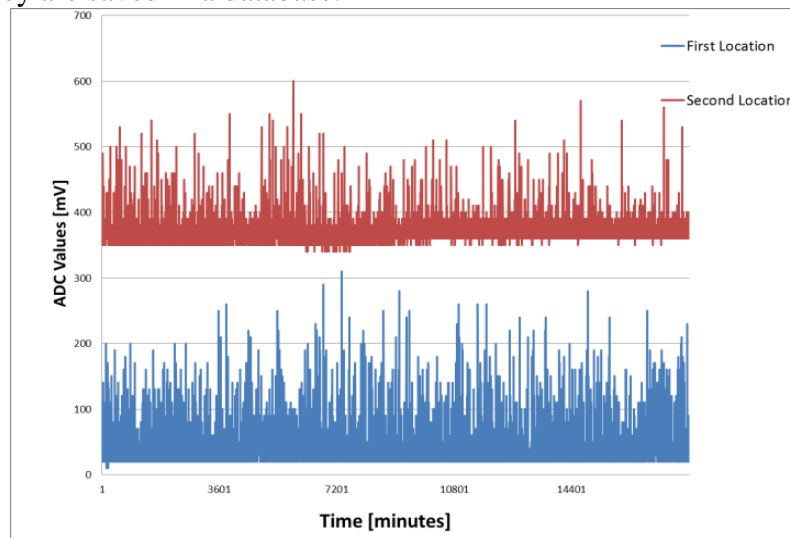


Fig. 9. Values recorded by the JN 5148 ADC.

Fig. 10 presents the variation of the PM10 particle concentration in the environment in two locations. Since the values recorded by the sensor can vary sporadically, the WSN module makes an arithmetic mean of the last 50 measurements and subsequently sends the resulting value to the coordinating node.

The acquired results show that the concentration of air particles is much higher in the second location (as the graph is centered on a much higher value). The maximum recorded value amounts to 0.12 mg/m^3 for the second location. The value is far above the maximum

value allowed, which is of 0.05 mg/m^3 . Thus, the system is able to monitor the air quality, so that the local authorities can make decisions towards reducing the pollution levels.

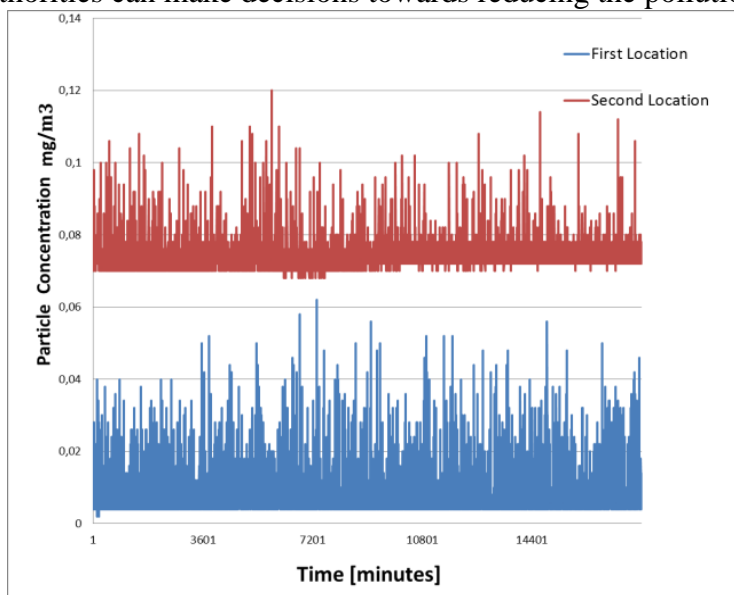


Fig. 10 Concentration of particles in the air.

Fig. 11 shows the intuitive graphic interface of the air quality monitoring system. The interface is fitted with a map that displays the values recorded from the sensors installed in various locations in the city.

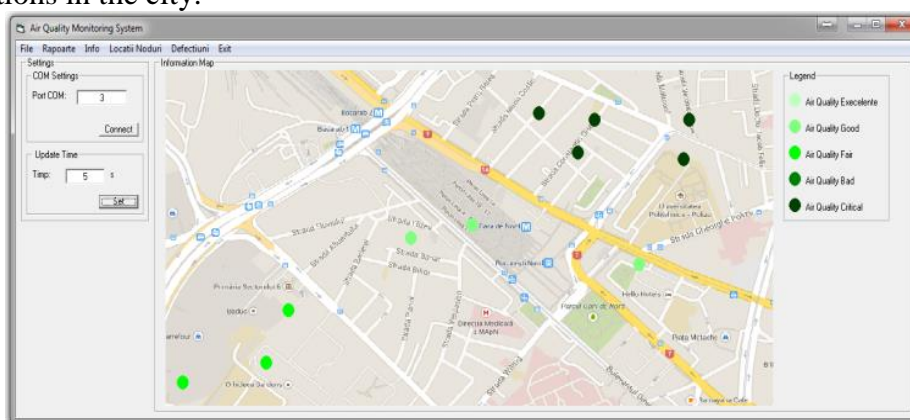


Fig. 11. User Interface.

An Apache 2.44 web server functions at the control centre. The server runs a HTML page that allows the access of authorised personnel to the air quality monitoring system. Thus, the data collection can be conducted from any location with Internet access and from any type of terminal. If certain maintenance work is being conducted, the user can make various configuration operations in the field by means of a smart phone. Additionally, the server hosts a portal through which the population can check the PM10 particle concentration in the air and the information is updated every two minutes.

CONCLUSION

The system is able to monitor the air quality so that local authorities can make decisions toward reducing pollution. The acquired results show that the proposed system is highly efficient and can be integrated in the Smart City concept. The implementation costs of the air

quality monitoring system are very low, since the long distance transfer of information is made by means of a TCP/IP connection that does not entail additional costs as compared to using the cellular data network that entails the presence of an additional data subscription. Thus, the system helps protect the environment by monitoring the air quality.

ACKNOWLEDGMENT

This paper has been financially supported within the project entitled „SOCERT. Knowledge society, dynamism through research”, contract number POSDRU/159/1.5/S/132406. This project is co-financed by European Social Fund through Sectoral Operational Programme for Human Resources Development 2007-2013. Investing in people!

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SIMULATION AND ANALYSIS OF THE MILLING MACHINES RELIABILITY USING THE MONTE CARLO METHOD

Sebastian Marian ZAHARIA*
Cristin Olimpiu MORARIU**

ABSTRACT:

STUDIES ON OPERATIONAL RELIABILITY AND DURABILITY OF MACHINES BECAME AN IMPORTANT ISSUE BECAUSE OF EXIGENCIES IN TERMS OF MAINTAINING ACCURACY WHILE PROCESSING RAPID REPLACEMENT OF WORN MACHINE TOOLS BY NEW ONES. MACHINE TOOLS ARE USED AT THE OPERATING REGIMES MORE INTENSE, WITH AN INCREASING DEGREE OF USE AND REQUIREMENTS FOR WEIGHT REDUCTION AND GAUGE WITH A GREAT EMPHASIS ON PRECISION PROCESSING DURING OPERATION. THIS PAPER DESCRIBES THE STUDY ABOUT INDICATORS OF RELIABILITY OF MILLING MACHINES USING MONTE CARLO SIMULATION BASED ON TIME OF FAILURE.

KEY WORDS: RELIABILITY, MEAN LIFE, MILLING MACHINE, ACCELERATED LIFE TEST, MONTE CARLO SIMULATION

INTRODUCTION

For the concept of reliability of machine tools should be considered both a machine working conditions imposed on as well as term of contents of the safe operating. The reliability of machine tools can be defined as the ability to operate without damage within a given time under certain conditions (precision machining, quality of processed surfaces).¹ This indicator called reliability is particularly important for machine tools that are part of automated manufacturing lines because by their failure the manufacturing processes interrupted².

Reliability depends on the machines wear, fatigue and aging. It is important that the machine tool to maintain processing accuracy throughout the exploitation³. Accuracy of the processing of machine tool decreases following the action on the mechanisms from the kinematic chains of degradation processes (wear, deformations, vibration of the components). To maintain processing accuracy of the machine tools, it has to be developed a machine tool to

* Lecturer PhD, Transilvania University of Brasov, Romania, email: zaharia_sebastian@unitbv.ro

** Associate professor PhD, Transilvania University of Brasov, Romania, email: c.morariu@unitbv.ro

¹ Scott P. Anderson, *Machine Tools: Design, Reliability and Safety*, (Singapore: Nova Science Pub Inc, 2011), 1–38.

² Cristian Silviu Simionescu, *Maintenance and reliability machine*, (Bucuresti: A.G.I.R., 2014), 11–20.

³ Constantin Militaru, *Reliability and accuracy in manufacturing engineering*, (Bucuresti: Tehnica, 1987), 191–210.

keep the same reliability regardless of the various external factors⁵. Thus, it requires the use of solutions in design, construction and reasonable exploitation that possible deviations: elastic deformations, the amplitude of vibration not to exceed allowable limits of resistance, to reduce the wear resistance of machine parts⁴. Therefore, reliability, durability, reparability and maintaining the processing accuracy of the machine tool are important in the determination characteristics of this goal and therefore the quality of the machine in terms of the functionality. Given the terms of reliability and maintaining the processing accuracy, the output of the operation of the machine tool can be perceived in two ways⁵ (figure 1).

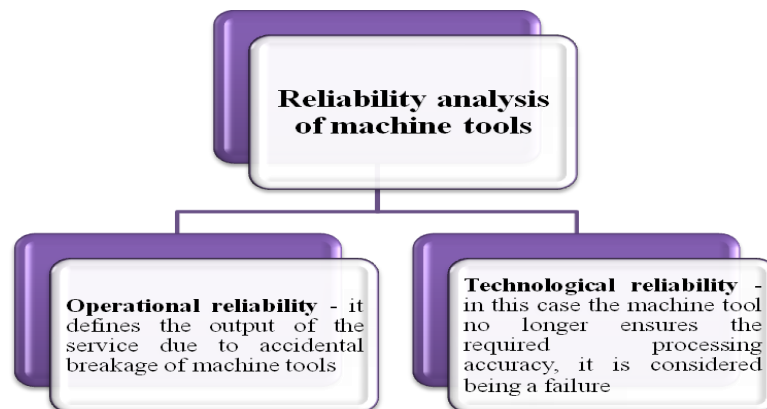


Figure 1. Reliability machine tools classification⁶

RELIABILITY OF MACHINE TOOLS

To study the reliability of milling machines using statistical methods and faultless uptime parameters that are used in this case are: reliability function, unreliability, failure rate, probability density function⁷. For reliability analysis in this paper will be studied universal milling machine described in figure 2.

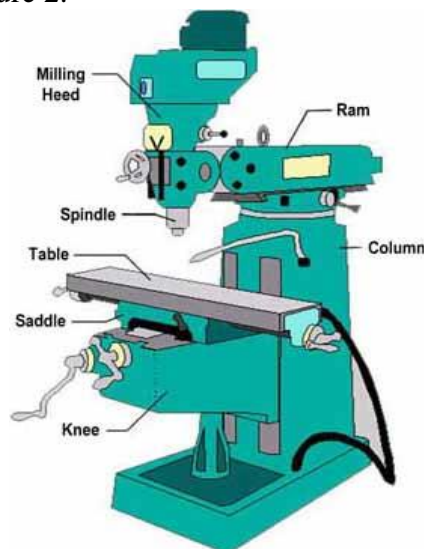


Figure 2. Milling machine

⁴ Prakash Joshi, *Machine Tools Handbook*, (New Delhi: McGraw-Hill Education, 2007), 14 – 67.

⁵ Richard R. Kibbe et al., *Machine Tool Practices*, (New York: Prentice Hall, 2014), 24 – 45.

⁶ Mariana Deliu, *Reliability of machine tools*, (Brasov: Ed. Universitatii Transilvania, 2002), 78 – 89.

⁷ Sebastian Marian Zaharia and Ionel Martinescu, *Reliability tests*, (Brasov: Ed. Universitatii Transilvania Brasov, 2012) 23-34.

The theory of reliability was scarcely used until now in the manufacturing engineering. This situation is caused by many factors (figure 3):

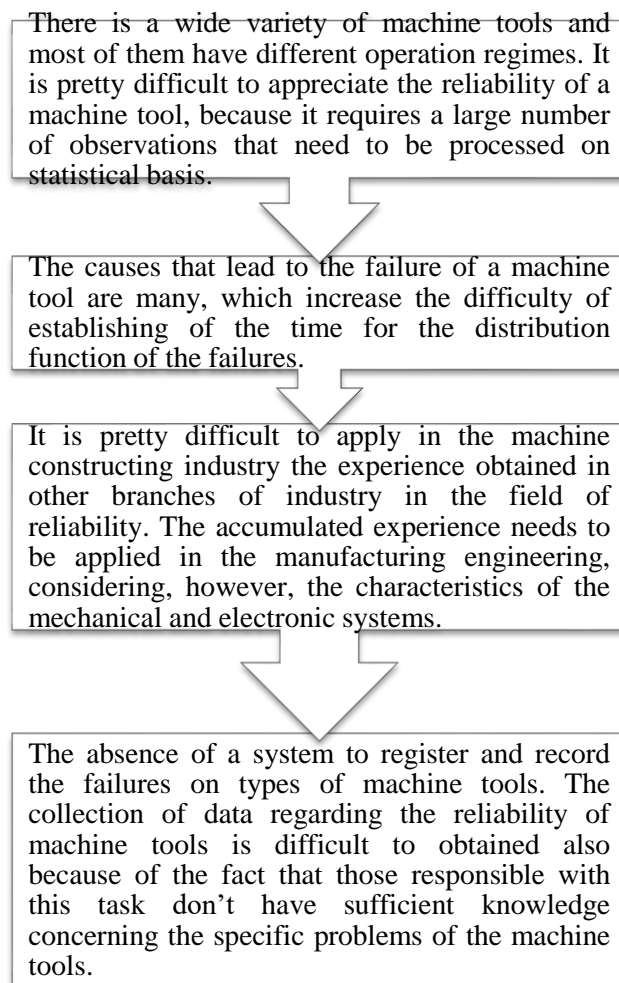


Figure 3. The technological difficulties in estimating the reliability of machine tools

The determination of the reliability indicators for the machine tools, in normal operation conditions, requires a long period of testing. The relatively long period of observation and experiments makes the values of the reliability indicators determined for the type of machines observed, as well as for the other observations made on the operation of some sub-assemblies, unusable by the designer. To obtain the values of the reliability indicators in a relatively short period of time (figure 3), we resorted to experiments made on prototypes or zero series by using a forced or accelerated work regime.

Accelerated life testing (ALT) is experiments in which: the physics (or chemistry) of degradation mechanism (or failure mechanism) is similar to the mechanism in the real operation using a given criteria; the measurement of reliability and durability parameters (time to failure, degradation and service life) have a high correlation with these respective measurements in the real operation a given criteria. Accelerated experiments is used in electronics (resistors, lasers, liquid crystal displays, electronic bounds, switches, relays, cells) in the study of metals and composite materials, but also for certain components and mechanical assemblies (hydraulic components, tools, bearings). The degree of interdisciplinary of research in the field of accelerated experiments is complex and can include the following industries: manufacturing engineering, the aerospace industry, the nuclear industry, the electronic

industry, the dental industry, the pharmaceutical industry and the industry of renewable energy resources.

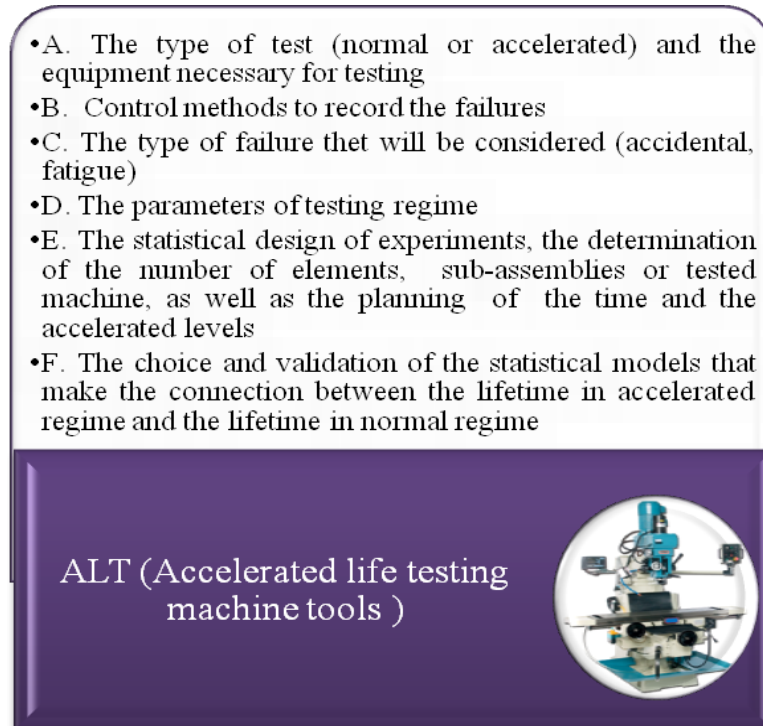


Figure 4. The stages necessary to the realization of the accelerated life testing

The execution of some tests in accelerated regime offers the following advantages:

- It offers the premises of some decisions and of construction and technological measures, applicable before the product goes into mass production;
- The reduction of the testing time and of the material costs afferent to the testing;
- It makes possible the fast detection of elements with a lower reliability and the estimation of the reliability indicators in a shorter amount of time.

MONTE CARLO SIMULATION OF ACCELERATED RELIABILITY TEST

Simulation in system reliability analysis is based on the Monte Carlo simulation method that generates random failure times from each component's failure distribution. The overall system reliability is then obtained by simulating system operation and empirically calculating the reliability values for a series of time values. Through the use of computers, simulation has become a very popular analysis tool. Simulation is simple to apply and it can produce results that can be rather difficult to solve analytically⁸.

On milling machines most defects occur in mechanical systems (here including motors, couplings, gears, bearings). In this paper is analyzed the engine reliability of milling machines. The engines will have a more intense regime of operation, namely 2000 and 2500 rpm (the normal is 1700 rpm).

Using the Monte Carlo method we simulated N stages of a product with the help of an acceleration model (Inverse Power Law) and statistical distribution (Weibull) which are suited to the analyzed case study. Using the previously determined parameters ($\beta=13$; $k=1.34E-10$; $n=1.61$) and the two accelerated levels (2000 rpm and 2500 rpm), we simulated with the help of ALTA7 software the values for the number of cycles to failure in accelerated conditions

⁸ALTA Software, accessed October 25, 2015, <http://weibull.com/>

(figure 5).

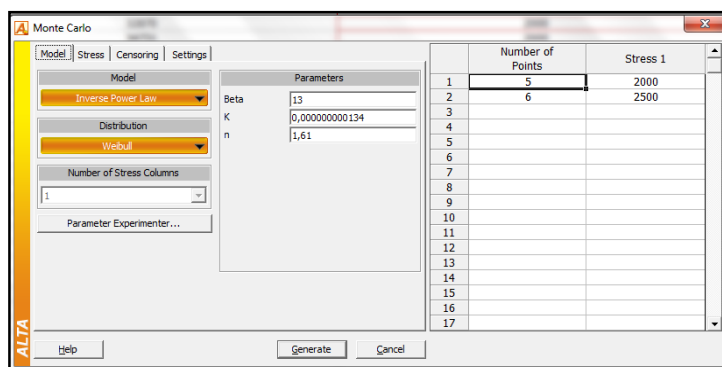


Figure 5. The simulation using the Monte Carlo method of the data in accelerated conditions for the engine from milling machine

Figure 6 shows the determination of failure times for the two accelerated regimes (2000 rpm and 2500 rpm) obtained with Monte Carlo simulation in ALTA 7 software. For the determination of the mean life and of the reliability parameters under normal testing conditions (1700 rpm) for the engines from milling machine, the experimental data resulted from accelerated conditions have been processed using the ALTA7 software

Time Failed	Stress1
30445	2000
32870	2000
34731	2000
36430	2000
37377	2000
24468	2500
24535	2500
25961	2500
26596	2500
27758	2500
28649	2500

Figure 6. The accelerated test data from Monte Carlo analyzed in ALTA

It was determined the reliability parameters (the reliability function, unreliability and the rate of failure) depending on the number of hours to failure in normal testing condition. Using the calculated values (the number of hours in normal testing conditions), the reliability 3D (figure 7.a) and the unreliability (figure 7.b) were plotted.

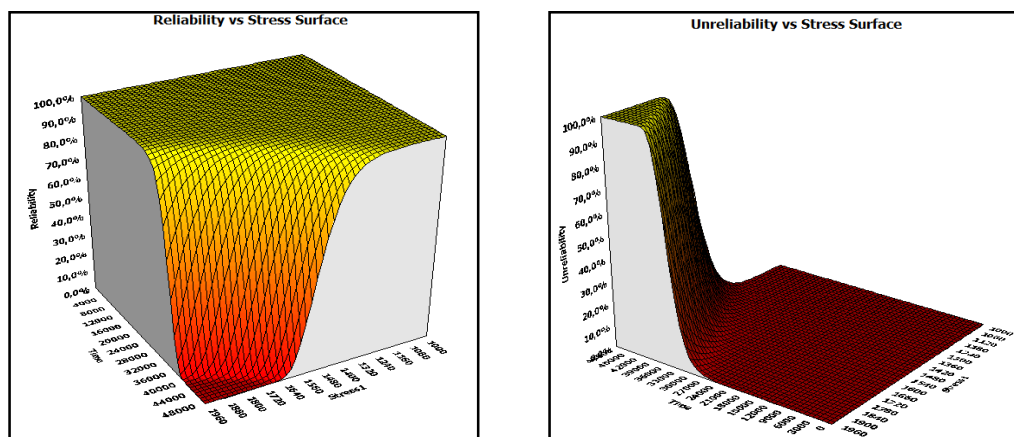


Figure 7. Reliability indicators

a) reliability function

b) unreliability function

Using the calculated values (the number of hours in normal testing conditions), probability density function 3D (figure 8.a) and the failure rate (figure 8.b) were plotted.

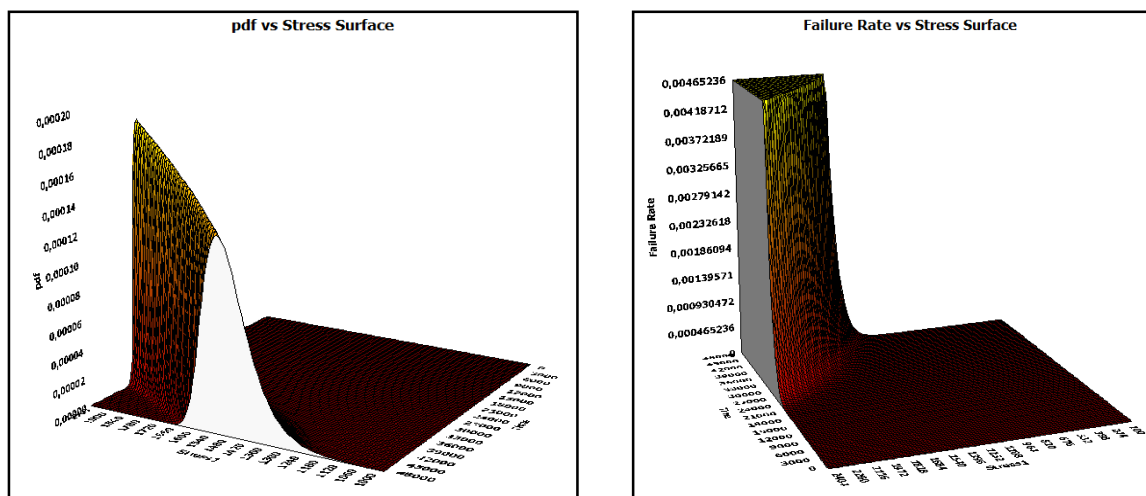


Figure 8. Reliability indicators
a) probability density function b) failure rate

Following the simulation of accelerated data using the Monte Carlo method for the engines from the structure of the milling machine, we obtained the value of 42110 hrs, which represents the mean life of the engines. The Quick Calculation Pad (QCP) provides you with a quick and accurate way of gaining access to some of the most frequently requested reliability results (figure 9).

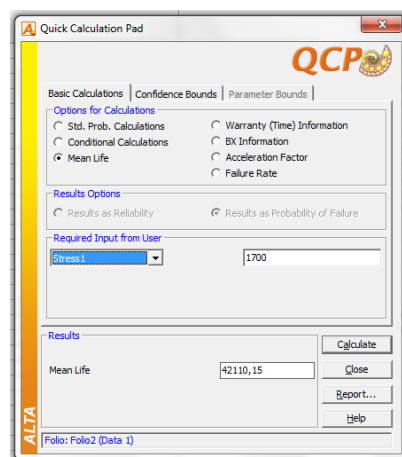


Figure 9. The calculation of the mean life in normal testing conditions for the engines with the Monte Carlo method using QCP

CONCLUSION

The study of reliability has become a matter of major interest for the companies in the field manufacturing engineering. This is due to the use of more intense work regimes, the increase of the intensity of use of the machine tools, the requirements regarding the reduction of the gauge and weight and especially regarding the accuracy of processing obtained during the time of operating. The complexity of the machine tools produced nowadays, the multitude of operation regimes, the rapid replacement of obsolete models with new ones, all of this condition the necessity of a general theoretical approach of the problems regarding the increase of reliability of all machine tools independent of their construction and destination.

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IT CAN BE CONSIDERED THAT THE INHERITANCE OF INTELLECTUAL PROPERTY RIGHTS IS AN EXCEPTION FROM THE UNITARY FEATURE OF THE HERITAGE?

Alice Mihaela POSTĂVARU*

ABSTRACT:

THE LEGAL NATURE OF THE INTELLECTUAL PROPERTY RIGHT REPRESENTS ONE OF THE MOST CONTROVERSIAL ISSUES. BASED ON THE QUALIFICATIONS USED, THE PERSPECTIVES SUPPORTED BY THE LITERATURE CAN BE GROUPED INTO TWO MAIN THEORIES.

THE INTELLECTUAL PROPERTY RIGHTS REPRESENT DEROGATION FROM THE FACT THAT THE HERITAGE IS FORMED BY THE PATRIMONIAL RIGHTS FOUND IN THE DECEASED PERSON'S PATRIMONY. IN ORDER TO CONCLUDE ON THE FACT WHETHER THE INTELLECTUAL PROPERTY RIGHTS, BY THEIR DOUBLE NATURE REPRESENT AN EXCEPTION FROM THE UNITARY FEATURE OF THE HERITAGE, WE SHALL ARGUE UPON THE LEGAL FEATURES OF THE HERITAGE AND SHALL APPROACH CERTAIN NOTIONS OF INTEREST WITHIN THE RIGHT TO INHERIT AND ITS MEANINGS, AS WELL AS CERTAIN TERMINOLOGICAL ASPECTS SUCH AS THE SUCCESSION, SUCCESSORS AND SUCCESSIONAL TRANSMISSION.

OUR LAW STATES CERTAIN EXCEPTIONS FROM THE UNITARY FEATURE OF HERITAGE UNDER CERTAIN CONDITIONS. THUS, MOVABLE ASSETS, AS WELL AS ASSETS FROM THE HOUSEHOLD, WEDDING GIFTS, IN THE AREA OF LABOR LAW – WAGES, ANNUAL LEAVE PAYMENT, THE PENSION NOT RECEIVED BY THE DECEASED PERSON, AS WELL AS THE PATRIMONIAL COPYRIGHTS.

KEYWORDS: INTELLECTUAL PROPERTY, INTELLECTUAL PROPERTY RIGHTS, UNITARY CHARACTER OF INHERITANCE, SUCCESSION, HERITAGE

Considering the double nature of the intellectual property rights, in the meaning that they have a patrimonial and a non-patrimonial side, as well as the features of the copyrights, the present paper aims to reflect on the fact whether the transmission by heritage of these types of rights represent an exception from the unitary feature of the inheritance or not.

The patrimonial copyrights are subjective rights, whose existence is conditioned by the will of the author to publish his work and to exploit it for his and his successors' benefit. These rights have the following features: are connected to the author, are exclusive and temporary.

The personal feature of the copyright is stated by Art 1 of the Law regarding copyrights and related rights, the text stating no difference between the moral and patrimonial rights. Art

* Postdoctoral scholar, "Acad. Andrei Rădulescu" Legal Research Institute of Romanian Academy, within the project "PhD and Postdoctoral Studies – Horizon 2020: promoting the national interest by excellence, competitiveness and responsibility in the Romanian fundamental and applied scientific research", contract ID number: POSDRU/159/1.5/S/140106. The project is co-financed by the European Social Fund through the Sectorial Operational Program for the Development of Human Resources 2007-2013: *Invest in humans*.

12 of the same law states that the author of the document has exclusive patrimonial right, if and in what way his document shall be used or exploited, including the right to consent that his document be used by other persons.

If for the moral rights the transmission is allowed exceptionally and only for the exercise of two categories of moral rights, once the exclusive right of exploiting the document has been exercised it can be transmitted by the author, both by acts between living persons, for a cause of death, as well as, in certain cases, by the effects of the law¹.

Regarding the temporary feature of these rights it is interesting the fact that the intellectual property rights are part of the successional estate, but the patrimonial prerogatives connected to them can be exercised only during their validity.

The exclusive feature of these rights has a double meaning, namely: the first is that the author has the right to decide if his manuscript shall be exploited, how and when, and the second one being that of the monopoly for the exploitation which exclusively belongs to the author.

Broadly, the intellectual property contains all rights resulted from the scientific, literary and artistic, industrial and commercial activities.

Stricto sensu, the intellectual property rights are rights of property defined by the civil law, which allow the authors to benefit from the development of their creations. Some authors consider that the notion of property is not identical with that of property referring to corporal assets, as defined by Art 480 of the Civil Code as real, exclusive, absolute and continuous right².

The current legislation – the new Civil Code reiterates the old regulation in Art 555, which does not modify its essence. Thus, the analysis shall be based on the new regulations, one being able to compare it with the situation mentioned by the previous regulation.

According to another opinion it is considered that the rights resulted from the patent for invention, which a right of industrial property enjoys all privileges given by the right of property³, starting from the idea that the exclusive exploitation right is a real right referring to an embeddable good.

Other authors consider that for the creation, the owner exercise with preeminence *utendi*, *abutendi*. It is unconceivable that a sculpture or painting, a musical piece, a symphony etc. are being exposed or performed, to not be valorized by other persons. The owner of this “*sui-generis*” property benefits mainly in the exclusivity of *utendi*, *abutendi*. The concept of property is strongly connected to its owner⁴.

We share the opinion that the institutions forming the intellectual property and which forms its object of study not always refer to intellectual creations, such as the case of trades and geographic indicators, but even for the cases in which the object is represented by intellectual creations, their legal regime being different than the one of the property stated by the common law⁵.

The intellectual property law has as object of study the protection of the intellectual creation, of the authors and of their results under different forms under which are materialized, but also the protection of the distinctive markings from the commercial activity.

Within the category of intellectual property fall the rights of industrial property, the copyrights and other related rights. These can also be grouped into three categories: the first

¹ Viorel Roș, *Dreptul proprietății intelectuale*, (Bucharest: Global Lex, 2001), 126

² Otilia Calmuschi, *Dreptul proprietății intelectuale*, (Bucharest: Titu Maiorescu University Press, 2004), 15

³ Florea Bujorel, *Dreptul proprietății intelectuale. Dreptul de proprietate industrială*, (Bucharest: The Publishing House of România de Măine Foundation, 2007)

⁴ Dumitru Păuneș, “Câteva considerațiuni cu referire la dreptul de proprietate asupra creației”, *Dreptul* 6 (1996)

⁵ Roș, *Dreptul proprietății intelectuale*, 126

one having as object the rights resulted in relation with the rights of draftsmen (designs and industrial models), technical creations patented as inventions, utility models, the protection of new types of plants and animal species, the protection of topographies of integrated circuits, the protection of confidential information. The second category has as object the distinctive markings, and it includes the trades, geographic indications, commercial names and firms. The third category aims the combat of unfair competition in relation to other industrial property rights. Generally, there are numerous convergent opinions, in the meaning that this latter category does not represent a distinct object of the industrial property, but an action through which the industrial property rights are protected.

The two areas of the intellectual rights – copyrights and industrial property rights – are similar due to the object under legal protection and through the nature of the subjective rights of the authors. The intellectual property rights manifest upon certain embeddable assets, protected by special regulations.

As mentioned above, within the category of intellectual rights are included the copyrights and related rights, as well as the industrial property rights.

All authors in this area agree that the intellectual property rights have a double nature, namely, they have both a non-patrimonial side, related to the author's personality and a patrimonial side, resulted from the valorization of the rights from the protection of different objects from the intellectual property.

The legal nature of the intellectual property right represents one of the most controversial issues. Depending on the qualifications used, the points of view supported by the literature can be grouped into two main theories. The intellectual property right is considered to be a property right or a different right forming a special category. The theory of property was stated by the French revolution's legislation. The supporters of the theory of property have stated that the monopoly for exploitation offers a striking analogy with the owner's right over a good. According to another opinion, the copyright for intellectual creation is considered as a different group of rights. This rights *sui-generis* are called intellectual. The classic division of rights, in personal, obligations and real rights, stated by the Romanian law, Edmond Picard has added a new group, that of intellectual rights. The intellectual rights have a patrimonial feature, offering the owner the right of monopoly for exploitation and are *erga omnes* opposable. Unlike the real rights, the intellectual rights have as object the activity and thinking of the human being.

According to another opinion, the right of intellectual creation is a non-patrimonial personal right giving birth consequential to other patrimonial rights.

For a complete analysis of the rights first must be established the object of the copyright, which may be formed by original intellectual creation works in literature, artistic or scientific areas, regardless of the means of creation, expression and independent of their values. Also, it represents an object of the copyright the derived works, which by their nature represent intellectual creations.

Also, it must be considered the objects of intellectual property, which have an author (named creator or inventor).

Regarding the copyright, the esteemed professor Yolanda Eminescu states that within the prerogatives forming the copyright, are found two categories having a different legal regime: the personal non-patrimonial and the patrimonial prerogatives. Within the general theory of the subjective rights, the doctrine enlists the moral right of the author together with the rights related to the physical and moral existence and integrity of the person and to the rights referring to his identity, within the category of personal non-patrimonial rights, characterized as being non-transferable and imprescriptible.

The intellectual property rights having a patrimonial feature are transmissible, by means stated by the current laws in this area.

Thus, the Law No 8/1996 on copyright and neighboring rights, as well as the Law No 129/1992 on the protection of designs and patterns, Law No 84/1998 on trademarks and geographical indications, Law No 64/1991 on patents, Law No 350/2007 on utility models state means of transmission of the rights resulted from the creations of intellectual property, transfer, license, legal and testamentary succession.

According to Art 953 of the Civil Code, the heritage represents the transmission of the patrimony of a deceased natural person towards one or multiple living persons.

The civil law refers to the notion of succession in a larger meaning, representing any transmission of rights between living persons or for a cause of death, transmission which can be universal, which can have a universal or a particular title. In this meaning, for instance the assignee is the assignor's successor, with a particular title. Therefore, the notion of succession only in the narrow term – transmission for a cause of death – is the equivalent of the notion of inheritance.

It must be mentioned that first of all it is correct the term of inheritance in the favor of the succession because the latter one has a broader acceptance. Related to notions, one can note in literature the usage of more terms such as: inheritance, succession and successional transmission.

Related to the successional transmission we are wondering if there is an influence in its legal features from the presence in the successional estate of the intellectual property rights.

Surely, this question aims the unitary feature of the successional transmission. In the legal literature, there are debates, without being a unity of opinions, if the copyrights are an exception from the unitary feature of this transmission.

Though the special laws on intellectual property state the fact that the authors' rights may be inherited, there is no express mention if this transfer of rights is being performed based on the common law.

Both the national and the communitarian legislation state only the means of transmission of these rights, between living persons, by assignment or license contract or for a cause of death, by legal or testamentary heritage, without mentioning the procedure by which the transmission is performed. Therefore, the opinions expressed by most authors converge towards the idea that the copyrights by inheritance are performed based on the provisions from the common law and not based on certain special procedures.

Most authors consider that in order to be present the unitary feature of the inheritance, the rights and obligations of the deceased person must be transmitted towards the legal heirs or legatees according to the same norms, regardless of the nature and/or provenience or origin of the rights forming it.

Another opinion considers that the inherited goods are subjected to a successional regime derogative from the common law, this being affirmed in the analysis of Art 4 of the Law from 28 June 1923 on the literary-artistic property, modified by the Decree No 351/27 June 1956 on the copyright, according to which the successional devolution of the copyright is derogative from the common law in that the patrimonial prerogatives derived from this right were inherited only temporary, in certain cases, during the heir's life or, in other cases, on the duration established by the law⁶.

According to another opinion, broadly supported and based on the provisions of the new law stating the copyright⁷, supports the idea that in the case of these rights we were and are not in the presence of an exception from the unitary feature of the successional transmission,

⁶ Mihail Eliescu, *Curs de succesiuni*, (Bucharest: Humanitas, 1997), 26

⁷ Law No 8/1996 on copyright and neighboring rights

because its norms belong to the common law, the special law stating only special rules regarding the temporary feature of the inherited patrimonial copyrights, including the testamentary inheritance, with the consequence of the impossibility to re-transmit it through succession (or in any other means) after the expiration of the term stated by the law, impossibility due to the extinction of the right itself, and not because we are in the presence of a derogation from the unitary feature of the inheritance⁸.

Certain authors have not supported the transmission of copyrights as an exception from the unitary feature of the inheritance⁹.

Unlike them, others consider that there is not an exception from the unitary feature of the inheritance the transmission of the patrimonial copyrights according to the Law No 8/1996¹⁰.

The unitary feature of the successional right corresponds with the unity of the transmitted patrimony and of the right of property, which forms the main object of the inheritance¹¹.

Referring to the same subject, there is another interesting opinion unlike the ones previously expressed in the literature, which shows that any deviation, even an insignificant one, represents an exception, or on the contrary, that only the notable differences in the legal regime may be noted as such exceptions¹².

Most opinions emphasize the fact that in relation to the legal or testamentary devolution of the inheritance, from which are part the copyrights, including the establishment of the successional quotas or the reserves of the forced heirs or of the successional vocation is applied the common law.

In the same meaning, another opinion supports the idea that in the absence of other clarifications, the successional transmission of the rights on inventions shall be subjected to the rules of common law. As derogation, for the duration of the rights and their territorial limitations the special law shall be applied¹³.

Because the special laws on intellectual property vaguely states these aspects, in the meaning that it is mentioned only that the “intellectual property rights can be transmitted through successional means”, a more clear regulation of this issue would be more than necessary.

In the same regard, at the next revision of the laws stating the area of the intellectual property, in the chapter destined to the “*rights and obligations*” should include the norms according to which is performed the legal or testamentary succession, or a reference norm, stating that “the transmission of the rights through legal or testamentary succession is performed based on the norms of common law”, stating that “are applicable the provisions of Book 4 *Inheritance and liberalities*” from the Civil Code.

In all these cases, regarding the legal or testamentary devolution of the inheritance, from which these rights are part, including the establishment of the successional quotas or the reserves of the forced heirs or of the successional vocation, the common law is being applied.

⁸ Francisc Deak and Romeo Popescu, *Tratat de drept succesoral, 1st Volume, Moștenirea legală*, 3rd Edition revised and amended (Bucharest: Universul Juridic, 2013), 46-49

⁹ Dan Chirică, *Drept civil. Succesiuni și testamente* (Bucharest: Rosetti, 2003), 31-35; Marin Popa, *Drept civil. Succesiuni*, (Bucharest: Oscar Print, 1995), 12-13; D.C. Florescu, *Dreptul succesoral*, (Bucharest: Universul Juridic, 2011), 11-13

¹⁰ Ilioara Genoiu, *Dreptul de moștenire în Codul civil*, 2nd Edition (Bucharest: C.H. Beck, 2013), 10

¹¹ Constantin Stătescu, *Drept civil. Contractul de transport. Drepturile de creație intelectuală. Succesiunile* (Bucharest: Didactic and Pedagogic Publ.-house, 1967), 108

¹² Bogdan Pătrașcu and Ilioara Genoiu, *Moștenirea și felurile ei în Noul Cod civil. Comentarii*, 2nd Volume, 3rd Edition revised and amended (Bucharest: Universul Juridic, 2011), 593

¹³ Ioan Macovei, *Tratat de drept al proprietății intelectuale* (Bucharest: C.H Beck, 2010), 135, 231

The common law is also being applied in regard to the successional transmission and the division of the heritage from which the patrimonial copyrights are part.

As noticed in the literature, regarding the duration for which the heirs inherit these rights shall be applied special rules stated by the law, the patrimonial copyrights being recognized without time limitations.

The rights from the area of industrial property are transmitted through legal or testamentary inheritance, according to the common law, without any special time limitation, to the heirs, unlike the rights recognized for the deceased person. The inheritance of these rights generates effects for third party persons starting with the date of the publishing in the Official Industrial Property Bulletin of the mention of transmission registered by State Office for Inventions and Trademarks, as well as in the area of transmissions between living persons.

Though, it must be mentioned that the right to use the invention, by third parties in certain special situations may be transmitted only with the patrimony or with a part of the patrimony of the third party owner of the right, and in case of death, only by legal inheritance or by universal or with universal title legacy, but not by particular title legacy.

Though Law No 8/1996 on copyright and neighboring rights establishes a time limitation regardless of the heir's person, it can be said that we are not in the presence of an exception from the unitary principle of the inheritance, because we are talking about a time limitation of the very right passed on by the author to his heirs, at the expiration of the term stated by the law extinguishing the patrimonial copyrights, not forming part from the subsequent patrimony of the deceased, similar to other rights affected by an extinctive term¹⁴.

It must be mentioned that the inheritance involves both the successional active and passive, namely by inheritance shall be passed on all the rights and obligations resulted from the registration of an object of intellectual property. Incident with the temporary feature of the patrimonial rights of intellectual property, with the taking over of these rights, the heir shall also take over the obligation to pay the maintenance taxes for the certificate of registration from which the industrial property rights are resulted, for instance. These obligations are born in the heir's person, at the opening of the inheritance or subsequent, regardless of the deceased person's will.

Without the fulfilment of such obligation, the rights would stop and their owner – the heir would no longer be able to exercise the exclusive prerogatives of these rights.

Regarding the calculation of the reserve and of the available quotas for special issues referring to the evaluation of the assets part of the gross active of the heritage are placed in the situation in which within the successional estate are registered rights of intellectual property, whose patrimonial value cannot be established at the moment when the succession is being opened, and we refer here at the situations in which *de cuius* was the owner of an exclusive right of use resulted from the registration of an invention, trademark, geographical indication, design or pattern, of patrimonial copyrights etc. Not being accurately evaluated, the intellectual property rights may generate certain difficulties in the calculation of the available reserve and quotas, as well as under the aspect of the reduction of excessive liberalities.

Such issues are not possible if the deceased person has had forced heirs, and his entire patrimony was left by will to a residual legatee. In such hypothesis, at the request of the forced heirs, the notary public or the court shall proceed to the reduction of the liberality within the limit of the available quota and all heirs shall receive a certain quota from the successional patrimony, which shall also be applied for the intellectual property right.

As a conclusion, we cannot argue that the inheritance of the intellectual property rights represents a true exception from the unitary feature of the inheritance, as are considered the

¹⁴ Deak and Popescu, *Tratat de drept succesoral*, 46-49

inheritance by the surviving spouse, in the absence of descendants, who comes in concurrence with ascendants or collaterals, the spouse inheriting – beside his successional part and without the concurrence of the heirs referring to these assets – the furniture and household objects affected to the common use of the spouses (Art 974 of the Civil Code) or another exception, in the area of labor – the inheritance by the surviving spouse, major children of the deceased person of his parents of the wage, of the annual leave payment or the pension not received by the deceased person. Regarding these exceptions, they can receive such qualification because are stated by special rules and follow a different special regime unlike the common one. These regulations are derogations from the common law and are found in special laws, as following: Art 167 Para 2 of the Labor Code, Art 66 of the Framework Law No 284/2010 on the unitary payment of employees paid from public funds, Art 120 of the Law No 263/2010 on the unified public pension system.

This paper has been financially supported within the project entitled “***Horizon 2020 - Doctoral and Postdoctoral Studies: Promoting the National Interest through Excellence, Competitiveness and Responsibility in the Field of Romanian Fundamental and Applied Scientific Research***”, contract number POSDRU/159/1.5/S/140106. This project is co-financed by European Social Fund through Sectorial Operational Program for Human Resources Development 2007-2013 Investing in people!

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ON-SITE INVESTIGATION IN THE EVENT OF COUNTERFEITING CURRENCY OR OTHER ASSETS

Daniel-Ștefan PARASCHIV*

ABSTRACT:

COUNTERFEITING CURRENCY OR OTHER ASSETS CREATES A HIGH RISK FOR SOCIAL ORDER, SO CRIMINOLOGY PROVIDES NECESSARY KNOWLEDGE FOR PROVING SUCH FACTS TO LEGAL BODIES AND EXPERTS, AN IMPORTANT ROLE IN THE PROBATION PROCESS BEING REPRESENTED BY THE FINDINGS MADE ON THE SPOT, USING TECHNICAL AND SCIENTIFIC CRIMINOLOGY METHODS, TACTICS AND MEANS, ON THE BASIS OF WHICH THE INVESTIGATION BODIES MAY ALSO ORDER PERFORMING CRIMINAL EXPERTISE WHOSE CONCLUSIONS HAVE GREAT EVIDENTIAL VALUE

KEY WORDS: COUNTERFEITING CURRENCY AND OTHER ASSETS, ON THE SPOT INVESTIGATION, CRIMINAL METHODOLOGY, TACTIC AND TECHNIQUE

INTRODUCTION

As part of offenses group generically known as “crimes of forgery”, counterfeiting currency or other assets is a well individualized category, both in terms of structure and legal content as well as factual ways of committing the crime.¹

Counterfeiting currency or other assets seriously undermine the truth and the trust underlying human relations formation and conduct², so by incriminating this act, the criminal law protects social relations whose formation, development and evolution involves confidence in the authenticity of the values subject to the investigated crime.

According to law, counterfeiting currency or other assets consists of a person’s act of forging or distorting currency or other assets for the purpose of giving them, apparently, a greater value. Therefore, this crime is achieved by *altering the truth, by producing or by modifying currency or other assets*, so as the obtained piece provides – apparently – the characteristics of authentic currency or other assets.

* Dr. CNP Pitești, România, daniel.paraschiv@hotmail.com.

¹ Ion Voichescu, Vasile Bercheșan “Banknotes and banknote counterfeiters”, (Bucharest: Chance Publishing, 1996), 120.

² Vintilă Dongoroz, Siegfried Kahane, Ion Oancea, Nicoleta Iliescu, Constantin Bulai, Rodica Stănoiu, Victor Roșca, “*Theoretical explanations of Romanian Criminal Code*”, Volume IV, (Bucharest: Romanian Academy Publishing, 1972), 357.

PARTICULARITIES OF OF THE RESEARCH ON THE SPOT

Specific of counterfeiting activity of currency or other assets is the fact that this operation requires careful, very complex preparation, the author being forced to find the necessary funds, to purchase specific materials and instruments, to obtain the collaboration of some “experts”, including those who will introduce the counterfeit pieces in the circuit.³

Where applicable, after the notification of such a crime, it may proceed to *on the spot investigation*, performed activities and findings being recorded in the minutes of findings.

As for any other offense which, by its nature and manner of committing, leaves traces in the place where it was committed, for counterfeiting currency and other assets, crime scene investigation is one of the activities that substantially contributes to establishing the truth.

On the spot investigation will usually be performed at the location where counterfeiting currency or other assets takes place, but it is not excluded that this activity be performed at the location where currency or other forged assets are kept, in order to release them in circulation.

“The crime scene” includes the locations where the required operations for counterfeiting currency or other assets took place, in whole or partially, the locations where the materials and tools used for counterfeiting are, as well as the locations where the product of the crime: currency or other assets in different stages of forgery are.

On the spot investigation must be prepared in detail, since any inadvertence may lead to failure of the activity and of the whole cause.

When counterfeiting takes place in several locations, each of them intended for certain operations, it is recommended that investigation on the spot be simultaneously initiated in all the used locations.

Team members who are to investigate need to know detailed information about perpetrators and their activities, to establish liaison arrangements between them, to be properly equipped in order to act in any situation and to keep the investigation’s specific operations a secret.

The locations where the above mentioned assets are counterfeited are usually chosen carefully, in peripheral areas, away from prying eyes, with multiple entries and exits, etc., so the criminal investigation bodies approaching the area where the investigation will take place, as well as entering the buildings need to be performed with great caution, the element of surprise playing a decisive role, as it doesn’t give the perpetrators time to hide or to destroy evidence material means and to remove traces of the crime.

On the spot investigation is performed according to well known rules, strictly respecting the criminal procedure rules, as well as the methodical, technical and criminological tactical rules.⁴

Criminological methodology is defined as a part of criminology that “deals with investigation particularities of different types of crimes, taking into account the general rules of criminological tactics and techniques.”⁵ It studies, elaborates and applies rules of investigating different types of crimes, based on strictly observance of legal provisions and on criminal investigation bodies’ positive experience.

Therefore, this is a distinct field of criminology, since the methods, technical means and tactical methods apply when investigating crimes with their particularities defined both by the nature of the crime and by the concrete conditions in which the offense was committed.

Criminological methodology establishes the use of the most appropriate investigation rules – technical means and criminology tactical processes – which provide clarification of key

³ Vintilă Dongoroz and others, *Theoretical explanations of Romanian Criminal Code*, 382.

⁴ See Vasile Bercheșan, Constantin Pletea, Ion Eugen Sandu, „Investigation on the spot”, in „Treaty of criminal tactics”, (Craiova: Carpathian Publishing, 1992), 26-75.

⁵ Octavian Pop (coordinator), [7], 15

issues regarding the offense content, participants, circumstances in which it was committed, in order to find out the truth during the criminal process.

Criminological technique is defined as “the totality of technical means and scientific methods required for discovering, setting, lifting, examining and interpreting traces and other evidence material means, performing expertise and scientific – technical findings.”⁶

Technical means are represented by all equipments, tools and technical devices required for a practical action, established by a predetermined method, and the method refers to a system of rules according to which an action takes place, so that, starting from known situations, to reach a result.

The method requires the application of material technical means, without which some criminological methods would be destined to remain without practical application.

Scientific technical means used in criminological investigation are diverse, starting from the simplest to the most complex: magnifiers, microscopes, photo and video cameras, polar meters, spectrographs, spectrophotometers, serigraphs, polygraphs, infrared, ultraviolet radiation installations, X-rays, gamma and beta rays,⁷ the variety of this technical instrumentation enabling the application of various technical – scientific methods specific to criminology, such as: microscopy, photovalorimetry, betography, chromatography, AAN neutrons activation analysis.

After entering the building and identifying all the found persons – involved or not in counterfeiting currency or other assets -, before passing to the proper criminological examination, it is mandatory to perform body search, special attention should be paid to all traces and evidence related to counterfeiting.

Apart from counterfeited currency or assets, at the crime scene can also be discovered: currency or other assets in different stages of counterfeiting; attempts (tests) made by offender in order to obtain the desired model of currency or of other assets; Romanian or foreign currency or other assets, taken as a model for counterfeiting; various materials used for this purpose (paper, inks, printing inks, etc.), as well as their traces on different media; tools or equipments used for counterfeiting currency or other assets, such as moulds, photographic devices and clichés, slides, copy machines, various writings emitted by the perpetrator or by the persons to whom he is related; the amounts of money proceeded from the sale of counterfeited currency, etc.

Results of the on the spot investigation are recorded⁸ in a minutes of findings, which includes: date and location where the finding was performed; quality, first and last name of the ones who performed the finding and the unit of which they are part of; first and last name of the specialists who were part of the team and the unit from which they come; actual reason of the intervention; legal basis of the offense finding; first name, last name and other identifying information of the witnesses; topographical and criminal location of the crime scene; persons found on the spot, indicating all the identification data, including the act through which identification was made;⁹ assets, writings or values found on the perpetrator; search result of baggage and means of transport used by the offender; perpetrator’s explanations on the activities he was performing the moment he was caught, goods and values discovered on him; witness statements; reference to the assets, values and writings taken from the perpetrator;

⁶ Octavian Pop (coordinator), Ion Anghelescu, Lupu Coman, Ion R. Constantin, Mircea Constantinescu, Ion Grigorescu, Alexandru Hasnas, Vasile Lapadus ș.a., „*Practical Criminal Treaty*”, volume 1, Bucharest, Publishing services, media and propaganda among the population of the Ministry of Interior, Institute of CRiminology, 1976, 15.

⁷ Camil Suciu, *Criminology*, (Bucharest: Didactic and Pedagogical Publishing, 1972), 17.

⁸ Vasile Bercheșan, Ion N. Dumitrașcu, „*Evidence and Means of Evidence*”, (Bucharest: Ministry of Interior Publishing, 1994), 126-164.

⁹ Ion Vochescu, Vasile Bercheșan, Banknotes and banknote counterfeiters, 204.

reference to the assets, values and writings taken on occasion of finding fragrant crime; categories of traces and evidence material means discovered, set and packaged, describing their nature, the locations where they were found, the manner of picking up, mentioning that, before being picked up, they were fixed by metric photography; mention the way each object or discovered category of trace was packaged, labelled and sealed; the measures that were taken regarding the perpetrator; judicial photos taken, indicating the brand, the film and the sensibility of the camera that was used (likewise for filming or video-filming); mentions of crime scene sketch preparation and the scale at which it was done; start and completion time of investigation on spot, outlining the conditions of visibility in which the activity was performed; witnesses' and other participants' observations, as well as the perpetrator's objections, both on the way the on the spot investigation was performed and on those recorded in the minutes of findings; the number of copies of the minutes of findings and their destination.

Also, witnesses are recorded in the minutes of findings, with their identification data and any objection to those observed and recorded.

Judicial photos made on the spot, which are annexed to the minutes, are among the most important means of establishing the investigation results. In the same way, the blueprint of the crime scene, which is a modality of graphic representation of the situation on the spot, helps to better understand the real frame of the crime scene, aiming at illustrating the findings from the minutes and at rendering complete the other settling means. At the same time, the film, the judicial videophonogram and the audio magnetic tape have the purpose of faithfully rendering the various aspects of the crime scene investigation.

The technical scientific findings or the criminal expertises play a special role in establishing the facts regarding counterfeiting of currency or other assets and, implicitly, in proving the perpetrator's guilt.

Characteristical to this type of crimes is the *criminal expertise of counterfeit of currency or other assets*. Taking into account the proliferation of currency counterfeit or other assets, especially at international level, this kind of expertise has an important place in the activity of criminology laboratories, both in the country and from abroad, including within specialized international organisms in the fight against organized crime¹⁰, organisms that centralize and process related data and contribute to the formation of specialists, experts, as well as to the exchange of information between national organisms¹¹.

The criminology examination of currency or other paper assets, supposed to be counterfeited, is performed by general methods used in writings investigation¹², metallic coins needing special methods.

Coins or other paper values will be examined under more aspects: of paper quality, of china ink and ink, of thread-mark, of drawings performed, of the printing manner, etc.

Usually, the coin paper is very different from the qualitative point of view from the paper usually found on the market, regarding thickness, elasticity, tear resistance and, especially, thread-mark. It is thinner and has a special composition, as the fibers are woven in a certain way, there are metallic fibers, of plastic or textile materials in various colours, and having a specific fluorescence¹³.

China inks and inks used for printing coins or other assets are special, their composition assuring, besides clarity and stability of printing, a high resistance at acids treatments¹⁴. At the

¹⁰ By the Secretariate O.I.P.C.-Interpol- is the International Central Office for fight against currency counterfeit.

¹¹ Emilian Stancu, *Criminology, The Science of Crimes Investigation*, vol. I, (Bucharest: Tempus S.R.L. Publishing House, 1992), 285.

¹² Camil Suciu, *Criminology*, 482.

¹³ Emilian Stancu, *Criminology, The Science of Crimes Investigation*, 286.

¹⁴ Certain inks contain fluorescent substances and magentic particles.

same time, drawings existing on coins or on other assets are performed in various colours and shapes, which supposes the use of more clichés (one for each colour), in a certain order.

It must be also taken into account the fact that the printing modality in authentic coins usually supposes a combination of printing methods, of the type: plan pattern (offset or lithography), deep pattern (tifdruck), high pattern (photozincography), photoengraving and intraglio procedure – this one is mainly used at present.

Some of the most counterfeited coins are US dollars, taking into account their wide circulation. This is done by altering banknotes that is by “transforming” the 1, 2, 5 or 10 dollar banknotes in banknotes with higher nominal value¹⁵.

Counterfeit, invention of dollars supposes the wholly manufacture of the banknote, which needs adequate paper, inks and printing instruments, etc.

On the basis of the facts presented, the problems that could be cleared by *expertise* may be established, and then are established the questions that the criminal prosecution authorities should ask to experts.

In case of analyzing the banknotes or other counterfeited assets by *alteration*, experts will answer the following questions: if the currency or other asset presented to be examined is or is not authentic; by what means the counterfeit was performed; the initial nominal value of the banknote or of the counterfeited asset; what instruments and methods were used to perform the counterfeit; if the ink (china ink) of the counterfeit has the same chemical composition as the ink picked up from the crime scene; if the counterfeit could be performed with the instruments found on occasion of investigating the crime scene etc.

CONCLUSIONS

In case of analyzing the forgery by *counterfeit* of currency or other assets, the experts will answer the following questions: if the paper that represents the material support of the banknote or of other asset supposed to be counterfeited is genuine or not; the physical- chemical characteristics of the paper, currency or of other assets submitted to examination, in case they are not genuine; if the paper on which the banknote is printed presents the same physical-chemical characteristics as the paper not used, picked up from the crime scene; which was the procedure of fulfilling the currency or other asset counterfeit; if the instruments or devices picked up from the accused or defendant were used to make the forgery; the revelation of other elements that could demonstrate the counterfeit of currency or of other asset, with special reference on the thread-mark, ink, front and back drawing, printing particularities, including under the aspect of differences between the dimensions of the currency in litigation, towards the ones of the real currency¹⁶.

The objective use of criminology tactic, methods and technique in on the spot investigation of the crime, can decisively contribute to establishing the truth by direct findings made on this occasion, as well as from the materials picked up in order to be analyzed by specialists

¹⁵ For instance, from the 1 dollar banknote a 100 dollar banknote is made, and from the 5 dollar banknote one of 50 dollars. Usually, in these cases only the numbers that indicate the nominal value of the currency are altered, both the portrait (on the front) and the drawing (on the back) remain the same, which represents a certain proof of counterfeit.

¹⁶ Ion Vochescu, Vasile Bercheșan, Banknotes and banknote counterfeiters, 218.

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THE USE OF TECHNICAL, TACTICAL AND METHODOLOGICAL MEANS IN THE INVESTIGATION ON THE SPOT OF THE VARIOUS METHODS OF COMMITTING HOMICIDE CRIME

Elena PARASCHIV*

ABSTRACT:

THE HOMICIDE CRIMES ARE COMMITTED BY A MULTITUDE OF MODALITIES, BEING USED VARIOUS MEANS AND PROCEDURES, WHICH IMPOSES THAT THE INVESTIGATION ON THE SPOT BE FULFILLED BY USING THE MOST ADEQUATE TECHNICAL, TACTICAL AND METHODOLOGICAL FORENSIC MEANS.

KEY WORDS: HOMICIDE; TECHNICAL, TACTICAL AND METHODOLOGICAL MEANS; ON-SITE INVESTIGATION

INTRODUCTION

Criminalistic is defined as an autonomous and unitary science which sums up the ensemble of knowledge materialized in patterns, technical-scientific means and tactical prevention procedures, discovery, crimes investigation and identification of their authors¹, and appears as “a connecting bridge between legal sciences and nature sciences”².

The object of methods refers to: problems which must be cleared during the criminal prosecution and the activities necessary to be developed for the administration of evidence and complete clearing of the cause³.

In relation with the nature of the crime committed, the circumstances of happening, the traces left behind at the crime scene and the modality of their rendering valuable, the forensic method, taking into account the general rules of the forensic technique and tactic, the knowledge supplied by other branches of the science and generalizing the positive experience

* Associate Professor, Spiru Haret University, Romania, mail: bnp_elenaparaschiv@hotmail.com.

¹ Emilian Stancu, *Criminalistic* (University of Bucharest, Faculty of Law, 1994) 17.

² Camil Suciu, *Criminalistic* (Bucharest: Didactic and Pedagogic Publishing House, 1972) 11.

³ Regarding the matters to be cleared during the investigation, we consider that they are substantively established, in each particular cause, in relation with the content of the crime committed. Thus, at the identification of the author of a crime and for proving the guilt, the results of various criminal prosecution activities may compete, like: the investigation on the spot, the ascertainment of the flagrant crime, the fulfilment of search, the disposition of technical-scientific ascertainties or of expertises, witnesses interrogation, confrontation, presentation for the recognition of persons and objects.

of legal authorities, offers the frame and recommends the use of adequate investigation methods⁴.

According to the doctrine and legal practice, the methodological general rules are, mainly, the following⁵:

- the homicide investigation is fulfilled by a complex team, composed of prosecutor, coroner and police agents, its leadership being assured by the prosecutor, according to the provisions of art. 209 of the Criminal Procedure Code, for the purpose of developing the criminal prosecution activity in a unitary, adequately coordinated manner;
- the necessity to assure operativity, by an efficient organization of the investigation, giving priority to the criminal prosecution activities which require maximum emergency, like: investigation on the spot; interrogating the persons who have knowledge about the crime committed, about the victim or assaulter; the prosecution of suspect persons.
- the adequate investigation of the crime scene, given its importance in the precise and complete establishment of facts and circumstances of the cause, as well as in the identification of the homicide author, of the instruments or means used for this purpose;
- the adequate planning of the entire criminal prosecution activity, according to the particularities of each case in the elaboration of versions, following to take into account the data obtained, so that the administration of evidence be possible in due time, “avoiding the actions that could delay the solution of causes”⁶;
- the exact establishment of the crime committed, since the investigation must start from the deed to the author and not the other way around, in order to observe the principle of the presumption of innocence, so that legal errors could be prevented;
- the assurance of the continuity in the development of the criminal prosecution, being imposed that the prosecutor who fulfilled the preceding acts and the investigation on the spot, develop the entire investigation until the finalization of the case;
- the exact observance of the criminal trial law provisions and the consistent application of the most adequate technical-scientific methods and forensic methodological rules, so that the trial acts not be submitted to nullity, edifying evidence for the cause clearing being lost.

TACTICAL RULES OF CRIME SCENE INVESTIGATION IN CASE OF HOMICIDE CRIMES

The investigation on the spot, especially of homicide crimes, represents one of the important problems in the forensic field, both at theoretical level and at practical level, the team of specialists fulfilling this very complex activity setting practically the ground of an investigation which will develop in good conditions or will make the further work more difficult, if the first investigations are superficial.

According to art. 30, last paragraph of the Criminal Procedure Code “the place of crime committing” contains the place where the criminal activity took place, wholly or partially, or where its result happened.

⁴ Nicoleta-Elena Buzatu, *Investigating the crime scene in murder offenses committed by shooting*, Christian University "Dimitrie Cantemir" Annals, Law Series, (Bucharest: Pro Universitaria Publishing House, 2007) 173-174.

⁵ Constantin Ionițoaie, *Criminalistic Course* (Bucharest: The Police Academy "Al. I. Cuza") 12.

⁶ Ovidiu Năstase, *Some theoretical and practical aspects regarding the investigation of the homicide crime*, a study accomplished in the Department of criminal prosecution and criminology of the General Prosecution Office by the Supreme Court of Justice, in PPC no. 2 (1992) 5 and following.

The notion of “on the spot” or “place of crime committing” has a wider sphere than the one currently used for the “crime scene”, also including the closer areas, the access ways or other places from their examination conclusions being drawn regarding the acts of crime preparation and committing, including the crime consequences (land area, road segment or the room where the body was discovered, parts of it, skeleton, as well as their surroundings; the place where the main episode of the deed took place, respectively where the victim’s life was suppressed; the place where the victim was abandoned or the place where the body was disjointed, including their surroundings; the place where the victim died, in case it does not coincide with the place of aggression; the access ways used by the perpetrator in order to enter in the crime field, as well as the place where he went away)⁷; thus it contains the entire crime field bearing information regarding the crime committed⁸.

The investigation on the spot, as a trial act, is considered a probatory procedure, which finalizes in the procedure act named investigation minutes on the spot since it aims at discovering, establishing and picking up of the crime traces, as well as at establishing the status and position of probatory material means (art. 129, paragraph 1, Criminal Procedure Code).

In the homicide investigations the research on the spot is the starting activity of the criminal prosecution, being generally irrepeatable, since in most cases it can no longer be retaken, due to the modifications in time brought to the crime scene or to the alteration or disparition of the evidence material traces and means, which imposes from the start its solid and full development.

The homicide crimes can be committed by numerous factual modalities: the use of mechanic, physical, chemical, biological or psychic factors, etc, the first three factors have a higher frequency.

Regardless of the committing modality or of the homicide crime particularities, the investigation on the spot must clarify mainly the following issues: the nature of death; the immediate cause of death; the place and time of crime committing; the methods and means used to comit and cover the crime; the victim’s identity and quality; the perpetrators` identity, their quality and contribution to the crime committing; the mobile and purpose of crime committing; the conditions and circumstances which generated of favoured the homicide committing.

HOMICIDE INVESTIGATION PARTICULARITIES ACCORDING TO MEANS AND PROCEDURES USED BY PERPETRATORS TO SUPPRESS THE VICTIM’S LIFE

In the investigation on the spot of the homicide crime, regardless of the modality in which it was committed, the two different sections of the criminalistic discipline are combined:

- the forensic technical part, which addresses to the technical instruments possessed, with the purpose of discovering, picking up and establishing the traces and for the further valorization in an expertise or forensic technical-scientific ascertainment;
- the special methodology part of investigation of various types of crimes; homicide investigation in the phase of examining the scene crime demands a series of specific

⁷ Vasile Bercheșan, Constantin Pletea and Eugen Sandu, *Investigation on the Spot* in *Treaty of Forensic Tactic* (Craiova, Carpați Publishing House, 1992) 26.

⁸ Nicoleta-Elena Buzatu, *Features of crime scene investigation in crimes of murder*, in „Present and perspectives in the development of metropolitan areas in Romania”, vol. II (Bucharest: Pro Universitaria Publishing House, 2008), 222-232.

rules, some having a general applicability and others a subsequent one, deducted from the specific of every death in particular.⁹

Besides the ascertainments made on the spot by the investigation agent, the determining role in establishing the modality of homicide committing is given to the data made available by the coroner, by registration in the medical-forensic ascertainment report of the cause of death, of the production mechanisms and of the means used, which can substantially contribute to the establishment of the committing modalities and the particularities of each of the respective actions.

a) Homicide committed with cutting weapons and blunt objects

With the help of blunt objects excoriations, ecchymoses, wounds, sprains, luxations or fractures or other severe traumas can be produced, which can cause the victim's death, and the cutting weapons can produce cut wounds - chopped off (with ax, hatchet, hoe, mower etc), sectioned (with razor, blade, knife etc) or stung (with fork, needle, nail, bayonet etc).

The adequate interpretation of the traces left on dead bodies on occasion of the homicide committing makes it sometimes possible to approximately establish the procedure of its committing, the nature of the weapon used by the perpetrator as well as other circumstances of the homicide committing.

Thus, the use of a sharp weapon (knife, razor etc.) causes wounds characterized by their rectilinear or bow shape aspect, at the extremities of which sharp angles are formed¹⁰.

The wounds on the body, caused with a stinging weapon or with a sharp-stinging weapon often have the shape of the cross section of the weapon used, but having smaller dimensions than the ones of the weapon used.

By using blunt objects, which have a relatively small hitting area (hammer, the ax edge, etc), wounds that reproduce the linear shape of the edges of these objects are caused (for instance, a round hammer causes a bow shape wound)¹¹.

b) Homicide committed by asphyxia

Asphyxia happens due to the forced breath stopping or by the impossibility to use the air breathed, which leads to the hindering of the blood circulation toward the brain, this causing in the end the victim's death.

Mechanical asphyxia can happen by hanging, choking, drawing, suffocation and occlusion of respiratory ways.

Hanging takes place by the compression of the neck with a lath made of rope, foulard, tie, cord, wire, etc, by which asphyxia happens under the action of the victim's weight¹² - on the external side of the neck appearing an incomplete hanging groove, oblique, ascendant, with maximum intensity in the opposite side of the bow.

In case of discovering a dead body hanging from the lath, it must be established whether a suicide took place or if there is the possibility of hanging the body, after having committed a homicide.

⁹ Lupu Coman, Ion Constantin, *Some particularities of the investigation on the spot in homicide crime*, vol. I (Bucharest: M.I., 1976) 4 and following.

¹⁰ The margins of a cut wound have a uniform, smooth surface and they are usually strayed, and the wound festers (is open).

¹¹ Blunt object with round areas cause wounds with a variety of shapes, irregular, presenting obvious crushing in the center, and the blunt objects of cylinder form (bats, iron rods), cause wounds in the shape of grooves with obvious crushing on all the length, in the middle of the section.

¹² Hanging, that is the introduction of the neck in a lath that narrows due to the body weight, often happens even if the body limbs have a support point (floor, ground).

The modality of looping the lath (professional bows) and the material of the lath can sometimes have a special importance for the discovery of the author, in case of violent hanging of the dead person or of an unconscious person¹³.

At hanging dead bodies, the death stains appear on the downward parts of the body (forearm, hands, foot plant), typical clues of hanging also being the ascription of the tongue between the teeth, the involuntary elimination of feces, and at men of sperm liquid.

In order to establish if it is a suicide, the choking groove must be analyzed, which is formed on the neck due to the lath action, being noticed the direction, the colour, the groove width, being mentioned if it contains the neck all around, etc¹⁴.

Choking supposes the compression of the victim's neck by another force than the one due to the weight of the victim's body, usually acting by means of the perpetrator's hand¹⁵.

When choking is performed by a band, the choking groove, unlike the hanging one, is horizontal, profound, complete, also presenting the impress of the bow¹⁶.

Ribs fracture and the pectoral and abdominal wounds can be caused in case the perpetrator climbed with his knees on the victim, in the respective areas.

Suffocation supposes the occlusion of respiratory ways by introducing a gag in the mouth: by pressing the face against a plastic support which moulds on it, stopping the air from entering; by covering the nasal orifices and the mouth; by glueing a water-proof foil or by applying a wet textile material or a pitch mask on the face¹⁷.

Drowning can happen by introducing the victim's face in a liquid or semiliquid mass, which is absorbed through the mouth and/or nose, followed by its penetration in the respiratory ways, causing thus the victim's impossibility to breath.

The examination by the coroner of a dead body taken out of the water allows the gathering of data regarding the fact if death happened as a suicide or an accident, or if the body was thrown into the water after having been committed the homicide¹⁸.

c) *Homicide committed by shooting*

In order to determine the death nature by shooting, the main traces of the shooting will be investigated from medical-forensic and criminal point of view: the entering orifice, the exit channel and orifice (if they exist), as well as secondary traces: breaking caused by gases, burns, etc.¹⁹.

In case there are clues that a fire weapon was used, an important task of investigating the crime scene is the discovery of the weapon, of the bullets cases fired, of the bullets, as well

¹³ In these cases, the lath must be removed, cutting it in the opposite side of the bow, having to describe, draw or take pictures of the lath type, bow characteristics, as well as the hanging groove, like in the case of the bow made to fix the lath in the support point (for instance beam).

¹⁴ In case of suicides by hanging, the choking groove usually has an ascendant direction, towards the bow, not forming a continuous line by being interrupted near the bow.

¹⁵ When it is directly acted by hand, excoriations and ecchymoses or nails traces can be found on the victim's neck.

¹⁶ If the lath is stretched by another person, the cyanosing of the skin tegument happens below the lath, the face getting an uptight aspect and being sometimes covered with numerous punctiform hemorrhages.

¹⁷ The compression of the thorax by a mechanical force superior to the victim's possibility to perform respiratory movements leads to the impossibility of the air to penetrate the organism (the compression by the weight of the perpetrator's body of the thorax-abdominal region, placing weights over the immobilized victim, etc).

¹⁸ In case the dead body is tied up at hands and legs, or if a weight is tied to the body, it must be attentively examined and established the position of the strings on the body and the way the bows were tight in order to find an answer to the question if this could have been done by the victim or not.

¹⁹ The examination has as a purpose the establishment of the shooting distance and direction, of the self hurting possibilities in the conditions in which the victim was found.

as of the orifices and other damages present both on the dead body and on the surrounding objects.

The examination of the body is very carefully fulfilled, in order not to damage the shooting traces, which remained on the clothing and body (soot, powder)²⁰.

With the help of the medical-forensic expert, the enter and exit orifice of the wound must be determined. It will be noticed if traces of shooting with the tight barrel exist or struggling traces of the victim with the aggressor (traces left of the barrel muzzle, blood or substance from the brain on the hands of the body, etc)²¹.

d) Death by poisoning

According to the doctrine, by toxic or poison, used by the authors of the deeds investigated, it is understood any substance that, introduced in the organism in reduced quantities, produces functional alterations or wounds, determining a pathological state named intoxication.²²

In order to cause a person's death, animals or insects can be also used, which by their bite or stinging inoculate a poisonous substance.

At the same time, the medicine substances, by exceeding the therapeutical doses, have a toxic or lethal effect, which can be followed by the perpetrator.

In case there are suspicions that a person's death happened as a consequence of poisoning, it will be carefully investigated if in the victim's mouth and around it stains or burns happened. At the same time, it must be established if on the clothes, on the victim's body and on the floor, near the body, there are traces of the toxic or its residuals, in the form of liquid or powder flows²³.

The residuals of a substance which is eventually toxic, the dishes as well as other objects in which the respective substance was found must be sent to be analyzed in the medical-forensic lab, like in the case of food remains, vomits and feces, if there is the possibility that they might contain traces of a toxic substance.

In any of the modalities shown above, of death happening, the coworking between members and specialists of the investigation team is necessary, without this the activity cannot be carried on successfully. For instance, the criminalistic expert will work together with the medical-forensic expert when determinations that claim medical knowledge are necessary, like the case of digital prints settled by the de-stratification of a sanguinolent substance or when the

²⁰ The clothing must be carefully examined in order to certainly establish if in its bendings cases or bullets exist which got there after the shooting occurring.

²¹ The wounds caused by shooting, present on the body, must be described in detail, being indicated the position, dimension, their shape as well as the presence of the shooting traces happened from a small distance, which are to be found close to these wounds.

²² Toxic substances can be classified from the point of view of the chemical composition, in organic and inorganic; according to their origin in synthetic (created in the lab) and natural (vegetal, mineral or animal); according to their action on the organism, in caustic (silver nitrate, sulphuric acid, azotic acid, hydrochloric acid, sodium and potassium hydroxide, ammonia, phenol etc); hematic having an unfavourable action on the blood components (arseniated hydrogen, potassium chlorate, carbon oxide etc); parenchymatous, having a selective section on the brain, liver, kidneys and heart (mercury and its derivatives, lead and its derivatives, copper salts, zinc, thallium, barium, anaesthetics, arsenic, phosphorus, etc); with other toxic actions (hydrocyanic acid, methyl and ethyl alcohol, ether, chloroform, morphine, opium, the derivatives of barbituric acid, strychnine, nicotine, cocaine, atropine etc); food (solanine from sprung potatoes, toxins from poisonous mushrooms etc) and those used in agriculture (artificial fertilizers, herbicides, fungicides, insecticides etc.).

²³ For this purpose the dishes, the sink, the bed as well as other places where remains of the toxic substance could be traced, must be examined.

dactiloscopic exam made by the criminalistic expert is completed by the blood exam in order to establish the type and group classification of blood ²⁴.

CONCLUSIONS

Criminalistic is intrinsically connected to the homicide investigation, fact which represents a special social danger, since it damages the supreme value of the human being: life.

For the investigation of such facts, criminalistic makes available to the criminal prosecution authorities technical, tactical and methodological means, such as: technical-scientific means of crime traces examination, of crime bodies picked up on occasion of the crime scene investigation, as well as on occasion of the search; the identification means of persons and dead bodies, other than those discovered in the crime scene; tactical procedures of fulfilling the criminal prosecution actions, frequently applied to these cases, like those destined to listening, confronting, searching, rebuilding; methodological rules applied according to the particularities of each separate case, starting with the general methodological ones.

²⁴ For instance, in case of the homicide committed on the old woman I.I., from the locality of Pesceana, Vâlcea county (file no.732/P/1993), the author was identified following a laborious work of the criminology expert, who exploited the multitude of the traces found on the spot and after the expertises accomplished the author could be found. Thus on the doorcase of the victim's dwelling, on a glass and a plastic bag papillary traces were found and taken which settled by the de-stratification of a sanguinolent substance, and on a newspaper a foot mark was found, formed by stratification, that is by settling on the paper support of a biological substance of red colour which was established to be blood. The dactiloscopic expertise established that the papillary traces were created by the impression of the finger of the person suspected, and the impression evidence concluded that the foot mark on the newspaper was created by the sole of one of the shoes worn by the author at the crime scene. Besides, both on the shoes and on the author's clothes traces of blood belonging to the victim were found.

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INTERNATIONAL REGULATIONS CONCERNING DIFFERENT CATEGORIES OF STATES' POPULATION

Gavril PARASCHIV*

ABSTRACT:

POPULATION IS, TOGETHER WITH TERRITORY AND GOVERNMENT, ONE OF THE ESSENTIAL ELEMENTS OF THE STATE'S EXISTENCE, THAT IS, ABOVE ALL, A HUMAN COMMUNITY. THE STATE CAN NOT EXIST WITHOUT POPULATION, AS IT CAN NOT EXIST WITHOUT TERRITORY OR GOVERNMENT. THE LEGAL REGIME SPECIFIC TO CERTAIN CATEGORIES OF THE POPULATION IS GOVERNED NOT ONLY BY INTERNAL LEGAL RULES, BUT ALSO BY INTERNATIONAL CONVENTIONS.

KEY WORDS: INTERNATIONAL LAW, POPULATION, NATIONALITY, DIPLOMATIC PROTECTION, DIPLOMATIC STATUS

INTRODUCTION

State's population represents the total number of people living on its territory, regardless of nationality; along with nationals, in a State we may find permanently or temporarily, foreign and stateless citizens, they having a different legal regime from the citizens¹.

Another definition covers only the mass of individuals linked to the State by nationality, even if some of them are on the territories of other states².

In principle, the legal status of various categories of individuals is determined by the internal laws of the State to which they belong, with the exception of categories on which state jurisdiction is limited, such as for example, persons with diplomatic status³.

Certain aspects, such as statelessness, legal status of foreigners, human rights, diplomatic protection, etc. on the population as a whole or certain categories thereof are also subject to international concerns⁴.

* Ph.D. Associate Professor Spiru Haret University, Romania, gavril.paraschiv@yahoo.com.

¹ Dumitru Mazilu, *Public International Law*, volume I, Edition V-a (Bucharest: Publishing House Lumina Lex, 2010) 272; Pierre Vellas, *Public International Law*, 2nd Edition (Paris: Librairie Générale de Droit et de Jurisprudence, 1970).

² Adrian Năstase, Bogdan Aureescu, *Public International Law. Synthesis*, 7th Edition (Bucharest: Publishing House CH Beck, 2012) 147.

³ Dumitra Popescu, Felicia Maxim, *Public International Law* (Bucharest: Publishing House Renaissance, 2010) 93.

⁴ Daniel-Ștefan Paraschiv, *Current trends of the evolution of public international law in the context of increasing independence of States and the need to exercise sovereignty*, "Dreptul" Magazine, no. 6/2012 (2012) 164-170

NATIONALITY

Citizenship is the legal bond based on a social fact, effective solidarity of existence, interests and feelings, combined with a reciprocity of rights and obligations⁵.

Citizenship is permanent legal and political link between an individual and a state, which generates and expresses all the mutual rights and obligations between the individual and the state of nationality⁶.

European Convention on Nationality, 1997, defines it as “the legal bond between a person and a state”, adding that it “does not indicate the person’s ethnic origin”.

Citizenship is a right of the person who expresses his belonging to a state, one can not be deprived arbitrarily of his nationality⁷, wherever he may be: in the State of origin, in another state, at sea, in the air or in space⁸.

Acquiring right of citizenship is *by birth*, the state to which belongs the baby being determined by two major legal systems established: *ius sanguinis*, the child acquires the citizenship of the parents regardless of place of birth and *jus soli*, the child acquires the citizenship of the State in which he is born, regardless of the nationality of their parents⁹.

At the request of a person on the basis of an act of state authorities, citizenship is acquired by *naturalization*, as a result of: *marriage* to a citizen of the state, *prolonged stay* in the State, *international adoption*, *regaining or reintegration*, *option*, *transfer or resettlement*, *granting*¹⁰.

Loss of citizenship can take place either by *law* (for example, through the adoption of minors by foreign citizens) or by *waiver* or *withdrawal*. Romanian citizenship can not be withdrawn if acquired by birth¹¹.

DIPLOMATIC PROTECTION OF ITS OWN CITIZENS

The foreigner who is in the territory of a state is subject to its jurisdiction.

At the same time he maintains a permanent legal link with the State whose nationality he has and which can impose certain obligations arising from the Constitution and other laws.

State of origin should grant its citizens abroad *diplomatic protection*, which consists in taking certain measures to protect their interests in relations with state authorities where he is located¹².

Constitution of Romania provides in art. 17, the right to diplomatic protection of Romanian citizens.

LEGAL REGIME OF FOREIGNERS

By foreigner we mean a person who is in the territory of a state, without having its nationality, but of another State. Persons without citizenship (*stateless*) and *refugees* are assimilated to foreigners.

⁵ Daniel-Ștefan Paraschiv, Ramona-Gabriela Paraschiv, Gavril Paraschiv, „Public International Law” (Bucharest: Publishing House Pro Universitaria, 2014) 58 and following.

⁶ Raluca Miga-Besteliu, *Public International Law. Introduction to Public International Law*, III Edition (Bucharest: Publishing House All Beck, 2003) 166.

⁷ Adrian Năstase, Bogdan Aurescu, [2], 146.

⁸ Ioan Muraru, *Constitutional Law and Political Institutions* (Bucharest: Publishing House Actami, 1998) 154 and following.

⁹ Ion Diaconu, *Public international law treaty*, vol. II (Bucharest: Publishing House Lumina Lex, 2003) 105 and following.

¹⁰ Adrian Năstase, Bogdan Aurescu, [2], 148.

¹¹ Dumitra Popescu, Felicia Maxim, [3], 92.

¹² Raluca Miga-Besteliu, [6], 140.

Treatment applicable to foreigners knows more forms resulting from the practice of states¹³:

- *National regime* under which foreign citizens have the same rights as nationals of the State, except political rights or other rights established by law¹⁴;
- *Special regime*, which grants certain rights only;
- *Most Favoured Nation regime*, under which the state grants foreigners the more favorable regime which was allowed by international treaties, to citizens of another member State;
- *Mixed regime*, which is a combination of the national regime and the special regime.

The doctrine of international law stressed the need to establish *minimum international standard* regarding foreigners regime¹⁵.

The current practice of states shows that are in some cases making joint implementation of the regime mentioned in respect of foreigners on their territory.

Special problems in terms of the rules of international law on foreigners have occurred in relation to *extradition* and *expulsion*.

Extradition is the act by which a state surrenders, under certain conditions, at the request of another state, a person on its territory alleged to be the perpetrator of a crime to be tried or to serve a penalty for which was previously convicted.

Expulsion is the act by which a state compels one or more foreigners in its territory to leave when they become undesirable due to the perpetration of acts which violate laws or interests of the state of residence¹⁶.

LEGAL REGIME OF REFUGEES AND DISPLACED PERSONS

A *refugee* is a person who as a result of well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion has left the country of origin, and because of such fear, is unable or unwilling to return to this country.

In general terms, the refugee means a person who seeks to evade conditions or circumstances in his country of origin, which he considers unbearable and find shelter and protection in another country, where not to be discriminated against¹⁷.

Refugees are those who – due to armed conflict – were forced to leave the country, staying in another country without losing or renouncing to the nationality of the State of origin¹⁸.

Displaced persons are those who have been deported ‘on the territory of foreign states’¹⁹.

The status of refugees includes a series of rights and obligations covered by both the 1951 Convention and internal law of the states. The Convention establishes in art. 2 general

¹³ Dumitra Popescu, Felicia Maxim, [3], 97; Adrian Năstase, Bogdan Aurescu, [2], 149.

¹⁴ Ian Brownlie, *Principles of Public International Law*, Fifth Edition (New York: Oxford University Press, 1999) 524.

¹⁵ Andreas Hans Roth, *The Minimum Standard of International Law Applied to Foreigners* (Leiden: A.W. Sijthoff Publisher, 1948) 27 and following.

¹⁶ Dumitra Popescu, Felicia Maxim, [3], 100.

¹⁷ Ramona-Gabriela Paraschiv, *The prohibition of discrimination of refugees, in Exercise of the right to non-discrimination and equal opportunities in contemporary society* - NEDES 2014 (Bucharest: Publishing House Pro Universitaria, 2014) 257-261

¹⁸ Guy Goodwin-Gill, *The Refugee in International Law* (Oxford: Oxford University Press, 1996) 123.

¹⁹ Kofi Annan, Preface, *Situation of Refugees in the world 1997-1998* (Oxford: Oxford University Press, 1999) IX; Dumitra Popescu, Adrian Năstase, *Public International Law*, Revised and enlarged edition (Bucharest: Casa de Editură și Presă „Șansa” SRL, 1997) 148.

obligation of refugees to comply with laws, regulations, and measures taken to maintain public order existing in the country where they are located.

In Romania, the legal status of refugees is regulated by Law no. 122/2006 (published in the Official Gazette no. 428 of 18.5. 2006), GD no. 1596/2008 regarding the resettlement of refugees in Romania, GD no. 898/2011 establishing the form and content of residence permits, travel documents and other documents issued to foreigners, etc.

Still, our country is concerned with the promotion and implementation of fair procedures for determining refugee status and granting refugee status, given the European and global developments in this area²⁰.

RIGHT TO ASYLUM

Granting *territorial asylum* is a sovereign right of the State on the entry and establishment on its territory of other nationalities who are subject to persecution in their home country for political, religious, scientific activities, etc., considered (at home) against its law²¹.

After granting asylum, the state should behave – to foreigner whom it granted this status – in accordance with the general principles of international law and international conventions on the rights of foreigners, to which is possibly part of²².

Diplomatic asylum is practiced for humanitarian reasons, as a right of temporary asylum granted to persons pursued for political reasons whose life is in danger.

It is defined as a right to grant protection in the premises of embassies or consular offices in a state to citizens of that state, pursued by authorities or whose life is in danger because of domestic events²³.

CONCLUSIONS

From the point of view of international law, the exercise of state powers on individuals has relevance on:

- Conditions in which the legal status of citizens or foreigners of a State can be recognized and enforceable against other States or international fora;
- Compatibility to exercise those powers with the rules of international law²⁴.

Thus, citizenship, as statelessness is a legal situation specific to the individual, resulting from the connection of that person to a particular state, giving fullness exercise of the rights and obligations stipulated in the Constitution and laws of the State concerned, which must comply with international conventions²⁵.

Diplomatic protection of its own citizens is one of the obligations of diplomatic missions of the State of origin and citizenship derives from nationality connection between the individual and the state.

The legal regime of foreigners is established under international conventions by each state and is to determine by legislative, administrative and justice acts, rights and obligations of foreigners, the conditions under which they may enter, remain and leave the territory etc.²⁶

²⁰ Mihai Delcea, Legal protection of refugees under international law (Timișoara: Publishing House Presa Universitară Română, 2002) 201 and following

²¹ Dumitra Popescu, Felicia Maxim, [3], 98.

²² Raluca Miga-Besteliu, [6], 136.

²³ Phillipe Cahier, *The contemporary diplomatic law* (Paris, 1962) 208 and following.

²⁴ Raluca Miga-Besteliu, [6], 128.

²⁵ Ramona-Gabriela Paraschiv, Elena Paraschiv, *Human rights-fundamental problem of humanity*, in „Reports of Legal Studies In Honorem Ph.D. Prof. Nicolae Popa” (Craiova: Publishing House SITECH, 2010) 278-290.

²⁶ Alexandru Bolintineanu, Adrian Năstase, Bogdan Aurescu, *Contemporary International Law* (Bucharest: Publishing House All Beck, 2001) 74 and following.

One of the most important principles of refugee law is that of non-refoulement (*principle of non-refoulement*), under which states are obliged not to expel or not to return, in any way, a refugee to the frontiers of territories where his life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion (art. 33 of the Convention on Refugees, 1951)

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THE PRESCRIPTION OF THE RIGHT TO APPLY THE SANCTION OF THE PENALTY FOR THE CONTRAVENTION STIPULATED WITHIN ART. 51, LET. A FROM THE LAW OF CONCURRENCY NO. 21/1996, COMMITTED IN A CONTINUOUS FORM

Ramona-Gabriela PARASCHIV*

ABSTRACT:

LAW NO. 21/1996 DOES NOT CONTAIN ANY SPECIAL REGULATIONS REGARDING THE PRESCRIPTION TERM OF THE RIGHT TO APPLY THE SANCTION FOR CONTRAVENTIONS STIPULATED IN THE LATTER, THUS THE DISPOSITION OF THE CONTRAVENTIONAL PENALTY IS PRESCRIBED IN THE CONDITIONS STIPULATED IN ART. 13 PAR. 1 AND 2 FROM THE GOVERNMENT ORDINANCE NO. 2/2001 REGARDING THE LEGAL REGIME OF THE CONTRAVENTIONS

KEY WORDS: CONCURRENCY, CONTRAVENTION, CONTINUOUS, PRESCRIPTION, SANCTION

INTRODUCTION

By the decision¹ no. 264 from the 4th of July 2002, The Commission of the Council of Concurrence applied the sanction of the contraventional penalty amounting to 809.404.219.569 lei (80.940.421,9569 RON) S.N.Tc. R. SA, thus retaining that the above-mentioned society is guilty of having committed the contravention stipulated in art. 5, let. a from the Law no. 21/1996², by the fact that in the association contract with G.O.C. B.V. (materialised in the creation of a new society, a clause of non-concurrence was introduced, which significantly affected the concurrency of the market of data transmission during the

* Lector univ. dr. – Faculty of Juridical and Administrative Sciences, Bucharest, Dimitrie Cantemir University, Romania, e-mail: ramonaparaschiv@rocketmail.com.

¹ Not published.

² In conformity with this legal text, the acts committed with intention or due to negligence by enterprises or associations of enterprises Conform, by which the provisions of art. 5 from the Law. no. 21/ 1996 are violated, are considered contraventions. The contravention retained in the task of the recurrent, refers to the fact that “ any express or tacit agreements between the economic agents or the associations of economic agents which aim at or that may result in the prevention, restriction or distortion of the concurrency on the Romania market are prohibited “(...)” [art. 5 par. (1) from the Law no. 21/1996, in its initial form].

period October 1999 – April 2001³, which violates art. 5 par. 1 from the Law no. 21/1996, as it was decided by the decree⁴ no. 168 from the 14th of May 2002 of the Competition Council⁵.

S.N.Tc. R. SA formulated a complaint against this decision, and by the decision no. 305 from the 26th of July 2002 the president of the Competition Council diminished the penalty to the amount of 405.000.000.000 lei (40.500.000 RON).

By the appeal declared and registered within the High Court of Cassation and Justice, S.N.Tc. R. SA requested the annulment of the last decision mentioned above and the abrogation of the contraventional fine, claiming that the application right of the sanction was prescribed, since a period of more than 6 months had passed since the perpetration of the contraventions and until the application of the sanction.

The section of administrative and fiscal legal department of the High Court of Cassation and Justice admitted the appeal by the decision no. 2673 from the 19th of April 2005, thus cancelling the decision no. 305 from the 26th of July 2002 issued by the president of the Council of Concurrency and, implicitly, the fine applied to S.N.Tc. R. SA ⁶

The Court of Justice established that, in the absence of special regulations in the Law no. 21/1996, regarding the prescription of the law to apply the contraventional sanctions, the case shall be governed by the provisions of the general law in contraventional matter, respectively the Government Ordinance no. 2/2001. The advocacy of the intimate, the Competition Council, in the sense that the prescription term was the one stipulated in the Decree no. 167/1958⁷, was removed based on the reason that the regulations contained in the respective normative document refer to the civil relations of private law, and thus, are not applicable in the hereby case since the conventional law represents an integrated part of the sphere of the public law.

THE PRESCRIPTION TERM OF THE RIGHT TO APPLY THE CONTRAVENTIONAL SANCTION

The concurrency law no. 21/1996 does not establish the prescription term for the application of the contraventional sanctions stipulated in the hereby normative document, thus, it has been discussed whether the case shall be governed by the provisions of the general law in contraventional matter, stipulated in the Government Ordinance no. 2/2001, or those contained in the Decree no. 167/1958 regarding the extinctive prescription.

The contraventional law, generally, belongs to the public law, the contraventional liability being derived from the penal liability under the report of the substance⁸, however its application presents the civil procedure as common law⁹.

Mainly, the concurrency law is a branch of the public law, since it contains imperative - prohibitive norms whose observance is monitored by the specialised bodies of the public administration, especially the Competition Council¹⁰, and in the case of violating some of the

³ On the 5th of April 2001, the non-concurrency clause was cancelled by the parties of the association agreement, based on the point of view of the Competition Council, that was requested by the S.N.Tc. R. SA even since the association date with G.O.C. B.V., respectively from the month of October d 1999.

⁴ Not published.

⁵ This decision, by which the committing of the contravention was established, remained definite, by rejecting the action formulated in the court (civil sentence no. 1202 / 2002, of the Court of Appeal in Bucharest and the civil decision no. 1045/2003, Of the High Court of Cassation and Justice).

⁶ Not published.

⁷ Decree no. 167/1958 was abrogated by the Law no. 71/2011, the respective domain being regulated in the new civil Code.

⁸ A. Iorgovan, *Administrative Law Treaty*, vol. II, Nemira Publishing house, Bucharest, 1996, pp. 235 and foll.

⁹ I. Poenaru, *Issues of contraventional lergislation*, in „Law” Journal no. 2/1998, pp. 46 and foll.

¹⁰ R.G. Paraschiv, *Competition Law*, ProUniversitaria Publishing House, Bucharest, 2014, p. 8.

latter (including by committing restrictive practices, as in the case analysed), contraventional and even penal sanctions can be applied.

By means of the restrictions imposed regarding certain anticompetitive practices or of illicit concurrency and by monitoring the observance of these restrictions, the concurrency law protects the free exertion of the rights of the economic agents. It also, defends the contractual liberty and the liberty of extra-contractual action of the economic agents, by prohibiting certain actions that may negatively influence the loyal competition and that may be concluded based on the liberty of will¹¹.

In these conditions, it is indubitable that for the establishment of the prescription term related to the law referring to the application of the sanctions stipulated by law, they shall be governed by the specific norms belonging to the conventional law, since the conventional liability falls in the category of the public order.

The Decree no. 167/1958 – which stipulates prescription terms (that are longer) for the exercitation of the right to action, thus having a patrimonial object – it refers to the civil reports of private law, and not the legal reports of public law.

In the absence of specific regulations within the Law no. 21/1996, the verification of the circumstance related to whether the contraventional sanction has been applied during the term takes into consideration the general regulations, stipulated in art. 13 from the Government Ordinance no. 2/2001, in conformity to which the sanctioning dispositions must be applied in maximum 6 months from the committing of the act (par. 1).

However, since the respective offense embodies a continuous character (the non-concurrency clause being applied without interruptions for almost 18 months), one might think that the sanction was applied in the term – if we interpret as *ad literam* the text, par. 2 of art. 13, which stipulates the following content: „In the case of continuous contraventions, the term stipulated at par. (1) is considered from the date of establishing the act ...” – since the contraventional act was ascertained on the date of the 14th of May 2002 (by the decision of the Competitive Council), and the fine was applied on the 4th of July 2002 and reduced on the 26th of July 2002.

By a contextual and logic interpretation, reported to the specific facts for the case analysed, it may be concluded that in the present situation, the provisions of par. 1 of art. 13 from the Government Ordinance no. 2/2001 are applicable, since the conversation, even if it was continuous, had depleted on the 5th of April 2001, at the initiative of the parties of the association contract, the act thus being “ committed” in that respective moment. As a result, we consider that it is rational that par. 2 of the same article be applied only for the continuous contraventional facts which are still committed and that are not depleted on the date of being noticed by the competent organs.

For the legal accuracy and in order to avoid the possible contradictory interpretations, it may be imposed, by the *lege ferenda*, the completion of par. 2 from art. 13 from the Government Ordinance no. 2/2001, in the sense that the prescription term is considered – in case of the continuous contraventions – from the date of ascertaining the act. This is applied only for the cases in which this observation takes place before the depletion of the illicit activity.

¹¹ H. Dumitru, S. David, *The fundamental principles governing the regulations applicable to the securities market* (part III), in „Magazine of commercial law”, nr. 10/ 1996, pp. 56-57.

THE ANALYSIS OF THE CONDITIONS OF EXISTENCE RELATED TO THE CONTRAVENTION RETAINED IN THE CASE

From the general definition of the contravention, stipulated within art. 1 from the Government Ordinance no. 2/2001, it results that its existence is conditioned by the committing, with a sense of guilt, of an act established and sanctioned by law.

The significance of guilt is related to discernment, but also the liberty of choice of a conduct related to a conscious aim assumed¹².

The non-concurrency clause (established between associates) is not explicitly illustrated in the content of art. 5 par. 1 from the Law no. 21/1996, as being a prohibited decision, however, it can be included in the category of decisions which result, in certain conditions, in the prevention, restriction or distortion of the concurrency on the Romanian market – the prohibited practices are not being restrictively enumerated. Moreover, within the content of par. 2 of art. 5 from the law, the cases in which these practices are permitted, not being of the nature to affect concurrency, if certain conditions are fulfilled, are provided.

From the file it definitely results that S.N.Tc. R. SA requested from the part of the Competition Council, even from the conclusion of the association contract, a point of view related to the non-concurrency clause, in order to establish if it enters the category of the anti-competition practices (in the concrete manner), the offending society demonstrating good faith, especially since in the content of art. 5, par. 1 from the law, the anti-concurrency characters of this type of clause is not expressly stipulated, as it has been shown.

We consider that the good faith of the society sanctioned also results from the fact that, subsequent to their documentation, on the 5th of April 2001, the society proceeded to the annulations of the non-concurrency clause (along with the other part of the association contract).

In these conditions, we may consider that we can submit to discussion, with a justified ground, whether the conditions regarding the guilt necessary for the existence of a constant sanction, as there is no certainty that the society in cause did not take action with a “consciously – assumed purpose”, to prevent, restrict or distort the concurrency on the Romanian market or on a certain part of it, as it is demonstrated in art. 5 par. 1 from the Law no. 21/1996.

CONCLUSION

The solution of the High Court of Cassation and Justice appears as legal ad grounded (reported to the legal ground used), however, we considered that the present case requires certain considerations related to the normative document governed for the establishment of the prescription term related to the application rights of the contraventional sanction, as well as regarding the moment from which this term is considered in case of the continuous contraventions. Moreover, in substance, we appreciate as a result of the analysis of the conditions stipulated by the law for the existence of the contravention retained, that there are doubts related to the achievement of the requirements regarding the guilt of the “ offender ”, since the latter solicited the Competence Council its point of view regarding the legality of the non-concurrency clause, immediately subsequent to its stipulation within the association contract.

¹² T. Popescu, *Administrative Law*, part II, coordinator E. Albu, Fundația România de Măine Publishing House, Bucharest, 2008, p. 187.

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LEGAL REGULATIONS REGARDING OF PUBLIC HEALTH ORGANIZATION UNDER THE ROMANIAN CONSTITUTION

Vasile VOINEA*

ABSTRACT:

THE END OF THE 18TH CENTURY, CHARACTERIZED BY THE DEVELOPMENT OF THE COMMERCIAL ACTIVITIES AND THE INCREASE OF THE POPULATION IN TOWNS, REQUIRED THE CREATION OF CERTAIN HEALTH PROTECTION ORGANIZATION REGULATIONS.

IN THIS PERIOD, THE HEALTH ACTION CONSISTED IN TAKING CERTAIN MEASURES FOR FIGHTING AGAINST THE OUTBREAKS OF INFECTIOUS DISEASES. THROUGH ROYAL ACTS, WE STIPULATED CERTAIN OBLIGATIONS FOR THE DOCTORS, WE SET THE PHARMACIES' SETTING UP AND FUNCTIONING MANNER AS WELL AS THE MANDATORY CHARACTER OF THE CHILDREN' IMMUNIZATION..

ALSO, IN THIS PERIOD, THERE IS A BEGINNING IN WHAT CONCERNS THE ELABORATION OF CERTAIN NORMS REGARDING THE REGULATION AND ORGANIZATION OF THE HEALTH PROTECTION. THUS, IN 1755, ALEXANDRU IPSILANTE SET UP THE „GUARDIANSHIP OF THE ARMIES”, A HEALTH AND SOCIAL ASSISTANCE INSTITUTION WHOSE EXPENSES WERE MET BY THE “CHARITY BOX” FED WITH FUNDS RESULTING FROM THE TAX MAINLY PAID BY BOYARS AND MONASTERIES.

KEY WORDS: CONSTITUTION, PUBLIC HEALTH, PROTECTION

INTRODUCTION

The end of the 18th century, characterized by the development of the commercial activities and the increase of the population in towns, required the creation of certain health protection organization regulations.

In this period, the health action consisted in taking certain measures for fighting against the outbreaks of infectious diseases. Through royal acts, we stipulated certain obligations for the doctors, we set the pharmacies' setting up and functioning manner as well as the mandatory character of the children' immunization¹.

Also, in this period, there is a beginning in what concerns the elaboration of certain norms regarding the regulation and organization of the health protection. Thus, in 1755, Alexandru Ipsilante set up the „Guardianship of the armies”, a health and social assistance institution whose expenses were met by the “charity box” fed with funds resulting from the tax mainly paid by boyars and monasteries. This institution had the obligation to take certain urban, hygiene and public sanitation measures and to carry out the doctors and pharmacists' control.

* Retired, Romania, andravoinea@yahoo.com

¹ G. Brătescu, *Health protection history* (Bucharest: Medical, 1957), 11 and next.

This actually represents the origin of the State organization of the medical care, since from the “charity box” we provided home care for poor patients, creating thus the premises for setting up the first jobs of urban public doctors in the Romanian provinces. In order to defend health, we set up in 1784, the job of official doctor of Bucharest city, who was responsible for supervising the people’s health and to provide medical care to poor patients. In Moldavia, we created three jobs of doctors of Iasi city, which had to provide medical assistance and set up a medical commission, having tasks related to the health activity management all over the country. In Transylvania, certain health organization norms² occur; in this manner, through the „health problems regulation plan” (*planum regulationis in re sanites*) we set up uniform norms concerning the medical activity and the doctors’ control; we created a health commission, having the competence of managing and controlling the health activity.

Through the established norms we implied the condition that the doctors have university studies and we established the doctors, surgeons and pharmacists’ rights and obligations. Yet, at the beginning of the 19th century, we still cannot talk about a real health organization in the Romanian provinces, as a permanent and uninterrupted State activity. There were only certain health institutions in bigger towns which worked in an isolated manner and had the responsibility of providing medical care and fighting against the outbursts of infectious diseases.

1. The Idea of Health in the Romanian Constitution of 1866

Adopting the first Constitution caused the need for elaborating the first law which organized the health service – the Law of the health service³. The general administration for health protection was, according to the law, granted to the Ministry of Internal Affairs, which had the following bodies:

- a. The Higher Health Council assisted by the Veterinary Commission and the Pharmaceutical Commission;
- b. The Higher Epizooty Council;
- c. The Institutes of Chemistry, Bacteriology and the State Vaccine Institute.

The local health bodies were:

- primary care physicians and the public hygiene councils pertaining to prefectures;
- the doctors pertaining to the sub-prefectures;
- doctors in the service of the communes, affiliated to town halls.

The special health bodies were annexed to the general administrations of the hospitals.

The supervision and control of the health services in the country and of all the people’s health were entrusted to the General Health Service Authority which relied on the Ministry of Internal Affairs. The health assistance was conducted in counties and towns by prefects and mayors. The law stipulated medical assistance measures in the villages, the doctors being forced to take measures against the contagious diseases and medical assistance for the patients, the expenses being met by the local budgets. The law included provisions concerning the public hygiene, the health police of food and drinks, of dwellings, of schools etc. The health law of 1874 was modified several times, namely through the laws of 1885, 1893, 1896, 1898, yet no change of conception and organization was recorded⁴. In 1910, a new health law is elaborated⁵ and it brought certain improvements in the health activity, by laying the stress on the medical

² In 1755, in Cluj, the first health school is created, which trained surgery masters and midwives by granting graduation diplomas, while in 1792 it becomes the Faculty of Medicine for training doctors in the fields of medicine and surgery.

³ The law of the health service of 16.06.1874 published in the Official Gazette n° 131 of 1874.

⁴ C. Rarincescu, *The theory of public service* (Bucharest: Ed. Cursurilor litografiate, 1941), 410-25.

⁵ The Health Law of 1910 (named the first law Cantacuzino, the Official Gazette n°211/23.12.1910).

assistance organization in the villages and on the fight against infectious diseases. The characteristic feature of this law is that it included provisions for organizing the entire health activity by choosing two main directions: curative medicine and preventive medicine. The law stipulated the creation of hospitals and isolation wards, rural sick rooms, we set up the Public Rural Health Fund, having the task of supervising and maintaining the drinking water supply, the slaughter of animals in conditions of hygiene. The health law of 1910 underwent modifications in 1911⁶, 1913⁷, 1918⁸. In the field of labour and health protection, we set up the Labour and Social Protection Department which, through the Law of 30.03.1920⁹ became the Ministry of Labour and Social Protection. This ministry was responsible for protecting the labour and social assistance, as well as for organising the medical assistance for the insured persons. The expenses with the medical assistance were met by the insured persons and the employer, in equal proportions. Through a special law of 1921¹⁰, all the health and social assistance services pertaining to all the other ministries were transferred under the control of the Ministry of Internal Affairs, through the General Health Service Authority. Through the Law of 1922¹¹ we set up the Ministry of Public Health, Labour and Social Protection, which took over all the private and public social protection and health services and institutions in the country, which depended on the Ministry of Internal Affairs and the Ministry of Labour and Social Protection.

2. *Public health in the Constitution of 1923*

The Constitution of 1923 did not contain special provisions concerning the public health protection¹². In art.21 it was stipulated that „the law will regulate the social insurance of the workers in case of disease, accidents and other such situations”. When developing this constitutional provisions, we adopted certain laws among which the law of 1928, concerning the women and minors’ work in the industrial enterprises. Through the law of 1923¹³ the Ministry of Public Health, Work and Social Protection is divided into: the Ministry of Labour, Cooperation and Insurances and the Ministry of Health and Social Protection. The new ministry of health took over the General Department of the Health System, the General Authority of Social Assistance and the National Office I.O.V. This form of organization was broadened through another law in 1926¹⁴, when, within this ministry, the General Balneal Inspectorate and the House of Public Health are set up. Afterwards, through the Law of 1927¹⁵, the Health Insurance Fund became a special institution of health action having legal personality, affiliated to the Ministry of Health and Social Protection. In the structure of this ministry we include the Institute for the mother and child’s protection and the assistance of the social dependants. In 1929, a law for organizing the ministries¹⁶ is adopted, through which the Ministry of Health and Social Protection is unified with the Ministry of Labour and Social Assurances becoming the Ministry of Labour, Health and Social Protection. The law of 1930 stipulated in art. 109 that hospitals could only function according to an approval granted by the

⁶ The Official Gazette of Romania n°28 of 8.05.1911.

⁷ The Official Gazette of Romania n°12 of 13.04.1913.

⁸ The Official Gazette of Romania nr°190 of 15.11.1918.

⁹ The Official Gazette of Romania n°21 of 3.04.1920.

¹⁰ The Official Gazette of Romania n°63 of 24.06.1921.

¹¹ The Official Gazette of Romania n°16 of 15.04.1922.

¹² Doina Popescu-Ljungholm, Sănătatea publică în România și Regatul Unit al Marii Britanii (Craiova: Sitech, 2014), 43 and next

¹³ The Official Gazette of Romania n°173 of 4.11.1923.

¹⁴ The Official Gazette of Romania n°268 of 23.03.1926

¹⁵ The Official Gazette of Romania n°81 of 12.04.1927.

¹⁶ The Official Gazette of Romania n°196 of 2.08.1929.

ministry and provided that the medical staff had an endowment and premises appropriate to their purpose.

3. Public health in the Constitution of 1938

For the guidance and control of the medical and protection services the Law of 1939¹⁷ stipulated the creation of a general medical inspectorate in the ministry and 10 medical and social protection inspectorates divided into 10 areas of the country according to the administrative law of 1938. Through the Law of 1939 we set up for the Ministry of Health and Social Protection a central vast and complicated organization, the administrative services being preponderant as compared to those dealing with the medical technical side.

An attempt of remedial in the legal field, concerning the organization of the health protection established by this law, is represented by the law for the State's health organization of 1943¹⁸.

Through this law we tried to gather in a unitary ensemble all the provisions that referred to the health organization, by modifying in the same time the organization of the Ministry of Labour, Health and Social Protection in the sense of the task reduction. By introducing a large decentralization in the health administration we aimed at dismissing the central management and strengthening the health services and institutions in the area.

4. The concept of public health in the socialist Constitutions

4.1. Public health in the Constitutions of 1948 and 1952

The health care system in Romania has been characterized by centralism, egalitarianism and limitation of the option limitation. The first measures taken after the installing of the communist party started in 1948¹⁹ when the privately owned hospitals and nursing homes, as well as the pharmacies, the laboratories and drug stores became state-owned properties, in order to create an unique centralized, politically supervised and monitored medical care system. Through the Decree n° 302/1948²⁰ we nationalized the privately owned medical institutions (hospitals, nursing homes, maternity hospitals); through the Decree n°134/1949²¹ we nationalized the urban pharmacies, laboratories, drug stores; through the Decree n° 418/1953²² we nationalized the buildings in the resorts. The financing of the medical system was provided, according to the art. 25 in the Constitution of 1948 and according to the art.79 in the Constitution of 1952 and was exclusively made from the State budget. The text of the Constitution of the World Health Organization has been criticized by the communist party, which considered that the states' obligation concerning the people's health protection has a vague character and is left to the appreciation of the signatory states.

The health protection was accomplished under the guidance, coordination and control of the Board of Ministers through the Ministry of Health, which put into practice the party policy in the health protection field.

The characteristic feature for the entire communist period was the fact that the socialist state used to organize, guide and manage, through the Ministry of Health, the administration of the public health and it was also the socialist state that carried out, through the State organisations subordinated to the Ministry of Health and people's councils, the health protection activity by providing medical assistance, according to the law.

¹⁷ The Official Gazette of Romania n°269 of 20.11.1929.

¹⁸ The Official Gazette of Romania n°71 in 23.03.1943.

¹⁹ Constitution of the Romanian Popular Republic, Gazette n°87/13.04.1948.

²⁰ Official Gazette of Romania n°256/3.11.1948.

²¹ Official Gazette of Romania n°6/16.05.1953.

²² Official Gazette of Romania n°18/16.05.1953

4.2. *Public health in the Constitution of Romania in 1965*

The Constitution of 1965 stipulated at art.20 that „the state provides medical assistance through health institutions”. The State guaranteed through it the right to health and assumed responsibility for providing public health, through ministries and medical and health institutions. The expenses for health and social provisions were exclusively met by the State budget, which was deducted to the level of the people’s councils. The health protection system relied on the principle of territoriality and the medical constituencies represented the main unit in the healthcare field, as it was believed that it was the only way we could obtain a connection between the doctor and the patients. The Ministry of Health as the central body of the State administration in the health field, according to the legislation in force²³ In order to ensure the carrying out by the Ministry of Health of the tasks for protecting health, the State Health Inspectorate²⁴ was created. This institution was responsible for controlling, guiding and taking measures so as to unitarily apply the health and anti-epidemic norms and instructions, as well as to investigate the environment factors which may have an influence in the people’s health condition. The medical assistance was carried out through: polyclinics, hospitals and nursing homes. Basic medical assistance was provided through *polyclinics*. Polyclinics were structured in the following manner: polyclinics for adults, polyclinics for children, polyclinics for enterprises and polyclinics for students.

CONCLUSION

Before the first Constitution in Wallachia, was created a health regulation, which contained organization and functioning norms for the hospitals. Yet, this regulation has not been applied, as it has been annulled by the Organic Regulations. The Organic Regulations (which entered into force in 1831 in Wallachia and in 1832 in Moldavia), represents the first fundamental law in the Romanian provinces, through which we set State organization principles. In time realized how important is to organized the state according to the separation of powers’ principle (legislative, executive and courts) by creating the Ordinary People Assembly, as a legislative body, consecrating the reign’s life contingency character and foreseeing measures meant to ensure a certain independence for the judges.

Even we can talk about an evolution of the juridical norms concerning the State organization, who created a system of public health protection ,in all history it was many problems ,never enough money for this social system . The actually health system have the same problems because nobody can creat a perfect public health system.

²³ Law n°20/1967 published in the Official Gazette of Romania n°107/9.12.1967.

²⁴ Decree n° 974/30.12.1965 published in the Official Gazette of Romania n° 24/1965.

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PHENOMENON OF ORGANIZED CRIME AND SPECIFICS IT IN THE LIGHT OF CURRENT ROMANIA

Sevastian BLENDEA*

ABSTRACT:

THE CONCEPT OF ORGANIZED CRIME DOES NOT APPLY TO SMALL GROUPS OF CRIMINALS BUT LARGE GROUPS, WELL ORGANIZED CRIMINALS WHO OPERATE IN A RELATIVELY WELL-DEFINED TERRITORY AND MAINTAIN REGULAR LINKS WITH OFFICIAL REPRESENTATIVES OF LEGITIMATE SOCIETY. IN THE WEST ORGANIZED CRIME REFERS TO GAMBLING, PROSTITUTION, ILLICIT SALE OF LIQUOR DISTRIBUTION NETWORKS DRUGS, MOVIES AND ESTABLISHMENTS PORNOGRAPHY, SCAMS LARGE SCALE EXTORTION OF FUNDS FROM CERTAIN ORGANIZATIONS OR CERTAIN INDIVIDUALS, TO ENSURE A SO-CALLED "PROTECTION" ONEROUS LOANS FROM MONEYLENDERS, THE SALE OF STOLEN GOODS, SMUGGLING AND THE EXISTENCE OF LEGITIMATE BUSINESS PURPOSES OF "MONEY LAUNDERING". THESE ACTIVITIES VERY PROFITABLE, COULD NOT TAKE PLACE WITHOUT THE PARTICIPATION OF THE INTERESTED GENERAL AND REPRESENTATIVES OF THE LAW AND EVEN A PART OF THE POPULATION. SO, ORGANIZED CRIME COULD NOT BE PRESENT WITHOUT CORRUPTION OF PUBLIC OFFICIALS WHICH INCLUDE POLITICIANS, POLICE, PROSECUTORS, JUDGES ETC.

ANOTHER FEATURE OF ORGANIZED CRIME REFERS TO THE FREQUENT COOPERATION WITH HONEST CITIZENS. BECAUSE TYPE CRIMINAL ORGANIZATIONS OFFERS FREQUENTLY, "SERVICES" OF THAT PERSON, SO PEOPLE ARE OPPOSED, OFTEN, POLICE INTERVENTIONS OR OTHER REPRESENTATIVES OF LAW IN ORDER TO DEVELOP STRONG ACTION AGAINST THESE UNLAWFUL. THE INTERMINGLING OF ILLICIT ACTIVITIES WITH THE LAWFUL COOPERATION OF MEMBERS OF CRIMINAL ORGANIZATIONS AND THE HOLDERS OF POWER AND ILLICIT REQUESTS FOR SERVICES TO THE PUBLIC FROM ORGANIZED CRIME ARE ONE OF THE MOST DIFFICULT AND COMPLEX PROBLEMS CAN NOT BE SOLVED BY TRADITIONAL MEANS.

KEYWORDS: ORGANIZED CRIME, CORRUPTION, ANTI-CORRUPTION STRATEGY, INTEREST GROUPS, PRESSURE GROUPS.

1. THE CONCEPT OF ORGANIZED CRIME

This notion raises difficulties of definition¹, in some countries, is equivalent to murder a professional, committed by criminals "career", other countries, targeting all illegal activities which lead to the same extent criminal organizations of a state, organizations that transcend national borders, to operate internationally and even the state itself (as in the case of state terrorism.) For example, Alfred Lindesmith (1965) defined organized crime as a "crime usual professional ... involving a system of relations defined Specifically mutual obligations and

* Associate professor from "Constantin Brancusi" University of Tg-Jiu, Romania, E-mail: sebib2005@yahoo.com

¹David Sue, Derald Sue, Stanley Sue, *Understanding Abnormal Behavior*, third edition, (Boston: Houghton Mifflin Company, 1990), 332-340.

privileges ", while Edwin Sutherland and Donald Cressey (1955) defined it as" the association between a small number of criminals to execute a particular type of crime. "

A report of the Presidential Commission on Law Enforcement and Administration of Justice in the US, established in 1967, defined organized crime as a type of "company seeking to operate outside the control of the people and the American government." According to the report, representatives of organized crime operating within an organizational structure complex where there are rules even more rigid and strict than those of a legitimate organization. Subsequently, another report, this time belonging to the Task Force against organized crime, special body of the Committee of National Consultant about the standards and goals Justice Crime in the US, revealed the following characteristics of organized crime:²

- Organized crime is a crime type combination, involving hierarchical coordination of a number of people to plan and execute illegal acts or to pursue a legitimate aim by means outside the law;
- The main purpose of organized crime is to obtain economic gains, although some of its participants may have the objective of acquiring power and higher social positions;
- Phenomenon of organized crime is not limited to business services clearly illegal or unlawful, such as gambling, prostitution, drugs, extortion or usury loans with funds. This phenomenon includes also complex activities including money laundering through legitimate businesses, scams property infringement and handling computers;
- To achieve its goals and preserve gains, using organized crime tactics robbery, seizing and extorting using means such as: bullying, violence and corruption;
- By experience and practice habits, combined organized crime groups are usually very prompt and efficient in relation to control and discipline their members, associates and victims. Therefore, participants in organized crime are not able to detach themselves, in combination, are basically incapable of going on the right track;
- Organized crime is not synonymous with the Mafia or La Cosa Nostra, which are the most experienced, diversified and possibly most disciplined of combinative groups;
- Organized crime are not part of the terrorists involved in political change, although members of criminal organizations and terrorists have a few common characteristics, in particular, the types of crimes and strict organizational structures.

Above mentioned report, as observed, avoid taking into account the organized crime and criminal organizations those activities which transcend national borders, focusing primarily on crimes committed by criminal groups within the state.

In contrast to this report, and Robert Marshall B. F.Meier³ deemed Clinard. General characteristics of organized crime are:

- Hierarchical, involving a well-defined system of relations on mutual understanding of the obligations and privileges of members;
- Political or geographical boundaries Unlimited - Inside or intervilane; intrastate or interstate;
- Dependence of :
 - possible use of force and violence to maintain internal control and to restrict competition;

²David Sue, Derald Sue, Stanley Sue, *Understanding Abnormal Behavior*, 333.

³Marshall B. Clinard, Robert F.Meier, fifth edition, *Sociology of Deviant Behavior*, (New York: Hoit Rinehart and Winston, 1979), 227-228.

- achieve and maintain permanent immunity against interference labor laws and other governmental agencies;
- Criminal operations directed to result in significant financial gains and specialization in one or more business combinations that fall within the areas of social deviation on which public opinion is divided;
- Establishing a monopoly or control of spheres of influence between or among different criminal organizations.

Also, William J. Chamblis⁴ emphasize that the concept of organized crime has a wider scope than that which includes the actions of criminal organizations within a single national territory. Considering that only the public and the press in particular have accredited the idea that organized crime refers to the activities of a tight-knit group of individuals, "usually foreigners and in particular Italians," the author pointed out that the myth of the Mafia and Cosa Nostra has little to do with the realities of organized crime in America today. In his view, one can speak of the existence of well-structured organizations whose activities are conducted both inside and outside the country, such as smuggling of illegal goods (weapons ammunition). These organizations "are as dynamic as the business world and consist of networks of individuals including police, politicians, and ordinary citizens who invest in the illegal enterprises to achieve a tenfold profit."

Starting from the depicted we conclude that there two main views ways in which organized crime can be defined:

- a) *legal* point of view - that of organized crime as a whole illegal actions initiated by one or more criminal organization aimed at obtaining money or power;
- b) *social-economic* point of view - that the organized crime is "an integral part of social, political and economic development of a nation"⁵ and that a mix of legitimate and illicit goods and services that provide citizens licit and illicit.

What is common to both points of view, is that both posits the idea that the phenomenon of organized crime requires:

- A specific organizational structure;
- The protection offered by corrupting officials;
- Goods and services provided to the public.

American Encyclopedia of Crime and Justice (1983) defined organized crime as a "persistent form of criminal activity that has a clientele that demands public goods and services defined as illegal. It is a structure or network of individuals generating or supplying these goods and services, using the capital to expand into other activities and corrupt legitimate or illegitimate with which public officials earn their protection".⁶

Recourse to legally prevalence of the idea of the existence of a national or international union of organized crime, sponsored by the Mafia or Cosa Nostra, adversely affecting the activities of organized crime control and prevention, because:

- Preclude a uniform definition of organized crime in various countries;
- Focusing efforts rather on detecting underground world of criminals than on measures to change the system.

⁴William J. Chamblis, *Exploring Criminology*, (New York: Macmillan Publishing Company, 1988), 86-88.

⁵David Sue, Derald Sue, Stanley Sue, *Understanding Abnormal Behavior*, 333.

⁶Francis A. J. Ianni, Elisabeth R. Ianni, *Organized Crime*, in Sanford H. Kadish (edit.), *Encyclopedia of Crime and Justice*, (New York: Macmillan, 1983), 196.

2. THE MAIN ACTIVITIES IN DOMAIN OF ORGANIZED CRIME

Organised crime covers a multitude of areas licit or illicit, the main income of members of criminal organizations from the activity of dispensing drugs, trafficking in arms and military equipment, tobacco smuggling, prostitution.

These domains may be added:⁷

- Illegal gambling, particularly sports betting matches with professional character, initiating "lottery" dubious etc .;
- Systematic extortion of money from individuals or organizations in order to "protect" against violence;
- Lending huge interest to people who are in desperate situations;
- The sale of stolen goods in consignments;
- Seizure of pornographic materials market;
- Committing fraud through computers;
- Controlling the activity and union funds, allowing criminal organizations to blackmail employers, threatening them with the possibility of triggering strikes.

Organised crime does not cover but only illicit activities, assuming and carrying out legal activities in legitimate businesses that allow "laundering" money, such as purchases of business law, acquisitions and property sales, trade in goods retail, transport, hotel network, food, garbage collection etc. However the most common legitimate business in which organized crime is involved.

The main routes through which members of criminal organizations may be involved in the work of legitimate businesses are:⁸

- Use these enterprises as "facade" to hide illegal activities;
- Parasitic exploitation for purposes of robbery, asking them their money employers to ensure protection;
- Organizing monopolies or cartels in order to limit competition;
- Acquiring illegal advantages through practices such as manipulation and corruption of public officials unions;
- Illegal manipulation of vehicles permitted by law for transport of goods.

Also, a way of unlawful use of such firms or legal business is the bankruptcy "planned" allowing cancellation "debt" owner (loans from the bank, goods purchased but not paid) and thus ensuring substantial profits, irrespective of any following legal sanctions accordingly.

3. COMPARISON BETWEEN ORGANIZED CRIME AND 'WHITE COLLARS CRIME'

The term "white collar crime" was used for the first time criminologist Edwin Sutherland, this notion referring to crimes committed during their work by people defined by a high and responsible position.

Offences white collar are of two kinds: a) crimes "organizational" (committed in the name of corporations or organizations) and b) crimes "occupational" (committed against the interests of corporations or organizations for the benefit of a member of these corporations).⁹

⁷Marshall B. Clinard, Robert F.Meier, *Sociology of Deviant Behavior*, 230-232; Larry J. Siegel, *Criminology*, third edition, St. Paul, (New York: Los Angeles, San Francisco, West Publishing Company, 1989), 336-338

⁸Merry Morash (1986), *Organized Crime*, in Robert Meier (ed.), *Major Forms of Crime*, (California: Beverly Hills, Sage), 198.

⁹Dan Banciu, Sorin M. Rădulescu, *Corupția și crima organizată în România*, (București Editura: „Continent XXI", 1994), 39-42.

Organizational offenses are: the sale of adulterated or defective products endangering lives and health, manufacturing gerrymandering to keep a product on the market, counterfeiting turnovers corruption. Acts of embezzlement, fraud, forgery and any action prejudicial to the interests of a corporation to satisfy personal interests of an employee constitutes employment offenses.

Because, in general, organized crime can not function without corrupting officials, between it and white collar crimes are a number of similarities:

- Both corrupt public officials use to maximize the benefits;
- Both use illicit means to achieve the goals;
- Both cooperate to satisfy mutual interests.

The difference between organized crime and "murder white collar" is not so much the type of activities as in their methods main achievement. The main methods that characterize organized crime and distinguish it from offenses white collar as violence, blackmail, threats and other illegal obtaining profits.

4. EXPLANATION OF THE DIFFICULTIES OF APPROACH AND INTERPRETATION OF THE CONCEPT OF ORGANIZED CRIME

The concept of organized crime poses a number of difficulties of approach and interpretation of the nature and content, and this is reflected in:

- Great variety and diversity of definitions is given and not a unitary character but also involves features and special features which can not be highlighted;
- traditional criminological categories;
- Difficulties in estimating the extent and dimensions of this type of crime;
- The limited use of conventional criminological methods for collecting relevant data in this field.

Organized crime is associated with frequent following features: scale territorial actions, the high degree of organization and structuring hierarchical networks and members, the amount of extremely high profits obtained illegally, choosing the most effective means to achieve the goals and merge illicit activities and licit.

Highly profitable activities of organized crime could not carry out without the interested party and contest off of some politicians, officials or representatives of law and without the support of part of the population. Given that organized crime members receive constant support of representatives of the law, efforts to combat and prevent organized crime will be greatly discouraged and directed in other directions. Therefore, the fight against organized crime can not be separated from the fight against corruption great state officials or other official authorities.

The two points of view on the definition and interpretation of organized crime - legal and sociological - have a number of implications for the interpretation and combating organized crime. The legal point of view, while not ruling out legal action nature, emphasizes the *illegitimate society*, causing focusing efforts solely to identify underworld criminals. Sociologically, while not ruling out unlawful actions, emphasizes *the legitimate society*, causing focusing on social and economic changes and the locking system and reforming the mechanisms that determine the genesis and operation of organized crime. Prevalence legally make efforts to prevent and combat organized crime to focus almost exclusively on policies and penalties, avoiding legislation economic and social actions to reform the economic system.

The concept of organized crime different from the concept of crime individual (ie crime) because it refers to organizations and not to individuals and that does not involve a mix of illicit but a "synthesis" of illegal actions and lawful initiated by many organizations aiding illicit and licit. It also differs organized crime and so-called crimes (offenses) that circumscribe

organizational or corporate, in their entirety, offenses "white collar". The difference lies mainly in their methods. In this respect, the main methods used by organized crime and that distinguish it from the organizational are: violence, blackmail, threat, physical suppression and other illegal means. As for similarities, both resort to illegitimate means to achieve their goals.

Both for organized crime and crime in the organizational notions of individual responsibility and causation criminological not operated for several reasons:

- In any organization, legal or illegal, complex mechanisms of hierarchical power sharing, conceal, often individual responsibilities of decision makers;
- An organization of type criminal acts of its members are not determined by individual subject motives, but by the standards of a subculture criminality, which are not developed by a single individual but by a group dominant in which responsibilities and decisions are dispersed and slightly transparent to outsiders such an organization;
- Because a criminal organization undertakes both legal and illegal, is very difficult to distinguish between its goals formal (legitimate) and actual (illegitimate) serving formal purposes only "facade" for concealing the real ones;
- Many of the illegal acts taken by a criminal organization are extremely difficult to prove and criminalized.

The offenses falling under organized crime are closely related to a legitimate company, using its structures and resources, including power resources for the benefit of criminal organizations representatives.

Thus many of ambiguity, uncertainty and weaknesses laws allow for great freedom of "maneuver" public official who can ignore some regulations can be interpreted, will, more often than not in the interest of citizens, but to satisfy private interests.

Some offenses of organized crimes are possible for those involved in it are even those who define or control, in that they run the control and prevention of organized crime and they are all subject to this control.

Often, representatives of organized crime ties with the legitimate representatives of the company stands at extremely high levels, allowing some high state officials make important decisions and use of power resources to meet the interests of members of criminal organizations.

Because often even the economic activity of the state is dependent on the activity of private organizations, many of them belonging even criminal organizations, the latter can circumvent the control exercised by the state, the more that have great power and influence economic and even political.

Circumvention in profitable purposes of the law, is favored by a segmentation of the various instances of social or legal control, operating, most often separately, or even enter into conflicts of jurisdiction. Illustrative in this respect, the relationship between DNA in Romania, Financial Guard, Police Economic Court of Auditors, ANI, among which, often, institutional conflicts prevail over efforts to fight economic crime nature.

Close relations of leaders of economic organizations statutory nature, but also using illegal means, representatives of executive power, it offers the possibility of the former to hide records or to submit selectively, thereby exerting a control over the type and the kind of information that It is given control bodies.

The very existence of democracy as the best system of government is not in itself a guarantee against the proliferation of organized crime, the latter developing into the imperfections of democracy. Being open and tolerant, democratic systems are vulnerable to mix legal and illegal, licit, illicit, which defines the essence of organized crime and against the corruption that protects its members from the sanctions law.

Even, the reform process implicitly justice reform, can have an effect contrary to the desired effect, since any process of development or restructuring creates irregular situation posing a conflict rules, principles and laws which can be often an opportunity the proliferation of organized crime.

The eradication of organized crime is not only possible through normative radicalization by multiplying broken criminal laws or policies of social policy. Organised crime in Romania are not due both criminal policy, and, especially, social and economic policy, which by the way is developed and applied generates discrepancies and inequalities, discrimination privileges for some and for others. Obviously, given that organized crime emerged with the genesis of capitalism as a social-economic system, Romania will face progressively with the climb this phenomenon, which is part of the "costs" of mandatory rules of the democratic game and economic market .In Romania, the transition meant a transition strategies and methods used by criminal organizations, which is why the fight against organized crime can no longer wear traditional means of justice. Romania's alignment with market economy requirements determined and determined yet, the emergence of more competitive economic interest groups which have large financial resources and to realize these interests using all manner of illicit means (illegitimate) between corruption is a primary means.

5. SPECIFICS OF CORRUPTION AND ANTI-CORRUPTION STRATEGY IN ROMANIA

In Romania, the phenomenon of corruption does not occur only at strictly economic, that the relations between operators, but extends to the level of senior officials and state officials, who instead of serving public interests served, in fact, private interests of groups or of citizens. Therefore, we can say that in Romania, the phenomenon of corruption has also a political dimension.

The frequent emphasis according to which Romania is a country with high corruption but not corrupt highlights, in fact, poor effectiveness of relevant institutions in identifying and sanctioning officials and politicians who have committed or been involved in corruption. Except for giving and taking bribes, influence peddling, abuse of office, Criminal Code of Romania does not, to the 2009 adoption of the concept of corruption, only referring to sexual corruption of a minor. It was not until the 2009 Criminal Code introduced a special chapter which refers explicitly to corruption offenses and service.

Corruption can be defined as an abuse of authority or power, involving the use of public office to obtain benefits, making it the intersection between the public sphere and the private sphere of authority.

It is closely related to the mechanisms of power and pressures on public servants to meet illicit favors the phenomenon of corruption exists in all societies, having thus universal, but national peculiarities.

Because legal norms are divergent and conflicting answers, showing some misunderstandings and ambiguities, we can say that Romania is in a crisis in the administration of law and justice. Such circumstances provide a great public servant for maneuver, which may ignore or interpret certain regulations in his personal interest. However, its position, the civil servant has access to a number of special information which, if realized, I can bring important benefits. The higher the position of general officer, the risk identification and punishment is lower.

The results of opinion surveys on public perception of corruption conducted by the Sociology Institute of the Romanian Academy in 2003, shows that the main causes of corruption in Romania genesis and amplification are:

- Authority and credibility crisis of authority and institutions;

- Lack of competence and determination of the political authorities and the state in exercising tighter control on the behavior of economic agents;
- Lack of political will to sanction corruption (absence or mildness of sanctions);
- The state of chaos, disorder and anarchy in the country is;
- The direct involvement of representatives of political and state authorities in corruption;
- Extending the scope of corruption in key institutions (government, parliament, presidency, police, justice, etc.);
- Ineffectiveness of the functioning of institutions in Romania;
- Perpetuation of the old communist structures in the sphere of the old regime and privileged involvement in illicit business;
- "Thirst" of political power at the top of the social pyramid people, even at the risk of tolerating corruption;
- The slow pace and poor style printed authorities privatization process.

Also, the results of the same survey highlights that for part of the population, corruption is an "enemy" of reform, while another category of the population, it is an "ally" of the same reforms identified with himself the reform process, so that any restructuring effort in no other purpose than enriching "favorizaților" political regime in Romania.

In 2004, the National Institute of Criminologie in collaboration with the Sociology Institute of the Romanian Academy have conducted research on "Public perception of corruption in Romania in the transition period" findings of the investigation showing that the Romanian population perceives the phenomenon of corruption as a social problem very The crisis that has many implications both for proper system operation social, economic and political as well as social category-specific quality of life.

Studies of the perception of corruption is one of the most important tools to measure "indirect" corruption, given that there are no means capable of assessing the intensity of this phenomenon real. Also, these studies have an important role to implement anticorruption strategies because it contributes to quantify the efforts to combat and prevent this phenomenon.

Apart from involving illegal and immoral phenomenon of corruption has a number of negative effects on the development process, helping to braking and economic capital investments and to an increase poverty and inequality. What must be stressed, however, it is that despite the efforts of social control factors, anywhere in the world, corruption can not be eliminated entirely. Therefore, efforts must be directed not so much to eliminate corruption but for keeping it under control, so that they become morally unacceptable and punishable by legal means. What assume control of corruption is a particularly social effort and orientation of the various institutions of social control actions in a unified direction.

In Romania, they have created the basic conditions of a national anticorruption strategy, consisting in developing mechanisms, standards, documents and action plans for combating and preventing corruption. However, there were still recorded outstanding results in fighting corruption.

According to the audit conducted by Freedom House, in 2005, the Romanian government actions to combat corruption, this area has the following vulnerabilities:

- Lack identify and address key issues and priorities in combating corruption, given that an *assessment* was not carried out before completing the details of the national action plan;
- Too much emphasis placed on the adoption of new laws and regulations, rather than the existing *impact analysis*;
- *Poor coordination* between different existing laws;
- *The non-inclusion of certain areas and major institutions in anti-corruption strategy*;

- *Poor coordination* of the implementation of anti-corruption strategy in general, because, among other things, the existence of too many mechanisms and institutions involved in the fight against corruption.¹⁰

According to experts any anti-corruption strategy must propose (at least) three main objectives: a) identifying risk factors; b) the ability to unite in a unified effort in the area of prevention, all mechanisms and institutions involved; c) public education and changing attitudes through a more effective mobilization of civil society. Romania has created the basic conditions to implement these objectives, following the relevant institutions to continue to fight the scourge of corruption.

¹⁰ Jennifer Windsor (coord.), *Politice anticorupție ale Guvernului României. Raport de Evaluare*, (Washington: D.C. Freedom House Inc, 2005)

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ENHANCING MOTIVATION FOR READING IN ENGLISH AS A FOREIGN LANGUAGE

Anca-Irina CECAL*

ABSTRACT:

RESEARCH HAS DEMONSTRATED THE PROMINENT ROLE OF THE TEACHER AS A MOTIVATOR IN THE ENGLISH AS A FOREIGN LANGUAGE CLASS. POSITIVE MOTIVATION IMPROVES STUDENT COMPREHENSION AND ASSIMILATION OF ENGLISH BOTH BY EXPOSURE TO THE SPOKEN LANGUAGE AND THROUGH ENHANCED IMMERSION INTO EXTENSIVE READING. OUR STUDY INTENDS TO SHOW THAT MOTIVATION HAS AN ESSENTIAL ROLE IN DEVELOPING THE READING SKILLS THAT THE YOUNG GENERATION IS IN GREAT NEED OF TODAY AND THAT LANGUAGE INSTRUCTORS CAN HAVE A SIGNIFICANT IMPACT ON STUDENT MOTIVATION FOR READING. THE INTRODUCTORY PART WILL DISCUSS INTERPRETATIONS OF THE CONCEPT OF MOTIVATION, WHILE THE REST OF OUR PAPER WILL REVIEW RESEARCH ON MOTIVATION FOR EFL READING AND LEARNING, AS WELL AS FOCUS ON IN-CLASS MOTIVATION DEVELOPMENT. WE WILL CONCLUDE BY PROPOSING A SET OF PRINCIPLES TO WORK WITH WHEN DESIGNING CURRICULA AND LESSON PLANS WHICH ATTEMPT AT REVIVING STUDENTS' PASSION FOR READING IN EFL.

KEY WORDS: MOTIVATION, READING, EFL (ENGLISH AS A FOREIGN LANGUAGE), SKILLS

In the current social and global context, students seem to be overwhelmed by the amount of information they take in each day, especially via the online media. Our experience as educators has pointed to the fact that even though, on the one hand, over-exposure to virtual information alone cannot quench the thirst for deep knowledge, on the other hand it appears that many members of the young generations have gradually lost their taste for the pleasure of reading and for using reading as a self-development tool.

In the case of foreign language learning, reading could most likely be considered, besides the conversations with native speakers of English in authentic contexts, one of the most efficient methods of vocabulary acquisition, grammatical structure validation and cultural immersion. English has become an international communication device for quite a long time, but sadly and paradoxically, its quantitative use has been increasing to the detriment of the quality of the language employed in everyday speech and writing.

As the four skills – listening, speaking, reading and writing - are intimately correlated and interdependent, the scarcity of reading practice is reflected in the quality of speech, in the

* Lecturer, PhD, The Faculty of Economics and Business Administration, "Alexandru Ioan Cuza" University of Iași, e-mail address: ancacecal@yahoo.com

depth of comprehension and in the efficiency and accuracy of productions in writing. In the absence of reading, extensive exposure to colloquial English alone most often cannot guarantee progress in the assimilation and use of the formal or even the academic linguistic registers, and it is not rare when the quality of basic conversation suffers obvious negative alterations. Under the current circumstances in which language instructors face the effects of the poor reading practice of their students on a daily basis, it is paramount that the English teacher should play a prominent role as a motivator in increasing the quantity and quality of reading both in class and outside class.

A good understanding of motivation is a first and foremost condition for a successful impact of the language teacher as a motivator. It is not an easy task to review definitions and explanations of motivational concepts, because they are so numerous that people interested in studying motivation may become confused or bewildered by the many aspects it involves (see Murphy & Alexander, 2000; Ryan & Deci, 2000; Schunk & Zimmerman, 2006). Speaking from a psychological point of view, some theorists say that “To be motivated means to be moved to do something... Someone who is energized or activated toward an end is considered motivated.”¹ Other researchers consider that “Motivation deals with... the choices individuals make about which activity to do or not to do, their degree of persistence at the chosen activities, and the amount of effort they put forth to do the activity.”²

While there is no single theoretical frame of motivation, there are certain general criteria that most researchers agree on as forming a workable definition of the concept. Motivation implies a set of values, beliefs, expectations, which usually focus on a combination of interest, self-regulation, goal-setting, efficacy, and involves a range of specific behaviors, such as engagement, persistence, and strategic problem-solving. Motivated individuals are optimistic, self-aware, self-confident and willing to work on difficult tasks. They want choice in controlling their environment and their learning, expect success, find pleasure in their work, and are proud of their achievements. Positive motivation is what activates effective learning behavior.³

Research on teaching motivation and the impact of motivation on learning, on study results and on success is a wide-spread topic among educational psychologists and language instruction theorists. J. Guthrie, for instance, emphasized that motivation research has demonstrated important findings related to reading development.⁴ He found that students with high intrinsic motivation reported a better use of comprehension strategies and improved comprehension of science texts.⁵ Research results made it obvious that students who are intrinsically motivated read more, and students with greater exposure to printed texts demonstrate improved comprehension and vocabulary growth.⁶ Therefore, it can be inferred that motivational factors have a notable influence on reading comprehension and the outcomes of reading practice, both directly and indirectly, which holds true for reading in EFL as well.

Until the 1990's, studies on motivation for EFL learning had been pervaded by R. Gardner's social-psychological theory of integrative and instrumental motivation (see, for

¹ R. Ryan and E. Deci, “Intrinsic and extrinsic motivations: Classic definitions and new directions”, *Contemporary Educational Psychology* 25 (2000), 54

² A. Wigfield, “Facilitating children's reading motivation”, in *Engaging young readers: Promoting achievement and motivation*, ed. L. Baker et al. (New York: Guilford Press, 2000), 140-141

³ J. Guthrie and A. Wigfield, “Engagement and motivation in reading”, in *Handbook of reading research*, ed. M. Kamil et al. (Mahwah, NJ: L. Erlbaum, 2000)

⁴ J. Guthrie and K. Knowles, “Promoting reading motivation”, in *Literacy and motivation: Reading engagement in individuals and groups*, ed. L. Verhoeven & C. Snow, (Mahwah, NJ: L. Erlbaum, 2001)

⁵ Guthrie and Wigfield, *Engagement*

⁶ J. Guthrie et al., “Motivational and cognitive predictors of text comprehension and reading amount”, in *Scientific Studies of Reading* 3 (1999)

instance, Gardner, 2002).⁷ According to his theory, integrative motivation implies an individual's aspiration to identify with the target culture and adopt the language of the target culture, while instrumental motivation is associated with all the other reasons for learning the target language. Subsequently, it became obvious that different groups of language learners, from different social, geographical and ethnographic contexts generate fairly diverse profiles in terms of their motivation for language acquisition.

Our previous teaching experience in the Romanian university environment points out to the fact that the development of reading skills by students in EFL contexts does not seem to be as much influenced by social-identity factors as rather by academic factors and aspects pertaining to classroom settings, which are related to goals, interest, self-efficacy and intrinsic/extrinsic motivations. Aspects like student competence, autonomy in language use and the ability to network seem to be essential motivational factors in improving language learning skills in general, and reading skills in particular. These factors may be gradually enhanced when the language teacher adopts careful direction and instruction build-up, effective feed-back, supportive collaboration and activity coordination, as well as objective assessment among the attitudes which encourage a sense of acceptance and reward in students.

In his study on reading motivation, W. Grabe interestingly posits that "Research instruments and case-study investigations need to be designed to address reading abilities and motivations for reading. They should not be influenced by issues of ethno-linguistic identity, travel, friendship, a desire to communicate, or use of communication strategies. In reading development contexts, learner motivations need to explore issues of (a) reading interest; (b) the desire to read extended texts; (c) persistence at reading; (d) acceptance of academic challenges; (e) reading engagement; (f) the willingness to learn content from texts; (g) reading strategically; and (h) reading for enjoyment."⁸ We cannot adhere entirely and wholeheartedly to Grabe's opinion, since our experience of teaching EFL to Romanian students has revealed issues like travel, friendship, the desire to communicate for enjoyment purposes or in work-related contexts as key factors in building motivation for enhancing reading skills. These even seem to be aspects that teachers tend to draw on in attempting to help their students improve their motivation for reading both quantitatively and qualitatively in English.

Many EFL students, including Romanian ones, adopt a rather pessimistic view of becoming good, fluent readers in English, especially if we have in mind formal and academic linguistic registers. Students tend to consider reading development as hard work, and this is precisely where the role of the language instructor becomes a quintessential one in providing effective motivational support and designing curricula which include attractive reading activities that are tailored to students' particular needs. Research reports consulted (listed in References) generally indicate that what happens in the classroom on a regular basis has a very significant impact on students' reading motivation. While motivation may be promoted in multiple ways, three majors themes seem crucial to its development in classroom contexts. Thus, language instruction should focus on:

- allowing successful task outcomes by students on a regular basis;
- promoting student autonomy; and
- supporting student collaboration.

Teachers should encourage a pleasant, creative atmosphere in class and ensure that students regularly experience success. They should also allow a certain degree of choice in students' instruction in order to boost their engagement in the learning process. Finally, they

⁷ R. Gardner, "Social psychological perspective on second language acquisition", in *The Oxford handbook of applied linguistics*, ed. R. B. Kaplan (New York: Oxford, 2002)

⁸ W. Grabe, *Reading in a Second Language: Moving from Theory to Practice*, (Cambridge: Cambridge University Press, 2009), 189

need to pursue the development of positive student-student and student-teacher relationships, and find creative methods of evaluation that improve confidence and stimulate motivation for progress. The pre-reading, reading and post-reading activities included in the EFL course support should be designed in such a way as to target the specific instruction needs and interest areas of the student target group, and they should invite to further study and practice.

A tentative list of teacher practices that are useful in promoting reading motivation could, perhaps, help language trainers and teachers in achieving superior results in bringing the reading skills of their students to a higher level. Here are a few items that could be part of this open list:

- encouraging students to share their interests;
- creating a pleasant classroom environment and stimulating group cohesiveness;
- communicating the usefulness of reading tasks;
- promoting effective goal setting and expected outcomes;
- making performance expectations clear;
- matching student skills with challenges;
- building students' self-confidence;
- making the curriculum relevant to students;
- including good lead-ins to all texts and reading tasks to stimulate initial interest;
- promoting active student participation and interactive learning;
- involving learners in decision-making related to reading tasks and goals;
- providing support with difficult texts, vocabulary items, tasks;
- giving motivating feedback on task completion and learning progress;
- encouraging students to read more extensively, both in school and at home.

By incorporating all or some of these suggestions in their teaching, and finding their personal ways of increasing motivation as well, EFL instructors will probably notice encouraging results in the development of students' reading skills.

Motivation for reading is a key aspect in the students' endeavor to enhance their reading skills and in their persistence in overcoming any limitations in becoming proficient readers in English. Learners of EFL only become skilled readers when they read extensively, and the role of the language instructor as a motivator is crucial in supporting students to meet this noble challenge. Further research into motivational factors in EFL learning and reading development could lead to the inference of inspirational practical techniques of stimulating reading motivation with different target groups of learners.

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FEATURES OF THE PSYCHOLOGICAL NOVEL OF JOHN STEINBECK

Mirabela Rely Odette CURELAR*

ABSTRACT:

THE NOVELIST CAREER OF JOHN STEINBECK MAINTAIN HIM CONSEQUENTLY TO THE END OF A PROCESS INVOLVING FIRST A DELIBERATE DISTANCING FROM THE OBJECT REPRESENTED. BUT ALTHOUGH THE WRITER INTENDS TO GIVE THE IMPRESSION OF A LOYAL REPORTER IN THE TRANSPOSITION OF THE FACTS HIS NOVEL REVEAL A COMMENT WHICH IS NOT ALWAYS WELL CONCEALED. AS IT IS KNOWN, OF THE TRADITIONAL NOVEL IT IS CHARACTERISTIC THE AUTHORIZED VOICE OF THE AUTHOR. REFUSING THE DIRECTLY COMMENT, BUT STEINBECK USES A FORMULA THAT REALLY COVERS THE AUTHOR'S VOICE, ALTHOUGH NOT ONLY DID NOT REDUCE THE MORALIZING ACCENTS, BUT RATHER AMPLIFIES THEM. USUALLY HE USES AN INCIDENT FROM THE LIFE OF ANIMALS, WHICH, INSERTED INTO NARRATIVE APPARENTLY WITH THE AIR OF IMPARTIALITY USUAL DOES IS TO SHINE FROM THE POINT OF VIEW OF THE AUTHOR, CERTAIN SIDES OF THAT LIFE PRESENTED OR OF THE CHARACTERS INVOLVED IN ACTION.

KEY WORDS: PSYCHOLOGICAL INTROSPECTION, OBJECTIVITY, DRAMATICALLY, SUBJECTIVE EXPERIENCE, NARRATIVE THREAD.

INTRODUCTION

John Steinbeck was a laureate of the Nobel Prize for Literature in 1962 and has often been associated with the character that categorically refuses the intervention of the author and the psychological introspection, using a rule to observe accurately the behavior of the character in front of a given situation, presented it with the same care for objectivity. How the method seems to work on an "impartial" of the camera, they are often in the description of the terms of cinematography.

Compared to the character, the characteristics mentioned above indicates the method for narrative as being as a complementary technique inner monologue from the novel of modern psychological, while the latter aims to build the character through amazement in a manner varied of a series of inner experiences, narrative methods of Steinbeck marking leads through its external manifestations. In both cases the possibilities of dialogue are used to the maximum, what made that the term to characterize equally both the dramatic of narrative. His approach falls within the broader trend of our century novel, whose author's preference for removing voice is well known. In fact, contemporary fiction narrative encourages various combinations of the processes instead of resorting exclusively to one or the other of them, as it happened with Virginia Woolf and Hemingway.

* Associate professor PhD, „Constantin Brâncuși” University of Târgu Jiu, România, odette.sheilla@yahoo.com

Steinbeck is shown rather as a supporter of the traditional psychological novel than an innovator in American novel,. His novels remain within the boundaries of onset common story. Only after 1935, its expressed his intention to catch the character's reactions in a certain kind of observation that equal precision and brevity.

FEATURES OF PSYCHOLOGICAL NOVEL

The theory called by Steinbeck "is thinking" is developed in collaboration with Edward Ricketts and based on observations in the field of marine biology, where Ricketts was a passionate researcher. Sea of Cortez (Cortez Sea), written with Dr. Ricketts after a six-week trip on the couple taken in the Gulf of California to study marine life, contain a concise statement of the theory "is thinking".

Steinbeck is a supporter of eliminating the comment and also of any psychological analysis starting In the *Dubious Battle* (Battle, 1936). Throughout the book, the characters are seen from the outside, seen at the same distance movements, gestures, facial expressions. In *Dubious Battle* the dialogue resorting but to a large extent; In fact, significant portions of the book appear as scenic writer adopting some cases even own a theater punctuation. From here results the weight of idiomatic expression. Since In the *Dubious Battle* Steinbeck chooses his characters from among the farm workers, as it would do otherwise and *Of Mice and Men* (Of Mice and Men, 1937) and *The Grapes of Wrath* (1939) and, on the other hand, tends to a high degree of faithfulness in transposing appear explicitly linguistic particularities of its speakers.

Of Mice and Men is a dramatic building and can be more pronounced than the others. Initially, the work is conceived as a play-novel, in which Steinbeck proposes, as to himself comments in an article written for the magazine "Stage" to find a formula able to combine a happy face and the most profitable for reader submission stage and items specific description of the novel. The latter authorities would be more readable and requesting the visual sense, dialogue should be complemented harmoniously.

Even though Steinbeck *Of Mice and Men* qualifies as an "experiment", the term can be justified only by the reduced proportions of the book which, in length, is no different from a theater play. As regards the dramatic introduction processes in the novel, the writer's several predecessors had already a difficult word to say. Shortly after the appearance dramatized in the play-novel *Of Mice and Men*, far from creating a new literary genre, as it probably expect the author, known more dedication on the stage.

The dialogue is it is widely used in *The Grapes of Wrath* and, this time however in a context more varied of narrative processes. Technical stenography behavior is further exploited on a wide surface, is one of the basic components of the method by which it serves Steinbeck to evoke of the odyssey lived of Joad family. A careful record of the surface of things is a more accurate pointing moments whose set is the reaction of the character seen from the outside. This seems to follow the writer who refuses, as has been said both direct comment and his discovery of the inner world of the character.

The analogy with the camera not coincidentally drew the attention, although it is hard to say that if the cinema was Steinbeck's really the one who inspired it. There are however few passages in which it appears the inclination of the writer to carry out a description of a room also moving in a certain direction. The portrait of Tom Joad is a good example: "His eyes were dark brown and a trace of the brown pigment is observed even in their whiteness. His cheeks shoulders were high and prominent and deep wrinkles pass over his cheeks and wrinkles formed around the mouth. The upper lip was long and how the teeth were protruding, his lips stretched to cover for the man kept his lips. His hands were strong, broad fingers and nails thick, curved like shells. Place between thumb and forefinger, as were callused palm. Man's

clothes were new [...]. The gray's hat was [...]. His costume was [...]. His shirt was [...]. Clothes were [...] shoulders hung clothes [...]. He wore a pair of boots. "¹

Steinbeck creates the portrait of Tom like the camera that performs a vertical motion; thanks to the syntactic structure almost identical, he gives the impression that notes the apparent character traits of the appearance of impartiality of the camera, which is always the same distance from the object passed on film.

The only novel in which Steinbeck used the first person is *The Winter of Our Discontent* in which only the first two chapters of the two sides are narrated by the author - observed a high degree of neutrality in reporting facts. Throughout the course of the story, Ethan, Allen Hawley keep the calm of the characteristic of Camus's characters.

In everything what he says, he focuses on their own stories, which, as is known, illustrates the finding of the writer, encountered as a leitmotif in his creation Tortilla Flat (the apartment of Tortilla), Cannery Row (District cannery), and Sweet Thursday (Maundy Thursday).

The novelist career of John Steinbeck maintains him consequently to the end of a process involving first a deliberate distancing from the object represented. But although the writer intends to give the impression of a loyal reporter in the transposition of the facts his novel reveal a comment which is not always well concealed. As it is known, of the traditional novel it is characteristic the authorized voice of the author.

„This voice is at present deliberately avoided; novelists of the last century are reproached its insistence that want to make listen although it must be said, some protests began to hear against such censorship because this procedure, considering the deplorable present or overlooked some of its attributes aesthetic welcomed.”² In fact, the complaint against of the author digressions aimed particularly the moralizing character.

Refusing the directly comment, but Steinbeck uses a formula that really covers the author's voice, although not only did not reduce the moralizing accents, but rather amplifies them. Usually he uses an incident from the life of animals, which, inserted into narrative apparently with the air of impartiality usual does is to shine from the point of view of the author, certain sides of that life presented or of the characters involved in action.

In the work *The Grapes of Wrath* the perseverance and the tenacity as human qualities embodied in the plan of itself narration of Ma and Tom are underlined and commented by observing the reactions of repeated turtles. Appearing when the whole nature comes to life, her shell turtle wearing ear of wild oats, taking him to places unexplored, where the seed will germinate again.

The parallelism between the animal behavior and the protagonists is maintained consistently throughout the book. The same wrenching effort that goes frog dam, heading southwest, Joad family together with other farmers ruined run across hundreds of kilometers of Oklahoma and California. Images that capture either of the lock manifestations are often regarded as a symbol.

But the relationship unequivocal, express, animal behavior and attitude of the Joad family members associated with the lock, meaning exhausting episode introduced considerably reduce symbolic value; lacks versatility of meanings own symbol and having such a limited potency revealing group of images inspired by the turtle does is to serve as the corresponding terms of some aspects of the plan narrative that the writer wants to emphasize, namely patience and human fortitude and integrity who does not let kneeled down.

¹ John Steinbeck, *The Grapes of Wrath*, Ed. Polirom, Colectia Biblioteca John Steinbeck, 2007, p.238

² Wayne Booth, *The Rhetoric of Fiction*, Chicago, The University of Chicago Press, 1961. One of the chapters is devoted entirely novel the comment of traditional and modern, Booth actually trying a more contemptuous rehabilitation "voices" of the author.

In *The Winter of Our Discontent*, Ethan Allen Hawley decides to leave aside for a time, the rules of honesty and experience if, in this case, the scar that would wear as a sign of failure repulsive than the social. Writer predilection to appeal to the biological example to highlight the significance of narrative moments leaves the impression of a moralistic insistence resonance. Despite of apparent neutrality, to Steinbeck's novel is characteristic an accent that of bold appears as a foreign body, aesthetic indigested its inner structure. Meanwhile, biologically inspired this commentary is largely responsible for Steinbeck view that permanently erases the boundaries between humans and animals.

After Frederick Hoffman, Steinbeck 'requires us to see in the humans' „one nature not only animals but also to believe in it as such.”³ Addressed to a writer whose novels are in their message a glorification of human dignity (*The Grapes of Wrath*) and opportunities to triumph over himself (*East of Eden* - east of heaven) the charges related to the entire creation shows to be slightly founded. But it can not overlook the fact that, to an extent, comment leads to this impression. On the other hand, produce a similar effect pathological type and frequency of the writer's work.

"The Idiot" is a frequent presence in Steinbeck's creation; It is preferred because it makes it easier the observation of reactions - most rudimentary's case - and because characters often two-dimensional, abstracting components of human nature, must be completed to provide a human portrait that is thus with the help of all participants. In *Of Mice and Men*, the central figure there is no George or Lennie, Lennie and George but together: one supposes the opposition on the other, there is the harmony between them under a permanent tension.

Sometimes it can be seen that Steinbeck who is using as a pretext the mentally of a retarded human. Johny Bear, for example, the story of the same name, thanks to his talent, with accurately reproduce the sounds heard in reality that serves as a transmitter of the drama lived by two sisters. The reader focuses not so much about Johny but on its reportedly fragmented, disjointed at first, which does not make sense to delay the listener.

Peter Lisca discusses in particular two functions of the inter chapters; he concludes that through the mediation of Steinbeck deepens the narrative plan and thematic implications, while providing a number of economic and historical information. Steinbeck's characters and their world are seen from the outside, without comment, without benefit of monologue – a moment Steinbeck tells us what they think and feel Tom, Ma, Casy; he just recorded and transcribed the dialogue works.⁴ Between the chapter and the Interspatial there is not only a thematic relationship - from panoramic view customized the experience - but in this structuring plan filled naturally with the exterior of interior living.

Realizing an alternation of the two plans, but Steinbeck correlates them permanently. As in the narrative family Joad crosses highway 66 and then the roads of California knowing the bitter life of deprivation, but acquiring the same time, a new vision of its destiny, chapters inside the building is echo of the feelings lived: the nostalgia for the land known from the first moments-„moments and multitude the bitterness of remembrance, we as we are. This red earth, the earth that we are; and the years when they invaded the waters, and the years when he departed the dust and drought years, all we are the ones - the growing anger - and hungry eyes seen how anger increases. The *Grapes of Wrath* marks the souls of humans and are gaining the weight, ripens awaiting harvest that should come”.⁵

Steinbeck separates the indoor living elements of narrative and character uses pursued as the object of his commentary. As we near the end, part narrative share is increasing; the last

³ Frederick Hoffman, *The Modern Novel in America*, Chicago, Gateway, 1963, p. 164.

⁴ Peter Lisca, *op. cit.*; and Warren French, *John Steinbeck*, Twayne, 1961: *The Education of the Heart*.

⁵ John Steinbeck, *The Grapes of Wrath*, Ed. Polirom, Colectia Biblioteca John Steinbeck, 2007, p.192

part of the novel does not impress the right balance between narrative chapters and chapters inside that creates a characteristic mark of the first parties.

In *The Grapes of Wrath*, Steinbeck done as a type of comments that, although in many ways different from what we used to call the author of the novel voice traditionally largely fulfills this role. As has been noted, originality procedures did not belong entirely. The technique of those chapters in *The Grapes of Wrath* inside he continues the experiment initiated by Dos Passos novel of social, *The 42nd Parallel* (*Parallel 42*, 1930).

CONCLUSION

The first volume of the trilogy U.S.A. (USA) had already offered the example of a multiplication of plans that had broken the pattern of a novel focused exclusively on continuous narrative and essayistic comment. Trying to capture the fast growth of a society in which individual existence, seen from the wide angle is dissolved, Dos Passos greatly multiply the perspectives in presenting this relationship; wires narrative - where the destinies of the characters are pursued apparently independent of each other - is carried laced with "News", how narrative that suggested climate history, "biographies" enlightening in terms of personality historic same climate, and "darkroom" surprise moments reserved for living stream subjective. Comparing the two processes if in the while the "obscure camera" Dos Passos is primarily concerned to pursue the drain inner life, self determination its most intimate, Steinbeck, as we have seen, trying to fix the chapters inside the joint response of whole communities. At the same time, it preserves the traditional appeal to reader comment. It is true that this call is based on stylistic variation of possibilities. Poetic prose with obvious character of parts was undoubtedly intended to increase substantially the emotional content of the call to the reader. If the reaction to the events of the contemporary reader who was inspired by the novel was enthusiastic and thematic timeliness because after consuming this current interest, still alive, is explained by the permanence of human vision meanings of *The Grapes of Wrath* that possesses.

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USING L1 IN THE CLASSROOM: MONOLINGUAL AND BILIGUAL APPROACHES

Elena BRAN*

ABSTRACT:

USING L1 IN THE CLASSROOM HAS GONE THROUGH TWO DIFFERENT AND OPPOSED PERSPECTIVES. THERE ARE THE VIEWS WHICH SEE THIS APPROACH AS SOMETHING FORBIDDEN AS IT DISCOURAGES LEARNERS TO GAIN CONFIDENCE IN THEIR LANGUAGE USE AND IMPEDES THE DEVELOPMENT OF COMMUNICATION SKILLS. ON THE OTHER HAND, THERE ARE THOSE WHO CLAIM THAT L1 IN THE CLASSROOM CAN BRING MOSTLY BENEFITS RATHER THAN DRAWBACKS. THIS PAPER FOCUSES ON BOTH THE ADVANTAGES AND DISADVANTAGES OF THIS METHOD AND IT ALSO PROVIDES SOME PRACTICAL EXAMPLES OF SITUATIONS AND CLASS ACTIVITIES WHICH CAN LEAD TO A BALANCED CONSIDERATION OF THE TOPIC. THE CONCLUSIONS OF THIS PAPER CAN BE REACHED BY EACH TEACHER INDIVIDUALLY ACCORDING TO THE SITUATIONS HE ENCOUNTERS EVERY DAY IN HIS CLASSES.

KEY WORDS: DIRECT METHOD, GRAMMAR METHOD, 'SANDWICHED' INSTRUCTIONS, CONCEPT CHECKING QUESTIONS

1. GENERAL REMARKS: L1 – WHEN, WHY AND HOW?

Using L1 in the classroom is still a controversial theme in the field of teaching foreign languages. There have been many arguments in favor or against using your native language when teaching English, or any other foreign / second language, but none has proved strong enough to convince the teacher to adopt one single perspective. Why is that? One answer might be that no matter what perspective you feel more confident with, there is always something which might contradict you. In this article we shall discuss the advantages and the drawbacks of using L1 in the classroom together with some practical examples of using L1 with our students.

The first question which arises is how authentic can L2 be in the classroom. There are more theories related to the question of using L1 when teaching foreign languages. One view claims that teaching foreign languages should be contrastive, namely to use both mother tongue and foreign language when teaching in order to highlight the similarities and the differences between these two languages. Thus students are able to compare and better understand some linguistic concepts, facts, phenomena etc. through their mother tongue. They are aware of the difference and their language gets more accurate. Nevertheless, this teaching perspective is considered traditional and even quite old-fashioned.

* PhD Teaching Assistant, University of Medicine and Pharmacy 'Carol Davila' Bucharest, Romania, elena_cigareanu@yahoo.com

On the other hand, we should refer to the monolingual theories, which are considered more modern and student oriented. According to these monolingual views, using your students' native language in the classroom impedes correct language acquisition and fluency and it tends to promote only academic or very formal language. The most widespread belief has been that the best medium to teach a foreign language is through that particular language, by immersion and providing the input in L2: explanations regarding grammar, vocabulary and cultural facts, instructions, texts, exercises etc. Therefore, using L1 or using translation as a teaching method has a great deal of opponents. They claim that students are not exposed to natural contextualized language and input. Moreover, there can appear linguistic interferences between students' mother tongue and the foreign language. *The Common European Framework of Reference for Languages: Learning, teaching, assessment*, hereinafter CEFR, assumes that the language learner aims at becoming an effective language user¹, so the exposure to different communicative situations in L2 provides the efficient background of language acquisition. The foreign language class should give students the opportunities to use the language interactively, despite the artificial classroom conditions, "by a combination of conscious learning and sufficient practice to reduce or eliminate the conscious attention paid to low-level physical skills of speaking and writing as well as to morphological and syntactic accuracy, thus freeing the mind for higher-level strategies of communication"².

Nevertheless, these dictats have their own exceptions. One of them is the so-called Grammar Translation method which focuses on accuracy, a written one, which does not leave enough room for oral fluency. The main problem occurs in multilingual classes, where more than one language is spoken. But can these monolingual approaches be part of a multicultural society? It depends on what teachers understand by a monolingual approach. There are many teachers who decide to use L1 in their own advantage. In this paper, we shall provide some examples in which L1 is used in both the teacher and the student's interest.

2. THE ADVANTAGES OF USING L1 IN THE CLASSROOM OR WHEN IT IS ALLOWED TO USE IT

It is impossible to imagine that our students do not have the tendency to speak their native language during the foreign language class in a monolingual group, namely without any other nationalities. They feel strange if the teacher asks them to speak in English in their group if they use their language during breaks or in interpersonal relations. Thus, no matter how much the teacher monitors, L1 is still there. So the question is: can the students' own language be used in the teacher's advantage? The answer is positive as the teacher has to create the context and to design the rules. For instance, teachers can use L1 when explaining grammar rules or vocabulary items. Thus, using L1 eases the teaching process in a great deal of situations, such as explaining advanced grammar contents, abstract words (meanings, concepts), concrete lexical items or idioms that have a similar correspondent in L1. Teaching the rules of second and third conditionals in English to Romanian students whose native language is a Romance one, could be more efficient if, along with the examples and situational contexts, the teacher gives their Romanian counterpart. In Romanian, for instance, there is a one-to-one translation of these conditional clauses which students understand better and faster when translating them rather than trying to convey their meaning through other explanations. These explanations could be too theoretical or difficult. The teacher saves time and the students understand faster by using contrastive teaching methods.

Another advantage and practical situation when L1 is accepted in the class is when giving instructions regarding exercises or activities. This method is called 'sandwiching', when

¹ Online resource: http://www.coe.int/t/dg4/linguistic/source/framework_en.pdf, accessed on 20th October 2015.

² *The Common European Framework of Reference for Languages: Learning, teaching, assessment*, p. 168.

the teacher first gives instructions in English, then he / she translates the key words and after this he repeats the instructions in English. This method helps the students be aware of the language structure used in class, minimalizes teacher's talking time, if any extra instructions were needed, and facilitates a better understanding of the activity. In addition, next time the teacher will give the same instructions to this class they will have already been exposed to them and the teacher will keep a record of the language he / she has sandwiched to reinforce. On the other hand, this type of method works mainly with low level classes whose attitude towards the translation is a positive or a neutral one. There are also classes who might prefer English only explanations or others who might request bilingual dictionaries or grammar books.

Furthermore, there are cases in which the teacher has to explain abstract concepts or the meaning of words denoting concrete objects to his students. The task is a difficult one, as not all the students have the same background of information or language and the explanations should be intelligible to the whole class. In the case of the concrete objects, the teacher can use the ostensive definition, namely he / she can draw it or show that particular object to the class. But there are many other situations in which the object cannot be found in the classroom or the teacher cannot draw it. Moreover, what happens when the concept that must be explained is an abstract one? One solution comes from using the L1 resources by asking one student to translate the concept into their native language. This way the teacher gains useful time, as he / she will not try to define a well-known concept using useless explanations and the students understand faster and better, by referring to a concept they already possessed.

Being aware of students' own language and the possible mistakes that can occur will help both teachers and authors of textbooks structure and identify the most suitable vocabulary activities and language drills. This will improve students' attitude towards the process of learning as they will feel that textbook actually helps them learn and it is not another dull method. Moreover, language acquisition is a skill acquired through practice rather than the detailed explanation offered by a textbook or a grammar book. Nevertheless, we cannot model this language acquisition without grammar rules or any other metalanguage structures.

Another question that arises is how much can we compare native language acquisition to foreign language acquisition and how much do they have in common? All students will inevitably make comparisons between their own language and the one they want to achieve. This can be used as an important resource for the teacher in the class because he / she can anticipate the type of problem his students might have. For instance, teachers can transform the types of mistakes they know their students will make into activities which will help the students become aware of the mistakes. Using online translation tools, such as Google Translate, can become a useful resource in class. For example, students receive a portion of a text they have already worked on in class translated into their native language with Google Translate. As this tool is due to mistakes, there will be for sure instances for them to correct or adjust and they also see their language is a tool of creating a new text.

This general denial of using L1 in the classroom has its origins in previous teaching methods which emphasized the grammar acquisition more than any communication skill. This idea is also mentioned by Jim Scrivener³ who states that one of the teachers' problems when using L1 in the classroom is that their own training or their current workplace has discouraged them to use it. There are many private schools or language centres which forbid the use of L1 in their classes. This over-strong reaction to L1 has its origins in previous teaching styles when L1 was used exclusively when explaining grammar and the students learnt English not in context but just like any other school subject, ignoring its social role. Teachers used English only to explain grammar and their students did not get the chance to hear any English. In this

³ Jim Scrivener, *Learning Teaching. A guided book for English language teachers* (Oxford: Macmillan, 2005) 308-312, p. 308.

traditional teaching class, the language input is limited to a written and textual approach and the examples given in order to illustrate different grammar contents or word meanings. Moreover, the (oral) communicative activities were quite rare, teacher-controlled, and the (structural) exercises aimed the accuracy of language and not the fluency. Scrivener also mentions a set of useful situations when L1 can be used in the classroom, some of them are: using L1 when dealing with pronunciation issues (comparing English pronunciation to the same sound in the students' native language) or comparing the same sentence translated into English in different ways and identifying the main similarities or differences (this way teachers can emphasize the disadvantages of word-to-word translations). There are many other authors⁴ who claim that in monolingual classes, using L1 could be efficient in order to explain aspects of pronunciation or grammar that students with the same L1 could encounter during the process of learning. There are situations when the teacher can make some short cuts by translating words or phrases. The use of bilingual dictionaries can be particularly efficient as a study skill activity. Finally, translation of texts (L1 < > L2) can also be an effective way of learning, especially at higher levels when students must get to grips with subtle nuances of L2, after acquiring a large amount of basic knowledge.

One more argument in favor of using L1 in the classroom recognizes its advantage when teaching writing classes. There are many differences in terms of layout between writing exam tasks for English exams and writing in the students' native language. Comparing the two of them will help the students understand better the differences both in terms of the academic language used and the layout imposed by such a task.

Another problem in beginner or elementary classes is the students' reluctance to using English, as they feel it is much too challenging for them to use English when they do not possess so much knowledge. Beginner or young students need more input in L1 in order to understand different concepts, rules or instructions related to exercises, activities, homework etc., as they do not possess previous linguistic knowledge (grammar, vocabulary, linking words, everyday words and phrases etc.). Moreover, there is also the case of other languages, such as German, Russian, Greek etc., which are considered more difficult. Could the teacher use only L2 in the classroom? The answer is affirmative, but the L1 and L2 input should be balanced, at least in the first stages of learning.

Teachers must then find a method to reduce learners' wariness and encourage them to take the risk of speaking in English. This is where pair work activities change the situation. Working first in pairs and then acting out their dialogues will encourage reluctant students to face and handle the situation better than any other technique. In their pairs they will use both English and their native language, they will not feel ashamed to speak in front of the others on the spot and they will gain confidence in their partner. For beginners or even elementary it is better to ask them to speak in pairs first in their own language if they have to brainstorm ideas for a certain speaking topic. This helps them find arguments or ideas without minding too much about the language barrier. Then, they can even translate these ideas into their own language or change partners, form other pairs in which they should speak in English only. This exercise will help less confident students take away the pressure of speaking in public. If they are given the chance to speak in pairs and to find their arguments in their own language it will increase their ability to develop arguments in a foreign language. This method is not just a simple rehearsal but a way to overcome a challenge.

In conclusion, learning a foreign language is always a very dynamic process mostly based on previous acquisition and knowledge. One of the most significant resource students can bring to their language acquisition is their existing linguistic knowledge scaffolded

⁴ Roger Gower, Diane Philipps, Steve Walters, *Teaching Practice. A handbook for teachers in training*, (Oxford: Macmillan, 2005), pp. 63-64.

between the linguistic elements they have already gained and the new ones. Mastering other foreign languages, the native language classes, the linguistic and general knowledge can ease the process of acquiring new foreign languages.

3. THE DRAWBACKS OF USING L1 IN THE CLASSROOM AND HOW TO OVERCOME THEM

Students need a lot of input in the new language and the teacher is the only one who can give it to them. Even if the teacher decides to focus on L1 when giving instructions, for instance, there is the risk that he / she might continue the lesson in L1 as it may seem easier. The teacher should always remember that the best way to help the students is grading the language and using English naturally according to the students' knowledge and not using their own language and then feeling guilty about doing this.

On the other hand, there are plenty of teachers who have learned English through the Direct Method and who had to work more on developing their speaking skills than other teachers who were taught in an English speaking environment. The Grammar Translation was an easy target to achieve. Furthermore, this situation led to a generalized feeling of frustration after the 1960's if the teachers used L1 in the classroom. They used to be seen as weak teachers, who were not able to explain and teach exclusively in English. There are still viewpoints that consider the use of L1 in the classroom vicious. It is said it impedes communication and fluency, it is boring and dull; it shows the teacher's laziness and most students feel they don't learn real English. Also, the students tend not to trust the knowledge transmitted by their teacher if he / she has ever used L1 when explaining something. The teacher loses his / her language authority in front of the students. So how can he / she regain it? The teacher is the model in his class and if he is using L1 he / she cannot forbid his / her students to do it afterwards. One possible solution is to actually recognize the need of using L1, for instance when giving instructions or asking CCQs (concept check questions). The teacher can allow the students to answer in L1 to these CCQs or even to add the question: *Who can tell me in Romanian what you have to do / what I have just said?* Remember that most students are like chatterboxes in their first years of study. They want to register as much as possible all the language used naturally.

There is also the problem concerning the number of students in one class. Even if the teacher wants to use English exclusively we have to remember that most on class management behaviour instructions or corrections are given in L1. For example, if a teacher wants to maintain discipline the first language he / she will use is L1 and not English, mainly for the impact it creates. On the other hand, it also saves time and the message is clearly understood. Therefore, how much of the teacher talk in one class is in L1 and how much is in English? The percentage increases also if we refer to teachers who teach kindergarten students or beginners.

Most teachers consider a direct relationship between the time used speaking L1 and the time spent using English. The more L1 we use the more English speaking time we lose. More L1 in the class means less English. This also leads to the situation in which our students refuse to think in English directly, but still refer to their L1. This will have consequences in time, when dealing with speaking exams when there is no time for L1. But, we cannot prevent learners from thinking in their own language no matter what we do. Their mind is not divided into two parts, English and their L1, they combine, and therefore a teacher cannot actually separate L1 from English. When the learners reach a B2 or above level, they also gain flexibility when using their language and so it seems they are using it as close as possible to native speakers. Nevertheless, L1 interference will not disappear completely.

4. CONCLUSIONS

In the light of the above mentioned, we shall conclude that the correct question teachers should ask themselves is not whether to use L1 in their classrooms, but how much and when, according to a great deal of factors: students' level, age, interests, language etc. Every teacher has his / her own answer, but one suggestion which results from this paper is that L1 might be useful when giving instructions, maintaining discipline or increasing low-level groups' confidence when speaking in public.

On the other hand, teachers should not see L1 as a way of avoiding their role in the classroom. They have to make sure they grade their language to the students' level and not use L1 if or when they do not know how to adapt to their students' needs. Also, even if controversial, the translation method still carries its advantages not only when teaching, but also when practicing or revising different grammar rules or vocabulary items. There are many cases when this method helps reduce time by limiting teacher talking time (TTT) and creating a safer context for the students to achieve language. Thus, used properly, the translation method can facilitate grammar understanding or vocabulary acquisition, along with other traditional (structural exercises, contrastive teaching method) or modern methods (debate, interactive and communicative activities). Teachers should be seen as almost native-speakers for their students, but when necessary they have to renounce this mask and make use of the shared language. They have to select in a very good way the situations when this is possible so that they will still be seen as the models.

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COGNITIVE VERBS IN SPANISH AND GREEK. TWO PATTERNS OF SEMANTIC EVOLUTION

Răzvan BRAN*

ABSTRACT

THIS ARTICLE AIMS TO PRESENT THE COGNITIVE FRAME OF VERBS WHICH DENOTE 'THOUGHT' ('UNDERSTAND', 'KNOW', 'THINK'), MAINLY IN GREEK AND SPANISH, CONSIDERED FROM A DIACHRONIC PERSPECTIVE. THE ETYMOLOGIC ANALYSIS AND THE THEORETICAL BACKGROUND OF THIS INVESTIGATION (I.E. COGNITIVE SEMANTICS) HELPED US IDENTIFY TWO MAIN SEMANTIC PATTERNS IN THE EVOLUTION OF COGNITIVE VERBS. THESE PATTERNS ARE BASED ON TWO CONCEPTS, NAMELY 'SIGHT' AND 'GRABBING', WHICH DEVELOPED AN ABSTRACT SENSE. THUS, UNDERSTANDING, KNOWLEDGE OR THOUGHT COULD BE CONSIDERED THE RESULT OF THE FOLLOWING SEMANTIC CHANGES: 'I SEE' > 'I KNOW' / 'I UNDERSTAND' AND 'I GOT (IT)' > 'I UNDERSTOOD'. THUS, WE CAN CONCLUDE THAT THE ABSTRACT AND COGNITIVE MEANINGS DEVELOPED FROM CONCRETE ONES, FOLLOWING A GENERAL PATTERN OF SEMANTIC EVOLUTION. INTERESTINGLY, THESE SEMANTIC SHIFTS ARE NOT ONLY DIACHRONIC. SYNCHRONICALLY, THESE TENDENCIES ARE EVIDENT IN THE CASE OF MANY VERBS AND COLLOQUIAL EXPRESSIONS. MOREOVER, THESE TWO PATTERNS AND SEMANTIC SHIFTS, UNDERGONE BY THE VERBS OF COGNITION, CAN ALSO BE FOUND IN OTHER LANGUAGES, SUCH AS ROMANIAN, FRENCH, ENGLISH ETC., AND, THEREFORE THEY CAN BE CONSIDERED GENERAL CROSS-LINGUISTIC PATTERNS OF SEMANTIC EVOLUTION.

KEY-WORDS: VERBS OF COGNITIVE ATTITUDE, SEMANTIC CHANGES, DIACHRONIC COGNITIVE SEMANTICS, SPANISH, GREEK, EVOLUTION

1. INTRODUCTION

The present paper looks at the verbs of cognitive attitude¹ from a diachronic perspective, mainly in Spanish and Greek, and aims to describe the semantic shifts undergone by the verbs meaning 'know', 'think' and 'understand'. Moreover, our main goal is to identify common patterns of evolution which generated these particular changes and, in order to get a more clear perspective on the evolution of cognitive verbs, we shall compare our findings with the patterns in other Romance and Germanic languages, especially Romanian, French, and English. Thus, there are two questions that we shall try to answer hereinafter: (i) Are these changes language-specific or universal / cross-linguistic? and (ii) Can we identify semantic

* Ph.D., Teaching Assistant, University of Bucharest - Faculty of Foreign Languages and Literatures – razvanbran@yahoo.gr.

¹ Verbs of cognitive attitude, also known as verbs of cognition, express a wide range of psychological processes such as sensations, perceptions, thought, memory etc.

regularities and patterns, which reflect a certain cross-linguistic and cross-cultural mental structure?

The theoretical background of our investigation is represented by the diachronic cognitive semantics and theory of semantic frames², because along with the etymology, cognitive semantics could provide some explanations for the choices made by speakers³ at a diachronic or synchronic level, between different forms, senses etc. Moreover, in the *Cambridge History of the Romance Languages*⁴, Steven Dworkin claims that linguists should investigate vocabulary from a cognitive perspective, as the conclusions of their analysis could be more general and explain a great deal of unexplained phenomena in current bibliography, such as uncertain etymologies, semantic shifts and evolution, speakers' choices etc. From this point of view, the present study is based on the assumption that human mind is organized encyclopaedically and systematically, due to the fact that knowing and understanding a concept involve knowing a whole network of other related concepts (according to Fillmore's theory of semantic frames).

We chose to analyse two Indo-European languages belonging to different branches, namely Greek and Spanish, as they present a few advantages for our investigation. First of all, the history of Greek, of almost four millennia, allows us investigating this semantic field diachronically. The multitude of texts and their stylistic and linguistic diversity enable the investigation of this lexical paradigm. Moreover, Greek has always been a language with a great cultural and scientific prestige. Its history, diversity and richness of texts, along with the lexical-semantic structure of Greek allowed the development, since ancient times, of a remarkable philosophical system and vocabulary capable to express abstract concepts. The lexical field we deal with fits perfectly into this philosophical vocabulary. At the same time, Greek has been a model and a source of lexical and semantic enrichment for other languages, starting from Antiquity till modern times. From the Latin philosophical and abstract vocabulary to the scientific and technical vocabulary of modern languages (medicine, arts, etc.), almost all have a Greek origin. On the other hand, Spanish is a member of the Romance languages branch and we expect it to have other patterns of evolution than Greek, due to its different origin and history.

In the following, we shall focus on the etymology of the cognitive verbs both in Greek and Spanish, by highlighting the Indo-European roots they were built on, their semantic structure and the linguistic mechanisms which led to the creation of those particular lexical items. Then, we shall try to classify them into more general semantic categories in order to identify one or more common patterns.

2. GENERAL REMARKS CONCERNING COGNITIVE VERBS

Cognitive verbs represent a large and highly heterogeneous lexical-semantic category, which has aroused the interest of many researchers from various fields (psychology, logic, philosophy, linguistics). Depending on the various perspectives, there were identified several categories of verbs that denote cognitive, mental processes, involving different degrees of abstraction. In the following, we reproduce D'Andrade's classification from a psychological

² This theory was formulated by Charles Fillmore in a series of articles and studies on vocabulary and meaning.

³ Generally speaking, semantic shifts are considered to be the result of some semantic processes, such as extension, narrowing, metaphor, metonymy etc., but linguistics does not explain the mechanisms that generated those specific changes. For other arguments concerning the advantages of cognitive semantics in analysing changes of meaning, see Răzvan Bran (Târgu-Jiu: *From sight to thought. A diachronic view on the Greek verbs of cognition*, in *Research and Science Today*, No. 2(8) / 2014, 216-217).

⁴ Steven Dworkin, *Cambridge History of the Romance Languages* (Cambridge: Cambridge University Press, 2011).

perspective, proposed in 1987⁵, which divides cognitive verbs into verbs designating: (i) perception, (ii) beliefs / knowledge, (iii) feelings / emotions, (iv) desires / goals, (v) intentions, (vi) decisions. The category that we are mainly interested in is represented by the verbs expressing beliefs and, especially, knowledge: ‘know’, ‘think’ and ‘understand’.

Another interesting and useful conclusion reached by the researchers is that the verbs of cognition are organized in terms of a cognitive continuum, on which verbs do not have a fixed or stable position⁶. Their semantic content is rather a value on this continuum, value that may change according to the semantic and pragmatic context of utterance. That is why verbs denoting feelings and perceptions sometimes establish semantic relations with those expressing more analytical mental processes, such as thinking or evaluation. Due to this cognitive continuum, they exhibit a cluster of common attributes that explains the semantic transfer from one category to the other (for instance, ‘see’ is often used with the meaning ‘understand’).

Moreover, according to the cognitive semantic theory⁷, frames have two essential characteristics. On one hand, they are characterised by fuzziness, as they do not have necessarily clear and definite boundaries. And, on the other hand, as a consequence of the blurred edges, two or more frames can share members or attributes. This is the case of the verbs denoting cognitive attitude: on the cognitive continuum mentioned above, one verb can share attributes with different verbs, which allows them developing other (abstract) meanings.

3. THE PARADIGM OF COGNITIVE VERBS IN SPANISH AND MODERN GREEK: ‘KNOW’ AND ‘UNDERSTAND’

As we have already mentioned, Greek is the result of a long and complex process of evolution, with a tremendous cultural production. The cultural production, along with the contacts with other languages and civilizations, enabled the enrichment of the conceptual domain and lexicon, as well. It is, therefore, a language with a rich and abstract vocabulary, with extensive synonymy, and a wide range of semantic nuances. In Modern Greek, the lexical paradigm of the verbs meaning ‘understand’ or ‘know’ consists of the following lexemes: *katalavenō* ‘understand’, *katanoō* ‘understand’, *skéftome* ‘think’, *gnōrizō* ‘know’, *xerō* ‘know’, *theōrō* ‘believe’, *(mu) fenete* ‘it seems (to me)’, *vlepō* ‘see’, but also ‘understand’, *(to) pianō* ‘grab (the idea, the meaning)’.

In Spanish, this lexical field includes the verbs *saber* ‘know’, *conocer* ‘know’, *entender* ‘understand’, *comprender* ‘understand’, *pensar* ‘think’, *creer* ‘think, believe’, *coger* ‘grab (the idea)’, *ver* ‘see, understand’. Interestingly, *saber* derives from the Late Latin **sapere*, whose original meaning was ‘taste’, so this semantic transfer from the domain of perceptions to the cognitive one is not singular and we can find it in the case of other senses.

As one can notice, we have also included in this paradigm of verbs denoting mental activity some lexical items that can develop a cognitive meaning and some colloquial expressions, as well. From a semantic point of view, one could distinguish two types of verbs: (i) verbs which have a basic intellectual meaning and (ii) general verbs that contextually develop secondary meaning ‘understand’, ‘think’.

⁵ Apud Martin Schwanenflugel et al.: *The organization of verbs of knowing: evidence for cultural commonality and variation in the theory of mind*, 1999, 813.

⁶ Schwanenflugel et al.: *The organization of verbs of knowing*, 814.

⁷ Geeraerts, D., Grondelaers, S., Bakema, P., *The Structure of Lexical Variation. Meaning, Naming, and Context*, in (Ed.) Rene Dirven, Ronald W. Langacker *Cognitive Linguistics Research* 5 (New York: Mouton de Gruyter, 1994).

4. TWO COGNITIVE PATTERNS OF SEMANTIC EVOLUTION

Our investigation concerning the semantic evolution of the cognitive verbs ('understand', 'know', 'think') was mainly based on the etymological analysis. We also took into account the semantic structure and the semantic shifts undergone by some lexical items. After analysing this lexical field, we have identified two patterns of semantic change. More precisely, one first pattern is based on the interpretation of the meaning 'understand' as a result of the action 'catch', 'grab' (the sense, the message). The second cognitive pattern is organised on the relation 'sight' - 'thinking' / 'understanding'. As we can see, both patterns have in common the process of abstraction and the semantic transfer.

In the following two parts of this section, we shall examine the patterns mentioned above and we shall provide a great deal of examples not only from Greek and Spanish, but also from other languages which exhibit the same pattern of semantic evolution. Nevertheless, we should emphasise that not all the verbs of cognition can be included in one of the two schemes. That is why we have not included the Spanish verb *saber*, in spite of its meaning, because of its etymology (see above, in section 3) that does not fit any of the patterns we identified.

4.1. THE PATTERN 'GRAB' > 'UNDERSTAND'

A first scheme of evolution interprets the intellectual meaning as an abstraction of the concrete sense 'catch', 'grab' or 'get'. For instance, Gr. *katalavenō*, the common verb denoting the general meaning 'understand', is made up of two lexical elements: the preverb *kata*-meaning 'completely' or 'around', and the verb *lavenō* < *lamvanō* 'get, catch'. The lexeme under discussion appeared during the medieval period and had as a starting point another Greek verb, namely *katalamvanō*. The pair *katalavenō* - *katalamvanō* shows some formal differences, but, nevertheless, they exhibit several semantic differences. The formal differences are a consequence of the phonetic evolution undergone by the verb, but we also think that they mirror and emphasise the need for semantic difference. The verb *katalavenō* means, as mentioned, 'understand', while *katalamvanō* conserves its original meaning in Ancient Greek, and means 'catch' and even 'conquer, take possession of something'. The verbs in question also differ from the morphological point of view, as they have different Past Tense (Aorist) forms: *katalava* 'I understood' vs *katelava* 'I conquered'.

There are many other verbs derived from *lamvanō* / *lavenō* 'get', 'take', which developed metaphorical senses related to the sensorial and cognitive domain: *antilamvanome* 'perceive', *syllamvanō* 'conceive', *hypolamvanō* 'understand'. Interestingly, *syllamvanō* is bisemantal. On one hand, it refers to the act of catching or arresting somebody, so it has a concrete meaning, which reflects the etymology of the lexeme. On the other hand, it has an abstract meaning, namely 'conceive' an idea (cf. *katalavenō* vs *katalamvanō*). If we analyse the verb *hypolamvanō* from the etymological point of view, we notice that its original meaning was 'grab from beneath', so it referred to the same idea of catching (cf. other verbs, such as Gr. *hypothetō*, Sp. *suponer*, that have the same morphological structure: 'under' + 'put').

Another example is provided by the colloquial register, where we can trace the tendencies and the changes in a language, mirroring the need for expressivity and the process of renewing the language. The colloquial register, used by speakers in less formal situations, does not follow all the norms and the standard imposed by linguists. That is why it enables the semantic and grammatical shifts. The example that we are referring to is Gr. *to 'piasa* (neuter clitic pronoun in Accusative + verb 'catch', 'grab' in Past Tense): 'I got it', that is 'I understand'. This expression, based on a metaphor, corresponds to the Romanian colloquial expression *m-am prins* ('I got it'), equivalent to *am înțeles* ('I understood'). In Spanish, the verb *coger* 'grab', 'take' can also denote a cognitive attitude. Let us compare the following examples in different languages:

- Sp. (1) a. *No he cogido el chiste*⁸. *No he comprendido*
 b. *Creo que no he pillado la broma.*
 Rom. (2) a. *Nu am prins gluma. Nu am înțeles gluma.*
 b. *Nu s-a prins*⁹. *Nu a înțeles.*
 Eng. (3) *I didn't get it. I didn't understand it.*

Thus, we can find the same pattern in Greek, English, Romanian and Spanish, based on the same semantic transfer from the concrete sense to the domain of mental activity.

Moreover, other verbs have the same etymology in various languages, as well. For example, Eng. *comprehend* and Fr. *comprendre*, which have a close semantic relation with the French verb *prendre* 'take', follow the same etymological pattern as *katalavenō*. They are based on metaphors (transfer) governed by the same mental pattern, namely the mind as a container, as a hand that grabs the information.

In Romanian, we find the same pattern in many semantic lexemes belonging to the cognitive vocabulary. This is the case of the noun *gând* formed from the radical IE **ghend-* 'catch'. The same root is found in other lexical items, such as Eng. *hand*, Germ. *Hand*, Gr. *chandanō* ('take'; 'be able'), Lat. *praehendo* ('catch', 'take hold of'), Eng. *get*, *for-get*, etc. Consequently, the semantic evolution of the lexemes *gând*, *gândi* etc. reflects a concrete image of 'grabbing the sense, the idea' as if the human mind were a container with an active role.

Furthermore, there is a wide range of verbs expressing a cognitive attitude that denote another concrete image: 'to grab from beneath': the Sp. *suponer*, *comprender*¹⁰, Fr. *comprendre*⁸, Gr. *hypolambanō*, *hypothetō*, and Eng. *under-stand*. To our examples listed here, we could add some more provided by S. Dworkin: "To use an oft-cited example, in many languages the verb meaning 'seize, grasp' has metaphorically evolved the sense 'understand' (e.g., Lat. *capere* 'grasp, seize' > It. *capire* 'understand'; It. *afferrare* 'grasp' > 'understand', Lat. *compraehendere* 'take firmly, seize' > Fr. *comprendre*, Sp. *comprender* 'understand', Sp. *coger* 'grasp, seize (an idea)'; in contemporary colloquial Spanish *pillar* 'to seize, grasp' is undergoing the same evolution."¹¹

Nevertheless, Dworkin¹² claims that these semantic shifts are only unidirectional, from concrete to abstract, not vice versa: "Such changes tend to be unidirectional: 'grasp, seize' > 'understand', but never 'understand' > 'grasp, seize'. In like fashion other words for the notion 'to understand' originally denoted other types of physical action: e.g., Fr. *entendre*, Sp. *entender* < Lat. *intendere* 'to stretch', as well as the metaphor underlying Eng. *to understand*, Ger. *verstehen*." Thus, diachronically, not only the pattern under discussion ('catch' > 'understand') is functional, but also other patterns concerning spatial representations that imply the evolution of concrete senses into abstract ones.

Consequently, in both Greek and Spanish, we can identify a pattern of verbs denoting a concrete sense ('catch', 'grab', 'get') which evolved a cognitive one ('understand', 'conceive'). Interestingly, this pattern is functional not only at a diachronic level (Gr.

⁸ *Diccionario de la Real Academia Española (DRAE)*, s.v. *coger*.

⁹ Here, the verb is used in the Reflexive form.

¹⁰ They are both related to the Lat. *compraehendere*.

¹¹ Steven N. Dworkin, *Recent Developments in Spanish (and Romance) Historical Semantics*, in *Selected Proceedings of the 8th Hispanic Linguistics Symposium* (Sommerville, MA: Cascadilla Proceedings Project, 2006), 52.

¹² Dworkin, *Recent Developments in Spanish*, 52

katalavenō, Sp. *comprender*), but also at a synchronic one (Gr. *syllamvanō*, to ‘*piasa*, Sp. *coger*, *pillar*). Moreover, synchronically, we notice that these concrete verbs, denoting ‘grabbing’, are polysemous and conserve the close link between the two concepts they express, included in their semantic structure.

Thus, apart from the general pattern of evolution (from concrete to abstract), some concrete verbs meaning ‘catch’, ‘grab’, ‘get’ develop an intellectual sense. At an abstract level, our mind ‘grabs’ the meaning or the idea, being considered an abstraction of the concrete image of a hand that grabs an object. There are some studies that have shown that in speakers’ cognitive representations mind can be interpreted as a container of the information (verbs such as ‘know’) or a mechanism that processes the information (‘think’, ‘understand’, ‘explain’ etc.). However, as S. N. Dworkin claims, “it cannot be predicted with absolute certainty that all verbs meaning ‘seize, grasp’ will at some point in their history necessarily undergo this development.”¹³

4.2. THE PATTERN ‘SEE’ > ‘KNOW’ / ‘UNDERSTAND’

We often say ‘I see’ when we actually mean ‘I understand’, with an abstract sense. And this does not happen only in English. In many other languages, the verb ‘see’ develops this intellectual meaning (cf. Spanish, French, Romanian, Greek etc.) and it mirrors the general pattern concrete > abstract. In the following, we shall investigate other verbs that engender the same semantic development, mainly in Spanish and Greek.

The cognitive relation between ‘see’ (concrete and sensorial) and ‘know’ / ‘understand’ (abstract and intellectual) is a lineal one, as the development of the abstract meaning expresses the result of the previous action of seeing: ‘I have seen, so (now) I know and I can understand’. From a psychological point of view, this relation reflects our cognitive mechanisms, because through sensations and perceptions we get information from the environment (input) and we interpret it through thought, a more abstract process (output). Thus, this conceptual relation (input - output) could explain the development of an abstract and cognitive meaning. Knowledge and understanding are a result of getting information from the extra linguistic reality (the environment) in order to understand and ‘conquer’ it. So senses are also included in the general scheme of understanding and thinking. Moreover, the lexicon and the meaning, in other words mental representations of the real world, are made up of larger and complex networks (or conceptual frames), which establish relations of hierarchy and inclusion, so some members of a given frame can share some attributes with other verbs.

First of all, we shall focus on two Modern Greek verbs: *vlepō* ‘see’ and *theōrō* ‘believe, consider’, both with a complicated etymology, as more interpretations have been proposed so far¹⁴. The first one, *vlepō*, is the common verb used to express the general meaning ‘see’ in Modern Greek and it is believed to derive from the root **g^wlep-* / **glep-*¹⁵ (cf. Slavic *glipati* ‘see’, Russian глаз ‘eye’, взглянуть ‘watch’ etc.). In addition, *vlepō* is used with a more abstract meaning ‘think, consider’.

(4) *Opos vlepō ego ta pragmata, to provlima den ine poli sovoro.*
‘As I see it, the problem is not so serious.’

¹³ Dworkin, *Recent Developments in Spanish*, 52

¹⁴ We shall not discuss all these interpretations and for more details, vide Pierre Chantraine, *Dictionnaire étymologique de la langue grecque. Histoire des mots* (Paris: Librairie C. Klincksieck, 1968-80), s.v.; Julius Pokorny, *Indogermanisches Etymologisches Wörterbuch* (Bern: Francke, 1959).

¹⁵ Gheorghios Babiniotis, *Λεξικό της Νέας Ελληνικής Γλώσσας* (Athens: Kentro leksikologias, 2005), s.v.

The verb *theōrō* appeared in Ancient Greek and, according to one etymological interpretation, it is the result of *théa* ‘view’ + *horáō* ‘see’. *Theōrō*, whose original meaning was ‘I observe (attentively)’, was employed by the philosophers with the epistemic meaning ‘think’, ‘observe’ and then borrowed into Modern Greek with the same sense ‘think, consider’¹⁶. As shown, both verbs have a certain relation with the concept of ‘sight’ and both can denote a cognitive attitude: *vlepō*, apart from its common, concrete and sensorial meaning, can also mean ‘I understand’; *theōrō*, in spite of its etymology and original, specialised sense (‘I am a *theōros*’), nowadays it has a cognitive meaning.

Another verb that we should take into discussion is the Gr. *horáo*. In Ancient Greek, the verb *horáō* ‘see’ had more forms in the Perfect Tense: *ópōpa* / *heóraka* ‘I have seen’ and *oída*, lexicalised for the meaning ‘I know’ (< ‘I have seen’). First of all, as known, the Perfect aspect of the verbs expresses the present result of a past action or a completed action. That is why *oída* could develop an abstract and epistemic meaning, as knowing something can be interpreted as the result of seeing it previously. Moreover, *oída* derives from the IE radical **weid-* / **woid-* ‘knowledge’¹⁷, so diachronically this semantic development is fully explainable. Interestingly, though, the same root with an abstract meaning (‘knowledge’) developed diachronically not only an abstract meaning, but also a concrete one. Speakers relate the concepts of ‘sight’ and ‘thought’, consequently, due to their common attributes, they belong to the same semantic frame. In other words, these semantic shifts were possible due to the cognitive attributes shared by both concepts and their close relation from a psychological and logical perspective.

Diachronically, the case of the Gr. *sképtome* has a very interesting evolution from the semantic perspective. More precisely, *sképtome* derives from the IE radical **spek-*¹⁸, meaning ‘watch (attentively), observe, examine’¹⁹. In Ancient Greek, it preserved its original concrete meaning (‘I look attentively, I observe’)²⁰, but in Modern Greek it means ‘I think’, with the same evolution like *theōrō*, for instance. Once again, the two conceptual frames, which are closely linked in speakers’ mind, interwave and this interaction engenders the semantic shift ‘sight’ > ‘thought’ (concrete / sensorial > abstract / intellectual, epistemic). Due to the features of the frames, namely fuzziness and attributes sharing, some of the members of the frame of ‘sight’ get some attributes from members of the frame of ‘thought’.

Nevertheless, this close relation between ‘sight’ and ‘thought’ or ‘understanding’ is not specific to Greek. In many other languages (Spanish²¹, Romanian²², French, English, etc.), the common verb ‘see’ also develops the metaphorical sense ‘understand’ or ‘think’:

- (5) a. *Veo que nos equivocamos al juzgarle.*
- b. *I see what you mean.*
- c. *Din ceea ce îmi spui, văd că au apărut unele probleme.*

¹⁶ Cf. *theoría*, *theorēma* and other abstract lexeme denoting mathematical or philosophical concepts.

¹⁷ Cf. other descendants of the same IE root, with a sensorial meaning: Lat. *video* ‘see’, Gr. *eídon* ‘I saw’ etc.

¹⁸ The root of the verb (*skep-*) was reconverted from **spek-*.

¹⁹ Cf. Gr. *skopos* ‘aim, purpose’, *skopeō* ‘observe, aim’, Lat. *specio* ‘watch’, *perspicio* ‘observe carefully, scout’, *adspicio*, *auspex*, *haruspex*, *extispex*, *specula*, *speculator*, *speculator*; Umbric divinity *Speture*; Old Germ. *spehōn* (> Fr. *espier*); Skr. *páçyati* ‘see, watch’, etc. (Julius Pokorny, *Indogermanisches Etymologisches Wörterbuch*, Bern: Francke, 1959; Carl Darling Buck: *A Dictionary of Selected Synonyms in the Principal Indo-European Languages*, Chicago: University of Chicago Press, 1988).

²⁰ Interestingly, Plato, in his philosophical works, uses this verb with the meaning ‘look in order to find out’.

²¹ In DRAE, s.v., *ver* has these meanings, as well: *considerar*, *advertir o reflexionar* and *conocer*, *juzgar*.

²² ****Dicționarul Explicativ al Limbii Române*.

These verbs of ‘sight’ can develop relations of synonymy with other cognitive verbs, due to their sensorial semantic structure, the cognitive continuum (mentioned above) and the close link between senses and other psychological processes. Sensorial verbs are polysemous lexical items that belong to general lexicon, and that is why they can easily change their meaning or form a great deal of idiomatic expressions.

Thus, we should classify these verbs into two categories. Firstly, we could identify a category of verbs that develop abstract and figurate senses, but they still conserve their basic concrete and sensorial sense. This is the case of common polysemous verbs, with general meaning, ‘grab’ or ‘see’, that can be uttered with the meaning ‘understand’. The verb ‘see’ did not pass into another conceptual frame and remained in its sensorial frame, but it covers a fuzzy interference area between the two cognitive frames.

On the other hand, there is another category of verbs, formed by verbs that originally and etymologically are sensorial verbs but they do not belong anymore to this frame. They undertook some semantic changes and changed their meaning and got a strictly intellectual and abstract meaning. The processes that led to these semantic changes include either a total change, or the verb is new and formed on the basis of a root with a concrete sense (cf. *theōrō*, *skéftome*).

In the evolution of this semantic field, we noticed that the Indo-European radical **weid-* / **woid-*, which originally denoted the sense ‘knowledge’, in some historic dialects (Ancient Greek and Latin, for instance) developed a sensorial meaning, namely ‘see’ (cf. Lat. *video* ‘I see’ and Gr. *eídon* ‘I saw’). Interestingly, in Ancient Greek, the Aoristic radical (*e*)*id-* (< IE **weid-*) was employed by philosophers to express abstract senses and concepts (for example, Gr. *idéa* ‘idea’, *eídēsis* ‘knowledge’). Moreover, we should take into account *oida*, derived from the same IE radical and mentioned above. We can claim, therefore, that in some cases there is a cyclic evolution of the sense, but these are quite rare, unpredictable and the period of time during which these changes took place was quite long. During a few millennia’s time, the IE root under discussion underwent these (cyclic) semantic shifts in small steps and in two different stages: (i) abstract and cognitive meaning > concrete and sensorial meaning and (ii) concrete > abstract.

A concluding remark of this section is that the evolution of sense follows the pattern bellow²³:

<p>(1) ‘see’ → (2) ‘watch’ / ‘look’ → (3) ‘observe’ / ‘examine’ → (4) ‘know’ → (5) ‘understand’ → (6) ‘think’ / ‘consider’</p>
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Fig. 1. - Sensorial verbs and the development of abstract meanings

This pattern or semantic frame presents the stages in the evolution of the verbs denoting concrete and sensorial senses (‘see’, ‘watch’, ‘look’, ‘seem’) that develop abstract and mental meanings. Thus, as shown, there can be identified “small steps” in the evolution.

5. FINAL REMARKS AND CONCLUSIONS

One first remark is that the lexical-semantic paradigm of cognitive verbs establishes a close relation with the verbs denoting perception (‘see’, ‘watch’, ‘notice’) and grabbing (‘get’, ‘catch’, ‘grab’). Moreover, this relationship can be identified both diachronically and synchronically, not only in Spanish and Greek, but also in other Indo-European languages.

²³ Răzvan Bran (Târgu-Jiu: *From sight to thought. A diachronic view on the Greek verbs of cognition*, in *Research and Science Today*, No. 2(8) / 2014, 220).

Synchronically, some cognitive verbs are at the interface of two conceptual frames, sharing attributes of both frames (*cf.* ‘see’: Sp. *ver*, Gr. *vlepō*, and ‘get’: Sp. *coger*, *pillar*, Gr. *pianō*). So these are diachronic tendencies that we are able to witness at the synchronic level of language evolution.

Another remark is that there could be identified a general evolution from concrete to abstract by means of metaphor or metonymy. For instance, the mental and linguistic representation of time is often a mere abstraction of space. Although we can identify some patterns of semantic evolution based on these two processes, we cannot predict precisely other changes of meaning that a certain word or lexical field would undergo. Nevertheless, these semantic shifts undergone by some lexical items entail the enrichment of the conceptual domain related to cognitive processes.

We could also claim that, diachronically, only in some cases the semantic relation established between two semantic frames is bidirectional, namely ‘see’ ↔ ‘think’. More precisely, although most of the verbs follow the pattern concrete > abstract, we could identify some lexical items denoting cognitive processes that changed their meaning and developed a concrete one (*cf.* the IE root **weid-* > Lat. *video*). This happens as a consequence of their unstable position of the verbs on the cognitive continuum and of the fuzzy boundaries of frames that implies that words can belong to various fields simultaneously.

In conclusion, the evolution of cognitive verbs presents similar semantic patterns in different languages (Greek, Romance and Germanic languages). Our investigation could be extended to languages belonging to other families in order to identify the universality of these patterns as a consequence of some mind sets. Are they cross-linguistic and do they reflect some cognitive frames that allow them to develop this meanings?

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THE YOUNG GENERATION'S VALUES ANALYSIS IN THE CONTEMPORARY SOCIETY

Oana DUMITRESCU*

ABSTRACT

THE PAPER INTENDS TO OFFER A PRESENTATION OF THE SOCIAL VALUES, BOTH FROM THEORETICAL AND PRACTICAL PERSPECTIVE, HIGHLIGHTING THE VALUES ENCOUNTERED AMONG YOUNG GENERATION.

THE VALUES ARE DEFINED AS AN ABSTRACT SET OF PRINCIPLES WHICH GUIDE THE INDIVIDUAL'S SOCIAL LIFE. THOSE PRINCIPLES CONTAIN THE PURPOSE IN LIFE AND THE BEHAVIOR PATTERNS PREFERRED BY THE INDIVIDUALS UNDER CERTAIN CIRCUMSTANCE.

THE VALUES ARE REINFORCED BY THE SOCIETY, GIVEN THAT THE SOURCE OF THE INDIVIDUAL VALUES STANDS IN THE INDIVIDUAL'S NATIONAL CULTURE, FAMILY, TEACHERS, FRIENDS AND OTHER FACTORS WHICH CAME ACROSS WITH THE INDIVIDUALS. THE SOCIAL VALUES ARE MANIFESTED THROUGH NORMS AND THIS NORMS REFLECTS THE GROUP'S VALUES.

WE WILL MAKE A COMPARATIVE ANALYSIS BETWEEN THE ANSWERS GIVEN BY THE SUBJECTS FROM URBAN AREA AND THOSE FROM RURAL AREA AND OUR ULTIMATE GOAL IS TO REVEAL THE POSSIBLE OVERLAPPING AND/OR DIFFERENTIATION ALONG THE URBAN-RURAL CATEGORIES. THE RESEARCH SUBJECTS HAD TO CHECK THREE VALUES FROM A LIST OF THIRTY ONE VALUES, VALUES THAT WE'VE ENCOUNTERED IN THE RESEARCHES CARRIED OUT THUS FAR. AFTER ANALYZING THE GRIDS, WE MANAGED TO RANK THE MOST IMPORTANT VALUES, GIVING US THE GROUP VALUES SYSTEM.

KEYWORDS: SOCIAL VALUES, YOUNG GENERATION, URBAN AREA, RURAL AREA, VALUES SYSTEM.

INTRODUCTION

In sociological literature, one of the first definitions of the concept of value, was offered by William I. Thomas and Florian Znaniecki, which in the year 1920, under the footnote of their methodological paper "Il contadino polacco in Europa e in America"; the researchers describe social value as a "given" which has "an empirical substance accessible for members of a social group and a reference significance of which it is or can be an object of activity. In this way, a kind of food, an instrument, a currency, or even a scientific theory is or can be social values. The significance of these values becomes explicit when we consider them to be

*Phd.-Student, University "Alexandru Ioan Cuza" of Iași, Romania, oana_dumitrescu@ymail.com

This paper is a result of a research made possible by the financial support of the Sectorial Operational Programme for Human Resources Development 2007-2013, co-financed by the European Social Fund, under the project POSDRU/159/1.5/S/132400 - "Young successful researchers – professional development in an international and interdisciplinary environment".

connected which human actions¹. Even if the concept of value defined in the way that it is not utilized in this day and age, for the two researchers, the distinction that they have made between values and behaviors, has succeeded in delimiting through it social desideratum which is comprised of values and individual desideratum comprised of behaviors.

With this paper, I have begun with the idea that social groups supply their members with a system of values, information about the world, stereotypes; in other words they supply a conventional reality established on common grounds validated through social acceptance as comforting and convincing.

These are the following premises of which this study is based on:

1. Youths are a part of many groups, and their value system is being developed multidirectional.
2. The values of youths are passed down through their family, and the most important ones are respect/common sense/esteem followed by love/affection.
3. Youths that originate from the rural background are mentioning more often the belief in God as an authentic value in contrast to those in the urban area.

In post-communist Romania, axiological incertitude has multiple causes, up brought by the change in social order, by the formal renouncing of social norms imposed by the former ruling, even by the redefining of good and evil. From a society in which landmarks were clearly represented, the change to a world where you can do the same action in different ways was welcome and quite new. The diversity of values was heavily constrained under the communist role which favored social homogeneity, and after the change, this tendency has lingered because of the social ineptitude to change or lack of predictability. To resist a higher level of axiological incertitude it would require a same level of material security, but in our modern society even this aspect is lacking. The normal reaction to this situation resides in the adoption of conservative values and behaviors, of mitigating existential un-safety. On the other hand, some modern behaviors accompanied by their associating values, are widely spread and hard to alter given the prolonged history of being imposed and dominant. On opposite side, we find postmodern influences brought in by the contact of western cultures.

CONCEPTUAL DELIMITATIONS OF THE TERM VALUE.

Value designates a variety of things, like the denomination of money as the cost to an object, the mathematical unit associated to a physical unit, but especially so in "acquisition of things, facts, ideas, phenomenon's, that correspond with social needs and ideals, generated by them; the sum of the qualities of an object that gives it a price, or significance to a living thing, meaning or valor"².

When we use the concept of *value*, through philosophical inquiry and social sciences, it acquires different meanings. If we were to simplify this discussion, we can say that moral philosophy in question with the concept of value, induces the idea of good, in antithesis with what is bad; in aesthetics value corresponds with the idea of beauty; in cultural anthropology value is taken in consideration when we talk about what it means to be a part of a culture, what is socially accepted, respected and esteemed; in economics, value is the properties that make something desirable, and it requires an effort, a cost if you will to be created, or bought³.

¹ William I Thomas., Florian Znaniecki, *Il contadino polacco in Europa e in America*, (Milano: Edizioni di Comunità, 1968), 26.

² Academia Română, *Dictionarul explicativ al limbii române (Ediția II-a)*, (București:Univers Enciclopedic, 1998).

³ Arnaldo Bagnasco, Marzio Barbagli, Alessandro Cavalli, *Sociologia. I concetti di base*, Ediția aIII-a, (Bologna: Il Mulino, 2013), 149-50.

There are a variety of definitions and interpretations given to the concept of values. In socio-humanistic sciences the most accepted notion is that of general principles or abstracts of what is important and precious to life, about how humans must act and behave and appreciate the situations, events, persons, and even social and natural objects. Such principles are: kindness, truthfulness, justice, liberty, cooperation, competition, self-fulfillment.

Values are a product of historic processes which span a long time, and are influenced by social context; Gallidi considered that a social value is "the conception of a condition, about one's self or others, or the conception of one's self in relation to others or objects, including in this sense, nature and supernatural phenomena of which an individual or a collectivity deems it to be desirable and on the basis of which they judge the fairness, the accepted character, efficiency, and dignity of self-actions or other members actions. Even if it would be interesting to analyze sociologically individual values of subjects when we try to explain social actions, the current interest is focused on the values common to a community"⁴. In this moment there can be distinguished three fundamental components of values: affectivity (the domain of actions), which pertains a link between objects, people, actions within the span of an approval/disapproval chain; the cognitive component which pertains to the fact that values appear as a series of enunciations which are argumentative to the social actor; the volition component (of selection) which refers to the capacity of values to orient social action⁵.

In their paper regarding values, Peter B. Smith and Shalom Schwartz have highlighted five major aspects which are important to them.

1. Values are ideas or beliefs which are infused by feelings;
2. They refers to desirable scopes (such as talking about equality or justice) and of ways of good conduct which promote those respective values (correctitude, helpfulness, etc.);
3. Values transcend actions and specific situations: submission is practiced for example, in schools, at the workplace, in family or with friends and strangers;
4. Values serve as standards of selection and evaluation of behaviors of different people or events;
5. Values are ordered both at a societal level and on an individual one by the importance of one against the other, thus forming the system of values (value system).⁶

Regarding the classification devised by Rezsóházi Rudolf in his book "The Sociology of Values", he splits these in four broad categories⁷:

1. Post-Modern values: Individualism, self-fulfillment, liberty, experimentation, relativity, sincerity, tolerance, spontaneity, sexuality, hedonisms, the now, living together, nature, life, and equality.
2. Traditional Values: Religion, authority, moral rigorousness, submission, duty, work, responsibility, fidelity.
3. Central Values: love, family, friendship, honesty, dignity, carrier accomplishment, safety, free time, sciences, progress, democracy, peace.
4. Latent Values: justice, solidarity, fraternity, kindness.

Individual values are formed in the first stage of life. During the whole life of the individual, the behavioral pattern, attitudes and perception are guided and determined by these values. Values are consolidated by society, taking in consideration the fact that the source of

⁴ ⁴ Luciano Gallin, *Dizionario di Sociologia*, (Torino:Utet, 1993), 716.

⁵ Laura Sciolla (coord.), *Enciclopedia delle Scienze Sociali*, (Roma: Istituto per l'Enciclopedia Italiana, 1998), 751.

⁶ ⁶ Peter B. Smith, Shalom Schwartz, „Values” *Handbook of Cross-Cultural Psychology*, Volumul III-lea, (Boston: , MA: Allyn & Bacon , 1997), 80.

⁷ Rudolf Rezsóházi, *Sociologia valorilor*, (Iași: Institutul European, 2010), 122-23.

the individual's values reside in national culture, family, teachers, friends, or other factors found in close proximity to man.

DURKHEIM AND THE STUDY OF VALUES.

In the midst of Durkheim's sociology, the conceptualization of values form an analytic key of reflection on social relations, and thus, on the processes of integration.

The approach proposed by the french sociologist was found by an interpretive logic of which we can call it today as an functionalist type of logic, in which "the social actor has the tendency to learn the values of the society in which he lives, as long as it favors the survival of the social system, and in consequence the survival of the individual"⁸.

The individualization of a social dimension on a utilitarian level, accredits the idea of, that even in the context of a modern differentiated society, there is a need for a system of common values which regulates the division of work and to promote social solidarity. Following this train of thought, Durkheim's approach in his research answers the need to contextualize existence and the functioning of common values, embedded in the collective conscience of any given community, in the sense of a social reality in which cultural homogeneity is not that often found⁹.

A more systematic perspective on the specificity of values is found in the definition of the french sociologist which he has offered to the concept of "moral fact": "each individual [...], each moral conscience expresses in their own way, a common morality" and thus we can deduce that "no conscience is fully adapted to the morality of the present age, in which it lives ". Ergo this is why sociologic interest for moral reality which is fundamental in its objective aspect to be constituted in an common, impersonal system of reference for the judging of thy own actions and the actions of others.

We can deduce from here on that Durkheim's perspective on values is declining, in principal as analysis of normative institutionalized models and because of this reason, of which they are shared by a collectivity, and by a force that it is being exercised "from the exterior" onto the individual's moral conscience.

Among the distinctive factors of moral fact, Durkheim indicates firstly, that the factor of obligativity, a transformed aspect of Kantian deontological perspective and of which it links it to sacredness and the transcendence of values. Moral rules, citing Durkheim are "invested by an specific authority, in virtue of which they are being listened to, because they are commanded". Their obligative character is enforced by the existence of sanctions and rewards which are derived by the fact that they are not according to the pre-established rules"¹⁰.

THE DYNAMICS OF VALUES

It can be observed that the changing of values is determined and stimulated by the interaction of groups with different values, the change in the economic environment, technical progress, and generations. The change is gradual and it rarely entails the creation of brand new values. As a rule of thumb, values change by the conversion or hybridization of the old ones, initially through small communities, and later through contagion to the masses. The interactions between groups with different values represent an important factor in the changing

⁸ Laura Sciolla, *Enciclopedia delle Scienze Sociali*, 756.

⁹ Massimo Rosati, Alessandro Ferrara, *Affreschi della modernità. Crocevia della teoria sociale*, (Roma: Carocci, 2005), 27.

¹⁰ Bettin Lattes Gianfranco, Raffini Luca, *Manuale di sociologia*, Volumul II, (Milano: Casa Editrice Dott. Antonio Milani, 2011), 911-12.

of values. It is here that we find the role of globalization and migration in accelerating the changing of values¹¹.

Embedding values in value systems and social determination leads to the stabilization of them. Values do not change on a day to day basis, there needs to be a prolonged period for restructuring, any modification affects the reality in which we live our lives. This aspect determines that for the studying the dynamics of values, there is a need for a large time span of intervals between 5 to 10 years, so that the fluctuations could become visible.¹²

In a few cases about disasters, that have been studied, it has been observed a rapid change of values, an increase in the rise of solidarity between individuals during or following the aforementioned disaster. But even so, the problem of determining the time necessary for the change to take place. In the post-disaster period it has been observed that part of the old values re-appear. It seems that in a period of crisis, values evolve and assimilate more rapidly, even faster than educational process.

To produce change in attitudes or values, in the past there have been created artificial crises, even extrapolated racial or international problems or even fake, deceitful events (such as Reichstag Fire's)¹³.

THE ACTUAL RESEARCH OF VALUES

In the analytic proposal elaborated by Ronald Inglehart at the end of the 70's, theoretical analysis and empirical research come together into interpretive paradigm. The analyses that have been carried out by them have the tendency to concentrate the attention on the elements of change of values, leaving unfinished the conception which stands at the base of values and the theme of dynamics in relation to social action¹⁴.

According to Inglehart, evolutions in the process of modernization have determined a series of change at the social system level so as to influence the properties of values and the capacity to stimulate political involvement of individuals. Technical innovation, changes on the occupational structure level, rise in economical welfare and the expansion of trainings are factors that have contributed to the creation of a social context profoundly changed. Even so, creating a significant difference of "experiences characterized by age grouping"¹⁵.

There is an explicit orientation to being critic, to question everything, this reflex being a part of a process of permanent change in the way we define what is important for individuals and society, bending each distinct action for the scope of human existence. Science maintains its positive image, but its effects are questioned, being perceived as new social dangers, ecological claims being common now in-between predominant values. Hierarchies have almost completely lost meaning, leaving space to a more explicit orientation towards equality; postmodern orientations include elements essential to hedonism, self-expression, self-fulfillment and the valuing of knowledge.

There is another postmodernist view on the study of values which imagines societies and cultures such as fluids, unstable, in perpetuum motion, while values do not necessarily derive from socialization but are akin to individuals. This perspective is more specific to philosophy being less pregnant in sociology and practically nullified through empiric validation¹⁶.

¹¹ Lazăr Vlășceanu (coord.), *Sociologie*, (Iași: Polirom, 2011), 285.

¹² Bogdan Voicu, Mălina Voicu, (coord.), *Valori ale românilor: 1993-2006. O perspectivă sociologică*, (Iași: Institutul European, 2007), 10.

¹³ Felick Gross, *Saggi su valori sociali e struttura*, (Roma: Editura Facultății de Științe Demografice și Actuale, Universitatea din Roma, 1966), 101-02.

¹⁴ Michele Roccato, „La rilevazione empirica dei valori” *Rassegna Italiana di Sociologia*, (Bologna: Il Mulino, 1/2008), 48.

¹⁵ Ronald F. Inglehart, *La rivoluzione silenziosa*, (Milano: Rizzoli, 1977), 28.

¹⁶ Lazăr Vlășceanu (coord.), *Sociologie*, 274

CASE STUDY: FROM SOCIAL VALUES TO VALUE SYSTEMS OF THE YOUTH

The study at hand was conducted between 3rd – 11th of December 2014, in the city of Iași, Romania, took place on the grounds of “Alexandru Ioan Cuza” University of Iași, thoroughly following the ethics involved, principle of data confidentiality, respect for the participant, free will, and methodical choosing of participants.

The group over which we conducted our research has the following characteristics: 105 students of University "Alexandru Ioan Cuza" of Iași (all students of the 1st year of study in the social work domain). The geographical background of our subjects was: rural-50 students (47.61%) and urban-55 students (52.39%); their age is between 18 and 25 (the mean age is 21.5), 75 students had 19 years old (71.42%); 10 students are working (9.52%), (which gives us information on the degree of financial independence). I have chosen the sample on these criteria considering that it is of utmost importance in determining the value system of which these students will progress towards a social assistant type of job. Following with this reasoning, I have applied the instrument of this study to all the students of the specialization.

The comparative analysis was the approach for this research and the ultimate goal was to reveal the possible overlapping and/or differentiation along the urban-rural categories. The major hypothesis of this study is structured on a mix of potent traditional and modern tendencies, associated to pressures and influences postmodern in nature, which as a whole characterizes the Romanian society.

The students had to check 3 values from a list that included 31 social values, of which we have encountered in the research carried out thus far. After analyzing the grids we managed to rank the most important values, giving us the group's value system. The chosen research tool for this study was the evaluation grid. The reasoning behind it was that I have considered this toll to be effective in narrowing down the list of social values, thus identifying the most important values of the sample of test subjects, and in this way having a starting point for future research development in this field. By identifying dominant values, we can build afterwards the other tools of research (questionnaire and interview guide) necessary in thoroughly investigating this field.

Table 1. Values system of the analyzed group

Social Values (urban)	Social Values (rural)
Common sense/Respect/Esteem	Common sense/respect/Esteem
Love/Affection	Love/Affection
Responsibility	Honesty/Sincerity
Honesty/Sincerity	Faith/God
Friendship	Responsibility
Faith/God	Kindness/Generosity/Altruism
Calm/Patience	Moral rightness/Honor

Social Values prevailing in this group are "Common sense/Respect/Esteem" and "Love/Affection", both in the rural and urban environment. Value with the highest frequency is "Common sense/Respect/Esteem", as it was mentioned 66 times. The only value that has not been mentioned by any category it was "Pleasure/Maximizing pleasure/Hedonism", even though this value is representative for Western European youth.

Young people in rural areas have considered the value of "Faith/God" more important than those in urban areas by 15 to 9.

The only value which has not been mentioned by either group was Pleasure/Hedonism, value which is more pregnant among youths in western countries.

Once we identified the value system of the analyzed group, we can extend our research to other groups of youths, with similar characteristics to see if we can rediscover the same social values, and inside of which establish the blueprint of the system of values of the current generation. Leading with this system of values we can build an experiment applied to a much larger sample size which will analyze social values, attitudes, the way individuals relate to social norms, and in relation to pre-established behaviors.

CONCLUSIONS

Values are latent realities, inner to individuals but are also determined socially, sufficiently stable in time, which directs attitudes, behaviors and opinions. Values are formed in consistent systems of values, leaning on one another and determining the choices that people make in any given moment. Values determine the way the society is structured, the way a family is formed and organized, how social relations work in the midst of organizations and institutions. In institutions the rules are no more than a practical transposition of common dominant values of their respective community.

Social groups supply their members with a system of values, information about the world, stereotypes; in other words they supply a conventional reality established on common grounds validated through social acceptance as comforting and convincing. It's because of this reason, following with the theory of reducing uncertainty, that individuals faced with uncertainties about their attitudes, beliefs, roles in society, will try to seek certainties inside the social group of which he or she is a member in.

Traditional societies are characterized by the overwhelming importance of direct knowledge. Inter-human relationships are always direct, the exchange is based on mutual trust, which the parties know each other very well, social control is based on respect built upon countless webs of mutual obligations that passed the test of time. Common actions of human actors are modeled by traditions and by blood, which trump in the face of friendship or the rule of law.

In this paper I have reviewed some theoretical aspects which are very important in understanding social values. An exposition of identified values found in the analyzed groups led me to identify the value system of the youths in question. Following the analysis we have observed that there is a difference between the subjects from the rural background compared to the ones in urban background. The difference is not that noteworthy which in turn tells us that the discrepancy is narrow.

This research is just the first step in analyzing social values of the youths, and the results of this paper may offer a starting point for future research and development of the field of values in sociology.

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HUMAN AMNIOTIC MEMBRANE FOR ACUTE SEVERE ALKALI BURN - 100 % VISUAL ACUITY RECOVERY

Alina GHEORGHE*
Monica Daniela POP¹
Calin- Petru TATARU²
Constantin MIHAI³
Miruna CIOBOATA⁴

ABSTRACT:

OUR PURPOSE IS TO REPORT TWO CASES OF ACUTE ALKALI EYE BURN TREATED WITH AMNIOTIC MEMBRANE PATCH. BECAUSE THE OCULAR BURNS WERE RECENT WE PATCHED THE EYE IN THE ACUTE PHASE WITH AMNIOTIC MEMBRANE. BY THIS APPROACH THE AMNIOTIC MEMBRANE SERVES AS GROWTH PROMOTING AND ANTI INFLAMMATORY AGENT. ALTHOUGH AT THE BEGINNING THE LIMBUS AND THE CORNEA OF BOTH PATIENTS WERE AFFECTED, AFTER THE INTEGRATION OF THE AMNIOTIC MEMBRANE, WITH PROPER TREATMENT, NO FURTHER SURGICAL TREATMENT WAS NEEDED, WITH 100 % VISUAL ACUITY RECOVERY. THE AMNIOTIC MEMBRANE REPRESENTS A POSSIBLE TREATMENT IN OCULAR BURNS NOT ONLY IN THE CHRONIC PHASE , FOR BURNS GRADE 3 OR 4 WITH LIMBAL STEM CELL DEFICIENCY, BUT ALSO IN THE ACUTE PHASE.

KEY WORDS: ALKALI OCULAR BURNS, AMNIOTIC MEMBRANE, ACUTE PHASE, CORNEA, LIMBUS

INTRODUCTION

Chemical trauma to the external eye is a common problem that can range in severity from mild irritation to complete destruction of the ocular surface causing loss of vision and even loss of eye.⁵ The majority are accidental, and a few are due to assault. Two- thirds of accidental burns occur at work and the remainder home. Alkali burns are twice as common as acid burns since alkalis are more widely used both at home and in industry. A chemical burn is the only eye injury that requires emergency treatment without first taking a history and

* MD, PhD Student, University of Medicine and Pharmacy "Carol Davila", Bucharest, alina.gheorghe.g@gmail.com

¹ MD, Professor of Ophthalmology, University of Medicine and Pharmacy "Carol Davila", Bucharest

² MD, PhD, Emergency Eye Hospital, Lecturer University of Medicine and Pharmacy "Carol Davila", Bucharest

³ MD, PhD, ALCOR Clinic, Bucharest

⁴ MD, PhD, Emergency Eye Hospital, Bucharest

⁵ Gregory L. Skuta, Louis B. Cantor, Jayne S. Weiss, *Basic and Clinical science Course, Section 8, External Disease and Cornea*, American Academy of Ophthalmology (San Francisco 2010) 351-355

performing a careful examination.⁶ Strong alkalis raise the pH of tissues and cause saponification of fatty acids in cell membranes and ultimately cellular disruption. Once the surface epithelium is damaged, alkaline solution penetrates the corneal stroma, where they destroy the proteoglycan ground substance and collagen fibers of the stromal matrix. Strong alkaline substances produce severe tissue damage and intense inflammation. Proper management of chemical injuries remains a challenge. After immediate and copious irrigation, the next phase of the management should be directed at decreasing inflammation, limiting matrix degradation and promoting reepithelialization of the cornea.⁷ Early surgery may be necessary. Amniotic membrane transplantation may be helpful in suppressing inflammation, restore the limbal cell population and re-establish the fornices. The first documented ophthalmologic application of the amniotic membrane was in the 1940's when it was used in the treatment of ocular burns.⁸ Following initial reports, its use in ocular surgery, as indicated by reports in the scientific literature, abated until recently. The amniotic membrane is now increasingly being used in ocular surface surgery for a wide range of indications.⁹ In modern ophthalmology its use was described by Tseng and co-workers¹⁰. Amniotic membrane promotes epithelialization by keeping the preexisting epithelial phenotype. Amniotic membrane acts like a basement membrane by being an excellent substrate (the tissue grows from the healthy epithelium beneath the membrane), inhibits scarring and vascularisation reduces inflammation, provides a substrate for cell growth, has antimicrobial effects and offers a mechanical protection as a biological bandage. The mechanisms of action of the membrane are attributed to and inferred from its physical structure and its molecular constituents. The amniotic membrane is composed of a single layer of epithelial cells, basement membrane and avascular stroma. Enzymes, cytokines (IL-6, IL-10), growth factors (EGF, KGF, HGF, TGF), metalloproteases and inhibitors of metalloproteases have been identified in amniotic membrane layers¹¹.

⁶ Jack J. Kanski, Brad Bowling, *Clinical Ophthalmology A Systematic Approach, Seventh Edition*, Elsevier Saunders (2011) 871-891

⁷ Gregory L. Skuta, Louis B. Cantor, Jayne S. Weiss, *Basic and Clinical science Course, Section 8, External Disease and Cornea*, American Academy of Ophthalmology (San Francisco 2010) 351-355

⁸ G. K. Krieglstein, R.N. Weinreb, *Essentials in Ophthalmology Cornea and External eye Disease*, Springer 21-31; de Roth A, *Plastic repair of conjunctival defects with fetal membranes*. Arch Ophthalmology (1940) 23:522-525; Sorsby A, Haythorne J, Reed H, *Further experience with amniotic membrane grafts in caustic burns of the eye*. Br J Ophthalmol (1947) 31:409-418; Sorsby A, Symmons HM, *Amniotic membrane grafts in caustic burns of the eye (burns of second degree)*. Br J Ophthalmol (1946) 30:337-345

⁹ G. K. Krieglstein, R.N. Weinreb, *Essentials in Ophthalmology Cornea and External eye Disease*, Springer 21-31; Kim JC, Tseng SCG, *Transplantation of preserved human amniotic membrane for surface reconstruction in severely damaged rabbit corneas*. Cornea (1995) 14:473-484; Anderson DF, Ellies P, Pires RT, Tseng SC *Amniotic membrane transplantation for partial limbal stem cell deficiency*. Br J Ophthalmol (2001) 85:567-575; Dua HS, Azuara-Blanco A, *Discussion on amniotic membrane transplantation for acute chemical or thermal burns*. Ophthalmology (2000) 107: 990

¹⁰ Dua HS, Azuara-Blanco A, *Discussion on amniotic membrane transplantation for acute chemical or thermal burns*. Ophthalmology (2000) 107: 990; Kruse FE, Jousseaume AM, Rohsneider K, You L, Sinn B, Baumann J, Volcker HE, *Cryopreserved human amniotic membrane for ocular surface reconstruction*. Graefes Arch Clin Exp Ophthalmol (2000) 238(1): 68-75

¹¹ G. K. Krieglstein, R.N. Weinreb, *Essentials in Ophthalmology Cornea and External eye Disease*, Springer 21-31; Keelan JA, Sato T, Mitchell MD, *Interleukin (IL) -6 and IL-8 production by human amnion: regulation by cytokines, growth factors, glucocorticoids, phorbol esters, and bacterial lipopolysaccharide*. Biol Reprod (1997) 57:1438-1444; Koizumi NJ, Inatomi TJ, Sotozono CJ, Fullwood NJ, Quantock AJ, Kinoshita S, *Growth factor mRNA and protein in preserved human amniotic membrane*. Curr Eye Res (2000) 20:173-177

Kubo M, Sonada Y, Muramatsu R, Usui M, *Immunogenicity of human amniotic membrane in experimental xenotransplantation*. Invest Ophthalmol Vis Sci (2001) 42:1539-1546

MAIN TEXT

We report two cases of two men who addressed the emergency department after alkali eye burn. They both presented earlier that 24 hours from the incident. They both had corneo conjunctival chemical burn with intense ocular pain, photophobia, excessive tearing, fronto - parietal headache. First was a 39 year old man from countryside who at submission his best corrected visual acuity of right eye was 0.1. On slit lamp examination on his right eye : second degree eyelid burn , massive eyelid edema, conjunctival hemorrhages and chemosis, faded nasal conjunctiva (milk-like) , glossless , adherent to the adjacent tissue, conjunctive denuded sclera in the nasal perilimbic area , and presenting a deep lesion corneal ulcerations in the ½ nasal , surrounded by corneal edema (Fig.1).

The second patient is 56 year old man. When submitted his best corrected visual acuity was 0.6. On slit lamp examination on his right eye: conjunctival chemosis and hemorrhages, faded nasal conjunctiva, adherent to the adjacent tissue, necrotic tissue (Fig. 2), limbic and perilimbic ischemia, nasal corneal ulceration (Fig.3) with corneal haze.

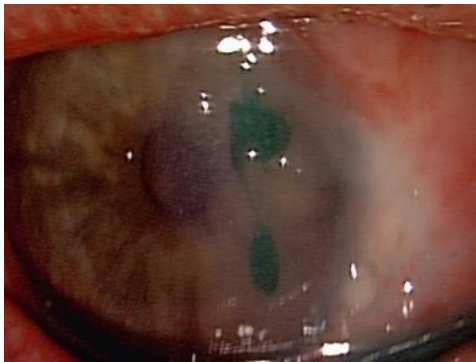


Fig.1 Corneal ulceration surrounded by corneal edema and conjunctival necrotic tissue

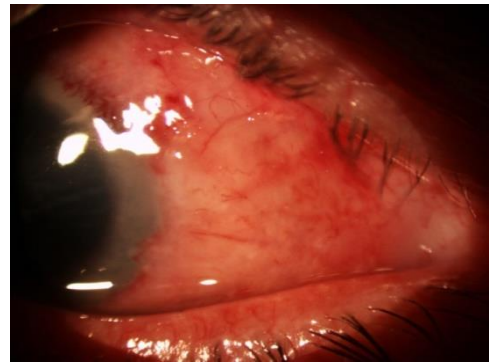


Fig.2 Conjunctival chemosis and hemorrhages, faded nasal conjunctiva and necrotic tissue

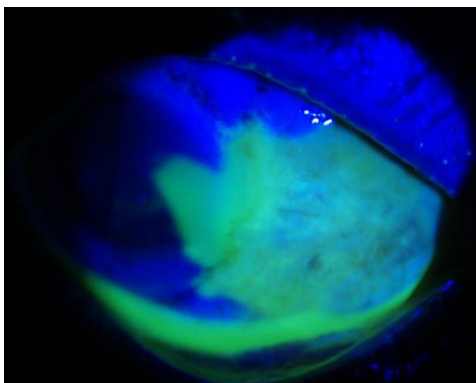


Fig.3 Limbic and perilimbic burn with ischemia and nasal ulceration

After copious irrigation and denudation of the surrounding necrotic tissue we have decided to patch the eye with human amniotic membrane. We used preserved human amniotic membrane according to European legislation. Amniotic membrane patch is performed with 10.0 nylon sutures with the epithelial face of the membrane facing upward and the membrane attached to the stroma. By this approach the membrane is covering the eye burn and serves as growth promoting and anti inflammatory agent for about 1-2 weeks after which the membrane detaches from the surface of the eye.



Fig 4. Amniotic membrane. Epithelial side facing upward.



Fig 5. Amniotic membrane covering eye surface. Suture with nylon 10.0

Two weeks from the procedure, following strict local hygiene and treatment with artificial tears and hyaluronic acid ointment both patients recovered 20/20 visual acuity. On slit lamp examination corneal edema was reduced, no corneal ulceration, no limbic ischemia, good conjunctival healing without symblepharon.



Fig 6. Reduced corneal edema, no corneal ulceration (the 39 year old patient)



Fig 7. No corneal edema, good conjunctival scarring (the 56 year old patient)

DISCUSSION: According to the Roper- Hall grading system¹², chemical injuries grade 1 and 2 are treated with topical medication (antibiotic ointment, hyaluronic acid, artificial tears, cycloplegics, steroids, ascorbic acid). Most eye burns not only affects the cornea but also the conjunctiva. So the healing process interest the cornea, the limbus and the conjunctiva, trying to treat corneal edema, haze and ulceration, limbic ischemia and to prevent symblepharon. Due to the nature of the burn, the uncontrolled inflammation, necrotic and scarring process we find the use of amniotic membrane very useful as acute phase surgery.

CONCLUSION

The purpose of amniotic membrane was to act as a patch, graft or both. Amniotic membrane transplant was carried out to fulfill one or more of the following objectives: to establish epithelial cover in an area where none existed, to prevent corneal perforation in eyes

¹² Jack J. Kanski, Brad Bowling, *Clinical Ophthalmology A Systematic Approach, Seventh Edition*, Elsevier Saunders (2011) 871-891

at risk due to stromal melting, to limit scarring where the clinical likelihood was high, and to limit inflammation and neovascularization .

Although used since the 40's nowadays amniotic membrane is starting to be reused because is a useful adjunct in the management of many ocular conditions. Several mechanisms of action have been attributed to the membrane based on its structure and biochemical composition. But many more healing properties are to be studied since the absence of randomised controlled studies.

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CHRONIC PELVIC PAIN AND ENDOMETRIOSIS

Oana-Maria BODEAN*

Diana VOICU¹

Octavian MUNTEANU²

Elvira BRATILA³

Roxana BOHALTEA⁴

Dragos DAVITOIU⁵

Monica CIRSTOIU⁶

ABSTRACT:

CHRONIC PELVIC PAIN IS A SYNDROME WITH A WIDE RANGE OF POSSIBLE CAUSES OF GENITAL AND EXTRAGENITAL ORIGIN. ENDOMETRIOSIS IS A CHRONIC HORMONAL DEPENDENT DISEASE WITH UNSPECIFIC SYMPTOMS, AMONG WHICH CHRONIC PAIN IS PERHAPS THE MOST DISTURBING, MAKING THE PATIENT SEEK FOR MEDICAL ADVICE. TREATMENT OPTIONS ARE VARIED AND MUST BE PROMPTLY APPLIED. THIS ARTICLE HIGHLIGHTS THE MAIN ASPECTS OF CHRONIC PELVIC PAIN AND ENDOMETRIOSIS WITH ELOQUENT EXAMPLES FROM OUR EXPERIENCE.

KEYWORDS: ENDOMETRIOSIS, CHRONIC PELVIC PAIN

INTRODUCTION

Chronic pelvic pain and endometriosis are two of the most disturbing problems that affect an important amount of women and make them search for medical attention. Endometriosis is defined as a chronic disease caused by the presence and effects of endometrial tissue outside the uterus. The ectopic endometrial tissue is a functional one, responding to hormonal changes in the same manner as the one inside the uterine cavity. Endometrial lesions, whether they are small nodules or large cysts develop anywhere in the body. For the physician the greatest challenge is to establish whether chronic pelvic pain is caused by endometriosis or by some other pathology. Pelvic pain related to menstrual cycle, deep dyspareunia,

* PhD Student, MD, Department of Obstetrics and Gynecology, University Emergency Hospital Bucharest, Romania. Correspondence to: oanamb8@gmail.com

¹ MD, Department of Obstetrics and Gynecology, University Emergency Hospital Bucharest

² PhD, Department of Obstetrics and Gynecology, University Emergency Hospital Bucharest

³ MD, Department of Obstetrics and Gynecology, "St. Pantelimon" Hospital Bucharest

⁴ MD, Department of Obstetrics and Gynecology, University Emergency Hospital Bucharest

⁵ MD, Department of General Surgery, University Emergency Hospital Bucharest

⁶ MD, Department of Obstetrics and Gynecology, University Emergency Hospital Bucharest, "Carol Davila" University of Medicine and Pharmacy

gastrointestinal painful symptoms related or unrelated to menstrual cycle, urinary dysfunction, acute abdomen and fertility issues are part of the symptoms and complications induced by endometriosis. Differential diagnosis between endometriosis and other pain-inducing pathologies is sometimes very difficult to perform. There is a series of investigations that can be done, including MRI and laparoscopy, but according to recent literature studies, biopsy is no longer mandatory. The treatment of endometriosis is applied according to the extension and location of lesions, the severity of symptoms, the patient's age and her desire of preserving fertility function.

This article presents a series of characteristic aspects of pelvic pain related to endometriosis and treatment options according to our observations in patients admitted in the Bucharest Emergency Hospital between September 2013 and September 2015.

BACKGROUND

Chronic pelvic pain

Chronic pelvic pain is defined as the presence of non-cyclic pain for at least 6 months localized in the anatomic pelvis and severe enough to cause functional disability that require medical or surgical treatment⁷.

Possible causes of chronic pelvic pain are: gynaecological and obstetric ((post surgical adhesions, pelvic inflammatory disease, endometriosis and adenomyosis), urologic (recurrent or interstitial cystitis, complications of urologic surgery, nephro/urolithiasis), gastrointestinal (irritable bowel disease, chronic inflammatory bowel disease, diverticulosis, polyposis), vascular (pelvic congestion syndrome), musculoskeletal, neurological, psychological. Endometriosis and adhesions are the most frequently responsible for chronic pelvic pain.

Endometriosis

The disease is characterized by the presence and growth of functional endometrial tissue, glands and stroma outside the uterus. The endometrial lesions can be found anywhere in the pelvis and can extend beyond the pelvic organs. The ectopic tissue is influenced by cyclic hormonal changes. There is a wide variety of pain type combinations occurring in women with such disease: dysmenorrhea, dyspareunia, dysuria, non-menstrual chronic pelvic muscle pain, dyschezia.

According to location of foci endometriosis is genital (uterine, tubal, ovarian, intra/extraperitoneal) and extragenital (intestinal, urinary, umbilical, hepatic and pulmonary).

Prevalence of endometriosis in the general population is 0.7-44%. Endometriosis was also found in teenage girls at 1-6 months after menarche and even prior to this event.

According to studies performed by the Association for Endometriosis, 66% of adult women with endometriosis report having symptoms prior to their 20s⁸.

AIM OF STUDY

The aim of this article is to highlight the main characteristics of pelvic pain caused by endometriosis and also to show eloquent examples of patients we treated for endometriosis.

⁷ Rozsnay, Francisc, et al. Outcomes of surgical management of deep infiltrating endometriosis of the ureter and urinary bladder. *JSL: Journal of the Society of Laparoendoscopic Surgeons*, 2011, 15.4: 439

⁸ Roman, Horace, et al. Surgical management of deep infiltrating endometriosis of the rectum: pleading for a symptom-guided approach. *Human Reproduction*, 2011, 26.2: 274-281; Leyendecker, G.; Wildt, L.; Mall, G. The pathophysiology of endometriosis and adenomyosis: tissue injury and repair. *Archives of gynecology and obstetrics*, 2009, 280.4: 529-538.

CASE EXAMPLES

Case 1. Deep infiltrative endometriosis (EN) diagnosed during cesarian section delivery in pregnant patient. Figure 1 shows endometriosis tumor with large base of implantation, infiltrating the serous coat of the urinary bladder. Figure 2 shows tumor infiltrating vesicouterine peritoneum. Symptoms prior to pregnancy: chronic pelvic pain unresponsive to NSAIDs, constipation, cyclic and non-cyclic back pain, dysmenorrhea and dyspareunia. Patient received surgical and hormonal treatment with good outcomes.

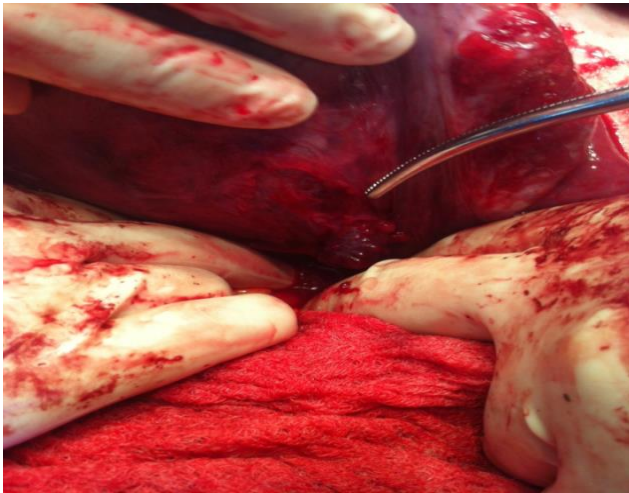


Fig. 1 EN infiltrating urinary bladder.



Fig. 2 EN in the vesicouterine peritoneum

Case 2. Endometriosis cyst and adenomyosis (Fig. 3, Fig. 4) in 34 year-old patient with chronic pelvic pain with progressive dysmenorrhea unresponsive to NSAIDs. The patient is currently under hormonal treatment.



Figure 3- Endometriosis cyst



Figure 4-Adenomyosis

Case 3. Endometriosis nodule (Figure 5) located on the urinary bladder extracted from a patient with progressive dyspareunia, chronic pelvic pain and cystitis unresponsive to medical treatment.



Fig. 5- Vesical endometriosis nodule

DISCUSSIONS

There are a few well-known theories about the physiopathology of endometriosis, but none of them can fully explain the whole process involved⁹:

1. The retrograde menstruation and implantation theory stands that endometrial tissue shed during menstruation is transported via the fallopian tubes into the peritoneal cavity where it implants on the surface of pelvic organs. This theory, however, cannot explain the occurrence of endometriosis in women with Mullerian agenesis or aplasia or in those who did not reach menarche prior to having been diagnosed with endometriosis.
2. The coelomic metaplasia theory holds that endometriosis results from spontaneous transformation (metaplasia) of mesothelial cells derived from the coelomic epithelium located in the peritoneum and pleura. This theory could explain endometriosis in male patients.
3. Vascular or lymphatic dissemination theory could explain extragenital endometriosis.
4. Hormonal theory- development of disease depends on the presence of steroid hormones.
5. Induction theory suggests that the transformation of undifferentiated peritoneal cells into endometrial cells is induced by an endogenous biochemical factor.

The main symptoms of patients with endometriosis are: chronic pelvic pain, back pain, progressive dysmenorrhea, dyspareunia, gastrointestinal disorders, urinary disorders, infertility, acute abdomen (due to rupture of endometriomas), heavy menstrual blood flow, early onset of menstrual cycle.

The mechanism responsible for the pain associated to endometriosis is very complex. It seems to involve the production of growth factors and cytokines by the activated

⁹ Surrey, Eric S., et al. Prolonged GnRH agonist and add-back therapy for symptomatic endometriosis: long-term follow-up. *Obstetrics & Gynecology*, 2002, 99.5, Part 1: 709-719; Leyendecker, G., et al. Endometriosis: a dysfunction and disease of the archimetra. *Human Reproduction Update*, 1998, 4.5: 752-762.

lymphocytes in the endometrial implants. There is also the effect of blood content in the implants and also a direct stimulation of pelvic nerves by compression or infiltration¹⁰.

The nervous pathways⁸ of pain impulses transmission to pelvic organs are illustrated in the table 1:

Spinal segment	Nerves	Organs
T9-T10	Thoracolumbar splanchnic nerves, renal and aortic plexus, ovarian blood vessels via celiac and mesenteric ganglia	Ovaries
T9-T10	Thoracolumbar splanchnic nerves via mesenteric plexus	Upper part of the ureter External 2/3 of fallopian tubes
T11-T12, L1	Thoracolumbar splanchnic nerves via uterine and inferior hypogastric plexes	Fundus uterii, fallopian tubes, broad ligaments, urinary bladder, colon, appendix
S2-S4	Pelvic nerves via pelvic plex	Upper part of Vagina, cervix, uterine isthmus, urethra, uterosacral ligaments
S2-S4	Pudendal nerve, ilioinguinal nerve, genitofemoral nerve, cutaneous posterior femoral nerve	Perineum, vulva

Table 1- The nervous pathways of pain impulses transmission to pelvic organs¹¹

Therefore, parietal endometriosis causes pain in the territory related to the iliohypogastric and ilioinguinal nerves. (T12-L1); ovarian endometriosis may cause pain in the innervation territory of the aortic plexus (T9-T10); an endometrioma can compress the obturator nerve and cause pain in the back of the hip; invasion of different ovarian or uterine ligaments creates pain in the T9-T10, L1-L2 territories. Other locations, such as deep infiltrative endometriosis, ureteral or bladder endometriosis show pain and symptoms related to these areas.

The diagnosis of endometriosis implies 6 major steps: clinical examination, pelvic ultrasound or abdominal ultrasound, CT-scan, MRI, serum markers (CA 125, CA 19-9, PP14, IL-6, TNF- α), laparoscopy¹².

¹⁰ Donnez, J., et al. Laparoscopic excision of rectovaginal tumors. *Atlas of operative laparoscopy and hysteroscopy*, 2007, 63; Harada, T., et al. Apoptosis in human endometrium and endometriosis. *Human Reproduction Update*, 2004, 10.1: 29-38; Fauconier, A.; Chapron, C. Endometriosis and pelvic pain: epidemiological evidence of the relationship and implications. *Human reproduction update*, 2005, 11.6: 595-606.

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¹² Mol, Ben WJ, et al. The performance of CA-125 measurement in the detection of endometriosis: a meta-analysis. *Fertility and sterility*, 1998, 70.6: 1101-1108; Hornstein, M. D., et al. Prospective randomized double-blind trial of 3 versus 6 months of nafarelin therapy for endometriosis associated pelvic pain. *Fertility and sterility*, 1995, 63.5: 955-962; Speroff, Leon; Fritz, Marc A. (ed.). Clinical gynecologic endocrinology and infertility. Lippincott Williams & Wilkins, 2005.

Clinical examination provides information about pelvic organs suggesting endometriosis. Such clinical findings are: sensitivity and nodules of the uterosacral ligaments (active lesions or scars); ovarian cystic mass adherent to pelvic organs or mobile masses (ovarian endometriosis); retroverted, relatively fixed uterus. Examining the patient during the menstrual period increases the chances of diagnosing endometrial nodules and evaluating pain level. Clinical pelvic examination also excludes other pathologies that may require immediate medical or surgical care.

Differential diagnosis of pelvic pain includes pain of different origin, such as: uterine (primary dysmenorrhea, adenomyosis), intestinal (irritable bowel disease, chronic constipation), urinary (cystitis, urinary infection, renal colic), ovarian (pain during ovulation, complicated ovarian cysts), adnexal (haematosalpinx, ectopic pregnancy, pelvic inflammatory disease)¹³.

Transvaginal ultrasound allows the identification of ovarian masses and of other possible causes of pelvic pain but does not reveal peritoneal lesions or adhesions.

CT-scan is used to diagnose extragenital endometriosis and to evaluate the extension of the disease. MRI can help identifying small endometrial nodules, endometrial plaques and larger endometriomas.

Serum biomarkers are also used to evaluate endometriosis, but there is no specific marker for this disease. CA-125 is found in the epithelium of fallopian tubes, endometrium, endocervix, pleura and peritoneum. It is a biomarker for ovarian cancer but although it may have elevated levels in patients with endometriosis, it has low sensitivity and therefore it cannot be used as a screening test for endometriosis. An elevated level of CA-125 is correlated to the severity of endometriosis¹⁴. CA 19-9 is a serum biomarker specific to cancer of the pancreas but an elevated level does correlate to the severity of endometriosis¹⁵. Other biomarkers such as IL-6 or TNF-alpha are used in different studies but are not specific.

Laparoscopy is the main investigation used to diagnose endometriosis. A systematic examination of the pelvic and abdominal cavities reveals typical and atypical lesions. Typical lesions are reddish, “powder-burn”- like or “gunshot”-like lesions or larger endometriomas. Atypical lesions are white, clear, vesicular or haemorrhagic. Colors vary from red, white, yellowish to dark black lesions of different morphology: vesicles on the peritoneal surface, holes in the peritoneum, stellar lesions right on the peritoneal or organ surface or deep infiltrative endometriosis. The extension of lesions in teenage patients do not correlate to the severity of disease, most adolescent girls being diagnosed in stage I or II¹⁶.

Recent guides do not consider biopsy and histopathology to be mandatory. Histopathological examination finds ectopic endometrial stroma and glands. Hemosiderine deposits and fibro-muscular metaplasia are often found.

The classification of endometriosis (E) according to the American Society of Reproductive Medicine¹⁷ is shown in table 2.

¹³ Cirstoiu, M., et al. Case study of a rare form of endometriosis. *Journal of medicine and life*, 2013, 6.1: 68; Cirstoiu M, Secara D, Bodean O, Munteanu O-Endometriosis in adolescents – *The 8th Congress of Romanian Society of Endocrinologic Gynecology* 12-14 June 2014, Bucharest, Romania

¹⁴ Harel, Zeev- Dysmenorrhea in adolescents and young adults: etiology and management. *Journal of Pediatric and Adolescent Gynecology*, 2006, 19.6: 363-371; Laufer, M. R. Premenarcheal endometriosis without an associated obstructive anomaly: Presentation, diagnosis, and treatment. *Fertility and Sterility*, 2000, 74.3: S15.

¹⁵ Fedele, Luigi, et al. Stage and localization of pelvic endometriosis and pain. *Fertility and sterility*, 1990, 53.1: 155-158.

¹⁶ Vernon, M. W., et al. Classification of endometriotic implants by morphologic appearance and capacity to synthesize prostaglandin F. *Fertility and sterility*, 1986, 46.5: 801-806

¹⁷ American Society for Reproductive Medicine revised classification of endometriosis, 1985. (American Fertility Society: Revised American Fertility Society Classification for Endometriosis. *Fertility Sterility* 43:351,1986)

Stage I (minimum) total 4p peritoneum: superficial E 1-3 cm 2p right ovary: superficial E<1cm 1p hidden adhesions 1/3 1p Stage II (light) total 9p peritoneum: profound E>3cm 6p right ovary : superficiala E<1cm 1p hidden adhesions< 1/3 1p left ovay: superficial E<1cm 1p Stage III (moderate) total 26p peritoneum: profound E >3cm 6p cul de sac: partially obliterated 4p left ovary: profound E 1-3cm 16p Stage III (moderate) total 30p peritoneum: superficial E> 3cm 4p right fallopian tube: hidden adhesions <1/3 1p right ovary: hidden adhesions<1/3 1p left fallopian tubes: profound adhesions<1/3 16p left ovary: profound E 1-3cm 4p dense adhesions<1/3 4p	Stage IV (severe) total 114p peritoneum : profund E>3cm 6p cul de sac: complete obliteration 40p right ovary: profound E 1-3cm 16 p dense adhesions<1/3 4p left fallopian tube: dense adhesions>2/3 16p left ovary: profound E 1-3cm 16p dense adhesions>2/3 16p Stage IV (severe) total 52p peritoneum: superficial E>3cm 4p left ovary: profound E<1cm 32p profound adhesions<1/3 8p left fallopian tube: dense adhesions<1/3 8 p
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Table 2- Classification of endometriosis (American Society of Reproductive Medicine)¹⁸

Treatment of endometriosis depends on the severity of symptoms, of lesion extension, patient's age and her desire for preserving fertility function. Treatment options include¹⁹:

A. Expectative

B. Medical treatment

a) NSAIDs

b) Hormonal treatment: Combined oral contraceptive pills, progestative pills, androgens, GnRH analogues, aromatase inhibitors.

C. Surgical treatment: conservative or radical

Expectative can be chosen in asymptomatic patients or in those with mild symptoms. Studies show that these patients will eventually have a lower fertility rate than those surgically managed.

Medical treatment using NSAIDs as first line to alleviate dysmenorrhea and chronic pelvic pain is successful in patients with minimum or mild endometriosis. The drugs inhibit COX-1 and COX-2, which are the enzymes responsible for prostglandine synthesis, inflammation and pain. COCs inhibit gonadotropin secretion, diminish menstrual blood flow and implant decidualization. Therefore they reduce dysmenorrhea but do not reduce dyspareunia and non-cyclic pain²⁰.

Progestatives reduce estrogen effects on the endometrium, causing atrophy. Side effects are: acne, edema, weight gain, irregular menstrual bleeding, depression, breast congestion, low

¹⁸ American Society for Reproductive Medicine revised classification of endometriosis, 1985. (American Fertility Society: Revised American Fertility Society Classification for Endometriosis. *Fertility Sterility* 43:351,1986)

¹⁹ Meigs, Joe Vincent. Endometriosis—its significance. *Annals of surgery*, 1941, 114.5: 866.

²⁰ Meigs, Joe Vincent. Endometriosis—its significance. *Annals of surgery*, 1941, 114.5: 866; Witz, Craig A.; Burns, William N. Endometriosis and infertility: is there a cause and effect relationship? *Gynecologic and obstetric investigation*, 2002, 53.Suppl. 1: 2-11.

bone density. Treatment options are: Medroxyprogesterone acetate, Levonorgestrel-releasing IUDs, selective progesterone receptor modulators (SPRMs).

Androgens directly inhibit the growth rate of endometrial implants, but have severe and teratogenic side effects and are rarely used. GnRh analogues reduce COX-2 levels and also reduce implant size and pain level but require “add-back therapy” to diminish side effects and are rarely used in adolescents. Aromatase inhibitors inhibit estrogen production in the ovaries and in the endometrial implants, but have severe side effects in reducing bone mass, similar to GnRH analogues.

Surgical treatment uses laparoscopy or laparotomy, the two techniques having same efficacy. Surgery releases pain in 63% of patients, as according to literature studies, but in adolescents conservative surgery must be followed by medical treatment to reduce recurrence.

CONCLUSIONS

We conclude this article stating that the majority of patients who do not respond to conventional treatment against chronic pelvic pain usually have endometriosis. The unspecific symptoms of pelvic endometriosis make it difficult for the clinician to deliver an early diagnosis.

As in the cases shown above, in which we performed surgical treatment followed by medical treatment, we consider that an adequate and prompt management is necessary to reduce disease progression and consequences and to improve the quality of life of patients dealing with chronic pelvic pain and endometriosis.

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EXTRAINTESTINAL MANIFESTATIONS OF INFLAMMATORY BOWEL DISEASES

Andra Consuela IONESCU*

Mircea DICULESCU¹

Cosmin CIORA²

Lucian IONESCU³

ABSTRACT:

INFLAMMATORY BOWEL DISEASES (IBD) CROHN'S DISEASE (CD) AND ULCERATIVE COLITIS (UC), ARE CHRONIC INFLAMMATORY DISORDERS OF UNKNOWN ETIOLOGY THAT APPEAR IN GENETICALLY PREDISPOSED SUBJECTS, IN RESPONSE TO ENVIRONMENTAL FACTORS, MICROBIAL AGENTS, INTESTINAL IMMUNE SYSTEM. ULCERATIVE COLITIS AND CROHN'S DISEASE ARE ASSOCIATED WITH A VARIETY OF EXTRAINTESTINAL MANIFESTATIONS, THEREBY THEY CAN BE CONSIDERED SYSTEMIC DISEASES. THE MOST COMMON MANIFESTATIONS AFFECT THE MUSCULOSKELETAL AND DERMATOLOGIC SYSTEM. OTHER SITES ARE EYES, HEPATOPANCREATOBILIARY TRACT, KIDNEYS. ANEMIA IN IBD IS MULTIFACTORIAL IN ORIGIN, CHRONIC AND RECURRENT MANIFESTATION, THAT AFFECT PATIENT'S QUALITY OF LIFE. PATIENTS HAVE AN INCREASED RISK OF THROMBOEMBOLISM, REQUIRING THROMBOPROPHYLAXIS. WE PRESENT IN THIS LITERATURE REVIEW THE EXTRAINTESTINAL MANIFESTATIONS THAT ASSOCIATE WITH INFLAMMATORY BOWEL DISEASE.

KEY WORDS: EXTRAINTESTINAL MANIFESTATIONS, INFLAMMATORY BOWEL DISEASE, SYSTEMIC DISORDER, INFLAMMATION

INTRODUCTION

Inflammatory bowel disease, Crohn's Disease (CD) and Ulcerative Colitis (UC) are chronic inflammatory disorders of the gastrointestinal tract of unknown etiology, that appear in genetically susceptible individuals exposed to environmental risk factors. They are characterised by remissions alternating with exacerbation periods.

Crohn's Disease shows chronic transmural inflammation, that can affect any segment of the digestive tract. The inflammation is asymmetric, segmental and discontinuous⁴.

* MD. PhD Student, Department of Gastroenterology and Hepatology, Fundeni Clinical Institute, Bucharest, andra_cristocea@yahoo.com

¹ Prof. PhD, Department of Gastroenterology and Hepatology, Fundeni Clinical Institute, Bucharest

² MD. PhD, Department of Gastroenterology and Hepatology, Fundeni Clinical Institute, Bucharest

³ MD. MS, Radiology, Central Military Hospital, Bucharest

⁴ Gheorghe Liana, Gheorghe Cristian, "Bolile inflamatorii intestinale idiopatice" "Vademecum in gastroenterologie", ed. Nemira 2002

Ulcerative Colitis is chronic inflammation strictly localised at the colon, never progressing above the ileocecal valve. In contrast to CD, in UC is affected only the mucosa, and the lesions are continuous.

The annual incidence of CD was 12.7/100.000 person-years in Europe, 5.0/100.000 person-years in Asia and the Middle East, and 20.2/100.000 person-years in North America. The annual incidence of UC was 24.3/100.000 person-years in Europe, 6.3/100.000 person-years in Asia and the Middle East, and 19.2/100.000 person-years in North America.

The prevalence in Europe for UC is 505/100.000 persons, for CD is 322/100.000 persons, and in North America for UC is 249/100.000 persons and for CD is 319/100.000 persons⁵.

Diseases show a first peak between 15 and 25 years , and a second one between 55 and 65 years.

The Jewish population is highly susceptible to these diseases. Regarding race, CD and UC are 2-5 times more frequent in Caucasians than in African-American population.

Inflammatory bowel diseases can be considered systemic diseases because multiple organs can be affected: bones, joints, skin, eyes, lungs, kidneys, hepatobiliary system. These are called extraintestinal manifestations (EIM). What causes these extraintestinal manifestations it is unknown, but it is considered that all these manifestations are an abnormal response from the immune system. When the immune system reacts it triggers inflammation in others organs.

These EIM can appear prior to, during or after the active episode of the disease, and have an overall prevalence of 25-40% of IBD patients.

Aproximately 35% of IBD patients have Extraintestinal Manifestations (EIM).

25% of IBD patients have more than 1 EIM, and that increases the risk of developing a second EIM⁶. A retrospective survey of 500 IBD patients, conducted in the Department of Gastroenterology and Hepatology - Fundeni Clinical Institute is presented in Table 1⁷.

Table 1. Prevalence of EIM among patients with Crohn Disease (CD), Ulcerative Colitis (UC), Indeterminate colitis (IC). Retrospective study on 500 IBD patients included in IBDProspect

EIM	CD	UC	IC
Arthritis	32	16	2
Sacroileitis/Ankylosing spondilitis	19	10	1
Erythema nodosum	7	4	0
Pyoderma gangrenosum	1	1	0
Pericholangitis	0	0	0
Uveitis/Episcleritis	6	1	1
Oxalate kidney stones	5	9	0

⁵ Natalie A. Molodecky, Ing Shian Soon, Doreen M. Rabi, William A. Ghali, et al, "Increasing Incidence and Prevalence of the Inflammatory Bowel Disease With Time, Based on Systematic Review", Gastroenterology 2012;142(1):46-54

⁶ Levine S. Jonathan, Burakoff Robert, "Extraintestinal Manifestations of Inflammatory Bowel Disease", Gastroenterol Hepatol (N Y). 2011 Apr; 7(4): 235–241

⁷ Andra Ionescu, Razvan Iacob, Cristina Cijevschi, Adrian Goldis et al, "Extraintestinal manifestations (EIM) in Inflammatory bowel disease: a retrospective survey" (paper presented at the National Congress of Gastroenterology, Hepatology and Digestive Endoscopy, Iasi, June 11-13, 2015)

EIM	CD	UC	IC
Renal Amyloidosis and Ureterohidronephrosis	1	0	0
Lingering urinary tract infections	7	0	1

Musculoskeletal manifestations:

The most common EIM of IBD are musculoskeletal manifestations, occurring in 9-53% of IBD patients, and they are considered to be part of the seronegative spondyloarthropathies.

Peripheral arthritis is divided into type 1 and 2. Type 1 peripheral arthritis affects less than 5 large joints, is acute and associated with active bowel disease. Type 2 affects 5 or more small joints, is chronic, symmetrical and is not associated with the activity of IBD⁸.

Axial arthropathies, Sacroilitis and Ankylosing spondylitis, are seen in IBD and are unrelated with disease activity. They represent the inflammation of the spine and sacroiliac joints, manifested by pain and stiffness in the low back, relieved with exercise and worse in the morning.

Disease location may influence risk: patients with colonic involvement in Crohn's Disease and extensive colitis are more likely to develop musculoskeletal complications.

The diagnosis of joint-related complications in IBD is based on the clinical symptomatology and the exclusion of other intestinal disorders that are associated with joint manifestations like: Celiac Disease, Behcet Syndrome, Whipple's Disease. It is recommended to do radiographies of the spine and sacroiliac joints or Computer Tomography, to show the chronic changes in the Ankylosing spondylitis and Sacroilitis, like syndesmophytes and sacroiliac erosions.

Osteoporosis:

Osteoporosis can occur in patients with IBD because of the disease progress and also because of the treatment used such as corticosteroids.

The patients have an elevated risk of fracture compared with general population.

It is recommended for patients who used corticosteroids for >3months duration to undergo bone mineral density scan.

Dermatologic manifestations:

Most common skin complications of IBD are represented by Erythema nodosum and Pyoderma gangrenosum. Other skin lesions include Psoriasis, Oral aphthous stomatitis, Sweet syndrome.

Erythema nodosum is an inflammatory disease manifested by the appearance of reddish nodules located on the front of the legs below the knees⁹. They are warm, painful, slightly higher than the surrounding skin. The lesions appear when the intestinal disease is active, and frequently resolve when bowel disease subsides. Treatment is for the underlying IBD.

Pyoderma gangrenosum is an inflammatory disease characterised by neutrophilic infiltration of the dermis and destruction of the tissue. It begins with a pustule or nodule that

⁸ Evans E. Paul, MD, Pardi S. Darrell, MD., "Extraintestinal Manifestations of Inflammatory Bowel Disease: Focus on the Musculoskeletal, Dermatologic, and Ocular Manifestations", Medscape Gastroenterology, March 19, 2007

⁹ IBDclinic, "What is IBD? What are extra-intestinal manifestations of IBD?", <http://www.ibdclinic.ca/what-is-ibd/>

breaks and form an ulcer, covered with pus or necrotic debris. After it is healed leaves a typical cribriform scarring. The legs are most commonly affected, but it can appear in any part of the body¹⁰.

Sweet syndrome is an acute febrile neutrophilic dermatosis, manifested by fever and painful skin lesions that appear on arms, face, back, neck. The cause isn't always known, in some cases it may appear after an infection, illness, medications.

Hepatopancreatobiliary manifestations:

Hepatopancreatobiliary manifestations of IBD include Primary Sclerosing Cholangitis (PSC), Steatosis, Cholelithiasis, Portal vein thrombosis, Pericholangitis, drug-induced hepatotoxicity, and others.

One of the most important complication is PSC, that is a chronic cholestatic disease, characterised by stricturing, inflammation and fibrosis of medium and large intrahepatic and extrahepatic bile ducts. It's an immune-mediated chronic hepatic disease with uncertain etiology¹¹.

PSC has a strong connection with IBD, especially with UC. Almost 75% of patients suffering from PSC have also UC. Only 5-10% of PSC patients have CD. On the other hand, only 5% of UC patients and 2% of CD patients develop PSC.

Symptoms of PSC are fatigue, jaundice, abdominal pain, pruritus. Biopsy or cholangiography is necessary for the diagnosis.

There are some clinical features that suggest the presence of IBD in a patient suffering from PSC: pancolonic extension, low intestinal activity, backwash ileitis.

The risk for colonic cancer is increased because of the long term asymptomatic colitis, also PSC is a major risk factor for developing cholangiocarcinoma.

Cholelithiasis is frequently seen in IBD patients, especially in CD patients with ileal localisation. It correlates with female sex, old age, previous surgery. It represents one of the most common surgical problems worldwide. Ileal resection predispose to the formation of pigment stones¹².

Portal vein thrombosis, described in rare cases, is a blockage or narrowing of the portal vein by a blood clot. Most people have no symptoms, but in some people it may appear Portal Hypertension. Doppler ultrasonography confirm the diagnosis, the blood flow through the portal vein is reduced or absent¹³.

In Pericholangitis, the patients are most of the time asymptomatic, the elevated level of alkaline phosphatase suggests the disease. The diagnosis is histologically, and characterised by destruction of small bile ducts, mononuclear inflammatory infiltrate and fibrosis.

Ocular manifestations:

The most common ocular complications are Episcleritis, Uveitis, Scleritis.

Episcleritis is the inflammation of the episcleral tissue. It appears parallel with intestinal activity, patients with an active flare and acute redness and burning in one or both eyes should be suspected.

It resolves with treatment for IBD.

¹⁰ Rowe A. William, Anand BS, "Complications of Inflammatory Bowel Disease", Medscape, May 11, 2015

¹¹ Danese Silvio, Semeraro Stefano, Papa Alfredo, Roberto Italia, et al, "Extraintestinal manifestations in inflammatory bowel disease", World J Gastroenterol 2005 December 14;11(46):7227-7236

¹² University of Connecticut Health Center, Diseases of the Gallbladder, http://fitsweb.uhc.edu/student/selectives/Luzietti/Gallbladder_cholelithiasis.htm

¹³ Orfanidis T. Nicholas, "Portal Vein Thrombosis", Merck Manual/Liver and Gallbladder Disorders/Blood Vessel Disorders of the Liver, <http://www.merckmanuals.com/home/liver-and-gallbladder-disorders/blood-vessel-disorders-of-the-liver/portal-vein-thrombosis>

Scleritis is a chronic, painful, potentially blinding disease, characterised by edema, cellular infiltration of the scleral and episcleral tissue.

Requires aggressive treatment with steroids or immunosuppressants and control of the IBD in order to prevent a recurrence.

Arthritis, uveitis and erythema nodosum is the most common triad. Uveitis is four times more common in women. The appearance is not parallel to IBD.

Clinical suspicion should be in any patient with ocular complaints and other extraintestinal manifestations. The eye is painful and red, the vision is blurred, patients have photophobia. Topical and systemic steroids are necessary.

All these diseases are immune related, but there are treatments that may cause ocular pathology. Steroid can lead to cataract and glaucoma.

Renal manifestations:

Calcium oxalate stones are the most common and are caused by hyperoxaluria due to increased intestinal absorption of oxalate. They appear more frequent in Crohn's patients with disease of the small intestine than in the general population.

Surgery in IBD like colectomy in UC or ileo-colonic resection in CD increase the risk of lithiasis. Oxalate stone formation appear especially in ileal CD.

Amyloidosis is a rare and severe extraintestinal manifestation, associated with CD. It doesn't react to the intestinal treatment and leads to kidney failure. Is more frequent in ileal CD.

Urinary tract infections often occur in IBD^{14, 15, 16}.

People with inflammatory bowel disease are at higher risk for blood clots, especially Deep Venous Thromboembolism, secondary to the activation of coagulation factors and thrombocytosis.

Anemia is a frequent extraintestinal manifestation. About one third of IBD patients have hemoglobin levels below 12g/dl.

Hypochromic and microcytic anemia, with hypoferrremia and hypoferritinemia is caused by intestinal bleeding. Chronic inflammation can cause anemia with hyperferritinemia. Other mechanism by which anemia can appear is iron malabsorption in duodenum and upper jejunum CD, vitamin B12 malabsorption in gastric and terminal ileum CD, and folate malabsorption because of improper diet or side effects of Sulfasalazine and Methotrexate.

Fistulas are abnormal connections formed between the bowel and other organs. There are entero-cutaneous fistulas, entero-enteric fistulas, entero-vesicular, entero-vaginal and perianal fistulas.

CONCLUSION

Extraintestinal manifestations of inflammatory bowel diseases affect almost every organ, that's why IBD can be considered a systemic disorder. EIM have high incidence in

¹⁴ Trinchieri A., Lizzano R, Castelnovo C, Zanetti G, et al, "Urinary patterns of patients with renal stones associated with chronic inflammatory bowel disease", Arch Ital Urol Androl. 2002 Jun;74(2):61-4

¹⁵ Crohn's & Colitis Foundation of America, "Extraintestinal Complications: Kidney Disorders", January 30, 2009, <http://www.ccfa.org/resources/kidney-disorders.html>

¹⁶ Varda BK, McNabb-Baltar J, Sood A, et al, "Urolithiasis and urinary tract infection among patients with inflammatory bowel disease: a review of US emergency department visits between 2006 and 2009", *Urology*. 2015 Apr;85(4):764-70. doi: 10.1016/j.urology.2014.12.011. Epub 2015 Feb 7

both CD and UC. Prevention, early diagnosis and proper treatment are necessary to improve patients lives.¹⁷

“ACKNOWLEDGEMENT: This paper is partly supported by the Sectorial Operational Programme Human Resources Development (SOPHRD), financed by the European Social Fund and the Romanian Government under the contract number POSDRU 141531”.

Affiliation to UMF “ Carol Davila”.

¹⁷ Vavricka SR, Scharl M, Gubler M, Rogler G1, “Biologics for extraintestinal manifestations of IBD”, Curr Drug Targets. 2014;15(11):1064-73

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EMBOLIZATION OF AN INTRAUTERINE ARTERIOVENOUS MALFORMATION - A CASE REPORT -

Diana VOICU*
Bogdan DOROBAT¹
Octavian MUNTEANU²
Oana BODEAN³
Dragos DAVITOIU⁴
Roxana BOHALTEA⁵
Elvira BRATILA⁶
Monica CIRSTOIU⁷

ABSTRACT:

PURPOSE. TO REPORT A CASE OF A YOUNG WOMAN WITH RECURENT EPISODES OF HEAVY VAGINAL BLEEDING THAT ALTERNATED WITH PERIODS OF MODERATE BLEEDING. THE PATIENT HAS BEEN DIAGNOSED WITH UTERINE ARTERIOVENOUS MALFORMATION IN THE RADIOLOGY DEPARTMENT OF THE UNIVERSITY EMERGENCY HOSPITAL BUCHAREST. GONADOTROPIN-RELEASING HORMONE AGONISTS HAVE BEEN USED AS AN ADJUNCT TO EMBOLIZATION. SUBSEQUENT UTERINE VEINS EMBOLIZATION RESULTED IN COMPLETE DISAPPEARANCE OF THE ARTERIO-VEINUS MALFORMATION, AND NORMAL CYCLES WERE RESUMED TWO MONTHS LATER.

DESIGN. CASE REPORT

PATIENT. 28 YEARS OLD WOMAN WITH RECURRENT METRORRHAGIAS

EXPECTED OUTCOME. DISAPPEARANCE OF AN INTRAUTERINE ARTERIOVENOUS MALFORMATION TREATMENT. GONADOTROPIN-RELEASING HORMONE AGONISTS AND UTERINE VEINS EMBOLIZATION

DIAGNOSIS. UTERINE ARTERIOVENOUS MALFORMATION

CONCLUSION. SUBSEQUENT UTERINE VEINS EMBOLIZATION RESULTED IN COMPLETE DISAPPEARANCE OF THE ARTERIO-VEINUS MALFORMATION, AND NORMAL CYCLES WERE RESUMED TWO MONTHS LATER.

KEY WORDS: ARTERIO-VEINUS MALFORMATION, UTERINE VEINS EMBOLIZATION.

DISCLOSURE: All authors contributed equally in developing this study.

* Resident physician, Department of Obstetrics and Gynecology III, University Emergency Hospital Bucharest, Bucharest, Romania

¹ Senior physician, Department of Radiology, University Emergency Hospital Bucharest, Bucharest, Romania.

² Assistant Professor, Department of Anatomy, University of Medicine and Pharmacy "Carol Davila, Bucharest, Romania (corresponding author – octav_munteanu@yahoo.com)

³ Resident physician, Department of Obstetrics and Gynecology III, University Emergency Hospital Bucharest, Bucharest, Romania

⁴ Assistant Professor, Department of General Surgery, University Emergency Hospital Bucharest, Bucharest, Romania

⁵ Assistant Professor, Department of Obstetrics and Gynecology III, University Emergency Hospital Bucharest, Bucharest, Romania

⁶ Associate Professor, Department of Obstetrics and Gynecology, "Sf. Pantelimon" Hospital Bucharest

⁷ Associate Professor, Head of The Department of Obstetrics and Gynecology III, University Emergency Hospital Bucharest, Bucharest, Romania

INTRODUCTION

Arterio-venous malformations (AVMs) can occur in any organ in the body, including the pelvic vasculature and rarely in the uterus. The first case of AVM was reported in 1926⁸. Uterine arteriovenous malformation is a rare but potential life-threatening source of bleeding. These consist a mixture of arterial, venous and small capillary-like channels with fistulous connections. Uterine AVMs can be acquired or congenital⁹. AVMs have been reported in patients from 18 to 72 years old but only rarely in nulliparous women¹⁰.

Congenital uterine AVMs originate from an abnormality in the embryological development of primitive vascular structures, resulting in multiple abnormal communications between veins and arteries¹¹.

Acquired uterine AVMs result especially from dilatation and curettage, direct uterine trauma or uterine surgery. Very rare acquired AVMs result from endometrial or carcinoma and gestational trophoblastic disease⁶. Acquired AVMs are small arteriovenous fistulas between myometrial venous plexus and intramural arterial branches. They appear as a vascular tangle¹².

The classical symptomatology of uterine AVMs is severe uterine bleeding with no obvious cause, and the bleeding results from a spontaneous vessel rupture or triggered by a dilatation and curettage. The precise diagnosis is very important. Before modern diagnostic methods, diagnosis was made after hysterectomy and histopathologic examination. Today, angiography is the gold standard for diagnosis¹³.

Doppler ultrasonography is also one of the best noninvasive technique, and uterine AVMs show increased vascularity on Doppler and appear as nonspecific heterogeneous or anechoic spaces in the myometrium on gray scale ultrasound¹⁴.

Doppler ultrasonography is also one of the best noninvasive technique, and uterine AVMs show increased vascularity on Doppler and appear as nonspecific heterogeneous or anechoic spaces in the myometrium on gray scale ultrasound¹⁵.

In most cases, AVMs are first visualized with sonography because of its widespread use. On angiography, AVMs appear as a complex tangle of vessels supplied by enlarged feeding arteries and show early venous drainage during the arterial phase¹⁶. Computed tomography scanning with contrast and magnetic resonance imaging are the modalities of

⁸ Dubreuil, G., Loubat, E. Aneurysme cricoide de l'uterus. *Ann Anat Pathol*.3:697-718. (1926)

⁹ Majmudar, Bhagirath, Nadereh Ghanee, Ira R. Horowitz, and David Graham. "Uterine arteriovenous malformation necessitating hysterectomy with bilateral salpingo-oophorectomy in a young pregnant patient." *Archives of pathology & laboratory medicine* 122, no. 9 (1998): 842; Huang, Madeline W., Derek Muradali, W. A. Thurston, Peter N. Burns, and Stephanie R. Wilson. "Uterine arteriovenous malformations: gray-scale and Doppler US features with MR imaging correlation." *Radiology* 206, no. 1 (1998): 115-123.

¹⁰ Diwan, Rajni V., James N. Brennan, Mostafa A. Selim, Thomas L. McGrew, Fouad A. Rashad, Marilou U. Rustia, and Errol M. Bellon. "Sonographic diagnosis of arteriovenous malformation of the uterus and pelvis." *Journal of Clinical Ultrasound* 11, no. 5 (1983): 295-298.

¹¹ Huang, Madeline W., Derek Muradali, W. A. Thurston, Peter N. Burns, and Stephanie R. Wilson. "Uterine arteriovenous malformations: gray-scale and Doppler US features with MR imaging correlation." *Radiology* 206, no. 1 (1998): 115-123.

¹² Chen, Yan, Guoyun Wang, Fubo Xie, Bo Wang, Guowei Tao, and Beihua Kong. "Embolization of uterine arteriovenous malformation." *Iranian journal of reproductive medicine* 11, no. 2 (2013): 159

¹³ Grivell, Rosalie M., Kym M. Reid, and Amy Mellor. "Uterine arteriovenous malformations: a review of the current literature." *Obstetrical & gynecological survey* 60, no. 11 (2005): 761-767.

¹⁴ Müngen, E. "Vascular abnormalities of the uterus: have we recently over-diagnosed them?." *Ultrasound in Obstetrics & Gynecology* 21, no. 6 (2003): 529-531.

¹⁵ Müngen, E. "Vascular abnormalities of the uterus: have we recently over-diagnosed them?." *Ultrasound in Obstetrics & Gynecology* 21, no. 6 (2003): 529-531

¹⁶ Torres, William E., Peter J. Sones, and F. Maynard Thames. "Ultrasound appearance of a pelvic arteriovenous malformation." *Journal of Clinical Ultrasound* 7, no. 5 (1979): 383-385.

choice for the evaluation of a suspected AVM and can be used to determine the size, vascularity, extent and involvement of adjacent organs¹⁷.

The current case report presents a patient with AVM initially diagnosed by color Doppler imaging, confirmed by angiography, and finally treated by transcatheter uterine veins embolization after she was previously treated with Diphereline.

CASE REPORT

We report the case of a 28 year old patient. Upon admission in our hospital, she undertook a pelvic ultrasound which suggested a vascular malformation. Her obstetrical history was uneventful - she delivered vaginally one healthy baby. The patient denied any curettage procedures performed. However, she voiced regular 28-day menstrual cycle and denied dysmenorrhea.

During vaginal examination we detected a normal uterus and cervix but diagnosed abundant methorrhagia. Transabdominal ultrasound showed a uterus measuring 8/4.3/6.8 centimeters, with an endometrium of 10 millimeters. We detected increased vascularity of the uterus with a prominent vessel seen right and posterior to the uterus, which seem to originate in the right uterine artery. Color Doppler sonography highlighted hypervascularity throughout the described lesion, and a color mosaic pattern which suggested a turbulent flow (see Figure 1).



Figure 1 – Color Doppler imaging features of the intrauterine arteriovenous malformation

A magnetic resonance was also performed, that showed a uterus of 9.7 / 5.5 / 6.7 centimeters, in anteversion, uterine cavity with hemorrhagic content (methemoglobin), many arterial tracks located right and posterior to the uterus, supplied from the right uterine artery; this vessel was distended (7-8 millimeters) and seem to communicate with the uterine venous plexus. An approximately 2.1/2.4 cm nodular lesion was detected in the uterine wall, which was a conglomeration of vascular tracks.

¹⁷ Elia, Giovanni, Cheryl Counsell, and Stuart J. Singer. "Uterine artery malformation as a hidden cause of severe uterine bleeding. A case report." *The Journal of reproductive medicine* 46, no. 4 (2001): 398-400; Yang, J. J., Y. Xiang, X. R. Wan, and X. Y. Yang. "Diagnosis and management of uterine arteriovenous fistulas with massive vaginal bleeding." *International journal of gynecology & obstetrics* 89, no. 2 (2005): 114-119

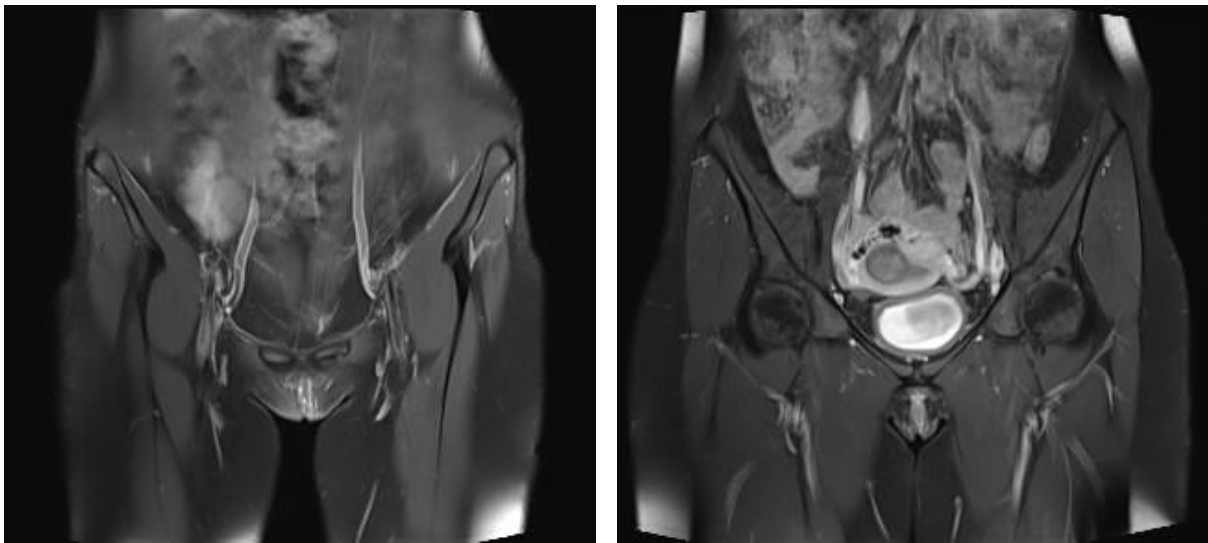


Figure 2 – MRI imaging features of the intrauterine arteriovenous malformation

For confirmation of the diagnosis an angiogram was performed. During hospitalization, the patient was hemodynamically stable with a hemoglobin level of 9.4 g/dL. The uterine artery angiogram confirmed the presence of an arteriovenous malformation in the fundal region of the uterus.

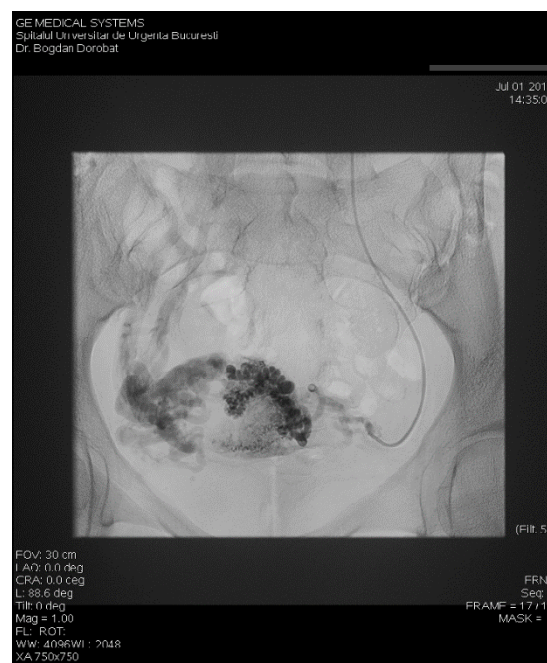


Figure 3 – Angiogram – note the reflux of the contrast substance in the right uterine veins when catheterizing the left uterine artery and the arterio-venous intrauteine malformation

We diagnosed this vascular malformation and recommended gonadotropin-releasing hormone agonists therapy and revaluation after 3 months.

After informed consent was obtained, a regional anesthetic technique was performed. The right common femoral artery was accessed and a 5F glide catheter was placed through a 5F sheath. Contrast injection demonstrated a serpiginous and dilated arterio-venous structure at the level of the fundus of the uterus. After uterine veins embolization, the patient experienced severe lower abdominal discomfort that required high doses of painkiller and anti-inflammatory medication.

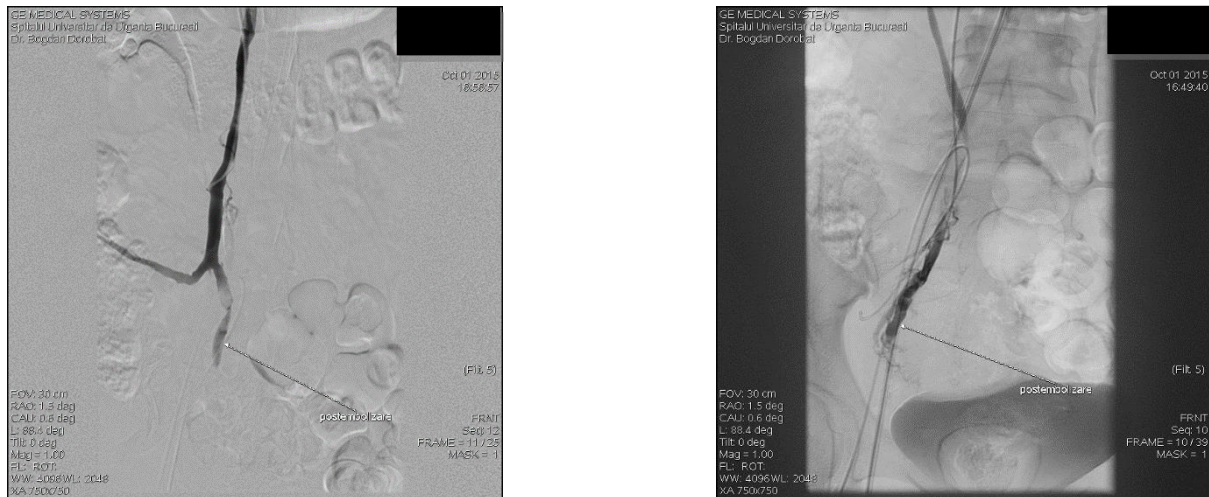


Figure 4 – Angiogram after uterine veins embolization

At a follow-up visit at 1 month after embolization using color Doppler imaging we detected reduced blood flow and a reduced tumor at the level of the uterus. The menstrual cycle of the patient returned to normal two months after the procedure. These results confirmed that the uterine veins embolization was efficient.

DISCUSSIONS

Dubreuil and Loubat reported the first case of intra-uterine AVM in 1926¹⁸. Uterine AVMs are uncommon and the true incidence is unknown. The precise diagnosis of AVM is of vital importance because patients present with vaginal bleeding which can cause hemodynamic instability¹⁹.

We report the case of a patient with a congenital form of uterine AVM given the absence of uterine trauma. However, it is unclear why the patient had no symptoms until now. We can only suspect that the AVM was not superficial or in contact with the basal layer of the endometrium. Traditionally AVMs have been diagnosed by laparotomy or after hysterectomy. Nowadays digital subtraction angiography remains the gold standard of diagnosis²⁰.

¹⁸ Fleming, H., A. G. Östör, H. Pickel, and D. W. Fortune. "Arteriovenous malformations of the uterus." *Obstetrics & Gynecology* 73, no. 2 (1989): 209-214.

¹⁹ Singh, N., R. Tripathi, Y. M. Mala, S. Tyagi, S. Tyagi, and C. Singh. "Varied presentation of uterine arteriovenous malformations and their management by uterine artery embolisation." *Journal of Obstetrics & Gynaecology* 34, no. 1 (2014): 104-106.

²⁰ Milingos, D., D. Doumplis, K. Sieunarine, P. Savage, A. D. Lawson, and J. R. Smith. "Uterine arteriovenous malformation: fertility-sparing surgery using unilateral ligation of uterine artery and ovarian ligament." *International Journal of Gynecological Cancer* 17, no. 3 (2007): 735-737

Gonadotropin-releasing hormone agonists have been used as an adjunct to embolization and in our case 3 months of therapy reduced the size of a uterine AVM from 2.1/2.4 cm to 1/0.5 cm. Subsequent uterine veins embolization resulted in complete disappearance of the AVM, and normal cycles were resumed 3 months later. Especially in young women who desire to preserve fertility, angiographic uterine veins embolization is the preferred therapy for uterine AVMs, because it does not appear to interfere with the menstrual cycle or pregnancy. Other surgical managements are coagulation of the AVM under hysteroscopic guidance, laparoscopic bipolar coagulation of uterine vessels, surgical removal of an AVM and ligation of the uterine artery²¹.

CONCLUSION

AVMs can occur in any organ in the body, including the pelvic vasculature and uterus. We report the case of a young patient with a congenital intrauterine arterio-venous malformation with no symptoms until the age of 28 who was treated using a combined method: gonadotropin-releasing hormone agonists therapy followed by uterine veins embolization.

²¹ Milingos, D., D. Doumplis, K. Sieunarine, P. Savage, A. D. Lawson, and J. R. Smith. "Uterine arteriovenous malformation: fertility-sparing surgery using unilateral ligation of uterine artery and ovarian ligament." *International Journal of Gynecological Cancer* 17, no. 3 (2007): 735-737; Dubreuil, G., Loubat, E. Aneurysme crisoide de l'uterus. *Ann Anat Pathol.*3:697-718. (1926)

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