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## **BANKING SECURITY IN THE CONTEXT OF INTERNATIONAL RELATIONS**

**Adriana BUTCOVAN<sup>1</sup>**

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### **ABSTRACT:**

*IN RECENT YEARS, THE BANKING SECTOR HAS OPERATED IN AN ENVIRONMENT CHARACTERIZED BY A CERTAIN AMOUNT OF INSTABILITY AND UNCERTAINTY, AND THE LOSSES HAVE GENERATED SEVERE DISTURBANCES OF THE BANKING ACTIVITIES. THE REPUTATION AND STABILITY OF BANKING INSTITUTIONS DEPEND ON THEIR ABILITY TO FACE CHALLENGES, WHETHER THEY ARE OF A CRIMINAL NATURE (MONEY LAUNDERING, TERRORISM FINANCING, CORRUPTION OR FRAUD), OR A RESULT OF THE IMPACT OF GLOBALIZATION OR OF ECONOMIC CRISES. THE TREATMENT OF THIS TOPIC IS NOT AT ALL RANDOM, BEING, IN A WAY, CONSISTENT WITH THE INCREASINGLY APPARENT REALITIES OF THE PAST TWO DECADES, AS WELL AS A CONSEQUENCE OF UNDERSTANDING THE IMPORTANCE OF KNOWLEDGE REGARDING THE FACTORS AND PHENOMENA INFLUENCING BANKING SECURITY, PARTICULARLY EXISTING SOLUTIONS OR SOLUTIONS THAT SHOULD EMERGE IN THIS DIRECTION. ON THE OTHER HAND, EVENTS IN RECENT YEARS IN THE BANKING SECTOR HAVE INCREASINGLY PUT INTO QUESTION A LOT OF MEANINGS OF THE CONCEPT OF "SECURITY", WHICH ARE NOT AT ALL EASY TO MANAGE.*

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**KEY WORDS:** BANK SECURITY, MONEY LAUNDERING, TERRORISM, FRAUD, CORRUPTION

### **INTRODUCTION**

The concept of security addresses all levels of organization of a society, from the individual to the state and the international system<sup>2</sup>. Security is based above all on economic stability, but also political stability. Thus, we can say that a viable security system can only be built if these two components are consolidated. Certainty, confidence and peace are rooted not only in the absence of hazards, but also in keeping hazards under control. Banking security is one of the most important sectors of economic security, especially in the context of globalization of international relations.

### **MAIN TEXT**

Why is banking security important for individuals and legal entities? The answer seems to be one of common sense: because they have deposited money and valuables in these

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<sup>2</sup> See, in this regard, Lucia Zedner, *Security*, London, New York, Edit. Routledge, 2009; *Interpreting Global Security*, edited by Mark Bevir, Oliver Daddow and Ian Hall, London, New York, Edit. Routledge, 2013; Robert J. Fischer, Edward P. Halibozek, David C. Walters, *Introduction to Security*, ninth edition, Waltham, Mass., Butterworth-Heinemann, 2013; *New Challenges for the EU Internal Security Strategy*, ed. by Mary O'Neill, New Castle, 2013, etc.

banking institutions to have them protected and/or multiplied, as well as in order to finance their current activity or needs. Apparently, a discontent customer cannot affect the financial state and stability of a bank, but when complaints multiply exponentially, without the banking institution adopting security measures, the situation may become catastrophic. Bankruptcies of banks in the '90s in Romania have demonstrated the connection between banking security and security and citizens' satisfaction towards the banking system and the economic one, more generally.

The following quotation is a very good illustration of what we are dealing with when working with the human factor: "An impressive steel and concrete bank vault of 3 tons is useless if the back of the vault is made in plasterboard. A prisoner can look back on an electrified barbed wire fence of 15 feet (4.5 m) while exiting through the open gate. And almost any countermeasure that the brilliant engineers designate to protect vital computer systems and valuable information can be accidentally or intentionally circumvented by human interaction"<sup>3</sup>.

Job security is another problem faced by the banking sector and, hence, by its employees. This issue is related to corporate security, but indirectly, to human security, as well. Several studies carried out in connection with the restructuring of banks (in the context of the economic crisis) and the perception of job security that bank employees have, revealed different results, depending on age, gender and training of the employees by the management, but could not invalidate the impact of this problem<sup>4</sup>. A decrease in job security may lead to the kind of problems signaled by the above quotation. Human error, whether accidental or intentional, may lead to multiplied costs, an aspect which should not be neglected by banks, nor by any other companies. But the cost-benefit ratio between policy change and its possible effects should always be taken into account.

An intermediate variable is also the security of personal information. Banks and other credit institutions operate with personal information of their customers, whose interception by third parties may have serious consequences for the security and identity of the individual. So, the computerization of society makes personal safety vulnerable.

Using banking security as a case study of human security, we have found that natural or legal persons make bank deposits in order to have their money protected from physical safety hazards (banks are better equipped to protect valuables than citizens' dwellings), but also because banks invest these values and multiply them (interest). Banking institutions are a favourite target for physical or cyber crime, and in this case the source of threats are individuals or organized crime groups willing to break the law and the economic rights of investing fellow citizens. The success of the attacks on bank assets depends on the vulnerabilities of the banks, and the latter are, most often, caused by intentional or accidental human errors. At the intersection of vulnerabilities and threats lies the banking risk, which exists independently of our will and can be calculated and, therefore, reduced. In recent decades, banking institutions have been in constant competition in order to achieve a higher profit. This "war" for power, a precarious "balance" between demand and supply, between selfish interests of obtaining wealth and welfare, has been a source of insecurity that has affected the individual-bank relationship.

The economic environment, in general, is constantly changing and, as such, subject to uncertainties. Specialists in the economic field, and not only, see the banking system as that system capable to manage risk. Any financial and banking operation is accompanied by a set

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<sup>3</sup> Jeff Schmidt, *Humans: The Weakest Link In Information Security* (Forbes, November 3<sup>rd</sup>, 2011. Source: <http://www.forbes.com/sites/ciocentral/2011/11/03/humans-the-weakest-link-in-information-security/>).

<sup>4</sup> Ademola B. Owolabi, *Effects of Reengineering in Banks on Employees Perception of Job Security*, (Journal of Management and Strategy, Vol. 2, No. 4, December 2011. Source: Ebscohost).



of risk factors. Financial markets are now much more, which leads to an increase in uncertainty. Economic and banking events in recent times have brought to the surface the fact that the problems that the whole system is facing are precisely the result of heightened risks. Effectively managing banking risks may positively influence a bank's reputation. On the contrary, ineffective management can affect negatively the reputation of other banks, as well. There are risks involved in the banking activity, and the main objective of risk management is to manage them. Only banks that are capable to manage risks and accept them have the ability to forecast future events.

Risk can have a clear impact on the value of a financial institution or banking institution, either as an impact caused by the effects on the staff, partners, customers or the banking authority, or as direct losses incurred. In the banking sector, the risk should be viewed as a conglomeration of dangers, often interdependent, which have common roots, or the occurrence of a type of risk can generate a succession of other risks<sup>5</sup>.

Moreover, the banking sector risks are extremely numerous and of various types; they are determined by events occurring at an intra-bank, as well as inter-bank or international level, so that nowadays we can no longer speak of an analysis that does not include an approach from the perspective of international relations. In the specialized literature we find a lot of classifications, based on various criteria. These classifications take into account variables generating risk, their overall approach allowing for a separation of risks: macroeconomic changes, GDP (gross domestic product) dynamics, inflation rate developments, monetary policy, changes as a result of financial, banking and economic regulations, instabilities caused by the employees of a bank with inadequate training, poor organization of the bank, incorrect and unsupervised performance of operations, financial decisions on the bank's equity, interest rate, credit, liquidity, political and economic conditions existing in the country that have an impact on the bank's activity.

Another problem that the banking system is facing is the phenomenon of money laundering and financing of terrorism. In this context, the money laundering phenomenon has gained, since its emergence in the modern version, a clear international dimension. Those who practise this mechanism, of money laundering, try to prevent the discovery of their illegal actions by hiding as deep as possible values resulting from such actions, by various means, which give them a lawful appearance, so that they may be easily introduced into the economic circuit, without being detected.

The international dimension also resides in the manners of concealing values obtained from money laundering, namely through international financial transactions. Thus, the profits achieved illegally are "laundered" much more easily if transferred to a foreign currency, and then brought back to the country of origin as such to be turned and capitalized as clean sums.

Losses resulting from the criminal offence of money laundering affect the entire global economy. Given the rapid movement of values, offenders manage to reinvest the amounts involved in various legal business transactions. Currency exchange rates or even interest rates at worldwide level may be affected this way. So we can say that in the economic market, clean, as well as "dirty" money is circulated.

The modernization of communication technology, as well as the globalization of the economic system helped the development and expansion of this phenomenon. Thus, offenders may transfer in a very short time, large amounts of money from one country to another using the computer, via online transfer services offered by banks.

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<sup>5</sup> Gheorghe Manolescu, Adriana Sîrbea Diaconescu, *Management bancar (Bank Management)*, (Bucharest: Edit. Fundației "România de Măine" (Publishing House of "România de Măine" Foundation, 2001), 123; R.P. Nainta, [\*Banking system, frauds and legal control. Evolution, RBI, bank frauds, legal control, security measures, recent trends\*](#), foreword by B.R. (Sharma, New Delhi: Deep & Deep, 2005).

There are areas with different tax regimes, that result in an attraction of capital and tax havens, especially for people who want to launder money resulted from illegal businesses. An example in this respect is Grand Cayman Island, where income is not taxable and it is not mandatory to communicate the name of the beneficiary of a bank account.

The process of money laundering goes through several stages and involves many individuals and entities. The purpose of this process is to make the funds resulting from an illegal activity appear as legitimate as possible. To this end, money launderers acts in several stages.

But money laundering is always based on a criminal offence generating money illegally, such as: illicit drug trafficking, human trafficking, illegal arms trade, theft, fraud, forgery, domestic fraud, bribery, computer system fraud, forced “protection” provided by mafia groups, tax evasion. And the result of such offences is “dirty money” whose source is punishable by law. The stages of the phenomenon of money laundering are: placement (pre-laundering), stratification (the laundering itself) and integration.

With the development of organized crime, the profits achieved have also increased, and the banking circuit has been involved in the transfer of illegally acquired funds; this has become a necessity of financial and technological progress for those involved in money laundering. The policy of authorities and the obligation of banks is to disclose and prevent the traffic of illegally obtained funds.

In terms of preventing and combating the financing of terrorism, the direction and the level of development of the mode, the mechanism of supporting terrorist entities are constantly changing and follow specific developments. Identification difficulties arise from access to legal resources and channels by terrorist entities, as well as their interweaving with illegal ones. Those wishing to plot terrorist attacks seek to identify new ways of doing it, characterized by vulnerabilities of the legal and economic system, but also by limited monitoring capabilities.

Terrorism is a branch of organized crime, just like the phenomenon of money laundering. It is generated by ideological, nationalist interests or even interests related to financial resources. The level and direction of development of this phenomenon are in constant change and go through specific developments, making it very difficult to control. The financial, banking infrastructure is a key element in the discovery and eradication of terrorist networks, and is also an important measure for all the countries of the world.

The dimensions of a financial attack appear as quiet actions and represent only a small part of the whole financial effort. Most financial transactions become alarming only when associated to suspect people. In very few cases, the actual transaction can provide critical indicators that make it possible to identify the involvement in terrorism financing actions. In most cases, the transaction will be part of the broader picture, which adds numerous elements in order to understand and assess what is happening. Only abnormalities or changes in the payment patterns can provide details regarding the planning of such acts of terrorism, so that offensive measures can be taken against the terrorists’ funds. It should be noted that, in general, terrorist groups are not interested in profit, only in funds for the subsistence or financing of terrorist acts. Money funds are transferred most often in small amounts, making them extremely difficult to identify and associate with acts of terrorism financing<sup>6</sup>.

Compared to the phenomenon of money laundering, we can say that in terms of terrorism financing, there is no clear pattern of sources or of the transactions performed. The

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<sup>6</sup> National Office for the Prevention and Control of Money Laundering, *Manual privind abordarea pe bază de risc și indicatori de tranzacții suspecte*, (București: Editura Prahova, 2010), 17.

stages or sources by which a terrorist group finances its actions are: fundraising, money transfer or movement and spending of the funds<sup>7</sup>.

In most cases the phenomena of money laundering and terrorism financing contain similar transactions, most of which are related to the concealment of funds. Owing to the development of the methods of money laundering, and the effects of terrorist attacks, at national and international level, it is necessary to constantly update the strategies and regulations of all organizations involved in preventing and combating money laundering and terrorism financing in order to limit the risks and vulnerabilities of the entire economic system, and not only, in dealing with these two criminal phenomena.

Banking institutions are facing another problem, which also has a negative impact on activities and, in particular, on the reputation and credibility of a bank, namely bank fraud. This phenomenon has become, over the years, part of our daily lives. In all spheres of activity, there is a wide variety of fraud types. Substantial funds are needed in order to explore current fraud events, to manage and prevent such crimes. The minimization and prevention of this threat requires more than the introduction of mechanisms for fraud control or of fraud detection technology, no matter how sophisticated and advanced they may be. Those who intend to produce frauds are always one step ahead and always find the methods, as well as the right time to implement their plans. Just one moment of carelessness or misuse of the control mechanisms are sufficient for potential offenders to take action.

All major operational areas of the banking sector provide good opportunities for criminals. Most incidents of fraud are reported in customers with deposits, loans and banking transactions, including cash remittances. The best defence against fraud is vigilance and appropriate training, together with the reporting to the competent bodies of any suspicion or suspicious acts that may occur.

Therefore, banking institutions should adopt an anti-fraud policy whose aims are as follows: training the employees on how to conduct themselves, in order to recognize a case of fraud, as well as promoting an anti-fraud conduct and culture at all levels, knowledge by the employees of the methods to discourage and prevent acts of fraud, development of certain systems, regulations and control mechanisms to prevent and combat fraud, the establishment of actions to be taken by banking financial supervisors where a fraud occurs.

As a result of fraudulent activities, all persons involved in the client-bank relationship have to suffer. The management and staff of each banking institution should place the emphasis on preventing and combating fraud. Such actions are against the principles and values underlying the activities of banking institutions and have or may have a negative impact on the reputation of the institutions concerned and the interests of customers, shareholders and employees. Strict adherence by the staff of a banking institution to the requirements in terms of rules, procedures and roles for each object of activity and area of activity is essential to the safe and continuous operation of the bank, as well as to preventing fraud and other inappropriate or illegal acts that could harm their interests.

With the computerization of banks, new technology-based types of fraud have emerged, which, when successfully committed, are difficult to track down; financial losses of banks are at unimaginable levels. It is very difficult to follow all the permutations and combinations of opportunities that criminals pursue and these are also impossible to prevent before they become apparent. Only continuous monitoring and analysis of fraudulent activities can help us understand the reason behind a fraud, so that we can take preventive and combating measures afterwards.

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<sup>7</sup> National Office for the Prevention and Control of Money Laundering, *Manual privind abordarea pe bază de risc și indicatori de tranzacții suspecte*, (București: Editura Prahova, 2010), 17.

Since many of the banking institutions are not satisfied with the already existing technology, they have decided to adopt new technologies, to introduce new management and employment objectives. Many of them have decided to remove the old software by stages, in order to better satisfy the customers.

Currently, banking institutions are in a position to offer banking services through alternative channels by integrating front-office and back-office operations. The customer is the one who decides what fits them best. To satisfy the customer, every banking institution adds attractive parts to the banking product. This requires a lot of technology, expertise and awareness on the part of the bank and of the client, because the bank can become a prey to computer fraud. Banks are the ones to decide on the modernization of their computer networks in order to offer their services through as many channels as possible. That is why they are currently facing risks from inside the bank, as well as from outside. The best defence against fraud cases is vigilance and appropriate training, together with the reporting to the competent bodies of any suspicion or suspicious acts that may occur.

Bank corruption is another phenomenon just as intense in terms of desecuritization of the banking system. The phenomenon of corruption has attracted attention since ancient times. With the advent of social and economic crises and of unfair competition, the degradation of the living standard, the diminishment of the state's authority, the failure to adapt to economic and social legislation, the lack of legislative and institutional reforms which should be consistent with socio-economic conditions, the phenomena of corruption also multiply. There seems to be a desire of the population to get rich as fast as possible and by any means; destitution generates speculation and prohibitions affect consumption, all of which shape the cause of this antisocial phenomenon.

This antisocial phenomenon may jeopardize the orderly conduct of any banking institution, and not only<sup>8</sup>. Over the course of time, many bank employees or managing staff have been investigated for corruption. They were involved in various processes that had an impact on the smooth unfolding of the activity of the banking institutions concerned, but also in terms of customer confidence in these institutions. The desire of some people to get rich by any means and as quickly as possible made the banking system vulnerable.

## CONCLUSION

The question is whether crime in the banking system can be stopped? The answer is "NO". This issue is an endless one, because, over the years this phenomenon and the fraud methods have evolved, but they have always existed. These attacks occur not only at the level of the banking system, but are present in all areas of social life.

I believe that banking system security can be enhanced by building and improving collaboration between banking institutions, governments and institutions specialized in combating criminal phenomena. It is also important to adapt the national security strategy to these problems, and to extend security, so as to support banking security, as well as national or global security.

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<sup>8</sup> Mario A. Aguilar, Jit B.S. Gill, Livio Pino, *Preventing fraud and corruption in World Bank projects. A guide for staff*, (Washington, D.C.: The World Bank, 2000); Heather Marquette, *Corruption, [politics and development](#). [The role of the World Bank](#), Basingstoke, Palgrave Macmillan, 2003.*

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## ILLEGAL MIGRATION, A KEY FACTOR IN THE INCREASE OF ORGANIZED CRIME<sup>1</sup>

Alexandru GUȘETOIU<sup>2</sup>

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### ABSTRACT:

*IN RECENT DECADES, MIGRATION FLOWS TO WESTERN COUNTRIES WITH A HIGHER STANDARD OF LIVING, WERE BASED ON A VARIETY OF CAUSES AND FACTORS, OFTEN SOCIO-POLITICAL. ILLEGAL MIGRATION IS A SIGNIFICANT GEOPOLITICAL ISSUE FOR EUROPE NOW, BEING ONE OF THE MAIN FACTORS THAT GAVE RISE TO THE PROLIFERATION OF ORGANIZED CRIME. THE SPECIFIC EFFECTS OF THIS PHENOMENON ARE REPRESENTED MOSTLY BY DEVELOPING ECONOMY, WHILE MOONLIGHTING CAUSING AN IMBALANCE BETWEEN QUALIFIED LOCAL LABOR FORCE AND MARKET DEMAND, PROSTITUTION AND DRUG TRAFFICKING AND STEPPING ORGANS. ALSO, SOCIAL EXCLUSION AND SOCIO-CULTURAL DIFFERENCES MAY REPRESENT THE FOUNDATIONS OF SOURCES OF CONFLICT BETWEEN INDIGENOUS MIGRANTS, WHICH MAY ARISE EXTREMIST ACTIONS.*

*THE PRESENT STUDY, PRESENTS THE SITUATION OF ILLEGAL MIGRATION ON THE EUROPEAN CONTINENT BASED ON STATISTICAL DATA PROCESSED BY FRONTEX. WE'LL SEE HOW TO MAKE THE CONNECTION BETWEEN ILLEGAL MIGRATION AND ORGANIZED CRIME THROUGH THE OFFENSE OF TRAFFICKING IN MIGRANTS AND MIGRATORY ROUTES THAT.*

*ILLEGAL MIGRATION IS THE METHOD PEOPLE NOT FOLLOWING THE LEGAL WAY TO GET INTO A COUNTRY CHOOSE. "ENTERING, STAYING OR TRANSITING A STATE'S TERRITORY BY FOREIGN PEOPLE WITHOUT OBEYING THE CONDITIONS IMPOSED BY THE STATE'S LEGISLATION. THE SITUATION ALSO APPLIES TO THE EMIGRANTS LEAVING THEIR STATE OF ORIGIN WITH THE AIM OF IMMIGRATING WITHOUT FOLLOWING THE LEGAL PROCEDURES". ACCORDING TO EUROPEAN STATISTICS, 270.000 ILLEGALLY ENTERED THE EUROPEAN UNION IN 2014, WHILE 4000 OF THEM LOST THEIR LIVES IN THEIR ATTEMPT TO CROSS THE MEDITERRANEAN SEA. THUS, ILLEGAL MIGRATION BECOMES A THREAT TO THE STATES SOCIO-ECONOMIC SECURITY AND STABILITY AS WILL BE SHOWN IN THE PRESENT ARTICLE.*

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**KEY WORDS:** ILLEGAL MIGRANT TRAFFICKING, COUNTERFEIT PASSPORTS, ROUTES OF ILLEGAL MIGRATION, CRIMINAL ORGANIZED GROUP, BORDERS, FRONTEX.

Illicit or clandestine migration is currently running more intensely from Eastern-European and Asian space towards Western Europe. The reasons why clandestine immigrants choose this way of leaving their native countries are diverse: armed conflicts, natural

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disasters, flagrant violation of human rights, poor economic conditions, the alarming growth in unemployment, while wages continue to decline; most often these reasons having a socio-political background. Illegal migration is clearly a constant topic on the European and international socio-political agendas, as well as an important talking point in the mass-media. Recent events covering the topic was the assembly of The European Council on 23<sup>rd</sup> April 2015<sup>3</sup> or the declaration of the Hungarian Prime Minister, Viktor Orban, in The Visegrad Group on 19th June 2015 summit in Bratislava regarding the building of a barbed wire fence at the border between Hungary and Serbia to stop clandestine immigration, arguing that, in this way, other Schengen area states will be protected.<sup>4</sup>

Organized crime and illegal migration have alarmingly increased, a reason to worry for all world states, especially for those with a recently established democracy with vulnerable legislative systems and institutions.

Criminal organizations threaten national sovereignty and state authority, democratic values, public institutions and national economies. Their activity makes them hard to control, being flexible, sophisticated and extending their alliances permanently which provides them a good protection against police authority.<sup>5</sup> Due to the involved criminal networks, and their ingenuity, illegal migration is a scourge which proves harder and harder to control. The target countries legislations do not help authorities, either, in stopping this phenomenon due to their differences. Besides, the migrating beneficiaries of this illegal services do not disclose or admit their connections with criminal groups either because they want to achieve their goals, or because they are threatened.<sup>6</sup>

According to European statistics, 270.000 illegally entered The European Union in 2014, while 4000 of them lost their lives in their attempt to cross the Mediterranean Sea.<sup>7</sup> Thus, illegal migration becomes a threat to the states' socio-economic security and stability as will be shown in the present article.

Migration can be classified into various types: emigration/immigration, international/internal, voluntary/imposed, permanent/temporary and, of course, legal/illegal.<sup>8</sup> Legal migration is the type which world states accept since all its aspects can be controlled. In order to facilitate legal migration, governments close treaties which provide facilities for both immigrants and local people, ensure legal work conditions or social care. In this way, states can collect the due income taxes related to gains made by foreign nationals. Moreover, there is a cultural, social and technological exchange between the involved states.

Illegal migration is the method people not following the legal way to get into a country choose. *“Entering, staying or transiting a state’s territory by foreign people without obeying the conditions imposed by the state’s legislation. The situation also applies to the emigrants*

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<sup>3</sup>Extraordinary European Council Meeting, April 23, 2015, press release available online at <http://www.consilium.europa.eu/ro/press/press-releases/2015/04/23-special-euco-statement/> accessed on 06/19/2015.

<sup>4</sup> Sorin Popescu, *Viktor Orban: The fence will be erected Serbian-Hungarian border to stop illegal immigrants will protect the Schengen area* Agerpres 19.06.2015 accessed on 19.06.2015, <http://www.agerpres.ro/externe/2015/06/19/viktor-orban-gardul-ce-va-fi-ridicat-la-granita-sarbo-ungara-pentru-a-opri-imigrantii-ilegali-va-proteja-spatiul-schengen-20-18-57>.

<sup>5</sup> Octavian Floricel, *Migration and crime*, (Targoviste: Bibliotheca, 2006), 134.

<sup>6</sup> Sandu Frangulea, *The phenomenon of migration and trafficking, Romanian Association of Humanitarian Law*, accessed on 19.06.2015, <http://www.arduph.ro/domenii/refugiati-persoane-disparute-2/fenomenu-migratiei-si-trafficul-de-persoane/>.

<sup>7</sup> Monica Slavici, *European Agenda for Migration*, Radio Romania Regional, 18.03.2015, accessed on 05.19.2015, <http://romaniaregional.ro/2015/03/18/agenda-europeana-pentru-migratie/>.

<sup>8</sup> Floricel, *Migration and crime*, 14-15.

*leaving their state of origin with the aim of immigrating without following the legal procedures*".<sup>9</sup>

The United Nations Convention against Transnational Organized Crime contains a definition of organized criminal group: "*group of three or more persons that was not randomly formed, existing for a period of time, acting in concert with the aim of committing at least one crime punishable by at least four years incarceration, in order to obtain, directly or indirectly, a financial or other material benefit.*"<sup>10</sup>

A key feature of organized crime organizations is to extend the domination outside the national territory to ensure a higher profit. It resembles both the organizational structure and the business of transnational companies. It may be noted greater mobility of these structures compared with informal legal structures, benefiting from the absence of borders, barriers bureaucratic any kind of formalities. Modern organized crime is present in different forms everywhere engaging in all types of transactions or traffic, legal or not with marked to be profitable. Illegal migration, human trafficking, drug trafficking and weapons, prostitution was among performing activities.<sup>11</sup>

Migrational fluxes mainly affect countries with high living standards. Their disproportional distribution has changed since the 1990s when Germany and Austria were the main countries immigrants aimed at due to their economic level; presently, Great Britain, The Netherlands, France, Italy, Spain, Portugal, and the Nordic countries are also targeted. The destinations of illegal migrants from Eastern Europe are not different and the Nordic European countries have become more and more appealing due to their social care services such as the help given to families with several children.<sup>12</sup>

It is still a proven fact that the main 'providers' of emigrants are the south-eastern areas of Europe, lower living standard states, which made EU states to take stricter steps against illegal migration, while political parties with an anti-migrationist doctrine have become more popular in countries such as Austria, France, The Netherlands or Great Britain. Unfortunately, the general radicalization of the public opinion in the above mentioned countries is fueled both by the media which often highlighted the Roma ethnic origin of many migrants but also by the large number of migrants who often creates negative issues through "*demographic balance disorder, ethnic cultural, social protection mechanisms through inability or public health by exceeding legal capacity to absorb the labor market and thus, by disturbing the balance of forces between the control structures of legality and public order and the population channeled into criminal activities*" being organized in networks of prostitution, begging or stealing.<sup>13</sup>

Preventing and combating illegal migration involved EU countries in drafting legislation to align States in this regard. As a result of the above policies efforts to combat this phenomenon we observe that the number of citizens returning to their countries of origin has increased in recent years, even if they are gone for a long time. Underlying these efforts were the actions that were the conclusion of new readmission agreements between the parties concerned and other European countries.

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<sup>9</sup> Cristian Florin Popescu, *World in motion: Layouts on legal and migration management*, (Bucharest: Pro Univesitaria, 2006) 36.

<sup>10</sup> United Nations Convention of 15 November 2000 against Transnational Organized Crime, Article 2, paragraph a).

<sup>11</sup> Anghel Stoica, *Illegal migration at the junction with trafficking*, (Bucharest: Pro Univesitaria, 2014), 18.

<sup>12</sup> Sandu Frangulea, *The phenomenon of migration and trafficking*, *Romanian Association of Humanitarian Law*, accessed on 19.06.2015, <http://www.arduph.ro/domenii/refugiati-persoane-disparute-2/fenomenul-migratiei-si-traficul-de-persoane/>.

<sup>13</sup> Frangulea, *The phenomenon of migration and trafficking*.



Eastern Europe including Romania is an element of attraction for migrants, persons without identity from African or Asian continent, dangerous people who have committed crimes, international pursued by Interpol, which may be part of terrorist groups or criminal organizations. They seek political asylum in Romania starting then clandestinely to other countries in Western Europe; there is a risk that those people can commit acts of terrorism, to be involved in the phenomenon of cross-border crime or other crimes. If found they are returned to Romania, the country where they sought political asylum, so they could jeopardize the country's image. Following Romania's accession to the European Union, our country has become a source and transit country, a target country, which entails greater responsibility.<sup>14</sup>

Romania's role in the EU security strategy is not to be neglected. We have to take into account that more than 2070 km of our country's border represents the EU's exterior border which enhances our role in ensuring border security.

In the 2015 annual risk analysis of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, FRONTEX, we are shown a series of indicators that can be found in illegal migration from 2009 to 2014:

Summary of FRAN (Frontex Risk Analysis Network) indicators:<sup>15</sup>

FRAN indicator	2009	2010	2011	2012	2013	2014	% change on prev. year
Illegal entries between BCPs	104 599	104 060	141 051	72 437	107 365	283 532	164
Clandestine entries at BCPs	296	242	282	591	599	3 052	410
Facilitators	9 171	8 629	6 957	7 662	7 252	10 234	41
Illegal stay	412 125	353 077	350 948	344 928	345 098	441 780	28
Refusals of entry	113 029	108 651	118 277	116 524	129 235	114 887	-11
Persons using fraudulent documents	:	:	5 255	7 804	9 804	9 420	-3.9
Return decisions issued <sup>3</sup>	:	:	231 385	269 949	224 305	252 003	12
Effective returns	:	:	149 045	158 955	160 418	161 309	0.6
Other indicators							
Issued visas (source: Commission)	10 270 107	11 857 352	13 521 706	14 263 225	16 196 350	:	n.a.
Passenger flow	660 000 000	675 000 000	701 000 000	:	:	:	n.a.

Source: FRAN and EDF-RAN data as of 9 February 2015

Illegal migrant trafficking is one of the most serious manifestations of transnational crimes having secondary effects on the long run. Illegal migrant trafficking often comes along with other aspects of organized crime such as drug or arm smuggling. More and more complex networks of human traffickers (organized in groups) have been discovered, with connections almost anywhere worldwide. Migrant and people trafficking are different crimes so a distinction has to be made. The difference is that " *although in both cases it is about smuggling people, migrants are active participants in the act in all its forms by members of*

<sup>14</sup> Horea Oltean, the head of the Organized Crime Brigade Cluj, seminar held in the "Babes-Bolyai" University, Faculty of History and Philosophy, April 21, 2015.

<sup>15</sup> European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, *Frontex risk analysis annually in 2015*, (Warsaw, April 2015), 12, accessed 6/19/2015, [http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2015.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2015.pdf).

*criminal groups trafficking* ". Such illegalities are usually committed by organized groups involved in migrant trafficking with the intent to obtain financial and material benefits.<sup>16</sup>

Methods used by migrants for crossing the border illegally are diverse taking advantage and exploiting all the loopholes in the system . The usual method is the use of forged or counterfeit passports and visas. Most often, they take advantage of the fact that some officials from corrupt targeted embassies are willing to help in issuing visas . Later, after obtaining documents and reaching their destination , they remain clandestine. The cost of the service varies between 800-3000 dollars depending on the country of destination.<sup>17</sup> Still using transit or entry visas , collective obtained touristic purposes, or motivated by the provision of commercial activities and use of false documents in the names of renowned multinational companies for a target country or requesting asylum status, followed by illegally remaining in the country. Other known ways of crossing the border illegally are performed by illegally crossing over the "green border"; using false identification documents; by hiding in international means of auto transport, rail or barge; under the pretext of ensuring transport and lodging for upcoming appearances at sporting events; under the cover of religious denominations;<sup>18</sup>

The term illegal trafficking of migrants refers to ensuring, in order to obtain, directly or indirectly, a financial or other material benefit, the illegal entrance into a certain state of a person who is neither a citizen nor a permanent resident of that State.<sup>19</sup>

The crime of trafficking of migrants under the Emergency Ordinance on the Romanian State Border 105/2001 refers to the recruitment, mentoring or guidance of one or more persons for the purpose of illegal border crossing state and the organization of these activities."<sup>20</sup>

Migrant trafficking offenses committed by organized criminal groups are usually transnational crimes which in accordance with the United Nations Convention against Transnational Organized Crime means that "it is committed in more than one State; It is committed in one state but a substantial part of its preparation, planning, direction or control takes place in another State; It is committed in one state but involve an organized criminal group that engages in criminal activities in more than one State; or it is committed in one state but has substantial effects in another state. "<sup>21</sup>

Besides the negative aspects already mentioned at the beginning, illegal migration involves several negative consequences. Since the majority of migrants come to work illegally, illegal hiring contribute to the deepening economic crisis and increasing unemployment among the native population. Once reaching the immigration countries in a fraudulent way, in order to ensure their existence or in some cases to manage to send money to their families back home, they are ready to sell their labor for paltry wages,<sup>22</sup> causing imbalances in the labor market of that country, socialization and adaptation difficulty in relationships with the locals, and the risk of conflicts outbreak between them. As mentioned above, illegal migration can easily attract other types of crimes, human trafficking, trafficking in arms and ammunition, drugs, cars. Once in the desired country there is a possibility that many migrants do not find dream conditions, and, with no means of support, they tend to get

<sup>16</sup> Frangulea, *The phenomenon of migration and trafficking*.

<sup>17</sup> Stoica, *Illegal migration at the junction with trafficking*, 142.

<sup>18</sup> Frangulea, *The phenomenon of migration and trafficking*.

<sup>19</sup> Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime of 15 November 2000, Article 3, paragraph a).

<sup>20</sup> Emergency Ordinance on the Romanian State Border 105/2001, Article 71, paragraph 1.

<sup>21</sup> United Nations United Nations Convention of 15 November 2000 against Transnational Organized Crime, article 3. point 2, para. a), b), c), d).

<sup>22</sup> Floricel, *Migration and crime*, 16.

them through crime. Due to their difficult situation migrants are vulnerable, easily recruited or tempted to join some mafia groups or some may belong to or are sympathizers or even members of extremist terrorist organizations. In this regard illegal migration is associated and inevitably involves "importing crime". In the same register, to conduct illegal activities premises are constituted using fictitious companies. There are also additional costs for the national budget, for the return of illegal migrants to their countries of origin ,for hosting and assistance to asylum seekers. Migration can have repercussions on health and the transmission of specific disease characteristic to the geographical areas where the people come from . Other ones can still be added to these.<sup>23</sup>

Routes of illegal migration. Migration flows have increased after the 2011 political unrest in North Africa and the Arab world, events known as the "Arab Spring" is detecting a sudden increase in the EU's external border of illegal migrants, 100,000 in 2010 to 140,000 in 2011.<sup>24</sup>

The main routes of illegal migration that have been identified are:

Central Asia / Africa-Russia / Ukraine - Moldova - Romania's eastern border - Hungary / Serbia - EU countries Active route until 2006, moving to the north and south of Romania, but it is expected to resume. The citizens involved are African-Asian, from China, Somalia, India, Iraq, Pakistan and others, and the guides are members of criminal organizations Russian, Ukrainian or Moldovan.

Central Asia- Syria- Turkey-Bulgaria-souther Romanian border Hungary- EU countries. Guides were Turkish citizens, Iraqis and Syrians of Kurdish ethnicity. Entry into the Schengen area by air by Kurd, Chinese, Iraqi, Iran citizens is done by using forged visas.<sup>25</sup>

Channel "Iraqi-Kurdish" with target U.E.<sup>26</sup>

The"Chinese" Channel is the main source of three provinces in southern China (Zehjiang, Fujian and Guangdon) the final destination being EU countries, USA and Australia. For an Asian fraudulently passed through Romania, guides charge a fee between \$ 700-1000.<sup>27</sup>

Pakistani channel – the country representing networks source country for illegal immigrants. Networks run by Pakistani aimed transportation of illegal Indian and Pakistani entrants in the EU especially the UK and Canada.

A practice in these areas frequented by migrants, is to arrive in Eastern Europe in groups of around ten people crossing the border to the east or south, unlawfully, and seek refugee status temporarily to find a way to go farther West.<sup>28</sup>

Afghan channel. Afghanistan is undoubtedly a country that fuels illegal migration, and this falls in the evolution of the phenomenon due to changes in political and military conflicts especially in this country and in the region which brings economic problems.<sup>29</sup>

Detections of illegal border-crossing in 2014 with percentage change on 2013, by route<sup>30</sup>

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<sup>23</sup> Frangulea, *The phenomenon of migration and trafficking*.

<sup>24</sup> Stoica, *Illegal migration at the junction with trafficking*, 148.

<sup>25</sup> Stoica, *Illegal migration at the junction with trafficking*, 149.

<sup>26</sup> Stoica, *Illegal migration at the junction with trafficking*, 154.

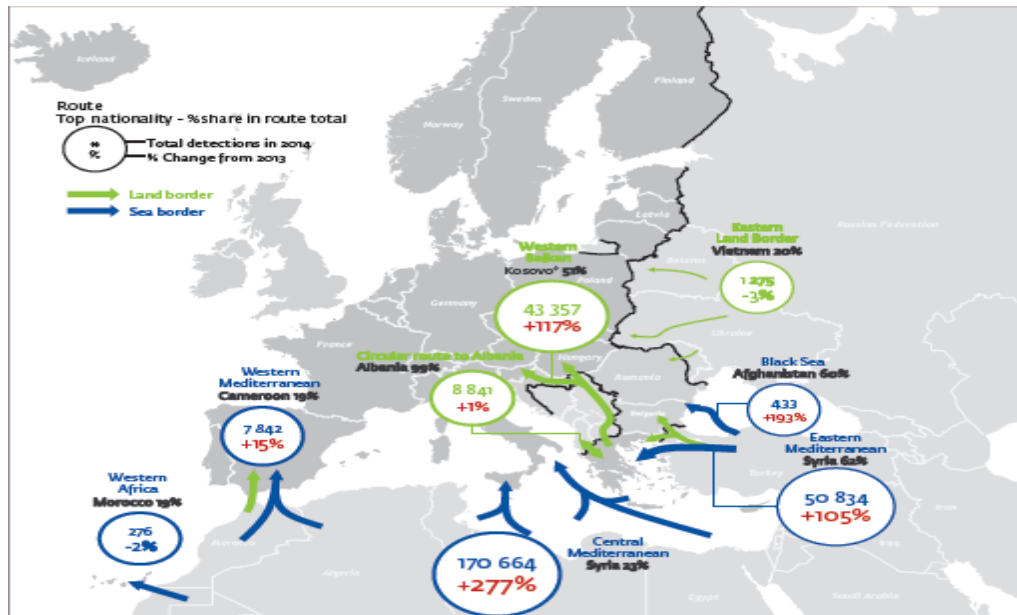
<sup>27</sup> Stoica, *Illegal migration at the junction with trafficking*, 151.

<sup>28</sup> Stoica, *Illegal migration at the junction with trafficking*, 156-157.

<sup>29</sup> Gheorghe Tiron, *Illegal migration and organized crime*, (Bucharest: Ministry of Interior and Administrative Reform, 2008), 148-149.

<sup>30</sup> European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, *Frontex risk analysis annually in 2015*, (Warsaw, April 2015), 19, accessed 6/19/2015, [http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2015.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2015.pdf).

Figure number 1:



Detections of illegal border-crossing between BCPs (Border Crossing Point). Detections reported by routes and top three nationalities at the external borders<sup>31</sup>

Routes	2009	2010	2011	2012	2013	2014	Share of parent row total	% change on previous year
<b>Central Mediterranean route (ITA and MLT)</b>	11 043	4 450	64 261	15 151	45 298	170 664	60	277
Syria	40	191	283	581	11 503	39 651	23	245
Eritrea	1 084	55	659	1 889	10 398	33 559	20	223
Unspecified sub-Saharan nationals	0	0	0	0	0	26 340	15	n.a.
<b>Eastern Mediterranean route (GRC, BGR AND CYP)</b>	39 975	55 688	57 025	37 224	24 799	50 834	18	105
<b>Sea</b>	28 848	6 175	1 467	4 370	11 831	44 057	87	272
Syria	184	139	76	906	5 361	27 025	61	404
Afghanistan	11 758	1 373	310	1 593	4 080	11 582	26	184
Somalia	5 675	416	42	56	526	1 621	3.7	208
<b>Land</b>	11 127	49 513	55 558	32 854	12 968	6 777	13	-48
Syria	354	495	1 216	6 216	7 366	4 648	69	-37
Afghanistan	639	21 389	19 308	7 973	2 049	893	13	-56
Iraq	2 674	2 704	1 054	987	372	483	7.1	30
<b>Western Balkan route</b>	3 089	2 371	4 658	6 391	19 951	43 357	15	117
Kosovo*	705	372	498	942	6 303	22 059	51	250
Afghanistan	700	469	983	1 665	2 174	8 342	19	284

<sup>31</sup> European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, *Frontex risk analysis annually in 2015*, (Warsaw, April 2015), 16, accessed 6/19/2015, [http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2015.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2015.pdf).

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Syria	0	12	34	178	1 171	7 320	17	525
<b>Circular route from Albania to Greece</b>	40 250	35 297	5 269	5 502	8 728	8 841	3.1	1.3
Albania	38 017	32 451	5 022	5 398	8 592	8 757	99	1.9
FYR Macedonia	97	49	23	36	21	31	0.4	48
Georgia	12	16	21	7	23	14	0.2	-39
<b>Western Mediterranean route</b>	6 642	5 003	8 448	6 397	6 838	7 842	2.8	15
<b>Sea</b>	5 003	3 436	5 103	3 558	2 609	4 755	61	82
Cameroon	122	254	181	146	255	845	18	231
Algeria	3 190	1 242	1 037	1 048	536	734	15	37
Morocco	254	300	775	364	282	468	10	66
<b>Land</b>	1 639	1 567	3 345	2 839	4 229	3 087	39	-27
Mali	:	:	:	:	:	669	22	n.a.
Cameroon	:	:	:	:	:	652	21	n.a.
Syria	:	:	:	:	:	405	13	n.a.
<b>Eastern borders route</b>	1 335	1 052	1 049	1 597	1 316	1 275	0.4	-3
Vietnam	31	39	23	158	149	257	20	72
Afghanistan	163	132	105	200	149	209	16	40
Georgia	173	144	209	328	235	171	13	-27
<b>Black Sea route</b>	1	0	0	1	148	433	0.2	193
Afghanistan	0	0	0	0	62	261	60	321
Iraq	0	0	0	0	0	90	21	n.a.
Iran	0	0	0	1	0	45	10	n.a.
<b>Western African route</b>	2 244	196	340	174	283	276	0.1	-3
Morocco	176	179	321	104	104	52	19	-50
Guinea	304	0	4	2	12	50	18	317
Senegal	186	2	4	15	10	26	9.4	160
<b>Other</b>	20	3	1	0	4	10	0	150
Russian Federation	0	2	0	0	0	4	40	n.a.
Iraq	0	0	0	0	0	3	30	n.a.
Serbia	0	0	0	0	0	1	10	n.a.
<b>Total</b>	104 599	104 060	141 051	72 437	107 365	283 532	100	164

Source: FRAN data as of 9 February 2015

Top migrants transiting the country illegally or having as destination Romania is led by Moldovan citizens. Especially after joining U.E. our country became a destination country; many Moldovans wish to obtain Romanian citizenship thus enjoy the rights offered by EU to a citizen of a member state. Moldova is a source country for traffickers of migrants, networks run by Moldovans helping those willing to reach EU and the Schengen area. The illicit manner used by Moldovan citizens to cross the border in the first phase consists in obtaining visas to enter our country, usually helped by people with dual Moldovan and Romanian citizenship in the country who send invitations, the cost of such a service starting from the amount of £ 80. Sometimes invitations are used to counterfeiting or labor contracts necessary visa. Along with falsifying identity documents and use alternative transit routes. Pretending that they are Romanians, they abuse the direct air route Moscow - Dublin, departing from Domodedovo airport; there is an influx of Moldovans in this direction because they do not need visas to get to Russia.<sup>32</sup>

As can be seen the pressures and the challenge for the European Union border control is growing. Department institutions should become more effective in taking measures to reduce risks for short and long term. Illegal migration implications of transnational criminal organizations affects all dimensions of security. Given the opinion that citizens of the country

<sup>32</sup> Stoica, *Illegal migration at the junction with trafficking*, 142.

of destination of immigrants, asylum seekers or refugees determine attitudes that create tensions, crises or conflicts. Illegal migrants constitute a source of economic, social, political, both for the country of destination and source. Due to E.U. extension, migration issue has become more complex in Europe since the development of the phenomenon is growing, regulation and counteract the negative effects become main points in E.U. strategies.<sup>33</sup>

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<sup>33</sup> Alexandra Sarcinschi, *Migration and Security*, (Bucharest: University of National Defense "Carol I", 2008) 42, accessed 19.06.2015. [http://cssas.unap.ro/ro/pdf\\_studii/migratie\\_si\\_securitate.pdf](http://cssas.unap.ro/ro/pdf_studii/migratie_si_securitate.pdf).

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12. **Slavici Monica**, European Agenda for Migration, Radio Romania Regional, <http://romaniaregional.ro/2015/03/18/agenda-europeana-pentru-migratie/> accessed on 19.05.2015.
13. Extraordinary European Council Meeting, April 23, 2015, press release, <http://www.consilium.europa.eu/ro/press/press-releases/2015/04/23-special-euco-statement>.

## MIGRATION IN INTERNATIONAL DEVELOPMENT POLICIES. AN EUROPEAN PERSPECTIVE

Andrei Razvan DELEANU<sup>1</sup>

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### ABSTRACT:

*IN THE LAST DECADES THE VIEW ON MIGRATION IN RELATION TO INTERNATIONAL DEVELOPMENT HAS SHIFTED FROM AN ISSUE THAT HAD TO BE TACKLED, TO A POSSIBLE TOOL IN HELPING LOW INCOME COUNTRIES EVOLVE. MIGRATION AND DEVELOPMENT HAVE ALWAYS BEEN LINKED TOGETHER, BUT IN THE SENSE THAT MIGRATION HELPS DEVELOPED COUNTRIES AND LEAVES POOR COUNTRIES WITHOUT THE MUCH NEEDED HUMAN RESOURCES. AS A RESULT, IN TERMS OF POLICIES, THEY WERE SEEN AS ACTING IN DIFFERENT FIELDS.*

*WITH THE RECENT PARADIGM CHANGE TOWARDS A HOLISTIC SYSTEM APPROACH IN WHICH POLICIES SHOULD BE CORRELATED BETWEEN THEM, AND WITH THE SHIFT IN PERSPECTIVE REGARDING MIGRATION AS A POSSIBLE VECTOR FOR DEVELOPMENT, LEAD TO THE INCLUSION OF MIGRATION POLICIES INTO DEVELOPMENT POLICIES AND A STRENGTHENING OF COOPERATION BETWEEN INSTITUTIONS.*

*WHILE WELCOMING THE IDEA THAT MIGRATION IS NOT SEEN ANY MORE AS A NEGATIVE FOR DEVELOPMENT, THROUGH THIS ARTICLE WE TRY TO ANALYZE HOW THIS IS CAPITALIZED AND USED IN INTERNATIONAL DEVELOPMENT POLICIES, WITH A FOCUS ON THE EUROPEAN UNION AND GREAT BRITAIN. WE ALSO TRY TO SEE HOW LONG TERM POLICIES ON POVERTY REDUCTIONS ARE CORRELATED WITH MIGRATION INTERESTS AND IF THERE ANY CONFLICTING ISSUES THAT SHOULD BE ADDRESSED.*

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**KEY WORDS:** INTERNATIONAL DEVELOPMENT, MIGRATION, POLICY, AID, EUROPEAN UNION

### WHAT IS DEVELOPMENT?

One should say that defining development is a difficult task given the plethora of views and meanings it has been attributed. One definition puts development in modern times as a “*taking on the limited meaning of the practice of development agencies, especially in aiming at reducing poverty and the Millennium Development Goals*”<sup>2</sup>, even though it acknowledges its complex and ambiguous state.

Other authors see development as composed from 3 types of discourses, each with its own perspective. The first perspective refers to development from a historical standpoint, in which it is correlated with the evolution and the process of change that is inherent in societal

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<sup>2</sup> Thomas, A. "The Study of Development." *Paper prepared for DSA Annual Conference, 2004: 2.*



structural transformations concerning the liberalization of people and peoples. In this case development is seen as a long term process and was particularly embraced during 1950-1960.

The second perspective sees development as a short to medium term process that adheres to the definition given by Thomas and is defined by a set of norms, guidelines and has specific objectives, like the eradication of poverty or achieving the MDG or post-2015 Development Agenda.

A third perspective presents development as a discourse that is able to shape the relations between countries, a western discourse, that is used to reinvent the truth about third world countries and people are seen merely as statistical data.<sup>3</sup> Also, a key element in this type of discourse is the fact that post-modernists see poverty or development as social constructs that do not exist outside the body of the idea. As a result they are subjective and value one aspect over the other thus allowing different conceptualizations and creating confusion given the large number of views and ideas promoted. The major critique given to this view on development is that it's mainly a western view in which western concepts and approaches are considered better and are, as a result, imposed over developing countries. It is believed in the superiority of the North over the South.

One other official definition is the one given by OECD Development Assistance Committee which puts the emphasis on an economic approach. Development assistance is seen as "*those flows to countries and territories on the DAC List of ODA Recipients and to multilateral institutions which are provided by official agencies, including state and local governments, or by their executive agencies; and [...] is administered with the promotion of the economic development and welfare of developing countries as its main objective; [...] is concessional in character and conveys a grant element of at least 25 per cent (calculated at a rate of discount of 10 per cent).*"<sup>4</sup>

## **MIGRATION DEVELOPMENT NEXUS**

Migration and Development policies have been only in recent years been brought to light into the policy arena, with the MDG's for example being silent on this matter, even though studies have shown that most of the points on the agenda can be achieved through migration policies.<sup>5</sup>

Furthermore migration is not mentioned anywhere in the Ministerial Conclusions of the fourth Doha development round of talks and neither, until 2000, in the UNDP's Human Development Reports, while in Europe it only began to receive political attention in the late 1990's.<sup>6</sup>

Migration is often seen as a sensitive political issue, more even when coming from developing countries to developed ones, and is undesirable, mainly because it is thought to be a threat to sovereignty and cultural identity to the receiving country.<sup>7</sup>

Because it is largely acknowledged that halting migration is impossible the attention has shifted to migration management and as a result it lead to trying to link migration policy to development policy.<sup>8</sup> Also, only by promoting social and economic development in poor sending countries can we achieve a positive result and stop migration, where trade

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<sup>3</sup> Escobar, A. "Planning." In *The Development Dictionary*, by W. Sachs. London: Zed, 1992.

<sup>4</sup> OECD. *Is it ODA*. November 2008.

<sup>5</sup> Collyer, Michael. "The Development Challenges and the European Union." *EU-US Immigration Systems 08/11* (Robert Schuman Centre for Advanced Studies), 2011.

<sup>6</sup> WTO. *Ministerial Declaration*. Doha: Ministerial Conference, 4th Session, 2001

<sup>7</sup> Skeldon, R. *Migration and Development: A Global Perspective*. Harlow: Longman, 1997.

<sup>8</sup> de Haas, Hein. "Turning the tide? Why 'development instead of migration' policies are bound to fail." *International Migration Institute Working Papers*, 2006

liberalization and development aid is seen as more effective instruments than restrictive immigration and tougher border controls.<sup>9</sup>

Early migration control was focused mainly on the receiving country territory and the relations with the sending countries were reduced. Moreover the initial policy application were typically control related objectives, for example *aide au retour* policies.<sup>10</sup>

When discussing about the development migration nexus we can say that their relation is a complicated one, with a sort of dualist perspective in which it can be in the same time both positive and negative for the emigrant and the immigrant country.<sup>11</sup> Still, now a consensus has been achieved that it is still possible to manage migration so that it can increase the development impact, and policies tend to broaden their horizon and include actors that are not a part of national governments. Yet, with the development of new policy, new challenges emerge as well as for example the coherence between the different decision making levels, like national and supra-national government in the EU.<sup>12</sup>

Out of this three main benefits are widely accepted as having a positive impact: remittances, diaspora, and circulatory migration, and one of the most heavily criticized aspect is the 'brain drain', defined as the permanent emigration of high-skilled labour.<sup>13</sup>

### REMITTANCES

One of the major arguments in favor of remittances is that the total value that is sent to developing countries far outstrips the value of Official Development Aid, thus in many developing countries play a very important economic role.<sup>14</sup>

According to World Bank in 2014 the total volume of remittances reached 583 billion dollars, out of which 440 billion went towards developing countries. The total values is almost double than the total ODA volume.<sup>15</sup>

In attempting a simple definition we can say that "*remittances are private flows, motivated by migrants desire to support friends and family. They will typically be sent by the most efficient means possible and in many countries this involves a variety of informal transfer systems, such as carrying money back directly, sending it with friends or using unofficial commercial money transfer systems.*"<sup>16</sup>

There are some that still argue that remittance aren't a big contributor to development because they are, in most cases, used for consumption, are vulnerable to the immigration policies of the receiving country as well as to the economic situation, especially if an economic crises arises, and finally are not self-sustaining. Though if we take into consideration that reduction of poverty, better health, and increased rate of education are

<sup>9</sup> Haas, H. de. "International Migration, Remittances and Development: Myths and facts." *Third World Quarterly*, 2005: 1269-1284.

<sup>10</sup> Collyer, Michael. "The Development Challenges and the European Union."

<sup>11</sup> Hermele, K. "The Discourse on Migration and Development." In *International Migration, Immobility and*, by G. Brochmann, K. Tamas and T. Faist T. Hammar. Berg: Oxford, 1997.

<sup>12</sup> Collyer, Michael. "The Development Challenges and the European Union." *EU-US Immigration Systems 08/11* (Robert Schuman Centre for Advanced Studies), 2011.

<sup>13</sup> Reslow, Natasja. "Migration and Development? An Assessment of Recent EU Policy Initiatives." *Journal of Contemporary European Research*, 2010: 3-21.

<sup>14</sup> Newland, Kathleen. "Migration as a Factor in Development and Poverty Reduction." *Migration Policy Institute*, 2003.

<sup>15</sup> World Bank. *Remittances growth to slow sharply in 2015, as Europe and Russia stay weak; pick up expected next year*. April 13, 2015. <http://www.worldbank.org/en/news/press-release/2015/04/13/remittances-growth-to-slow-sharply-in-2015-as-europe-and-russia-stay-weak-pick-up-expected-next-year> (accessed June 17, 2015).

<sup>16</sup> Collyer, Michael. "The Development Challenges and the European Union."

signs of development, than strong evidence exists that remittances do make an important contribution.<sup>17</sup>

Sending countries are faced with problems when it comes to converting remittance income into sustainable productivity and also have great difficulties in controlling what type of labors it exports, and it is possible to not have any relations regarding the surplus labor at home, but with the job market of the receiving country. What more the income generated is rarely used for productivity and mainly goes to poor people and in small amounts. The average amount is around 200 dollars and the average cost of transaction fees are around 8%.<sup>18</sup> Most of them are used to support direct consumption, education, healthcare and household, only small amounts go towards income-generating activities. On the long term the main benefits is raising the level of education of the receiving people and children are more likely to enroll in secondary school. Also they are important safety nets for poor families that in troubling times may actually reduce out-migration.<sup>19</sup>

In some cases, developing countries may become dependent on this source of income, which is vulnerable as stated above to the conditions in the immigrant receiving country. Furthermore it sometimes may reduce the incentive for the country of origin to generate jobs.<sup>20</sup>

### **DIASPORA AND CIRCULATORY MIGRATION**

In modern times, the term “diaspora” is defined in political sciences in a more positive manner than its original meaning of forcible dispersion and long logging of returning to their home country. As Gabriel Scheffer states “Modern Diasporas are ethnic minority groups of migrant origins residing and acting in host countries but maintaining strong sentimental and material links with their countries of origin – their homeland”<sup>21</sup>

Mainly the ‘modern’ diaspora is the source for the remittances that were the subject above. But that isn’t their only role, contributing on further aspects that just sending money. They are also responsible for promoting Foreign Direct Investments (FDI) and a source for it; the development of markets, both at home and at the receiving country, technology transfer, tourism, political development, cultural influence etc. Close links were found between the presence of diaspora and the increase trade with the sending country.<sup>22</sup>

In order not to break these ties policy makers encourage close links with their community in the country of origin. One idea could be the creation of migrant associations, and as well integration policies should focus less on trying to assimilate migrants in the host country<sup>23</sup>.

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<sup>17</sup> Newland, Kathleen. "What do we know about migration and development." *Migration Policy Institute Policy Brief*, 2013

<sup>18</sup> World Bank. *Remittances growth to slow sharply in 2015, as Europe and Russia stay weak; pick up expected next year*. April 13, 2015. <http://www.worldbank.org/en/news/press-release/2015/04/13/remittances-growth-to-slow-sharply-in-2015-as-europe-and-russia-stay-weak-pick-up-expected-next-year> (accessed June 17, 2015)

<sup>19</sup> Newland, Kathleen. "Migration as a Factor in Development and Poverty Reduction." *Migration Policy Institute*, 2003.

<sup>20</sup> Wets, J. "Some Thoughts about Migration and Development." *Migration and Development: Myths and Facts*, 2004: 20-39.

<sup>21</sup> Newland, Kathleen. "SIX STUDIES AND A ROAD MAP: Diasporas as Partners in Development." In *Diasporas : new partners in global development*, by Kathleen Newland. Washington: Migration Policy Institute, 2010.

<sup>22</sup> Reslow, Natasja. "Migration and Development? An Assessment of Recent EU Policy Initiatives." *Journal of Contemporary European Research*, 2010: 3-21.

<sup>23</sup> IOM. "Migration and Development: Current Policy Challenges." *Migration and Development: Myths and Facts*, 2004.

Beyond the family and individual level, there are Diaspora organizations that are based on the association of migrants that came from the area, or they share the same religion or different affinities that tie them together but what all have in common is their shared patriotism. As a result most strategies regarding diasporas have to have at its core maintaining or rebuilding patriotic sentiment in order for them to work. For example one way is to offer dual citizenship to second generation or later, or to offer them cultural and language support<sup>24</sup>.

One of the most used tool in migration policy was return of immigrants to their home country. Its aims are similar to that of circular migration, to make the migrant return to its home country, as its stay is only temporary and also, as a side effect, reduce brain drain. The main difference though is that through circular migration, the migrant is allowed to go back and forth between his home country and adoptive country.<sup>25</sup>

Still this policy is seen as controversial because few people see it as a stable pattern and many are afraid to use it. It is thought to be a coercive form of movement, but in fact there are several types of circular migration ranging from dual citizen that are allowed to come and go as they please to workers that are obliged to return home at the end of their contract.<sup>26</sup>

Some recommendation have been made to encourage this type of migration like improving the legal situation of migrants, many fearing that they will not be allowed to return. Another option is to make pension transferable to the home country after retirement. Easing the re-entry visa would be another alternative that could further increase the confidence in this type of migration<sup>27 28</sup>

## **MIGRATION AND DEVELOPMENT IN THE EU AND UK POLICIES**

Migration and development policies have been introduced together progressively in European Union strategic documents only starting with the second part of the 1990's and only in 2005 with the Global Approach on Migration (GAM) it became one of the three pillars. In 2011 through the Global Approach to Migration and Mobility (GAMM) it was further reconfirmed. Initially, Migration policy where aimed mainly at finding the generating causes and eventually halting the migration from developing countries. But with the better understanding of the development migration nexus, the horizon has broadened significantly.

The first high level interest on migration and development can be traced back to when the High Level Working Group on Asylum and Migration was created in 1998 by the European Council. Its task was to write a series of reports concerning the relation of the European Union with six key countries of origin that would be presented at the Tampere European Council in 1999. The result of these reports lead to the inclusion as an objective of

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<sup>24</sup> Kathleen Newland, Eric Patric. "Beyond Remittances: The Role of Diaspora in Poverty Reduction in their Countries of Origin a scoping study by the Migration Policy Institute for the Department of International Development." *Migration Policy Institute*, 2004.

<sup>25</sup> Collyer, Michael. "The Development Challenges and the European Union." *EU-US Immigration Systems 08/11* (Robert Schuman Centre for Advanced Studies), 2011.

<sup>26</sup> Newland, Kathleen. "What do we know about migration and development." *Migration Policy Institute Policy Brief*, 2013.

<sup>27</sup> Haas, H. de. "International Migration, Remittances and Development: Myths and facts." *Third World Quarterly*, 2005: 1269-1284.

<sup>28</sup> Reslow, Natasja. "Migration and Development? An Assessment of Recent EU Policy Initiatives." *Journal of Contemporary European Research*, 2010: 3-21.

creating partnerships with countries of origins, laying the foundation for the agenda on migration and asylum that was to come.<sup>29</sup>

The Tampere Council was the one to lay the basis in the area of immigration and asylum for the decade to come, and probably, being at its infancy the policy had to be more general and abstract, meant fewer obstacles to overcome. But now days, the European Union is looking towards more sophisticated and more difficult initiatives which have at the base the general views lay out in 1999.<sup>30</sup>

Only in 2002 a first communication on the Commission on Migration and Development which provided a short overview, discussing possible policy orientations, taking into consideration the possible benefits of remittances and skilled migration, and finally coming up with a list of various migration components in different programmes that are operated by the Commission.<sup>31</sup> Furthermore the communication called for integrating aspects of migration and into development strategies, but still the document stressed that it's long term priority is to prevent irregular migration and to address the root problems of migration flows.<sup>32</sup>

2005 was the year when major leaps were taken into integrating migration policies with development ones. In the Policy Coherence for Development Agenda migration was seen as one of the main priorities and it was further enhanced by the 2005/2006 European Consensus on Development, specifying the existing legal commitments for taking into account development objectives in all the policies that affected developing countries.<sup>33</sup> In September a new Communication on Development was published where they talked about new ideas for how migration can work for development, like diaspora or circular migration, and to reduce the "push factors".<sup>34</sup>

In December it was first outlined the Global Approach to Migration, which covered the external aspect of EU asylum and migration policy.<sup>35</sup> What we can observe is that the document was rather vague when it came to linking migration to development, a surprise considering how close it was issued to the latest Communication on Migration and Development, and the engagements taken through the PCD.<sup>36</sup>

The Mobility Partnerships were launched by the European Union in 2007 and these were to be signed, on an opt-in basis, with each developing country individually. These partnerships list a series of objectives that should be followed by the EU in relation with the later, they include support for building capacity in order to effectively manage legal migration, combat human trafficking, implementing strategies to reduce "brain drain", promoting circular migration. The developing country on the other hand accepted to fight irregular migration and to sign a readmission agreement. They aimed through this to exploit

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<sup>29</sup> Collyer, Michael. "The Development Challenges and the European Union." *EU-US Immigration Systems 08/11* (Robert Schuman Centre for Advanced Studies), 2011.

<sup>30</sup> Collett, Elizabeth. *Future EU policy development on immigration and asylum: Understanding the challenge*. Brussels: Migration Policy Institute Europe, 2014.

<sup>31</sup> Collyer, Michael. "The Development Challenges and the European Union."

<sup>32</sup> EC COM. *Communication from the Commission to the Council and the European Parliament Integrating*. European Commission, 2002.

<sup>33</sup> Council, European. *The European Consensus on Development*. European Commission and European Parliament, 2006

<sup>34</sup> Commission, European. *Migration and Development: some concrete orientations*. European Commission, 2005b

<sup>35</sup> Collyer, Michael. "The Development Challenges and the European Union." *EU-US Immigration Systems 08/11* (Robert Schuman Centre for Advanced Studies), 2011

<sup>36</sup> Reslow, Natasja. "Migration and Development? An Assessment of Recent EU Policy Initiatives." *Journal of Contemporary European Research*, 2010: 3-21.

“potential positive impacts of migration and development responding to the needs of the countries of origin in terms of skill transfers and of mitigating the impact of brain drain”.<sup>3738</sup>

Looking the other way around, migration policies inside development policies we can see that migration has been a part of development since the publishing of the PCD in 2005 and it was reaffirmed in 2009, with the Treaty of Lisbon. *“Increasing the impact of EU Development Policy: an Agenda for Change”* (2011) is the most recent strategy paper and puts an emphasis on the fact that EU should assist third world countries in maximizing the development impact of migration, strengthening their policies and capacities.

The favorable impact of remittances over development has been officially acknowledge starting with 2005 and has been gradually introduced within EU policies and initiatives. EU has committed to three main areas regarding remittances: cheaper, faster and more secure remittances, enhancing the development impact of remittances and improving the data regarding the flows.<sup>39</sup> As a result the Payment Services Directive (PSD) was developed, at present it only applies to intra-EU transfers, to make remittances faster, cheaper and more secure. Furthermore it promoted the facilitation of remittances in its political dialogues with developing countries such as EU-ACP dialogue on Migration, trying to improve access to banking and financial services.<sup>40</sup>

The involvement of diaspora organization in promoting development unfortunately is still in its early phases, the EC is financing studies to elaborate on the possible use of diaspora and policy, offers support to set-up databases for diaspora members interested in promoting development and want to engage ro register. More involvement towards diaspora groups can be found at national level, done by Member States, like the UK-Africa initiative.<sup>41</sup>

Mobility partnerships have in its central core the promotion of circular and temporary migration, as a long term strategic cooperation with its partner countries. This is seen as a “triple win process: for the migrant, the country of origin and the country of destination” and having a positive effect on the development of the home country, resulting in “brain circulation”.<sup>42</sup>

Also the European Union, through the Mobility Partnership took a series of commitments that regard support for developing countries to build capacity to manage legal migration, to detect irregular migration, to implement measure to reduce brain drain, to combat human trafficking, and to improve procedures for obtaining visas.<sup>43</sup> The main area intended for the Mobility Partnership is the EU Neighborhood, with agreements being made with, for example, Moldova or Cape Verde. Still these partnerships require for the country to sign a readmission agreement which many authors claim it is rather restrictive.<sup>44</sup>

For long-term residents of the EU they are granted through the long-term residents directive a leave of absence of 12 month without losing their residency.<sup>45</sup> In 2009 the Blue

<sup>37</sup> COM, 248. *On Circular Migration and Mobility Partnerships between the European*. Brussels: Commission of the European Communities, 2007.

<sup>38</sup> Reslow, Natasja. "Migration and Development? An Assessment of Recent EU Policy Initiatives

<sup>39</sup> EU, Council of the. *Draft Conclusions on the Global Approach to Migration and Mobility*, 8361/12, 2012. Council of the EU, 2012.

<sup>40</sup> EC. *EU 2011 Report on Policy Coherence for Development*. European Commission, 2011

<sup>41</sup> DFID. *Moving out of poverty – making migration work better for poor people*. DFID, 2007

<sup>42</sup> EC. *EU 2011 Report on Policy Coherence for Development*. European Commission,

<sup>43</sup> Europe Press Release, Memo/11/800. *Frequently asked Questions: Fostering strategic dialogue and partnership with non-EU countries*. RAPID Press Release, 2011.

<sup>44</sup> Carrera S., Hernandez I, Sagrera R. "The externalisation of the EU's Labour Immigration Policy: Towards Mobility or Insecurity Partnerships?" *CPS Working Document 321/2009* (CPS Working Document 321/2009), 2009.

<sup>45</sup> EU, Council of the. *Council Directive concerning the status of third-country nationals who are long-term residents*. Council of the EU 2003/109/EC., 2003.

Card directive was published to attract high-skilled migrants and also takes into the consideration of development through circulatory migration allowing blue cards holders to be absent 18 months without giving up their long term residency.<sup>46</sup>

Through GAMM it is mentioned that Mobility Partnerships should also pay greater attention and favor the exchange of students and researchers and the training of youth. But these should be in line with the labor market needs of Members States and take great care of the possible issues that may appear, such as “brain drain”.

In the United Kingdom, the first mention of migration in an development policy was in the 1997 “Secretary of State’s White Paper on international development” discussing the positive and negative aspects it can have. One of the main aspects that it stressed out is that it will not try to limit voluntary migration as it doesn’t suggest that it is effective.

“*Moving out of poverty – making migration work better for the poor*” was published in 2007 and presented the DFID aim in what regards its policy on migration. It was to increase the benefits for poor people and to reduce the risks concerning migration for them and their home country. A number of plans were made such as planning for migration and thus enhancing the poverty reduction and development benefits, increasing the beneficial effects of remittances, work with a limited number of countries to reduce the risks of migration by managing it and enhance the benefits of internal migration, support for both skilled and low skilled workers, related to the market needs of the receiving country, promote safe and legal migration and protecting the human rights.<sup>47</sup>

The next policy to address the problem of development and migration was issued in 2009 and stated the benefits of migration for development like remittances, bringing new skills and business links, but also noted the negative effect of lack of highly qualified work force. It stressed on the idea that UK will try to improve the positive effects of those mentioned earlier and mitigate the costs for the negative aspects by further improving the migration policy to encourage development.<sup>48</sup>

Unfortunately, at the moment, migration isn’t a key issue anymore concerning development and it is treated more as a focal point. The development community hasn’t really managed to fully integrate migration in development policy, mainly probably because of the lack of consensus on what would the possible benefits be and what type of measures should be made. There is some efforts to encourage this, as DFID is a member of the committee of the Home Office Voluntary Returns Steering Group.<sup>49</sup>

In some areas there were adopted codes of conduct or practices to prevent brain drain such as healthcare and it also supported several multi-year research programmes on Migration and Development, with a focus on the relation between regional migration, internal migration and poverty.<sup>50</sup>

Regarding labor migration, there isn’t a national policy in what regards the promotion of temporary and circular migration. There isn’t a hands on approach, more based on ad-hoc initiatives.<sup>51</sup>

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<sup>46</sup> EC. *EU 2011 Report on Policy Coherence for Development*. European Commission, 2011.

<sup>47</sup> DFID. *Moving out of poverty – making migration work better for poor people*. DFID, 2007. <http://migratingoutofpoverty.dfid.gov.uk/> (accessed 05 23, 2015).

<sup>48</sup> DFID. *Eliminating world poverty: Building our common future*. DFID, 2009

<sup>49</sup> IOM. *Migration and Development: Achieving Policy Coherence*. 2008

<sup>50</sup> DFID. *Moving out of poverty – making migration work better for poor people*. DFID, 2007. <http://migratingoutofpoverty.dfid.gov.uk/> (accessed 05 23, 2015).

<sup>51</sup> Home Office/UK Border Agency. *Temporary and Circular Migration: Empirical Evidence, Current Policy Practice and Future Options in EU Member States*. Home Office/UK Border Agency, 2011

## CONCLUSION

Drawing the line we can observe that even if in the past 10 to 15 years a lot of progress has been made in what concerns the integration of migration into development policies and vice-versa there is still room for improvement. Starting with still existing policy incoherence in what regards for example reducing brain-drain from developing countries, while as most of the visas and working permits are offered mainly to highly skilled labors, blue cards for instance.

Also the Mobility Partnerships, even though they are seen as offering advantages for temporary and circulatory migration, they are still used as instruments to halt migration and to further control it, although it doesn't necessary addresses the root causes.

Incoherencies can be found in the relation between member countries and the EU in what regards the implementation of the EU directives. A clear example can be seen in UK, where national policies haven't fully integrated them in its development and migration policies. The role of diaspora is better understood in the United Kingdom, but there aren't any policies related to circulatory or temporary migration. Also initiatives to deal with brain drain in the UK are scarce and ad hoc, a clear policy isn't implemented.

Furthermore, the cost of transaction for remittances is reduced mainly intra-EU, and developing countries that are in need mostly are left outside.

Still we have to observe that the most important benefits that can be drawn from migration have been addressed in migration or development policies, but an important role, that is played by the diaspora, is only in its early stage, and a better capitalization of that untapped asset would prove beneficial towards promoting and achieving a fast pace development for third world countries.

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## **A PLEA FOR MEMORY: DO WE REMEMBER ANYMORE WHAT THE EUROPEAN IDEA STANDS FOR?**

**Alina BUZĂIANU<sup>1</sup>**

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### **ABSTRACT:**

*FROM THE RUINS OF THE OLD CONTINENT ROSE HIGH IDEALS TO UNITE AS EQUALS AND PURSUE THE COURSE OF MUTUAL INTEREST VERSUS NATIONAL INTEREST, DEMOCRACY VERSUS TYRANNY, MULTILATERALISM VERSUS UNILATERALISM. IN THIS RESPECT, THE POWERFUL SPEECH OF WINSTON CHURCHILL OF 1946, CALLING FOR THE UNITED STATES OF EUROPE, IS WELL KNOWN...IN ITS BUILDING AND EVOLUTION, THE EUROPEAN UNION OBSERVES, IN A VERY STRICT MANNER, THE PRINCIPLE OF MULTILATERALISM EVEN IF SOMETIMES THIS APPROACH MAY SEEM BUREAUCRATIC AND INSUFFICIENTLY TRANSPARENT. FROM ITS BEGGINING, WITH THE EUROPEAN COAL AND STEEL COMMUNITY IN 1951, THE SIX THEN MEMBER STATES AT THE VERY CORE OF THE ESTABLISHMENT OF THE EUROPEAN RECONSTRUCTION AIMED AT DEVELOPING A MECHANISM TO INCREASE EUROPEAN UNITY THROUGH COOPERATION, INITIALLY, AT THE ECONOMIC LEVEL.*

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**KEY WORDS:** EUROPE EUROPEAN IDEA, EUROPEAN UNION, REFORM, INTEGRATION, ENLARGEMENT

### **WHAT THE EUROPEAN IDEA REALLY STANDS FOR**

What the European idea really stands for? We could say it's all about strengthening the European Union, making its institutions more effective and bringing them closer to European citizens. To a certain extent, these can be regarded as fundamental objectives of the European construction. The question of defining the ultimate objectives of the Union, *sa finalite politique*, which poses certain difficulties and risks for the current debate, coincides more or less with agreeing on the fundamentals or *les raisons d'etre* of the European establishment further into the future.

One must believe that as a consequence of the new international context, Europe is called to deliver more at the global level and to assume greater responsibilities in the world. This appears to be the main *raison d'etre* of the Union for the next generations. In a general view, the European Union can do so by creating a re-united Europe, a Europe "whole and free", as we hear very often, and to provide to the world its unique model of society and civilization, based on diversity, freedom and solidarity. Unlike in the past, in the future, the European Union will have to focus to an equal extent on external affairs, be they in the area of security and defense, in that of economy and trade or in development. This process should develop in synergy with the process of creating the most dynamic and modern economy in

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the world. The main instruments through which the EU can promote its identity and the values of the European model, the Political Union and the Economic and Monetary Union must be completed in one way or another.

Europe's illustrious leaders have agreed that an enlarged Europe will have the necessary weight to play an active part in a new phase of our history<sup>2</sup>. However, neither its size nor its economic resources will suffice if it is unable to strengthen its policies and reform its institutions, if it fails to express the will to reaffirm its sense of unity. It will be up to us to decide: whether we wish to continue along the path of integration so as to give Europe the strength to resist threats and respond to the challenges of today's world or whether we would prefer to allow Europe to be gradually emptied of its content.

We can exemplify with the case of the ongoing Eurozone crisis. The "Eurozone crisis" began as a sovereign (or public) debt crisis in Greece in 2009-2010. Over the previous decade, the Greek government borrowed heavily from international capital markets to pay for its budget and trade deficits. This left Greece vulnerable to shifts in investor confidence. As investors became increasingly nervous in 2009 that the government's debt was too high amid the global financial crisis, markets demanded higher interest rates for Greek bonds, which drove up Greece's borrowing costs<sup>3</sup>.

European leaders and EU institutions have responded to the crisis and sought to stem its contagion with a variety of policy mechanisms. In order to avoid default, Greece, Ireland, Portugal, and Cyprus received "bail-out" loans from the EU and the International Monetary Fund (IMF). Such assistance, however, came with some strings attached, including the imposition of strict austerity measures. Other key initiatives have included the creation of a permanent EU financial assistance facility (the European Stability Mechanism, or ESM) to provide emergency support to Eurozone countries in financial trouble; a decision to create a single bank supervisor for the Eurozone, under which the ESM would be able to inject cash directly into ailing Eurozone banks; and ECB efforts to calm the financial markets by purchasing large portions of European sovereign debt and providing significant infusions of credit into the European banking system<sup>4</sup>.

The Eurozone crisis has also had significant political implications, resulting in the fall of some national governments, and forcing EU leaders to grapple with both the euro's future viability and the desirability of further EU integration. Some view EU efforts to address the crisis as too timid and too slow in part because of political differences among EU member states and between those in and outside of the Eurozone. Key points of tension have arisen over the proper balance between imposing austerity measures versus stimulating growth, and whether and to what extent the Eurozone countries should pursue closer fiscal integration<sup>5</sup>.

In January 2012, 25 of the EU's then-27 member states agreed on a new "fiscal compact" aimed at strengthening fiscal discipline within the EU, providing for a more

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<sup>2</sup> The terrorist attacks which struck the United States of America on the morning of 11 September propelled the whole world into a new, unknown and dangerous dimension. That morning marked the real beginning of the twenty-first century. Romano Prodi, *An Enlarged And More United Europe, A Global Player - challenges and opportunities in the new century*, SPEECH/01/528, College of Europe, Bruges, 12 November 12<sup>th</sup>, 2001. [http://europa.eu/rapid/press-release\\_SPEECH-01-528\\_en.htm?locale=en](http://europa.eu/rapid/press-release_SPEECH-01-528_en.htm?locale=en)

<sup>3</sup> The 19 members of the EU that use the euro are: Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia, and Spain. Kristin Archick, "The European Union: Questions and Answers", *Congressional Research Service Report*, January 13<sup>th</sup>, 2015, accessed July 11<sup>th</sup>, 2015, p. 4. <http://fas.org:8080/sgp/crs/row/RS21372.pdf>

<sup>4</sup> Kristin Archick, "The European Union: Questions and Answers", *Congressional Research Service Report*, January 13<sup>th</sup>, 2015, accessed July 11<sup>th</sup>, 2015, p. 4-5. <http://fas.org:8080/sgp/crs/row/RS21372.pdf>

<sup>5</sup> Kristin Archick, "The European Union: Questions and Answers"..., 4-5

automatic imposition of sanctions should a country breach EU fiscal rules, and improving the coordination of national economic policies; this pact entered into force in January 2013<sup>6</sup>.

Too many of the European citizens regard Europe as a distant, abstract and complex entity. But how could this be otherwise when major speeches on the future are followed by nights of bargaining to defend privileges and the future advantages of established positions?<sup>7</sup> Yet ordinary citizens, according to opinion polls, still want Europe to work for peace, security and social justice. But every time there are fewer of them and this should be a factor of concern for the advised subjects. Still, a recipe for a form of integration which is both supranational and also respectful of the nations and states that is composed of, however large or small exists: the Community method. Only this method, based on common institutions, allows member countries, large and small to contribute on an equal footing to carry out a joint project<sup>8</sup>.

### THE EUROPEAN PROJECT AS INVENTION AND NECESSITY

All over Europe, we have parliamentary buildings speaking the same language. The architecture of our legislatures is inextricably linked to the architecture of our states and to the emergence of our national consciousness. None of European political systems was built without some portion of national romanticism which - at different times for different countries - contributed greatly to our political, social and cultural cohesion and to the solidarity underlying the welfare state. We do well to remember this when we see the ugly and aggressive side of nationalism. In excessive doses, anything can be poisonous. But identities as such - the sense of roots or the sense of belonging - are normally benign and they are also the very foundation of any political community and without such communities, there can be no individual freedom. As we go through the 21<sup>st</sup> century, the predominant political unit in Europe is still the sovereign state. To organize our societies and to meet the challenges facing us, the state continues to be both indispensable and insufficient. *Indispensable*, because it remains our principal political community. Europeans keep identifying very strongly with their own country and its well-entrenched institutions. *Insufficient*, at the same time, because collective problems come in so many shapes and sizes. Some are far too small for the state and can be handled much better at the local level, by regions and municipalities, or by civil society. Others are far too big for the sovereign state and require common approaches in different forms, ranging from concertation and cooperation to full-scale coordination or joint decision-making.

And this is where Europe comes in.

In a famous book<sup>9</sup>, the anthropologist Benedict Anderson has analyzed our nations as "imagined communities"<sup>10</sup>. Clearly, that is how they started, and some nations are still in the making. Europe began in the same way, as an idea, an invention, a construct (*ion*).

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<sup>6</sup> Rebecca M. Nelson (coord.), Paul Belkin, Derek E. Mix, Martin A. Weiss, "The Eurozone Crisis: Overview and Issues for Congress", *Congressional Research Service Report*, September 26<sup>th</sup>, 2012, accessed July 11<sup>th</sup>, 2015. <http://fas.org:8080/sgp/crs/row/R42377.pdf>

<sup>7</sup> Romano Prodi, *An Enlarged And More United Europe...*

<sup>8</sup> Romano Prodi, *An Enlarged And More United Europe...*

<sup>9</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, Revised Edition ed. London and New York: Verso, 1991. Benedict Anderson's book first appeared in 1983. Since that time it has become one of the standard texts on the topic of nations and nationalism. The following definition is one of the most commonly used by scholars in the field.

<sup>10</sup> "In an anthropological spirit, then, I propose the following definition of the nation: it is an imagined political community - and imagined as both inherently *limited and sovereign*. The nation is imagined as *limited* because even the largest of them encompassing perhaps a billion living human beings, has finite, if elastic boundaries, beyond which lie other nations. No nation imagines itself coterminous with mankind. The most messianic nationalists do not dream of a day when all the members of the human race will join their nation in the way that

Underlying, of course, are physical realities. The breathtaking landscapes and cultural riches of this continent do not lack objective existence, they are quite tangible and there to discover and to enjoy. But the cohesion and unity of all this comes about only in our minds.

It is there that Europe is born. It is born out of the traumas of our past and out of the fears that they may repeat themselves, but above all out of a set of convictions that may have taken a long time to mature but that have also grown very strong in the last half-century.

Convictions about human dignity and the need to recognize and defend fundamental human rights and freedoms.

Convictions about the uniqueness and equal value of the life-experience and opinions of each and every individual, which rule out all forms of government except pluralist democracy.

Convictions about the need for political authority but also about its inherent dangers, a dilemma only to be resolved through division of power and the rule of law.

Convictions about the need for reconciliation both inside and between our countries and enlightened strategies to overcome ethnic frictions.

Convictions, finally, about the need to adapt to our growing interdependence. Living together side by side in a small continent and a small world, there is simply no way in which we can isolate ourselves or close our eyes to the fate of our neighbours, be they immediate or more distant.

When we speak of these convictions as "European values", we do not at all entertain the illusion that Europeans unanimously subscribe to these principles, or even less that they live by them. Some manifestly do not and have not done so, whether you think of the last century or the last week.

The concept of European values is unabashedly normative<sup>11</sup>. Its purpose is not to describe the sordid reality around us but the civilized order we seek to establish. Indeed, the order we must establish if we wish our children and grandchildren to live in peace and prosperity, because that goal is no longer attainable within the borders of one single state.

It requires Europe.

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it was possible, in certain epochs, for, say, Christians to dream of a wholly Christian planet. It is imagined as *sovereign* because the concept was born in an age in which Enlightenment and Revolution were destroying the legitimate of the divinely-ordained, hierarchical dynastic realm. Coming to maturity at a stage of human history when even the most devout adherents of any universal religion were inescapably confronted with the living pluralism of such religions, and the allomorphism between each faith's ontological claims and territorial stretch, nations dream of being free, and, if under God, directly so. The gage and emblem of this freedom is the sovereign state. Finally, it is imagined as a *community*, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship. Ultimately it is this fraternity that makes it possible, over the past two centuries, for so many millions of people, not so much to kill, as willingly to die for such limited imaginings". Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, (Revised Edition ed. London and New York: Verso, 1991), 5-7.

<sup>11</sup> "However, I will further claim that the developments of the 1990s in international relations lead us to rethink both notions of military power and civilian power in order to consider the EU's normative power in world politics. My argument begins by briefly surveying the conceptual history of civilian power and military power Europe over the past 20 years in order to locate these traditional conceptions of the EU's international role. I will then introduce the idea of normative power Europe, including the EU's normative difference, the EU's normative basis, and an explanation of how EU norms are diffused. In order to demonstrate the value of considering the normative power of the EU, I will then look at the case of its international pursuit of the abolition of the death penalty. Finally, I will conclude by arguing that the concept of normative power represents a valuable addition to our understanding of the EU's civilian and military power in world politics. Thus, the notion of «normative power» when applied to the EU is not a contradiction in terms, as the ability to define what passes for «normal» in world politics is extremely rich". Ian Manners, "Normative Power Europe: A Contradiction in Terms?", *Journal of Common Market Studies*, vol. 40, no. 2, 2002, 235-258 (236).

Europe may be an invention - it is an invention - but it has also become a necessity. Take one glance at the region that is uppermost in our minds right now, at the Southeast of our continent, and you will see immediately that the only solutions with any remote chance of success are European solutions, mobilizing European solidarity and self-interest, integrating the whole area into wider European structures while safeguarding, at the same time, the appropriate degree of sovereignty and self-government.

### **THE EUROPEAN ESTABLISHMENT ON THE INTERNATIONAL STAGE**

Let's turn to the role that Europe can play on the international scene. The main challenges of the second half of the last century were the confrontation between East and West, first, and the consequences of the disintegration of the Soviet empire thereafter. In both cases Europe succeeded in playing a key role. The main challenge of the new century seems to be the relationship between the northern and southern parts of the world and that, here too, Europe will need to play its part in contributing to stability.

Europe's history, its experience of political integration under democracy and its cultural experience of respect for diversity will be equally important in the dialogue with countries in search of more stable structures capable of stimulating development.

Although each country has its own particular characteristics, European societies share a vision of human rights and the rights and duties of citizens and institutions that is based on a sense of solidarity. It is natural for Europe and Europeans to understand how the formation or, worse, the exacerbation of inequality - and here one must think primarily of Africa - creates tensions and possible breakdowns in world equilibriums.

It is also natural that Europe and its citizens, who have always had to cope with a scarcity of natural resources, have developed and indeed sharpened their awareness of depredations to the environment and their interest in what we have learned to call sustainable development.

The role played during the difficult discussions on the Kyoto agreement, the initiative entitled "Everything but arms"<sup>12</sup>, which unilaterally opened up European markets to exports from the poorer countries, and the efforts made to relaunch negotiations at the World Trade Organization after the failure in Seattle are clear proof of Europe's ability to act authoritatively on the international stage, while taking account of the interests of others.

But Europe, as we have seen many times in the past and, unfortunately, will probably see again, will not succeed in contributing to peace and stability in the world, nor will it be able to fill a political role that matches its economic stature, or indeed be accepted in such a role, unless it is united in its actions.

This problem will be resolved once and for all only if the necessary adjustments are made and the entire foreign and security policy of the Union is brought inside the Community system.

Experience teaches us that when the Union presents itself in a piecemeal fashion, its influence is limited. On the other hand, in the case of trade, where the Union has authority to represent the Member States, or competition, where it has clear powers to intervene, it is perfectly capable of making itself heard. One could be thinking rather of all the down-to-earth decisions that can and must be taken, starting right now, to ensure that Europe is effective.

The process of European integration is complex and will probably remain so. However, let us strive to make the Union appear a single entity to the outside world.

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<sup>12</sup> Lucian Cernat, Sam Laird, Luca Monge-Roffarello and Alessandro Turrini, "The EU's Everything But Arms Initiative and the Least-developed Countries", WIDER (World Institute for Development Economics Research), Discussion Paper No. 2003/47, June 2003, United Nations University

A lot can be done in this direction.

Accordingly, we ought to be aware of just how original a creation the Union is. All the European lasting achievements, from the single market to the euro, with successive enlargements along the way, have been brought about through a completely innovative structure based on a delicate balance between institutions. The innovative character of the Union derives directly from the attachment of Europeans to a community of peoples and of states. This innovative character is something we must maintain.

But no reform will have achieved the objective, if it does not succeed in ensuring that the Community has a real capacity to take decisions.

Respect for the basic rule of democracy, and the fact that the Union has to have real decision-making power, require that majority voting become the general rule<sup>13</sup>. In the big Europe created by enlargement, there can be no more room, except possibly in special and clearly defined circumstances, for a right of veto.

Enlargement must not mean paralysis.

In the same way, we will also have to consider the question of the Union's own resources. The time has come to ask questions about sources of revenue and the necessary discretion to decide spending. This is not a technical question: it is a political question, and must be given full attention in the debate on the future of Europe.

I have to ask myself whether it is not contrary to the principles of openness that more and more of the Union's revenue comes from the Member States themselves, rather than from the citizens direct, so that the relationship between the taxpaying citizen and the Union is growing constantly more confused.

Ultimately, if we want enlargement to be a success, if we want Europe to keep the solidity, the weight, the capacity to decide and to act which are needed in order to respond to the demands of its citizens, we need a new common impetus that cannot be provided by the Commission alone. It has to come from the joint action of all the institutions together.

## CONCLUSION

Decades after the creation of the Council of Europe and many more years after its expansion to encompass the whole continent, we have established an excellent framework for common European undertakings, not only through this experienced and efficient organization, but also through others, such as the European Union and the OSCE. What we need now is the courage to use this framework, and the foresight to act not only under the pressure of immediate constraints.

Some of our leaders are afraid to extend European cooperation for fear of its high costs. Let's offer them some friendly advice: it will cost our citizens much more not to extend European cooperation, or to push it too far into the future. And the citizens are of course the final decision-makers or they should be anyway. Europe will not succeed unless it becomes a common cause.

After Italian unification it was said: "*So now we have Italy, but it remains to create Italians*"<sup>14</sup>.

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<sup>13</sup> Kübra Dilek Azman, "The Problem of «Democratic Deficit» in the European Union", *International Journal of Humanities and Social Science*, vol. 1, no. 5, May 2011, pp. 243-250,

<http://www.ijhssnet.com/journals/Vol.1.No.5;May.2011/27.pdf>. See also, Marcus Höreth, (1999), "The unsolved legitimacy problem of European governance", *Journal of European Public Policy*, vol. 6, no. 2, June 1999, p. 251, and Emil J. Kirchner, "Thirty Years of the Journal of European Integration: Reflections and Outlook on European Integration Studies", *Journal of European Integration*, vol. 31, no. 2, Winter 2009, p. 159.

<sup>14</sup> Uncertainty over whether Italy has really managed to forge itself into a viable nation-state after unification, goes wider, recalling a famous remark by Massimo d'Azeglio, a 19<sup>th</sup> century statesman, who shortly after said: «We have made Italy. Now we have to make Italians». Metternich, the Austrian master-diplomat, was



We are in similar situation today. We have built Europe, or at least its foundations, but it yet remains to create Europeans. At one time, there was certainly a wide-spread apprehension in our different countries that a stronger sense of European identity might undermine the national identity, and thus weaken the citizens' attachment to their own states.

Today, we know that this is not true. We have learnt that identities are not mutually exclusive. They can be cumulative. These issues are indeed sensitive, but if they are handled with care and common sense they need not at all be disruptive. Regional, ethnic, religious and other identities can very well flourish without posing any threat to the national identity.

And so can the European identity. But much more than that. Strengthening the sense of European identity in all parts of the continent is a means of laying old fears and old conflicts to rest, of dispelling the evil phantoms from our collective past, and of replacing inherited prejudice by a spirit of respect and cooperation. So many problems can be solved only if hundreds of millions of us learn to think and act as good Europeans.

How can we develop this common consciousness, this attachment to our fundamental values? If that is now the main challenge, the CoE has much to contribute. What has been achieved through our cultural cooperation and our work in the field of education may serve as miniature models for the full-scale action now needed.

Creating Europeans - that should be the agenda for the times to come. If European leadership fails in that task, it will fail in many others also. But if it succeeds, as it should or must, it will bequeath to future generations a much better Europe than the continent that we inherited from our ancestors.

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scathingly dismissive in his assessment of the young country: Italy, he said, was nothing more than «a geographical expression». At least a century and a half on, the cultural, linguistic and political fault-lines exposed by the 150<sup>th</sup> anniversary of unification are evidence that Italy is still a work in progress. Nick Squires, *Italy divided over its unified history*, "The Telegraph", March 13<sup>th</sup>, 2011 at <http://www.telegraph.co.uk/news/worldnews/europe/italy/8378166/Italy-divided-over-its-unified-history.html> (accessed 07.07.2015). See also, Susan Stewart-Steinberg, *The Pinocchio Effect. On making Italians 1860-1920*, The University of Chicago Press, Chicago, 2007.

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## **CONSIDERATIONS ON ROMANIA'S GOVERNMENT STRATEGIES FOR INCLUSION OF ROMANIAN CITIZENS BELONGING TO ROMA MINORITY**

**Ana-Maria ADĂSCĂLIȚEI<sup>1</sup>**

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### **ABSTRACT**

*THE ACCESSION OF ROMANIA TO EUROPEAN UNION IN 2007, IN AN ALREADY UNSTABLE FRAMEWORK REGARDING THE SOCIAL DOMAIN, BRINGS WITH ITSELF ON THE EUROPEAN SCENE THE SPECIFIC PROBLEMS OF THE ROMANIAN STATE. PRIOR DEMARCHES OF ACCESSION APPEAR NOT TO HAVE FOUND THE FINALITY IN SOLVING THE PROBLEMS FACED BY THIS DISADVANTAGED GROUP OF THE ROMA MINORITY.*

*IN RESPONSE TO THE PROBLEMS FACED BY ROMA, IN ORDER TO RESPECT AND PROTECT THE MINORITIES, IN ACCORDANCE WITH EUROPEAN NORMS, AFTER THE ACCESSION TO EU, THE ROMANIA'S GOVERNMENT ADOPTED THE STRATEGY FOR IMPROVING THE ROMA CONDITION FOR 2001-2010, HAVING YET, AS NEGATIVE POINT, THE LACK OF FUNDING OF THE MEASURES PROPOSED, THE COMMON POINT FOR ALL THE THREE STRATEGIES.*

*THE STRATEGY OF INCLUSION OF ROMANIAN CITIZENS BELONGING TO THE ROMA MINORITY FOR THE PERIOD 2012-2020 WAS CREATED IN THE CONTEXT OF APPROVAL OF A COMMON FRAMEWORK FOR NATIONAL ROMA INTEGRATION STRATEGIES BY 2020.*

*THE STRATEGY FOR THE PERIOD 2015-2020 IS NEW, BUT WE CAN OBSERVE THAT THE IMPLEMENTATION OF SOME MEASURES IS GENERALLY BASED ON THE NATIONAL BUDGET ALLOCATED TO THE VARIOUS NATIONAL INSTITUTIONS.*

*THE IMPACT OF THE MEASURES IN THE STRATEGY SEEMS NOT TO GET EQUALLY DISTRIBUTED TO THOSE WHO NEED THEM.*

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**KEYWORDS:** SOCIAL INCLUSION STRATEGY, ROMA MINORITY, INCLUSION, EXCLUSION, DISADVANTAGED GROUP

### **INTRODUCTION**

The accession of Romania to European Union in 2007, in an already unstable framework regarding the social domain, brings with itself on the European scene the specific problems of the Romanian state. In 1993, one of the political criteria for accession to the European Union was respect for and protection of minorities, Roma minority was not as well integrated as the Hungarian minority. In 2002, the European Commission found improvements regarding the Roma community, being adopted the measures of implementation of the Romania's Government Strategy for improving the Roma situation. Despite the fact of having the legal framework for social inclusion policies in Romania, some disadvantaged groups, particularly Roma, are facing difficulties in getting a fair treatment in education, health, employment, social protection, quality of the life; facing with social exclusion and spatial marginalization. Given all the difficulties faced in having a normal life,

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and the existence of the legal measures to achieve the normal life standards, we consider it appropriate to study how social inclusion policies contribute to the actual social inclusion.

## 1. SOCIAL EXCLUSION, SOCIAL INCLUSION AND SOCIAL PROTECTION

Social inclusion policies are addressed to vulnerable groups, the social categories affected by the phenomenon of social exclusion, giving them the means to fully participate in the society they live. The concept of social inclusion is constituted as a whole together with two other concepts, namely: vulnerable group and social exclusion. In order to understand the role of social inclusion, of social inclusion policies, we should follow what combat those policies, by defining of the concept of social exclusion and to whom these policies are addressed to.

The terms of social inclusion and social exclusion have their origins in Europe as a response to the crisis of the welfare state and the fear of social disintegration caused by social and economic crises<sup>2</sup>. It is hard to delimit one single cause for the emergence of social exclusion, due to its social, political, economical implications. René Lenoir is considered to be the author of the social exclusion term, a concept covering a wide range of economic and social problems of "the excluded": persons with mental and physical handicap, disabled elders, abused children, drug addicts, delinquents, single parents. A permanent job, income, insurance, housing, education, citizenship and legal equality, humanity, respect, are some things, in Silver's conception, from which people can be excluded<sup>3</sup>, having partially an answer to the question: exclusion from what?.

The term of social exclusion, in Sen's perspective, covers the phenomena and processes of poverty and deprivation, as well as the social, cultural and political disadvantages, in relation to a wide range of categories of excluded people. Low incomes are a cause for an impoverished living, by not being able to provide food, shelter, not affording to keep the home adequately heated, going on vacations, but poverty should not be seen solely in terms of low incomes. The exclusion from social relations represents another form of social exclusion, which may lead to other privations in the day to day life. The exclusion from being employed and to receive a loan, represents as well a form of exclusion from social relations, leading to economic impoverishment, and deprivations such as lack of food or housing, a stable income represents a means of providing food and shelter. Another form of social exclusion in which is present the inability to interact with others is exclusion from education<sup>4</sup>. The access to education is the primary form of interaction with others, forming abilities and skills that individuals will use in learning, interaction, accumulation of knowledge and information, which will further allow the possibility of obtaining a job, a chance and opportunity of not having an impoverished life, lacking adequate means of livelihood.

Social exclusion has been defined as *the process by which individuals or groups are wholly or partially excluded from full participation in the society they live*<sup>5</sup>. To be politically excluded, as a person, you do not have the opportunity to participate to discussions

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<sup>2</sup> Rajendra Pradhan, "Understanding Social Exclusion and Social Inclusion in the Nepalese Context: Some Preliminary Remarks" paper presented at the workshop *Understanding Social Inclusion and Exclusion: Theories, Methodologies and Data* (Kathmandu, Science Baha and the Social Inclusion Research Fund Secretariat/SNV, 2006), 1

<sup>3</sup> Hilary Silver, *Reconceptualizing social disadvantage: Three paradigms of social exclusion* (Geneva, International Institute for Labour Studies, 1995) 63

<sup>4</sup> Amartya Sen, *Social Exclusion: Concept, Application, and Scrutiny* (Manila, Asian Development Bank, 2000) 3-6

<sup>5</sup> Nabin Rawal, "Social Inclusion and Exclusion: A review", *Dhaulagiri Journal of Sociology and Anthropology* Vol.2 (2008): 164, accessed on April 30, 2015, doi: 10.3126/dsaj.v2i0.1362

concerning you, neither you do not have the power regarding the decisional process<sup>6</sup>. In this game of power, only a restricted group has the power to make decisions concerning the excluded groups. These forms of social exclusion, often take the form of violation of human rights, of restriction of access to services guaranteed by the constitution, by laws (eg. the access to education, to health services), affecting the integrity of persons subject to this phenomenon.

The social categories affected by the phenomenon of social exclusion, or at risk of being excluded, are constituted in vulnerable groups. Sickness, disability, poverty, ethnicity represents some of the causes for not being able to meet the needs of daily living. From the category of vulnerable groups, we mention a few examples: former prisoners, street children, ethnic minorities, single parents, women, disabled, homeless etc. In the Romanian national legislation, regarding the prevention and the sanctioning of all forms of discrimination, the disadvantaged category is defined from the point of view of the existing inequalities towards the majority of the citizens, due to identity differences, or due to the behaviors of rejection and marginalization to which are subject. Roma people, as an ethnic minority is considered to be a vulnerable group facing social exclusion<sup>7</sup>. Having now a definition of the social exclusion phenomenon, and of the persons affected by it, constituted in vulnerable groups, we will follow, what is trying to solve or to improve the social inclusion process. Ensuring the full participation in political, cultural, civic and economic life, by respecting and appreciating the differences of individuals, the measures to provide equal opportunities to learn, to work, to get involved in the community and to have a voice on decisions which affect them, represents the process of social inclusion<sup>8</sup>. When these rights and freedoms are infringed, the social exclusion phenomenon appears. The measures of the social inclusion process are intended socially excluded groups, marginalized persons, vulnerable groups, or groups facing multiple forms of deprivation, in order to integrate them to ensure social cohesion or social solidarity. In Romania, the objective of combating social exclusion is the development of an inclusive society, with the insurance of participation to all economic, social, cultural and political aspects of society<sup>9</sup>, rights that are infringed even in nowadays, despite the existence of legislation.

The concept of social protection has emerged as a response to achieve social inclusion, representing public policies mandated and programs to address the risk and vulnerability among poor households. In the 80's social protection was a temporary instrument for supplying the the subsistence support for people in extreme poverty, becoming a political mainstream instrument.

The mid - 2000s brought with it, the widespread advancing of the discourse of social protection, became a political tool for promoting significant improvements in human welfare. Investing in human capital achieved through social protection measures, helps on long-term to strengthen the economic security<sup>10</sup>. Social protection has to provide opportunities for people to invest in themselves to overcome the condition of existence, but the long term

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<sup>6</sup> Pradhan, *Understanding Social Exclusion and Social Inclusion in the Nepalese Context*, 8

<sup>7</sup> *Ordinance no.137/2000 on preventing and sanctioning all forms of discrimination*, published in the Official Gazette no.166 of March 7, 2014 (republished)

<sup>8</sup> Ronald Labonté et al., *Indicators of Social Exclusion and Inclusion: A Critical and Comparative Analysis of the Literature* (Ottawa, ÉL Exchange Working Paper Series, 2011) 24

<sup>9</sup> *Law no.292/2011 Social work law*, published in Official Monitor no.905 from 20 December 2011

<sup>10</sup> Babken Babajanian, *Social Protection and its Contribution to Social Inclusion* (London, Overseas Development Institute, 2013) 4

effects of creating skills to change what is leading to the deprivation and the vulnerability of individuals remaining in doubt<sup>11</sup>.

The objective of social exclusion is very suitable for analyzing the effects of development and transformation of social inclusion interventions. Social exclusion analyzes the multi-dimensional aspects of deprivation and their causes, contributing to the examining of the social protection effects, in the different dimensions of deprivation, as well as its ability to address the wider factors and the conditions that produce and reproduce deprivation, thus the social exclusion framework facilitates the contextualization of the social protection, being exposed the interaction between policies and programs and the existing economic, social and institutional forces that shapes people's welfare.

## **2. THE FRAMEWORK OF EMERGENCE OF ROMANIA'S GOVERNMENT INCLUSION STRATEGIES OF ROMANIAN CITIZENS BELONGING TO ROMA MINORITY**

Adopting of the Strategies for improving the Roma situation and inclusion, in the period 2001-2015, were based on the existing legal framework at European Union level. The economic, social changes from the member states, the economic crisis, have imposed, with the passing of time, establishing of some new measures at the European Union level. Their evolution or involution, represented the base for creating new reglementations concerning fighting poverty and social exclusion. The modifications from the European Union level, were reflected in the juridical national framework, which regulates the adoption of new measures of combating poverty and social exclusion.

The Romania's Government Strategy for improving the Roma situation was based on international documents on the protection and promotion of rights of national minorities. In order to achieve the Strategy goal for the period 2001-2010, namely improving the Roma situation, were set social inclusion measures in ten sectoral areas: Administration and Community Development; Housing; Social security; Health; Economic; Justice and Public Order; Child protection; Education; Culture and Cults; Communication and civic participation<sup>12</sup>. For this Strategy were set time limits for implementing the measures, the responsible institutions for implementation and control of the implementation, the negative aspect of the Strategy being the lack of a budgetary allocations for implementation of these measures, fact noted also by the European Commission in its Regular Report from 2002, visible situation at the first reading of the law of adoption. The positive result of implementing the Strategy measures was was the creation of positions at central, county and local level, where were employed Roma ethnics<sup>13</sup>, where the allocation of funds was possible.

In 2006, it is issued a new decision that comes to amending and supplementing Government Strategy for improving the Roma situation, the ten sectoral domains are transformed into six, having the same content, designating the establishment of budgetary resources from the budget of the institutions responsible for implementation and realization of Strategy measures<sup>14</sup>.

<sup>11</sup> European University Institute. *The 2010 European Report on Development, Social Protection for Inclusive Development* (San Domenico di Fiesole, Robert Schuman Centre for Advanced Studies, 2010) 33

<sup>12</sup> *The judgment no. 430 of 25 April 2001 on the approval of Romania's Government Strategy for improving the Roma situation*, published in the Official Gazette no. 252 of May 16, 2001

<sup>13</sup> *2003 Periodic Report on Romania's progress towards accession*, available at [www.anr.gov.ro/docs/rapoarte/Raport\\_periodic\\_privind\\_progresele\\_Romaniei\\_pe\\_calea\\_aderarii\\_183.pdf](http://www.anr.gov.ro/docs/rapoarte/Raport_periodic_privind_progresele_Romaniei_pe_calea_aderarii_183.pdf), accessed at May 17, 2013

<sup>14</sup> *The judgement no. 522 of 19 April 2006 amending and supplementing Government Decision no. 430/2001 on the approval of Romania's Government Strategy for improving the Roma situation*, published in the Official Gazette no.371 28 April 2006

We might dare to affirm that there has been no measures implementation cost analysis, situation reflected in the absence of a necessary budget for measures implementation, except for the Housing sectoral domain, which has been provided with the amounts required for implementation. We launch thereby the question of, how effective or feasible were these Strategies measures, in the absence of clear budget allocation for implementation. Another situation that justifies our question, is the lack of a methodology for the implementation of measures to achieve the objectives specified in the Plan of measures.

In order to comply with the objectives of The Europe 2020 Strategy, in the fight against poverty and social exclusion, in 2011 was adopted Romania's Government Strategy for inclusion of Romanian citizens belonging to Roma minority for the period 2012-2020<sup>15</sup>. And in the case of this new strategy for the period 2012-2020, one of the major challenges with regard to the implementation of measures within the Strategy refers to their funding. The adoption of the Strategy before the adoption of the state budget for 2012 led to the inclusion of measures without clearly funding sources, situation repeated also in 2013<sup>16</sup>. The initial database concerning the size of Roma population in Romania, geographic distribution and the problems faced are missing, so is questionable evaluating the effectiveness of measures the Strategy, the existence of this database could also serve to develop effective policies. In the area of Education have continued the affirmative measures of introducing of seats reserved for Roma students in education, activities developed even before the adoption of the Strategy 2012 - 2020. Shrinking budgets of public institutions, has hampered hiring experts for Roma problems, health and school mediators, teachers of language, culture and history Romans, to the detriment of Roma communities. The local actions plans for implementing the Strategy measures are not funded by the responsible institutions, using the same excuse for not having sufficient budget allocation. Within these plans are completed activities that do not request budget, such as counseling and informing. Activities such as professional qualifications, social housing construction or support educational programs find their support more difficult.

The new Romania's Government Strategy adopted for the period 2015-2020, it is at first, but we can observe that the implementation of some measures are generally based on the national budget allocated to the various national institutions<sup>17</sup>. Due to this fact we can assume that it will meet the same difficulties of application of the measures, except where will be identified other funding sources of measures under the strategy.

## CONCLUSIONS

Even if at central level exists institutional structures with specific responsibilities in the application of the Roma minority inclusion policies, the actions of these institutions at local level are rarely concentrated, sectoral interventions targeting the Roma are not placed in a wider local development plan. The lack of data to provide a clear picture of the problems faced by Roma, impedes the revaluation of existing public policies and their readjustment to the situation in the Roma community. Creating public policy on unreliable data, automatically lead to the creation of policies ineffective, unfocused on the objective, the

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<sup>15</sup> *The judgement no. 1221 of 14 December 2011 on the approval of Romania's Government Strategy inclusion of Romanian citizens of Roma minority for the period 2012-2020*, published in the Official Gazette no. 6 of January 4, 2012

<sup>16</sup> Florin Moisă et al., *Civil Society Report on the implementation of the National Roma Integration Strategy and the Plan of Action for the Decade in Romania in 2012* (Budapest, Decade of Roma Inclusion Secretariat Foundation, 2013) 41

<sup>17</sup> *The judgement no. 18 of 14 January 2015 for approval of Romania's Government Strategy inclusion of Romanian citizens of Roma minority for the period 2015-2020*, published in the Official Gazette no. 49 of January 21, 2015

evaluation of results being also compromised, not knowing the initial state actually can not achieve the evaluation of policy implementation.

Despite the existence of a legal framework for the the social inclusion policies of Roma, their implementation strategies, bodies responsible for implementing and overseeing the implementation of social policies, however, the needs and problems of Roma communities, seem to remain unchanged.



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**CHARTER'77 AND THE SOLIDARITY OF PAUL GOMA****Andreea ANDREI<sup>1</sup>****ABSTRACT**

*THIS PAPER AIMS TO DEVELOP A HISTORICAL ANALYSIS OF THE PHENOMENON OF CZECH DISSIDENT-CHARTER'77. THE "CHARTER'77" WAS THE MOST IMPORTANT FORM OF ORGANIZED OPPOSITION IN CZECHOSLOVAKIA. THE MOVEMENT WAS FOUNDED IN JANUARY 1977 AND RAN UNTIL NOVEMBER 1989. ONE OF THE MAIN CAUSES THAT LED TO THE BIRTH OF THE CHARTER WAS THE VIOLATION OF HUMAN RIGHTS AND FREEDOMS. THUS, THE MAIN OBJECTIVES OF THE CHARTER INCLUDED: DEFENDING AND RESPECTING THE HUMAN RIGHTS AND FINDING AN ALTERNATIVE SOLUTION FOR THE CZECH PEOPLE BY CREATING A PARALLEL SOCIETY. ON THE OTHER HAND, THE PAPER AIMS AT EXAMINING THE SOLIDARITY INITIATIVE OF THE WRITER PAUL GOMA WITH THE "CHARTER'77".*

**KEY WORDS:** CZECHOSLOVAKIA, SOLIDARITY, DISSIDENT, HUMAN RIGHTS, CHARTER

**INTRODUCTION**

The "Charter 77" was one of the most important dissident civic initiatives of Central and Eastern Europe. The "Charter'77" was an informal civic movement from Czechoslovakia. One of the major causes that led to the "Charter'77" was the violation of human rights and freedom of expression. So, the aim of the charter was to defend the "civil and human rights" of the citizens of Czechoslovakia<sup>2</sup>. According to historians, the history of the "Charter'77" began in 1968, with the invasion of Czechoslovakia by the Soviet Union, when many former party members, religious activists, intellectuals, workers and students were involved in opposition movements against the so-called reforms "normalization"<sup>3</sup>. The document of the charter was published on the 6 January 1977 and ran until November 1989.

The "Charter'77" was established by a group of Czechs citizens who defined themselves as a "free, informal, and open" association of people holding various convictions, beliefs, and professions<sup>4</sup>. So, many chartists were former politicians, clerics, pupils, students, or farmers<sup>5</sup>. But all were united by a common ideal and by the respect and

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<sup>2</sup>Stefan –Ludwig Hoffmann, *Human Rights in the Twentieth Century* (Cambridge University Press, 2011), 192.

<sup>3</sup>Jeri Laber, Jane Leftwich, Josef Wolf, *A Decade of Dedication. Charter 77, 1977 to 1987*( A Helsinki Watch report, U.S. Helsinki Watch Committee, January 1987), 5.

<sup>4</sup>Ludwig Hoffmann, *Human Rights*, 192-193.

<sup>5</sup>Laber, Leftwich and Wolf, *Decade*, 7.

protection of human rights ratified by international agreements<sup>6</sup>. Among the founding members of the movement's important figures: Pavel Kohout, Vaclav Havel, Jan Patočka, Jiri Hajek Zdenek Mlynar Vaclav Benda, Martin Palous, Jiri Nemec, Ladislav Hejdanek. Out of which, Jan Patočka, Vaclav Havel and Jiri Hajek were the first spokespersons of the charter. The name of the "Charter'77" was symbolic, chosen by the Czechs because the movement appeared in "the year of the political prisoners"<sup>7</sup>. In terms of status, the "Charter'77" had a double role, it functioned as a civic initiative and as a document. But what was not the "Charta'77"?

The "Charta'77" was not an organization or an opposition movement, but, a free, informal and open community, without a proper social and political program of reform<sup>8</sup>.

According to Vaclav Havel<sup>9</sup>, the "Charter'77" was not a resistance movement, but rather a pressure group. It is also important to note that the initiative of the Czechs had a set of rules by which to operate and no permanent body, its main purpose was to promote general public interest<sup>10</sup>.

Regarding the number of the chartists, their number has increased significantly over the years. If in the early years of training, the movement counted 242 people, their number increased, reaching 1300<sup>11</sup>. Also, in its first year of existence, only two people have withdrawn their signatures; moreover, their number grew from month to month and from year to year<sup>12</sup>. So in March 1977, the charter counted 617 signatures, and by the end of 1986, their number was 1,300<sup>13</sup>. One of the main objectives of the "Charter'77" was to create a constructive dialogue with the political authorities of the state, thus drawing the attention on individual cases of human rights violation; it aimed at helping Czechoslovak citizens to live and work free<sup>14</sup>. Also, according to Vaclav Havel<sup>15</sup>, "Charter'77" was one of those causes that deserve to suffer.

In December 1977, it was prepared the first critical text on the failure of Czechoslovak government to observe even the minimum rights: freedom of expression, religious freedom and freedom of public association<sup>16</sup>. And in January, it was presented the second text of the charter. Thus, one of the first roles that the "Charter'77" wanted to assume was to mediate and resolve the cases which could lead to injustice<sup>17</sup>. Another goal of the charter was to become and to function like a parallel society<sup>18</sup>. What is a "parallel society?"

A "parallel society" is a society that promotes an independent form of culture and information ("samizdat"). Therefore, a "parallel society" is the opposite of a closed society and can be an alternative solution for the citizens. What kind of independent culture this "society" can provide to its citizens? Thus, there were a large number of books published as samizdat, unpublished plays were performed (by actors in their homes), prohibited seminars were organized by teachers, religious services were also, officiated by priests and religious

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<sup>6</sup>Vaclav Havel, *The power of the powerless. Citizens against the state in central- eastern Europe*, ( Introduction by Steven Lukes, Edited by John Keane, Hutchinson, 1985), 220.

<sup>7</sup>Havel, *Power*, 221.

<sup>8</sup>Laber, Leftwich and Wolf, *Decade*, 1.

<sup>9</sup>Havel, *Power*, p. 129.

<sup>10</sup>Havel, *Power*, p. 221.

<sup>11</sup>Laber, *Decade*, 1.

<sup>12</sup>Laber, *Decade*, 7.

<sup>13</sup>Laber, *Decade*, 7.

<sup>14</sup>Havel, *Power*, p. 221.

<sup>15</sup>Laber, *Decade*, 2.

<sup>16</sup>Laber, Leftwich and Wolf, *Decade*, 5.

<sup>17</sup> Laber, Leftwich and Wolf, *Decade*, 1.

<sup>18</sup>Laber, Leftwich and Wolf, *Decade*, 9.

leaders who have lost their right to practice<sup>19</sup>. Therefore, we see that the charter covered various areas of the society, from culture, religion, environment, etc. It must be said that by the end of 1986, there were published more than 348 documents, including reports on the health system, environmental pollution, economic and religious issues<sup>20</sup>. The three main achievements of the "Charter'77" were: shocking, awakening Czechoslovak nation, the fight against repression through documentation and investigation, it also made public these abuses, thus helping the development of the type samizdat<sup>21</sup>.

Despite the "Charter'77"'s calls to respect the law and the human rights, international human rights pacts were violated by Czechoslovak authorities and laws were passed to punish the chartists for daring to challenge the regime<sup>22</sup>. So, the chartists represented a real target for attacks and police abuse<sup>23</sup>. Among the repression methods were: attacks, intimidation, threats, arrests, telephones were cut, apartments were lost for "bureaucratic reasons", car licenses were withdrawn or diminished, retirement or disability pensions were withdrawn or diminished, passports were denied<sup>24</sup>. It is important to mention that not only the activists of the charter, but others associated with them were forced to pay the consequences (children of dissidents, of religious activists)<sup>25</sup>. Despite all of this, they were not intimidated by the authorities and continued to resist them. Therefore, the repression had always been a constant in the life of the chartists<sup>26</sup>.

In January 1977, the writer Paul Goma wrote a public letter expressing his solidarity with the "Charter'77" in Czechoslovakia. His letter of solidarity was addressed to "Pavel Kohout and his comrades" ("Către Pavel Kohout și camarazii săi")<sup>27</sup>. The letter of Paul Goma will mark the beginning of Romanian dissidence. According to his journals, on the 26 of January 1977, Paul Goma prepared two versions of his solidarity letter with the "Charter'77": one that was "personal" and another one, if the writer Nicolae Breban agreed to join his initiative<sup>28</sup>. Initially, he wanted to create a protest, but will give up this idea. Therefore, he took the decision to draft a declaration of solidarity with the reformist "Charter'77"<sup>29</sup>. The solidarity letter of Paul Goma was "reformist" in two respects. First, the letter proposed to tempt the leadership of The Communist Party, PCR, to recognize that they didn't obey the laws<sup>30</sup>. And secondly, the letter intended to be in solidarity with the Czechs, because the Chartists were already more "famous", known in the West, than the Romanians<sup>31</sup>.

The letter of solidarity was planned to be written by a writer who had "prestige and file"<sup>32</sup>. Among those nominated were big names, such as: Geo Bogza Jebeleanu, Eugen Marin Preda or Nichita Stănescu. But, no one among those proposed will accept to draft the letter. Therefore, Paul Goma is forced to write the letter to Pavel Kohout in its own behalf. It should also be said that this time, Paul Goma was trying to find people to accept and believe in his initiative. The first person contacted by Paul Goma, was Nicolae Breban. Nicolae

<sup>19</sup>Laber, Leftwich and Wolf, *Decade*, 3.

<sup>20</sup>Laber, Leftwich and Wolf, *Decade*, 15.

<sup>21</sup>Havel, *Power*, 132.

<sup>22</sup>Laber, Leftwich and Wolf, *Decade*, 23.

<sup>23</sup>Laber, Leftwich and Wolf, *Decade*, 6.

<sup>24</sup>Laber, Leftwich and Wolf, *Decade*, 25.

<sup>25</sup>Laber, Leftwich and Wolf, *Decade*, 24.

<sup>26</sup>Laber, Leftwich and Wolf, *Decade*, 14.

<sup>27</sup>Paul Goma, *Culorile curcubeului '77 (Cutremurul oamenilor)*, (Humanitas, București, 1990), 28.

<sup>28</sup>Goma, *Culorile*, 25.

<sup>29</sup>Goma, *Culorile*, 17.

<sup>30</sup>Goma, *Culorile*, 17.

<sup>31</sup>Goma, *Culorile*, 17.

<sup>32</sup>Goma, *Culorile*, 17.

Breban wasn't firmly convinced that he wanted to join the initiative of Paul Goma, therefore requested some time to think. More precisely until the 1<sup>st</sup> of February. But the answer of Breban never arrived to Paul Goma. The second person contacted by the writer was a cultural attaché in Germany, named Lang<sup>33</sup>. Because he received so many refuses, Paul Goma believed that the opening organized by Manoliu family was a good opportunity to distribute the word about his letter<sup>34</sup>. So, from all of the 15 copies of the letter that Paul Goma brought to Manoliu's house, he managed to distribute 9<sup>35</sup>. It must be said that the writer was aware of the risk to which he is exposed by drafting the letter, but nevertheless, he decided to go ahead and be united with the Czechs. Therefore, the initiative taken by Paul Goma was one strictly individual, his goal being to include Romania on the Eastern Europe opposition map<sup>36</sup>. Also, the radio Free Europe played a very important role.

Paul Goma begins his letter by declaring his solidarity with the social and political situation of Czechoslovakia: "I declare solidarity with your action. Your situation is my situation; the situation of Czechoslovakia is – with fundamental differences – Romania's situation as well. We live, survive in the same camp, in the same Biafra (Capital: Moscow)<sup>37</sup>. Paul Goma<sup>38</sup> continues his letter by denouncing violation of basic human rights, stating that people are forced to live under the communist regime and endure poverty, insecurity economic chaos, demagoguery and terror. Also, he denounces the "stalinist -socialism"<sup>39</sup> from Romania and he is convinced that the lies of the communist system can be defeated. At the end of his letter, Paul Goma stated that many Romanian intellectuals are indeed solidary with this initiative, even if they initially refused to sign his letter.<sup>40</sup> It must be said that the initiative of solidarity of Goma will not remain without echo in the West.

On February the 9<sup>th</sup> 1977, Paul Goma's letter of solidarity is sent to the Czech chartists and read at Radio Free Europe<sup>41</sup> Between the 9th and the 16th of February 1977, RFE will send his letter to the Belgrade Conference. According to Paul Goma, this is the moment, the first external signatures were gathered.

## CONCLUSION

The history of the "Charter 77" from Czechoslovakia represents a very important part of the history of the communism which should not be forgotten<sup>42</sup>. According to Jan Patočka, "From the Charter, we may expect a new ideological orientation to enter our lives—an orientation toward basic human rights, toward morality in political and in private life. The Charter will not stop reminding us of our debt to these legally- protected rights; will not stop reminding us of people abroad – no matter what risk such activities entail"<sup>43</sup>. Therefore, the "Charter'77" was a "free, informal, open" and legal civic movement for defending the human rights and the freedom of speech. The aim of the charter was to create an alternative society for all the Czechs citizens. The writer Paul Goma was the first person from Romania that expressed his solidarity (letter) with the initiative of Pavel Khout and his comrades.

<sup>33</sup>Goma, *Culorile*, 35.

<sup>34</sup>Goma, *Culorile*, 35.

<sup>35</sup>Goma, *Culorile*, 36.

<sup>36</sup>Dorin Dobrinu, Cristian Vasile ( editors), *Raportul final al Comisiei Prezidentiale Pentru Analiza Dictaturii Comuniste din Romania*, ( Humanitas, Bucuresti, 2006), 360.

<sup>37</sup>Goma, *Culorile*, 28.

<sup>38</sup>Goma, *Culorile*, 28.

<sup>39</sup>Goma, *Culorile*, p. 29.

<sup>40</sup>Goma, *Culorile*, 29.

<sup>41</sup>Monica Lovinescu, *Seismograme/ Unde scurte II*, ( Humanitas, București, 1993), 256.

<sup>42</sup>Jonathan Bolton, *Worlds of dissent. Charter'77, The plastic people of the universe, and Czech Culture under Communism*, ( Harvard University Press, 2014), 274.

<sup>43</sup>Laber, Leftwich and Wolf, *Decade*, 12.

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## LAMPEDUSA TRAGEDY FROM OCTOBER 2013 AND THE EUROPEAN UNION RESPONSE: MORE ACCESSIBLE OR MORE RESTRICTIVE MIGRATION POLICIES?

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**ABSTRACT:** *THE MEDITERRANEAN CRISES CAUSED BY MASSIVE IMMIGRATION IS ONE OF THE BIGGEST CHALLENGES OF THE EUROPEAN UNION, GIVEN THE FACT THAT THOUSANDS OF PEOPLE ARE DYING IN THE EURO-MEDITERRANEAN REGION EVERY YEAR. THIS RESEARCH AIMS TO EMPHASIZE THE AMPLITUDE OF THE PROBLEM BY ANALYZING THE LAMPEDUSA TRAGEDY FROM 3<sup>RD</sup> OF OCTOBER 2013 AND THE EUROPEAN UNION'S RESPONSE. THE RESULTS OF THIS PAPER SHOW THAT IT IS MANDATORY FOR THE EUROPEAN UNION TO ELABORATE A COMMON POLICY FOR MIGRATION AND ASYLUM AND TO IMPLEMENT A SYSTEM OF PROPORTIONAL DISTRIBUTION OF MIGRANTS BETWEEN THE EUROPEAN UNION'S MEMBER STATES.*

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**KEY WORDS:** MEDITERRANEAN CRISES, CHALLENGE, LAMPEDUSA TRAGEDY, COMMON POLICY FOR MIGRATION.

### INTRODUCTION

Migration is one of the greatest challenges of the European Union at the beginning of this century, the Mediterranean crisis becoming increasingly prominent. The actuality of this thematic approach is emphasized by the many shipwrecks and incidents in the Mediterranean Sea, only on the 13<sup>th</sup> and 14<sup>th</sup> of April 2015 2,800 immigrants being rescued from near the Italian coasts, and in the first week of the same month 2,000 other lives were rescued<sup>3</sup>. Nevertheless, due to the tragic events of April this year, (more exactly, the incidents taking place on the 13<sup>th</sup> <sup>4</sup>, 16<sup>th</sup> <sup>5</sup>, 19<sup>th</sup> <sup>6</sup> and the 20<sup>th</sup> <sup>7</sup> of April), the number of immigrant deaths in

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<sup>3</sup> International Organization for Migration, *IOM Applauds Italy's Weekend Rescue at Sea of 2,800 Migrants*, 13<sup>th</sup> of April 2015, <http://www.iom.int/news/iom-applauds-italys-weekend-rescue-sea-2800-migrants>, accessed on 17.06.2015.

<sup>4</sup> Steve Scherer, Gavin Jones, *400 migrants die in shipwreck off Libya, survivors say*, 14<sup>th</sup> of April 2015, <http://www.reuters.com/article/2015/04/14/us-italy-migrant-shipwreck-idUSKBN0N51Y120150414>, accessed on 17.06.2015.

<sup>5</sup> Middle East Eye, *At least 41 drown off Libyan Coast*, 16<sup>th</sup> of April 2015, <http://www.middleeye.net/news/least-41-drown-libya-coast-1548533658>, accessed on 17.04.2015.



2015 has exceeded 900, while in the first four months of the last year there were registered 96 fatalities, which is about 10 times fewer<sup>8</sup>. Numerous shipwrecks of boats carrying immigrants have also occurred in May this year, of which we shall mention only the incidents on the 3<sup>rd</sup><sup>9</sup>, 5<sup>th</sup><sup>10</sup> and 29<sup>th</sup><sup>11</sup> of May. All these events only serve to highlight the worsening crisis in the Euro-Mediterranean region and the necessity to take concrete and effective actions to address it properly, the need of a united position of the EU member states against this challenge and the development of a common policy on migration being a *sine qua non* phase to reduce the high number of deaths in the Mediterranean. According to statistics, in the last 25 years, over 19,000 immigrants who fled from the North African ports have died in the Mediterranean trying to reach Italy, and many more have probably lost their lives in shipwrecks or unknown circumstances, which only points to the fact that the real number of illegal immigration's victims is much higher<sup>12</sup>.

Since illegal immigration has some negative effects upon the stability of European societies, both economically as well as politically, socially and culturally, measures must be taken to limit this phenomenon, as the European Union has above all, the obligation to ensure the welfare and security of its own citizens. But on the other hand, by its own law and principles, the European Union committed itself to defending human rights everywhere, the European institution being thus currently put in the difficult situation of finding a balance between ensuring security and stability for the European societies on the one hand and on the other, complying with the commitment to protect and promote human rights and, implicitly, to provide international protection to the vulnerable and disadvantaged ones.

This research aims to highlight the paradox of migration from third countries into the EU. The European Union must act carefully, taking into account its geographical limits and the actual capabilities of the member states, without endangering the stability of the European societies. In this respect, this paper tries to emphasize the importance of an effective management of migration in Europe, the development of a coherent and consistent response to the migration flows from third countries being imperative. The large number of immigrants and refugees trying to illegally enter the Union, along with the increasing incidence of accidents involving the loss of thousands of lives annually (in the Mediterranean) reveals the

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<sup>6</sup> The UN Refugee Agency, *Mediterranean Boat Capsizing: deadliest incident on record*, 21<sup>st</sup> of April 2015, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=553652699&query=catania>, accessed on 17.06.2015.

<sup>7</sup> Jack Simpson, *Three reported dead as new footage emerges of migrants being rescued off Greek island of Rhodes*, 20<sup>th</sup> of April 2015, <http://www.independent.co.uk/news/world/europe/three-reported-dead-as-new-footage-emerges-of-migrants-being-rescued-off-greek-island-of-rhodes-10189556.html>, accessed on 17.06.2015; *An Unending Refugee Tragedy: Europe's Path to Deadly Partition*, 24<sup>th</sup> of April 2015, <http://www.spiegel.de/international/europe/eu-policies-worsen-an-already-deadly-situation-for-immigrants-a-1030550.html>, accessed on 17.06.2015.

<sup>8</sup> International Organization for Migration, *Migrant Deaths Soar in Mediterranean*, 17<sup>th</sup> of April 2015, <http://www.iom.int/news/migrant-deaths-soar-mediterranean>, accessed on 17.06.2015.

<sup>9</sup> *Immigrati, oltre 3.500 in arrivo Almeno una decina i morti in Libia*, 3<sup>rd</sup> of June 2015, [http://www.tgcom24.mediaset.it/cronaca/sicilia/immigrati-oltre-3-500-in-arrivo-almeno-una-decina-i-morti-in-libia\\_2109151-201502a.shtml](http://www.tgcom24.mediaset.it/cronaca/sicilia/immigrati-oltre-3-500-in-arrivo-almeno-una-decina-i-morti-in-libia_2109151-201502a.shtml), accessed on 17.05.2015.

<sup>10</sup> Jim Yardley, Elisabetta Povoledo, *Mediterranean Shipwreck Kills 40 Before a Rescue*, 5<sup>th</sup> of May 2015, [http://www.nytimes.com/2015/05/06/world/europe/italy-migrants-mediterranean-sinking.html?\\_r=0](http://www.nytimes.com/2015/05/06/world/europe/italy-migrants-mediterranean-sinking.html?_r=0), accessed on 17.06.2015.

<sup>11</sup> *La Marina recupera 17 cadaveri al largo della Libia. Salvati 217 migranti*, 29<sup>th</sup> of May 2015, [http://www.ilsole24ore.com/art/notizie/2015-05-29/recuperati-17-cadaveri-gommono-largo-libia-marina-salva-217-migranti-212842.shtml?uuid=ABaJrEpD&refresh\\_ce](http://www.ilsole24ore.com/art/notizie/2015-05-29/recuperati-17-cadaveri-gommono-largo-libia-marina-salva-217-migranti-212842.shtml?uuid=ABaJrEpD&refresh_ce), accessed on 17.06.2015.

<sup>12</sup> Steve Scherer, Wladimir Pantaleone, *Search for victims of Sicily migrant wreck postponed*, 4<sup>th</sup> of October 2013, <http://www.reuters.com/article/2013/10/04/us-italy-migrants-idUSBRE9920AX20131004>, accessed on 22.02.2015.

great importance of this matter. The tragedy of Lampedusa from October 3<sup>rd</sup> 2013 is a notorious example in this respect, one of the main objectives of this research being the assessment of not only the event in which 366 immigrants lost their lives, but also the reactions of the European Union and the Member States, with focus on the policies and actions initiated as a result of the shipwreck that occurred near the small Sicilian island.

To empirically prove the importance of developing coherent migration and asylum policies, as well as to highlight the magnitude of illegal migration flows, we resorted to the case study method, considering that the tragedy of Lampedusa in October 2013 will clearly illustrate the complexity of the situation, which both the European Union and the African immigrants are facing. Of course, we have also used other scientific methods, such as the descriptive method, the comparative analysis or the study and interpretation of statistical data.

### 1. THE TRAGEDY OF LAMPEDUSA FROM OCTOBER 3<sup>RD</sup> 2013

On the 3<sup>rd</sup> of October 2013, an overcrowded boat carrying over 500 immigrants sank near the Italian island of Lampedusa. The immigrants came from Somalia and Eritrea, highly unstable areas of conflict, the two regimes being internationally recognized for frequent and persistent abuses against human rights. Following the shipwreck, 366 immigrants lost their lives and only 155 managed to survive<sup>13</sup>, among which 145 men, 6 women and 4 children<sup>14</sup>.

The rickety old boat left the Misrata port (Libya)<sup>15</sup> and had the Sicilian island, Lampedusa, as destination. Because the engine of the boat ceased to operate at approximately 800 metres from the shore<sup>16</sup> and the water began to flood the vessel, the (Tunisian) captain and the immigrants tried to draw the attention of the nearby fishing boats using blazing blankets and clothes, hoping that someone will see the flames and come to their aid<sup>17</sup>. Shortly after however, due to the signaling flames, a fire broke aboard and panic spread across the entire boat which started to sink around 4 am<sup>18</sup>. Unfortunately, most of the immigrants could not swim, their fates being thus sealed.

The tragedy of Lampedusa on October 3<sup>rd</sup> 2013 and the immigrants' desperate attempts to fight for a better life, even with the risk for their dreams to be scattered and buried in the Mediterranean has sensitized both the Italian and the European populations. Despite the fact that various actions within the Union were implemented to significantly reduce such unfortunate events, the EU have failed to formulate a common policy on migration.

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<sup>13</sup> Juliane von Mittelstaedt, Maximilian Popp, 'Aren't We Human Beings?': *One Year After the Lampedusa Refugee Tragedy*, 9th of October 2014, <http://www.spiegel.de/international/europe/lampedusa-survivors-one-year-after-the-refugee-tragedy-a-994887.html>, accessed on 21.02.2015.

<sup>14</sup> Livia Borghese, Hada Messia, Laura Smith-Park, *Italy mourns more than 100 migrants killed in Lampedusa shipwreck*, 4<sup>th</sup> of October 2013, <http://edition.cnn.com/2013/10/04/world/europe/italy-migrant-boat-sinks/index.html>, accessed on 21.02.2015.

<sup>15</sup> *An Unending Refugee Tragedy: Europe's Path to Deadly Partition*, 24th of April 2015, <http://www.spiegel.de/international/europe/eu-policies-worsen-an-already-deadly-situation-for-immigrants-a-1030550.html>, accessed on 17.06.2015.

<sup>16</sup> Juliane von Mittelstaedt, Maximilian Popp, 'Aren't We Human Beings?': *One Year After the Lampedusa Refugee Tragedy*, 9th of October 2014, <http://www.spiegel.de/international/europe/lampedusa-survivors-one-year-after-the-refugee-tragedy-a-994887.html>, accessed on 21.02.2015.

<sup>17</sup> BBC News, *Italy boat sinking: Hundreds feared dead off Lampedusa*, 3<sup>rd</sup> of October 2013, <http://www.bbc.com/news/world-europe-24380247>, accessed on 23.02.2015.

<sup>18</sup> Sarah Stillman, *Lampedusa's migrant tragedy, and ours*, 10<sup>th</sup> of October 2013, <http://www.newyorker.com/news/daily-comment/lampedusas-migrant-tragedy-and-ours>, accessed on 21.02.2015.

## 2. EUROPEAN AND NATIONAL CONSEQUENCES OF THE TRAGEDY

Ensuring the balance between security within the European Union and the security of citizens from third countries seeking support from the EU member states is a delicate subject that always raises difficulties for the policy makers. Still, the successive tragedies near the island of Lampedusa from October 3<sup>rd</sup> and 11<sup>th</sup> imposed the quick identification and implementation of concrete measures to reduce illegal immigration and the much too high number of casualties. In this respect, official meetings of the European leaders were held, major operations were developed in the Mediterranean and even new institutions and instruments for migration management were founded.

Following the Mediterranean tragedies, a series of meetings and reunions of the political leaders took place in the European Union, where they expressed their profound regret about the unfortunate events that occurred near the Italian island of Lampedusa. During these official meetings, the European specialists have analyzed the situation and made considerable efforts to search for the most efficient solutions. In the regard, we may mention the fact that, at the Foreign Affairs Council of November 18<sup>th</sup> 2013, the issues of the crisis caused in the Mediterranean by illegal immigration was raised and new “ways of strengthening political dialogue and cooperation with third countries”<sup>19</sup> were proposed and examined in order to prevent such future tragedies. There had also been other meetings at European level, for instance the meeting of the European Parliament of October 23<sup>rd</sup> 2013, the European Council in Brussels on October 24<sup>th</sup> - 25<sup>th</sup> 2013 or the European Council in Brussels on December 19<sup>th</sup> – 20<sup>th</sup> 2013, which all took into discussion the issue of immigration.

One of the European Union’s first initiatives targeted the creation of the **Task Force Mediterranean**. The decision of creating this instrument was taken shortly after the tragedy in the Sicilian island, during the Justice and Home Affairs Council on October 7<sup>th</sup> and 8<sup>th</sup> 2013. The Task Force would be led and chaired by the European Commission<sup>20</sup> and was intended “to identify, in the short term, concrete actions to ensure more efficient use of existing policies and tools, in particular as regards cooperation with countries of origin and transit, FRONTEX activities and the fight against trafficking and smuggling”<sup>21</sup> of immigrants in the EU.

**The European Border Surveillance System**, known as EUROSUR, is also one of the main practical instruments developed by the European Union as a result of the tragedy of Lampedusa on October 3<sup>rd</sup> 2013<sup>22</sup>. It should be mentioned from the beginning that EUROSUR would not only focus on the surveillance of the Mediterranean shores, but of all external borders of the European Union. Although there have been several proposals for the

<sup>19</sup> Council of the European Union, *Communication from the Commission to the European Parliament and the Council on the work of the Task Force Mediterranean*, Bruxelles, 4<sup>th</sup> of December 2013, p. 2, [http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20131204\\_communication\\_on\\_the\\_work\\_of\\_the\\_task\\_force\\_mediterranean\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20131204_communication_on_the_work_of_the_task_force_mediterranean_en.pdf), accessed on 10.03.2015.

<sup>20</sup> European Commission – Press Release, *Lampedusa follow up: concrete actions to prevent loss of life in the Mediterranean and better address migratory and asylum flows*, Bruxelles, 4<sup>th</sup> of December 2013, [http://europa.eu/rapid/press-release\\_IP-13-1199\\_en.htm](http://europa.eu/rapid/press-release_IP-13-1199_en.htm), accessed on 10.03.2015.

<sup>21</sup> Council of the European Union, *Report to the European Parliament and national Parliaments on the proceedings of the Standing Committee on operational cooperation on internal security for the period from January 2013 - June 2014*, Bruxelles, 17<sup>th</sup> of October 2014, p. 18, [http://www.cdep.ro/afaceri\\_europene/CE/2014/ST14440.RO14.PDF](http://www.cdep.ro/afaceri_europene/CE/2014/ST14440.RO14.PDF), accessed on 10.03.2015.

<sup>22</sup> Parlement Européen, *Communiqué de presse – Surveillance des frontières de l’UE: les députés approuvent les règles de fonctionnement d’EUROSUR*, 10<sup>th</sup> of December 2013, <http://www.europarl.europa.eu/news/fr/news-room/content/20131007IPR21624/html/Surveillance-des-fronti%C3%A8res-de-l%27UE-adoption-du-syst%C3%A8me-EUROSUR>, accessed on 12.03.2015.

development of such a system long before the Lampedusa incident occurred, it has accelerated the efforts of the European specialists to put into practice the projects discussed since 2006. Hence, through Regulation no. 1052/2013 of the European Parliament and Council from the 22<sup>nd</sup> of October 2013, the European Border Surveillance System was created and has become operational on the 2<sup>nd</sup> of December 2013. It is an essential instrument to reduce the loss of human lives around the European shores, as well as to reduce drugs and people trafficking.

Taking into account the real causes of intense emigrations from Africa, the European Union resorted to the implementation in 2014 of a **Pan-African Programme**, destined to ensure a sustainable development of the entire African continent<sup>23</sup>. In the tense context of the increasingly frequent tragedies in the Mediterranean, which have as protagonists African immigrants, the European Union created this financial instrument in order to implement the *Joint Africa-EU Strategy*, whose main goal was to increase strategic cooperation between the two entities. The Programme is supported by the *EU's Development Cooperation Instrument*, with a budget of about 845 million euros for the period 2014-2020<sup>24</sup>.

One of the most important measures of reducing Mediterranean crisis was launching **Operation Mare Nostrum**. It was started on the Italian government's initiative on October 18<sup>th</sup> 2013<sup>25</sup>, after two successive tragedies in which over 600 immigrants lost their lives<sup>26</sup> occurred in the territorial waters of Italy: first, the tragedy of Lampedusa on October 3<sup>rd</sup> and, only a few days later, on October 11<sup>th</sup> <sup>27</sup>, a second incident, resulted in 268 dead Syrian refugees<sup>28</sup>. Based on these events, the decision to launch Operation Mare Nostrum was taken in order to start search and rescue missions of immigrant vessels in distress, the operations being carried out in *international waters* as well, not only in the Italian ones<sup>29</sup>. During this operation, the Italian Navy conducted 421 missions, saved 150,810 immigrants and 330 traffickers were brought to justice<sup>30</sup>. In the second half of 2014, it was obvious to all European leaders that Italy could no longer financially cope with Operation Mare Nostrum<sup>31</sup>. As a result, at the end of October 2014, Italy ceased the operation that had a budget of

<sup>23</sup> European Commission, *Press Release – EU launches new programme to support Africa's continental integration*, Brussels, 6<sup>th</sup> of August 2014, [http://europa.eu/rapid/press-release\\_IP-14-908\\_en.htm](http://europa.eu/rapid/press-release_IP-14-908_en.htm), accessed on 20.03.2015.

<sup>24</sup> European Commission, *Pan-African Programme*, [http://ec.europa.eu/europeaid/regions/africa/pan-african-programme\\_en](http://ec.europa.eu/europeaid/regions/africa/pan-african-programme_en), accessed on 20.03.2015.

<sup>25</sup> *Mare Nostrum Operation*, <http://www.marina.difesa.it/EN/operations/Pagine/MareNostrum.aspx>, accessed on 6.03.2015; European Commission, *Memo – Frontex Joint Operation 'Triton' – Concerted efforts to manage migration in the Central Mediterranean*, Brussels, 7<sup>th</sup> of October 2014, [http://europa.eu/rapid/press-release\\_MEMO-14-566\\_en.htm](http://europa.eu/rapid/press-release_MEMO-14-566_en.htm), accessed on 08.03.2015.

<sup>26</sup> Lizzie Davies, Arthur Neslen, „Italy: end of ongoing sea rescue mission ‘puts thousands at risk’”, 31<sup>st</sup> of October 2014, in *The Guardian*, <http://www.theguardian.com/world/2014/oct/31/italy-sea-mission-thousands-risk>, accessed on 9.03.2015.

<sup>27</sup> *Peste 150.000 de imigranți au fost salvați grație operațiunii "Mare Nostrum" (Over 150.000 immigrants were saved thanks to Mare Nostrum Operation)*, 18<sup>th</sup> of October 2014, <http://www.agerpres.ro/externe/2014/10/18/peste-150-000-de-imigranti-au-fost-salvati-gratie-operatiunii-mare-nostrum--13-02-18/>, accessed on 8.03.2015.

<sup>28</sup> The UN Refugee Agency, *Eritrean survivor of Lampedusa tragedy returns to honour the dead, meet Pope Francis*, 2<sup>nd</sup> of October 2014, <http://www.unhcr.org/542d0ece5.html>, accessed on 24.02.2015.

<sup>29</sup> Ye Ming, *Lampedusa Shipwreck: From the Depths of the Mediterranean Sea*, 18<sup>th</sup> of November 2014, <http://time.com/3594604/lampedusa-shipwreck-from-the-depths-of-the-mediterranean-sea/>, accessed on 24.02.2015.

<sup>30</sup> *Mare Nostrum Operation*, <http://www.marina.difesa.it/EN/operations/Pagine/MareNostrum.aspx>, accessed on 6.03.2015.

<sup>31</sup> European Commission, *Statement by Commissioner Malmström after the meeting with Italian Interior Minister Alfano*, Brussels, 27<sup>th</sup> of August 2014, [http://europa.eu/rapid/press-release\\_STATEMENT-14-259\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-14-259_en.htm), accessed on 8.03.2015.

approximately nine million Euros/month, which was undoubtedly a significant financial effort (to which the European Union also contributed with 1.8 million euros)<sup>32</sup>.

In the light of the difficulties that Italy was facing in supporting Mare Nostrum, the Italian leaders made numerous appeals to the European Union for assistance. Therefore, the Union's specialists have taken initiative of drafting a European project and issued multiple requests for the participation of all member states to this project, in order to support the countries in South Europe against the influx of immigrants, as this was a European issue *par excellence* and not just a national one. Consequently, the EU Member States have made considerable efforts towards implementing a new operation developed by Frontex, aiming to support South Europe states in their endeavors to cope with the migration from third countries. In developing the new instrument, two major projects of the European Agency for the Management of Operational Cooperation at the External Border (Frontex), namely Hermes and Aeneas would significantly expand their tasks and merge into a single operation<sup>33</sup>, whose level of coordination and efficiency would increase significantly. The European Union has thus taken the responsibility of launching a major action, which (this time) would not imply search and rescue missions, as in the case of Operation Mare Nostrum, but *border control missions*. The European initiative would be called **Triton** or **Frontex Plus**<sup>34</sup> and its missions solely targeted territorial waters of the EU member states, the operation being therefore carried out only around the European coasts, using a relatively small number of vessels and personnel<sup>35</sup>. Triton will operate with only 65 officers (a greatly reduced team, as compared to the 900 people activating in Operation Mare Nostrum<sup>36</sup>) and four aircrafts, one helicopter and 6 vessels, the budget being set at 2.9 million euros /month<sup>37</sup>. In comparison to the Italian operation which covered 70,000 km<sup>2</sup> in the Mediterranean, Triton will not go further than 30 miles off the European shores<sup>38</sup>.

## CONCLUSIONS

Illegal immigration, especially from North African countries, is one of the greatest challenges the European Union now faces<sup>39</sup>. In the present, the management of migration flows is not the most efficient, many tragedies and shipwrecks having occurred in the Mediterranean, resulting in thousands of deaths every year. One of the striking examples of this situation is the tragedy of October 3<sup>rd</sup> 2013 near Lampedusa island, but the list of

<sup>32</sup> European Commission, *Fact Sheet – Questions and Answers: Smuggling of Migrants in Europe and the EU response*, Brussels, 13<sup>th</sup> of January 2015, [http://europa.eu/rapid/press-release MEMO-15-3261\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-3261_en.htm), accessed on 8.03.2015.

<sup>33</sup> European Commission, *Statement by Commissioner Malmström after the meeting with Italian Interior Minister Alfano*, Brussels, 27<sup>th</sup> of August 2014, [http://europa.eu/rapid/press-release STATEMENT-14-259\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-14-259_en.htm), accessed on 8.03.2015.

<sup>34</sup> Amnesty International, *Italy: Ending Mare Nostrum search and rescue operation would 'put lives at risk'*, 17<sup>th</sup> of October 2014, <https://www.amnesty.org/en/articles/news/2014/10/italy-ending-mare-nostrum-search-and-rescue-operation-would-put-lives-risk/>, accessed on 8.03.2015.

<sup>35</sup> BBC News, *Hundreds of migrants killed in the Mediterranean tragedy, says UN*, 11<sup>th</sup> of February 2015, <http://www.bbc.com/news/world-europe-31414009>, accessed on 28.02.2015.

<sup>36</sup> Lizzie Davies, Arthur Neslen, „Italy: end of ongoing sea rescue mission 'puts thousands at risk'”, 31<sup>st</sup> of October 2014, in *The Guardian*, <http://www.theguardian.com/world/2014/oct/31/italy-sea-mission-thousands-risk>, accessed on 9.03.2015.

<sup>37</sup> European Commission, *Memo – Frontex Joint Operation 'Triton' – Concerted Efforts for managing migrator flows in the Central Mediterranean*, 31<sup>st</sup> of October 2014, [http://europa.eu/rapid/press-release MEMO-14-609\\_en.htm](http://europa.eu/rapid/press-release_MEMO-14-609_en.htm), accessed on 8.03.2015.

<sup>38</sup> Lizzie Davies, Arthur Neslen, *Italy: end of ongoing sea rescue mission...*

<sup>39</sup> Adrian Liviu Ivan, *Sub zodia „Statelor Unite ale Europei”: de la ideea europeană la Comunitățile Economice Europene (Under the sign of the United States of Europe: from the European idea to the European Economic Communities)*, Cluj-Napoca, CA Publishing, 2009, p. 17.

shipwrecks with hundreds of victims can go on, the most recent being the sinking of a vessel carrying 700 immigrants on April 19<sup>th</sup> 2015<sup>40</sup>.

Following the tragedy of October 3<sup>rd</sup> 2013 multiple major operations were launched in the Mediterranean, such as Mare Nostrum and Triton, new financial instruments were developed (e.g. the Pan-African Programme), and also, institutions specializing in the Mediterranean crisis were created (for example, Task Force Mediterranean). However, despite all the efforts of the European Union and its member states, such tragedies continue to occur even two years after the incident in October 3<sup>rd</sup> 2013, the saddest aspect being the fact that, due to the inefficiency of instruments created and due to the lack of unity and solidarity between the EU Member States, the number of victims remains high or, we could say that even greater tragedies are occurring, the one of April 19<sup>th</sup> 2015 being not only the most recent one but also the one with the largest number of victims<sup>41</sup>.

Taking into account the principle of solidarity and the fact that Lampedusa is not only the border of Italy, but of Europe as well, we state with complete certainty that formulating an European unified and coherent response to the challenge of migration is absolutely necessary, particularly to limit losses of lives in the Mediterranean and to significantly reduce illegal immigration. The Mediterranean crisis is, or should be, an absolute priority on the European agenda, all Member States (including those in the Centre and Northern Europe) having the moral obligation, based on common European values and principles, to support the Southern European states in their effort to fight illegal immigration from African countries and not to allow pressure from migration flows to be felt only by the states at the southern border of the EU. It is a certainty that the security and stability of all EU states depend on the security of the states found at the external EU borders. Based on this reasoning, it is necessary for more than only one third of the EU states to deal with immigrants and asylum seekers' management, more precisely, *each* member state must assume certain responsibilities, given that nowadays there are huge discrepancies: Italy, Malta, Germany, France, Spain, Greece or the UK have a number of immigrants several times greater than the other states. In this respect, we can recall the remarkable initiative of the European Commission's President, Jean-Claude Juncker, regarding the redistribution of immigrants<sup>42</sup> arrived in the Union based on well-defined quotas<sup>43</sup>, which take into account each country's GDP, the number of immigrants it already accommodates, unemployment and other such criteria, according to which it can be accurately determined how many more immigrants that state is able to host. Unfortunately, Juncker's plan met a strong opposition from certain states (among which Hungary), along with the refusal of the European People's Party (the largest in the European Union) to accept such an initiative.

<sup>40</sup> BBC News, *Mediterranean migrants: Hundreds feared dead after boat capsizes*, 19<sup>th</sup> of April 2015, <http://www.bbc.com/news/world-europe-32371348>, accessed on 9.05.2015.

<sup>41</sup> Patrick Kingsley, Stephanie Kirchgaessner, „700 migrants feared dead in Mediterranean shipwreck”, 19<sup>th</sup> of April 2015, in *The Guardian*, [http://www.theguardian.com/world/2015/apr/19/700-migrants-feared-dead-mediterranean-shipwreck-worst-yet?CMP=share\\_btn\\_fb](http://www.theguardian.com/world/2015/apr/19/700-migrants-feared-dead-mediterranean-shipwreck-worst-yet?CMP=share_btn_fb), accessed on 25.05.2015.

<sup>42</sup> *European schemes for relocation and resettlement*, pp. 19-22, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_annex\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_annex_en.pdf), accessed on 17.06.2015; European Commission, *Resettlement and Relocation*, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/relocation\\_and\\_resettlement\\_factsheet\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/relocation_and_resettlement_factsheet_en.pdf), accessed on 17.06.2015.

<sup>43</sup> Agerpres, *Planul lui Juncker de repartizare a imigranților ilegali pe cote între statele UE divizează blocul comunitar (Juncker's plan of allocating illegal immigrants in the European Union's Member States according to quota splits the community block)*, 11<sup>th</sup> of May 2015, <http://www.agerpres.ro/externe/2015/05/11/planul-lui-juncker-de-repartizare-a-imigrantilor-ilegali-pe-cote-intre-statele-ue-divizeaza-blocul-comunitar-17-03-09>, accessed on 17.06.2015.

It was often speculated that what happened in Lampedusa in October 2013 was an accident. It should be noted that for years, the same scenarios have been repeated endlessly. According to evidence, since the late 80s, approximately 20,000 immigrants have lost their lives trying to reach the European continent, the Mediterranean marking the end of countless lives<sup>44</sup>. Even in the week preceding the tragedy of Lampedusa, the Coast Guard rescued a boat carrying 398 Syrian refugees who had fled from Tunisia towards the Sicilian island<sup>45</sup> and approximately two years after the tragedy of October 3<sup>rd</sup> 2013, more precisely on April 19<sup>th</sup> 2015, a boat with 700 immigrants sank, the number of victims being simply appalling<sup>46</sup>. Therefore, these incidents are not at all exceptional<sup>47</sup>: an *accident* does not occur on a yearly basis, day by day or week by week, more or less developing the same scenario, comprising the same actors (immigrants from all over Africa) and evolving under the same precarious conditions (transportation in overcrowded and unseaworthy vessels, carrying undocumented emigrants who illegally try to reach the European continent, almost always with the help of human traffickers).

Indeed, much of the blame belongs to the human traffickers who are remarkably increasing their activity during summer, taking advantage of the relatively calm waters and the desperate needs of immigrants, but the responsibility for the loss of hundreds or even thousands lives is not entirely theirs. Embarking immigrants in the vessels owned by traffickers is only an effect of a much deeper issue. Trying to grasp the big picture, we have noticed that these immigrants, who risk their lives travelling on extremely dangerous routes towards Europe, pay the traffickers a price that exceeds a few times the price of a plane or a ferryboat ticket (which could ensure a much safer journey towards Europe). What proves to be highly important in this respect is the regional context from the immigrants' origin countries, the African states being *par excellence* authoritarian regimes that clearly refuse to ensure passports or visas easily – oppressive regimes are not willing to provide their citizens the legal means to leave the country. It is a fact also that the EU's legal entry requirements are often much too high for the African refugees. A more severe sanctioning of traffickers or the investment of huge amounts of money in search and rescue operations (even if necessary) are solely solutions for the short-term, because these are actions that address only the *effects* caused by much more complex issues. As long as only the effects are dealt with and not *the real causes*, such type of *accidents* will continue to happen over and over again, ending the lives of more people who are, after all, innocent.

Still, ensuring accessible entry ways in Europe and allowing the immigration of thousands of Africans must be undertaken in full compliance with the *real possibilities* of the continent. In this respect, we must not overlook the *limited capacity of the EU* (limited from all points of view, from the geographic area to the restricted economic and social resources),

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<sup>44</sup> Vittorio Longhi, *The Lampedusa boat sinking was no accident*, 4<sup>th</sup> of October 2013, <http://www.theguardian.com/commentisfree/2013/oct/04/lampedusa-boat-sinking-no-accident-eu-migrants#comments>, accessed on 22.02.2015.

<sup>45</sup> Livia Borghese, Hada Messia, Laura Smith-Park, *Italy mourns more than 100 migrants killed in Lampedusa shipwreck*, 4<sup>th</sup> of October 2013, <http://edition.cnn.com/2013/10/04/world/europe/italy-migrant-boat-sinks/index.html>, accessed on 22.02.2015.

<sup>46</sup> Antonio Denti, *Hundreds drown off Libya, EU leaders forced to reconsider migrant crisis*, 19<sup>th</sup> of April 2015, <http://www.reuters.com/article/2015/04/19/us-europe-migrants-idUSKBN0NA07020150419>, accessed on 9.05.2015.

<sup>47</sup> Xavier Ferrer-Gallardo, Henk van Houtum, „The Deadly EU Border Control”, in *ACME: An International E-Journal for Critical Geographies*, vol. 13, nr. 2, 2014, pp. 295-297, <http://web.b.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=7&sid=59f8fb4c-ec2-445a-8d6a-8acfc7d216e9%40sessionmgr114&hid=128>, accessed on 11.05.2015.

which is why it is a certainty that the Union and the member states will not be able to accommodate but a certain (relatively small) number of immigrants.

Eventually, we underline again the fact that migration is a European issue and not just a national one, which emphasizes the importance of formulating a common European policy in order to provide a general framework of action concerning migration waves.

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## **EUROPEAN UNION AND INTERNATIONAL TERRORISM: GENERAL CONSIDERATIONS**

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### **ABSTRACT:**

*THE PAPER DEALS WITH THE EUROPEAN UNION AND THE TERRORIST PHENOMENON – THE MOST MALIGNANT, COWARD AND INHUMAN FORM OF VIOLENCE FROM AROUND 1795 UNTIL THE ATTACK OF FRENCH SATIRICAL WEEKLY NEWSPAPER CHARLIE HEBDO AND THE FOLLOWING EVENTS. WE HAVE ANALYSED EFFECTS AND CAUSES LEADING TO THE DISASTER OF THE TERRORIST ACTIONS IN VARIOUS PARTS OF THE WORLD. CIRCUMSTANCES AND POSSIBLE SOLUTIONS TO MINIMIZE THE PHENOMENON ARE AIMED AT.*

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**KEY WORDS:** TERRORISM, EVOLUTION, ASPECTS, ANNIHILATION ACTIVITIES

### **INTRODUCTION**

In the game of our existence hides the human enjoyment, the awareness of being the cause of our humanity. Just because we are people, we must not despair in any “game” as long as it’s not lost yet, even though this game is the attitude that we must adopt to terrorism.

Although, on the biggest reunion ever held in Madrid on the 25<sup>th</sup> of February 2005, the most renowned experts in terrorism have not managed to give a universally accepted legal definition due to the fact that the terrorist phenomenon could not be defined in its very essence. The attempts to replace the word “terror” with: fear, determent, anxiety don’t express the same thing in the context, although they are synonyms. It is true that organized military actions can also cause mutilation of some civilians, but they are not killed deliberately and yet, on the other hand the terrorist attacks intentionally murder civilians, children and women. Therefore the phrase “deliberately” joins the structure defining terrorism (in such case we refer to trap vehicles which explode in crowded centres, human bombs, people kidnapping etc.) We should make a clear difference between terrorism and other forms of violence manifestation. As, not every violent action disapproved by society represents a terrorist act. An aggression made in an apartment or in a store to steal some goods is not a terrorist action, but usual robbery or crime.

Can terrorism be justified as a reaction of the weak against the strong? Or is it just a premeditative, retributive, inhumane, criminal (often suicidal) action whose goal is to dismay?

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Terrorists are generally recruited among the uneducated, socially alienated, from the ghettos, out of the desire for adventure, boredom or earnings, but also among those educated through political and especially religious beliefs. Religious leaders, like priest Hafiz Saeed founder in the 80s of movement Lashkar-e-Taiba and the “brain” behind the attacks from Mumbai from 2008 resulted in 166 dead have many supporters due to the charity actions they make especially in poor areas.

In Afghanistan the Taliban regime sheltered an entire management of Al-Qaeda organization. After a decade of presence of the American and allied troops in Afghanistan, the control centre for terrorism becomes Pakistan.

Unlike his predecessor, Osama bin Laden, the priest doesn't hide in caves, moves freely through the country, answers the journalists and holds press conferences. In the present paper are analyzed the effects, the causes, the circumstances and possible solutions to limit the terrorist phenomenon.

### MAIN TEXT

Terrorism, the phrase that induces chills and cold sweats, comes from the Latin word “terror, terroris”<sup>2</sup>, which means horror, fear, fright purposely caused, by threat and intimidation. The term “terrorism” is nothing new nowadays; we meet it for the first time in a context of political violence by 1795 during the reign of terror of the Jacobins. The word “terrorism” was mentioned in 1798 in the Supplement to the Dictionary of the French Academy. In a book devoted to this phenomenon, Walter Laqueur estimated that during 1936-1981, more than 100 definitions of terrorism were given, but none of them was comprehensive enough. The British – among the first to react to the resurgence of the phenomenon of terrorism – defined it through a law such as: “the use of violence for political ends, and includes any use of violence for the purpose of putting the public, or any section of the public, in fear”<sup>3</sup>.

Dostoyevsky spoke about this phenomenon too, in his novels, when he narrated about the explosion of bombs in cafe shops, caused by anarchists. Also, Napoleon qualified Spanish and Russian guerrilla as terrorists while after Goya's confession, even the Napoleon's army was terrorist. Another example, of course, is the occupation of Europe by Hitler, whereby he tagged as terrorists those who opposed him. Well, those who were terrorists, who sequestered people, were exactly the soldiers in Nazi uniform. Therefore, a person in military uniform or a state may be considered as terrorist.

One aspect that defines terrorism is given by the term “deliberately”<sup>4</sup>. It means a deliberate assault on civilians. We refer to the kidnapping, the car exploding bombs in crowded centres, the human bombs etc.

It is true that any military action causes the massacre of civilians, but it doesn't kill them deliberately; terrorist attacks, instead, deliberately kill civilians, children and women.

It has to be made a clear distinction between terrorism and other manifestations of violence. Not every violent action that is disapproved by society is a terrorist act. An assault in an apartment or in a store in order to acquire goods or settle accounts is not terrorism, but the ordinary robberies or murders do.

No definition can satisfy the broad interpretation of terrorism specificity. Time is an abstract concept and involves: violence or threat in order to cause fear, panic or change,

<sup>2</sup> El Pais, *Experții caută la Madrid o definiție clară a terorismului* [The experts at Madrid are looking for a clear definition of terrorism], in *Adevărul de Cluj*, year XVII, nr. 4368/16.03.2005, 3.

<sup>3</sup> Constantin Bran, *Terorismul – cancerul mileniului III* [Terrorism – 3<sup>rd</sup> millennium cancer], [www.presamil.ro/SMM/2004/05/pag7-9.htm](http://www.presamil.ro/SMM/2004/05/pag7-9.htm), accessed 10 June 2015.

<sup>4</sup> Viorel Hăhăianu, *Terorismul internațional*, [The International terrorism], (Arad, Ed. Concordia, 2001), 8.

violates legal norms, may cause social and political factors or can be sponsored by individuals or state.

Terrorism is the most treacherous, cowardly and inhuman form of violence: it is insidious because it attacks without any notice, cowardly, because attack defenceless people and inhuman because the victims are not the targeted persons (presidents, generals...) but are sacrificed people whose only crime is that they were in the place and in the moment of the attack.

Terrorism is not, as sometimes we try to justify a reaction of the weak against the strong, but a premeditated, punitive, inhumane and criminal action - often suicidal and always fierce - which aims to destroy, to kill with cruelty and fearful. Terrorism cannot be justified in any way, as it is not presented either as a way to unlock a strategic situation - as shown in the general war - or as a simple reaction of revenge against an enemy that can't stroke it, but rather like an untimely and criminal aggression against the human being, civilization and value systems<sup>5</sup>.

Until now, terrorism has not directly affected Romania, although our country is one of the most active aisles drug traffickers in human beings and organized crime and near certain areas generating conflict and terrorism (Caucasus, Balkans Kurdish area and the Immediate East). But the effective participation in the antiterrorist war (by joining NATO and the EU) and the change of economic, political and social configuration constitutes the premises of possible future terrorist attacks on Romania. "The phenomenon of terrorism is extremely difficult to predict. What is precisely known is that it exists and manifests itself in various forms. Structural and effective dynamics of this phenomenon is similar to meteorological phenomena. We know that it will happen, but we don't know when, where and how"<sup>6</sup>. Possible methods of forecasting terrorism must be based on a system of analysis and indicators on terrorist activities (approximate locations, types of attacks, networks, organizations or groups that could perform, motivation, etc). The most useful methods might be: comparison method, contrast method, successive evaluation method, inductive method and analysis method by contiguity<sup>7</sup>.

It should be emphasized that American specialists identified some of the major adjacent terrorist threats and vulnerabilities more than 20 years before the terrorist attacks of 11 September 2001. In 1972, Richard Kennedy show that radiological bomb called "dirty bomb" is a real threat, and William Rogers warned in the mid 1973 that "atomic materials could provide terrorist unimaginable possibilities"<sup>8</sup>.

Until now, states have not adopted a multilateral convention with universal character that tied to rule the indictment of international terrorism in all its aspects.

They develop rules of international law relating to international terrorism, in the aftermath of the Second World War. It has been made in the form of international conventions that regulated the prevention and repression of specific aspects of international terrorism.

The first action of legislating and adopting an international convention on international terrorism under the aegis of the League of Nations was made. It materialized as two conventions adopted at Geneva in 1937. These were: "Convention on the Prevention and

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<sup>5</sup> Gheorghe Văduva, *Terorismul contemporan – factor de risc la adresa securității și apărării naționale, în condițiile statutului României de membru NATO, [Contemporary terrorism – risk factor to national security and defend, because Romania's status of NATO member]*, (București, Ed. Universității Naționale de Apărare, 2005), 5.

<sup>6</sup> Văduva, *Terorismul contemporan – factor de risc la adresa securității și apărării naționale...*

<sup>7</sup> Văduva, *Terorismul contemporan – factor de risc la adresa securității și apărării naționale...*

<sup>8</sup> Văduva, *Terorismul contemporan – factor de risc la adresa securității și apărării naționale...*

Suppression of Terrorism” and “the Convention establishing an International Criminal Court”. But they have not entered into force<sup>9</sup>.

Convention<sup>10</sup> on the Prevention and Suppression of Terrorism requires states to refrain from any act that would encourage terrorist activities directed against another State and to prevent and repress such activities. It also coerces the parties to stipulate by their criminal law the following acts, which were committed on their territory against another State, constituting an act of international terrorism:

- a. attacks against life, limb, health or freedom of the Heads of State, persons exercising the prerogatives of the head of state or other persons holding state positions;
- b. acts consisting in destruction or damage to public property intended for public use, which belong to another state;
- c. intentional actions that endanger more human lives;
- d. manufacturing, storage or supply of arms, ammunition and explosives in order to commit terrorist acts;
- e. forgery, entry into the country and procuring false passports and other similar documents;
- f. preparation and instigation of terrorism acts, participation or helping terrorists in any form.

Along with the mentioned international conventions, highly important international terrorism matters and UN General Assembly resolutions of 1985 adopted resolution 40/61 entitled “Prevention measures of international terrorism that endanger or take innocent human lives or jeopardize fundamental freedoms and study of the underlying causes of those forms of terrorism and acts of violence that lie in misery, frustration, grievance and despair and that determine some people to sacrifice human lives, including their own, in an attempt of issuing radical changes”<sup>11</sup>. This UN document addresses multiple aspects of international terrorism and includes ideas and principles, which underlie a general convention in this area.

Among other international documents that concern the international terrorism, there are some regional treaties. On January 27<sup>th</sup>, 1977, the Council of Europe adopted the “European Convention for the Suppression of Terrorism” Strasbourg. The Convention regulates the cooperation of State Parties to it in repressing crime of terrorism, and extradition of terrorists and mutual legal assistance<sup>12</sup>.

Another form of international terrorism, which is especially expressed during the period after the Second World War, is the capture and illicit diversion of an aircraft from its normal track and throwing its blowing-up.

The first aircraft hijacking took place in 1930, when a Peruvian plane was captured. After the Second World War, the phenomenon took a different size and caused thousands of victims.

Since 1868, the offense of unlawful diversion of aircraft has been concerning UN General Assembly.

The attacks of 11 September 2001 revealed the weaks in the security concept. These actions proved that the main threat to the new order established after the Cold War world was not a military potential, but terrorism. Therefore, the antiterrorism security cannot be considered only by the number of tanks, aircraft, warships or missiles. Terrorist attacks target

<sup>9</sup> Marțian I. Niciu, *Drept internațional public, [Public international law]*, Arad, Ed. Servo-Sat, 1997, p. 150.

<sup>10</sup> Marțian I. Niciu, *Drept internațional public, [Public international law]*, Vol. I, (Iași, Ed. Fundației „Chemarea“, 1992), 165.

<sup>11</sup> Niciu, *Drept internațional public...*, 165.

<sup>12</sup> Marțian I. Niciu, *Drept internațional public, [Public international law]*, Vol. I, (Iași, Ed. Fundației „Chemarea“, 1992), 165.



in particular the safety of population. No need for a billion dollar GDP or military high performance and space technologies. The main factors that matter are the human factor and psychological effects. A bomb can be made by a terrorist from materials that may be easily procured without special knowledge in the field. Terrorism may take different forms: chemical attacks, bombings, poisoning the masses. The most of the times, terrorist actions do not strike the military force of the state, but civil society. Their goal is the emotional involvement of the population. This makes psychological pressure on the state to be more powerful than a classic conflict. Emotional reaction of the population towards the consequences of terrorist attacks is natural<sup>13</sup>.

After the terrorist attack on the train from Atocha railway station, where some of our compatriots were killed, on 25 February 2005 in Madrid, the largest meeting ever of terrorism experts took place. One of the goals of this Summit was to define the term of terrorism. No definition failed the academic consensus on the concept of terrorism, to be accepted by the UN Assembly. As mentioned above, terrorism could not acquire a generally accepted legal definition. The difficulty mainly stems from the fact that terrorism could not be defined as a phenomenon in its essence. It only attempts to replace the word "terror" by other words: fear, intimidation, fear, horror, which although synonymous not always express the same thing, have not been and will not be sufficient to outline such an illustrative notion of the definition. Then it is to be observed that terrorism is primarily an action method, a way of formal application of criminal activity by terror, violence, intimidation, often confused with the very method offense. Nowadays, in everyday language, we call terrorist a supporter of violence either as method or a political struggle, or for other purposes. An obstacle that stands before drafting a legal definition of terrorism is that the concept of terrorism is a generic name that includes a series of very different acts as expressions, but having a common feature of threat, violence and terror<sup>14</sup>.

Individuals who become terrorists are unemployed, alienated individuals from the social point of view, with low education, such as youth in the ghettos acceding to terrorist groups, by boredom, by the spirit of adventure or gaining a cause they consider as right. Educated youth may only be motivated by political and especially religious constraints. These young people (educated and uneducated) engage in occasional protests and dissent. Potential members often begin as sympathizers of the group. Then, they become passive supporters and violent incidents with police or other security forces motivate them to join the terrorist group. An individual who departs from society might as well become a monk or hermit, but to become a terrorist, a strong motivation is necessary. They must be accepted by members of the terrorist group, provided that the groups are exclusive<sup>15</sup>.

That is why the fight against terrorism approaches is very different. The best example was the military action on Iraq, which was suspected to produce nuclear weapons and finance terrorist network Al-Qaida. In this exercise, the USA and the European Union have not reached consensus and the transatlantic relations entered into obscurity. The views were different, too, in the European Union, and the divergences took place: while countries like England, Spain, Italy, and Poland participated to the army coalition, others, like France Germany and the Netherlands opposed.

After 2 years of diplomatic cold, the first steps for reconciliation between the US and the EU have been made at the same time with the visit of President Bush in late February

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<sup>13</sup> Bran, *Terorismul – cancerul mileniului III...*

<sup>14</sup> Ion Bodunescu, *Terorismul – fenomen global, [Terrorism – global phenomenon]*, (București, Casa Editorială Odeon, 1997), 14.

<sup>15</sup> Cristian Delcea, Aurelian Bădulescu, *Terorismul. Studii și cercetări asupra fenomenului terorist, [Terrorism. Studies and researches upon terrorist phenomenon]*, (Cluj-Napoca, Ed. Risoprint, 2008), 336-337.

2005 to Europe, followed by US diplomat Condoleezza Rice, who brought the olive branch, as an expression of mending of the divisions so far.

At the summit of Brussels in February 2005, both the US and EU approached prudently the speeches, fencing with or completely ignoring certain divergent views such as: position towards Iranian nuclear program, the Kyoto protocol on global warming, the International Criminal Court or the American criticism of the EU to lift the embargo on deliveries of arms to China. However, differences over the Iraq conflict are now about to fall according to statements, both President George Bush and other European Union officials, including European Commission President Jose Durrao Manuel Barroso, who emphatically stated that “Europe and America have reconnected”<sup>16</sup>.

The approach to Chechen terrorism, discussed at Bratislava summit was also interesting, where a sharp polemic note, “the new czar of the Kremlin” was issued, Vladimir Putin, referring to calls made by the European Union for negotiations with Chechen terrorists, said: “No one has the intention to provide the mediator with the murderers who took children hostage at Beslam, just as we have no intention to be mediators between Osama bin Laden and Western heads of state”<sup>17</sup>.

It is worrying not only the explicit terrorism that indiscriminately kills, but the treacherous attitude of all people in the grey area between legality and advocate violence. We could mention herein the case of the three Romanian journalists kidnapped in Baghdad by a terrorist group, less defined. Faced with this situation, the Council of Europe Parliamentary Assembly (PACE), reunited in plenary session at Strasbourg on April 28<sup>th</sup>, 2005, demanded the immediate release of Romanian journalists Sorin Miscoci, Marie-Jeanne Ion and Ovidiu Ohanesian and the French journalist Florance Aubenas and Iraqi guide Hussein Hanoun al-her Saadi, kidnapped in Iraq.

In the report adopted at the end emergency debate on journalists in the areas of risk, PACE also ask the General Secretariat of the Council of Europe to pay particular attention to the journalists of the areas of contact and tension and permanently follow the cases of missing, detained, injured or killed journalists during their work in member countries and in observer status ones at the Council of Europe. Taking hostages is a form of international terrorism. On December 17<sup>th</sup>, 1979 “International Convention against the Taking of Hostages”<sup>18</sup> was adopted by the UN General Assembly, as resolution 34/146.

According to convention, the person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the “hostage”) in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages (art. 1, para. 1). It is considered as crime and attempt to commit international wrongful act, like complicity (art. 1, para. 2).

Due to the limitation of access to information under the pretext that it would aggravate the negotiation efforts of authorities with terrorists, for the recovery of three journalists several versions occurred, namely: involvement of the citizen Omar Hayssan Romanian-Syrian nationality or the recovery of journalists by the US secret services, versions that release further tension among the population. The European Council welcomed on May 3<sup>rd</sup>,

<sup>16</sup> President Meets with E.U. Leaders, Brussels, February 22, 2005, <http://georgewbush-whitehouse.archives.gov/news/releases/2005/02/20050222-8.html>.

<sup>17</sup> Romulus Căplescu, *Respingem încercările de a transforma Rusia într-o structură amorfă, [We reject the attempts to turn Russia into an amorphous structure]* in *Adevărul*, nr. 4555/24.02.2005, 11.

<sup>18</sup> <http://www.un.org/en/sc/ctc/docs/conventions/Conv5.pdf>.

2005 by a statement published on the International Day for Freedom of the Press that “censorship security reasons only serve the cause of terrorists”.

The President Rene van der Linden of the Council of Europe Parliamentary Assembly urged all member states of the organization to refrain from measures restricting access to information under the pretext of fighting terrorism.

Now, more than ever, the following questions arise: “What should we do? Is it enough condemnation of terrorism? What the Muslim states and communities would be if the European Union work together to defeat terrorism?”

After Mahmoud Abbas (alias Abbu Mazen) became the new President of the Palestinian National Authority (PNA), hopes of peace in the Middle East revived. Now, the PNA official authorities should not especially fight against Israel, but mainly against their own domestic terrorists, gathered by all kinds of organizations, whereof the most powerful is certainly the Hamas. The predecessor of Abbas, the enigmatic Yasser Arafat claimed about this terrorist group that it plays the nationalist right Israeli game. After impressive remaining fortune after the death of the old “Raise”, we realize how controversial the image of this character was: terrorist, on the one hand, and Nobel Peace Prize laureate, on the other hand. The conflict between the West and Islam takes place because the two worlds are unknown or ignored. This matrix globalized Islamic terrorism is the result of a love and hatred relationship between the West that material modernity learned and accepted but whose value system refuses it.

After the attack in 2015 at the offices of Charlie Hebdo [a French satirical magazine that has published controversial Muhammad cartoons] where twelve people were killed the European Union is concerned in the achievement of a project for peaceful coexistence between the West and Islam. This may only happen on the basis of clear and indisputable parameters, milestones of common civilization like:

- Affirming the sacredness of life as absolute and universal, wherefore there are no good or bad terrorism victims allowed and disallowed.
- Respect for fundamental human rights.
- A substantial democracy guaranteed by the peaceful alternation of power.

It will only be able to achieve a true reform within Islam, based on these principles.

## **CONCLUSION**

The assertion of a common human civilization, even by respecting Islamic identity, is precisely the opposite of cultural relativism. Muslims cannot be exempted from the share of values that are common to humanity. It should be understood that only a serious and useful alliance between the West and Islam might defeat the scourge of terrorism and ensure the establishment of a safer and better world for all.

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## **THE ROLE OF SOCIAL NETWORKS IN THE WORK OF TERRORIST GROUPS. THE CASE OF ISIS AND AL-QAEDA**

**Diana SECARĂ<sup>1</sup>**

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### **ABSTRACT:**

*ONLINE MEDIUM HAS BECOME INCREASINGLY IMPORTANT IN EVERYONE'S LIFE, WHETHER IT IS FOR PERSONAL, BUSINESS OR JUST FOR FUN. THE NUMBER OF INFORMATION CIRCULATING ON THE INTERNET IS HUGE, WHICH INCREASES FROM DAY TO DAY. AS A CONSEQUENCE THE NUMBER OF SITES HAS INCREASED AND THE NEED FOR EASIER COMMUNICATION BETWEEN PEOPLE ANYWHERE IN THE WORLD, TOOK BIRTH AND SOCIAL NETWORKS, ONLINE PLATFORMS THAT HAVE EMERGED PRECISELY FROM A DESIRE TO SHARE INFORMATION, COMMUNICATION AND SOCIALIZATION AMONG VARIOUS USERS. THEIR POPULARITY GREW IMMEDIATELY AND SITES LIKE FACEBOOK, TWITTER, INSTAGRAM, GOOGLE+, YOUTUBE HAVE INCREASED THE NUMBER OF USERS FROM DAY TO DAY.*

*DUE TO THE ADVANTAGES OF THE ONLINE, SUCH AS ANONYMITY AND DISSEMINATE INFORMATION IN A SHORT TIME AND ON A GLOBAL SCALE, MEMBERS OF TERRORIST GROUPS HAVE TURNED TO VIRTUAL, ONE NOT DEFINED BY PHYSICAL BORDERS AND OFFER THEM NOTORIETY THEY NEED. TERRORISTS HAVE CHOSEN SOCIAL NETWORKS IN PARTICULAR DUE TO THE NUMBER OF USERS, ENSURING THAT THE INFORMATION, NEWS, MOVIE OR ANY MEDIA CONTENT DISTRIBUTED BY THEM, WILL REACH A LARGE NUMBER OF PEOPLE.*

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**KEY WORDS:** TERRORISM, SOCIAL NETWORKS, ISIS, AL-QAEDA

Social Media is a complex term that encompasses many meanings, depending on the perspective from which it is viewed.

As part of social media and social networks, we have Google+, Facebook, Youtube, Twitter, LinkedIn, Instagram and Pinterest and this are just some of the most known and used social networks. Within a few years, they have collected numerous of users all over the world, facilitating communication between them and distributing informations, news etc. in a more easier and faster way.

Facebook is that social media boom, that quickly spread globally and was the base of many books, films, documentaries, various articles and studies.

The social network Twitter is among the most popular networks worldwide use.

Horea Mihai Bădău, in his article about social media communication techniques, has identify 14 types of tweets:

- Useful (like important events, tips);
- Example (news, cases, personal experiences);

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- Ad
- Comment
- Title
- Photo
- Video
- Live
- Reportage
- Figures (like )
- Backstage (unofficial informations)
- Type interview
- Quote

• Tweet used as a tool of opinion. In addition, the author talks of the importance of a retweet, that any information posted on Twitter can be taken and passed on, to other people for watch<sup>2</sup>. Using the technological resources, social media intelligence aims to obtain useful information from the social media, to develop the ability to make better decisions, provide appropriate solutions for architectural models and existing applications or those occurring now. Social media intelligence has great potential with important practical relevance such as the emergence of a new and rich field of research. However, to investigate social media intelligence, it requires a multidisciplinary research<sup>3</sup>. Among the disciplines that are involved for the study of social media intelligence media, we can mention social psychology, political science, international studies and security etc.

SOCMINT or Social Media Intelligence shows the great potential that it has for the use of national security and intelligence activities.

With the help of modern technology and social media, ISIS is trying to achieve their goals and to promote their own ideology.

Latest developments on the question of Islamic fundamentalists demonstrates the the Global Jihadist Movement, initiated by Al-Qaeda, quickly spread on the Internet.

A study that spanned a period of six years brings confirm the assertion that terrorist organizations and their supporters use and have used many ways that the Internet offers for various purposes, such as recruiting new members, to launch a "campaign of fear" in the world and to obtain funds. The site opened for this movement, between December 1996 and May 1999 has been viewed over 200,000 times<sup>4</sup>. Considering the years in which the site was visited, the number of visitors is relatively high. The number of internet users from then was lower compared to the number of users from now or even in the last 5 years.

Jihadist organizations use the Internet for many reasons, including:

- Fundraising by financial institutions, ONG`s and charitable organizations;
- Propaganda and formulation of requests.
- Training. This is because many websites provide user guides and guides on various topics such as explosive material, poisons etc .;
- Recruitment and mobilization.
- Coordination and communication between members and supporters and operative planning terrorist attacks.

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<sup>2</sup> Horea Mihai Bădău apud. Sălcudean, Minodora, *New media, social media și jurnalismul actual*, (Editura Tritonic, 2015), 172-173.

<sup>3</sup> Zeng, Daniel, *Social Media Analytics and Intelligence*, noiembrie/decembrie 2010, <http://ieeexplore.ieee.org/stamp/stamp.jsp?arnumber=5678581>, 15.

<sup>4</sup> Andreescu, Anghel; Radu, Nicolae, *Jihadul islamic-de la "Înfrângerea terorii" și "Războiul Sfânt" la "Speranța libertății"*, (Editura Rao, București, 2015), 265.

- Misinformation. This is based on issuing threats or images that inspire feelings of horror, fear and lack of defense.
- Assuming attacks committed;
- Gather information<sup>5</sup>.

Two days before the start of Ramadan, the Holy Month, in June 2014, ISIS has sent a statement announcing the foundation of the Caliphate. The next day, ISIS has uploaded a video on the Internet that show Abu Safiyya, a fighter came from Chile, which present a point at the border between Iraq and Syria, that was recently demolished<sup>6</sup>. The video is entitled "End of Sykes-Picot agreement" and announced that the Islamic State is prepared to annihilate the two political entities that were created by the French and British in 1916, namely Iraq and Syria. So ISIS makes its "debut" on the international stage via a video clip with a tough message, meant to draw attention to the global community and making them to understand that they will not abandon their cause and are determined to achieve their goals with any price.

The Caliphate of ISIS is more violent than the activities of other armed organizations. All that makes it different is the way they use online media to promote actions. For example, in 1990, in Kosovo, there have been a numerous of inhuman acts such as the beheading of childrens and after they played football with their heads in front of their parents<sup>7</sup>. ISIS, in the eve of the 2014 World Cup, have group members distributed on Twitter pictures from a match where they played football with severed heads that came from their opponents<sup>8</sup>. They put the descriptions "This is our ball and is made of leather ...". These images have shocked the world and caused chain reactions and retweet numerous sites among users of Twitter. The impact was greater because it was right before the World Cup and have even used the hashtag World Cup and related sites to ensure the spreading in a more alert way. Also, militants have used the hashtag # WC2014 sites like # Brazil2014 to promote a video clip where Australian and British jihadists were trying to convince more Muslims from the West to join them. They were convinced that, on the eve of the World Cup, the users will search these hashtags and their message will reach the population immediately.

ISIS has among its members specialists in internet who know how to talk to young people using their language. Being technically savvy and socially, they try to use videos and images to get in a person's psyche. They use messages like: "You hate the way your life has come? Come with us and you can became something more. "ISIS entices recruits with gifts such as houses with free electricity, rent-free or a chance to have something "better" in after afterlife. Abu Bara al-Hindi, a British member from ISIS said "No Life Without Jihad" and "Living in the West, I know how you feel - in your heart you feel depressed". The film was released by Al Hayat Media Center (own media center). He also adds that "The cure for depression is jihad"<sup>9</sup>. In addition to these statements, other members of the group distributes shocking clips and images. To show that they are not bad, they distributed a short movie showing how ISIS share militants candy to childrens. The clip is meant to demonstrate to the others that childrens seem very happy with the presence of the militants.

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<sup>5</sup> Andreescu; Radu, *Jihadul islamic-de la "Înfrângerea terorii" și "Războiul Sfânt" la "Speranța libertății"*, 266-268.

<sup>6</sup> Napoleoni, Loretta, *ISIS-Califatul terorii*, (Editura Corint, București, 2015), 61.

<sup>7</sup> Loretta, *ISIS-Califatul terorii*, 65.

<sup>8</sup> *ISIS Insurgents Tweet Picture Of Beheaded Man And Boast: 'This Is Our Ball. It's Made Of Skin #Worldcup'*, [http://www.huffingtonpost.co.uk/2014/06/14/isis-behead-policeman-picture-graphic\\_n\\_5494958.html](http://www.huffingtonpost.co.uk/2014/06/14/isis-behead-policeman-picture-graphic_n_5494958.html)

<sup>9</sup> Hahn, Jason, Duain, How the most dangerous group uses social media, <http://www.complex.com/pop-culture/2015/04/isis-social-media-methods>.

The Islamic State makes full use of electronic resources to promote a message as widely as possible. Members of the group used ad hoc applications and the best example is the Twitter app launched by ISIS, which is called "Annunciation Dawn" or "Dawn", which aims to keep sympathizers with the latest news about the group. The application was downloaded by many users. Important to mention that, when discharged, the application asks permission to get access to the user's personal information, such as media content on the user's device, network wi-fi etc<sup>10</sup>. In this way, the ISIS militants can find even the location, its interests, close friends, family and so on. They can see in the privacy of the user and can use the information about him.

Atlantic Magazine conducted an analysis on the subject of the strategies used by the Islamic State through social media and found that it received around 72 replies to each messages sent using a Twitter account in Arabic, Why advertise some of the most popular hashtag sites by offering their content on the Internet<sup>11</sup>. This is important for security and intelligence analysts because it can help making an analysis on the Islamic state. Hashtag sites have become increasingly popular among the group because of the popularity it enjoys among users.

Other videos that marked the society promoted by ISIS, where the one where they made a boy killing their prisoners. The psychological impact and the media was huge. The fact that this boy is the one who kills the prisoners is unusual and cruel. And precisely this is the reason they used a boy: for the impact.

A forum in Arabic, with the base in London, called Al-Tajdid, encompasses numerous messages focused on jihad against the forces of "infidels". On 7-8 July 2006 the users already existing but also new ones, were organized into thematic groups for discussion. The main topics of discussion were the news about jihad and jihadist movements leaders. For this period, the news forum included a bulletin about the activities of jihadists, about events in Iraq, a statement from the Brigades of Al-Quds, a collection of statements by Iraqi Mujahideen Shura Council of the news about the shooting down of a US helicopter and the presence of "death squads" in Iraq. Also for increasing the visibility of the media group, Ansar al-Islam has set up its own media center which was named Al-Ansar. The creation of this center was considered *"a response to changes in the conduct of the war, thanks to the new strategies addressed by the << enemy >>, focused on the media, to compensate for failures on the battlefield"*<sup>12</sup>. Publicity through the media is important for terrorism. Even Margaret Thatcher said that "advertising is the oxygen of terrorism".

Another reason for terrorist groups resort to the online environment is the fundraising.

Al-Qaeda organization has heavily depended on the donations they receive and they also had obtained the funds through non-governmental organizations, extensive networks of charities, they used websites and online discussion on various forums. Even Chechen fighters have used the Internet to raise resources. They published their internet banking accounts, where those who sympathize them can contribute with different amounts. The US government in 2001 confiscated a charitable organization that was based in Texas, because of the links which it maintained through the internet with Hamas. In addition to fundraising, the online environment is used by terrorist organizations both for communication between group members, communicate with their supporters, but also communication between different terrorist groups. Dozens of sites that promote terrorism for jihad terrorists helps remote areas,

<sup>10</sup> Berger, J.M., *How ISIS games Twitter*, <http://www.theatlantic.com/international/archive/2014/06/isis-iraq-twitter-social-media-strategy/372856/>.

<sup>11</sup> Loretta, *ISIS-Califatul terorii*,,, 82.

<sup>12</sup> Andreescu; Radu, *Jihadul islamic-de la "Înfrângerea terorii" și "Războiul Sfânt" la "Speranța libertății"*, 268.



such as Malaysia and Chechnya, to exchange ideas and practical information, ways of attacks, details on various routes<sup>13</sup>.

Uploading, downloading and viewing video clips have become very popular. YouTube was founded in February 2005 as an online repository that facilitates the sharing of video content. YouTube claims to be "The most popular online video community in the world". CNN Money reported that in January 2008, nearly 79 million users worldwide have seen more than three billion videos on YouTube. Terrorist groups have realized the great potential such a site has. In 2008, jihadists have suggested an "invasion" of Youtube to help support all media forums affiliated jihadists and al-Fajir<sup>14</sup>. Being more popular now, in 2015, Youtube seems the best way of containing the spread of jihadist videos. Now all smartphones have the Youtube app or installed immediately, which ensures a better spread of clips, a growing number of users, since most people have at least one smartphone, which is exactly what is based terrorists.

Al Qaeda leaders have tried to make an on-line library and have access to any new recruit Qalah discussion forum, here finding the latest information on hacking into a discussion area called electronic jihad. Donald Rumsfeld, secretary of the US Department of Defense said they recovered a training manual organization Al-Qaeda, where the urging supporters to use public sources of information, but without resorting to illegal methods, enabling them to gather at least 80% of the information they need about opponents<sup>15</sup>. Al-Qaeda has become a global brand. It holds advanced technical means and is constantly in touch with their followers and supporters from both the Arab world and in the US, Europe, Canada and Asia.

As-Sahab Media Foundation brand represents its production media Al-Qaeda. As-Sahab appeared in 2000, and to disseminate its video recordings and television depended on Al-Jazeera. Originally posted on the Internet just short clips, but evoluân, as-Sahab work has become increasingly sophisticated. As a comparison, in 2007 broadcast 97 video and audio messages, and in 2002 only six, and the translation is done in several languages. All through their media center, Al-Qaeda has sent messages from Osama bin Laden. One of the first audio message was on 16 May 2008, "The causes of conflict in the 60th Anniversary of the Establishment of the occupation by Israel" and the second was on 18 May 2008. "Message to the Muslim nation ". In the first message, the leader Osama bin Laden presented the conflict between Israelis and Palestinians as a primary cause of war between Western countries and the Muslim world and even warned that jihad will continue until the liberation of Palestinian territory. In the second message, the terrorist leader spoke of the devastating effects of the blockade of Gaza, but he also criticized the treacherous Arab regimes, referring to Saudi Arabia and Egypt. It also accused the Lebanese Hezbollah organization have abandoned the struggle against Israel<sup>16</sup>.

Al-Qaeda popularized in 2012 on one of its forums, Shumukh al-Islam, an announcement seeking people willing to carry out suicide attacks. The same forum was used

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<sup>13</sup> Andreescu; Radu, *Jihadul islamic-de la "Înfrângerea terorii" și "Războiul Sfânt" la "Speranța libertății"*, 269.

<sup>14</sup> "Jihadist Forum Suggests YouTube Invasion", The Telegraph, 4 Decembrie , 2008, <http://www.telegraph.co.uk/news/worldnews/northamerica/usa/3547072/Jihadist-forum-calls-for-YouTube-Invasion.html>.

<sup>15</sup> Andreescu; Radu, *Jihadul islamic-de la "Înfrângerea terorii" și "Războiul Sfânt" la "Speranța libertății"*, 270.

<sup>16</sup> Andreescu; Radu, *Jihadul islamic-de la "Înfrângerea terorii" și "Războiul Sfânt" la "Speranța libertății"*, 284-285.

by group subsidiaries and to assume certain attacks<sup>17</sup>. These sites can be used by intelligence agencies to gather information on members, potential new members, the methods used by them and possibly even to identify some possible attacks.

Although ISIS is based more on social networks, Al-Qaeda uses these networks, but use more forums. However, even manage to gather many users forums and sympathizers that the ordinary citizens can become members of the group. However, such a paradox is created. Forums are really dangerous terrorists and terrorist organizations may thus can communicate easier, to spread fear, to get the right resources and to gather new members. But on the other hand, these forums and social networking can help intelligence agencies to gather valuable information on the activities of terrorists and what they plan future attacks.

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<sup>17</sup> Kjuka, Deana, Digital Jihad; Inside Al-Qaeda's Social Networks, martie 2013, <http://www.theatlantic.com/international/archive/2013/03/digital-jihad-inside-al-qaedas-social-networks/273761/>.

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## IRAN'S NUCLEAR PROGRAM (2013-PRESENT). EVOLUTION

Elena NOVĂCESCU<sup>1</sup>

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**ABSTRACT:** *THIS PAPER SEEKS TO PROVIDE INSIGHT INTO THE EVOLUTION OF IRAN'S NUCLEAR PROGRAM, FORM THE MOMENT THE EUROPEAN UNION WAS INVOLVED IN THIS ISSUE AS THE MAIN NEGOTIATOR AND THE CHANGES THAT HAVE OCCURED SINCE THE INSTAURATION OF THE NEW PRESIDENT HASSAN ROUHANI. IRAN WANTED THE „NUCLEAR COUNTRY STATUS A LONG TIME. AFTER 2000, HOWEVER ITS AMBITIOUS HAVE BEGUN TO ALARM THE INTERNATIONAL COMMUNITY BECAUSE OF ITS REFUSAL TO ACCEPT IAEA INSPECTIONS. EUROPEAN UNION BECAME INVOLVED IN THIS ISSUE TO DEMONSTRATE THE VALUE OF DIPLOMACY RATHER THAN A POSSIBLE MILITARY ATTACK BY THE US OR ISRAEL. THIS ARTICLE FOCUSES ON FACTS THAT HAPPEND IN RECENT YEARS AND IN PARTICULAR ON THE NEGICIATIONS THAT TOOK PLACE AFTER THE REGIME CHANGE IN TEHERAN.*

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**KEY WORDS:** IRAN, NUCLEAR PROGRAM, EUROPEAN UNION, NEGOTIATIONS, JOINT PLAN OF ACTION.

### INTRODUCTION

Iran's controversial nuclear program took birth in 1957, with the signing of a cooperation agreement with the United States under the aegis of the program „Atoms for Peace under command of the Shah Reza Pahlavi. With the signing of this agreement, the US has agreed to assist Iran in the nuclear field, and in 1960 Iran even get a nuclear reactor from United States. In 1968, Iran signed the Non-Proliferation Treaty and the United States offered Iran enriched uranium as fuel for the operation of the reactor. In the '70s, more and more European countries like France and Germany have announced their intention to collaborate with Iran. This is also the period in which appears the Atomic Energy Organization of Iran.

Even if the policy of the Shah was a pacifist one, the Western states suspected even then that Iran wanted to obtain a nuclear weapon. Between 1975-1979 the relations between US and Iran started to get worse United States used their veto right to prevent Iran to reprocess american nuclear fuel, also trying to convince France and Germany not to provide Iran, assistance in this field. US quickly changed policy towards Iran's nuclear program for two reasons: "India has tested its peaceful nuclear program in 1974 which has alarmed the

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international community and the fact that Iran's nuclear program was sufficiently developed that could be used to build a nuclear weapon"<sup>2</sup>.

US feared that Iran could acquire nuclear weapons, especially if the other states in the region will have. Over time, Iran's nuclear program has gone through various phases, from a slowdown of the program between 1979-1988 to an acceleration of the uranium enrichment programs after 2000. In 2003, states suspicions regarding Iran's nuclear activities were confirmed when it was revealed that Iran has followed numerous steps to develop a modern and complex nuclear program. European states have tried to solve the crisis in a diplomatic manner, the European Union was the main actor in the process of negotiations with Iran. United States Organization played its part in a new approach to the Iranian issue by imposing sanctions that affect the state's economy, so that Iran be forced to abandon its uranium enrichment program and to provide transparency on its nuclear program. Although the two approaches were different, they have reached different points, none reached the expected result. In front of this negotiations, Iran has succumbed a period, but quickly passed to its rigid attitude, not accepting further negotiations with the European Union for a long period of time.

In the last months of Ahmadinejad's regime, were held meetings with the Iranian leaders and the IAEA (International Atomic Energy Agency) officials, with the purpose to convince Iran to submit to investigations relating to its nuclear program. Even if the discussions were intense they have not completed the signing of any document although negotiations last already for a long period of time. In June 2013, President Ahmadinejad is replaced by Hassan Rouhani, known for his moderation. With the change of regime in Tehran, appears a new hope for the international community regarding the resolution of this long-standing problem, Rouhani saying that Iran's nuclear program will continue, but willing to be more transparent in this regard than its predecessor.

#### **EUROPEAN UNION – MAIN NEGOTIATOR IN IRAN'S NUCLEAR FILE (2003-2013)**

In 2003, the International Atomic Energy Agency accused Iran that it has not complied with its obligations as a member of the Nuclear Nonproliferation Treaty because it has not reported to the Agency its activities regarding utilisation of nuclear materials. In this case, the European Union has shown its availability to act promptly, in cooperation with other international actors. In June 2003 the European Union adopted the „Declaration on Non-proliferation" and in the same year, in December adopts "European strategy against weapons of mass destruction" which was a common position of the European Union States, regarding the international security problems. Adopting this strategy influenced Union in its involvement in the Iranian nuclear file. The European Union became the main negotiator in this nuclear file in 2003, being represented by Germany, France and Britain (EU-3), who all sent a letter to Iran in September 2003 by offering to help Iran in its nuclear program if it accepts to cooperate with the International Atomic Energy Agency. In October of that year, the three representatives of the Union have signed together with Iran the „Declaration from Teheran" in which he pledged to stop uranium enrichment. Also Iran has engaged to sign an Additional Protocol with the Agency, while European States have admitted that Iran has the right to a peaceful nuclear program and promised that "will cooperate with Iran to promote security and stability in the region including the establishment a zone without weapons of

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<sup>2</sup> Saira Khan, *Iran and Nuclear Weapons: Protracted Conflict and Proliferation* ( Abingdon: Routledge, 2010), 49.

mass destruction in the Middle East in accordance with the objectives of the United Nations”<sup>3</sup>.

Unlike the United States, who wanted sanctions on Iran, the European Union has shown a softer position regarding this nuclear program. Immediately after signing the “Declaration from Teheran”, Iran has sent to IAEA documents regarding nuclear activities that took place until then. Once with the Conservatives winning the election in 2004, Iran's political environment changes, also than the Atomic Energy Agency discovers new elements of the nuclear program. Is elected as leader the conservative Mahmoud Ahmadinejad, a person slightly willing for concessions especially in favor for europeans, so in 2005 it is calling for a restart of the uranium enrichment process. Also in 2004 is signed the “Paris Agreement” between Iran and EU-3 group which suspends uranium enrichment program, during which the accent was on diplomatic negotiations. In 2006, Iran refuses to respect the Additional Protocol, and to answer IAEA about future nuclear activities and those carried out in the past.

In 2006, the European Union offered Iran nuclear cooperation through “recognition of Iran's right to nuclear energy for peaceful purposes, cooperation with Iran in developing a modern nuclear energy program based on generation light water reactors, the Union would help Iran with nuclear waste, providing fuel legally and support for Iran in the process of regaining the confidence of other international actors”<sup>4</sup>. In 2008, the European Union has updated proposals made to Iran in 2006, the aim of this new proposal is to clarify some aspects of the 2006 offer. Both offers imply support of the Union in building a new modern reactor for "light water". This last proposal comes with the amendment that Iran's nuclear program would be treated in the same manner as any other program of a non-nuclear country member of the Non-Proliferation Treaty, after the trust will be restored. Iranian nuclear file back sharply media attention in November 2011 when the International Atomic Energy Agency released a public report pointing out the fact that Iran is close to producing a nuclear weapon which contributed to intensifying tensions in the area. „Until then, both the US special services, and, in large part, the Israeli ones, appreciated that Iran, following his clandestine nuclear program, could reach the final - producing atomic weapons within a few years”<sup>5</sup>. So, Israel and United States began to consider a military attack that will end the nuclear program. This threat caused a sharp reaction from Iran that threatened to close the Strait of Hormuz, hoping this would increase oil prices, thus alleviating, the economic damage caused by the international sanctions imposed until then. Following these threats from Iran, US Navy ships entered the Strait of Hormuz, but this did not trigger a military response from Iran. It seems however that this threat of closing the strait was accompanied by military exercises in nearby waters „which amounts to a warning that a military attack on Iran would result in blocking petrol supply of planet's giants - China, Japan”<sup>6</sup>. Washington adopts new sanctions against Iran, calling for the UN Security Council to discuss a new resolution in this purpose. So through sanctions counted the US decision to suspend transactions with companies that use for payment Iranian Central Bank offices. Thus it is expected that large buyers of petrol will give up iranian source and they will continue

<sup>3</sup> International Atomic Energy Agency, *Statement by the Iranian Government and Visiting EU Foreign Ministers*, accessed April 23, 2015,

[http://www.iaea.org/newscenter/focus/iaeairan/statement\\_iran21102003.shtml](http://www.iaea.org/newscenter/focus/iaeairan/statement_iran21102003.shtml).

<sup>4</sup> European Union's Council, *Eu-Iran. Basic Facts*, accessed April 23, 2015,

[http://www.consilium.europa.eu/uedocs/cmsUpload/EU-IRAN\\_Basic\\_facts\\_April\\_2009.pdf](http://www.consilium.europa.eu/uedocs/cmsUpload/EU-IRAN_Basic_facts_April_2009.pdf) .

<sup>5</sup> Andrei H. Ionescu, *UE: un actor cu o noua agendă în Mideast?*, accessed April 22, 2015,

<http://www.cseea.ro/publicatii/view/brief-analysis/ue-un-actor-cu-o-noua-agenda-in-mideast-1>.

<sup>6</sup> Andrei H. Ionescu, *UE: un actor cu o noua agendă în Mideast?*, accessed April 22, 2015,

<http://www.cseea.ro/publicatii/view/brief-analysis/ue-un-actor-cu-o-noua-agenda-in-mideast-1>.

relations with US. Iran's income will decrease significantly in case that this sanction will work and Iran's economic situation will get worse.

The European Union joined the promoted sanction by USA, only Russia and China have expressed doubts about using this new resolution. On 22 January 2012, the foreign ministers of the 27 European Union countries have decided application of an embargo on new oil contracts with Iran and existing ones should be closed by 1 July 2012. Catherine Ashton, EU Foreign Minister said that this measure aims to force Iran to take seriously the international community's demands and to accept negotiations. Also, the European Union requested Russia and China to join sanctions imposed by Brussels. However this move made by the European Union had the desired effect. On January 26, Tehran has declared that it accepts the negotiations and is ready to receive visit from the International Atomic Energy Agency experts. It is obvious that if Iran will not obey to Agency control the European Union will join Israel and the United States in finding solutions for peaceful resolution of this conflict.

The negotiations on 5 and 6 April 2013 in Kazakhstan between Iran and the six major world powers (US, Russia, China, Britain, France and Germany) have not produced any agreement between the parts. Catherine Ashton, head of European diplomacy led negotiations saying that the parts are still far from reaching a consensus. The six major world powers insists „that Iran reduce stocks and production of higher purity enriched uranium, fearing that Tehran would divert from producing nuclear fuel for the production of material used to manufacture the core of nuclear warheads”<sup>7</sup>. Iran believes it has the right to enrich uranium because it does not intend to build nuclear weapons and it has request in exchange for all concessions made, taming more sanctions.

#### **CATHERINE ASHTON – EU FOREIGN POLICY CHIEF AND IRAN’S NUCLEAR FILE (2013 - OCTOBER 2014)**

After the presidential elections of June 2013 and the instauration of a new Iranian government, Iran and the EU-3 group had decided to continue negotiations on the Iranian nuclear file, aiming to find a diplomatic solution. In October 2013, in Geneva took place negotiations between Iran and P5+1 representatives: „At the end of the talks, the parties release a joint statement describing the meetings as «substantive and forward looking». The statement also says that Iran presented a new proposal that the P5+1 carefully considered as an important contribution to the talks”<sup>8</sup>. This meeting is followed by another meeting in Geneva in 7 and 10 November, but the involved parts fail this time to, to reach a consensus. However, on November 23, 2013, Iranian minister Javad Zari and European negotiator, Catherine Ashton signed an agreement called the „Joint Plan of Action” which refers to the steps that each side will follow for a period of six months, in a first phase of the agreement. So Iran was obliged to: „convert half of its stockpile of uranium enriched to 20 percent to oxide form and downblend the remainder to an enrichment level of no more than five percent; suspend production of uranium enriched to above five percent; no further advances in nuclear activities at the Natanz Fuel Enrichment Plant, the enrichment plant at Fordow and the Arak heavy water reactor; convert uranium enriched up to five percent produced during the six months to oxide form when the construction of the conversion facility is completed; no new enrichment facilities; research and development practices, including on enrichment, will continue under IAEA safeguards, providing information to the IAEA on plans for

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<sup>7</sup> \*\*\*, „Noile negocieri pe tema programului nuclear iranian au eşuat” în *Cotidianul*, accessed April 22, 2015, <http://www.cotidianul.ro/noile-negocieri-pe-tema-programului-nuclear-iranian-au-esuat-210686/>.

<sup>8</sup> Arms Control Association, *Timeline of Nuclear Diplomacy with Iran*, accessed May 11, 2015, <http://www.armscontrol.org/factsheet/Timeline-of-Nuclear-Diplomacy-With-Iran>.

nuclear sites and the Arak reactor, allow daily IAEA access to Natanz and Fordow, and allow managed access to centrifuge workshops and uranium mines and mills”<sup>9</sup>. Also actions of international community represented by the P5 + 1 group included: „no new nuclear-related sanctions from the UN Security Council, the EU and the U.S; pause efforts to further reduce Iran’s oil sales and partial repatriation of frozen Iranian assets from oil sales; suspension of U.S. and EU sanctions on petrochemical exports and gold and precious metals; suspension of U.S. sanctions on Iran’s auto industry; supply and installation of spare parts for Iranian civil airplanes, including repairs and safety inspections; establish a financial channel for humanitarian goods using Iran’s oil revenues that are frozen abroad, which can also be used for tuition payments for Iranian student abroad and payment of Iran’s UN dues and increase of the EU thresholds for non-sanctioned trade with Iran”<sup>10</sup>. In December of that year, in Geneva, the discussions between Iran and P5 + 1 group regarding the implementation of the Joint Plan of Action continues.

The beginning of 2014 looks very promising for the development of the nuclear program because it announces the implementation of the Joint Plan of Action, which will start from January. Also starting late February new negotiations are made in Vienna to outline a comprehensive agreement. The results of these meetings are visible in early June of 2014, when the general director of the IAEA, Yukya Amano, said that Iran keeps with its part of the deal, neutralizing almost completely the 20% enriched uranium stock. In early July, representatives of the P5 + 1 announced that negotiations will extend until November, when it would take place final agreement. On 24 November 2014, Iran and P5 + 1 group announces that negotiations will be extended, because there was visible progress on the important nuclear issues and both sides are optimistic in finding a solution that both sides agree. November is significant also because the High Representative for Common Foreign and Security Policy and the main negotiator in the Iranian nuclear file, Catherine Ashton is replaced by Federica Mogherini.

#### **FEDERICA MOGHERINI – EU FOREIGN POLICY CHIEF AND IRAN’S NUCLEAR FILE (NOVEMBER 2014 -PRESENT)**

End of 2014 and the first three months of 2015 are marked by numerous meetings and negotiations regarding the Iranian nuclear file evolution. In early April of 2015, it's announced an agreement on the general framework, which outlines the parameters of a nuclear agreement. Also, Iran and P5 + 1 group agreed to continue meetings for establish a final agreement by the end of June. Through the key points of the agreement signed in April stands<sup>11</sup>:

1. Iran has agreed to reduce by approximately two-thirds its installed centrifuges;
2. Iran has agreed to not enrich uranium over 3.67 percent for at least 15 years;
3. Iran has agreed to reduce its current stockpile of about 10,000 kg of low-enriched uranium to 300 kg of 3.67% for 15 years;
4. Iran has agreed to not build any new facilities for the purpose of enriching uranium for 15 years;
5. Iran will convert its facility at Fordow so that it is no longer used to enrich uranium;
6. Iran will only enrich uranium at the Natanz facility, with only 5,060 IR-1 first-generation

<sup>9</sup> Arms Control Association, *History of Official Proposals on the Iranian Nuclear Issue*, accessed May 11, 2015, [http://www.armscontrol.org/factsheets/Iran\\_Nuclear\\_Proposals](http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals).

<sup>10</sup> Arms Control Association, *History of Official Proposals on the Iranian Nuclear Issue*, accessed May 11, 2015, [http://www.armscontrol.org/factsheets/Iran\\_Nuclear\\_Proposals](http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals).

<sup>11</sup> CNN, *Parameters of the tentative Iran nuclear deal*, accessed May 12, 2015, <http://edition.cnn.com/2015/04/02/world/iran-nuclear-deal-parameters/index.html>.



- centrifuges for ten years;
7. The IAEA will have regular access to all of Iran's nuclear facilities, including to Iran's enrichment facility at Natanz and its former enrichment facility at Fordow, and including the use of the most up-to-date, modern monitoring technologies;
  8. Iran will receive sanctions relief, if it verifiably abides by its commitments;
  9. All past UN Security Council resolutions on the Iran nuclear issue will be lifted simultaneous with the completion, by Iran, of nuclear-related actions addressing all key concerns.

In 20 of June, IAEA Director, Yukiya Amano meets U.S. Secretary of State, John Kerry to discuss the ongoing negotiations between Iran and the EU-3 group. The meeting took place in Vienna and was part of the IAEA's engagement with Iran and EU-3 to help make a Joint Comprehensive Plan of Action technically sound<sup>12</sup>. The beginning of July looks promising because IAEA Director, Yukiya Amano travelled to Teheran for meetings with President Hassan Rouhani and the Secretary of the Supreme National Security Council, Ali Shamkhani. „The purpose of the visit was to advance work towards the resolution of all outstanding issues regarding Iran's nuclear program, including clarification of possible military dimensions. I believe that both sides have a better understanding on some ways forward, though more work will be needed”<sup>13</sup>.

## CONCLUSION

Iran's nuclear capabilities have been the subject of research for a long time. Although the government in Tehran supported for a long time that its nuclear program is peaceful, it is still incomprehensible the refusal to allow IAEA inspections and the uranium enrichment action. After many years of negotiation, diplomacy effort was rewarded in April this year by signing an agreement that aims to help solve this pressing problem for the international community. However this deal is not final, the final details would have been set up by the end of June. Although this agreement seems to bring a relief within the international community, regarding Iran's nuclear program, it is seen with skepticism by the United States and especially by Israel, which considers Iran is not trustworthy and should not be allowed to use nuclear energy even for peaceful purposes.

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<sup>12</sup> IAEA, *IAEA Director General and U.S. Secretary of State John Kerry meet on Iran Negotiations*, accessed July 8, 2015, <https://www.iaea.org/newscenter/news/iaea-director-general-and-us-secretary-state-john-kerry-meet-iran-negotiations>.

<sup>13</sup> Yukiya Amano, *IAEA Director General Yukiya Amano's Statement on visit to Iran*, accessed July 8, 2015, <https://www.iaea.org/newscenter/pressreleases/iaea-director-general-yukiya-amanos-statement-visit-iran>.

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## **EMERGING RISKS AND THREATS IN THE CONTEXT OF THE AFRICAN IMMIGRATION TO EUROPE.**

**Marius Nicolae GRAD<sup>1</sup>**

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### **ABSTRACT:**

*THE ONGOING CIVIL WAR IN LIBYA RESULTED IN A LARGE NUMBER OF IMMIGRANTS TARGETING EUROPE, ESPECIALLY ITALY, THE ROUTE BETWEEN LIBYAN SHORES AND SOUTHERN ITALY BEING A VERY USED ONE IN THE PAST DECADES. MANY THOUSANDS OF OTHERS HAVE RISKED THEIR LIVES THIS YEAR, FLEEING CONFLICT AND INSTABILITY IN AFRICA AND THE MIDDLE EAST, IN SMALL, OFTEN DECREPIT VESSELS IN AN ATTEMPT TO REACH EUROPEAN TERRITORIES. BUT ALL THIS EFFORTS FOR A BETTER AND SECURE LIFE MEANS NEW CHALLENGES FOR THE RECEIVERS, ESPECIALLY BECAUSE MANAGING A MASSIVE NUMBERS OF FOREIGNERS IMPLIES SIGNIFICANT RESOURCES AND A LONG-TERM PROCESS. ALSO, INTEGRATING THE IMMIGRANTS IN THE LOCAL COMMUNITIES AND AVOIDING ACTS OF DISCRIMINATION AND SO ON IS A DIFFICULT TO REACH ACHIEVEMENT. THIS PAPER ANALYZES THE FURTHER SECURITY CHALLENGES IN THE CONTEXT OF THE MASSIVE AFRICAN IMMIGRATION TO EUROPE FROM THE PRACTICAL PERSPECTIVE OF THE LIBYAN CIVIL WAR AND ITS AFTERMATH.*

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**KEY WORDS:** LIBYA, CIVIL WAR, IMMIGRATION, THREATS, EUROPEAN SECURITY

### **INTRODUCTION**

The issue of immigration is not a new aspect on the international scene. This aspect has been developed during time in the same way with the main important social and political changes, embracing a mutual determination. More than that, no matter the context and the historical evolution, the migration phenomenon has determined transformations in the social economic and political aspects of the places where individuals went from and also in the regions that represented a new home for them. In the same way, the appearance of deep changes in the economic and political levels led to the movement of big groups of individuals in their attempt to ensure a better level of being or to protect their life and savings.

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The article is the condensed English version of the work entitled „Further security challenges in the context of the African immigration to Europe. Case study: Libya” published in Romanian in Conference Proceedings Volume 2015 “Migration Dynamics and New Trends in European (In)Security”

The conflict situations, representing the most important elements of transformation regarding social, political and economic issues are the most common premises that determined the migration phenomenon. During the last decades, the transformation of the conflict and the easier access to the transportation facilities and communication instruments maintained the will of individuals to search for friendlier spaces, in their way to avoid threats.

On the other hand, in the last decades, the problem regarding the migration has deeply changed because of the national interests and the appearance of new instruments to block or to determine the big groups of individuals movement. That is why the international migration became a central problem in the security agenda of the developed states from North America and Europe. The nowadays migration concept represent a threat regarding the national and regional security because of the rising numbers of immigrations on the global level. According to International Organization for Migration, in 2005 there were around 191 million of individuals who left their countries and in 2010 the number has raised to 214 million. More than that, an UN Report estimate in 2013 that approximately three percent of the global population, almost two hundred and thirty milion individuals, represent immigrants<sup>2</sup>. Also the entrance of migration in the security agendas is due to the transformation of the concept. It is well known that after the end of Cold War, the security studies have embrace a more complex approach, giving up to the state centered vision<sup>3</sup>.

The exponential development of the conflict stances from different regions of the globe, have facilitate the migration and also rise new challenges regarding to the “opened” states. Because of the war fear and the search of a good economic level, individuals use a large number of instruments which helped them. Developed by globalization and internationalization, this phenomenon was supported by modern communications technology and also transportation facilities. This research concentrated on a developing situation that tends to become an impossible problem for present geopolitical and geoeconomic context. Having the civil war from Libya as a starting point, we analyzed the migration flow from Northern Africa to Southern Europe and also the changes which were determined by the context of the enhancement phenomenon of migration and its implications in terms of security. Because of the appearance and the development of the radical-extremist phenomenon and the intense presence of far right on the European scene, the article will lead the discussion to the main aspects of terrorism development and transformation in the European Union space.

### **THE POTENTIAL OF MIGRATION IN MENA REGION**

During time the relation between Europe and MENA region especially the European proximity, was characterized by a permanent change of individuals as also wellness and development. After the World War II and the end of European colonialism, in the period of `50-`60 there was an important wave of immigrants from the North Africa to Europe. The economy of the European states in that time was determined by the reconstruction efforts and the American capital with the developing necessity of labor force. The majority of the governments embrace the immigrants from North Africa to feel the lack in different areas. They came together with their families and they also form communities that helped the European economic development and also fill the necessity of a well standard of living in a social developed surrounding. This phenomenon continues to develop in the period of `70 when the entrance in Europe was legal and unconditional. But at the beginning of the `80 and

<sup>2\*\*\*</sup>, *On the move: 232 million migrants in the world*, accesat 06.07.2015, <http://www.theguardian.com/news/datablog/2013/sep/11/on-the-move-232-million-migrants-in-the-world>

<sup>3</sup> Keith Krause, Michael Williams, “Broadening the Agenda of Security Studies: Politics and Methods.” In *Mershon International Studies Review*, 40(2), 1996, 229-254.

in the next decade the states that were very cooperative with immigrants begin to assemble new conditions and to limitate the number of individuals from other places. After the Schengen Accord was signed in 1985, the obtaining of visa was more difficult. At that time, the persons from North Africa searched and discovered methods and illegal ways to come to Europe. In the same period, from the central area of Africa, especially from the Sahel region, there was a migration wave to the north of continent. Obviously, the aim were not the states like Libya, Tunis, Morocco of Egypt, but the European states that were more developed from economic and social perspectives.

After the end of the Cold war, the migration wave from MENA region was maintained at a specific level thru being controlled by development of the community and national policies. The European cooperation was not so good in the immigration control and neither in the immigrant's integration, leaving this aspect into the hands of the member states. In this way, it has been developed an euro-Mediterranean cooperation partnership which together with European neighborhood policy oriented the European Union efforts to create a safe space from the political, economic and social point of view in the immediate vicinity. It was obvious that all these efforts were done to preserve the security aspects of the community and also to reduce the will of the immigrants to use the illegal methods to reach Europe.

On the other hand, the 2010-2011 moment represent the wave of revolution that changed the context in the social-political level from the North African states. This lead to an intense raise of immigration phenomenon towards Europe. The appearance of the resulted conflicts determined by the end of the totalitarian regimes and oligarchic elite lead to a major climate of insecurity. This issues determined the direct and indirect extern interventions which formed a new socio-political construction in the states like Libya, Tunis, Egypt and Yemen. The best example is the intervention made by the Unified Protector Operation which left behind a situation transformed into a civil war. The appearance of new enemies and the lack of debating and counseling framework between the communities generate a conflict status. Therefore, this lead to the appearance of a massive way of immigrants, but this aspect will be developed in another section of this article.

From another point of view, the internal conflict from Syria determined a major number of individuals to search refuge in nearby states. The different ideas at the international level regarding the humanitarian intervention or the ongoing civil war, determined the conflict continuation and also the rising number of immigrants. This aspect was also debated in the UN Security Council, based on different interest of states like SUA, Russia, Israel and Iran. In Yemen, the disapproval between the government forces and Islamic group within the Al-Qaeda element resulted in major population movements to non-conflicted regions. It was obvious that immigrants searched to get out from the open fighting zone and then to search for more developed states like the European region. A similar situation was in the border area of South Sudan and North Sudan where the conflicts for the oil field transformed the area into war zone.

It is obvious that more than conflict aspects, the more important reasons of the migration phenomenon appearance was the social, political and economic aspects. From the migration behavior point of view in the MENA region, the determined factors can be located in three major categories: the unequal resources distribution and also the access to them, the discrimination and persecution of communities along with the lack of political-administrative structures capable to handle in a nonviolent way the major differences between religious, ethnic and social groups. All these elements manifest themselves simultaneously in different proportions in the majority of northern african states. Therefore, the unequal distribution of resources and the access to them represent an important element in the migration phenomenon. It also represents a factor that always leads to the violent conflict appearance

when talking about oil and others natural resources. The income determined by and from commercial activities with these resources and their unequal distribution leads to social disappearance and the inexistence of a middle class that balance the situations and limits the discrepancies.

An important role is played by the religious element along with the ethnic one. The role of religion in the state decision making level and the use of profane arguments regarding racist decisions and policies focus on the appearance of social discomfort. The unrepresented people who were abused by the politic and military decision makers search for different ways to abandon their origin states. This issue is similar with the ethnic diversity problem and the communities' coexistence, inappropriate ruled, and is developing antisocial and anti-community feelings transformed in population movements. The main factors, which were represented above, justify the migration phenomenon appearance and have a major contribution to the decrease of life quality and also generate the emergence of radical behaviors. This problem has also secondary aspects.

One of these is the demographic raise. In the last decade, the demographic development of the MENA region states had a major increase between 20 % and 30%, which led to new economic and social challenges<sup>4</sup>. All the elements mentioned above are affected by the raising number of individuals, due to the difficult access to the resources, social segregation and also due to the embracement of extremist religious visions. At the same time, the government is not capable anymore to supply the public services, not even to a minimum level, and the phenomena like poorness, epidemics and social violence are more frequent.

Another aspect is represented by globalization and internationalization. These two were mentioned above too, connected to technology access and knowledge. It is well known that the appearance and also the development of social network resources provides to MENA regions communities a new prospection of the international system. In the same time, the internet was used to gather a big number of supportive individuals. The mobilization of the groups is easier in the nowadays context even in the regions which are characterized by a low level of alphabetization or in poor country. The radical visions are easier to be promoted and the online targeting facilities contribute to raise the number of supportive individuals, even if we talk about religious or another aspects.

If we take the Arab Spring as starting point, the chronologic axe is easier to be exposed in the way of mass manipulation. Although, the transfer knowledge leads to new instrument and methods that take into consideration plans used to generate political and social instability. Therefore, the people from MENA region are more exposed and connected to European and Euro-Atlantic realities supplied by real examples of politic and social attitudes. Obviously, in comparison with these, the individuals can take positive or negative attitudes, fact that lead to different feelings like empathy or hate. Therefore, the migration potential of MENA states is rising directly proportional with the communities' politic and social changes. Because the fact that these are the opposite of the principles of good coexistence and economic welfare, we estimate that in the next period, new groups of immigrant will come to southern Europe by finding new ways to get inside the European community.

## **NEW CHALLENGES POSED BY IMMIGRATION FROM NORTH AFRICA TO THE EUROPEAN UNION**

Naturally any migration process poses new challenges and emergencies that need to be managed. Therefore, over time, the prospect of welcoming the immigrants varied among

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<sup>4</sup>Nabil Kronfol, „The youth bulge and the changing demographics in the MENA region: Challenges and opportunities?“ in *The WDA-HSC Discoussion Paper Series on Demographic Issues*, 2011/8, 2011, passim.

states, as we previously found out this in the case of European countries. The danger of immigration to societal security of a state is not considered to be objective and universal. The subjective nature is supplied by how receiving states define themselves<sup>5</sup>. For example, while some actors consider multiculturalism as thickening and harmful for socio-cultural integrity of the state, others promote cultural, religious and ethnic diversity. Heisler and Layton Henry explains that Western European countries experienced after the Second World War an homogeneity transformations<sup>6</sup>. Thus, many have become ethnically and culturally heterogeneous, consisting of two or more majority communities<sup>7</sup>. In these situations immigration can be considered a direct threat to societal security, given that traditional national identity and social values are endangered. Moreover, the failure to integrate immigrants or these to be assimilated by local communities is an increasingly negative effect over the political, social and administrative stability of a state<sup>8</sup>.

From this perspective, we must acknowledge that at present Member States of the European Union are passing through a period of skepticism in relation to the waves of immigrants from south of the continent. That is because, from a political perspective, the general promoted vision is that illegal immigration that comes from the Mediterranean region represent a threat to the entire European community. Most individuals can not be identified, and authorities do not have the right tools and instruments to do this. However, the large number of individuals, who according to statistics published by the European Commission reached only in terms of asylum seekers number of 626,000 applications in 2014, imposes a number of risks and threats to the whole European structure.

Thus, if it is to clarify these risks in terms of the illegal migration that comes by the Libya - Italy route, the European Union faces challenges at all levels. From an economic perspective, management of illegal flows of immigrants is a common challenge especially in the current context when the financial situation becomes more difficult. The budget for migration issues, particularly in the Mediterranean countries remains limited in the past years, being given that in recent years considerable funds were spent to offset the effects of the economic recession. For example, the budget of Frontex program has been reduced from 118 millions in 2011, to 89 million euros in 2014<sup>9</sup>. On the other hand, the funds destined for Italy to manage illegal migration and rescue efforts were supplemented by 13.7 million in 2015 despite criticism from rights groups which believe that these funds are inadequate and insufficient<sup>10</sup>.

On the other hand the situation in Greece that needs to be managed by European Union will generate the redistribution of funds and will be subject to extra stress at the community level. While some states consider illegal immigration an issue of particular importance, other members, especially those from northern Europe are advocating for the reduction of funds. This can lead to disagreements that can block the development of coherent and effective policies. The failure of previous European Neighbourhood Policy, both in the South and in the East (proven by the current situation in Syria, Crimea, Ukraine

<sup>5</sup> Myron Weiner, "Security, Stability, and International Migration." in *International Security*, 17(3), 91-126.

<sup>6</sup> Martin Heisler, Zig Layton-Henry, "Migration and the Links Between Social and Societal Security." in *Identity, Migration and the New Security Agenda in Europe*, Waever, O., B. Buzan, M. Kelstrup and P. Lemaitre, eds. (London: Pinter Publishers, 1993), 158.

<sup>7</sup> Martin Heisler, Zig Layton-Henry, "Migration and the Links Between Social and Societal Security"...

<sup>8</sup> Martin Heisler, Zig Layton-Henry, "Migration and the Links Between Social and Societal Security"..., 162.

<sup>9</sup> Kevin Hempstead, *Europe's Migration Crisis: What are the Best Options?*, accesat 06.07.2015, <http://natocouncil.ca/europes-migration-crisis-what-are-the-best-options/>.

<sup>10</sup> Melodie Bouchaud, *European Commission Extends Migrant Rescue Mission Operation Triton*, accesat 06.07.2015, <https://news.vice.com/article/european-commission-extends-migrant-rescue-mission-operation-triton>.

and Libya) bear a reluctance related to community external capabilities. However, at the social level, the flow of migrants are transforming the way in which the economic perspective can be managed. Additionally, the increasing population of Muslim origin in Europe may affect community safety in multiple ways, especially from the national level towards regional level. Changing voting patterns and electoral base can facilitate the emergence of new political groups, with the vision to promote principles and values different from those of the Community. Military recruitment must be reconsidered in the context of accepting immigrants into the ranks of the military, police and internal security services that can become more vulnerable from inside. At the social level, the emergence of neighborhoods inhabited exclusively by different ethnic and religious-majority can impose the informal use of different laws (such Shari`a) and the promotion of cultural practices inconsistent with the shared values of the Member States within the union. An example of this situation is the Luton area in England, where the Muslim majority community is leading by its own rules. All these social tensions may arise between majority and minority groups, with a tendency to blame immigrants about certain shortcomings or reduced access to facilities. Changing the urban landscape and the presence of immigrants on the streets can bear anguish and fear among the population, who may use physical or verbal violence to protect themselves.

From a political perspective, the emergence of the European extreme right and other forms of radical socio-administrative approaches can be facilitated by the large flow of illegal immigrants. After the attacks in Norway, the European far right has undergone a refocusing and rethinking anti-Semitic practices, bringing into attention the the danger posed by the Muslim community present in several Member States. Based on a dialectic directed against multiculturalism and support for traditional values, parties such as UKIP UK, the National Front in France, Northern League in Italy, Freedom Party of Austria and the list can go on, can gain new followers and change the national leadership political structure. Accession of the party led by Marine Le Pen in the European Parliament is only the first example. Moreover, the EU is vulnerable and in terms of lack of consensus and determination to take concrete and effective measures regarding illegal immigration in Libya. We refer here to the case of Libya as the central Mediterranean route is the major point of entry into Europe migratory flux. Case of Lampedusa Island is one of the most relevant examples. On this route, immigrants from Syria, Iraq, Eritrea, Egypt and Somalia's southern border illegally penetrated the European Union. On the other hand, the situation in Ukraine, Iraq, Syria, Afghanistan and the entire area is affected by the emergence and expansion of ISIS, forcing European players to rethink their strategies and priorities.

The lack of a coordinated response to illegal immigration in the Middle East and North Africa demonstrates the inability of the community to produce a unified strategy on medium and long term and revive the phenomenon of individual management by affected Member States. It is also proves that the issue of illegal immigration is still considered to be a matter of national security rather than a matter of regional security.

From another perspective, the European practices and agreements are in danger, along with the risk of alienation of cultural traditions. For example, there is a risk that certain states are going to suspend their participation in the Schengen area, in the context of increasing migration flows, as was the case in France or Denmark in 2011. Heather Conley Senior Fellow of the Center for Strategic and International Studies says in April 2015, „I suspect if the politics surrounding migration really start getting messy, you'll see countries reintroducing internal borders with greater frequency, which means they would have chiseled away at one of the main pillars of Europe, which is the free movement of people.”<sup>11</sup>

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<sup>11</sup>Jeanne Park, *Europe's Migration Crisis*, accesat 07.07.2015, <http://www.cfr.org/migration/europes-migration-crisis/p32874>.



## **CONCLUSION**

As we noted previously, the phenomenon of illegal immigration poses new challenges to national and regional security. Given the societal, economic and social security development, it is much easier today for immigration to be considered a direct threat to communities, the economy and to social order. Although the nature of the threat is subjective, direct effects on national identity and ethnic and cultural integrity of Member States are relatively easy to identify, at least in theory, and from a long-term perspective. Yet it is not taken into account the capacity of assimilation and adaptation of European culture, even if it is a phenomenon which is in an uptrend at the moment. By the present approach we conclude that long-term effects posed by illegal immigration from North Africa into southern Europe on the regional security sector now lies only in theory. There is still no clear evidence demonstrating the correlation between immigration and crime or the interdependence between the terrorist phenomena development and the flow of individuals coming from the MENA region. Moreover, if immigration is labeled as a direct threat to the security, causes more negative effects than positive results. That is because there is a divergence of opinions at Community level; the fragmentation of efforts aimed at managing the phenomenon increases and it intensifies at social level xenophobic and racist attitudes.

Clearly, infiltration of terrorist elements by the route Libya-Italy is plausible and must be properly managed, but from here until considering each individual in search of better living a terrorist has to be a clear rationale and an evidence based analysis. Moreover, we believe that increased efforts of the Member States to manage the phenomenon and reach a consensus on a long-term strategy linked to it, would produce more beneficial effects than developing rejection positions, denial rhetoric and mass exclusion of immigrant groups. However, this would translate in a more effective approach to risks and threats raised by illegal immigrants to security.

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## **INDIGENOUS RIGHTS VS. MINORITY RIGHTS. THE CASE OF THE NORWEGIAN SAMI**

**Ruxandra NUȚ<sup>1</sup>**

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### **ABSTRACT:**

*ONE OF THE MOST IMPORTANT AND CONTROVERSIAL SECTORS OF SECURITY, ACCORDING TO THE COPENHAGEN SCHOOL, IS THE SOCIETAL SECURITY, WHERE THE REFERENCE OBJECT IS IDENTITY, WHICH BRINGS TOGETHER A GROUP OF INDIVIDUALS BASED ON CERTAIN CHARACTERISTICS. THUS, MINORITIES AND INDIGENOUS PEOPLES HAVE DEVELOPED A COLLECTIVE CONSCIOUSNESS AND BEGAN TO REJECT THE ASSIMILATION PROCESS IN FAVOR OF IDENTITY CONSOLIDATION AND CULTURAL PRESERVATION. THEREFORE, MULTICULTURAL STATES HAVE A DIFFICULT TASK, THAT OF ENSURING EQUALITY OF CITIZENS WITHOUT IMPEDING, IN ANY WAY, THE DISTINCTIVE CHARACTER OF MINORITIES OR INDIGENOUS PEOPLES INHABITING THEIR COUNTRY.*

*THIS IS THE CASE OF NORWAY, SUPPORTER OF CULTURAL PLURALISM, WHICH INTENDS TO ACCOMMODATE THE PROVISIONS OF THE INTERNATIONAL CONVENTIONS IN THE NATIONAL SYSTEM, IN ORDER TO CAPITALIZE THE POTENTIAL OF THE SAMI POPULATION, A COMPLETE AND COMPLEX CULTURE, PART OF THE NATIONAL HERITAGE. BUT THE SAMI ARE A MINORITY AND AN INDIGENOUS PEOPLE AT THE SAME TIME, HENCE THE CONTROVERSY CREATED AS MINORITY AND INDIGENOUS RIGHTS ARE SIMILAR, BUT NOT IDENTICAL.*

*THE PURPOSE OF THIS ARTICLE IS TO POINT OUT THE DIFFERENCES BETWEEN INDIGENOUS AND MINORITY RIGHTS, FOCUSING ON HOW THE NORWEGIAN STATE HAS CHOSEN TO ADDRESS THE STATUS OF ITS SAMI POPULATION.*

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**KEYWORDS:** MINORITY, INDIGENOUS PEOPLE, IDENTITY, MINORITY AND INDIGENOUS RIGHTS, SAMI PEOPLE.

### **INTRODUCTION**

Regarding security studies, the Copenhagen School proposed a new approach aiming to extend the security agenda from the military dimension and the state-centered traditionalist vision, towards non-military aspects such as political, economic, societal and environmental issues. The most discussed aspect of this framework of analysis is the societal security, where the reference object is not the state, but collective identity. Consequently, the security of a society can be compromised by anything that compromises its identity.<sup>2</sup>

Barry Buzan believes that “ethnic, nationalist or religious threats may be more dangerous for the stability of a state than external threats, because they affect common identity and cultural patterns. Therefore, the clash of civilizational identities is one of the key

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<sup>2</sup>Branka Panić, *Societal Security- security and identity*, (Western Balkans Security Observer, No. 13, April-June 2009), 31.

issues on the agenda of societal security. A foreign influx could lead to alterations of the ethnic, cultural, religious or linguistic composition of the majority population and may jeopardize the ability to reproduce itself as a society in the old style.”<sup>3</sup> In these circumstances, the state tends to ensure its integrity by limiting the access and by accentuating the differences. But minorities and indigenous peoples have begun to develop a collective consciousness that leads them to oppose the assimilation of the majority population, fighting for identity strengthening, cultural preservation and recognition of their distinct character.

### **INTERNATIONAL ORGANIZATIONS, MINORITIES AND INDIGENOUS PEOPLES**

Multicultural states and international organizations have been put before a difficult situation, which is to find solutions to integrate minorities and indigenous peoples in the majority society, to ensure equality, without obstructing in any way the identity of the group. But protection is not only about integration, it also includes their access to resources and traditional territories, to social services, cultural heritage, confessional freedom, education in the mother tongue etc. In order to protect minorities, the states and the international organizations have tried to reach a consensus through numerous conventions and agreements to facilitate this mission.

The European Convention for the Protection of Human Rights and Fundamental Freedoms, which came into force in 1953, is the first document that refers directly to minorities in Article 14: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."<sup>4</sup>

The International Covenant on Civil and Political Rights, adopted in 1966 by the UN General Assembly and entered into force in 1976 supports the principle of self-determination in Article 1, which states that all people must have access to resources and the right to choose their political, economic, social and cultural status. Article 27 of the same Convention mentions that: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."<sup>5</sup>

Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination entered into force in 1969, states that racial discrimination refers to: "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."<sup>6</sup>

The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in 1992 stipulates that: "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities

<sup>3</sup>Barry Buzan, *New Patterns of Global Security in the Twenty-First Century*, (International Affairs (Royal Institute of International Affairs 1944-), Vol. 67, No.3, Jul., 1991), 447.

<sup>4</sup>"Convention for the Protection of Human Rights and Fundamental Freedoms", Article 14, accessed June 10, 2015, [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

<sup>5</sup>"International Covenant on Civil and Political Rights", Article 27, accessed June 10, 2015, <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>.

<sup>6</sup>"International Convention on the Elimination of All Forms of Racial Discrimination", 21 December 1965, United Nations, Treaty Series, vol.660: 195, accessed June 9, 2015, <http://www.refworld.org/docid/3ae6b3940.html>.

within their respective territories and shall encourage conditions for the promotion of that identity.”<sup>7</sup>Moreover, "Persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.”<sup>8</sup>The involvement in the political, economic, social and cultural life means the integration and development of the entire community, and the instruction in the mother tongue must be a major interest for the state.

The International Labour Organization is responsible for the Indigenous and Tribal Peoples Convention (No.169) of 1989, applicable to "peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.”(Art. 1.1. (b))<sup>9</sup> According to the Convention, the state must ensure indigenous rights, respecting the principle of equality in diversity, valuing the identity, traditions and cultural heritage. The indigenous peoples "shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development.” (Art.7.1)<sup>10</sup>One of the issues of concern for indigenous peoples is the access to traditional lands and the right of possession and use, as a means of subsistence. Under the Convention, they cannot be evacuated. The relocation is possible only in special situations, with the necessary compensations. Traditional activities, such as hunting or fishing, are part of cultural preservation. Also, providing education in their mother tongue is the responsibility of the state.

The UN Declaration on Indigenous Peoples, adopted in 2007, supports the right to self-determination of indigenous peoples: "By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”<sup>11</sup>Indigenous peoples can benefit from their own political, social, economic and cultural institutions, but can also participate in the public life of the state. Indigenous peoples will preserve their traditions and customs, will have religious freedom and access to education in their mother tongue. They have the right of possession and use of resources and lands traditionally occupied by them.

## **INDIGENOUS RIGHTS VS. MINORITY RIGHTS. THE CASE OF THE NORWEGIAN SAMI**

Being a complex concept that involves a variety of different cases and situations, the term minority has not been easy to define. The most representative is the definition of

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<sup>7</sup>“Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”, Article 1, accessed June 9, 2015, <http://www.un.org/documents/ga/res/47/a47r135.htm>.

<sup>8</sup>“Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”, Article 2, accessed June 9, 2015, <http://www.un.org/documents/ga/res/47/a47r135.htm>.

<sup>9</sup>*Understanding the Indigenous and Tribal People Convention, 1989 (No. 169) - Handbook for ILO Tripartite Constituents*, Programme to Promote ILO Convention No. 169 (PRO 169) and International Labour Standards Department, February 2013, 32.

<sup>10</sup>*Understanding the Indigenous and Tribal People Convention, 1989 (No. 169) - Handbook for ILO Tripartite Constituents*, Programme to Promote ILO Convention No. 169 (PRO 169) and International Labour Standards Department, February 2013, 35.

<sup>11</sup>“United Nations Declaration on the Rights of Indigenous Peoples”, accessed June 10, 2015, [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf).

Francesco Capotorti, outlining the basic features as: "a group numerically smaller than the rest of the population of the State to which it belongs and possessing cultural, physical or historical characteristics, a religion or a language different from those of the rest of the population."<sup>12</sup>

Regarding the European legal instruments, Recommendation 1201 of the Council of Europe, defines a national minority as: "a group of persons in a state who:

- a) Reside in that state and are citizens thereof
- b) Maintain sustainable and strong links with that country
- c) Have distinctive ethnic, cultural, religious and linguistic characteristics
- d) Are a representative group, even if less numerous than the rest of the population of that state or of a region of that state
- e) Are motivated by the preservation of their common identity, including culture, traditions, religion and language."<sup>13</sup>

Minority rights in a state, like majority rights, are based on fundamental human rights, such as equality and non-discrimination. But these are not enough to guarantee minority protection. There is a need for a set of special rights, that may differ from case to case, focusing on the interests of each group.

Concerning the term of indigenous people, the representative definition is that of Jose R. Martinez Cobo<sup>14</sup> offered in Study on the Problem of Discrimination against Indigenous Populations, which states the following: "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.

This historical continuity may consist of the continuation, for an extended period reaching into the present of one or more of the following factors:

- Occupation of ancestral lands, or at least of part of them
- Common ancestry with the original occupants of these lands
- Culture in general, or in specific manifestations (such as religion, living under a tribal system, membership of an indigenous community, dress, means of livelihood, lifestyle, etc.)
- Language (whether used as the only language, as mother-tongue, as the habitual means of communication at home or in the family, or as the main, preferred, habitual, general or normal language)
- Residence in certain parts of the country, or in certain regions of the world
- Other relevant factors."<sup>15</sup>

Often, confusion may arise between the rights of indigenous peoples and minorities because many of these features are common to both. The differences consist in the close relationship that indigenous peoples have with their traditional land and ancestral activities, which minorities do not have and that minority rights are usually individual, while the rights of indigenous peoples are collective. On one hand, minorities tend to integrate, to be part of

<sup>12</sup>Francesco Capotorti, *Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities*, UN Doc E/CN.4/Sub.2/384/Rev.1 (1979).

<sup>13</sup>Kinga Gál (Ed.), *Minority Governance in Europe*, (European Centre for Minority Issues, Open Society Institute, 2002), 15.

<sup>14</sup>Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the UN.

<sup>15</sup><http://indigenouspeoples.nl/indigenous-peoples/definition-indigenous>, accessed June 8, 2015.

the majority community, to be actively involved in the social life, even if they seek to preserve their identity at the same time. On the other hand, indigenous peoples tend to maintain their own society and way of life in parallel with that of the majority.

The Sami people of Norway is recognized as a minority and as indigenous people because it has its own culture, language, way of life and its traditional connection with the land and natural resources, fulfilling the conditions within both categories.

In Norway, the official documents regulating the minorities policy and the status of the indigenous Sami are those of the major international organizations: Convention on Civil and Political Rights, ILO Convention no.169 and the national legislation: Sami Act, Constitution of the Kingdom of Norway, Finnmark Act and Education Act.

The Constitution of the Kingdom of Norway of May 17, 1814, provides in Article 110a that: "It is the responsibility of the authorities of the State to create conditions enabling the Sami people to preserve and develop its language, culture and way of life."<sup>16</sup>

The Sami Act adopted on June 12, 1987 calls for "a recognition that the Royal Kingdom of Norway is established on the territory of two peoples, the Norwegian and the Saami, and that the Saami have thus lived within and by the present Norwegian state borders as long as Norway has existed as a State. This fact distinguishes the Saami from other minority groups in this country."<sup>17</sup> Furthermore, "The purpose of the Act is to enable the Sami people in Norway to safeguard and develop their language, culture and way of life. The Sami people are to have their own nation-wide Sameting (Parliament) elected by and among the Sami population. The particular expenses incurred by county municipalities and municipalities in connection with elections to the Sameting are to be covered by the State. Sami and Norwegian are languages of equal worth. They shall be accorded equal status."<sup>18</sup> The law regulates the role of the Sami Parliament, the main institutional body representing the Sami, namely to protect the interests of the Sami population in all fields and to manage the allocated funds.

The Finnmark Act, adopted in 2005, has as central goal the management of traditional lands and natural resources in the Finnmark district, predominantly inhabited by Sami. The law transfers the lands from the district from the Norwegian state to an agency called the Finnmark Estate. Although the Norwegian State may benefit from its resources, the Sami residents have more rights than those outside the district, through the recognition of their indigenous status and their traditional relationship with the land due to its durable use, as an important part of identity preservation. The Sami Rights Council has the task of dealing with the verification of traditional areas, the proper manage of resources exploitation and the problem of reindeer husbandry. The new reindeer husbandry law, adopted on May 31, 2007, facilitates this activity as being fundamental to the Sami culture and tradition.<sup>19</sup>

The Norwegian state and the Sami people pay particular attention to education in their mother tongue. Thus, the Sami administrative area was created, where the Sami language has a privileged status. The Norwegian Education Act was amended in order to include a special chapter on education in the Sami language. Chapter 6 of this law states that: "In the Sami area, all the pupils of the comprehensive schools have the right to be taught Sami and to learn other subjects through Sami."<sup>20</sup> The main provisions of the Act are the following:

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<sup>16</sup>"The Constitution of the Kingdom of Norway", accessed June 8, 2015, <http://www.constitution.org/cons/norway/dok-bn.html>.

<sup>17</sup>John B. Henriksen, *Saami Parliamentary Co-operation: An Analysis*, (IWGIA, 1999), 36-38.

<sup>18</sup>"The Sami Act", accessed June 8, 2015, [www.regjeringen.no/en/doc/laws/acts/the-sami-act-.html?id=449701](http://www.regjeringen.no/en/doc/laws/acts/the-sami-act-.html?id=449701).

<sup>19</sup>Eva Josefsen, *Norwegian Legislation and Administration-Saami Land Rights*, (Journal of Indigenous Peoples Rights, No.1/2007), 24.

<sup>20</sup>Ulla Aikio-Puoskari, *The Education of the Sami in the Comprehensive Schooling of Three Nordic Countries: Norway, Finland and Sweden*, (Journal of Indigenous Peoples Rights No.2/2005), 7.

- All children have the right to be instructed in Sami in all subjects
- Until the seventh grade, parents decide if their children will be taught in Sami
- From seventh grade, students will decide this for themselves
- Students taught in Sami are exempted from instruction in Norwegian
- Local councils will support the instruction of Sami in their mother tongue for ten compulsory years
- Local councils will facilitate the study of Sami for the children who have Norwegian as their mother tongue.<sup>21</sup>

The Law on the Sami Language, entered into force in 1992, gives it equal status with Norwegian, being recognized as an official language of the state.

## CONCLUSIONS

The changes that occurred in the international system generated a reorientation of security studies from the traditionalist approach, focusing on state and military power, to an enlargement of the areas of concern, such as economic, political, societal and environmental. Societal security brings to the fore the issue of identity as a reference object. Therefore, any threat to the identity of a group is a threat to societal security. The measures to prevent this phenomenon vary from case to case, but it is increasingly evident the tendency of minority groups, be they national or ethnic, to claim the right to cultural preservation and identity consolidation, to be treated equally, without affecting, however, their distinct character. The development of collective consciousness and identity spirit captured the attention of multicultural states and international organizations that have tried to find viable solutions to address these situations by numerous conventions and agreements. The Kingdom of Norway, a strong multicultural state, came in support of its indigenous Sami population by accommodating the provisions of the international conventions in the national legislation. Since the provisions of the Conventions are general and the situations differ from case to case, and so are the needs of minority groups, Norway has met this by introducing special laws aiming directly at the Sami interests. Thus, the Sami people can enjoy all the rights conferred by the citizenship of the state and the special rights for the preservation and development of language, traditions and values, as part of the national heritage.

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<sup>21</sup>David Corson, *Norway's „Sámi Language Act“: Emancipatory Implications for the World's Aboriginal Peoples*, (Language in Society, Vol.24, 4, Dec. 1995), 500-501.



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**GEOPOLITICAL, GEOECONOMIC AND GEOSTRATEGIC  
TENDENCIES IN THE BLACK SEA REGION  
CASE STUDY  
PARALLEL BETWEEN THE UKRAINE AND KOSOVO  
CRISIS**

**Oana NECHITA<sup>1</sup>**

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**ABSTRACT:**

*THE GOAL OF THIS PAPER IS TO PRESENT THE MAIN ISSUE OF THE BLACK SEA REGION WHICH IS REPRESENTED BY THE UKRAINIAN CRISIS WHICH IS BEING CONSTANTLY AND STRONGLY MONITORED BY THE MAIN ACTORS OF THE INTERNATIONAL SYSTEM WHICH ALL HAVE GEOPOLITICAL, ECONOMIC AND GEOSTRATEGIC INTERESTS IN THE REGION. THE RESOLUTION OF THIS CRISIS BY INTERNATIONAL INTERVENTION IS EXTREMELY DIFFICULT BECAUSE THE MAIN FACTOR LEADING TO THE CURRENT CRISIS WAS THE RUSSIAN FEDERATION TRYING TO MAINTAIN ITS INFLUENCE IN THE BLACK SEA REGION USING THE KOSOVO PRECEDENT. I WOULD THEORIZE THAT THE SOLUTION TO THE CONFLICT IN UKRAINE WILL COME IN THE FORM OF A FEDERALIZATION AND INTERNATIONAL ACCEPTANCE OF THE EASTERN UKRAINE REGION WHICH WILL THEN FUNCTION AS A BUFFER BETWEEN THE WESTERN ECONOMIES AND RUSSIA.*

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**KEYWORDS:** GEO-POLITICS, GEO-ECONOMICS, GEO-STRATEGIC, BLACK SEA, UKRAINE, CRIMEA, KOSOVO.

**THE BLACK SEA ISSUE AFTER THE COLD WAR**

The realistic theories always considered the Black Sea region a geopolitical center, a historical bridge between civilizations and a land of confrontation between old and new rivalries, which are now combined with old regional conflicts and also with new global threats. The constructivist approach is underlining the historical connections and cultural models that defined the area from the oldest times. The neorealist theories have been talking about the emerging of a new multipolar world where the equilibrium of regional power is still current when talking about the security study of the Black Sea.

From a strategic perspective, the Black Sea region is one of multiple antinomies: a region where the old rivalries from the Cold War evolved into what Bruce Jackson called the “soft wars<sup>2</sup>”, and the old world inheritance was shaped by the present challenges. This area

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<sup>2</sup> Bruce Jackson, “The soft War for Europe’s East”, in Ronald Asmus (editor), *next Steps in Forging a Euroatlantic Strategy for the Wider Black Sea*, (Washington D.C: German Marshall Fund of the United States, 2006), 17-18.

could be described as a mosaic of weak and corrupt states, close to failure, with diverse identities, aspirations and different evolution patterns and rhythms all of them situated in the middle of a triangle formed of three civilizations: Russian, European and Islamic<sup>3</sup>.

From a geo-economic point of view, the region is a key player for the energy security of EU which has access to the Caspian and Black Sea's resources, therefore reducing their dependency to Moscow. In this context, the Russian Federation uses the energy resources as a weapon since it monopolizes the transit in the Caspian Sea area which has huge petroleum and natural gas deposits<sup>4</sup>.

Therefore, the research hypotheses of this essay are presented as questions: "How will the Black Sea situation affect the international arena? What changes will take place in the area? What are the interests in the area? How will the current international crisis end?". These are questions I will try to answer in this essay.

The current strategic interests of the main political actors from the international arena show us three reasons for which the Black Sea region is becoming the center of attention of the international community again: the strong desire to consolidate the peace and stability in Europe, the necessity to stabilize the Black Sea area (solve the long existing conflicts and resolving the issues from the Middle East) and the access of the euro Atlantic community to the natural resources from the Caucasia – Central Asia<sup>5</sup>.

## **PLAYERS WITH GEO-STRATEGIC, GEO-POLITIC AND GEO-ECONOMIC INTERESTS IN THE REGION RUSSIAN FEDERATION**

In regards to the Black Sea region, the Russian Federation has three areas of interest. First of all, the area is rich in energetic resources and a transit area for the resources. Second, we are talking about states neighboring Russia, which are considered by Russia to be under its influence. And third, we need to consider the dynamic of the relationships between EU, NATO, USA, relationships characterized by the Moscow's fear of the growing influence of the two organizations' in the area closing in around Russia's borders and also the tense relationship between Russia and USA due to the American anti-missile shield.

Russia is trying to maintain a position of sole provider of natural energy resources for Europe, this being its main trump card when it comes to defending Russian interests as we have seen many times before, during the 2006, 2008 and 2009 crisis when for various reasons Russia stopped the natural gas export to Ukraine and implicitly towards the rest of Europe<sup>6</sup>.

Analysts theorize that Russia's strategy is built to bring Russia to its former glory as a regional leader, position lost as a result of Soviet Union's dissolution in 1991, an event called by Vladimir Putin "the biggest geo-political catastrophe of the twentieth century", a loss he is trying to remedy by bringing all the former "republics" of the Soviet Union into the "Customs Union"<sup>7</sup>.

Three countries have already joined the "Union", but on the "Russian's authorities list" there are many countries, including Ukraine and Moldavian Republic. The future of the region, is called, in the Russian's vision, the Euro-Asian Union, a political body which is due

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<sup>3</sup> Florin Rodeanu, "InteresegeopoliticeşigeostrategiceînregiuneaMăriiNegre", în: *BuletinulFortelorNavale*, Nr. 18,(Constanța: Școalade Aplicație a ForțelorNavale, 2013), 15.

<sup>4</sup> Paula Daniela Gânga, *RelațiaUniuneaEuropeană- Rusia. Problemaenergetică*, (Iași: Institutul European, 2010), 98-102.

<sup>5</sup>Ibidem, p 17.

<sup>6</sup>GeirFlikke (ed.), EinarWigen, HelgeBlakkisrud, PålKolstø, *The Shifting Geopolitics of the Black Sea Region. Actors, Drivers and Challenges*, (Oslo:Norwegian Institute of International Affairs Report, 2011), 25-26.

<sup>7</sup>Okunev, Igor, "A Foreign Policy to Suit the Majority?",în *Global Affairs*, No.2, (Moscow: Foreign Policy Research Foundation, 2013).

to be born in 2015. Analysts are also theorizing that “in a world that is looking towards Asia” Russia’s intention to position itself as a bridge between Asia-Pacific and the Euro-Atlantic region is a necessary, even essential strategy to raise Russia’s economy to the international power level<sup>8</sup>.

Russia prefers a regional approach when it comes to security in the Black Sea area as under this approach it would have more chances to maintain its status of regional power. To achieve this, Moscow fights for cooperation in all the security organizations, but at the same time opposes NATO’s and EU’s implication in the area<sup>9</sup>.

### EUROPEAN UNION

The international community started paying more attention to the Black Sea basin mostly after 2001 when the attacks on the World Trade Center happened, followed by the “global war against terror” and also after Romania and Bulgaria asked to be received in NATO and EU. Because of the above mentioned facts the two organizations became very interested in the region’s security, that interest being amplified by the area’s proximity to the Middle East.

For EU and for the rest of the political players in the Black Sea area, the energy security is extremely important. The relationship between EU – Russia continues to be extremely complex, difficult and ambivalent and the cooperation programs between the two (The EU – Russia Partnership, the Monitoring Partnership) have not been able to improve the situation much, especially given the fact that they both have the same interests in the Black Sea area and also the fact that EU depends on Russia for energy resources and Russia depends on EU from an economic perspective.

For the European Union, the Black Sea basin is an important security factor because of old “frozen” conflicts in the area, because of Russia’s aggressive attitude and expansion politics and because of partnership initiatives with states that are neighbors for both EU and Russia, some of these states having governments that stray pretty far from the principles of a fair and effective administration and of course, because of the energy security issue.<sup>10</sup>

### NATO AND THE UNITED STATES OF AMERICA

Once Turkey became a member of NATO, it became an important player in the Black Sea basin; however, during the Cold War, Turkey’s implication in the region was almost nonexistent. After 2004 when Romania and Bulgaria became members, NATO’s involvement in the region visibly increased when USA’s attention focused on the natural energy resources of the area<sup>11</sup>. NATO doesn’t only have three members that have access to the Black Sea, it also has agreements with additional players from the basin; all this led to some theories according to which the Black Sea will become a “NATO lake” if Ukraine and Georgia become NATO members, not a “Russian lake<sup>12</sup>”.

<sup>8</sup>Lukyanov, Fyodor, “Central Asia: An Indicator of Russia’s Imperial Aspirations”, în *Global Affairs*, No.2, (Moscow: Foreign Policy Research Foundation, 2011).

<sup>9</sup> Cristina Bogzeanu, *Evoluțiamediului de securitate în zona extinsă a Mării Negre și influența acesteia asupra configurării Forțelor Navale ale României pe termen mediu și lung*, (București:Editura Universității Naționale de Apărare „Carol I”, 2012), 20-33.

<sup>10</sup> Bogzeanu, *Evoluțiamediului de securitate în zona extinsă a Mării Negre și influența acesteia asupra configurării Forțelor Navale ale României pe termen mediu și lung...*, 33-46.

<sup>11</sup>Mitat Celikpala, „Escalating rivalries and diverging interests: prospects for stability and security in the Black Sea region”, în *Southeast European and Black Sea Studies*, Vol. 10, No. 3, (London: Routledge, September 2010), 291.

<sup>12</sup>Viorica Marin, "Marea Neagră: lac NATO", [http://adevarul.ro/international/in-lume/marea-neagra-lac-nato-1\\_50ba05c57c42d5a663b06b86/index.html](http://adevarul.ro/international/in-lume/marea-neagra-lac-nato-1_50ba05c57c42d5a663b06b86/index.html), (accesat la 18.03.2015).

Russia's reactions to NATO's extension in Eastern Europe, the "gas crisis" in its relationship with Ukraine and also the war with Georgia can be explained, according to a realistic view on international affairs. Also, as a result of these events, the Euro-Atlantic integration seems to be put on the back burner for a while in exchange for improving the relationship with Russia; this seems to be the logical conclusion if we think about the fact that Russia received a 30% discount for the natural gas imported from its eastern neighbor and the Russian naval fleet's presence in Sevastopol will also be extended until 2042.

Also, after Crimea's annexation by Russia, the latter continues to fuel the tension in the Black Sea region by declaring that in the near future it intends to possibly set up nuclear weapons in Crimea. As a result, Secretary General of NATO, Jens Stoltenberg declares after the NATO-Ukraine Commission's meet that Russia's declarations regarding a possible emplacement of nuclear weapons in Crimea could be worrying<sup>13</sup>.

### **VULNERABILITIES AND RISKS OF THE UKRAINIAN CRISIS**

The current Ukrainian crisis represents just one of the risks that are present in the Black Sea basin, but there is always the risk that the current crisis will evolve into a full energy crisis which it would negatively impact not only the region, but the entire global economy.

Also, the conflict from Ukraine has implications for other post-Soviet regions; the crisis affects (Republic of Moldova, Georgia, Abkhazia, South Caucasus, Kazakhstan, etc.), by instigating the Russian ethnics from these states to an eventual separatist movement or by eventually facilitating Russia's involvement in their domestic policy.

From a political, economic and military perspective, the European continent is split once again, with Russia in the eastern part, NATO and EU in the western part and with the "in between" areas like Moldavia, Ukraine and the southern part of Caucasus being battlefields. The war for establishing one big power in Europe was thought to have ended in the early '90s, but now it seems it is coming back as a strong possibility, even though not necessarily in the near future. The war on information was in full force. Russia and USA directly confronted each other in Georgia in 2008, in what was a very short episode, quickly overshadowed by the global crisis and the change of administration in Washington, but the episode left powerful impressions on everybody. Georgia did not change the history after the Cold War, but Ukraine did.

Ukraine is a geo-political pivot given its independent existence and its contribution to Russia's transformation. Without this space, Russia ceases to be a Euro-Asian empire and the loss of this space proved to be not just a pivot but a real cataclysm. In fact, Ukraine's geo-political and geo-economic importance is due to the liaisons the country has with the Mediterranean Sea and with the Balkans, Ukraine being the old empire's interface. "The main issue here is that Russia can not be part of Europe without Ukraine being in Europe, but Ukraine CAN be in Europe without Russia being there"<sup>14</sup>.

### **PARALLEL BETWEEN THE UKRAINE AND KOSOVO CRISIS**

In an attempt to try and explain Kremlin's steps in Crimea before and after the referendum and its annexation by the Russian Federation, theoreticians and politicians tried

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<sup>13</sup> Adriana Matcovschi, Stoltenberg: NATO este îngrijorată de declarațiile Rusiei cu privire la posibila amplasare de arme nucleare în Crimeea, <http://www.agerpres.ro/externe/2015/05/13/stoltenberg-nato-este-ingerijorata-de-declaratiile-rusiei-cu-privire-la-posibila-amplasare-de-arme-nucleare-in-crimeea-19-17-06>, publicat la 13.05. 2015, accesat la 15.06.2015.

<sup>14</sup> Cristina Avram, *Ucraina pivot geopolitic*, <http://geopolitics.ro/ucraina-pivot-geopolitic/>, (accesat la 25.03.2015).

to compare this situation with the one in Kosovo. The protests in Crimea were instigated by none other than Putin who justifies his decision to send troops to Crimea by comparing that with NATO's intervention in Kosovo in 1999. In Putin's interpretation, nobody can refuse in Crimea what was permitted in Kosovo. There are also parallels being drawn between Putin's tactics in Crimea and Yugoslavian president, Slobodan Milosevic, which posit that is Putin decides to become another Milosevic, the Western world will see a new fault line in Europe.

The events in Ukraine started taking place last year and culminated with the annexation of Crimea following a referendum that favored the separation from Ukraine and continuing with a conflict in the eastern part of Ukraine between pro-Russians and pro-west protesters. To this date, the western world still refuses to acknowledge Crimea's decision to separate from Ukraine. However, Kosovo, which used to be part of Serbia, also separated from the mother country, and it was accepted as an independent nation not only by USA, but also by most of EU countries.<sup>15</sup>

There are various reasons why we can't compare Crimea with Kosovo. First of all, the Albanian population from Kosovo were threatened with genocide by Milosevic, that being his attitude towards the non-Serbia population from Croatia, Bosnia and Herzegovina. Hundreds of thousand of people from Kosovo asked for refuge in the neighboring countries because of the danger posed by the Serbian army so NATO intervened only to avoid a catastrophe. In Crimea, there were no threats towards the Ukrainians and no attacks against the Russian population. Franz-Lothar Altmann, International and Intercultural Relations professor at the University of Bucharest affirms that "There is no fear and no massacre. Those dangers which truly existed in Kosovo, do not exist in Crimea".

Kosovo was part of Serbia and the Milosevic regime took away all national and cultural rights from the Kosovo population, which was 90% Albanian, and dissolved all institutions. After Ukraine gained its independence, the Russians from Ukraine enjoyed the same rights they had when they were part of the Soviet Union. Crimea became an autonomous province of Ukraine and unlike in Serbia, the Ukrainian government did not violate any human rights in Crimea which has a population of 60% Russians.

The Albanians in Kosovo fought for their independence by themselves, with no substantial support from outside, while Russia sent 16000 soldiers to Crimea before the referendum that decided separation from Ukraine took place. The Albanian ambassador to Sarajevo pointed out that Albania did not intervene in Kosovo and did not ask that Kosovo becomes part of Albania. Sonja Biserko from the Helsinki Committee for Human Rights in Serbia declared that "There is no resemblance between Crimea and Kosovo. The two situations would have been similar if Albania would have taken over Kosovo".

When it comes to the international legality of Crimea's separation from Ukraine, we have to keep in mind that Putin told US president Barack Obama in a phone conversation that the referendum in Crimea was in agreement with the international law. According to the transcripts from the same conversation, Putin cited Kosovo's Declaration of Independence from 2008, which was categorically rejected by Russia. The Russian Federation actually fought against international recognition/acceptance of Kosovo's independence based on the fact that it would encourage other separation movements across the globe. USA and EU insisted that Kosovo was a unique case and did not create a precedent but Putin is now citing the "Kosovo precedent" and insists that Crimea's separation is "absolutely legal" while also maintaining Russia's former position when it comes to Kosovo which has already been recognized as an independent state by 108 governments and UNO members. Also, by annexing Crimea, Russia violated the international agreement signed by USA < Great Britain

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<sup>15</sup>James Robertson, *Is Crimea another Kosovo?*, <http://socialistworker.org/2014/03/27/is-crimea-another-kosovo>, (accesat la 15.04.2015).

and Russia in 1994 when the three participants agreed to “accept Ukraine’s territorial integrity” in exchange for Ukraine’s agreement to give up its nuclear arsenal.

There is a big difference between the international opinion when it comes to Kosovo and Crimea. Kosovo will remain a significant part of Balkans and for Serbian national mythology as being as it was an important part of the Medieval Serbian Kingdom and the battle of Kosovo (1389) will always remain the place where the Ottoman Empire crushed the remains of the Serbian Empire. Still, the long oppression of the Albanian people led to growing discontent and finally to a armed fight for independence in the 1990s. Their fight for independence was brutally crushed by the Serbian army which prompted the bombing of Serbia by NATO forces and made Kosovo one of the most important international issues. On the other hand, Crimea is an important strategic point not only for Russian, but for Turks and European empires and also for the East – West relations. The best argument for Crimea’s importance is the Sevastopol seaport which represents Russia’s military glory and it is the home of Russia’s fleet at the Black Sea with over 26 000 troops<sup>16</sup>.

Kosovo’s independence was the result of a long process of international mediation under UNO’s supervision which applied strict guideline while Crimea’s annexation happened over a very short period of time and under foreign protection – Russia. To approach and solve the crisis in Crimea, Moscow rejected the proposition to form a contact/negotiation group formed by Russia, Ukraine, Great Britain, France and USA while Kosovo welcomed UNO’s intervention. Also, Russian hooligans threatened UNO’s special representative in Crimea and expelled a delegation led by the OSCE High Commissioner for National Minorities<sup>17</sup>.

## CONCLUSION

I would theorize that the solution to the conflict in Ukraine will come in the form of a federalization and international acceptance of the Eastern European region which will then function as a buffer between the western economies and Russia. As mentioned before, Russia’s economic situation contracted by 2 % in 2015 compared to 2014 and it is estimated that it will continue to go through a period of decline, the decline being mostly caused by the sanctions imposed by the western powers as a reaction to the annexation of Crimea. As a result, Russia will not have sufficient resources to maintain this conflict. A diplomatic resolution of the conflict would be beneficial for the entire international community given the fact that in this global economy there are strong economic ties between USA-EU-Russia and a prolonged crisis would not be in anyone’s best interest.

As a conclusion, besides the unstable situation from Ukraine, there is also a diplomatic war between Russia and “the West”, what seems to be the returning to a new "Cold War" being carried on through declarations made with the purpose of establishing the spheres of influence in the region.

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<sup>16</sup>Hajrudin Somun, *Five reasons why Crimea cannot be compared with Kosovo*, [http://www.todayszaman.com/op-ed\\_five-reasons-why-crimea-cannot-be-compared-with-kosovo-by-hajrudin-somun-344554.html](http://www.todayszaman.com/op-ed_five-reasons-why-crimea-cannot-be-compared-with-kosovo-by-hajrudin-somun-344554.html), (accesat la 14.-4.2015).

<sup>17</sup>Phillips L. David, *Crimea is not Kosovo*, [http://www.huffingtonpost.com/david-l-phillips/crimea-is-not-kosovo\\_b\\_4936365.html](http://www.huffingtonpost.com/david-l-phillips/crimea-is-not-kosovo_b_4936365.html), (accesat la 15.04.2015).

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## NUCLEAR GOVERNANCE – SUMMITS, CONVENTIONS AND VECTORS OF NUCLEAR NON-PROLIFERATION

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### ABSTRACT

*FROM A STRATEGICALLY POINT OF VIEW, THE SYSTEM OF SATELLITES BECOMES A VERY IMPORTANT TARGET, ESPECIALLY IN THE FIRST PHASE OF A MAJOR CRISIS WHEN MASKING LABOR PROJECTION OPPONENT. TO ENSURE UNMASKING, THERE ARE CONCERNED CAPABILITIES IN THE SPACE OF THE OPPONENT ESPECIALLY BY ELECTRONIC MEANS THAT "SATELLITES HAVE NO MOTHERS".*

*ALTHOUGH THE NPT REGIME FROM THE BEGINNING PUT INTO ADVANTAGE NWS, IT WAS IGNORED BY CONTINUING THE SECURITY POLICIES CENTERED ON MAJOR ROLE OF NUCLEAR WEAPONS AND IMPROVEMENT OF THE QUALITY OF THE COMPANY'S OWN NUCLEAR WEAPON SHOP. ON THE OTHER HAND, NNWS IS CONDITIONED BY THE ACCESSION TO THE ADDITIONAL PROTOCOL OF THE IAEA AND EXCLUSIVE RELATIONSHIPS WITH A MULTILATERAL BANK OF FUEL AS THE BASIS OF PEACEFUL NUCLEAR ACTIVITIES CARRIED OUT WITH A NWS.*

*CNS IS CONSIDERED THE CORNERSTONE OF THE SUB-FRAME OF GLOBAL NUCLEAR SAFETY UNDERSTOOD THAT THE WHOLE INSTITUTIONAL FRAMEWORK (INTERGOVERNMENTAL ORGANIZATIONS, NUCLEAR INDUSTRY, NETWORKS OF TRADE AND COOPERATION IN THE FIELD OF NUCLEAR ENERGY, THE NON-GOVERNMENTAL ORGANIZATIONS).*

*VECTORS OF INTERNATIONAL NON-PROLIFERATION ARE OF DIVERSITY, BENEFIT FOR THE AMPLITUDE OF THE REALITIES INTEGRATING GLOBAL: THE UN SECURITY COUNCIL, G-8 GLOBAL PARTNERSHIP, INTERNATIONAL ATOMIC ENERGY AGENCY - IAEA, THE EUROPEAN UNION, INTERPOL, THE NUCLEAR SUPPLIERS GROUP - NSG, THE PROLIFERATION SECURITY INITIATIVE - PSI.*

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**KEYWORDS:** THE SYSTEM OF SATELLITES, THE NPT REGIME, THE GLOBAL NUCLEAR SAFETY, VECTORS OF INTERNATIONAL NON-PROLIFERATION

In the first decade of the second millennium, announced with much boasted "the second nuclear age" / "the nuclear renaissance" is strongly stopped by the Fukushima accident; the waiver of nuclear energy,<sup>2</sup> joint energy development strategies,<sup>3</sup> review of safety standards and the slower pace of construction of new reactors,<sup>4</sup> attractiveness of other energy sources,<sup>5</sup> improvement of the supply cycle,<sup>6</sup> reviewed conditions of transfer the

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<sup>2</sup> Belgium, Germany, Switzerland and Taiwan.

<sup>3</sup> The Japan Nuclear Energy Regulatory Authority.

<sup>4</sup> China's massive construction program of over two dozen reactors has been delayed but remains underway. Romania has stopped to build the two reactors.

<sup>5</sup> USA

enrichment and reprocessing - ENR),<sup>7</sup> reconsideration of bilateral agreements for nuclear cooperation.<sup>8</sup>

### THE SYSTEM OF SATELLITES

Nowadays, the space has become a *sine qua non* element for great powers prosperity and a place for military capabilities to strategically ensure communication, navigation and safety. Capabilities in space can provide a global coverage, continuity even on sensitive areas aspects extremely valuable from a military point of view and in international affairs.

On the other hand, the emerging actors in space - launch of commercial satellites, anti-satellite tests, etc - increased the number of debris/trash in space, even if they officially share the general interest related to safety, stability and security in its aim of use for peaceful purposes. Commercial satellites reallocation has direct effects on the crisis development, especially because many states use commercial systems for satellites and communication systems of national military forces.

Introduction of spatial security on diplomatic agendas and defense strategies but also in the academic area is the result of distrust and different perceptions on this important issue.<sup>9</sup> Finding a common language and understanding on space settlement arrangements and security systems operating in this field become an objective which requires and will require efforts particularly supported.<sup>10</sup>

International community records efforts on regulatory regime of space<sup>11</sup> but also in promoting at international level the transparency of measures for increasing confidence.<sup>12</sup> These kinds of efforts and achievements do not cover examples of attacks on systems of satellites during a major crisis.

From a strategically point of view, the system of satellites becomes a very important target, especially in the first phase of a major crisis when masking labor projection opponent. To ensure unmasking, there are concerned capabilities in the space of the opponent especially by electronic means that "satellites have no mothers", i.e. that their destruction does not entail vigorous public protests which support political and military countermeasures. The act of decision in times of crisis is severely limited by time frame and should be avoided when inaction equals to the disaster, the handiest option is the paroxysm variant reporting to the action from the opponent, even if the reason invites to take into account all the parameters for the analysis of the crisis development.

Enemy's deterring as a resultant of strategic stability is directly dependent on balance stability generated by the capabilities of the space. Strategies centered on coup d'état on the opponent's capabilities from the space, as a general rule, in the event of no neutralization of its opponent response force are intertwined with its capabilities, risks of space, vulnerability, having wide consequences. The consequences of destruction of planetary carrier shall be

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<sup>6</sup> IAEA.

<sup>7</sup> The Nuclear Suppliers Group.

<sup>8</sup> USA.

<sup>9</sup> The United States continues to express concern about Chinese space activities and China's lack of transparency when it comes to unique space launch profiles or robotics experiments. China, for its part, expresses concerns about U.S. activities, such as the reusable experimental test platform known as the X-37B. See James Finch, "Bringing Space Crisis Stability Down to Earth," in *Joint-Forces Quarterly*, Vol. 76 by NDU Press on December 30, 2014.

<sup>10</sup> See William Lynn, "A Military Strategy for the New Space Environment," *The Washington Quarterly* 34, no. 3 (Summer 2011), 11. National Space Policy of the United States of America, June 28, 2010, available at <[www.whitehouse.gov/sites/default/files/national\\_space\\_policy\\_6-28-10.pdf](http://www.whitehouse.gov/sites/default/files/national_space_policy_6-28-10.pdf)>.

<sup>11</sup> The European Union, project "International Code of Conduct for Outer Space Activities."

<sup>12</sup> The United Nations Group of Government Experts Recommendations regarding bilateral and multilateral transparency and confidence-building measures.

geared for the production of debris/trash in space which represents a danger to future satellite systems that will be put in the space.

Space presence, in the context of nuclear balance is necessary to ensure that through a system of satellites can be pursued nuclear activities of the opponent, in the main, for early warning about possible missile launch of the opponent but also to assess damages caused by its own blows. The level of nuclear strategies, attack satellites monitoring predicts of nuclear imminent attacks on large-scale; on the other hand, the determining factor is still the nuclear development which is not an independent nuclear force to the systems of satellites. However, minimizing the role of satellite systems, excluding future prolonged crisis in space is a huge mistake. Crisis scenarios in space, using the benefit of an offensive attitude towards a waiting position, bet on execution of blows on its opponent and before satellites. Performing the first blow to deceive the denial of stability in space, along with the weapons arranged in space being concerned and satellites intended for peaceful purposes, but also with consequences on conventional forces which may take into consideration actions such as the "force projection" in the spectrum crisis escalation, with consequences hard to estimate.

A broad range of benefits offered by spatial capabilities, from the opponent's perspective as a main target in the initial stages of major crises, even if political implications can be difficult to control. Temporary and reversible anti-systems electronic space capabilities have become widespread; even at fingertips of non-states actors due to decreased costs introduce new dynamic attributes igniter in the crisis management.

From a military point of view, capabilities placed in the space can identify forces of its opponent, the management and the control of weapons systems, assess of damages caused by its opponent after the execution knocks. Becoming aware of potential lock marketing activities for satellite communications, directed against communication satellites used in the strategic value during a political crisis with serious consequences in the act of command can be easily interpreted as a stage prior to a nuclear crisis.

Carrying out a major crisis dependent on defining strategic stability mainly by reference to nuclear balance, must add to determinants and the emergence of new members to develop potential capabilities in space projection to ensure its own forces, outside the frame of nuclear strategic stability.

## **NPT**

Although the NPT regime from the beginning put into advantage NWS, it was ignored by continuing the security policies centered on major role of nuclear weapons and improvement of the quality of the company's own nuclear weapon shop. On the other hand, NNWS is conditioned by the accession to the Additional Protocol of the IAEA<sup>13</sup> and exclusive relationships with a multilateral bank of fuel as the basis of peaceful nuclear activities carried out with a NWS.<sup>14</sup> Bush administration proposal to set up an international banks of supply, contributed to the development of Obama administration to be taken into consideration by several Member States as a way of exclusively and monopoly but refused again.<sup>15</sup> It has been shown that such a bank linked to the highest standards of export - drawn up by the Nuclear Suppliers Group – NSG, may disadvantage NNWS.

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<sup>13</sup> The International Atomic Energy Agency (IAEA) Additional Protocol - IAEA Comprehensive Safeguards Agreement.

<sup>14</sup> Joyner, Daniel H., "Recent developments in international law regarding nuclear weapons", in *The International and Comparative Law Quarterly*, January 2011, Cambridge University Press, 209-224.

<sup>15</sup> See *Statement by HE Ambassador Anatoly Antonov, Head of the Delegation of the Russian Federation to the Second Session of the Preparatory Committee for the 2010 Review Conference*, April 28, 2008.

The NPT Review Conference in 2000 established a series of measures for implementation of the provisions of NPT Article IV. The NPT Review Conference in 2005 shall be concluded, without drawing up a final document; the Review Conference in 2010 NPT drew up a balanced document built on three main pillars. If previously, the emphasis has been placed on non-proliferation pillar, on its own initiative USA, the emphasis moves to non-proliferation to disarm.<sup>16</sup> In 2013, the withdrawal of Egypt from Preparatory Committee Meeting - PrepCom of the 2015 NPT Review Conference may have undesirable effects for the entire process but also for their efforts to create a "free zone of weapons of mass destruction in the Middle East (a WMDFZ in the Middle East).<sup>17</sup>

Currently, although the efforts to create a ground frame are obvious, provided by the resolution of the Security Council No 1540/2004 (UNSCR 1540/2004), the lack of these means coordination allow the trade with nuclear materials.

Resolutions of the Security Council to punish the trade with nuclear materials represent a major step forward, complemented by the employment of experts in the field, but not enough according to expectation. It is found that a certain institutional control of this trade is coupled with increased visibility into the problem of non-proliferation. These developments have found echo in a substantial support from more than one member by the acceptance of the principles prohibition inserted in PSI, in compliance with national activities from the provisions of UNSCR 1540/2004 and the checklist of NSG.

On the other hand, there is unanimity of views by which it is claimed that nuclear safety regime is much more vulnerable than that of non-proliferation to that of non-proliferation due to low number of treaties and agreements governing this area. As a result, the route networks of the nuclear material - producer, seller, banker, and blackmail topic, beneficiary - have become subject to surveillance more uncomfortable.

By resolution no. 1887, dated on September 24, 2009 on the UNSC - The United Nations Security Council<sup>18</sup>, it is stressed the importance to compliance with the NPT obligations<sup>19</sup> and documents relating to disarm, even if they are not obliged to abide the obligations laid down by this resolution. This resolution could be supplemented by a series of standards for the assessment and intervention in the case of non-compliance with NPT - more than welcomed, but expectations remained only at the stage of hypothetical and beneficial scenarios.<sup>20</sup> In 2009, the Obama Administration adopted a new position and constructive

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<sup>16</sup> US Statement to the NPT Review Conference, May 3, 2010, by US Secretary of State Hillary Clinton. The Joint Statement of the NWS to the 2010 RevCon states that: "As nuclear-weapon States, we reaffirm our enduring commitment to the fulfillment of our obligations under Article VI of the NPT and our continuing responsibility to take concrete and credible steps towards irreversible disarmament, including provisions for verification." See *Statement by the Deputy Minister of Foreign Affairs of the Russian Federation, Sergey A Ryabkov, to the 2010 Review Conference, May 4, 2010.*

<sup>17</sup> See Rebecca Johnson, "The NPT's 'unacceptable and continuous failure': Egypt walks out', *Open Democracy*, May 1, 2013, available at <http://www.opendemocracy.net/5050/rebecca-johnson/npt%E2%80%99s-%E2%80%9Cunacceptable-and-continuous-failure%E2%80%9D-egypt-walksout>

<sup>18</sup> See UN Security Council, Resolution 1887, S/ RES/1887, September 24, 2009. See [www.un.org/News/Press/docs/2009/sc9746.doc.htm](http://www.un.org/News/Press/docs/2009/sc9746.doc.htm).

<sup>19</sup> The 1968 Nuclear Nonproliferation Treaty (NPT), which comprises the cornerstone of the nuclear non-proliferation legal regime. See Goldschmidt, Pierre, Safeguards Non-compliance: A Challenge for the IAEA And the UN Security Council, *Arms Control Today*, January-February 2010, 22-26.

<sup>20</sup> 1887 Resolution is important, and may mark a significant reorientation of the work of the Security Council from its work over the previous decade in the nuclear area, which focused almost exclusively on dealing with non-proliferation related 'problem cases' like North Korea and Iran. See D., Joyner, 'Can International Law Protect States from the Security Council? Nuclear Non-proliferation and the UN Security Council in a Multipolar World,' in M Happold (ed), *International Law in a Multipolar World* (Routledge, London, 2010).

NPT<sup>21</sup> regime, but the lack of reaction of the other NWS and American political scene did not allow a radical change at the time of the revision of NPT.<sup>22</sup>

In 2014, as a continuation of NPT, in Oslo and Mexico took place a follow-up conference regarding the humanitarian use of nuclear weapons, boycotted by Russia and France, being considered as a "having fun."

The initiative of several NNWS to negotiate a convention concerning the prohibition on possession of nuclear weapons in the format or outside the Conference on Disarmament – CD is doomed to failure without support from NWS.<sup>23</sup>

A possible variant of action against using nuclear weapons for NNWS could be the negotiation of a legal document concerning the prohibition on the use of nuclear weapons on the basis of the status of chemical and biological weapons,<sup>24</sup> the caducity of nuclear leader doctrines, non-legal weapons, removed outside of international law of their use.

On the other hand, 2015 NPT represents an opportunity to request NWS to come under the law of armed conflict, humanitarian law on their actions supported by using nuclear weapons.<sup>25</sup> China as a member of P-5 demonstrated receptiveness at NNWS requests from members of P-5 to participate in the humanitarian movement on the impact of using nuclear energy.

### CNS

In 2012, the Convention on Nuclear Safety - CNS recorded numerous amendments from the NRC - Nuclear Regulatory Commission to analyze the causes of the accidents from Three Miles Island nuclear plants, Chernobyl and, in particular, Fukushima Daiichi. NRC is responsible for compliance with nuclear treaties and conventions to which the U.S. is a signatory party to all NPT reports, considered as a fundamental treaty but also to the outcome of the review conference.

Substantial American involvement in the NRC nuclear safety translates through the collaboration with IAEA, through bilateral relations with other governments, coordination between global negotiations. In addition, the process for the granting of licenses for the export in the peaceful uses of nuclear material, the deployment of sustained efforts to reduce the use of high enriched uranium (HEU) for the production of medical radioisotopes, the passage to the production of HEU to use molybdenum-99.

Control of exports of nuclear material and equipment is accomplished by Nuclear Supplier Group - NSG within the framework of which NRC has an important role to play in correlation with the safety standards and security with economic interests.

CNS is considered the cornerstone of the sub-frame of global nuclear safety understood that the whole institutional framework (intergovernmental organizations, nuclear industry, networks of trade and cooperation in the field of nuclear energy, the non-governmental organizations) and the ad hoc groups, governed by legal documents (conventions, agreements, codes of conduct) and technical standards designed to improve national measures but also of international cooperation. This scheme is aimed to protect individuals, society and the environment against nuclear accidents of any nature, by

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<sup>21</sup> "The United States is not prepared at the present time to adopt a universal policy that deterring nuclear attack is the sole purpose of nuclear weapons, but will work to establish conditions under which such a policy could be safely adopted." See *2010 Nuclear Posture Review*, VIII.

<sup>22</sup> The 2010 Non-Proliferation Treaty Review Conference.

<sup>23</sup> Beatrice Fihn (ed.), *Unspeakable Suffering: The humanitarian impact of nuclear weapons*, Reaching Critical Will, WILPF 2013, [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org).

<sup>24</sup> The 1925 Geneva Protocol.

<sup>25</sup> Daryl G. Kimball, "Nuclear Disarmament and Human Survival," *Arms Control Today*, Vol.44/2014, January-February 2014, Washington.

promoting IAEA as a global center for emergency situations in the field of nuclear energy, even if its standards are not recognized by the entire international community.

Non-proliferation is directly dependent on strategic stability, as well as the cornerstone of nuclear field, as defined in the main relations between USA and Russia and China.<sup>26</sup> Along with other international nuclear superpowers, the allies play an important role both by means of negotiations, development of integrative processes but also regulations and interpretation of specific legal instruments.

Transparency as risks marker of the nuclear safety is in a continuous competition with multiplied threats by secret nuclear activities that indicate nuclear safety, a binomial which is waiting for a solution in the interests of all the members based on mutual confidence. Although all states accept the reality of complex relationships and the achievements there are still parts which remain to be settled. Transparency is a sine-qua-non condition for threat assessment and risk analysis but also for improving the standard of safety and security, the setting up and the creation of a network of centers of excellence in becoming a nuclear initiative of great significance in the future.

Failure of accomplishing certain standards has more than one member that does not support the concept of transparency, variant being the increase in measures to increase the confidence, the exchange of information and good practice.

Building a nuclear security framework requires that along with the transparency, to take into consideration the prevention, detection, response capabilities, and to establish a data base with nuclear samples directions of action against which many members expressed reservations.

A key issue for a regime which edifies the nuclear safety residual in passing from the acceptance and implementation of voluntary universal requirement. The major difficulty consists in an unusable state activity distinction between civil and military confidentiality protected opacity corollary state sovereignty.

### **VECTORS OF INTERNATIONAL NON-PROLIFERATION**

Vectors of international non-proliferation are of diversity, benefit for the amplitude of the realities integrating global: the UN Security Council, G-8 Global Partnership, International Atomic Energy Agency - IAEA, the European Union, INTERPOL, the Nuclear Suppliers Group - NSG, the Proliferation Security Initiative - PSI.

American nuclear policy is centered on strengthening NPT in compliance with IAEA safety standards but for the development of the series of de-initiative in this field. United States initiatives are related to: Proliferation Security Initiative-PSI. Initiatives of security on the prevention (Container Security Initiatives - CSI) which are subscribed to strategic stability in the wider context of global disarms correlated to the concept of the "global growth zero" (Global Zero) and of a free world of nuclear weapons. Among U.S. nuclear strategy, it shall be counted the Global Threat Reduction Initiatives - GTRI, Nuclear International Material Protection and Cooperation Programs), the negotiation of a Fissile Material Cutoff - FMCT) and the entry into force of the Comprehensive Test Ban - CTBT).

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<sup>26</sup> The ASEAN Regional Forum (ARF) and the Council for Security Cooperation in the Asia Pacific (CSCAP). See *The First US-China Nonproliferation and Nuclear Security Dialogue*, Washington, DC, June 26-27, 2014. See also, Hans M. Kristensen, "The Role of U.S. Nuclear Weapons: New Doctrine Falls Short of Bush Pledge", *Arms Control Association*, Strategic policy, September, 2010, available at <http://www.armscontrol.org/print/1875>.

In 2007, the initiative to abolish the nuclear weapons is launched (the International Campaign to Abolish Nuclear Weapons - ICAN) concentrated on developing a global Treaty concerning the prohibition on tests, the destruction of arms and military nuclear programs.<sup>27</sup>

### IAEA

The general interest of the international community in the field of nuclear energy is surrounded to fulfill the compliance with the obligations derived from the nuclear non-proliferation,<sup>28</sup> IAEA being in the position of detecting any unauthorized activity in any state without nuclear weapons (NNWS- non-nuclear-weapon state), as a signatory of the NPT but also the deviations from the agreements between a state and IAEA.<sup>29</sup>

Failure to follow regime established by the agreements on nuclear safety, can be penalized by UNSC Resolutions which granted IAEA specific means for mending "any breaches from the obligations" including the extensive rights of accessing an additional agreement.<sup>30</sup> A second and a third resolution in that case, shall contain the request of ending service of enrichment and reprocessing, suspending military cooperation, the delivery of equipment to all states with that state until a third IAEA Resolution through which it found the obligations derived from nuclear non-proliferation process.<sup>31</sup>

UNSC considers NNWS withdrawal from NPT as a threat to international peace and security,<sup>32</sup> if this occurs after IAEA found that the member "had violated the obligations" derived from nuclear non-proliferation process.

IAEA procedures state that the Safeguards Department (IAEA-DS - IAEA Department of Safeguards) is competent to determine whether failure to comply with the obligations is intended<sup>33</sup> or it is only a technical matter.<sup>34</sup> If additional checks are needed, it

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<sup>27</sup> ICAN is a campaigning network that focuses specifically on mobilizing for a ban on nuclear weapons. Founded by IPPNW, ICAN now comprises NGO partners from all round the world, including Egypt, Israel, Turkey, Iran and the Gulf States. [www.icanw.org.uk](http://www.icanw.org.uk)

<sup>28</sup> The main topic at "The 2005 Nuclear Nonproliferation Treaty (NPT) Review Conference", "The 2010 Nuclear Nonproliferation Treaty (NPT) Review Conference" and AIEA main's objective according its status "the contribution of atomic energy to peace, health, and prosperity throughout the world" while ensuring that nuclear material, equipment, facilities, and information are not used for any military purpose. See International Atomic Energy Agency, "Statute of the IAEA," available at [www.iaea.org/About/statute\\_text.html](http://www.iaea.org/About/statute_text.html).

<sup>29</sup> IAEA, "Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran: Report by the Director General," GOV/2005/75, November 10, 2003, [www.iaea.org/Publications/Documents/Board/2003/gov2003-75.pdf](http://www.iaea.org/Publications/Documents/Board/2003/gov2003-75.pdf); IAEA, "The Structure and Content of Agreements Between the Agency and States Required in Connection With the Treaty On the Non-Proliferation of Nuclear Weapons," INFCIRC/153 (corrected), June 1972, para. 28, [www.iaea.org/Publications/Documents/Infcircs/Others/infcirc153.pdf](http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc153.pdf); IAEA, "Reinforcing the World's Regime Against Nuclear Weapons," November 14, 2002, [www.iaea.org/NewsCenter/News/2002/II-13-903199.shtml](http://www.iaea.org/NewsCenter/News/2002/II-13-903199.shtml); IAEA, "Implementation of the NPT Safeguards Agreement in the Republic of Korea: Report by the Director General," GOV/2004/84, November 11, 2004, para. 38, [www.iaea.org/Publications/Documents/Board/2004/gov2004-84.pdf](http://www.iaea.org/Publications/Documents/Board/2004/gov2004-84.pdf); IAEA, "Implementation of the NPT Safeguards Agreement in the Arab Republic of Egypt: Report by the Director General," GOV/2005/9, February 14, 2005, para. 22, [www.carnegieendowment.org/static/npp/reports/gov2005-9.pdf](http://www.carnegieendowment.org/static/npp/reports/gov2005-9.pdf).

<sup>30</sup> Pierre Goldschmidt, "Concrete Steps to Improve the Nonproliferation Regime," Carnegie Papers, No. 100 (April 2009), [www.carnegieendowment.org/publications/index.cfm?fa=viewSrid=2\\_2943&prog=zgp&proj=znpp](http://www.carnegieendowment.org/publications/index.cfm?fa=viewSrid=2_2943&prog=zgp&proj=znpp).

<sup>31</sup> See the EU-3 denial (France, Germany, and the United Kingdom) to continue the negotiations with Iran. See Statement by the Iranian Government and visiting EU Foreign Ministers, October 21, 2003. [www.iaea.org/NewsCenter/Focus/IaeaIran/statement\\_iran21102003.shtml](http://www.iaea.org/NewsCenter/Focus/IaeaIran/statement_iran21102003.shtml).

<sup>32</sup> (a threat to international peace and security) Article 39 of the UN Charter.

<sup>33</sup> That should be reported to the IAEA Board of Governors as "non-compliance" in accordance with Article XII.C of the IAEA status. See John Carlson, "Defining Non-compliance: NPT Safeguards Agreements," *Arms Control Today*, May 2009, pp.22-27, [www.armscontrol.org/act/2009\\_S/Carlson](http://www.armscontrol.org/act/2009_S/Carlson).

<sup>34</sup> Need to be reported only in the annual Safeguards Implementation Report. The Safeguards Implementation Report, submitted every year to the board. See IAEA, "Implementation of the NPT Safeguards Agreement of the

will require concern from the UNSC and, in the case of failure to comply with the obligations, it may be requested the withdrawal from NPT. It is considered that we are in the situation of "infringement of the obligation" - the prohibition on access of building a facility declared or suspected, contact with certain people, consulting certain documents.<sup>35</sup>

Non-existence of a definition of "non-compliance", the blur of border responsibilities between IAEA-BG (IAEA-BG - IAEA Board of Governors) and IAEA-DS responsibilities allow an important role and political considerations, as they affect objectivity of IAEA. By avoiding terminology status IAEA, in certain situations there was transferred IAEA-DS obligation which preserved the "non-compliance" to IAEA-BG.<sup>36</sup>

IAEA-BG may require an UNSC Resolution<sup>37</sup> to give a delivery on specific legal rights in the field of finding "non-compliance"; after a fairly long period (2003-2006), IAEA-BG reports that UNSC Iran by "non-compliance" derived from NPT, in accordance with Article XII. C, the IAEA status, carrying on the activities of enrichment which must be suspended.<sup>38</sup> On July 15, 2011 in relation to Syria, IAEA-BG announced that UNSC suspect they reconstruct in secret a reactor at Dair Alzour after a North Korean model, destroyed in 2007 by Israel.

## NSS

The existence of detection and the response of capabilities represent an intrinsic phenomenon of nuclear safety and regional safeguards, but especially at the global level – this necessity being underlined by Summit for nuclear safety (Nuclear Security Summit - NSS)<sup>39</sup>. The four NSSs (last in 2016, Washington) probably won't be able to constitute a system of nuclear safety, the situation continues to remain uncertain and without even strategic drawings to be developed in the future. Moreover, in the opinion of some authors, IAEA according to its status is and will remain an institution, which is not suitable for the NSS acquisition process and becomes the vector of formation of a system of nuclear safety. Nowadays, one cannot talk about a convention framework to codify conventions, rules and standards, and to confer upon IAEA a position much more grounded in international relations, with all that is unanimous that it is necessary to nuclear governess.<sup>40</sup> NSS is dedicated to achieve a nuclear security regime due to the lack of creativity; in chapter

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Socialist People's Libyan Arab Jamahiriya," GOV/2004/ 18, March 10, 2004, para. 4, [www.iaea.org/Publications/Documents/ Board/2004/gov2004-18.pdf](http://www.iaea.org/Publications/Documents/Board/2004/gov2004-18.pdf).

<sup>35</sup> Non-compliance represents the "obstruction of the activities of IAEA inspectors, interference with the operation of safeguards equipment, or prevention of the IAEA from carrying out its verification activities". IAEA, "IAEA Safeguards Glossary, 2001 Edition," 14, para. 2.3.(d), [www.pub.iaea.org/MTCD/publications/PDF/nvs-3-cd/PDF/NVS3\\_prn.pdf](http://www.pub.iaea.org/MTCD/publications/PDF/nvs-3-cd/PDF/NVS3_prn.pdf).

<sup>36</sup> See Pierre Goldschmidt, "Exposing Nuclear Non-compliance," *Survival*, Vol. 51, No. 1 (February-March 2009), 143-163,

[www.carnegieendowment.org/publications/index.cfm?fa=view&id=22734&prog=zgp&proj=znpp](http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=22734&prog=zgp&proj=znpp).

<sup>37</sup> Under Chapter 7 of the UN Charter, which addresses threats to international peace and security.

<sup>38</sup> UN Security Council, Resolution 1737, S/RES/1737, December 23, 2006.

<sup>39</sup> According to Russia, the planning process privileges, the hosts of the previous summits in the drafting of the preparatory summit documents. Russia criticized the creation of "working groups formed arbitrarily and with limited membership" to "devise guidelines for such international bodies and initiatives" as the United Nations, the International Atomic Energy Agency, the Global Initiative to Combat Nuclear Terrorism, the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, and Interpol. Officials from several countries confirmed that some states have raised some objections to the process. See Kingston, Reif; Horner, Daniel, "Russia Skips Summit Planning Meeting", *Arms Control Today*, Vol.44/ December 2014, Washington, 28-27.

<sup>40</sup> The European Atomic Energy Community (EURATOM) is a mechanism of regional nuclear governess while The ASEAN Network of Regulatory Bodies on Atomic Energy (ASEANTOM) is a network which can favor a future regional nuclear governess.



achievements can pass only creation of a network of centers of excellence, too little for the intended purposes.<sup>41</sup>

Being the successor of NSS in building nuclear governance, according to some authors Office of Nuclear Security - ONS could be part of the IAEA if Member States accept and implement an action plan in this regard. Although there are other options less viable as G-8, G-20, GICNT<sup>42</sup> and even the creation of a new institution.

Nuclear governance centered on achieving nuclear security rests on a series of achievements<sup>43</sup> that could be built by: cohesion, globalization, increasing confidence, a verification system and the dissemination of the best practices. The existence of common security standards worldwide does not depend on the technical factors but also on the political will.<sup>44</sup>

The NSS objectives could be taken over by several institutions already in existence. An alternative could be their continuation, under the coordination of the three host states of NSS<sup>45</sup> but no member has offered to organize a new NSS. However, it is taking into consideration the use of conventional framework in order to improve the system of nuclear safety.

In 2016, the NSS would be able to transfer its concern to IAEA and UN and give them a period of time to prepare for this purpose although there are questions from the specialists regarding the actual benefits from that which they would be able to bring this organization to NSS.<sup>46</sup>

Although Russia participated in 2010, 2012, 2014 in NSS, it did not attend the session to plan for 2016 NSS (planning session, Washington, October 2016) dedicated acceleration international efforts to prevent nuclear terrorism.<sup>47</sup> According to a Russian diplomat, "changing political atmosphere" caused Russia to withdraw from the NSS race.<sup>48</sup>

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<sup>41</sup> Luongo, Kenneth, N., "Endgame for the Nuclear Security Summits", *Arms Control Today*, Vol. 44/2014, January-February 2014, Washington, pp.8-11.

<sup>42</sup> the Global Initiative to Combat Nuclear Terrorism – GICNT.

<sup>43</sup> UN Security Council resolutions; the amendment to the Convention on the Physical Protection of Nuclear Material (CPPNM); the International Convention for the Suppression of Acts of Nuclear Terrorism on the prevention of nuclear terrorist acts (ICSANT); and the nuclear security summits. See Kenneth, Luongo, N., "Endgame for the Nuclear Security Summits", *Arms Control Today*, Vol. 44/2014, January-February 2014, Washington, pp.8-11.

<sup>44</sup> See the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances That Deplete the Ozone Layer.

<sup>45</sup> The United States, South Korea and the Netherlands.

<sup>46</sup> Horner, Daniel, "Samore Suggests 2016 Security Summit", *Arms Control Today*, Vol. 43/2013, March 2013, Washington, pp.7-8.

<sup>47</sup> Kenneth Luongo, a former senior adviser to the secretary of energy for nonproliferation policy who is now president of the Partnership for Global Security, said Russia's absence from the October planning session goes beyond the current crisis in relations over Ukraine. It is another step in a decision that Russia has made to "wind down cooperation" with the United States on nuclear security, Luongo said in a Nov. 21 interview. See Kingston, Reif; Horner, Daniel, "Russia Skips Summit Planning Meeting", *Arms Control Today*, Vol.44/ December 2014, Washington, pp.28-27.

<sup>48</sup> Luongo characterized Russia's behavior as "irresponsible" and warned that U.S. options for convincing Russia to change course are limited. Russia said that it informed the United States of its decision not to participate in the 2016 summit preparations in mid-October. Of the 53 countries that attended the 2014 summit, Russia was the only one that did not participate in the planning session. See Kingston, Reif; Horner, Daniel, "Russia Skips Summit Planning Meeting", *Arms Control Today*, Vol.44/ December 2014, Washington, pp.28-27.

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**REVOLUTION OF "THE TEN YEARS" FROM POLAND****Flavius-Cristian MĂRCĂU<sup>1</sup>****ABSTRACT:**

REVOLUTION IN POLAND REPRESENTS AN IMPORTANT EVENT IN THE HISTORY OF CENTRAL AND EASTERN EUROPE HAS SINCE MANAGED A NEGOTIATION BETWEEN COMMUNIST LEADERS AND CIVIL SOCIETY WEATHER POSITIVE IMPACT FOR THE LATTER. POLAND WAS THE FIRST COUNTRY IN THE SOVIET BLOC WAS ABLE TO GENERATE A CURRENT DEMOCRATIZE AMONG COMMUNIST STATES. IN 1989, IT WAS STARTED THE DOMINO EFFECT THAT LED INEVITABLY TO THE COLLAPSE OF TOTALITARIAN REGIMES IN EASTERN AND CENTRAL EUROPE.

**KEYWORDS:** COMMUNIST , POLAND, LECH WALESZA, MARTIAL LAW, DECOMMUNIZATION

Poland can be considered a state historically interesting and powerful if we refer to the fact that he was able between 1610 and 1612 to set fire to Moscow twice and master Ukraine until the eighteenth century. However, a feature of the Polish state ferocity was that the party has shown a capability to make enemies everywhere, and when you face an enemy, confront each other. But the end result was not favorable since led to self-destruction, and in 1772, 1792 and 1795 was divided between Russia, Austria and Prussia. By the Treaty of Versailles (18 June 1919), Poland recognized as an independent state status, but only after a few years (1939), is divided for the last time. Regarding the communist regime (January 1947), he enjoyed coming to power through general elections but closely monitored by Russian troops - which we can discuss election may be questioned given that the result were made at *shadow of a tank*. On a funnier note, Stalin was right by the remark made it to the end of the Second World War, that "*socialism in Poland fits just as would fit a riding saddle on a cow*".<sup>2</sup>

As regards civil society struggle waged against the communist system, the Helsinki Final Act (1979), he stood as the inspirational basis for the Polish<sup>3</sup> intelligentsia. Following this, Adam Michnick creates the Workers' Defence Committee (Komitet Obrony Robotników - KOR) aimed to defend workers' labor union and developing a clandestine literature.<sup>4</sup>

In the fight against totalitarianism, KOR proved impressive and balanced aggression that would not leave room for concessions, so alongside it have been incurred and other

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<sup>2</sup> Florin Garz, *Renasterea Europei*, (Bucuresti: Odeon, 1999), pp. 179-181

<sup>3</sup> Following the Helsinki Final Act, the Polish intelligentsia was inspired on the creation of civil organizations.

<sup>4</sup> Regarding the clandestine literature developed by KOR, they give rise newspaper Robotnik (the worker), edited by Ian Litijnski

organizations: the civil rights movement and humanitarian, with the support base Catholic Church and League of Polish Independence, supported by the intelligence services of Bonn them. We note that this is the time to join the fight against the Church of Polish communism, under the guise of humanitarian organizations, but since 1957 the Catholic Church had obtained a concession from the regime under which he was entitled to carry out pastoral activity likely including Available own publications. Spring of 1981, is the point at which "Solidarity" under the influence of both internal and external factors, especially from the Vatican and the CIA, strongly triggers a mechanism that aims, well-defined, open political confrontation with the communist regime.<sup>5</sup>

As regards direct confrontation between the Communist Party and the Solidarity trade union, it breaks with the failed negotiation attempts between on the one hand Jaruzelski and Walesa and Josef GLEPP on the other.

A particularly important role (perhaps most importantly) the independent trade union played autocephalous "Solidarity" (Niezależny Samorządny Związek Zawodowy "Solidarność"), based on the grounds that it represented an important catalyst for what was to turn into a domino effect . He showed a hitherto unprecedented capability in the Soviet bloc, namely, demonstrated that the Communist Party lost power enjoyed before. It is the first civilian organization that was able to negotiate with a totalitarian regime, which was initially obtained through various pressures, greater freedom from the party, after reaching the trigger point of the democratization process in Poland.

Solidarity was born (September 1980 in Gdansk) as a type union federation and its first president was elected Lech Walesa (1981), but the Aces organization would not operate in a legal framework Due to pressure by Moscow on General Jaruzelski Wojciech that night 12 to December 13, 1981, establishes martial law on the entire territory of Poland. *"The failure of the Polish Government to implement the agreement properly Gdansk led to the extension of social unrest. In September 1981 triggered a general strike Solidarity and the new prime minister, Wojciech Jaruzelski, responded by imposing martial law. Solidarity buildings were besieged movement supporters were arrested and repressed demonstrations. At that time it was already a figure Walesa International. In 1981 he met with Pope John Paul II, who was of Polish origin, anti convinced. In December 1983 he received the Nobel Peace Prize."*<sup>6</sup>

Why say that Moscow has pushed for stopping union? First they were afraid that Poland will become a pluralistic, something unthinkable for the Communist Party and in the second there is a danger that such unions to appear in all states of the Soviet bloc. Moscow's actions were justified from the point of view of communist ideology, if we consider the positive trend of contamination, but considering how despicable action and trends of subjugation applied to the states by the Kremlin.

With the introduction of martial law, a large part of the Solidarity trade union leaders were caught and arrested, and the government of Poland was taken over by the Military Council of National Salvation which was composed of 21 generals and senior officers. An important aspect is that the detention of those arrested was not made as an extermination (practiced in the communist regime) but in different forms more *human*. For example, as recounted in the section dedicated to the Solidarity trade union, Lech Walesa was imprisoned in a house of the party.

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<sup>5</sup> Garz, *Renasterea Europe...*, p 186;

<sup>6</sup> [http://www.historia.ro/exclusiv\\_web/portret/articol/lech-walesa-erou-luptei-polonezilor-mpotriva-regimului-comunist](http://www.historia.ro/exclusiv_web/portret/articol/lech-walesa-erou-luptei-polonezilor-mpotriva-regimului-comunist), accessed on 16.06.2015

Instituted martial law of General Jaruzelski allowed to simultaneously hold the post of Defence Minister, Prime Minister and Chairman of the Military Council of National Salvation, acting in the interests of Moscow in support of totalitarianism in Poland.

We note that *Solidarity* was not the only organization to fight against the regime. In addition to this union they were done remarked: *Militant Solidarity* (founded in Wroclaw by KORN Morawiecki) and the *Legal Intervention Committee Wroclaw* (founded by Zbigniew Romaszewski activist and a role they had wives and Marek Ewa Jakubiec), *University of Christian Workers*. Note that each organization that operated in sight, was seconded by another conspiratorial role, or that meet Confederation for Independent Poland (KPN - illegal nationalist party) that seconded *Legality Protection Committee in Krakow* that encompassed lawyers and trade union activists and organization which operate in clandestine *Regional Committee strikers*, led by Marek Muszynski, *Second Regional Executive Committee* (established by Wladyslaw Frasiniuk)<sup>7</sup>. It should be noted that the role of cover organizations regarded bearers to account for organizations that worked *underground* aggressive and a struggle against the communist regime in Poland.

Between 1984 (July) - 1986 (July to September) Jaruzelski issue decrees amnesty for all political prisoners, moreover, that Poland is the only communist state in which there is no political prisoner. Through these actions the communist leaders wanted leniency illusion development Cancellation symbol of repression and creating the image of a *tolerant Poles* should lead to the lifting of economic sanctions and diplomatic isolation termination. However, shortly after announcing the amnesty, Lech Walesa (2 October 1986) submit a letter to the State Council by wishing start dialogues on the need to achieve a union pluralism<sup>8</sup>. According to Jean-Francois Soulet<sup>9</sup>, the communist leader could not afford to refuse this call gesture given that Gorbachev had been announced by the fact that Poland was for Kremlin a kind of *test laboratory* on the reforms that were to be applied to the Soviet Union and of those related by Jacek Kuron<sup>10</sup>, within current evolutionary *Solidarity* movement that started from the need for the implementation of perestroika and transform the union into a powerful social force democratizing.

Jaruzelsky's team, headed by him, he tried to create the illusion of a toleration of *Solidarity* and what this price and therefore allow some moderation in terms of censorship, legislation on associations to guarantee freedom of expression, election of mayors by the population (if by that time, they were appointed by default, they will now be elected by the population) and in terms of economic enterprises is enhanced autonomy. As a result of decisions taken at management level, the team wanted the new guidelines to be passed by a popular referendum (30 November 1987), which proved to be a failure, perhaps because it was decided that the result it is calculated based on the number of enrolled and no votes.<sup>11</sup>

Regarding the role of the Catholic Church throughout this period, we can say that this was particularly important in view of the appearance that Josef GLEPP cooperated with authorities several times for different situations do not reach extremes.<sup>12</sup>

Mark Frankland, British journalist, stressed the important role of the book *Patriots Revolution* important role of the Church because various foreign secret services acted under

<sup>7</sup> Adrian Pop, *Origins and Patterns of Eastern European revolutions*, p. 222

<sup>8</sup> Pawel Machcewicz, *Poland 1986-1989: From Cooptation to Negotiated Revolution*, in Cold War International History Project Bulletin, Issue 12/13, Fall/Winter 2001, 94

<sup>9</sup> Jean-Francois Soulet, *Istoria comparata a statelor comuniste din 1945 pana in zilele noastre*, (Iasi: Polirom, 1998), 298

<sup>10</sup> Jacek Kuron, *Defeating totalitarianism* in Vladimir Tismaneanu (eds.) 1989. *The revolutions of the past and the future*, 217-218

<sup>11</sup> Soulet, *Istoria comparata a statelor comuniste din 1945 pana in zilele noastre...*, 298

<sup>12</sup> Garz, *Renasterea Europe...*, 186;

its umbrella to undermine the Polish communist regime, and Pope John Paul II, convinced anti-communist Polish origin He ensured the Catholic Church in Poland all the support they needed. An important aspect is that in 1987 received in audience Walesa is where the need would be in political pluralism, human rights, free association need, etc. Also in 1987 (September) George Bush visits Warsaw and talks with both Walesa and Jaruzelski. These meetings could understand that Walesa was perceived by the West as general replacement and one that will ensure the establishment of democracy in the state.

If the amnesty decrees issued in 1986, Poland gave signs of liberalization, soaring prices for consumer goods in early 1988 (February) generated a massive wave of strikes in the state, in early May that increased chaos in the economy. It was demonstrated once again the need to negotiate between the government and the opposition in order to establish the country's resuscitation measures. *"Statements made by Jacek Kuron Bronislaw Geremek and as well as that of one of his advisers Jaruzelski, Stanislaw Ciosek, advanced in late May and early June 1988, the idea of a coalition government with the participation of Solidarity, to materialize the idea << pact >> crisis. Objective necessity of such solutions has become even more evident under the new wave of strikes that shook Poland since mid-August 1988 under the slogan << >> There is no freedom without Solidarity".*<sup>13</sup>

Finally the power to understand that there is no other way but to negotiate with the opposition in order to establish measures to remove the country from deadlock, so start roundtable talks on February 6, 1989 between the Communists and the trade union *Solidarity*<sup>14</sup>. This event has taken on a particularly important significance since it is the first case in which the communist regime negotiated with any organization that has been resisted. We emphasize that it was time that the totalitarian regime has demonstrated that it is *clinically dead* and no longer able to react only try, through negotiation, to maintain position. In terms of understanding that event, it is a special symbolism that describes a framework that will succeed the Communist Party believes that maintaining a regime in Poland. The very impossibility of accepting bargaining counter denotes a union and a loss of legitimacy (which was maintained by force). For example, in 1987 a referendum was held on the new economic policy where the population voted against the government, and in 1988 the economy suffering a fall resulting in growing opposition to the communist government.

Presidential elections were held in November-December 1990 and were won by former *Solidarity* trade union leader Lech Walesa, but the parliamentary elections were delayed until October 1991, and the rate of participation in them was extremely low (about 43% ) and due to the fact that many were, according to Holmes<sup>15</sup>, already disappointed by the postcommunist regime. I have explained in previous chapters as scheduling of elections is necessary to take into account several aspects, one of which is the period from the fall of the old regime and to organize elections, because no-populated and already lost antitotalitarian momentum.

Lech Walesa remains a prominent figure towards democracy in Poland and the first democratic president after the fall of communism but one thing should be mentioned, namely that it has come at the rule after the first democratic elections in 1991, but it lost in 1995 to the former communist Alexandr Kwasiniwski.

In terms of experience roundtable, it had a strong impact in the Soviet bloc and was due demonstration that showed the inability of the communist regime could resist the pressure. *"Through a pact of elites and the mere fact of sharing common experiences and*

<sup>13</sup> Adrian Pop, *Originile si tipologia revolutiilor est-europene*, (Bucuresti: Ed. Enciclopedica, 2010), 225-226

<sup>14</sup> In the period 1988-1989, joined the union over a million new members coming from the ranks of Polish United Workers' Party.

<sup>15</sup> Leslie Holmes, *Postcomunismul*, (Iasi: Institutului European, 2004), 124

*effort to find negotiated solutions to the problems facing Polish society, the two sides - power and the moderate wing of the moderate opposition - approached one Furthermore, the foundation being placed Polish post-communist future political class ".<sup>16</sup>*

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<sup>16</sup> Adrian Pop, *Tentatia tranzitiei. O istorie a prabusirii comunismului in Europa de Est*, (Bucuresti: Corint, 2002), 215



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## THE HYBRID WAR CONCEPT - ARGUMENTS FOR AND VERSUS

Ion PANAIT<sup>1</sup>

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### ABSTRACT:

*THE OVERLAPPING OF MANY CATEGORIES OF CONFLICTS IN THE SAME GEOGRAPHIC SPACE – "CONVENTIONAL CONFLICTS", "ASYMMETRICAL CONFLICTS" – ALLOWS FOR THE ANALYSIS OF AN ENORMOUS QUANTITY OF PARADIGMS, FOLLOWED BY PREDICTIONS, THEORIES AND SINTAGMS, LEADING TO UNBEARABLE CONFUSION.*

*THE EXISTENCE OF THE THEORY OF "HYBRID WAR" IS JUSTIFIED BY GROTIUS'S METHODOLOGICAL INDICATION TO REJECT EXTREMES - HERE "CONVENTIONAL" AND "ASYMMETRICAL" THOUGH THEY ARE PART OF THE SAME PHENOMENON - AND TO VOTE FOR "HYBRID" AS PREDICTIVE FORMULA FOR THE FUTURE CONFLICTS. THIS THEORY WILL RESIST IN TIME DUE TO ITS RELEVANCY IN ADAPTING/REFORMULATING THE LAW OF ARMED CONFLICTS IN THE FUTURE AS A NECESSITY IN RESPONSE TO "MODERN WAR HYBRIDIZATION".*

*TO THESE OBJECTIVE CONDITIONALITY'S, INTRODUCING THE "WAR HYBRIDIZATION" SYNTAGM GETS THINGS EVEN MORE COMPLICATED, CAUSING CONFUSION THAT AFFECT THE STATUS OF THE INTERNATIONAL LAW REGARDING ARMED CONFLICTS UNDISTINGUISHING BETWEEN COMBATANTS/PARTIES IN CONFLICT DOES NOT HELP THE WAR LAW, ON THE CONTRARY, IT BREAKS ITS CREDIBILITY AS IMPERATIVE AUTHORITY.*

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**KEYWORDS:** CONFLICT, GROTIUS, THE LAW OF ARMED CONFLICTS, HYBRID WAR, WAR HYBRIDIZATION

### PRELIMINARY CONCEPTS

Though religious wars are a substantial episode of medieval history and religious reasons are still at the very base of modern conflicts, the Christian philosophy considers war as an immoral act and therefore considers that its specific actions should be forbidden.<sup>2</sup>

In a larger sense, if the belligerents behave as they please, or subjectively respect the laws of war, there are severe consequences; the justification for the civilians' sufferings being the "military necessity", the basic human rights cannot be observed.<sup>3</sup>

The concept of combatants' immunity seen from the perspective of war laws is a permanently flexible institution monitored by the international community, at least post-factum, but the atrocities and irresponsible acts against civilians cause real humanitarian catastrophes in modern conflicts.

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<sup>2</sup> See Clausewitz von C., *About War*, Military Publishing House, Bucharest, 1982.

<sup>3</sup> See Choucri, N., *Cyber politics in International Relations*, (Cambridge, MA: MIT Press, 2012), 4.

Actions such as the indefinite detention of terrorist suspects (see Guantanamo Bay), using drones against some suspect civilians are not properly regulated by the international war law.<sup>4</sup>

"Making the war human" goes hand in hand with enforcing the war law; its core is to determine if "war hybridization" is helpful in this respect, given the two options: ignoring "war hybridization" and maintaining the present regulations or maintaining the present law for armed conflicts or the trimming of them to the "war hybridization".<sup>5</sup>

The overlapping of many categories of conflicts in the same geographic space – "conventional conflicts", "asymmetrical conflicts" – allows for the analysis of an enormous quantity of paradigms, followed by predictions, theories and slogans, leading to unbearable confusion.<sup>6</sup>

From the traditional point of view, the classification "conventional"/"nonconventional" does not request their strict observation but it operates "quantitatively": most actions, with a certain degree of importance, define the conflict's class.<sup>7</sup> Usually, conventional wars develop asymmetrical components when a state's forces occupy the territory belonging to the second state; even a conventional strategy needs some certain amount of flexibility, which takes a holistic vision over all fight spaces.

It is only normal for the conflict to host some specifically conflict classes, but less important. Some think that a conflict has main features, characteristic to a "conventional conflict" and minor features, form the "non-conventional conflict" category; therefore, a "hybrid conflict" specific to modern times, a conclusion that is debatable.

Even more, after a shallow analysis of the theoretical bases of the "hybrid conflict" concept, the theoretical discourse turns towards the future gravity of the next conflicts for the national states, a problematic algorithm.

Not-knowing or ignoring a hybrid threat, the lack of confrontation with a conventional and/or non-conventional conflict by a national state would encourage an "open hybrid conflict"; this way of thinking is artificial and contradicts the military strategy principle regarding the forces balance and also the philosophy of the "Copenhagen School" international policies checked during the last quarter of the century of "cooperative security".<sup>8</sup>

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<sup>4</sup> The "hybrid war" must eliminate the guerilla structures and eradicate the enemies among civilians, to block the enemy from spreading insecurity by means of "cleaning, control and searching and destroying insurgent structures" to be legitimate in front of the people. See McCuen, John J. "Hybrid Wars." *Military Review*. Mar/Apr 2008, Vol. 88 Issue 2, 107-113.

<sup>5</sup> See Lynn III, William, "Defending a New Domain: The Pentagon's Cyber strategy", *Foreign Affairs*, 2010, vol.89, 97-108.

<sup>6</sup> See McDermott, Roger, "Russia's Information-Centric Warfare Strategy: Re-defining the Battle space", *Eurasia Daily Monitor*, The Jamestown Foundation, 2014, vol. 11, no. 123, <http://goo.gl/QaiEe3>.

<sup>7</sup> The American military doctrine, though distinguishes between "war against insurgents" (local authorities support to administrate their own population in the theatre) and the "hybrid war" (the support of the people in the theatre for the intervenient troops) there are no specifications regarding the "manner" in which the operations specific to each type of war are conducted. See McCuen, John J. "Hybrid Wars." *Military Review*. Mar/Apr 2008, Vol. 88 Issue 2, 107-113.

<sup>8</sup> The modern security concept includes five cumulative factors. The security of a state entity is ensured if the following five components are: politics, army, economy, society and ecology. The security domain does not overlap with the state's normal functionality, but it refers only to the threats that, by their mentioned dimensions, endanger the very existence of the state. The military component of the security refers to the interconnection of the following two levels: the offensive weapons and the defensive capabilities of the states, together with their perception of the intentions of other states to participate in the international life. According to the Copenhagen group, the security regions (communities) have the following characteristics: are formed of two or more states; these states are a coherent geographical component; they have interdependent relations from a security point of view, in a positive or negative sense, but significantly strong, stronger than the relations with external entities;

The preliminary conditions for hybrid threats are bound to planning the defense of the national states; it is considered that a wrong planned budget and an unrealistically military doctrine, without predictions and viable strategies, together with old technologies and armament are the ideal conditions for failing in facing "hybrid threats".<sup>9</sup>

In establishing the category of "hybrid threat" the next step is to fundament the "hybrid risk", suggesting the establishment of national military doctrines by the national states, focused on the "hybrid conflict" (the hybridization of warfare) totally ignoring the aired conflicts.

"Hybrid threats" are the future security challenges, specific to insurgent techniques and asymmetrical war, the avantpremiere of the fourth generation of wars.<sup>10</sup>

The danger in these threats forced NATO to develop a new operational concept "NATO Military Contribution to Countering Hybrid Threats - MCCHT" to adapt the strategy, structure and capability for the next 20 years.<sup>11</sup>

Specialty literature persistently moves forward with the concept of "non-conventional challenges" regarding the war between state.<sup>12</sup>

"The internet war"<sup>13</sup> means info manipulation directed to population or the elites, by decentralized sources overlapping or instead of political news or those supporting national security.<sup>14</sup> Given the international context of cybernetic conflicts – including the "net war" and "cybernetic war", the armed conflicts, including the "hybrid war" strongly depend upon intelligence and consequences analysis.<sup>15</sup>

By national military doctrines of some states, among the military components there are cells for the info study. Modern communications can be used to manipulate war info – by affecting the credibility and legitimacy of a party involved in the conflict.<sup>16</sup>

the model for the interdependent security should be profound and lasting. See Buzzan, Barry, Waever, Ole, Jaap de Wilde, *Security. A New Framework for Analysis*, Lynne Rienner Publishers, Boulder, London, 1998.

<sup>9</sup> "Army forces must be prepared to defeat what some have described as hybrid enemies: both hostile states and no state enemies that combine a broad range of weapons capabilities and regular, irregular, and terrorist tactics; and continuously adapt to avoid US strengths and attack what they perceive as weaknesses." See *The Army Capstone Concept Operational Adaptability-Operating Under Conditions of Uncertainty and Complexity in an Era of Persistent Conflict*.

<sup>10</sup> See Czosseck Christian, Rain Ottis and Katharina Ziolkowski (eds.), *4<sup>th</sup> International Conference on Cyber Conflict*, Tallin: NATO CCD COE, 2012, 141-153.

<sup>11</sup> See Kubesa, Milan; Spisák, Ján, "NATO/Hybrid threats and development of NATO's new operational concept", *Univerzita Obrany. Ustav Strategických Studií. Obrana a Strategie*, Vol.2/2011, (University of Defense, Brno), 5-15.

<sup>12</sup> See Alex Deep, "Hybrid War: Old Concept, New Techniques", *Small Wars Journal*, 20 March 2015. The strategy of an intervenient force in a "hybrid war" must foresee a possible governmental vacuum behind the offensive forces. The main problem is not forming a new central authority, but to "clear, hold and build" and form a "counter-organization" to destroy the the possible new insurgent structures and to control local population. See McCuen, John J. "Hybrid Wars." *Military Review*. Mar/Apr 2008, Vol. 88 Issue 2, pp. 107-113.

<sup>13</sup> "The net war" - "means trying to disrupt, damage, or modify what a target population 'knows ' or thinks it knows about itself and the world around it", See Arquilla, John and David Ronfeldt, "Cyber war is coming!" *Comparative Strategy*, 1993, vol. 12, 141-165.

<sup>14</sup> "The cybernetic war" a highly debated issue focused on the trio force-violence-power and non-lethal violence in relation to the violence met in a conventional war. See Rid, Thomas, "Cyber War Will Not Take Place", *Journal of Strategic Studies*, 2012, vol. 35, no. 1, pp. 5-32; See Stone, John, "Cyber War Will Take Place!", *Journal of Strategic Studies*, 2013, vol. 36, no. 1, 101-108.

<sup>15</sup> See Schmidt Nikola, "Conventional War, nor a Cyber War, but a Long-Lasting and Silent Hybrid War", *Univerzita Obrany. Ustav Strategických Studií, Obrana a Strategie*, University of Defence, Brno, Vol. 2/2014, 73-85.

<sup>16</sup> See Clarke, R.A. and Robert Knake, *Cyber War: The Next Threat to National Security and What to Do About It*, (New York: HarperCollins, 2012).

The aim of creating a general chaos of the cybernetic attacks over the critical infrastructure is less probable, but the "cybernetic war" is a virtual "fight space" in which operations took place, without the traditional chain of command.<sup>17</sup> The fact that "cyber attacks" involves no soldiers to violate territorial integrity, the impossibility to demonstrate the taking part in blocking or altering important parts of the infrastructure place these operations out of the regulated frame. In order to place the guilt, first one has to know who were the cyber attackers, facts that are not regulated by the law of war.<sup>18</sup>

The "hybrid war" is expressed also by cyber attacks - regarding the info upon the citizens of a facts that cannot be considered military operations - but have great impact over the military strategic objectives.<sup>19</sup> Using cyber attacks in armed conflicts is a novelty bringing advantages of strategic nature over an unprepared opponent. In the case of a conventional war, the military using cyber attacks in their actions must observe the law.<sup>20</sup>

Still, observing the law is important at all times, during the fight and after it, when there are conditions for detailed observation on how were they respected.

In a conflict zone, usually, the administrative authority is strongly affected, the internal law violation becoming a rule due to the lack of sanctions - usually justified by the inferiority towards the enemy - especially if it about self defense, the reason being that "strategic reasons" rule.<sup>21</sup>

Using strategy as justification is a customary law; so are detaining, interrogating and torturing, the clear war, the reinterred intelligence to make "the law a weapon in conflicts".<sup>22</sup>

### **AUGMENTING "CONFLICT HYBRIDIZATION"**

The appearance of a new category of conflicts – guerilla, insurgency, and terrorist - gave birth to new fighters that do not fit Grotius's model.<sup>23</sup>

Specialty literature traditionally operates with six types of armed conflicts: the classical war, between states;<sup>24</sup> three types of national freedom wars - against colonial domination, against foreign occupation and against racist regimes; two types of non-

<sup>17</sup> See Liff, Adam P., "Cyber war: A New "Absolute Weapon"? The Proliferation of Cyber warfare Capabilities and Interstate War", *Journal of Strategic Studies*. 2012, vol. 35, no. 3, pp. 401-428.

<sup>18</sup> See \*\*\* *Cyber-Security and Threat Politics: US Efforts to Secure the Information Age*, London and New York: Taylor & Francis, 2007.

<sup>19</sup> As for ISIL, the preparations made in the cyber space strengthen the legitimacy of aerial strokes, the asymmetrical response from The USA, France Denmark, Holland, The UK and Canada. See Pape, Robert A. and Michael Rowley, "Why ISIL Beheads Its Victims", *Politico Magazine*, Washington, 2014 <http://www.politico.com/magazine/story/2014/10/whvisilbeheads-its-victims-111684.html#>.

<sup>20</sup> Manipulating history, beliefs, discrediting governmental long-term politics as part of a "hybrid strategy". See Fleming, Maj Brian P., *The Hybrid Threat Concept: Contemporary War, Military Planning and the Advent of Unrestricted Operational Art*, Fort Leavenworth: School of Advanced Military Studies. US Army Command and General Staff College, 2011, <https://www.hsdl.org/?view&did=700828>.

<sup>21</sup> See Harvard Law School's Jack Goldsmith, Texas Law School's Robert Chesney, and the Brookings Institution's Benjamin Wittes.

<sup>22</sup> CCDCOE. Tallinn Manual on the International Law Applicable to Cyber Warfare. (New York: Cambridge, University Press, 2013).

<sup>23</sup> The Hague regulation stipulates the status of people in the army, other than combatants, but who, if captured, are subjected to the same treatment as soldiers. See G. Baladore Pallieri, *Raport general sur la notion de "guerre" et de "combatant" dans les conflits armes*, prezentat la al V-lea International Dublin Congress (23-30<sup>th</sup> of May 1970), in *Recueil de la Societe internationale de droit penal militaire*, vol.2, 321.

<sup>24</sup> "Hybrid war" has as strategical objectives, *inter alia*, to destroy and neutralize national structures – political, administrative, the security and of the enemy; cleaning, controlling and destroying the insurgent structures within the civilian population in the war theatre to obtain legitimacy to it; maintaining the war support from the public opinion from home and from the international environment. See McCuen, John J. "Hybrid Wars." *Military Review*. Mar/Apr 2008, Vol. 88 Issue 2, 107-113.

international wars - the post-colonial secession war and the civil war.<sup>25</sup> A relatively new phenomenon, also violent, the breaking up of the federative states, brings a new type of non-international conflict the destructant armed conflict.<sup>26</sup>

The destructant armed conflict from The Ukraine, as viewed by "hybrid war" theoreticians, aims rather at the "deconstruction" of govern's credibility followed by chaos, to legitimate later on a conventional campaign.<sup>27</sup> There is an opinion that the "hybrid strategy" for The Ukraine aims to the delegitimation of any governmental decisions against rebels' "hybrid operations"; Russia's granting humanitarian assistance to rebels and the authorities being incapable to react impact upon the govern's legitimacy and gives credit to the rebels.<sup>28</sup>

"The hybrid modern war" combines conventional, irregular and terrorist components that cannot be reduced to counterinsurgency – as defined after the Cold War by the American vision – due to the many response needs.<sup>29</sup> The reaction in case of "a hybrid war" is based on a fan of forces and means – conventional units ready to high intensity conflict, independent special forces supported by intelligence and technological platforms.

There is an opinion that the weakness of conventional military structures as an effect of the cooperation via security after the Cold War influences and shapes the traditional war concept - a combination of regular and irregular forces, submitted to some political aims, serving national interests - towards a hybrid configuration. The "hybrid war" might occur in any environment - terrestrial, maritime, aerial and in space - unitary, using asymmetrical TTPs configured to exploit the lack of flexibility in military structures, but affecting three sorts of targets: the classical theater, the population in the conflict zone and the international community.<sup>30</sup>

Contemporary conflicts surfaced the syntagm "asymmetrical conflict", understood as a conflict between two parties that are unequal in capabilities, forcing the weak party to approach unconventional TTPs. The asymmetrical conflict is considered also a "non-international armed conflict"/ "terrorism"/ "guerilla warfare".<sup>31</sup> In the "hybrid war" one of the goals is to secure the population and in the war theatre by symmetrical and asymmetrical operations.

<sup>25</sup> See Ionel Cloșcă, *Dreptul umanitar în ajunul mileniului III*, ' "R.R.D.U.", nr.1 (19), 1998; Bosko Iakovljevic, *Conflictele armate în fosta Iugoslavie și dreptul internațional umanitar*, în "R.R.D.U.", nr.2/1993, pp. 11-22; Francois Bellon, *The New Humanitarian Challenges on the eve of the 21 Century*, în vol. *Problemes humanitaires... / The Humanitarian issues...*, 21-28.

<sup>26</sup> All 35 armed conflicts active in this very last year of the XX<sup>th</sup> century are non-international.

<sup>27</sup> See Schmidt Nikola, "Conventional War, nor a Cyber War, but a Long-Lasting and Silent Hybrid War", *Univerzita Obrany. Ustav Strategických Studii. Obrana a Strategie, University of Defense*, Brno, Vol. 2/2014, 73-85.

<sup>28</sup> \*\*\* "Russia's new tactics of war shouldn't fool anyone" *The Washington Post*, 2014 [http://www.washingtonpost.com/opinions/russias-new-tactics-of-war-shouldnt-foolanyone/2014/08/27/0cb73b3a-2e21-11e4-9b98-848790384093\\_story.html](http://www.washingtonpost.com/opinions/russias-new-tactics-of-war-shouldnt-foolanyone/2014/08/27/0cb73b3a-2e21-11e4-9b98-848790384093_story.html) storv.html

<sup>29</sup> [...] hybrid wars are a combination of symmetric and asymmetric war in which intervening forces conduct traditional military operations against enemy military forces and targets while they must simultaneously - and more decisively - attempt to achieve control of the combat zone's indigenous populations by securing and stabilizing them (stability operations). See *Field Manual (FM) 3.0, Full Spectrum Operations*, McCuen, John J. "Hybrid Wars." *Military Review*. Mar/Apr 2008, Vol. 88 Issue 2, pp. 107-113.

<sup>30</sup> Modern hybrid war practitioners apply "conventional capabilities, irregular tactics and formations, and terrorist acts including indiscriminate violence, coercion, and criminal activity" simultaneously. See Frank Hoffman, *Conflict in the 21<sup>st</sup> Century: The Rise of Hybrid War*, Arlington: Potomac Institute for Policy Studies, 2007, p. 8. See John, J. McCuen, "Hybrid Wars," *Military Review*, Mar/Apr 2008, Vol. 88 Issue 2, p. 107. For the opposite See Gartzke, Erik, "The Myth of Cyber war: Bringing War in Cyberspace Back Down to Earth", *International Security*, 2013, vol. 38, no. 2, pp. 41-73. [http://belfercenter.ksg.harvard.edu/liles/IS3802\\_pp041-073.pdf](http://belfercenter.ksg.harvard.edu/liles/IS3802_pp041-073.pdf).

<sup>31</sup> The classical example is the USA (state actor) - the Afghan Talibans (non-state insurgent group).

There is an opinion stating that the "hybrid conflict" includes the entire war spectrum, actionable and conceptual; the victory - reaching strategic objectives - in a "hybrid war" means success in every aspect of the war theatre. Providing security for the civilians, for local administration, maintaining essential services, starting the economy, organizing self-defense is necessary to obtain legitimacy and support from the locals. All these are vital to be successful in a hybrid war. This kind of victory depends on three main stages: conventional fights, the population in the war theatre and the general perception of the actions performed by the intervenient state by the public opinion and by the international community.<sup>32</sup>

The cyber space is characterized by the transformation of temporality in the sense of capturing the information, surpassing the geographical limits, the borders and jurisdictions and the possibility to hide its identity.

Cyber space characteristics underlines the issue of propaganda versus states' sovereignty, the disinformation effects and their sanctioning being a delicate issue for the international policy - defied between its extreme limits - "the extended responsibility" and "the diminished responsibility", being reduced to the individual.<sup>33</sup>

An author considers that the cyber space should be seen as a territory where sovereignty cannot be "limited" due to the fact that although cyber attacks are not violent, they are many; they can aim to spreading information in the desired sense, especially that states cannot be forced to play according to certain traditional war rules.

Manipulations and disinformation in cyber space can prepare for some conventional operations; accusing central authorities by using a vivid propaganda can have serious consequences, up to paralyzing the defense activities.

The propagandistic dimension inherent to any large military action is not directly linked to the classical concept of territorial sovereignty, the values and virtual money playing a major role; the messages send to both the and to population could end with serious consequences, able to paralyze defense efforts, to block strategies, even in the absence of lethal force.

A coherent disinformation, evenly spread from many sources, difficult to detect and counterattack erodes the adversary's stability. Regardless its name - "info security" or "cyber security" it is vital for any national security, defensive or offensive.<sup>34</sup>

The concept of asymmetrical conflict is a subject that attracts many theories and interpretations that might be contradictory sometimes, taking into account Asia's militarization, the tensions in The Middle East or the African states dismantling. These are contradictory to the "conventional war".

Here are some examples of hybrid wars: the Islamic State's entering into Iraq (non-state actor) against the Iraqi conventional forces; using non-state or sub-state actors, actors sub-state by Iraq fighting the Islamic State; The US's participation by aerial strikes against the Islamic State together with the counseling of the Iraqi govern; the Syria-Iraq coalition

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<sup>32</sup> Ignoring the three stages caused failure as shown in Indochina, Vietnam, Greek, Somalia, and Lebanon. In Vietnam, the US won against the insurgency and lost the political battle home; in Iraq and Afghanistan they had aims specific to a conventional war instead of an asymmetrical one. See McCuen, John J. "Hybrid Wars." *Military Review*. Mar/Apr 2008, Vol. 88 Issue 2, 107-113.

<sup>33</sup> See Choucri, N., *Cyberpolitics in International Relations*, Cambridge, MA: MIT Press, 2012, p. 4; See Androunas, Elena and Yassen Zassoursky, "Protecting the Sovereignty of Information", in *Journal of Communication*. 1979, vol. 29, no. 2, pp. 186-192; Pomerantsev, Peter and Michael Weiss, "The Menace of Unreality: How the Kremlin Weaponries Information", *Culture and Money*. 2014; Rid, Thomas, "More Attacks, Less Violence", *Journal of Strategic Studies* [online]. 2013, vol. 36, no. 1, pp.139-142; Schmidt, Nikola, "Super-empowering of non-state actors in cyberspace", In: *World International Studies Committee* 2014. Frankfurt: Goethe Universitat, 2014.

<sup>34</sup> Liang, Qiao and Wang Xiangsui. *Unrestricted warfare*. Beijing: PLA Literature and Arts Publishing House, 1999.

(states in a complex situation and seriously weakened) against the coalition formed from non-state actors.<sup>35</sup>

On the other hand, these substantial phenomenon do not fit the syntagm "international armed conflict", especially that they are considered to be defining phenomenon for the future military and political reality. The burst of concepts, paradigms and theories on the military phenomenon's features, especially on armed conflicts, is not helpful in building a methodology/an algorithm to analyze the tensed situations from a political and military point of view, not to mention the predictions. In specialty literature, the lack of clarity found in specific situations in relation to the traditional features of armed conflicts creates more confusion instead of helping the analysis and prediction algorithm.

An author considers that a specific feature of a hybrid war is the strong bond between the non-state actors and their external supporters; the existence of the Islamic State in Syria and Iraq, the involvement of Iran and Hezbollah to support Syria in order to maintain communication within this space is an example of hybrid war.<sup>36</sup>

It is pointed that the hybrid war between the state and non-state actors accepts the traditional principle of combination between the conventional war tactics and those of a civil one (irregular methods) subordinated to declared political means; this perspective of modern armed conflicts resemble or even overlaps with the main features of the civil war or, at least, they seem to have the same roots.<sup>37</sup>

It is advisable to support the need to solve the issues raised by "war hybridization", respecting civilian protection stipulated by the war law. The persons "taking the law into their own hands" in case of a conflict should be punished and forced to obey the international legislation specific to armed conflicts. As a consequence, the international community can enforce the law even in the complex environment of a "hybrid war". The fundamental justification raise with the influence upon the conflict's strategies is towards the improvement of sophisticated weapons systems, the intelligence and also raising the number of non-state actors.<sup>38</sup>

## THE ACTORS' STATUS AND THE NATURE OF OPERATIONS

The regular forces of a state taking part in an international armed conflict<sup>39</sup> use specific TTPs reglemented by an internal and international juridical frame. The evolutions of international asymmetrical armed conflicts display the use of new TTPs by the regular forces - the unclear differences in the status of combatants and non-combatants, the intelligence, the cyber attacks, the individual taking down of enemy leaders (with a foggy status, civilians or combatants). On the other hand, the insurgences use conventional tactics against regular forces.<sup>40</sup>

<sup>35</sup> See Joseph Schroefl and Stuart Kaufman, "Hybrid Actors, Tactical Variety: Rethinking Asymmetric and Hybrid War," *Studies in Conflict & Terrorism*, 37-10, 863.

<sup>36</sup> See Dexter Filkins, "The Shadow Commander," *New Yorker*, Vol. 89, Issue 30, 3.

<sup>37</sup> "Hybrid war" is asymmetrical, with components impacting upon military strategies. The combination between propaganda and intelligence has consequences difficult to be evaluated. See Frank Hoffman, *Conflict in the 21st Century: The Rise of Hybrid War*, (Arlington: Potomac Institute for Policy Studies, 2007), 20-22.

<sup>38</sup> See Alex Deep, "Hybrid War: Old Concept, New Techniques", *Small Wars Journal*, 20 March 2015.

<sup>39</sup> The 1949 Convention maintains the provisions of the Hague Regulations from 1907, but it corrects it. The term "armed forces", used in art. 1 was replied by art. 4 "members of the armed forces", defining all soldiers, from all branches, as well as militia members and the volunteers that belong with these armed forces and who *ipso facto* have the combatant status.

<sup>40</sup> It has three ways to forbid or limit the usage of fight means and methods: the non-discriminatory means and methods are forbidden, for there it cannot distinguish between the military and the civilian objectives; it is forbidden to use weapons, projectiles, etc, that might produce futile sufferings, and death or destroy the



The combatant status of a territory's population, under certain conditions, is accepted together with the fight modality, as a *levee en mass- mass rise-* and is not mistaken for *resistance* movements (guerilla, partisans etc), people fighting in isolated groups not falling under Articles 1 and 2 in the Regulation were, according to the Convention, under the protection of "Clausula Martens".

Categorizing the actors taking part into an international armed conflict in a certain space - regular forces, insurgents, and international transitional terrorists - is confusing and this might have bitter consequences. The mix of actors in an international armed conflict gives birth to "hybrid adversaries/ enemies". Such an approach complicates and paralyzes the classical interpretation analysis and prediction algorithm of the conflictual situation.<sup>41</sup> The differentiate the status of the combatants in a hybrid conflict the following three main issues must be observed: 1) the categories of people authorized to take part directly in military operations; 2) the fight means and methods they are allowed to use and 3) the place where they can engage terrestrial military operations.

The first Peace Conference in Hague, in 1899, customary distinguishing between combatants and non-combatants<sup>42</sup> offers a first solution tin defining the persons allowed to take part in hostilities, of the conditions they must fulfill and of the protection they are entitled to. Two visions raised, the right to participate should be recognized only to regular forces<sup>43</sup> and the right to exist for the combatant status including also civilians.<sup>44</sup>

The legal status of partisans,<sup>45</sup> who fought behind enemy lines but on their territory,<sup>46</sup> of civilians and soldiers remained faithful to their exiled governs<sup>47</sup> is regulated by the "Combatants; Status after the Geneva Conventions on 12<sup>th</sup> of August 1949. The concept of "combatant" obtains new nuances, by the reglementations in 1949 with clarifications upon the status and upon whom are the people falling under this provision.

A combatant is not only a person taking part to a war between two states, but also to those taking part in "any other armed conflict between at least two High parties, even if the state of war is not admitted by one of them" (art. 2, par. 1)<sup>48</sup>.

environment. See <http://www.crucearosie.ro/uploads/images/Conventia de la Geneva pdf/Protocolul Aditional I.pdf>.

<sup>41</sup> There is an opinion about the reglementations in the case of insurgents. (US Field Manual (FM) 3-24, Counterinsurgency) that can be used as a start point for a strategy for the "Hybrid war" but they are not enough-some glances into the past would be necessary. See McCuen, John J. "Hybrid Wars." *Military Review*. Mar/Apr 2008, Vol. 88 Issue 2, 107-113.

<sup>42</sup> The principle of distinguishing between combatants and non-combatants is a very old one, being taken care of since the Middle Age; even the Islam discussed it. Art. 1 of the annexed Regulation of the IInd Convention in The Hague on 29<sup>th</sup> of July 1899 (changed into the IV<sup>th</sup> Convention on 18<sup>th</sup> of October 1907) concerning the laws and provisions of a terrestrial war, the combatant status was admitted to 1 the Army; (2). The Militias or the Volunteers; Corps, granting the following: to be led by a responsible person; to ear signs recognoscible from the distance; to wear weapons if full view; and to observe the international war law.

<sup>43</sup> See Carl von Clausewitz, *Despre război*, Editura Militară, 1982, 268-269.

<sup>44</sup> See Ștefan Pascu, *Oastea și țara, oastea populară și Țările Române în secolele XIV-XVI*, Editura Militară, 1975, 29.

<sup>45</sup> 70.000 in Greece, 26.600 in France, 7.500 in Belgium and a larger number in The SSRR, Yugoslavia, Poland. Not admitted as a combatant, Germany appealed to the 3<sup>rd</sup> para. of the Order of the German Headquarters - from 17<sup>th</sup> of June 1938 (death penalty for any shooter that was not a soldier but ad weapons and fights against the German Army), hundred of thousands of partisans were executed as "terrorists".

<sup>45</sup> In the SSRR, Yugoslavia, Poland, Greek, Norway, Italy.

<sup>47</sup> After the capitulation of one's own state, they continued to fight against the enemy, like the case of Free French Forces - FFL – led by Gen. De Gaulle, though German reglementations considered them shooters, and punished with death penalty.

<sup>48</sup> USA's intervention in Vietnam was not considered a war, in the judicial sense, but, based on that provision, it was *de facto* a war and the USA were forced to observe the law of armed conflicts; same for the China-India conflict 1962-1963, or the China-Vietnam conflict, the one in Falkland between Argentina and The UK in 1982.

"Resistance movements" are considered combatants if: respect the four rules above mentioned from art. 2 of the Convention<sup>49</sup> and serve "a party involved in the conflict"<sup>50</sup>. Specialty literature aims an essential characteristic of the "hybrid war": the non-states entities from a state's system; if in the clear vision of the war, the belligerents are the forces hierarchically organized, in the case of a hybrid war, non-states actors and the sub-states actors sustained from the outside by other states are the corner stone, especially that they promote their own interests."<sup>51</sup>

By maintaining the provisions from 1907, 1927 and 1949, the Genève Conference in 1974-1977 improves the combatant's definition, according to the realities of the Cold War.<sup>52</sup>

In a "hybrid war", the population in the war theatre is a target, seen from either side; their support for the insurgents - in Iran and Afghanistan - presented by media and reflected by the public opinion of a state and also international can make military victories insignificant. If from a military point of view, there is either "victory" or "defeat", when it comes about the population the impact of military actions is evaluated in terms of improvement or its opposite.

Terrorist organizations, such as Hezbollah are considered "hybrid" because they are well equipped, carry on missile launches and use drones (UAV - armed unmanned aerial vehicles), and explosive devices against the Israeli conventional forces.<sup>53</sup>

On the 6<sup>th</sup> of August 1999, a document called "Observing the provisions of the international war laws by the UNO's forces"<sup>54</sup> present the basic rules of the international humanitarian laws for the UNO's forces. The document refers to: the applicability domain, the national law, the agreement regarding the forces' status; breaking of the international humanitarian laws; protecting the civilians; methods and war means; civilians' treatment; the treatment of the arrested person; the protection of the wounded, medical personnel.

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<sup>49</sup> Article 1 from "The Hague Regulation in 1907. The condition "to have someone in charge" doesn't mean necessarily a soldier, a civilian can function as a leader as well. The responsibility extends to from the person who ordered them, to person who didn't prevent them; "the stable sign, visible from a distance", as expression of loyalty, is the equivalent of the military uniform and during the fight it can be a shirt, a beret, anything. "To wear weapons so they can be seen" doesn't mean to wear them in full view; this would contradict the surprise element. A hand grenade or a pistol can be kept in the pocket, the essence of this provision would to avoid perfidy, false pretexts, simulations, etc; "respecting war's laws and", the fourth condition, means that the resistance fighters must observe as much possible the Conventions in The Hague and Geneva (not to use forbidden fight means, to balance their objectives and their destructive effects, not to attack civilians or protected people).

<sup>50</sup> It aimed to organize the resistance movement, like any regular army, especially in terms of military discipline, hierarchy, responsibility and honor. If not, they would be assimilated to fighters in no international armed conflicts, according to art.3 in Genève Convention, from 12<sup>th</sup> of August 1949.

<sup>51</sup> Joseph Schroefl and Stuart Kaufman, "Hybrid Actors, Tactical Variety: Rethinking Asymmetric and Hybrid War," *Studies in Conflict & Terrorism*, 37-40.

<sup>52</sup> Art. 43 of Protocol I, named "*The Armed Forces*": 1. *The Armed Forces of a Party in a conflict are formed of all forces, all groups and all armed units that are organized and placed under the authority of a responsible command that responds for the behavior of the men. These forces must be disciplined and must observe the international law for armed conflicts.* 2. *Members of such a party (other than the clerics or the sanitary, allying under the provisions of art 33 of the IIIrd Convention) are combatants meaning they have the right to take part in hostilities* 3. *The party (involved in a conflict) that has a paramilitary entity or an armed group responsible for the discipline must notify the other parts involved in the conflict about this.*"

<sup>53</sup> The helicopters, the Merkava IV tanks were destroyed due to Iranian technique. See Greg Grant, "Hybrid Wars," *Government Executive*, May 2008, Vol. 40 Issue 5, 32-35.

<sup>54</sup> See the text in "RRDU" no. 5 (29)/1999.

The "war hybridization" tendency contradicts the present juridical regulations.<sup>55</sup> Disrespecting the actual regulations calls for international sanctions or criminal prosecution for war crimes.

In defining the status of a combatant in the case of a future hybrid conflict, one must observe: if the action is taken inside of a collectivity; if this collectivity is military (hierarchically) organized; if the organization belongs to a party involved in the conflict; if there is internal discipline; if it observes the military law and the international humanitarian law; if it applies the principle of distinguishing between military objectives and civilians.

The supporters of the "hybrid conflict" don't come with a new algorithm, as compared to the old classical one, fact that raises questions upon the nature of their attempt-scientifically or purely propagandistically.

### **INSTEAD OF CONCLUSIONS**

Grotius Hugo (1583-1645) was an important analyst of the conflict but also of the juridical frame in which the conflict takes place. From the first valuable references of philosophical and juridical nature, the wars' evolution, the birth of modern armed conflicts - both internal and international - the alliances and the coalitions transformed the core of the issue and no longer fit in Grotius's pattern. Though he had many merits, by promoting a conciliatory vision, his thinking didn't always fit the reality of the armed conflicts still. It is needed to legalize "fair wars" by forbidding some military actions, building an international legal frame and later on a branch of the law of the armed conflicts.<sup>56</sup>

The contemporary juridical frame to regulate conflicts' legal aspects is concluded in several documents and codes of customs, but there are two issues: the first is generated by the impossibility to regulate in detail all legal aspects regarding the armed conflicts, (as in the case of internal law) and the need to adapt to the new tactics and weapons found in modern conflicts.

The existence of the theory of "hybrid war" is justified by Grotius's methodological indication to reject extremes - here "conventional" and "asymmetrical" though they are part of the same phenomenon - and to vote for "hybrid" as predictive formula for the future conflicts. This theory will resist in time due to its relevancy in adapting/reformulating the law of armed conflicts in the future as a necessity in response to "modern war hybridization".

To these objective conditionality's, introducing the "war hybridization" syntagm gets things even more complicated, causing confusion that affect the status of the international law regarding armed conflicts undistinguishing between combatants/parties in conflict does not help the war law, on the contrary, it breaks its credibility as imperative authority.

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<sup>55</sup> It is well-known the support offered by the interested states to non-state actors- Hezbollah supported by Iran; the quality of the equipments used by the non-state actors transforms the guerilla war in a hybrid war, says the author. See Alex Deep, "Hybrid War: Old Concept, New Techniques", *Small Wars Journal*, 20 March 2015.

<sup>56</sup> See Reeves, Shane R; Barnsby, Robert E., "The New Griffin of War: Hybrid International Armed Conflicts", in *Harvard International Review*, Vol. 34/3, Winter 2013, Harvard International Relations Council, Cambridge, pp.16-18. Vezi și Hammes, TX., "War evolves into the fourth generation", *Contemporary Security Policy*, 2005, vol. 26, no. 2, 189-221.

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## THE MUSLIM RADICALISM WITHIN THE AFRICAN SPACE

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### ABSTRACT

ONE OF THE KEY-PHENOMENONS ON THE INTERNATIONAL AGENDA, THE MUSLIM RADICALISM HAS AS THE MAIN VALENCE THE HIGH DEGREE OF THREAT FOR BOTH THE DEVELOPED COUNTRIES AND THE MUSLIM ONES. THE MIXTURE BETWEEN THE RADICAL IDEOLOGY, THE MIGRATION, THE INTERNET GIVES BIRTH AND HELPS DEVELOP THE "TERRORIST REGIONAL CELLS" THAT THREAT THE INTERNATIONAL SECURITY.

DESPITE THE STRATEGIC VALUE OF SOME SPACES DURING THE BIPOLAR PERIOD, THE END OF THE COLD WAR ALLOWED THE ASIAN VECTORS TO ENTER THE AFRICAN SPACE AND THE ISLAM TO REORGANIZE AND THINK OF THE CONQUERING AND /OR KEEPING CONTROL OVER SOME TERRITORIES, THE MOST ELOQUENT CASE BEING SOMALIA, TO START ORGANIZING AND DEVELOPING CENTERS OF INDOCTRINATION, OF MILITARY TRAINING IN A QUASI-GOVERNMENTAL MANNER, FINANCIALLY SUPPORTED BY MUSLIM ENTITIES.

THE BOKO HARAM IS A THREAT TO THE POPULATION AND THE NIGERIAN STATE AND ITS NEIGHBORS; THE ISLAMIC NORTH CONSIDERS THE CHRISTIAN SOUTH AS ADVANTAGED AND DEMAND FOR A RADICAL CHANGE, ON THE BACKGROUND OF CONTESTING THE WESTERN CIVILIZATION, AND THE LEGITIMACY OF THE NIGERIAN STATE, DEMANDING A "PURELY ISLAMIC" REGIME. THE BOKO HARAM DEMANDS HAVE SOME "HARD CORE": THE NORTH IS POOR AND CORRUPT, THE ADMINISTRATION IS BARELY NOTICEABLE.

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**KEYWORDS:** THE MUSLIM RADICALISM, AFRICAN SPACE, "TERRORIST REGIONAL CELLS", THE BOKO HARAM.

### ISLAM, KORAN AND ITS PROPHETS<sup>2</sup>

Etymologically, The Islam is an Arab word meaning obedience (complete abandon to the Divine Will, and to His Law, accordingly), included in the triad: Islam, imam<sup>3</sup>, ihsan<sup>4</sup>. The Islam is the obedience of the Universe to Allah's will. In this acceptance, all celestial bodies (the Sun, the Moon, etc), the mineral, vegetal and animal worlds are Muslim.

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<sup>2</sup> See Constantin Onișor, Paul Duță, Adrian Dobre, *Areale globale: Uniunea Europeană - Africa subsahariană*, Techno Media , (Sibiu Publishing House , 2009), 114-121.

<sup>3</sup> Iman: faith

<sup>4</sup> Ihsan: the holy virtue, the spiritual beauty; the dynamic and transformed element of The Way, complementary to the assimilation of the doctrinaire thruths. It is the very focus of the soul to break through the waves separating the being from God. „To adore God as if you'd seen Him, and even if do not see Him, He sees you“. *The Koran*, 380

All that exists obeys Allah, the supreme Divinity, universal, or, in other words, The Universe in Muslim<sup>5</sup> and The Islam is a universal religion.<sup>6</sup> The human existence develops on two plans: the first one, determined by the Divine Will, uninfluenced by humans, without will freedom, a plan of Nature's laws. The second plan, of humans' actions, of rationality, in which humans are allowed to think, choose and act.<sup>7</sup>

The Koran and The Bible are the most spread and read books ever written; The Koran is the axis /source to which theology, jurisprudence, education, moral, science report themselves, being considered by the Muslim theologians as aspects of the One and Only Truth. According to The Koran, in Muhammad's message, Allah is God, the only One. All His deeds are free acts, arbitrary in fact, or they depend on His will only.<sup>8</sup>

The Koran is the most important Muslim book, and appeared in 610, with the first visions that Muhammad had.<sup>9</sup> It contains 114 chapters (surra) including 6236 verses<sup>10</sup>, of different lengths, ended in rimes or assonance, making the text easier to be read or recited. The speaker is always God, Allah, never Muhammad who is a messenger, a prophet.

The sources for the Dogmatic inspiration of the Koran are mostly Hebrew.<sup>11</sup> The Islamic religion doesn't suggest ideals that are unreachable for the believer; it a predominantly practical doctrine, reflecting the practicality of its establisher, a religion addressed to simple people: It does not mention mystical sacraments, needs no ascetic and abandonments, nor does it installs a clerical hierarchy.<sup>12</sup>

The second important Islamic dogma refers to the Revelation, interpreted as a help received from Allah via His messengers, the Prophets.<sup>13</sup> The Koran is a guide for life for a normal human being; Its ethics is based on moderation and common-sense.<sup>14</sup>

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<sup>5</sup> Even someone reecting Allah, or of a different faith is still considered a Muslim, as long as they exist physically. Because from the very beginning, from embryo beyond the physical death, every human cell, every organ follows, implacably, the path forecasted by Allah. Even ones tongue, rejecting Allah willingly or otherwise or praising other Gods, is naturally Muslim. The heart filled with love and respect, not towards Allah, but to other Gods, is, by feelings, still Muslim. All these are subjected to the Divine Will, their functions and activities being in accordance with the feelings of this Divine Will. See *The Koran*, 254.

<sup>6</sup> The Koran states the fundamental unity of humans; all people have an identical nature, created by God. The Tradition clearly states : „All men are equal, like the teeth of a weaver's comb; there are no differences between the white and the black, an Arab and a non-Arab, except for the degree in which they fear God.“ See Fritjaf Schuan, *Let's understand Islam. An introduction to the Muslim Spirituality*, (Humanitas Publishing House, Bucharest, 1994), 32.

<sup>7</sup> They are free to choose their way of life and can adopt the desired ideology. They are also free to follow their own life principles or other people's principles. Men have free will and can choose their line of conduct. See The Koran, 264.

<sup>8</sup> He is Freedom, Knowledge and Almighty; He is the Creator of heaven and earth and of everything that exists, He brings into existence whatever He desires. The nights follow the days, the rain falls from the sky, the boat floats on the sea due to this continuous creation. In other words, Allah not only directs the cosmic rytms, but also the deeds of the people. See The Koran, 75.

<sup>9</sup> The first official version was drawn in the year 650 by Muhammad's ex-secretary, Zaid ibn Thabit. See The Koran, p. 18 and the next.

<sup>10</sup> „In the name of God, the merciful“. al Quran means: lecturing, reciting. *Ibidem*, 10.

<sup>11</sup> The Old Testament and the Talmud, and far much less, the Christian ones. (The Gospels, in the first place).

<sup>12</sup> Its fundamental dogma states the monotheism: Allah is God; He is unique, he is not part of a Holy Trinity, nor does He have a Son. Allah has 99 attributed names; He is almighty and merciful, the aster and creator of the world; but, unlike the Hebrew dogma that states the world's creation in six days, The Koran states for a continuous creation of the world by Allah. *Ibidem*, 10.

<sup>13</sup> These give or remind The Law to the people and warn and preach them when they fail to respect It. They are many: „I've sent a messenger to every people“, says God. The Prophets also have the gift to do wonders; but Muhammad claimed only one for him: to have revealed to people The Koran. Finally, the Prophets advice people to do good. *Ibidem*, p. 81 and the next.

<sup>14</sup> It is advisable to despise richness, to practice generosity, to be humble; but do not overreact in any way. It does not advocate austere life, only moderation: „Eat and drink, but not too much.“ *Ibidem*, p. 50 and the next.

Instead of the ascetism, The Koran recommends activities that are useful to humans, such as helping the poor, the widows and the orphans.<sup>15</sup>

His message, the Prophet reintegrates people in a new community, of a religious nature, called *umma*. He created the Arab nation, allowing, at the same time, the Muslim expansion beyond racial and ethnical frontiers. The energy spent with the inter-tribal fights was channeled towards external wars, against pagans, in the name of Allah and for the final victory of monotheism.<sup>16</sup>

The Muslim Prophets announce the true religion, pure, unaltered by superstitions.<sup>17</sup>

*Sharia* appeared in about 900, as an Islamic code of laws, lying at the bottom of all daily activities of people and communities. It was established by a scholar from Mecca, El-Shahii<sup>18</sup> who stated that „the Law must have four roots“to which are added, later on, mostly for political reasons, some more roots. The ads and the interpretations stimulate and promote the religious fundamentalism and the radical ideology as an extreme form of political and social activism. The fundamentalism is a coming back to the traditional Islamic values in order to stop its decline, because the Islamic society has detached itself from the true Muslim values; this allowed the Western culture to intrude; the solution is to revitalize and return to Islam by introducing *Shariei* and by rejecting the Western culture, together with the repolitisation of the Islam.<sup>19</sup>

The Koran, received by Divine revelation, condemning some anti-social deeds, establishes the lines of the moral conduct.<sup>20</sup>

Muhammad's words and deeds form *The Sunna*.<sup>21</sup> *The Sunna* was written according to the interpretation given by El-Shahii to one of Muhammad's statements: „My people won't tolerate what proves to be wrong“.<sup>22</sup>

*Sharia* completes The Koran and *The Sunna*, mentioning some anti-social deeds considered illegal. If at the beginning of Islam, *Sharia* played a positive role by guiding the society, its newly re-enforcement by means of excesses and cruelty against societies already affected by conflicts, poverty and huge social lack of balance is the expression of a radicalism threatening the human condition, the peace and international security.<sup>23</sup>

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15 „The Islam accepts the world and human life the way they are, as an opera that cannot be criticized, as a manifestation of Allah's will, not at all denaturalized and corrupt due to some unforgivable original fault. Therefore, the Christian ascetism and giving up to all earthly possessions cannot be admitted“. Fritjaf Schuan, *Let's understand Islam. An introduction to the Muslim Spirituality*, (Humanitas Publishing House, Bucharest 1994), 42.

16 Yet, Mohammad was successful in his campaigns against the nomad tribes and especially against the Mecans due to negotiations rather than fighting, setting thus an example for His followers, The Khaliffs.

17 These are of two types: the Prophet, whose mission is to watch over the true faith and the messenger who converts the unfaithful and reveals the Divine Truth to them. The Koran names 25 prophets (the main are Adam, Noah, Abraham, Moses, Jesus and the last and most important, Muhammad); but, according to Tradition, they are more than one hundred thousand. See Fritjaf Schuan, *Ibidem*, 57.

18 Father of Islamic jurisprudence.

19 See Robert Van De Weier, *Islam and The West*, (Alfa Publishing House, Bucharest 2001), 65.

20 Among the anti-social deeds: the crime, burglary, speculation, exploiting the poor, forgery and adultery. There are recommendations for conduct, thus, without stating clearly against slavery, it recommends to slave owners to free their slaves; it does not condemns polygamy, but recommends a maximum of four wives; and allowing for the divorce, it still recommends life bonds.

21 Although according to The Koran Muhammad was a sinful man, God chose Him as a Prophet for His wisdom and His understanding power; thus, His words and example are the model for the rest of the people.

22 When consensual, a particular case should have the strength of a law.

23 There was a problem in this respect, namely most of today's politicians and Muslim activists have no idea of the last two roots of the above mentioned four. That's why, for example, the Talibans from Afghanistan elaborated a law code pretending it was based on The Koran and Muhammad's words, disregarding the popular



The distortion of some religious precepts and the manipulation for the benefit of politics has transformed a key Islamic concept *-jihad-* into one with disastrous consequences,<sup>24</sup> though its only aim of this fight was supposed to be the freedom of believe for the Muslim adepts<sup>25</sup>.

In 1928, the Egyptian El Banna establishes "The Muslim Brotherhood" attracting „people of all walks of life, forming groups of families, a certain number of groups forming a battalion“<sup>26</sup>, the Muslims' fight against the West transforming in mass politics. Extreme radical forms take form during the<sup>27</sup> Iranian Revolution in 1979<sup>28</sup> as well as at the taking of Kabul in 1996 by the Taliban.<sup>29</sup>

The first fundamentalist ideological centre appeared at Azhar, In Egypt, with the work of Omar Abder Rahman on *Jihadului*, a call to arms against the infidels. It was said that The Islam was installed by means of arms, so in the future this is the only alternative for the Muslims.<sup>30</sup>

One of the key-phenomenons on the international agenda, the Muslim radicalism has as the main valence the high degree of threat for both the developed countries and the Muslim ones. The mixture between the radical ideology, the migration, the internet gives birth and helps develop the "terrorist regional cells" that threat the international security.

will and the righteousness of the decisions. This was a case that showed that when there are no people's consensus and justice; the objectives of The Sharia are far from being reached, being cruelly crushed.

<sup>24</sup> Sheik Fadlallah, the chief ideologist of Hezbollah, stated: „When The Islam starts a war, it fights like any other world power, defending itself to preserve its existence and freedom, being forced to adopt preventive actions when it finds itself in danger“. A book of studies, *Terorismul: istoric, forme, combatere*, (Omega Publishing House, Bucharest 2001), 168.

<sup>25</sup> This Divine permission has certain limitations „first of all, God allows the Muslims to fight only against those fighting against their religion; it is not allowed to fight a war for power and pray. Secondly, the fight shall be honest, without deceiving, and after their victory, the Muslims would not take advantage of their enemies. In all their fights, Muhammad and His followers respected these principles as well as all the laws in *Sharia* plus two more: the children, women and the old were to be spared regardless the conditions; the same for animals, crops and buildings. See Robert Van De Weier, *The Islam and The West* , (Alfa Publishing House , Bucharest 2001), 66.

<sup>26</sup> The leaders of this organization sustained that all Muslim governments from The Middle East were corrupted by the Western ideas, therefore they must be changed; new governments are required to devote themselves to the strict enforcement of The Islamic Law of *Sharia*. The most important action of The Brotherhood was the assassination of The Egyptian President Sadat in 198, for he opened the country to the foreign investors. The Brotherhood infiltrated among The Army and the social services in most Muslim countries, helping the enforcement of *Sharia* and supporting the anti-western feelings. See Robert Van De Weyer, *Islam and the West*, (Alfa Publishing House, Bucharest, 2001), 33.

<sup>27</sup> Van De Weyer, *Islam and the West*....,33.

<sup>28</sup> To remove The Shah, who was pro-West, establishing laws that were not in accord with *Sharia* and a Western model in education. It was led by The Ayatollah Khomeini, who was more and more dangerous, even in exile. Due to modern communications, he was able to find supporters and detailed a plan to remove the Shah; when he triumphantly returned from exile, even the richest business-people followed him. He had hoped that by removing The Shah he also removed the bonds with The West, condemning The USA and naming it „the great Satan“. Van De Weyer, *Islam and the West*...., 34.

<sup>29</sup> A military group formed after the Russian invasion in Afghanistan. Following the Cold War, both Americans and British trained the Taliban guerilla, providing also money and weapons. After gaining the political power, The Taliban showed themselves even more eager to enforce *The Sharia*, or at least their own interpretation of it, considered by Muslim specialists, especially those from Iran, to be very cruel. Van De Weyer, *Islam and the West*...., 35.

<sup>30</sup> One of the Omar Rahman's apologists, Abdes Salan Farag wrote a book that became „The Bible of Sadat's assassins“ suggesting in it that terrorism presented as a holy war would be fundamented in The Koran, being one of its seven fundaments. Another opinion states that the Islamic fundamentalism roots in the anachronistic development of the Muslim countries compared to the Western, Christian ones. See Gheorghe Arădăvoaică, Gabriel Naghi, Dan Niță, *Sfârșitul terorismului?* (Antet Publishing House, Bucharest, 2002), 194.

Almost 80% of the violence within the African space during the last 15 years was of religious nature. The religious factor is not hidden, on the contrary, it is held up as an engine and a symbol of the violent and self-started political and/or social/ ethnical movements, disregarding their political orientation.<sup>31</sup>

The spreading of the Jihad ideology against The USA and its allies,<sup>32</sup> being in fact a militant interpretation of Islam, promotes "the global Jihad", which is considered by some analysts to be supported by a probable temporal and spatial planning within a decentralization process regarding the traditional territories (Palestine, Kashmir, Chechnya a Mindanao) and geo-political points such as Afghanistan (the heart of Asia), Iraq (The Middle East) and Somalia (Africa). The last events in Sahel and the emerging of The Islamic State support this perspective.<sup>33</sup>

As an extreme political instrument, the terrorism motivates via religion by tendentiously interpreting some Koran texts, the ubiquity of the threat and its turning into an engine of the violent ideology.

The direct threat against The USA and its allies (Canada, Europe and Australia) will influence the neighbor states (India, Russia and China).

The terrorism's demography and geography would change, influenced by the the entire Muslim world, the situation in Iraq and Afghanistan, followed by a huge development of the Asian and African terrorism, especially in the Sub-Saharan space dominated by the Somali terrorism, but also in the Maghrebian space.<sup>34</sup>

Despite the strategic value of some spaces during the bipolar period, the end of the Cold War allowed the Asian vectors to enter the African space and the Islam to reorganize and think of the conquering and /or keeping control over some territories, the most eloquent case being Somalia, to start organizing and developing centers of indoctrination, of military training in a quasi-governmental manner, financially supported by Muslim entities.

*Maghreb* is an Arab term with different acceptations: „Occident“, „West“ or „the land where the Sun sets down“<sup>35</sup>. From the historical point of view, it was used for the territories beyond the Nile Valley, along the North Coast of Africa, up to the Atlantic. Within the modern state frame, this definition includes five countries: The Alger, Libya, Morocco, Mauritania (no exit to The Mediterranean Sea) and Tunis. The francophone researchers have often used the term „*Maghreb*“ in a less larger sense, including only three countries: The Alger, Morocco and Tunis. These differences in definition show the arbitrary character of such concepts as region and regionalism.<sup>36</sup>

The Maghreb is very distinct geopolitically. During the pre-Arab period, the shores of North Africa were caught in the fights for power between Rome and Cartagena as well as between The Byzantine Empire and Persia. Following the Islam's expansion, the area fell under the Arab and Ottoman influence. The Mediterranean influences continued due to colonialism and the decolonization started after the IWW by insurrectional movements.<sup>37</sup>

<sup>31</sup> See, Hamas in Gaza, Fatah in the West Bank, Hezbollah in Lebanon, Tareek-e-Taliban in Pakistan, Afghan Taliban in the South-East of Afghanistan, The Tamil Tigers in the North-East of Sri Lanka, Kurdish Workers Party in the North-East of Turkey, Uighur in Xingjiang (Wets of China).

<sup>32</sup> See the Global Jihad Movement.

<sup>33</sup> See Gunaratna, Rohan, *Understanding the challenge of ideological extremism*, UNISCI Discussion Papers nr.18/ Oct 2008. Universidad Complutense de Madrid, 113-126.

<sup>34</sup> Especially in Libya, Tunis, Alger and Morocco.

<sup>35</sup> See Graham Evans, Jeffrey Newnham, *Dictionary of International Relations*, (Universal Dalsi Publishing House , Bucharest, 2001), 323.

<sup>36</sup> Zlatko Šabic and Ana Bojinovic, *State and Non-state Actors in Regional Institutional Webs: the Case of the Mediterranean*, document presented to the 4th Convention of CEEISA, Estonia, 25th-27th of June 2006, 2-11.

<sup>37</sup> Burgat, François, *l'islamisme au Maghreb: La voix du Sud*, Paris, 1988, Karthala.

In the spring of 1958, the three francophone states launched a call to form the United Maghreb Unit and since then there have always been some shy tentative to create a cooperation frame.

In November 1989, the five states formed The Union of the Maghreb States.<sup>38</sup> This represented a consequence of both the Mediterranean dimension and of the Arab one in the Maghrebian politics. All five states are employed in institutional building and consolidation. The characteristics of the sub-Maghreb region include Algerian internal problems, the partial exclusion of Libya from the regional relations, Europe's proximity and the European colonial past, the interaction with the black Africa, from the neighborhood. These countries share common history in attempting to reach North-African unity ended by creating the United Arab Maghreb.

The dissensions between Morocco and the Western Sahara and those between Tunis and Algeria obstruct these attempts. The faith of the North African regional integration movements depended, also, on the Union's relations with Europe.<sup>39</sup> Depending economically on Europe and on the European policy in supporting the regional integration in North Africa impacted enormously upon regional policy and upon the economy of the Western Arab world.

From a historical and religious perspective, „The Great Discord“ (655-661), issued by conflicts for political power and the succession after Hussein, the fourth khalifs, generated three branches differing among one another by the way and the authority in the interpretation of the Koran 1) sunny (about 85%); 2) Shiites (about 15%), over 4/5 of these are localized in Iran, forming the majority of the population (91%), the rest are majority in Azerbaijan (66-70%), Iraq (60-65%), Bahrain (70%) and minority in other states; 3) kharijiti (0,2%); 4) different other branches considered sectary (such as the Baha'i, the Sikh).

The traditional *Sunni* cult has four branches: malekism in Maghreb, the South of Egypt and the West of the Sub-Saharan Africa; hanefi in Turkey and other ex-Turkish countries, except for the Maghrebian ones; şafiism, mainly in Indonesia, Malaysia, Philippines and less in Egypt, Caucuz, Central Asia, South Yemen and Palestine; hanbalism, the most radical form, spread in Saudi Arabia (with the dynasty and the wahhabit order) and Qatar.

The Kharijits, are about 2-3 mil. people and are rigorous, dynamic, honest and solidary; they live mostly in Oman and in some parts of Mzab in Alger and on the island of Djerba, belonging to Tunis.

The *Shi'ah* are grouped as follows: 1) Duodecimans (about 90% spread in Iran, Iraq, Bahrain, The Gulf, Lebanon, Syria, India, Afghanistan, Pakistan, and the former SSRR); 2) Ismails, subdivided in Druzes (Lebanon, Syria, Israel and Jordania), Nizarits (among which the Hashashins are the actual Ismails living in Syria, Lebanon, Oman, Turkey, Afghanistan, Pakistan); 3) Nusairits (Alauits, in Turkey, especially among the Kurds, in Syria and Lebanon); 4) Zaijalists (North Yemen); 5) different other factions: Kaysanitsi, Mukhtary, Septimans, Agha-Khan, Quarmats, etc.<sup>40</sup>

### **ISLAM'S EXPANSION DIRECTIONS AND THE RADICALISM CENTERS**

Though it's not about regional politics, the study of the Muslim world on the African continent notices at least three waves of bonds going beyond the colonial borders and even some geo-political concepts. A flux of the African Muslim population is from Mozambique

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<sup>38</sup> The Union of the Arab Maghreb – UMA.

<sup>39</sup> George Joffe', *The Western Arab World: Background Assessment*, in Gerd Nonneman (ed.), *The Middle East and Europe: the Search for Stability and Integration* (London: Federal Trust, 1993), 197–201.

<sup>40</sup> Massouillé 2003: 41.

(insignificant), Tanzania, Uganda, Kenya, Somalia, Ethiopia and Eritrea. A second Islamic chain ties Sudan, Egypt, Libya, Tunis, Algeria and Morocco; the third chain of Muslim states is formed of Mauritania, Mali, Niger, Ciad, Nigeria, Senegal, Gambia, Guinea-Conakry, Guinea-Bissau, Sierra Leone. There are some influences in states that are not entirely Muslim: Cote d'Ivoire, Burkina Faso, Ghana, Benin, Togo and Liberia.

Sahel is a vast space with few people divided into weak, poor states, with poor police and military forces. The political and economical landscape of Sahel offers excellent conditions for proselytisms and for the development of the radical Islam. There is a very active Muslim radical group with its logistic and doctrinaire center in the South of Alger, stating that the poverty is due to inobservance of the Islamic law.

There is a coherent opinion noticing some characteristics of the relation Islam-terrorism: the existence of some cells that promote the radical Islam in Nigeria and Niger; some radical terrorism suspects taking refuge from Algeria to Mauritania, Mali, Niger, Ciad as a safety measure but also to promote the radical Islam.

The difficult access in the Saharian space— especially in Mali, Ciad, Niger and Mauritania – is a natural advantage exploited by the radical Islam as a training sanctuary, and for regrouping and doctrinaire centre. Kidnapping children from school develops into a religious fanatical method used in many African places, following the Chechnya model in Caucaz.

#### **THE RADICAL ISLAM IN THE WEST AFRICA**

In West Africa, though some violent phenomenon caused by the radical Islam occurred, there are no reasons for serious concerning.

The Salaffi movement from the South of Algeria (Salafist Group for Preaching and Combat - GSPC) controls the barely populated South of Algeria opposing the government in the capital of the country, Alger. GSPC promotes its ideology in Sahel but also in the West of Africa using the same trade routes used for trading gold, slaves, salt in use from the colonial times.

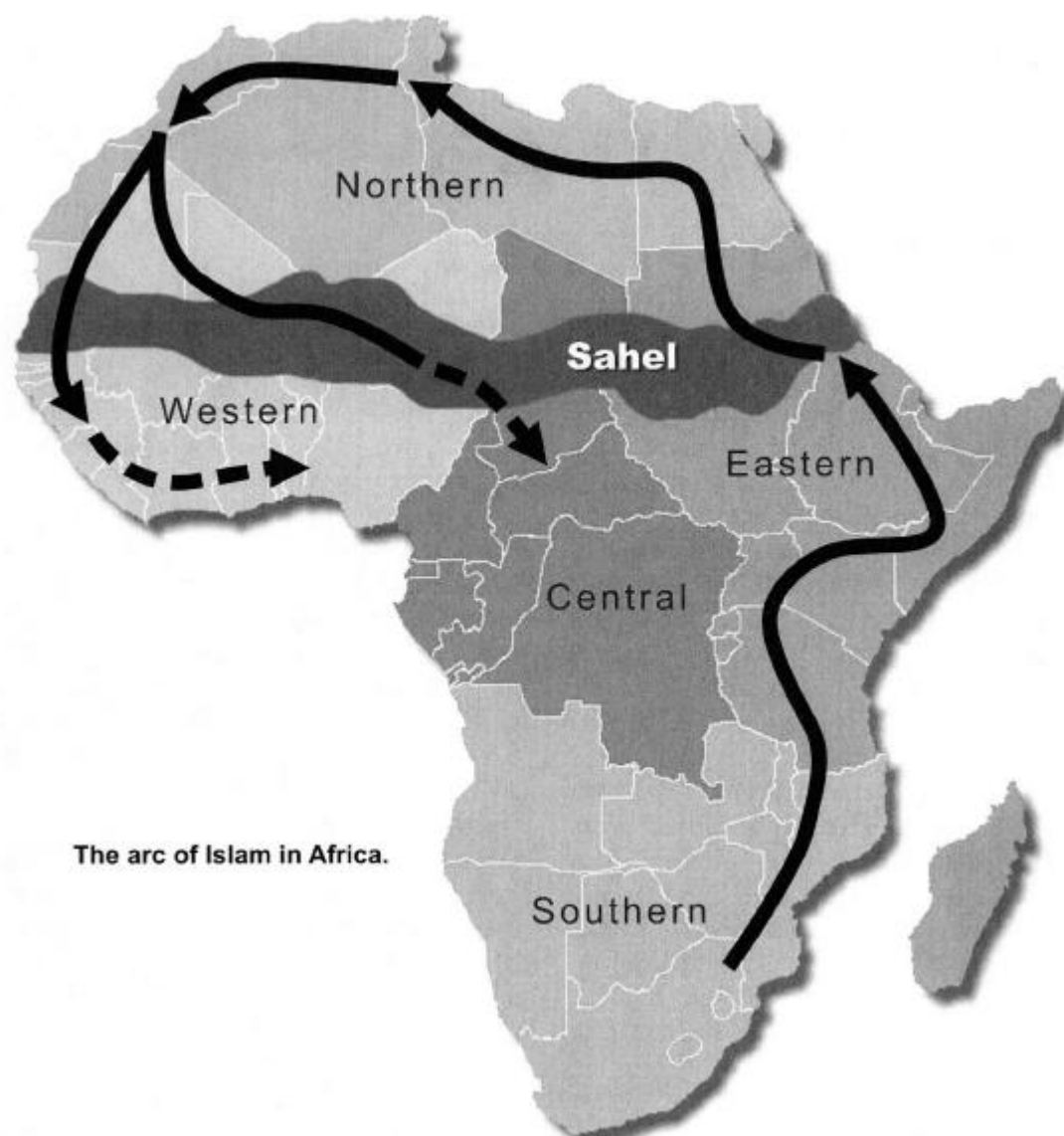


Fig. nr.1 – The spreading of the Islam within the African space<sup>41</sup>

In West Africa, Nigeria (with about 180 mil. people) hosts training centers for radical Islamists – the Islam appears here in the XI<sup>th</sup> century, strongly develops in Kano (the XIV<sup>th</sup> century), in Katsina (the XVI<sup>th</sup> century), in Zaria and Zamfara (the XVII<sup>th</sup> century), becoming a true political force in the XIX<sup>th</sup> century in the north of Nigeria.<sup>42</sup> Nigeria's history, tributary to the artificial building from the British colonial era which reunited people of different religions - Muslims, Christians and Animists, mentions an Islamic govern following Sharia in the North of the country and even when colonial rules were imposed, this was done by manipulating the Muslim social and political institutions.<sup>43</sup>

<sup>41</sup> See Laremont, Ricardo; Gregorian, Hrach, "Political Islam in West Africa and the Sahel", *Military Review*, Vol. 86 Jan/Feb 2006, Department of the Army Headquarters, Fort Leavenworth, 28.

<sup>42</sup> In 1804, a Jihad movement, lead by Uthman dan Fodio, a religious leader, switches from social to political by creating a Muslim state based on the Islamic law, an successful entity up to present. See Matthew Hassan Kukah and Toyin FaIoIa, *Religious Militancy and Self-Assertion: Islam and Politics in Nigeria*, Aldershot: Avebury, U.K., 1996, 3.

<sup>43</sup> See FaIoIa, *Violence in Nigeria: The Crisis of Religious Politics and secular Ideologies*, (New York: University of Rochester Press, 1998), 24-25.

In 1949, The Congress of the Northern People's Congress is established (CNPC) working to reestablish the "Sokoto Khalifat" and the enforcement of the Islamic law, at least in the North of Nigeria, if not on the entire territory, with the help of Saudi Arabia and also Libya, Morocco, Tunis, The United Arab Emirates, Jordania, Pakistan, Sudan, Lebanon and Senegal.<sup>44</sup>

For almost 40 years, Nigeria is led by soldiers, mainly from the Islamic North, with strong Muslim bonds. The leading military group, though imposing a strict regime, controlling the tensions between the state's legislation and the Islamic law, failed to eradicate the violence against Christian communities from the Islamic North, from Kano, Kaduna, Katsina, Bauchi and Zaria respectively.<sup>45</sup> Violence is registered within the Muslim world, from the groups promoting the Islamic law as interpreted by the Iranian Ayatollah Ruhollah Khomeini against the Shiits from Kano, Kaduna, Zaria, Katsina, Maiduguri and Bauchi.<sup>46</sup>

In 1999, civilian governs take the political power but the religious violence between Muslims and Christians reappear together with the risk of Nigeria splitting up on the North-South axis; according to an opinion, the strong assertion of the Islamic movement in the North of Nigeria was financially supported by bak-schemes ensuring money flows from Sudan, Iran, Libya, Syria, Palestine and especially Saudi Arabia.<sup>47</sup>

Nigeria is the second power of the sub-saharian Africa. It is the 6<sup>th</sup> oil exporter in the world; OPEC member, integrated in the West-African Economical Community – ECOWAS; it is the dominant economy in the region. It is a federal state and has 20% of the African IGP and 40% of the external commerce of the entire black Africa. Its military expenses are of 1.2 % of IGP. Its natural, energetic,<sup>48</sup> hydrological and mineral resources<sup>49</sup> are important.

The road network, its background trade systems are well developed and the school allow for an educated elite. The oil exploitation<sup>50</sup> brings \$16 blds a year, to an external debt of \$32 blds. Military and political expensive are high, given the fact that three quarters of the population leave in great poverty. Nigeria is like a gigantic with clay feet, formed of many ethnical and religious minorities, with strong social inequities and unstable oil resources.

The economy has management problems, being based on tribal structures, using political criteria in its development, facing insufficient equipments, administrative programs and poor communications. The society is severely fractured. The ethnical mixture is organized on three main ensembles: the Muslim Haoussa and Peul in North, Yoruba in South-East and the Christian Ibo at East.

Boko Haram as a form of radical Islamism,<sup>51</sup> a militant movement established in North Nigeria embraces the same ideology as the riot in; the police forces cannot control the zone.<sup>52</sup>

<sup>44</sup> See FaIoIa Toyin, *The History of Nigeria*, (Westport, CT: Greenwood Press, 1999), 28.

<sup>45</sup> The 1960 is the year of Nigeria's independence. See FaIoIa Toyin, *Violence in Nigeria: The Crisis of Religious Politics and secular Ideologies*, (New York: University of Rochester Press, 1998), 24-25.

<sup>46</sup> See William F.S. Miles, "Religious Pluralisms in Northern Nigeria," in Nehemia Levtzion and Randall L.Pouwels (ed.) *The History of Islam in Africa*, (Athens: Ohio University Press, 2000), 209-226.

<sup>47</sup> See Laremont, Ricardo; Gregorian, Hrach, "Political Islam in West Africa and the Sahel", *Military Review*, Vol. 86 Jan/Feb 2006, Department of the Army Headquarters, Fort Leavenworth, p. 31. See MEIB Staff, "Hezbollah and the West African Diamond Trade," *Middle East Intelligence Bulletin*, vol. 6, no.6-7 (June/July 2004), on-line at <[www.meib.org/articles/0407\\_12.htm](http://www.meib.org/articles/0407_12.htm)>, on 1st of April 2015.

<sup>48</sup> Oil, gases.

<sup>49</sup> Iron, dolomite.

<sup>50</sup> 2.5 million barrels per day.

<sup>51</sup> Boko Haram, *Boko* – instructional book (lingua franca Hausa); *Haram* – sinful things (Arab). It is a syntagm and a slogan, "Western-style education and its products are sacrileges"; in 2009, the movement is presented by Mohammed Yusuf in an interview at BBC, stating among others "Western-style education is mixed with issues

The movement is a threat to the population and the Nigerian state and its neighbors; the Islamic North considers the Christian South as advantaged and demand for a radical change, on the background of contesting the Western civilization, and the legitimacy of the Nigerian state, demanding a "purely Islamic" regime. The Boko Haram demands have some "hard core": the North is poor and corrupt, the administration is barely noticeable.

In 1999, in 12 states from the North of Nigeria Sharia is reintroduced, though Mohammed Yusuf, in favor of a "pure Sharia", transparent and equitable, considers not enough. In 2003, the politician Ali Modu Sheriff becomes governor in Borno department and names Alhaji Buji Foyi, an important Boko Haram member as the responsible with the religious affairs.

In 2007, Boko Haram relations with the Muslim administration get worse because of the building of a Mosque named Ibn Taymiyyah (the father of Salafi) and of a Saleffi school in Maiduguri by Mohammed Yusuf.

In 2009, there are clashes between the members of the movement and the security forces in several locations - Bauchi, Kano, Yobe and Borno, ended with over 700 Boko Haram dead, including Mohammed Yusuf, his deputy Abubakar bin Muhammad Shekau and Alhaji Buji Foyi.

In 2010, representatives of some Muslim radical movements - Abu Musab Abdel Wadoud<sup>53</sup>, a.k.a. Abdelmalek Droukdel<sup>54</sup> supported the military training. In September 2010, over 100 partisans of the cause are freed from the prison of the Bauchi department, by fight; bomb attacks took place against Christians on Christmas; 80 people died.

In 2011, there were terrorist attacks to block the elections in Maiduguri and Bauchi, against Goodluck Jonathan, the Christian President, following the dead Muslim President Umaru Musa Yar'Adua, from the North of Nigeria. Goodluck Jonathan's access to power was based on the 8 years rule - a succession between a Muslim President and a Christian one every 8 years. Boko Haram continued the rebel actions this time against Muslim personalities who criticised the movement - the leader Shehu al Kanuri (North-East of Nigeria, South-East of Niger, West-Ciad, North-Cameroun), the cleric Ibrahim Ahmad Abdullahi Bolori from Maiduguri, the cleric Ibrahim Birkuti from Borno Department.<sup>55</sup> On 15<sup>th</sup> of June 2011, in Abuja, there was the first suicidal attack against the Nigerian Police Forces Headquarters, followed by attacks against governmental officials and a suicidal attack against UN officials in Abuja, when 25 people died.<sup>56</sup>

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that run contrary to our beliefs in Islam." See Peter Pham, "The Ongoing Struggle against Boko Haram," *U.S. House of Representatives Documents*.

<sup>52</sup> In 1970, Muhammadu Marwa from Cameroun starts a mass movement against the Islamic hierarchy and also anti-govern; he is killed in 1980, but the movement re-starts in 1982, 1984 and 1985. See Freedom C. Onuoha, "The Islamist Challenge: Nigeria's Boko Haram Crisis Explained," *African Security Review* 19, no. 1, 2010, 54-67.

<sup>53</sup> Al Jazeera. See Joe Boyle, "Nigeria's 'Taliban' Enigma," BBC, July 31, 2009.

<sup>54</sup> The emir of the Islamic Maghreb (the emir of al-Qaeda in the Islamic Maghreb - AQIM). Joe Boyle, "Nigeria's 'Taliban' Enigma," BBC, July 31, 2009. Plus the Islamic leader Ansar Dine and the Movement for Unity and Jihad in West Africa (MUJAO).

<sup>55</sup> "Very soon, we will wage jihad... our jihadists have arrived in Nigeria from Somalia where they received real training on warfare from our brethren who made that country ungovernable." "Nigerian Islamists Vow 'Fiercer' Attacks," *AFP*, June 15, 2011.

<sup>56</sup> "Nigeria UN Bomb: Video of 'Boko Haram Bomber' Released," BBC, September 18, 2011. A series of radical operations follow: suicidal attacks against police departments in Damaturu, Yobe department (4<sup>th</sup> of November, 2011); a massacre in the Christian neighborhood, ended with 150 dead people; bombs exploding near the catholic church in Madalla, near Abuja, ended with 32 dead people and followed by more explosions (25<sup>th</sup> of December, 2011); the attack in Kano, 185 people died.

In 2012, Boko Haram had a series of bases, being a force able to start a war. While in Mali there was the multinational operation led by France - "Serval"- the Nigerian Army was deployed against Boko Haram and the fights overstepped the Nigerian borders.

In 2013, the Nigerian Army gave up controlling the border zones towards Niger, Ciad, Cameroun; their control being held by the militants taking measures such as replacing the Nigerian flag, overtaxing, establishing local governs.<sup>57</sup> Kidnapping was a common practice,<sup>58</sup> completed by other forms of violence, in a zone where the population lives with less than \$1 a day.

It is estimated that Boko Haram became a guerilla force with geopolitical implications that caused more than 300.000 refugees and affected the daily life for millions of people. Supporting this movement became a global threat.<sup>59</sup>

Nigeria has an active diplomacy; it is the voice of Africa; it integrates in its sphere of influence the peripheral areas, opposing to France's participation to ECOWAS, wishing to be considered a hegemonic power in the area of that organization. Yet, its internal instability prevents it from manifesting its hegemonic tendencies.<sup>60</sup>

Nigeria received Islam in the X<sup>th</sup> century was strongly connected to Libya (North) due to commerce cu and the language, and bonded with Nigeria because of the ethnicity and religion (South).<sup>61</sup> During the last years, there were violent actions supported by the activists from the South of Algeria, against the Nigerian Govern, especially at the Niger-Ciad border, a movement financially supported by Saudi Arabia, Morocco, Libya and Iran. Money supports are given to schools and mosqs, together with teachers and clerics, as active vectors of the Islamic law, in order to improve the economic and political life.

In Ciad, the ethnical diversity contains 200 groups (Sara, Arab, maba, toubou), the biggest being the Sara group (South) in power 1961-1979, after that, the power was held by the North. Muslims are about 80% of the population, mainly in North and in the towns in

<sup>57</sup> Local governs in Marte, Magumeri, Mobbar, Gubio, Guzamala, Abadam, Kukawa, Kaga, Nganzai and Monguno See Pham, J. Peter, "Foreign Influences and Shifting Horizons: The Ongoing Evolution of al Qaeda in the Islamic Maghreb," *Orbis* 55, no. 2, Spring 2011, 35-42.

<sup>58</sup> Boko Haram sequestered 300 girls, from a school in Chibok and a French family of 7 people – for a \$3 mil. and the freedom for 17 Boko Haram members, kept in a prison in Cameroun, plus the kidnapping of three priests - one French and two Ialians. Pham J. Peter, "The Dangerous 'Pragmatism' of Al-Qaeda in the Islamic Maghreb," *Journal of the Middle East and Africa* 2, no. 1, January-June 2011. Outside the Nigerian territory, in Cameroun were reported the kidnapping of a Canadian priest and ten Chinese workers. For the Nigerian families, kidnappers ask for sums between \$10.000-20.000, sometimes up to \$250.000. See Tattersall Nick and William Maclean, "Nigerian Sect Leader Praises al Qaeda, Warns U.S.," *Reuters*, July 13, 2010. "We are holding them hostage because the leaders of Cameroon and Nigeria detained our women and children under inhumane conditions". See Hamza Idris, "Why We Abducted French Nationals--Shekau," *Daily Trust*, March 19, 2013. The demands were entitled, see also Chuks Okocha, Yemi Akinsuyi, Michael Olugbode, and Aminu Mohammed, "Boko Haram Amnesty ... Women, Children Detainees to be Released First, Says FG," *This Day*, May 23, 2013.

<sup>59</sup> See "Nigeria's Boko Haram 'got \$3m ransom' to free hostages," *BBC*, April 26, 2013; Ndahi Marama, "Kidnapped Monguno Regains Freedom after Payment of Ransom," *Vanguard*, May 7, 2013; Jacob Zenn, "Boko Haram's Evolving Tactics and Alliances in Nigeria," *CTC Sentinel* 6, no. 6, June 2013, p. 11; Robert Marquand, "Nigeria Has Arrested 10 Generals for Aiding Boko Haram," *Christian Science Monitor*, June 4, 2014.

<sup>60</sup> See Constantin Onișor, Paul Duță, Adrian Dobre, *Areale globale: Uniunea Europeană - Africa subsahariană*, (Techno Media, Sibiu, 2009), 58.

<sup>61</sup> A multiethnic state with a population of 10 millions people (56% Hausa, 22% Djerma-Songhay, 8.5% Tuareg, 8% Fulani and 4% Kanuri) predominantly Islamic (90% of the population) spread in two great parts: the Suffi and the fundamentalist Wahhabi, of Soudi inspiration; the fundamentalist are organized against the Suffi in two groups: The Islamic Culture and Groups Association (Souleiman Youssouf) and The Association of The Islamic Niger (El Haii Aboubacar Issa). See Anneli Botha and Hussein Solomon, *Terrorism in Africa*, Centre for International Political Studies, University of Pretoria, 2002, 10, <[www.up.ac.za/academic/cips/Publications/TERRORISM%20In%20AFRICA.pdg](http://www.up.ac.za/academic/cips/Publications/TERRORISM%20In%20AFRICA.pdg)>, (accesed in 1 April 2015).



South.<sup>62</sup> Along with the ethnical diversity, another factor in favor of the radical Islam is the strong influences of Libya, Egypt and Sudan over Ciad.<sup>63</sup>

Having strong cultural, political and trading bonds since the VIII<sup>th</sup> century, Libya and Egypt open and maintain many commercial routes to the Sub-Saharan Africa. On the other hand, the Muslims had historical religious contacts with Libya and Darfur (Sudan),<sup>64</sup> especially after the taking of the power from the French colonists by the non-Muslim group Sara Algeria, Egypt, Sudan and Libya prepare and support Muslim rebel forces from North.<sup>65</sup> In 2004, the radical violence is stopped by the Ciad Army, ending with the death of 43 fighters from Algeria, Niger, Nigeria and Mali.<sup>66</sup>

In Mali there are 11 millions people in two groups<sup>67</sup>; it got the Islam in the XI<sup>th</sup> century and evolve to the moderate cult Sufi Qadiriyya tempering the Wahhabi tendencies of the Saudi Arabia and Libya, even if in Bamako there were Tuareg rebel movements against the govern.<sup>68</sup>

Mauritania with a population around 3 millions people, got the Islam in the XI<sup>th</sup> century, when the Berbers brought it there - Sanhaja and also a traditional form brought by the Moroccans – Almoravids – which reformed the Berber form, spreading in the Ghana Empire, (presently Mali) and in the Takrur Empire (presently Senegal).<sup>69</sup> There were no radical forms, but the border with Algeria was difficult to control. The humanitarian activities supported by Saudi Arabia, Morocco and Qatar are mainly for the building of mosques and

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<sup>62</sup> Population: 54% Muslims (mainly Suffi – Tijaniyya - the fundamentalists are in minority (Mahamadou Mahamat/from 2002 Haroun Idriss Abou-Mandela but also other imams imani transiting Sudan, Saudi Arabia and Pakistan), 30% Christians, 16% animists. See "Backgrounds: Chad Religious Freedom," Countries of the World: Chad (25 June 2012): <[www.ncbuy.com/reference/country/backgrounds.html?code=cd&sec=religiousfree](http://www.ncbuy.com/reference/country/backgrounds.html?code=cd&sec=religiousfree)>, (accessed in 2 April 2015).

<sup>63</sup> The Arabs control the state's commerce, the maba are in the centre – in Abeche and Am-Dam -, toubou are in the North of Ciad - Borkou, Ennedi and Tibesti - with traditional connections with Libya. See J. Millard Burr and Robert O. Collins, *Africa's Thirty Year War: Libya, Chad, and the Sudan, 1963-1993*, (Boulder, CO: Westview Press. 1999), 6-7.

<sup>63</sup> Bonds to the. XIX<sup>th</sup> century Jihadist initiatives from Libya and Sudan and Suffi supporters – Sanusiyya (Libya) and Mahdiyya (Sudan). After the end of the colonial power from Ciad, the Islamism divides in: a conservatory movement and a pan-islamic orientation. See Mario J. Azevedo and Emmanuel U. Nnadozie, *Chad: A Nation in Search of its Future*, Boulder, CO: Westview Press, 1998), 6-7.

<sup>64</sup> Bonds to the XIX<sup>th</sup> century Jihadist initiatives from Libya and Sudan and Suffi supporters – Sanusiyya (Libya) and Mahdiyya (Sudan). After the end of the colonial power from Ciad, the Islamism divides in: a conservatory movement and a pan-islamic orientation. See Mario J. Azevedo and Emmanuel U. Nnadozie, *Chad: A Nation in Search of its Future*, Boulder, CO: Westview Press, 1998), 95.

<sup>65</sup> In 1960, Sadiq al-Mahdi's (Sudan) and in 1969 Muammar Qaddafi's (Libya) support the rebel Muslim movement for the creation of a "Sahara's Islamic State" made from Libya, Egypt, Sudan, Ciad, Niger and Mali. More, Libya declares in 1981, its unification to Ciad and in 1982, Niger's unification to Libya. See Burr J. Millard and Collins Robert O., *Africa's Thirty Year War: Libya, Chad, and the Sudan, 1963-1993*, (Boulder, CO: Westview Press. 1999), 6-7.

<sup>66</sup> See Laoro Gondje, "Chad says killed 43 Islamic militants in clashes," *Sudan Tribune*, 11 March 2004, <[www.reuters.com/newsArticle.jhtml?type=topNews&storyID=4547900](http://www.reuters.com/newsArticle.jhtml?type=topNews&storyID=4547900)>, (accessed on 3<sup>rd</sup> of April, 2015).

<sup>67</sup> North (Tuaregs and the Moori) and South (Mande), 80% Bambara speakers apart from the language of the ethic group they belong to. See Nicolas Colombant, "Mali's Muslims steer back to spiritual roots," *Christian Science Monitor*, 26 February 2002, <[www.csmonitor.com/2002/0226/p08s020-woaf.html](http://www.csmonitor.com/2002/0226/p08s020-woaf.html)>, (accessed on 2<sup>nd</sup> of April, 2015).

<sup>68</sup> In The North of Mali, the movement led by Mokhtar Belmokhtar threatened the Northern border, spongy enough for easy radical movements. See Carlos Echeverria Jesus, "Radical Islam in the Maghreb," *Orbis*, Spring 2004, 10.

<sup>69</sup> Ethnical structure: 30% Moors (mix Arab-Berber), 30% black (ethical groups Peul/Fulani, Soninke, Wolof), 40% racial mix (Moor/black). Official languages - Hassaniya (Arabic dialect), Wolof. Other languages – French, Pulaar and Sonike. See Muriel, Gomez-Perez, "l'islamisme Dakar: d'un contrôle social total une culture du pouvoir," *Afrika Spectrum* 1, pp.79-98, 1994.

Islamic schools, monitored by the authorities that sometimes forbid some political and religious manifestations considered "threats".

Senegal and the present states – Gambia, Guinea-Bissau, and Guinea-Conakry – before the colonial age were part of a single state, Senegambia, following the Takrur Empire. In the Takrur Empire in the XIII<sup>th</sup> century, Islam appeared and expanded during the next four centuries in the entire territory.<sup>70</sup> In the XIX<sup>th</sup> century, Umar (bin-Said) Tall led a reformist Muslim movement and fights the French, introducing Islam in Bambara, the present Mali. In the XX<sup>th</sup> century, the Islam becomes Senegal's religion, mainly because of Ibrahim Niass, whose influence extends towards Western, and Northern Africa, and also in the Middle East. The Jihad promoted by Ibrahim Niass was addressed to the heart and not to the sword - peaceful resistance instead of violent opposition towards the colonial regime. He was followed by Muridiyya, the leader Falilou M'Backe.<sup>71</sup>

Cote d'Ivoire, Burkina Faso, Ghana, and Togo are West African states in which the Muslim communities experienced some radical Islam. In this region, between the XI-XIX<sup>th</sup> centuries the Islam spread so that Samory Toure ("The Black Napoleon") created the Islamic State Wasulu (on the actual territory of actual Cote d'Ivoire and the North of Burkina Faso) with a moderate Islam. In the XX<sup>th</sup> century there appears the Wahhabi, promoted by Al-Hajj Tiekedo. Between the trend promoted by Ibrahim Niass (in Senegal and around) and the Wahhabi from Cote d'Ivoire there are big differences especially in expressing radicalism. In 2002, in Cote d'Ivoire, Alassane Outtara, the leader of a Muslim group from the North and from Burkina Faso organized a coup d'etat.

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<sup>70</sup> In the XVIII<sup>th</sup> century, The Islam expands due to the Jakhanke Senegalese missionaries – in Guinea-Conakry. See Ghalioun, Burhan, *In Islam et islamismes au sud du Sahara Islam et islamismes au sud du Sahara*, 1998, edited by Ousmane Kane and J.-L. Triaud. Paris: IREMAM-Karthala-MSH, 7-12.

<sup>71</sup> See Ghalioun, Burhan, *op.cit.*, 23-27.

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**PUBLIC DIPLOMACY, MINORITIES AND  
INTERNATIONAL ORGANIZATIONS (OSCE, EU NATO, UN,  
EU)**

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**ABSTRACT:**

*WE ARE ENTERING A NEW WORLD WHERE KNOWLEDGE, CULTURE AND COMMUNICATIONS ARE VITAL KEYS, NOT ONLY FOR TECHNOLOGICAL PROGRESS BUT FOR ECONOMIC PROSPERITY, SOCIAL COHESION AND SUSTAINABLE DEVELOPMENT. IN THE WORLD OF INFORMATION SUBJECT TO THE INTENSE PROCESS OF GLOBALIZATION DIPLOMACY AND DIPLOMATIC ACTIVITY ARE CHANGED AND PUBLIC DIPLOMACY HAS BECOME "THE STEPCHILD OF DIPLOMACY" WHICH ASKS ITS RIGHTFUL PLACE AT THE CENTER OF DIPLOMATIC RELATIONS.*

*GOING ON THE IDEA OF CREATING THE TRUST, CERTAIN ASPECTS OF PUBLIC DIPLOMACY GO HAND IN HAND WITH THE ISSUE OF ETHNIC, NATIONAL OR RELIGIOUS MINORITIES.*

*THIS PAPER ANALYZE HOW THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, UNITED NATIONS, EUROPEAN UNION AND NATO USE THE PUBLIC DIPLOMACY TOOL TO MANAGE ETHNIC NATIONAL OR LINGUISTIC MINORITIES ISSUES.*

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**KEY WORDS:** NATIONAL AND ETHNIC MINORITIES, PUBLIC DIPLOMACY, OSCE, NATO, UN, EU.

The issue of national and ethnic minorities has given rise to numerous political, sociological, anthropological and historical debates and remains a highly debated topic in

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current academia of international relations. Minority groups in any countries can be a source of conflict and public diplomacy can be a useful tool both in settling any conflicts, and in encouraging dialogue between the majority and minority. Communication is one of the most important elements that can provide security or insecurity regarding minority issues. Also, international organizations have shown interest in the issue of minorities, formulating goals and putting into practice a series of actions to prevent ethnic conflicts.

We are entering a new world where knowledge, culture and communications are vital keys, not only for technological progress but for economic prosperity, social cohesion and sustainable development. In the world of information subject to the intense process of globalization diplomacy and diplomatic activity are changed. Foreign affairs are no longer a prerogative of governments, foreign diplomatic interests and principles are now being promoted through various methods. We are witnessing a fundamental change in how nations manage their international relations. National interests are promoted abroad through events and actions that go beyond traditional diplomacy, press releases, transaction and aide-memoires. After 11 September 2001, public diplomacy has become "the stepchild of diplomacy" which asks its rightful place at the center of diplomatic relations<sup>4</sup>.

Public diplomacy refers to issues and international connections that take place outside the state official interaction. It focuses on ways in which a State (or an organization) communicates with citizens of other states to form a positive image that contributes to the fulfillment of ideals and national interests. Public diplomacy can be a mean of control and adjustment for conflict situations that may arise and that may have national and ethnic minorities as actors.

Public diplomacy goes beyond traditional diplomacy and focuses on those actions that can cause changes in the way a particular state is perceived by the world. The image that he and a form is important especially when the "second face of power"- soft power has increasingly more importance in national politics. Public diplomacy includes the support of the government to culture, education and information, fostering citizen. Nancy Snow believes that public diplomacy is inevitably linked to the concept of soft power<sup>5</sup>.

Given the metamorphosis concept of traditional diplomacy the diplomats activity changes, he has more "tasks" which must carry them out. Public diplomacy is no longer the sole mission of career diplomats. It can also be done by elite people or structures within government agencies or civil society, non government organizations. The role is redefined diplomat. He becomes a facilitator in the creation and management of trusted relationships.

Going on the idea of creating the trust, certain aspects of public diplomacy go hand in hand with the issue of ethnic, national or religious minorities. Public diplomacy is indispensable for actors in reporting the problems and conflicts that may arise between minority groups and between minority groups and the state. Cultural efforts and educational exchange programs or projects relating to citizen involvement in city life can prove particularly useful in mitigating and managing relationships that may arise between minority groups, be it peaceful relations or conflicting relations. Through public diplomacy ones can create a strategic framework, a multilateral dialogue that facilitates the winning of hearts and minds which lead indirectly to solve both problems which arise in connection with minority groups and the more efficient integration of minority groups society.

Noting the importance that public diplomacy plays in communication, international organizations as vital actors of international or regional framework began to use it increasingly as a tool in the work and policies that they promote. Both the European Union, United Nations, NATO and OSCE have developed over time public diplomacy departments

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<sup>4</sup> David Hoffman, "Beyond Public Diplomacy," *Foreign Affairs* 81/2 (March/April 2002): 84, 23.

<sup>5</sup> Hoffman, *Beyond Public Diplomacy...*, 12.

through various instruments that promote or regulate the issue of minorities relying on the fact that public diplomacy can be a major tool in conflict resolution or in developing lasting relationships between different ethnic, national or linguistic minorities.

In what follows we chose to analyze how the Organization for Security and Co-operation in Europe, United Nations, European Union and NATO use the public diplomacy tool to manage ethnic national or linguistic minorities issues.

## **OSCE - ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE**

OSCE is a regional security organization comprising 57 states on the territory of three continents: North America, Europe and Asia. OSCE has a comprehensive approach to security, integrating politico-military, economic, environmental, and humanitarian aspects. As regards the issue of minorities, the OSCE key institution is represented by High Commissioner on National Minorities. Almost all OSCE participating States have one or more minority groups within their territory. In all these states, minority rights and the promotion of integrated multicultural society it is not only desirable in itself but also helps maintain stability and peace in relations between states<sup>6</sup>. According to its mandate, the High Commissioner on National Minorities should take immediate action and provide early warnings in matters of national minorities, which have not yet reached a dangerous level, but have the potential to develop into a conflict that could affect the stability and relations between Member States. The High Commissioner has a dual mandate<sup>7</sup>:

- To limit the "de-escalation of tensions;
- The OSCE warn whenever tensions threaten to reach the level that exceeds the resources at their disposal.

The High Commissioner is primarily a tool for prevention and early warning of conflicts, without being conceived as an instrument to protect human rights or minorities. Its most important principles are confidentiality and impartiality. Both principles are designed to help create and build confidence between the parties and the High Commissioner<sup>8</sup>.

In order to carry out its tasks, the High Commissioner ordered by various tools such as: collecting and receiving of information, visits to countries, involving experts, reporting and early warning. Information can be obtained both from the governments of countries where minorities are from organizations, NGOs and direct members of minorities affected and from any other sources such as the media. The High Commissioner does not need permission to visit the Member States, and these visits allow minority members access to an organization specializing in minority issues. Where there is a risk of a possible outbreak of conflict, the High Commissioner may issue an early warning.

The mandate implies certain limitations. For example, limiting the mandate only to situations that might affect security among nations leads to a situation where certain issues related to minorities within a state can not be addressed.

No nation Minorities are not covered by mandates, so that the problems of minorities such as the Roma are unapproachable, whom live in several states and having a "homeland". The High Commissioner does not have permission to address minority conflicts including organized violence. Situations like the one in Corsica, the Basque Country and Northern Ireland can not be addressed, as well as the Kurdish issue. In situations that have already

<sup>6</sup> UN Human Rights, *High Commissioner on National Minorities of The OSCE*, <http://www.ohchr.org/Documents/Publications/GuideMinorities9en.pdf> accesat în Decembrie 2014, 2.

<sup>7</sup> OSCE High Commissioner on National Minorities, accesibil la <http://www.osce.org/hcnm>, accesat în iunie 2015.

<sup>8</sup> Institutions and Structures, disponibil <http://www.osce.org/hcnm/107878>, accesat în iunie 2015.

passed the stage of early warning or which are in the Permanent Council, the High Commissioner may take action only with the Council approval<sup>9</sup>.

OSCE activity in the management of public diplomacy and the problems of minority groups may be particularly useful even if, within the regional context the organization stays in the shadow of European Union policies. However, through the OSCE conflict prevention policies, educational policies, issues concerning the intense involvement of minority groups in the political process and decision-making or the protection and promotion of effective cultural policy manages to be a major player in European stability from the perspective of national or ethnic minorities.

## EUROPEAN UNION

The European Union is a structure that appears to be perfectly adapted to international activities that require diplomatic means. This is due to its post-modernist nature, which "forces to base any policy on transnational negotiation and consensus by institutional regulations and procedures on a mixture of European and conventional instruments and above all, the strong compatibility with values and attitudes of the public and European elites"<sup>10</sup>.

In 2007, to celebrate 50 years of the EU, one of the European Commission brochures, public diplomacy was defined as being engaged in influencing public attitudes. Public diplomacy seeks to promote EU interests through understanding, informing and influencing. This involves explaining clearly the objectives, policies and activities of the Union and promoting understanding through dialogue with individual citizens, groups, institutions and the media<sup>11</sup>. EU public diplomacy is complicated because the type of actor who wants to become EU on the international stage is still imprecise, it is a project in progress, no finality. When analyzing the EU's public diplomacy should take into account that it was directed primarily inward Commission action plan dimension by capturing the objectives of improving communication on Europe, establishing a relationship and dialogue with citizens Europeans<sup>12</sup>.

The European Union is undoubtedly a stronghold of protecting the rights and freedoms of the individual issue whether ethnic or national minorities is directly included as a criterion of the accession process and a step in for integration. Public diplomacy as an instrument Union shall thus be used towards rights and freedoms and ethnic minority groups, especially since the unity in diversity slogan snaps a picture mosaic of European Union cultures languages and religions.

## NATO

North Atlantic Treaty Organization is for many countries in Europe and North American continent a military stronghold, an example of the principle of collective security in which a Member State is watched by all other members. The metamorphosis that the organization has suffered immediately after the collapse of the old communist enemy brought into discussions and in strategic concepts the aim of ensuring international peace and security.

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<sup>9</sup>HumanRights.ch, <http://www.humanrights.ch/en/standards/europe/osce/high-commissioner/> accesat în Decembrie 2014

<sup>10</sup> Michalski, A. *The EU as a Soft Power: the Force of Persuasion, [in:] The New Public Diplomacy: Soft Power in International Relations*, ed. J. Melissen, (Palgrave MacMillan, London, 2007), 125.

<sup>11</sup> Comisia Europeană, *A glance at EU public diplomacy at work, The EU's 50th anniversary celebrations around the world* (Luxembourg: Office for Official Publications of the European Communities, 2007), 13.

<sup>12</sup> Duke, Simon, *The European External Action Service and Public Diplomacy*, Discussion Papers in Diplomacy, nr 127, Netherlands Institute of International Relations Clingendael, (Haga, 2013), 2-3.

Regarding public diplomacy, NATO is not responsible for how Member States choose to maintain public communication with citizens. This responsibility falls on the public diplomacy department of military affairs ministries of each Member State. What NATO provides is additional information about the activities that each member state of NATO conducts within the frameworks of the organization and other information related to the objectives of the alliance. Public Diplomacy Department is responsible for providing public information policies and activities related to the interest that the organization promotes. The instruments through for public diplomacy in NATO are the organization's website, publications, seminars and conferences. According to NATO Handbook, the media is one of the most important tools that the Alliance has provided. Through the media and the Internet, the alliance sends most important information about the alliance, the major events taking place in the organization, interviews with key leaders of the organization and other matters that are of importance to citizens of NATO member states and for those in other countries.

Regarding aspects of minority issues, Public Diplomacy Division of the organization is not conducting programs and projects intended for minorities. What makes the organization for minorities is rather hard framed in the register of power. The operations that the organization conducts in various theaters of combat have always taken to ensure the protection of minorities be they ethnic or national. A less positive example of this is NATO operation in Kosovo. Human Rights Watch believes that NATO operation in Kosovo was a failure from the perspective of protecting and promoting the rights and freedoms of minorities in the area<sup>13</sup>. If this conflict is assessed that the Serbian and Roma minority were neglected.

NATO as an organization promotes peace and stability and has a stronger role in conflict areas, has always carefully respected and protected the rights and freedoms of minority groups. An example in this direction is linked to the South Caucasus, where NATO is now an actor in managing security issues. Being attentive to good reporting on minority groups, in 2005, NATO issued Resolution 335 for the protection and integration of minorities as a step in stabilizing the region. In the resolution, NATO encouraged the parliaments of Armenia, Azerbaijan and Georgia to take action in terms of integrating minorities and of course, once again reaffirming that protection of rights and freedoms of minority groups are part of the fundamental human rights.<sup>14</sup>

Even if public diplomacy in support of minority groups within NATO is not as prolific as in the OSCE, NATO is an important element in the stability and international security. Aware that the issue of minorities may be particularly sensitive one and a real source of conflict, NATO works and promotes the rights and freedoms of national or linguistic ethnic minorities through public diplomacy.

## UNITED NATIONS

The United Nations is by far the largest organization with global legitimacy. The idea of peace and security promoted by UN can not be complete without addressing the rights and freedoms of ethnic and national minorities. From this perspective, the UN has developed over time as more documents were the main topic of minority issues. In order to respect minority rights UN has the Office of the High Commissioner for Human Rights. The main document around which are formed and reinforce aspects of minorities is the *Declaration on the Rights*

<sup>13</sup>Human Rights Watch, disponibil la <http://www.hrw.org/news/2004/07/26/kosovo-failure-nato-un-protect-minorities> , accesat in iunie 2014.

<sup>14</sup>Resolution 335 on the protection and integration of minorities as a contribution to stability in the south Caucasus <http://www.nato-pa.int/Default.asp?SHORTCUT=830> , accesat in iunie 2014



*of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* adopted in 1992. The document sets essential standards and provides guidance to Member States in formulating and promoting legislative documents relating to minority rights. In addition to this declaration, the UN has formulated over time a guide that deals extensively with minorities issues.

Public diplomacy at the UN on the issue of minorities is made through the website of the Office of the High Representative for Human Rights which provides each of us the most important documents and other useful brochures and manuals in this matter. To these are added the various events that they sponsor or organize. Like NATO, through the operations they carried out in various areas of conflict, the UN has always reflect the respect and protection of national, ethnic or language minorities.

### **CONCLUSIONS:**

Globalization removes, among other things, the monopoly that has in foreign policy. Today when democracies prevail, dialogue is a key element of communication in international organizations including the European Union, the United Nations, North Atlantic Treaty Organization and the OSCE.

Public diplomacy aims to work with individuals and with international organizations to promote the interests, values and goals of a state, including the issue of rights and freedoms of ethnic and national minorities.

During this work we demonstrated that both the European Union and the United Nations, soft tools of international power and NATO and OSCE institutions that may be rather classified as hard powers, are able to promote resolutions and the use of public diplomacy aspects to promote ethnic or national minority rights.

European Union through *unity in diversity* slogan, NATO through Public Diplomacy Department and through the missions which they organize, OSCE with the High Commissioner for Minorities are doing using public diplomacy to help respecting and promoting the rights and freedoms of minority groups to manage conflict situations and to harmonize the integration of minorities groups in majority societies.

Through cultural policy, education policy, media and engagement programs that each of these organizations promote in their own style and in context with their objectives, international or regional organizations contribute to international peace and stability and effective management of minority issues. The efficiency of the policies and programs that they promote is undoubtedly linked with national policies and attitudes towards minority form states that host minorities groups.

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## **THE SOCIAL POLICY OF THE EUROPEAN UNION: MECHANISMS AND PRINCIPLES**

**Magda Simona SCUTARU<sup>1</sup>**

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### **ABSTRACT**

*THE SOCIAL POLICY IS A VERY IMPORTANT POLICY WHICH DEFINES THE EUROPEAN UNION , SEEN FROM THE PERSPECTIVE OF A SET OF COMMON POLICIES. IT IS IMPORTANT BECAUSE IT IMPROVES THE SOCIAL ORGANIZATION IN ALL THE MEMBER STATES.*

*DIFFERENT ASPECTS OF LIFE ARE INTERCONNECTED AND THIS IS POSSIBLE ONLY AT SOCIAL LEVEL: POLITICS IS MADE BY INDIVIDUALS, ECONOMY IS THE ENGINE OF SOCIETY AND IT IS MADE BY INDIVIDUALS.EVERY ASPECT OF THE HUMAN EXISTENCE CAN BE CONSIDERED A SOCIAL ONE , THAT IS WHY POLITICS AND ECONOMY CAN NOT EXIST AND FUNCTION PROPERLY WITHOUT THE BEST SOCIAL ORGANIZATION THEY CAN NEITHER EXIST NOR BE UNDERSTOOD OUTSIDE SOCIAL ASPECTS. THE EUROPEAN UNION SOCIAL POLICY HAS ESTABLISHED A SERIES OF OBJECTIVES WHICH DEFINE ITS SPHERE: FULL EMPLOYMENT, IMPROVING LIFE AND WORK CONDITIONS, ECONOMIC AND SOCIAL COHESION.*

*THE PRESENT ARTICLE IS BRINGING OUT TO SURFACE DIFFERENT ASPECTS WHICH FORM THE EUROPEAN UNION SOCIAL POLICY , BY REVEALING ITS MECHANISMS AND ITS PRINCIPLES.*

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**KEY WORDS:** SOCIAL POLICY, EMPLOYMENT, NON-DISCRIMINATION, SOCIAL COHESION

### **INTRODUCTION**

Specific social policy of the European Union is seen as not clearly defined , well delimited. This field, especially concerning employment and unemployment, working conditions, equality between men and women and social protection - reveals above all the competency of the European states. Certain aspects of their social laws must be harmonized. The fact that this field is not well delimited makes it very difficult for states to assimilate the legislation within the social field, and also makes it difficult for states to apply that legislation, which is, sometimes , very hard to adapt to the national one.

“There is a wide range of definitions of social policy. Some definitions are precise and well defined , others more vague and include a number of social activities. [ ...] Thus , in some countries , education is included in social policies and policies related to labor market in some countries are well structured social policies, while in others they are understood as a part of industrial and regional policies”<sup>2</sup>. Social policy objectives , as required by EU treaties aimed at full employment of labor , improving working conditions and life conditions, social

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<sup>2</sup> George Poede, *Politici sociale.Abordare politologica* (Iasi:Tipo Moldova, 2002), 6

cohesion and economic actors, and also social decisions<sup>3</sup>. The improvement of life and work conditions and full employment are the most important objectives, which stay at the basis of a well structured social system in any state. Where there is full employment, we can observe prosperity and wellbeing. Many states of the European Union throw a decisive accent on the objective of full employment, because it is also one of the engines of economy.

Employment policy of labor in each Member State of the European Union is coordinated by a common strategy, the *European Strategy for Employment*. Increasingly more, social policy has turned into a part of the European project. "In 1957, the Treaty of Rome contained only a few articles on social policy. *European Social Fund* has been created, and it aimed the fight against unemployment and encouraged the professional development. In 1986, The Single European Act included provisions related to health and occupational safety"<sup>4</sup>. To all these regulations were added those contained in the Treaties of Maastricht in 1992 and Amsterdam in 1997 and were reinforced by the regulations contained in the two European treaties. The matter which concerns employment and work force has become one of community interest, which needs a coordination strategy. Once the moment of the European Council in Lisbon had arrived, in March 2000, full employment had become the first objective in the horizon of the year 2000. The Lisbon Treaty in 2007 confirms the objectives (by mentioning: full employment, social progress, economic cohesion, social and territorial cohesion) and the decisions that already exist for the employment policy and social policy of the EU"<sup>5</sup>.

There are four main achievements regarding social policy of the EU. These achievements are grouped in four main subdomains, as follows:

1. Free movement of people and coordination of social security regimes
2. Equality between men and women
3. The right to work
4. Fight against discrimination

These objectives are the ones which make any social policy work, which make it functional. The first objective, involving the free movement of people, holds a key towards functional economies and of course a key to achieving the objective of full employment. The coordination of social security regimes is indispensable within the European Union and it shows that cooperation among states has reached a superior phase. The matter of equality, so much discussed at the European level, is a point that was touched by the social policy and, in this manner, equal opportunities are being offered to both men and women to succeed in their career and everyday life. Related directly to equality, there is the matter of non-discrimination and, close to it, the "right to work" that every European citizen must possess: both points are being touched and it can be said that the right to work is one of the highest ranked achievements of all. Why? Because it can lead to poverty reduction, unemployment reduction, it can bring prosperity for both the European citizens and for the Union as a whole, it can make economy function properly and it can bring political advantages by reducing the risks related to strikes against the system, strikes organized by dissatisfied citizens. It is interesting how full employment can bring peace to society, but it is also a realistic point of view the one that argues that it is almost impossible to reach full employment, in any state and in any system.

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<sup>3</sup> Poede, *Politici sociale*, 42

<sup>4</sup> <http://www.vie-publique.fr/decouverte-institutions/unioneuropeenne/action/politiques-communautaires/qu-est-ce-que-europe-sociale.html>; accessed on 09.10.2014

<sup>5</sup> <http://www.vie-publique.fr/decouverte-institutions/unioneuropeenne/action/politiques-communautaires/qu-est-ce-que-europe-sociale.html>; accessed on 10.10.2014

In December 2000, The European Council from Nice adopted a Chart of Fundamental Rights, which contains political rights, economical and social rights. The Lisbon Treaty, in 2007, offered it a kind of value, the same value that is been offered to a Treaty. The Court of Justice received the competency to guarantee that the Chart was being respected by the Member States.

We can observe, related to national sovereignty, the fact that social Europe is limited by the will of the member states to keep their policies regarding work and employment. Within the framework of the Lisbon Treaty, there is a declaration which interprets Art.156 of Treaty Of Maastricht over cooperation between member states regarding the fields of social policy (employment, the right to work and work conditions, professional formation, social security) and which states that these fields reveal in an essential manner the competency of member states. The encouragement and coordination measures have a complementary character.

There is a very wide range of domains on which a social policy can act, when it is implemented: it acts throughout the effects that it produces. A social policy that is well defined and well implemented has positive consequences over the social system as a whole. Taking as an example only the field of education, it can be said that an efficient educational system in a certain state can lead to the increasing of culture degree existent among all the citizens. Here is an impact that is as beneficial as possible and it reveals a successful implementation of the social policy within the field of education. There is a multitude of examples of the beneficial effects of the implementation of social policies elaborated and applied efficiently, the general idea remaining that the influence of such policies in a state is a very accentuated one, with multiple frames and with multiple implications.

The present work analyses the social policy of the European Union, with its wide spectrum of objectives, with the mechanisms which stand for an important part of the resort that moves different actions on the European plan in order to reach a certain degree of welfare and wellbeing.

*Social Europe Guide*, elaborated within the framework of the European Commission in 2011 is a presentation of the main policies regarding social protection in the European Union, by focusing on the policies which help reducing unemployment among young people. *The Europe 2020 Strategy*, which provides a basis for all the EU national policies, sets out a social-economic model based on smart, sustainable and inclusive growth, with a concrete commitment to achieve by 2020 an employment rate of 75%, a tertiary education completion rate of 40%, reduce school drop outs below 10%, and lift at least 20 million people from the risk of poverty and social exclusion.<sup>6</sup>

A very important work in the field of social policy that has been studied in the view of elaborating this work is called *Politica, putere, cunoastere* (Politics, power, knowledge), written by George Poede, professor at Alexandru Ioan Cuza University of Iasi, Romania. The book presents the problem of power and of social action within the first chapter. The social inequities are a real turbulence for the social system and they need to be eliminated, reduced. The author brings to the reader's attention the problem related to a reform of the social European model. The matters related to equality and cooperation are being seen as fundamental to democracy and wellbeing of a state.

The second chapter reveals the connection between politics and power: power has always been regarded as the center for the analysis of the political science. The author brings to attention the necessity of the existence of a political program. Many authors are being

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<sup>6</sup> Social Europe Guide, *Employment policy*, European Commission, Directorate General for Employment, Social Affairs and Inclusion, (Luxembourg: Publications Office Of The European Union 2011), 2

cited, among which there is also Peter Blau, with his definition of power “as inherently asymmetrical and as resting on the net ability of a person to withhold rewards from and apply punishments to others , the ability that remains after the restraints they can impose on him have been taken into account”<sup>7</sup>. This definition of power offered by the author is important for a better understanding of social relations.

Power within organizations is another interesting part of the author`s work, which reveals the meaning of power at the level of organizations. Between different organizations, there is also a struggle for power. In the last chapter of the book, George Poede presents the unbreakable connection between knowledge, politics and power: power appears always in a social context, which is continuously transforming, taking different shapes; economy plays a vital part in the equation of power; work has a great value and its results are precious for human existence. These are the main coordinates of *Politica, putere, cunoastere*, a complex work which offers a lot of precious information related to the variety of meanings of power at social level.

A deep analyses of social policies is presented within the work written by George Poede, called *Politici sociale. Abordare Politologica* (Social Policies. Politological perspective), appeared in 2002. The work begins with an introduction to the study of social policies and continues with historical perspectives over social policies. “The study of the political system contributes to a better understanding of the manner in which contemporary societies adopt the rules of social policies but also of the action of some political agents which are important and which are mediators between different social groups and political institutions”<sup>8</sup>. The author describes social problems as being the object of study of social policies and talks about manners in which these problems can be resolved. An important place is reserved for the agents of social policies: “the part a state plays in formulating , adopting and implementing social policies “<sup>9</sup> is a field that is also being studied from the perspective of social policies: state is being regarded from a double perspective, as a protector and as the state of general welfare. Both perspectives are being brought to light by the author, and also, a definition of political parties is being offered, as well as a definition of social movements, “structured organizations which defend or promote the interests of their members.”<sup>10</sup>

Social policies are being analysed with the help of different instruments and a social program is being analysed also. Gail Marker has established a guide for analyses of the social programs. Other important issues appear in the work, such as: issues related to child protection, social integration, poverty reduction, education policies, unemployment, all seen within the European Union space. The work is an excellent presentation of social matters and enlarges any perspective over the European social space and over the problems which need to be solved at social level.

## **EVOLUTIONS AND CHANGE WITHIN THE POLITICAL SCENE OF THE EUROPEAN UNION**

A constant preoccupation of the European Community for the aspects related to social policy has existed since it first appeared, from the signing of the Treaty of Rome in 1957. In time, the constant interest for the social policy has led to the creation of the Social European Model. “One of the most important moments of the evolution of this model is situated around the year 2000, when it can be passed from an approach based on minimizing the negative consequences on a social plan of the structural change, to an approach which has in view the

<sup>7</sup> George Poede, *Politica, putere, cunoastere* (Iasi: Tipo Moldova, 2004), 71

<sup>8</sup> Poede, *Politici sociale*, 47

<sup>9</sup> Poede, *Politici sociale*, 53

<sup>10</sup> Poede, *Politici sociale*, 60

modernizing of the social European system. .”<sup>11</sup> This modernizing is both desirable and necessary in the context of a series of complex evolutions taking place on other plan in all the European states , such as the economic plan , the political and even the financial and technological plan. Also, a series of changes have taken place within the collective mentality , which led to changes within the scale of priorities which the individuals have both on a personal plan and on the social plan, in interhuman relations. The modernizing of the European social system appears as a direct consequence of these factors and is a very important aspect which contributes to a certain degree of welfare in Europe.

The critics of the social policy protection system revealed a series of side effects of its functioning.”The programs of social protection, with the benefits and services it has assured, would encourage the dependency of the poor and of other target groups throughout the absence of components which have as a goal the construction of an active attitude , of responsibility towards the personal and professional evolution”<sup>12</sup>. It is also extremely true the fact that “the social protection systems operate in a new context, marked by individualism, which generates inequity and social exclusion”<sup>13</sup>. So, in this social framework, marked by the existence of inequities which are sometimes very visible - such as in Romania, where the social differences are very clear – appears the necessity of reducing the clear colours of exaggerated individualism , which is not justified by an appropriate level of knowledge and by the existence of human quality which could allow selfish attitudes, and also the necessity to erase social differences by promoting efficient policies. These policies must focus on what must lead to the evoding of social exclusion. Also, the norms which define the social policies must become more flexible, they must be detached by criteria which are extremely well rooted , by prejudices or by standards which are too strictly defined and this would lead to an easier social insertion of disadvantaged groups.

A very important characteristic of the social policy is sharing the responsibilities of thouching the communitary goals by the member states. The Communitary Chart of the Social Fundamental Rights of Workers was adopted in 1989 and it “reflects the preoccupation for the social dimension of the Communitary Policies”<sup>14</sup>. The member states must work together to be sure that social fundamental rights are being respected. Within the final document, called the *Social Chart* , a special accent is being thrown on the part that member states have to play and on the importance of their actions in the social policy field. The member states must be sure that social fundamental rights are being respected. Which are these social fundamental rights? The social fundamental rights refer, in general, to certain aspects, such as: free movement of people, employment, improving work and life conditions, social protection, equal treatment of both men and women, protectiong health and safety at the work place, child, teenager and elder people protection, also informing and consulting workers regarding problems which directly affect them. The Social Chart was signed in December 1989 by 11 member states of the EU<sup>15</sup>.

The *Green Paper* was also a very important step in the framework of social policy and it launched the process of debate over the future of social policies al communitary level (1993).

The lines which have been identified throughout the Green Paper concern :

- Common priorities to all member states
- An improvement of the situation of the work force

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<sup>11</sup> Phare RO 0006.18.02 Seria Micromonografii, *Politici Europene. Politica socială*, 2003, 4

<sup>12</sup> Poede, *Politica*, 16

<sup>13</sup> Poede, *Politica*, 20

<sup>14</sup> Phare RO 0006.18.02 Seria Micromonografii, *Politici Europene*, 2003, 4

<sup>15</sup> Phare RO 0006.18.02 Seria Micromonografii, *Politici Europene*, 2003, 4-5

- Stimulating solidarity and social inclusion
- Fight against poverty
- Fight against social exclusion
- Common Market and free movement of people
- Social and Economic Cohesion<sup>16</sup>

The *White Paper* was the next document which was very important for the social policy of the European Union, a key point which established the directions to be followed by this policy for six years (1994-2000). After the White Chart was signed, the main goal of the social policy was established, called “the creation of new places to work, closely related to the formation of a new and educated work force”<sup>17</sup>. An educated work force is an absolute necessity in any society which follows the road of development in all the sectors of activity. The citizens must be aware of the necessity of a serious approach of the problems related to professional orientation.

*Social Policy Agenda* is the next relevant document adopted in 2000 which reveals the framework and the priorities of 2005 policy. A series of major challenges existed and the *Social Agenda* had to face them:

- Employment of the workforce
- The importance of IT and the reduced number of the persons having abilities in this field
- The development of economy based on knowledge
- The EU enlargement and international social policies<sup>18</sup>

In 2005, a new *Social Agenda* was adopted and it was related to the period 2006-2010, in order to accompany the Lisbon Strategy. For 2007-2013, a program of the European Union was created, to occupy the work force and for social solidarity; it was called *Progress*, and it helps for the objectives of the EU to be applied, the objectives in the social field. In 2007, the Social European Fund was created, and it was related to globalization, with the purpose of offering help to employers losing their job because of changes taking place within the structure of world trade<sup>19</sup>.

After the signing of the Lisbon Treaty, on the 13<sup>th</sup> of December 2007, “which allowed new progress in consolidating the social dimension of the European Integration, a process of emphasizing the priorities on a social plan took place, among which there is full employment as a goal”<sup>20</sup>.

In July 2008, The European Commission published a New Social Agenda, related to opportunities, access and solidarity in XXI-st century Europe, as an answer to raising unemployment provoked by the financial and economic crises. Measures meant to raise the impact of the existing financial instruments have been introduced. In 2010, a new European instrument of finance, called *Progress*, was introduced, throughout which microcredits were being given to companies and to persons which are unemployed and willing to create or develop their own business

*Europe 2020 Strategy* has as a priority the growth based on inclusion. There are seven initiatives which should contribute to the objectives of *Europe 2020 Strategy*. The following are the most relevant:

<sup>16</sup> Phare RO 0006.18.02 Seria Micromonografii, *Politici Europene*, 2003, 5

<sup>17</sup> Phare RO 0006.18.02 Seria Micromonografii, *Politici Europene*, 2003, 6

<sup>18</sup> Phare RO 0006.18.02 Seria Micromonografii, *Politici Europene*, 2003, 6

<sup>19</sup> [http://www.europarl.europa.eu/aboutparliament/ro/displayFtu.html?ftuId=FTU\\_5.10.1.html](http://www.europarl.europa.eu/aboutparliament/ro/displayFtu.html?ftuId=FTU_5.10.1.html); accessed on 18.10.2014

<sup>20</sup> [http://www.europarl.europa.eu/aboutparliament/ro/displayFtu.html?ftuId=FTU\\_5.10.1.html](http://www.europarl.europa.eu/aboutparliament/ro/displayFtu.html?ftuId=FTU_5.10.1.html); accessed on 20.11.2014



- an agenda for new competencies and new places to work, which concerns the restructuring of security policies in order to improve the functioning of labour market , in order to help the individual to gain those competencies which will be required in the future
- *Youth on The Move*, which will contribute to the improvement of education and formation, which will help the young people to study abroad and will help them find a place to work
- Another program refers to fighting poverty and social exclusion and will contribute to the spreading of the best practices and will make sources of finance available to sustain social inclusion<sup>21</sup>

### **MECHANISMS AND PRIORITIES OF THE SOCIAL POLICY**

The social policy is a set of principles and activities “which orient the manner in which the state makes itself heard and mediates the relationships between individuals, groups, communities and social institutions. These principles and activities decide the redistribution of resources and the level of wellbeing of the members in a society<sup>22</sup>.

Richard Timuss proposes three models or functions of social policies:

- The residual model of social policy - starts from a series of facts which state that there are two natural channels or social dates, private market and family, throughout which the needs of the individual are being satisfied<sup>23</sup>. In these conditions, any intervention throughout social services appears only when the two elements do not function properly.
- The model of industrial achievement and performance - gives a significant space to welfare institutions, and the criteria of access to necessary resources for social needs are based on social credit, work performance and productivity.
- The institutional model - is a model based on social equality and it possesses a series of mechanisms related to the redistribution of resources. Universal services are being offered based on a series of needs, without market related issues to consider<sup>24</sup>.

“The member states have become more and more interdependent from the economic point of view [...]. The differences between the employment conditions between states can bring great advantages and is important to be kept a certain balance between states and the needs of the employees and of the employers.”<sup>25</sup>. Within the sphere of work force , a great step ahead was the introduction of a strategy for work force, in 1997. It promoted a certain type of policy and it focused on the problems related to work force and on the problems related to employment and these were common to all member states.

### **CONCLUSIONS**

No system and no political organization can be understood in a proper manner except for the times when they are placed in a social system, in a historical and operational context. The structure and the functioning of the European Union , of its institutions, the nature and dynamics of the political forces and also the political power are being modeled in a constant

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<sup>21</sup> [http://www.europarl.europa.eu/aboutparliament/ro/displayFtu.html?ftuId=FTU\\_5.10.1.html](http://www.europarl.europa.eu/aboutparliament/ro/displayFtu.html?ftuId=FTU_5.10.1.html); accessed on 01.01.2015

<sup>22</sup> Poede, *Politici sociale*, 5-6

<sup>23</sup> Poede, *Politici sociale*, 9

<sup>24</sup> Poede, *Politici sociale*, 9

<sup>25</sup> Social Europe Guide, *Employment*, 8

manner by the events of the actual context. The European Union must be seen as being related to forces that have generated the context. These forces must exercise their influence throughout cooperation and integration: these are political and economic forces.

It is absolutely necessary that for the Union to identify a series of external answers, in order to successfully face the economical crises and also the financial crises. This is the context in which was launched the *Europe 2020 Strategy*. This strategy is a document which, being taken by *The Agenda of The European Council*, was adopted as a new strategy for creating new places to work. In such a manner, it is possible for the social integration to exist and this is in favour of certain social groups. These groups include a great number of persons. The strategy, extremely important to the Union, is also formed of the conclusions drawn by the European Council.

In conclusion, the social policy elaborated by the European Union is one that is related to the essence of welfare in Europe, because a high level of welfare of the population means a high level of development in any state, no matter which state of the Union we are talking about. Even if the social policy can not be regarded as acting by itself, but only in relation to the economic policy and with other policies which help, together, to the defining of a wide spectrum of actions at the state level and at the Union level, it remains of a major importance to the European states. A clear definition of the priorities on the social scene and also a very serious approach of all the problems that can tear down the European populations are safe ways of exiting any type of crises: financial, political and social. The social policy is the basis on which a state with a strong economy is being built, a state with a political sphere in which decisions are being taken responsibly, in the interest of the citizens.

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**ROLE OF MASS MEDIA  
REGARDING CERTAIN SECURITY ASPECTS OF ROMA  
PEOPLE IN THE EU**

**George Marius ȘINCA\***

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**Abstract:**

*STEREOTYPE IS THE NUMBER ONE ENEMY OF THE ROMA PEOPLE'S IMAGE IN ALL SOURCES OF DAILY INFORMATION; MASS MEDIA DOES NOT DISREGARD THESE STEREOTYPES WHICH HAVE FORMED AROUND THIS PEOPLE WITH THEIR OWN VAGUE AND SOCIAL CULTURE, WITH BIG DEFICIENCIES THAT ARE DIFFICULT TO CORRECT. OFTEN THE CULTURE OF THE ROMA PEOPLE EVERYWHERE IS SOMEHOW TREATED AS A CURIOSITY OR AS AN ANOMALY OF THE CONTEMPORARY SOCIETY, AND THE MEDIA LEVERAGES THIS TO GET RATING POINTS WHILE MISSING A NOBLE PRIMORDIAL PURPOSE TO HELP THEM.*

*DUE TO MANY UNDESIRE FACTORS, YET PROMOTED BY CONTEMPORARY JOURNALISM, THIS OFTEN LEADS TO THE SOCIAL DOWNFALL OF MINORITIES BY ALTERING THEIR IMAGE AND MARGINALIZING THEM OR, ACCORDING TO HISTORY, ISOLATING THEM IN COLONIES AND DEPRIVING THEM EVEN OF THEIR CONSTITUTIONAL RIGHTS.*

*MORE OFTEN THAN NOT, THE REACTION IS NEGATIVE AND UNWANTED, EXEMPLIFIED BY MASS IMMIGRATION OR HIGH CRIME RATE IN AREAS INHABITED BY THE ROMA PEOPLE.*

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**KEYWORDS:** EUROPEAN UNION, SECURITY, MINORITIES, MEDIA, ROMA PEOPLE

Somewhere between 10-12 million Roma people are currently living in Europe, a number greater than Austria's population; hundreds of thousands of them were exterminated by the Nazis, yet they are still the largest minority in Europe and the continent's most unwanted people. Roma people have been living on the European continent for about a millennium and yet they are still facing racial discrimination which has come to be perceived by them as routine, although they are excluded from different areas where the majority population is allowed to participate freely. There have been debates about the "bold" idea that racial discrimination against the Roma people has been fueled by their ongoing exclusion from educational programs, employment and insufficient development of the Roma people's social inclusion policies in these specific areas. "Ghettos" on the outskirts of European metropolises like Miskolc -Hungary<sup>1</sup>, Vidin - Bulgaria<sup>2</sup>, Rome<sup>3</sup>, Milan and Naples -

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<sup>1</sup><http://budapestbeacon.com/news-in-brief/demolition-miskolc-roma-ghetto-begins/>, visited today, May 10, 2015.

Italy<sup>4</sup>(*and many more*) –areas which are often inadequate in terms of a living environment – are also considered a contributing factor to the dissemination of negative stereotypes regarding hygiene, attitude, character and activities of the Roma people. There is a need for consistency in waving a red flag at those responsible for the social development of the Roma community in each European country. *The difficult situation in which we find a large portion of the Roma people is due to their “fall” in the “poverty trap”, as described by Professor Cătălin Zamfir*<sup>5</sup>.

## 1. ISSUES OF THE ROMA MINORITY IN THE EUROPEAN UNION.

Over time, the assimilation of Roma population has been a process introduced into widespread use, a process adopted by countries that were facing the issues of Roma minority, as a saving solution to solve specific problems of this ethnic group, but it turned out it was not a viable form of assimilation or social integration that would ensure social standardization. Integration as a phenomenon in their case is seen as an action that aims primarily at preserving the cultural Roma identity, without renouncing the specific cultural heritage, under the conditions of an appropriate economic or socio-cultural inclusion that would provide real long-term solutions.

The solution of integration and assimilation of the Roma people into the economic system involves an active participation of the Roma population within the socio-cultural system, through training in a large share both in terms of education and health, but also an active participation in the social and political life. The exogenous perception of crime was carefully analyzed contextually as well as the crime's manifestation in Roma or predominantly Roma communities. The presence of this minority in the study area did not cause an insecurity due solely to this ethnic group; the study was carried out by extracting statistical data from the EU, from the National Statistical Institutes of EU member states, and from NGOs. However, poor living standards and social maladjustment is not resolved but only regulated, yet for various reasons these regulations regarding minorities are implemented only partially, if at all; several European countries had a desperate attempt to raise the entire minority to a new status through education and training programs which unfortunately did not have the expected result, *dropout and non-attendance risk is still significantly higher than the average of the entire population. Sometimes the peculiarities of the Roma population prevent their access to social benefits. For Roma groups, which show different degrees of nomadism, the welfare system is unable to provide any form of support*<sup>6</sup>.

## 2. INFORMATION HIGHWAY

A new territory with borders impenetrable by us until a few decades ago – hereinafter called the virtual environment or cyberspace (*not to be confused with “the Internet”*) – has taken a new form that requires every state, the European Union and the world to take action in order to regulate not only its security but also the strict monitoring of information that is carried by this new means of communication, or information highway. Although, currently, there are national, European and international laws with clear jurisdiction in this field, they

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<sup>2</sup><http://www.dw.de/bulgarian-roma-life-behind-the-wall/a-18365997>, visited today, May 10, 2015.

<sup>3</sup>[http://roma.repubblica.it/cronaca/2013/08/30/news/rom\\_in\\_150\\_scrivono\\_al\\_sindaco\\_marino\\_non\\_vogliamo\\_p\\_i\\_vivere\\_nei\\_campi-65551687/](http://roma.repubblica.it/cronaca/2013/08/30/news/rom_in_150_scrivono_al_sindaco_marino_non_vogliamo_p_i_vivere_nei_campi-65551687/), visited today, May 10, 2015.

<sup>4</sup><https://placesjournal.org/article/the-roma-of-rome-heirs-to-the-ghetto-system/>, visited today, May 10, 2015.

<sup>5</sup>Janina Micu, „Integrarea socială a rromilor” (“The Social Integration of the Roma”), <http://www.etnosfera.ro/pdf/2009/1/02.pdf>, visited today, May 9, 2015.

<sup>6</sup>Cătălin Zamfir, Situația sărăciei în România – dimensiuni, surse, grupuri de risc (The Poverty Situation in Romania - Dimensions, Sources, Risk Groups), 2001, 10, [http://adatbank.transindex.ro/html/cim\\_pdf385.pdf](http://adatbank.transindex.ro/html/cim_pdf385.pdf), visited today, May 9, 2015.

are still interpretable because development in and through this virtual environment is constantly expanding with too many legal unknowns and loopholes. This expansion brings along a multitude of benefits without which some countries would be severely affected, at least economically, such as Estonia. For example, in order to make a point regarding this information increase, we can highlight the fact that along with the expansion of means of communication there was the inevitable reach of a dead end, namely the Internet could no longer support the number of users who wanted to have access to information; the maximum number of stations allowed and connected to such a network was technically too much for the communication protocols, being limited to 4.3 billion IPs. It is obvious that information increased exponentially which of course led to an increase in its flow due to higher demand and higher supply. In our case, without making a difference in the quantity/quality ratio of information regarding minorities, this information is abusively used as a tool to denigrate persons or minorities and scarcely used in order to promote culture, customs, language or other valuable aspects of minorities.

### 3. MASS MEDIA – IMPACT AGENT OR INFORMATION MANIPULATION.

Mass media plays a critical role in raising awareness regarding Roma people's problems and in highlighting primary factors that prevent the integration into society of Roma people.

Unfortunately, mass media does not have a clearly defined precinct at the EU level, because at the same time it acts both online and offline via cable TV or in writing through journals, magazines, newspapers or other daily sources of information addressing the various social classes or focusing on specific areas of interest. Having relied for some time on political nuance, journalism – the “*eyes and ears*” of the society – is as strongly developed as it is manipulative and rarely objective regarding truly vital information that should reach the internet user, reader, listener or viewer. Above freedom of expression there is one's security, a fundamental need that unfortunately is not practiced at its true necessity even by developed countries such as Hungary, Bulgaria, Italy, France, Germany and Romania. Unfortunately this journalistic freedom of expression, most of the time translated bluntly by opinion formers, is not always true, too often causing social unrest, frustration and retaliation or even riots or terrorist attacks. No terrorist attacks have been imputed to the Roma minority yet, but the desperate situations of these people throughout Europe nowadays cannot exclude such a desperate behavior, even in the near future.

Mass media plays quite an important role in the integration of Roma people but unfortunately it is almost absent; instead of emphasizing the stringent problems of Roma communities or minorities in order to apply efficient state policies for their integration, as easy as possible, into the functional system of communities where they live, most of the time – so as to get a higher rating, to achieve an offbeat sensation or to create myths which would become themselves a source for other “*shocking*” prime time news or front page headlines, about the alleged negative “*innate*” characteristics of the Roma people – contemporary journalism and media will prefer to denigrate, oppress or label under these already famous pejorative, deprecatory titles: *gypsy, țigan, gitano, cikán*.

Roma stereotypes are inoculated into our minds precisely by irresponsible journalists of respectable media trusts (exactly through the obsessively and frequently used expressions to separate *us* from *them* or crime-related phrases like, *apparently a Roma offender*), these are some of the reasons why it is so difficult to fight against Roma discrimination in any spectrum of mass media. We bring to your attention a few news headlines from different parts of Europe that drew our attention regarding mass discrediting of this minority: The daily beast

–*Roma Immigrants Have Set France on Edge*<sup>7</sup>, BBC News–*How Gypsy gangs use child thieves*<sup>8</sup>, *Corriere della sera* –*Via gli zingari, fanno scappare i turisti*<sup>9</sup>, *Gypsy Child Thieves*<sup>10</sup>, broadcasted in September 2009 on BBC 2, *The Secret Lives of Britain's Child Beggars*<sup>11</sup>, an ambiguous documentary aired on BBC 1 in October 2011, or other strong reactions of extremists who are not recognized by certain countries but, at the same time, they are active through acts of violence against the Roma people, and we are referring here to examples like the Hungarian Guard<sup>12</sup> which is a racist, paramilitary, extremist organization, and was officially disbanded by the Hungarian courts of law in December 2008 for activities that infringed the Roma's rights to freedom and security; there is irrefutable proof that this organization is still active and recruiting, this information having been taken and investigated by FXB Center for Health & Human Rights and Harvard School of Public Health, after which a report was filed with the results<sup>13</sup>.

#### 4. SOCIAL MEDIA– INFLUENCES ON THE ROMA POPULATION.

Illiteracy is one of the huge problems most of the Roma population faces, therefore written materials are not effective in transmitting information, the only channels of communication towards a Roma person are audio and visual ones (*radio and television*). Currently there are about 25 studios for recording, editing and broadcasting programs in the Romani language in Europe, without counting those of the NGOs focused on helping minorities and implicitly the Roma people. Among the most important non-governmental organizations cooperating with and supporting the spread of the Roma minority's culture, language and values in Europe we can mention the Open Society Institute<sup>14</sup> and Medienhilfe<sup>15</sup>.

Also, Internet access is available only to Roma elites because, as previously mentioned, the dropout and non-attendance risk makes its presence felt<sup>16</sup> therefore the use of devices with Internet access is very low, the economic factor stepping in here because both these devices and the access itself to Internet resources have a cost that most of them cannot afford for now. However, some web references<sup>17</sup> are found in the virtual environment about the activities of Roma communities<sup>18,19</sup> via websites run by educated Roma<sup>20</sup> as well as discussion forums<sup>21</sup> and private discussion groups<sup>22</sup> among historians, artists, collaborators

<sup>7</sup><http://www.thedailybeast.com/articles/2013/10/04/roma-immigrants-have-set-france-on-edge.html>, visited today, May 9, 2015.

<sup>8</sup><http://news.bbc.co.uk/2/hi/8226580.stm>, accesat astăzi 09.05.2015.

<sup>9</sup>[http://archiviostorico.corriere.it/1994/agosto/12/via\\_gli\\_zingari\\_fanno\\_scappare\\_co\\_0\\_9408125410.shtml](http://archiviostorico.corriere.it/1994/agosto/12/via_gli_zingari_fanno_scappare_co_0_9408125410.shtml), visited today, May 9, 2015.

<sup>10</sup>Sutcliffe T., “*Last Night's Television: This World – Gypsy Child Thieves, BBC2*”, The Independent, 3 September 2009, <http://www.independent.co.uk/arts-entertainment/tv/reviews/last-nights-television-this-world-ndash-gypsy-child-thieves-bbc2-1780881.html>, visited today, May 10, 2015.

<sup>11</sup>*Irish Traveller Movement of Great Britain, News Release: ITMB press release ITMB lodge complaint with BBC re- garding the public lynching of the Travelling Communities*, 1 February 2012.

<sup>12</sup><http://www.gardamozgalom.org/>, visited today, May 10, 2015.

<sup>13</sup>François-Xavier Bagnoud, *Accelerating Patterns of Anti-Roma Violence in Hungary*, Boston, 2008, [http://fxb.harvard.edu/wp-content/uploads/sites/5/2014/02/FXB-Hungary-Report\\_Released-February-4-2014.pdf](http://fxb.harvard.edu/wp-content/uploads/sites/5/2014/02/FXB-Hungary-Report_Released-February-4-2014.pdf), visited today, May 9, 2015.

<sup>14</sup><http://www.opensocietyfoundations.org/>, visited today, May 9, 2015.

<sup>15</sup><http://www.medienhilfe.ch/index.php?id=1&L=1>, visited today, May 9, 2015.

<sup>16</sup><http://fra.europa.eu/DVS/DVT/roma.php>, visited today, May 10, 2015.

<sup>17</sup><http://rroma.org/>, visited today, May 10, 2015.

<sup>18</sup><http://www.unionromani.org/>, visited today, May 10, 2015.

<sup>19</sup><http://www.icfoundation.ro/>, visited today, May 10, 2015.

<sup>20</sup><http://www.romanothan.ro/>, visited today, May 10, 2015.

<sup>21</sup><http://www.romani-online.co.uk/>, visited today, May 10, 2015.

and experts of the Roma language and culture worldwide. Although there is almost no direct presence of Roma minority, propaganda materials against them can be found on every social network. Unfortunately, underage youth are most affected by this, who surf the Internet and accumulate altered information followed by stigmatization and then by negative stereotypes deeply impregnated into the minds of future responsible citizens of the European Union.

One of the most dangerous games in which social media is involved is the game of promoting distorted images of the Roma life, their unwritten law, the customs and traditions of these people who have formed a tessellated identity due to originally being a migratory people, and we have no right to judge them in any way. However, mass media trusts are usually institutions informed by their own set of rules and criteria which are rarely aligned or related to the concerns and needs of minorities. In our attempt to tackle the issue of the responsibility and accountability of media in a broader perspective, we are bound to first provide a picture of the daily reality of Europe or why not international journalism.

National TV stations (*public and private*) hardly ever broadcast programs for the Roma minority, compared for example to the Hungarian minority in Romania, a country which is among the few to even have television channels exclusively in a minority's language.

Of course, local or national radio stations, public or private, have the same behavior as TV stations, let alone written press material where we can find a true cultural and informational phenomenon. But coming back to online broadcasters we would like to mention several examples of stations that are broadcasting right now, noting that they are not as professional as the properly budgeted national radio or TV stations, as follows:

- TV LORIAN ROMANI TELEVIZIJA-CH: <http://lorian-tv.beepworld.de/>
- TV SUTKA: <http://original.livestream.com/tvsutka>
- Radio PATRIN: [http://salto.nl/streamplayer/radio/wereldfm\\_live.asp](http://salto.nl/streamplayer/radio/wereldfm_live.asp)
- Radio ROMANO: <http://sverigesradio.se/sida/avsnitt/541706?programid=2122>

We can find reliable resources in terms of information integrity and authenticity on certain websites, too, where they endeavor to promote the image of the Roma everywhere, and they can be accessed from any Internet-connected device that has the ability to display text, audio and video files; references are few but the emphasis is on the quality of materials collected from all around the world, and two of them are:

- Mundi Romani website: <http://www.mundiromani.com/>
- Romea website: <http://www.romea.cz/en/>

In the same virtual environment, in the vast Internet we can find a relatively very small number of communication or discussion groups, public or closed, with the aid of well-known online social channels like Facebook (*RROMANI*, *Rromani Resistance*, *Limba romani*), Youtube (*Rroma Anthem*, *KALE DOR KAYIKO*, *GipsyRomanoTube*), Google+ (*Lumijakere Rroma*, *Romani Online*, *Romania Rromani Asociación*), Yahoo Groups ([https://groups.yahoo.com/neo/groups/Plan\\_of\\_Action/info](https://groups.yahoo.com/neo/groups/Plan_of_Action/info), <https://groups.yahoo.com/neo/groups/rromcultureandethnicromans/info>)<sup>23</sup> and many others.

When we're talking about the Roma culture in fact we are also talking about the Roma music culture; the Roma minority totally identifies with the lyrics, images, acoustics and emotions conveyed through songs that are interpreted and displayed for us in the virtual environment in the form of audio moments or videoclips. The beauty of these songs is that even if one does not know their language, one can easily empathize with them while passively

<sup>22</sup>[https://groups.yahoo.com/neo/groups/Romanian\\_Roma/conversations/messages?messageStartId=2500&archiveSearch=true](https://groups.yahoo.com/neo/groups/Romanian_Roma/conversations/messages?messageStartId=2500&archiveSearch=true), , visited today, May 10, 2015.

<sup>23</sup>Note: *The names in parenthesis should remain exactly in this form in order to be found.*



participating by listening to these songs. Examples of their beloved music which can be found in the vast ocean of information are “Gelem gelem” (*We Keep Going – the international Roma anthem*<sup>24</sup>), Loli phabay (*The Red Apple*<sup>25</sup>) or Ederlezi (*Ederlezi=The Spring Festival*<sup>26</sup>).

We can also appreciate the fact that although it is of late, the Romani alphabet is young yet very well standardized with a well established and still deeply studied, excellent grammar, and in recent years this language has been present in the curricula of schools that have numerous minorities, but only in the education institutions of certain EU member states. A huge disadvantage is the fact that we cannot find a standardized set of characters (*font*) in the virtual environment for fluent writing in this language or online dictionaries and online translation engines such as those provided by Google Inc<sup>27</sup>. A good database with the Romani language vocabulary can be accessed on the ROMLEX website <http://romani.kfunigraz.ac.at/romlex/lex.xml> but for the keen and curious there are books, compendia, magazines, journals and research materials for the language, literature and culture of the Roma minority developed by language specialists of which we can recall Professor Dr. Gheorghe Sarău, Delia Grigore, Matéo Maximoff, Mehmed Merejan, Rajko Đurić, Ronald Lee, Louise Doughty and John Bunyan who wrote "The Pilgrim's Progress", a beautiful allegory of the Christian spiritual journey, between 1678 and 1679, considered a masterpiece of the English literature.

## 5. POSITION OF THE EUROPEAN UNION

Out of the 10-12 million Roma people who live in Europe, about 6 million live inside the EU area, where most of them have EU citizenship.

The European Union's position is quite clear, officially advocating for the inclusion of Roma people, and this attitude which can be seen in the *COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, COUNCIL, EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND COMMITTEE OF REGIONS- Social and economic integration of the Roma people in Europe* in Brussels in 2010<sup>28</sup>, then continued during 2014 through a strict monitoring and steadfastness of programs for social integration/inclusion of Roma people in all the particularly deficient aspects of each country starting in 2011, highlighted in the *COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, COUNCIL, EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND COMMITTEE OF REGIONS-Report on the implementation of the EU Framework for National Roma Integration Strategies* in Brussels in 2014<sup>29</sup>. Although slow but decisive, steps are being taken towards a uniformity of identity and a better social security of the Roma population inside the EU, the inclusion of this minority is not only the job of EU institutions, but each EU country should make it a common goal.

The European Commission adopted in 2011 a Communication to compel the drafting of national strategies for the inclusion of the Roma which particularize clear policies and measures to be taken, namely the *COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, COUNCIL, EUROPEAN ECONOMIC AND SOCIAL*

<sup>24</sup><https://www.youtube.com/watch?v=oj4yQlkjEDQ>, visited today, May 10, 2015.

<sup>25</sup><https://www.youtube.com/watch?v=wM99NAKkc4Y>, visited today, May 10, 2015.

<sup>26</sup><https://www.youtube.com/watch?v=ep1PSG2rwzc>, visited today, May 10, 2015.

<sup>27</sup><https://translate.google.com/>, visited today, May 10, 2015.

<sup>28</sup><http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52010DC0133>, visited today, May 10, 2015.

<sup>29</sup><http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1431242243493&uri=CELEX:52014SC0121>, visited today, May 10, 2015.

*COMMITTEE AND COMMITTEE OF REGIONS - An EU Framework for National Roma Integration Strategies up to 2020* in Brussels in 2011<sup>30</sup>.

Therefore each EU Member State has created a Roma strategy or a set of integrated policy measures that have been assessed by the European Commission in a Communication adopted in 2012 through the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, COUNCIL, EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND COMMITTEE OF REGIONS - *National Roma Integration Strategies: a first step in the implementation of the EU Framework* in Brussels in 2012<sup>31</sup>. The European Council adopted a Recommendation on effective Roma integration measures in Member States on December 9, 2013<sup>32</sup>.

The assessment report published in 2013 through the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, COUNCIL, EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND COMMITTEE OF REGIONS - *Steps Forward in Implementing National Roma Integration Strategies* in Brussels in 2013<sup>33</sup> focused on the structural prerequisites necessary in each country. These annual reports (*which will be done until 2020*) contain information provided by each EU country, NGOs, international organizations and the EU Fundamental Rights Agency (FRA<sup>34</sup>). As a result, the *Report on the implementation of the EU framework for National Roma Integration Strategies*<sup>35</sup> was drafted in 2014.

Within the *Europe 2020 Strategy*, in a COMMUNICATION OF THE EUROPE 2020 COMMISSION - *A European strategy for smart, sustainable and inclusive growth*<sup>36</sup>, the European Commission highlights the fact that more efforts are necessary in order to ensure the inclusion of Roma people.

Something else to mention here is *the Roma Inclusion Decade*, a Pan-European initiative aiming to eradicate racial discrimination aimed at Roma people and initiate human development solutions that contribute significantly to the integration of Roma people in the societies in which they live.

*The participating countries putting forward this initiative are: Croatia, Czech Republic, Hungary, Montenegro, Romania, Serbia, Slovakia, and the former Yugoslav Republic of Macedonia. The program runs from 2005 to 2015 and is expected to affect significant developments in the areas of education, employment, health and housing as a way of eliminating racial discrimination and bringing about Roma integration*<sup>37</sup>.

## CONCLUSIONS AND SUGGESTIONS:

The problems of the Roma people will certainly not disappear, but due to the culture differences between the Roma people and the communities in which they live, certain actions seem more than necessary in order to support the minorities: guidance and control activities, but also activities to increase the acceptance level of the foreign civil society that will assimilate them.

<sup>30</sup><http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52011DC0173>, visited today, May 10, 2015.

<sup>31</sup><http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52012DC0226>, visited today, May 10, 2015.

<sup>32</sup><http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32013H1224%2801%29>, visited today, May 10, 2015.

<sup>33</sup><http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52013DC0454>, visited today, May 10, 2015.

<sup>34</sup><http://fra.europa.eu/en>, visited today, May 10, 2015.

<sup>35</sup>[http://ec.europa.eu/justice/discrimination/files/roma\\_implement\\_strategies2014\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_implement_strategies2014_en.pdf), visited today, May 10, 2015.

<sup>36</sup>[http://ec.europa.eu/europe2020/index\\_en.htm](http://ec.europa.eu/europe2020/index_en.htm), visited today, May 10, 2015.

<sup>37</sup>Nicolina Markidou, „*Media Coverage of Roma Issues*”, <http://www.advocacynet.org/>, visited today, May 9, 2015.

*Radio and television broadcasting programs in the Romani language* are way too expensive to be supported by organizations focused on helping minorities or by the Roma population itself. As financial support keeps diminishing, the Roma journalists say they are in a constant struggle with no assurance of success. The current trend is for these media studios to be taken over by other trusts or to merge with other studios in order to be able to offer a minimum of information at a regional, not national level, or ultimately to be forced to close down. This initiative to populate the information area with radio and television stations in the Romani language is not a viable solution for the promotion of services or products, therefore self-financing is almost impossible.

*The journalistic environment* must reach maturity; it is unacceptable that after so many years of experience regarding the Roma worldwide, both traditional journalists and those behind the monitors would not see beyond the stereotypes that they have created themselves, over time, for various obviously subjective reasons. One relevant suggestion would be that— before they put down their words in the final shape — the opinion formers should look deep into the problems or cases they are going to write about and then they should be thoroughly objective.

*Contemporary society* will not gain security in any area unless they find a balanced coexistence with the Roma people and other minorities. This harmony will not happen out of the blue, without hard work, therefore if not for our generation then for those ahead of us, we are obliged to do everything we can to solve this interpersonal and social problem.

*Minorities* of all types— but particularly the Roma — will have the difficult task of accepting to be modeled and adjusted for total assimilation within the population of EU member states. We are putting it so bluntly because nothing comes without a cost and typically those who ask are required to pay more; one should not delete or dilute the identity of minorities but those incidence points which prevent evolution towards a better and safer future must be removed or a consensus will not be reached, and history shows that the consequences of such a failure lead to greater frustration, followed by real crises that often can no longer be controlled.

*The European Union* and its entire system of government alongside Member States are more than required to mediate between minorities and the society they wish to blend in for equal rights and obligations. A filter that would synthesize and analyze information regarding minorities in the virtual environment would be more than welcome since most of the cases exhibited in the media are not thoroughly tested or are knowingly altered. It is necessary to have such a tool that would be in close contact with the legal jurisdiction of Member States and also European institutions - an instrument with a legal basis.

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## WHO ARE ‘WE’? EUROPEAN IDENTITY AND SPIRITUALITY

Sorina Maria RATZ\*

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### ABSTRACT:

*EVERY NOW AND THEN, EUROPEAN IDENTITY IS EVOKED IN PUBLIC DISCOURSES, PAPERS AND DEBATES, ALL TRYING TO DEFINE, TO ARTICULATE AND TO STRENGTHEN IT. HOW CAN WE EXPRESS THIS IDENTITY WHICH MUST TAKE ON A EUROPEAN DIMENSION ?*

*IN ORDER TO HAVE AN APPROACH AS COMPLEX AS POSSIBLE, IT SHOULD BE TAKEN INTO CONSIDERATION THE FUNDAMENTAL DIMENSIONS OF A POSSIBLE EUROPEAN IDENTITY, ACCORDING TO THE CONCEPTUAL AND THEORETICAL EXPLICATIONS. THE ‘SPIRITUAL TIES’ AS THEY ARE MANIFESTED IN A COMMON ‘WORLD OF MEANINGS’ (A ‘UNIVERSE OF SYMBOLS AND RELEVANCIES’), AS THEY ALLOW TO ACHIEVE A CONSENSUAL ‘DEFINITION OF THE SITUATION’, AND INCLUDING THE THREE DIMENSIONS OF A SHARED ‘TODAY’, ‘PAST’, AND ‘FUTURE’. IF ONE’S IDENTITY IS A FULFILLMENT, THE SUM OF A PERSONAL HISTORY, THEN EUROPEAN IDENTITY IS MADE UP OF A HUGE AND VARIED HERITAGE. TO EXPRESS EUROPEAN IDENTITY THROUGH HERITAGE ONLY, HOWEVER RICH THIS MAY BE, WOULD BE TO LIMIT ONESELF TO CONSERVATISM WITHOUT A FUTURE. □ EUROPE NEEDS VISIONS WHICH RELATE TO THE FUTURE. OUR OWN IDENTITY IT’S GIVEN BY CULTURE, COMMON MEANINGS AND DIRECTIONS OF THE GROUP, CONTACT AND DISCOVERS WITHIN CERTAIN TERRITORY, AND DIFFERENT EXPERIENCES OF LIFE’S SPECTRUM.*

*IN THIS CONTEXT TWO SCENARIOS ARE LOOMING FOR THE FUTURE OF EUROPEAN IDENTITY, ONE WHEREBY WE ARE AT THE LIMIT OF EUROPEAN IDENTITY AND THAT THIS EUROPEAN PROJECT WILL NEVER SUCCEED OR ENCOUNTERING NEW FORCES WHICH WILL ENHANCE EUROPEAN IDENTITY.<sup>1</sup>*

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**KEY WORDS:** CULTURE, DISCOURSE, IDEOLOGY, IDENTITY, EUROPEAN SPIRITUALITY

Europe's identity is given by the common values underlying a plurality of cultures, expressed in the use of 43 languages grouped into families (Roman, Germanic, Slavic, Finno-Ugric, Celtic, Greek), the use of three alphabets (Greek, Latin, Cyrillic) in a wide variety of laws and customs, the mentality, the various social and political structures.<sup>2</sup>

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<sup>1</sup> Neil Fligstein, *Who are the Europeans?*, in vol. *European Identity*, (Cambridge Univ. Press, New York, 2009), 154-156

<sup>2</sup> Enciclopedia Universală Britannica, vol. 5, Ed. Litera, Bucureşti, 2010 □

The main pillars of European spirituality construction are given by the basic values: 'truth', 'good', 'justice' and 'beauty'. Although the city model created in Europe since antiquity has been forgotten for two millenniums, it has been revived after the World War II, European spirit is rediscovered in the form of the current European construction designed to develop a viable system for its citizens bound by common culture and civilization spirit of its component parts, through a combination of common institutions and policies.

The common elements of the European space, such as experience, history and memory contribute at the construction of the European identity, together with cultural and economic background from local contexts, such as Monica Sassatelli calls 'landscape'. Therefore the European idea is characterized by diversity and the feeling of belonging to this identity.<sup>3</sup> The European construction project it's the consequence of the integrating logic of history which brings together all of those that share the same values despite the historical evolution. The central element of the European spirituality gravitates around cultural roots that weight and are profound, as they are reminded and interpreted by several authors in specialized literature.

European identity appears here as being linked to the past, and the future is not a factor. The development of a European identity can play no part other than through a European consciousness, bringing in itself movement and evolution, a European consciousness which captures the national identities in their diversity and conceives them as having a common future. Identification processes have a historical character, in the sense that they add or remove features depending on the subject's history and the relations they maintain. Identity built in time implies a certain unity of the elements that define it, in such a way that allows the affirmation of differences and the diversity of so.

Being 'European' implies on one hand increasing communication and interaction between certain groups in Europe in the project of political integration within the Union market and, on the other hand, requires increasing the intensity of the interaction between these groups.

Throughout the globalization processes, the main topic of social-political disciplines includes revealing the specific features that differentiate us from the others, aiming in this way the identification of that International actors identity and our own definition. Our own identity it's given by culture, meaning and common directions of the human group, contact and discovers within certain territory, and the different experiences from the spectrum of life.

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The cultural process includes the formation and rate formation of social groups, one's identification experience, the effort of having fun improving social meanings, knowledge, pleasures and values.<sup>5</sup> The modernity brings the human being at the complete personal development, confronting with economical financial, information and cultural changes. In this situation, of dealing these challenges, individual is trying to find is the root which defined him, the values customs the language, all of this guiding him.

The European identity has three fundamental dimensions which are offering essential he's of deciphering and understanding it. „present” can be understood by going back the History and together with the „past” experiences accumulation, the European „future” and perspectives can be projected.<sup>6</sup> Identity built overtime is giving Unity to its elements, providing clarity between differences and diversity. The historical identification process

<sup>3</sup>Monica Sassatelli, *Becoming Europeans. Cultural Identity and Cultural Policy*, (ed. Palgrave, New York), 174-175

<sup>4</sup> R. Williams, *Resources of hope: culture, democracy, socialism*, (Ed. Verso. London, 1989), 4.

<sup>5</sup> John Fiske, *Power Plays, Power Works*, (Ed. Verso, London, 1993), 13

<sup>6</sup> Bernard Lamizet, *Politique et identité*, Ed. Presses Univ. de Lyon, Lyon, 2002

allows both adding and eliminating features of the subject in connection with his history and the experiences that he has. The two possible scenarios of the European identity's future, reaching that European identity limit together with the European project failure, or the encounter of new forces which will enhance European identity. These two possibilities derived from Europe's characteristic of intensifying the interaction and communication among groups in this project of a political integration but also the enhancement of the interaction's intensity between these. <sup>7</sup>

The main opinion in the conceptualization of collective identity in social sciences, political, cultural and historical talks about the group to which individuals feel they belong and with which they identify. Thus by translating this model to analyze the formation of national identity as a prerequisite national state, European identity is seen as his attachment to European developments in transnational arrangements. From this perspective, there are two different theoretical approaches to analyze the relationship between national identity and European identity emerging. Starting from concept of European Community, as a transnational state that covers the existing Member States, Europeanization is also an additional layer over the core of national identity. <sup>8</sup>

This premise is emerging in terms of European identity that is secondary or additional, that is weaker compared to national identity, which is primary and strong. At the opposite end, European Union conceptualization as a system of governance that includes governance and absorbs elements of national governance, allegedly that trans- or post national European identity gains momentum replacing preexisting national identity.<sup>9</sup> In this context we can easily see the difference between national identity and European identity, which is more and more visible. From a philosophical perspective the effort to become an individual or collective actor of social life and assuming certain characteristics that distinguish it from other individuals, identifying that this construction is recognized by others as having a social character gives a meaning to existence. Nature sociological clear identification of the existence of its manifestations consistent ownership and result from the spiritual experience and understanding of its elements.

Expressing this identity – a forward-looking European consciousness – implies the abolition of antagonism between national and European identities. European identity-consciousness is founded on national identities, and finds its expression in cooperation and interaction. First of all, it is the individual, the European citizen, who must both give and receive the reply, in the context of his relationship with himself and his environment. The citizen should be able to express this identity, which in turn must be developed together with the citizen. We need this European identity-consciousness in order to avoid wars among ourselves or with others, to pool our resources, and to join forces in the face of the challenges of our time, which transcend national and continental boundaries. □

A second important aspect in the process of defining 'our' identity is understanding the 'delimitation', knowing what is special about 'our thing' as compared to other people's things ('nostra res agitur'— not some 'res alienorum'). Only highlighting common European values make it possible to understand that the current European construction is not the materialization of a utopian project (even if this component has had centuries) but the

<sup>7</sup> Neil Fligstein, *Who are the Europeans?*, in vol. *European Identity*, (Cambridge Univ. Press, New York, 2009), 154 156

<sup>8</sup> Lepsius, R. (1998) 'Die Europäische Union. Ökonomisch – politische Integration und Kulturelle Pluralität', in R. Viehoff and R. Seghers (eds) *Kultur, Identität, Europa: Über die Schwierigkeiten und Möglichkeiten einer Konstruktion*, Frankfurt am Main: Suhrkamp.

<sup>9</sup> Eder, K. (1998) 'Integration durch Kultur? Das Paradox der Suche nach einer europäischen Identität', in R. Viehoff and R. Seghers (eds) *Kultur, Identität, Europa: Über die Schwierigkeiten und Möglichkeiten einer Konstruktion*, Frankfurt am Main: Suhrkamp.

consequence of integrating the logic of history, which can bind in a unit all those that share it.<sup>10</sup> It is well known the idea that the common values of European spirituality have their foundation in a series of cultural roots, whose weight and depth are interpreted differently from one author to another<sup>11</sup> European countries have a great deal in common. This appears, among other things, in the sharing of a set of values that distinguishes the European culture not only from other great cultures such as the Chinese or the Islamic ones, but even from that of North America. However, if there is unity in Europe, it is unity in diversity.

Ancient Greek culture gives us the fundament that the individual is cultivating his identity, appearance, his physical and intellectual characteristics but at the same time reminds of the sociality as a result of inter-individual society building through dialogue and enhancement of democracy, where the common good is a value achieved through organization and collective leadership. Greek cities have offered humanity the most important thing in the world: fearless freedom of thought, guided by the logic laws Aristotle has established. The entire process of building a complex and comprehensive personality, starts from the central value, 'common good', hence derives supreme human values which are guiding our entire life: 'truth', 'good', 'justice' and 'beauty'.

The ancient Roman culture takes over these human spirituality characteristics and strengthens them by adding the concepts of 'law' and 'rights' to the harmony of human traits. Thus the construction of social life it is happening through respect for property both in the domestic life and in external relations. This approach of 'mens sana in corpore sano' governs the human progress.<sup>12</sup> Subsequently, the search for the common good by man, through generosity, is Judeo-Christianity intake, the morality of the humans being defined by faith in God and by the love for others.<sup>13</sup>

The European spirituality has also been influenced by the barbaric roots, characterized by a desire for adventure, love culture, emphasized cult of heroes, vivacity of spirit and imagination, opposite characteristics of Roman and Germanic. The values inherited from our Christianized Germanic peoples will be the basis of federalism, social organization based on values such as oath, loyalty, honor.<sup>14</sup>

Rome's inheritance offers a cultural profile of identity to the medieval European space through its main components: work, health and illness, communication, social relationships, life and death. They will give Europeans the ability to maintain the authentic values despite contradictions and crisis situations. The progress and strengthen of the spiritual unity of Europe was achieved through several milestones events in its history, with the transition from antiquity to the Middle Ages and later towards modernity.

The European integration process has developed and facilitated movements in Western Europe since 1945 by mediate and encourage Member States' sovereignty. EU enlargement eastwards had similar effects in post-communist countries of Central and Eastern Europe. As a consequence the classical model of the state as a sovereign entity territorial policy has changed. International migration in recent decades has had significant effects both in Western Europe and in southern and central eastern area of Europe. The notion of cultural homogeneity as the basis of central policy of the state was changed by ethnic minorities and immigrant communities, these two processes of nations and transnational

<sup>10</sup> Roul Girardet, *Mituri și mitologii politice*, (Ed. Institutului European, Iași, 1997), 143

<sup>11</sup> Viviane Obaton în: *La promotion de l'identité culturelle européenne depuis 1946*, (Europa, Institut européen de l'Univ. Genève), 3, 15-33

<sup>12</sup> Ioan Piso, *Istoria elenistică și istoria Romei*, curs U. B. B. , Cluj-Napoca, 2000

<sup>13</sup> Hans Küng, *Cristianesimo. Esenzza e storia*, (Ed. BUR, Sagi, Milano, 1997)

<sup>14</sup> Jean- Rodolphe de Salis, *L'esprit européen*, (Ed. De la Baconnière, Neuchatel, 1947)



European States change having effects also on the multicultural elements of their collective identity.

There are three main approaches in the European identity debate pointing to the cognitive perspective: fluidity and hybridity, salience and perception, and the manipulation of symbols. As the cognitive perspective stresses fluidity and a recurrent reconstruction of collective identity, European identity tends to be seen as a layer of multiple identities or as a component of a hybrid identity. Throughout various configurations the different components of multiple identities or layers can relate to each other. These various components of an individual's identity rather blend into one another instead of separating clearly.<sup>15</sup> In cross-cutting identities, even if there are tense relations between groups identities, a member can still belong to two both of the identity groups.

In the citizens perception, European identity is slowly being related to share frames, categories and images. Therefore European social subjectivity and intersubjectivity is seen as the sphere of collective identity.<sup>16</sup> Because of this, different citizens, as a result of their specific national self-perceptions and past experiences can have very different images and frames of the EU, but at the same time, express perception similarities of the European Union, which can also be interpreted as an imagined community.<sup>17</sup> The 'soft' collective identity is a cognitive perspective that presents the European citizenship as a derivative of national identity or as promoting fluid and fragmented identity. In this scenario, European cultural and political diversity is seen as being undermining a solid sense of collective self and of social belonging failing to establish any sense of collective continuity and integration.

From another perspective, European citizenship is revealed as not having culturally stable grounds similar to a common language, an educational system, religion or history. What can give stability to the concept of European citizenship identity is the significance of cultural symbols, which could give the emergence of collective identity based not only on exclusion<sup>18</sup>.

Many people value this diversity highly, not only with regard to languages but also with respect to longstanding religious and ideological traditions, regional subcultures, and political and educational systems. Deciphering common elements in the collective conscience of the men and women of Europe and identifying those aspects which are shared to a lesser extent or not at all, could make an important contribution not only to a better mutual understanding but also to the resolution of conflict and the keeping of peace.

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<sup>15</sup>Matthias L. Maier and Thomas Risse (eds), *Europeanization, Collective Identities and Public Discourses, Final Report*, Robert Schuman Centre for Advanced Studies, European University Institute, Florence;

<sup>16</sup> Brigid Laffan, 'The European Union polity: a union of regulative, normative and cognitive pillars', *Journal of European Public Policy* 8, no. 5 (2001), 709–27;

<sup>17</sup> Juan Díez Medrano and Paula Gutiérrez, 'Nested identities: national and European identity in Spain', *Ethnic and Racial Studies* 24, no. 5 (2001), 753–78;

<sup>18</sup> Gerard Delanty, *Citizenship in a Global Age: Society, Culture, Politics* (Buckingham: Open University Press, 2000), 114;

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## IS THERE A MAINSTREAM APPROACH TOWARDS EU'S MULTILEVEL GOVERNANCE OF MIGRATION POLICIES?

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### ABSTRACT:

*OUR CONTRIBUTION AIMS AT DEPICTING THE MAIN APPROACHES IN DEALING WITH MIGRATION POLICIES IN THE AREA OF LIBERTY, SECURITY AND JUSTICE. ALTHOUGH THERE HAS BEEN A LARGE VOLUME OF LEGISLATIVE ACTION REGARDING THE AREA OF MIGRATION AND ASYLUM IN THE EU, HOW ARE THESE POLICIES COPING WITH THE INCREASING DOMESTIC PRESSURES OF THE SOCIAL STATE?*

*WHICH SCENARIO WILL PREVAIL IN THE HANDS OF THE EU: IS IT THE SOCIAL LEARNING PROCESS ENOUGH TO DEEPEN COOPERATION OR DO WE NEED A MORE COORDINATED MANAGEMENT OF LABOR MIGRATION INVOLVING ALL SORTS OF STAKEHOLDERS? THE WORLD BANK SUGGESTS A MORE DOWN TO EARTH APPROACH CONNECTING RECRUITMENT, REMITTANCES AND RETURN, IN A WIN-WIN SCHEME. ANOTHER MAINSTREAM APPROACH OF MIGRATION FLUXES CONNECTS MIGRATION POLICY WITH TWO OTHER KEY INGREDIENTS: DEVELOPMENT AND FOREIGN POLICY. THERE ARE MANY PATHS TO CATCH THE ESSENCE OF NOWADAYS STRATEGIES FOR MIGRATION BUT THE OUTCOME OF THIS PROCESS IS STILL SUBJECT TO VARIOUS NATIONAL INCENTIVES THAT MAY ALTER THE CAPACITY OF EU'S INFRASTRUCTURE TO DEAL WITH MIGRATION GOVERNANCE IN AN INTEGRATED MANNER.*

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**KEYWORDS:** MULTILEVEL GOVERNANCE, MIGRATION, MAINSTREAM APPROACH, DEVELOPMENT POLICY.

### INTRODUCTION

Although, ever since the crisis started, economic and fiscal developments have dominated public discourse, immigration policy has always been a salient and sensitive issue. Dealing with migration fluxes has not been an easy task especially for western democracies that face pressures from within the EU and also from the outside. Approaches towards migrants and of migration process itself seems to have divided the political arena in many states, this process being incentivized by large media coverage. Strong opposition to migrants has even boosted radical left or right party movements throughout Europe, which

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consolidated their power and legitimacy in front of their people mainly through clearly defined attitudes for dealing with immigrants.

But why is there a need for a mainstream approach towards migration in the EU? There are a few pertinent answers to this question. The most recent explanations are connected to the crises taking place in Ukraine, Middle East, North Africa and Asia. The spillover effect of these crises and the public debates that they generate have placed increasing pressure upon national member state to react to such fluctuating dynamics.

The waves of migrants from North Africa and the tragedies from the Mediterranean Sea have also diverted international community's focus upon dealing with such crisis with great urgency. Triton and Poseidon operations have been calibrated in order to offer relief and correct the deficiencies that generated the crisis in the first place. This means a continuous effort to address the root cause of these issues, underlying that the programs and initiatives triggered by the EU should go beyond its borders, expressing the goodwill of its civilian power doctrine. However, this objective cannot be achieved without an institutionalized dialogue with the countries of origin and those of transit.<sup>3</sup>

On the one hand another major issue in the EU concerns the creation of an integrated framework that should grant protection to the displaced people, refugees and asylum seekers, a task all Member States should pledge their efforts to support and implement.

On the other hand the answer that might justify the need for a coherent migration policy lies in the evolution of migration flows mainly after World War II, in the sense that many European countries are dealing with structural problems on behalf of their capacity to integrate migrants of the second and third generation. Such migrants usually have not been fully assimilated in the native population of the residing state. The main vulnerabilities that these populations encounter are related to housing policy, access to education (especially higher education), and their capacity of being absorbed by the labor market.

### **1.1. DYNAMICS OF MIGRATION POLICIES AND MAINSTREAM APPROACHES**

The issue of migration has been on the EU Agenda even since the Treaty of Maastricht, when it was established that this aspect must be dealt with at a supranational level, as it is very closely linked with the freedom of movement within the EU. Still, this aspect was not openly discussed until the Council of Tampere from Finland (1999), when the Member States agreed to stress the importance of partnership with the third party countries when dealing with migration. Although in 1993 it was agreed that migration and freedom of movement should be addressed at the Union level, the Council meeting from Tampere stressed the fact that some aspects must be implemented at national level, giving thus a 'free hand' to Member States when formulating the migration policy.

A direct consequence of the Tampere Council from 1999 was the integration of migration issues as basis for cooperation between the EU and third party states, materialized in the Communication on Migration and Development from 2002. In this document, the Commission sought to emphasize the importance of integrating the migration issues in a wider approach, defining five areas of action, as follows:

- facilitation of brain circulation and facilitating return
- a more efficient use of remittances
- better integration for legal residents from third countries
- awareness of possible tensions between high-skilled labor force originating from third countries and nationals from Member States

<sup>3</sup>V. Guiraudon, "European Integration and Migration Policy: Vertical Policy-making as Venue Shopping.", *Journal of Common Market Studies*, 38(2), 2000, 51-254.

➤ re-admission agreements for financial and technical assistance to be used in order to contributing in developing strong relations with third countries.<sup>4</sup>

Two years later, in 2004, the AENEAS Program was launched, aiming at assisting third countries in managing the migratory flows and building the capacity to collaborate with EU's recipient states. Towards the end of 2004 The Hague Program stressed the importance of external dimension of EU's actions especially regarding the fight against the illegal migration. Several partnerships were launched to improve the asylum system, control illegal immigration (including a policy to expel illegal immigrants back to their origin country) implementing resettlement programs. These programs also contributed to create FRONTEX- a new European Agency meant to better control and manage the borders and fight against the illegal migration.

Starting from 2004 the policies for migration and asylum were subject to qualified majority voting and co-decision. Mainstream European policy towards migration has evolved also because the national states had deficiencies to control this phenomenon<sup>5</sup>, thus moving this issue from a low politics to a high politics agenda, but enforced mainly through soft law.

In the following years the concept of migration gained its importance at every high level meeting, fact emphasized by several Commissions' Communication focused on freedom of movement within and outside the EU, illegal immigration and developing new methods in dealing with outside EU labor force. All these documents, as well as the developing of a new approach at the national level, led to a better understanding of the migration phenomenon, not only at the EU level, but also at ground level. Through the new migration policy which has its origin in past reality as stressed by official documents and several academic debates, the EU tries to create a better environment for immigrants by offering them the same rights as every EU citizen has, helping them integrate in the new state and creating the opportunities for intercultural exchange in order to diminish the hatred promoted by the extremists political parties. All of these actions are based on a strong partnership with the third countries and a joined effort in controlling the illegal migration.

## **1.2.MOBILITY PARTNERSHIPS AND NATIONAL STATES CHALLENGES**

Another initiative aimed at providing a specific approach in the realm of managing migration fluxes were the Mobility Partnerships. Launched in 2007 and based on a Commission Communication, The Mobility Partnerships are defined as agreements between the EU and third countries which are focused mainly on initiatives from both sides in order to discourage illegal migration and to exert a better boarder management and illegal immigration control. Under this agreement, the EU will improve opportunities for legal migrants and will assist the third countries in developing their capabilities in dealing with migration flaws. Like the ENP's Action Plans, the Mobility Partnerships are tailored according to each country's specifics, they are implemented through projects which may be proposed either by the partner country or by an European Institution, as they are an important part of EU's Global Approach to Migration.

The Mobility Partnerships can be referred to as a new way of governance. Similar to Action Plans, they are not legally binding, participation is voluntary, they are stressing some sensitive issues for both sides and the Member States are sole responsible for their implementation, being guided and monitored by the Commission.

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<sup>4</sup>A. Geddes, *The Politics of Migration and Immigration in Europe*, (Sage London, 2003), 23-25.

<sup>5</sup> C. Joppke, *Immigration Challenges the Nation-State*. In C. Joppke(ed.), *Challenge to the Nation-State. Immigration in Western Europe and the United States*, (Oxford, Oxford University Press, 1998), 10.

We have to keep in mind that the migration policy has changed and now its implications are more complex, ranging from social welfare to employment policies, and this is why many authors<sup>6</sup> argue that this sensitive issue should not be addressed only by the European Commission, but also by the national authorities because they are more familiar with the problems their state faces from the migratory flux. As Favell stated, today the state is no longer a “self-contained bordered unit. Common laws and new political institutions challenge the sovereignty of each state to make policies or assert political control over immigration issues”.<sup>7</sup> This statement applies especially to illegal immigration where there is no doubt that member states` policies have an impact upon other Member States.

As stated by Neumayer, if member states manifest very restrictive border controls, there is a strong possibility that the immigrant flow will be directed towards another member state.<sup>8</sup> Of course, this implies the reverse of the situation: if the member states exercise less restrictive border controls, immigrants can easily enter and afterwards move freely within the EU. When analyzing boarder control we must take into consideration the fact that member states have dissimilar past regarding immigration and labor market needs, and sometimes they even compete against each other in order to win “the best brain”.<sup>9</sup>

There are also strong arguments as to why a migration policy should be governed by a supranational authority, like the European Commission<sup>10</sup>. If the Member States would take into consideration cooperating at EU level in this sensitive issue of migration, this would also contribute to enhance migration policy at a national level, as there are some pressing issues that cannot be properly dealt with by the member states alone<sup>11</sup>.

European governments and national policy makers have different views on how the integration of migrants should be achieved. States like the United Kingdom have been more flexible in dealing with migration fluxes especially because of their commonwealth past, which was able to smoothen the integration process. France, on the other hand, with its postcolonial history, is showing similar approaches in assimilating migrants and immigrants, with the French government adopting mainly a specific but not yet a systematic approach towards such groups. Nevertheless, the French state committed to promote even contrasting views towards such phenomena in the public sphere.

In the Scandinavian countries the approach towards migration is elaborate, thus implying an efficient strategy, implemented at both central and local levels, creating a good pattern on how a successful integration process should be enforced. The capacity of managing migration fluxes is also very robust, with governments in the Scandinavian Peninsula placing migrants to good use in covering their structural needs, illustrating rather a complementarity scenario and not a state burdening machinery.

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<sup>6</sup>A.M. Messina, *The Logics and Politics of Post-WWII Migration to Western Europe*, (Cambridge, Cambridge University Press, 2007), 138.

<sup>7</sup> A. Favell, “The Europeanisation of immigration politics”, *European Integration Online Papers*, 2(10), 1998, 2-4.

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<sup>9</sup> T. Straubhaar, “New Migration Needs a NEMP(A New European Migration Policy)”, *HWWA Discussion Paper 95*, (Hamburg, 2000), 17-19.

<sup>10</sup> A. Moravcsik, K. Nicolaïdis, “Explaining the Treaty of Amsterdam: Interests, Influence, Institutions.”, *Journal of Common Market Studies*, 37(1), 1998, 68.

<sup>11</sup> M.D. Aspinwall, G. Schneider, “Same menu, separate tables: The institutionalist turn in political science and the study of European integration.”, *European Journal of Political Research*, 38, 2000, 3-8.

### 1.3.METHODS OF INTEGRATION AND SOCIAL INCLUSION PATHS

In the EU, as well as in the vast majority of European states, mainstream approaches in understanding immigration fluxes have been clearly underlined by the use of 3 methods. The first method implies the role of a dominant discourse, mainly promoting government`s or central authorities vision upon an efficient strategy in dealing with immigrants. At this level a clear strategy structures itself, having prospective objectives on how to better determine a broad social inclusion. The second method of approaching immigrants is through multilevel governance. This type of governance prioritizes the use of horizontal and vertical measures of integration the process receiving strong incentives from the EU`s institutions and also benefits from state to state cooperation on specific areas.

Another method used in dealing with immigrants is through policy making, either by policy change or adjusting. Policy reforms are also recommended in order to customize the specific need of the immigrants to the socio-economic background of the state and to its labor market. Many of these policies insist upon education, training, employment and almost all of them aim at raising the life standard for such groups.

The EU effort in order to contain and to manage irregular migration flows is a key priority for the Council and the Commission. In this regard, for the 2014-2020 time framework 99.6 billion EURO have been allocated in order to boost EU`s external cooperation assistance. The EU is also a major contributor and donor in programs sustaining refugees and internally displaced persons<sup>12</sup>, as well as conducting a wide range of humanitarian assistance projects.

On the European Security Agenda important efforts are made to tackle and properly address issues such as: dismantling criminal networks, fighting against trafficking, active measures against smuggling; these being only a few priorities that European agencies face on a regular basis. Such initiatives cannot produce long term benefits and long lasting result unless the border management capacity is strengthened. Member States have already established a 2.7 billion EURO fund for 2014-2020, called Internal Security Fund, its main purpose being that of consolidating a Union standard for border management. FRONTEX will play a key role within this complex, by helping in enforcing and thus widening the ``smart borders``<sup>13</sup>concept.

There are many options to fund the integration of immigrants. The main funding resource is represented by the Asylum Migration and Integration Fund. The European Regional Development Fund and European Social Fund also make strong contributions towards integrating migrants into local markets and insuring their social inclusion.

Last year there were 600.000 persons that applied for asylum in the EU. Asylum granting is a privilege of each nation state and, at this level, practical cooperation between countries is still a difficult task. This is because in reality less than 50% of the asylum seekers were given this status. Starting from 2014 a mechanism that allocates responsibilities in examining asylum applications was introduced, called the ``Dublin system``. The system isnot fully operational because some of the Member States donot entirely agree with its provisions, thus making resource allocation a challenging measure in itself.

Another mainstream approach towards migration is represented by normal growth in the EU states, that will continue continuing to attract people who require specific skills,

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<sup>12</sup>D.C. Canterbury, *Capital Accumulation and Migration*, Brill NV, Leiden, 2012, 219-220.

<sup>13</sup> The ``Smart Borders`` Package was proposed by the Commission in February 2013 and it suggest the establishment of an Entry/Exit System and of a Registered Traveller Program, aimed at improving the external borders of the Schengen Member States. The original budget for this proposal was of 1.3 billion Euro, being further downsized to 791 million after the negotiations in the Multi Financial Framework. The ``Smart Borders`` Package will be coordinated by Frontex with input from EASO (European Asylum Support Office), Europol, the EU Satellite Centre and the European Maritime Agency.

employing many more highly educated individuals. On a 2012-2025 time framework EU labor market will show an increase of 23% in this field of jobs that require highly educated and skilled workers.<sup>14</sup> Given the demographic tendencies among the vast majority of the EU states, especially the aging process, migrants are a source of equilibrium and potential welfare. Following this rationality the Commission is advancing the Labor Mobility Package and a new Initiative on Skills, both aiming to address very serious labor market challenges on the long term.

The European labor market opens itself to third country nationals mainly through specific programs, such as Horizon 2020 and Erasmus+ which attract highly skilled people, creating a more flexible entrance and mobility framework for such people. Visa policy plays a strategic role in insuring long term vitality of these projects.

Western democracies in Europe usually have to deal with both large volumes of immigrants and also face very complex phenomenon dynamics. In France, until 2010, the migrant issues were solved by a dedicated Ministry but after that the Ministry of the Interior has an office that has these tasks. The Ministry of Interior has a close relationship with the National Agency for Social Cohesion and Equal Opportunities, the last being also responsible for the social cohesion and inclusion of all French citizens, thus includes also the population descending from immigrants.<sup>15</sup> The French state usually offers integration incentives to immigrants for the first 5 years upon arrival. After this period they are assumed to be French population and the stimuli cease immediately afterwards.

In Germany the progress towards migrants integration has taken another course. This country has experienced massive migration flows after the Second World War, mainly from South Eastern Europe. After a decade of negotiations, in 2011, the National Action Plan on Integration was published providing a series of vertical and horizontal stimuli to increase migrants integration. Germany has a Commissioner for Migration, Refugees, and Integration operating under the authority of the Federal Ministry of the Interior, but there is also a strong local capacity in designing and implementing local versions of integration programs.

These two countries possess different attitudes towards migration. If in France there is a strong tendency in organic evolution of this phenomenon, in Germany the approach is much more straightforward, being largely deliberative.

## CONCLUSION

European mainstream approaches regarding the regulation of migration flows show that many important steps have been taken, and institutional positions have been assumed, leaving only hurdles to be overcome on behalf of the national member states.

Sustainability is probably the main ingredient in dealing with migrant's integration. As soon as policymaking system assumes a concrete strategy, in terms of domestic policy of the EU states, there will be channels to diminish the pressure that such groups have on local communities.

At the European level it is very difficult to address the issue of migration policies in an integrated manner. This is why the policies from this area are fragmented, national sovereign states still following their own integration practices, the policy as a whole being poorly binded together.

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<sup>14</sup>Pascaline Descy, "Projected labour market imbalances in Europe: Policy challenges in meeting the Europe 2020 employment targets", in OECD/European Union, *Matching Economic Migration with Labour Market Needs*, OECD Papers, 2014.

<sup>15</sup> Angeline Escafre- Dublet, *Mainstreaming immigrant integration policy in France: Education, employment, and social cohesion initiatives*, (Brussels, Migration Policy Institute, 2014).



Despite the fact that there is a constant effort on behalf of the European institutions to enforce some common rules, many times there are opt-outs and exceptions that only undermine the progress made so far. The EU has managed migration flows in various forms, mostly insisting on flexible and soft policy instruments. During this course of action Schengen Agreements have been a way to correct inefficient policy making within the Area of Liberty, Security and Justice. Mainstream options in dealing with migration flows in the future will strongly emphasize the need to externalize programs mainly to address the root cause of this phenomenon.

The EU still needs ways to reconcile national legal basis and sometimes political preferences with the increasing pressure of protecting human rights on a large scale. Although some migration policies might seem restrictive or rather coercive, the multilevel governance system is still able to accommodate political preferences and budgetary pressures towards achieving a flexible and robust inclusion of migrants.

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## **THE POLITICAL AND STRATEGIC CONTEXT OF MIGRATION IN ROMANIA**

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**ABSTRACT:** *NOWADAYS, IN THE ACTUAL SOCIAL, POLITICAL AND ECONOMIC CONTEXT, IN AN “ENVIRONMENT CONTAMINATED” BY THE EFFECTS OF THE INFIGHTING BETWEEN DIFFERENT POLITICAL FORCES AND INTEREST GROUPS THAT PRESENT AS THEIR ULTIMATE GOAL MAKING ROMANIA A REPRESENTATIVE E.U. MEMBER, ALL THESE SUPPORTED BY AGGRESSIVE MEDIA CAMPAIGNS THAT EXPOSE TO THE GENERAL PUBLIC THEIR OWN REALITY IN ACCORDANCE WITH PERSONAL INTERESTS OF THE POLITICAL LEADERS SUPPORTED BY MEANS OF THE MEDIA COMPANIES , ROMANIAN CITIZENS CAN BE CONFUSED IN ORDER TO IDENTIFY THEIR MAIN PRINCIPLES AND PURPOSES THAT WORTH FIGHTING FOR. THEREFORE, IN ADDITION TO THE IDEAS OF INCREASING SALARIES, TAX REDUCTION, AMENDING THE TAX CODE, SAVING STATE COMPANIES IN ORDER TO CONSERVE JOBS, THAT ARE CIRCULATING IN THE PUBLIC SPACE, THE ROMANIAN CITIZEN SHOULD LEARN TO APPROACH, AT THE SAME TIME WITH A PERSONAL INITIATIVE FOR OBTAINING RIGHTS FOR THEMSELVES, A GLOBAL THINKING IN ORDER TO KNOW WHAT ARE THEIR DEMANDS FOR THE ROMANIAN AUTHORITIES’ LEADERS. THE ASPECT OF INTERNATIONAL MIGRATION SHOULD BE A PART OF THIS GLOBAL THINKING AND SHOULD CONCERN EVERY CITIZEN OF OUR COUNTRY BECAUSE IT CAN INFLUENCE IN MANY WAYS OUR EVERYDAY LIFE, BY INFLUENCING THE LABOR MARKET, BY THE NEED TO REDIRECT ADMINISTRATIVE, FINANCIAL AND HUMAN RESOURCES IN ORDER TO FULFILL THE OBLIGATIONS THAT ROMANIA HAS IN THE DOMAIN OF INTERNATIONAL MIGRATION AS A E.U. MEMBER AND ALSO BY THE THREATS TO PUBLIC ORDER AND SECURITY REPRESENTED BY MEMBERS OF TERRORIST NETWORKS THAT INFILTRATE GROUPS OF IMMIGRANTS. GIVEN THE CURRENT INTERNATIONAL CONTEXT, MARKED BY THE CONFLICT IN UKRAINE, STRAINED RELATIONS BETWEEN EST AND WEST IN EUROPE, THE CONFLICTS FROM THE ARAB COUNTRIES, INTERNATIONAL TERRORIST NETWORKS, THE PROBLEM OF INTERNATIONAL MIGRATIONS SHOULD BE UNDERSTOOD BY EVERY CITIZEN AND TREATED VERY SERIOUSLY IN ORDER TO PRESERVE OUR OWN RIGHTS AND SAFETY AND ALSO THE EUROPEAN VALUES.*

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**KEYWORDS:** *MIGRATION, STRATEGY, POLICY, LABOR, MANAGEMENT, RESONSIBILITIES, ASYLUM, TRAFFICKING*

### **1. GENERAL CONSIDERATIONS ON MIGRATION**

International migration, which can come in different forms, as forced or voluntary, is an essential part of the current globalized existence. Currently, the number of persons residing outside their home country is greater than ever in the history of humanity. By

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analyzing this phenomenon, the scientists have concluded that migration can play a key role in developing the society and in poverty reduction. The phenomenon has clear benefits, which could be enhanced and disadvantages that could be minimized.

From a demographic point of view, relative to a given population, we can talk about two forms of migration: emigration and immigration, or in other words all entries and exits of persons. In fact, any migrant is both an immigrant to the destination country and an emigrant for the origin country.

Currently, the number of persons residing outside their home country is greater than.

As far as the international security is concerned, migration is important mostly because its external aspect.

## **2. FORMS AND GENERAL CLASSIFICATIONS OF MIGRATION**

Present studies revealed that international migration can come in various forms:

- ethnical minorities migration to the origin countries;
- labor migration;
- family migration (family migration of the workers pre-emigrants) in accordance to the family reunification right, guaranteed by international legislation;
- forced migration due to natural calamities, political or religious persecutions, wars, etc.;

These forms of migration can be classified by the following criteria:

- legacy: legal (realized by respecting the respective norms) and illegal (realized by infringement, fact that makes it hard to evaluate);
- motivation: voluntary and involuntary, forced;
- the period of staying in the departure country: temporary, long-time period, permanent.

Other forms of international migration are:

- migration based on ethnicity; theoretically, the state has the right to decide on long term who enters and receive the staying right on its territory among the immigrants;
- postcolonial migration, for the colonizing countries that set out strict rules for the immigrants from the former colonies;
- economical migration, which represents one of the most common forms in the past decades; it is motivated by the differences between the countries regarding the access to resources and labor, as well as the crisis of some specializations; therefore, many of the developed countries have constantly “recruited” immigrants and continues to encourage highly qualified labor migration from poor countries;
- asylum seekers and refugees, who represent the second largest group of illegal immigrants, after labor migration; as well as the family migration, this type is protected by the international legislation; asylum seekers and refugees have the right to remain on the territory of a state, where they are not national citizens, if their only alternative is to go back to a place where they are frightened of an inhuman or degrading treatment or high defined basis sanctions.

Therefore, by focalizing a very large set of social phenomenon, the migration has great importance both for the destination and origin country’s security, as well as for human individuals security involved in this phenomena.

### **3. BENEFITS AND DISADVANTAGES OF MIGRATION**

For the host country, benefits can be mostly perceived on the labor market by:

- Migrants contribution to the decrease of the labor forces deficit, either in highly qualified professions, strict qualified labor, or reduced qualification / unqualified labor that receives reticence from the native labor;
- Contributions in production increasing, including the export of the “adoption” countries, sometimes even in their origin countries;
- Inter-cultural exchange, the attenuation of the demographical aging process (migrants are usually young, with ages between 18 and 40).

For the migrants, benefits consist in assuring personal safety and life essential resources, life level improvement, fact that can bring benefits also for the country of origin, because in most of the cases migrants represent a financial support for the families left at home, the access to education or the protection of health.

Negative effects given by the inefficient management of the migration phenomenon consist in continuous destabilization of destination countries, starting with the raising of the inhabitants number, the decrease of the living-level and, mostly, for the origin inhabitants, the raise of the black labor – with negative effects on the labor force market, the undermining of the national economy in favor of the subterranean economy, and finalizing with the raise of the national and even regional criminality. Under such terms, it is considered that the migration issues can be administrated, for the benefits of all the parties involved, only by an efficient management. Therefore, the states are trying to integrate the problem of flow of persons in the global construction of the economical lasting development and the social progress. Moreover, the migration is being considered a multinational process that can no longer be administrated (only) unilaterally or bilaterally.

All this have assumed a different attitude of the involved states regarding the migratory flows:

- On one hand, an opening policy for the migration with the aim of covering the low qualified labor deficit (with some quantity barriers, established in accordance to the growth of the benefits and carried out in the using of the migrants flows conscriptions that have different professions and jobs) and of intensification of drawing temporary / permanently the “brains” for the support of the progress through high technologies, so by highly qualified labor force (displayed by developing the competition between the receiving states for the drawing of personnel that can cover the high competencies deficit);
- On the other hand, a common control policy of migratory flows and of combating illegal migration and illegal employment of foreigners ( including an intensification of the interstates cooperation).

### **4. LABOR MIGRATION DYNAMICS**

As far as the labor migration dynamics is concerned, the evolution of the number of persons that emigrate can be determined by various factors, such as:

- a) the developing of unemployment and the continuous decrease of life level can determine the interested persons to chose leaving in different countries (temporary / permanently) as a saving option;
- b) the labor force deficit in certain fields inside some European countries can determine the increase of the external migration;
- c) on the other hand, the saturation of the labor market in some member states of the European Union can determine a certain phenomenon of foreigners rejection, that could have an opposite effect to the one desired by migrants.

Migration is also affected by inter-regional differences that determine, at the time, the volume and direction of migratory flow, as follows:

- differences between economical opportunities has been, for a long period of time, the main factor of the migrations, as far as the demanding for certain types of labor forces or labor forces in general is concerned;
- the economical opportunities differences can appear as a result of discovering or determination of new borders, technical innovations, development of new commercial routes or new borders, modifications in the divisions of labor or approach changes;
- differences regarding the life standard; certain differences of real incomes between the different states or regions can be relevant for the emigration volume;
- differences regarding the living conditions and the residence space can be extremely important in the determination of the migration volume and direction; these differences can serve as a basis not only to the whole movement field of suburbanization but mostly for the migration of the elder population; the aspects regarding the residence cover the quality of the houses in which migrants live, the neighboring, the climate and the scenery; taking in consideration the crisis of houses, common in many countries in Europe after the second world war, we can conclude that the availability of a house becomes a factor of difference;
- differences regarding the social well-being: some aspects of urban well-being such as recreation utilities (theatres, cinemas, concert halls, superior education institutions and specialized hospitals) manifest a certain influence in taking an emigration decision; still, from a statistical point of view, these aspects have marginal values in explaining the volume and the direction of the migration flow; modern urbanization is clearly based on factors that interest the working place and not the “glamorous lights of the city”;
- cultural and political differences: frequently, a minority from a country prefers the cultural and political values that are cultivated somewhere else; this situation could be a reaction to the more or less revolutionary changes in the cultural and political field in the origin country of the migrants.

## **5. POLITICAL AND STRATEGICALLY FRAMEWORK REGARDING MIGRATION**

Government programs reveal, within the objective regarding the fight against trans-border criminality, the following main action lines:

- Actions for combating human beings trafficking and for realizing the danger that this phenomenon involves;
- Protecting the Romanian citizens from the community area against exploitation by organized crime networks; the identification and facilitation of the repatriation of citizens that find themselves in this kind of situations;
- The accreditation of responsible institutions in the field of migration (legal and illegal) and asylum; the development of the administrative capacity of the Romanian Immigration Office;
- The inter-institutional cooperation development through:
  - o the improvement of data and information exchange between competent border authorities;
  - o mutual assistance and the organization of common actions by the border authorities and the authorities responsible with the foreign labor employment management and control;
  - o the integration of biometrics in travel documents with the aim of increasing their security level;

- the development, together with the responsible government authorities, of a strategy for covering the labor force deficiency through legal selective migration
- active supporting of a strategic EU policy for external eastern borders, according to the solidarity principle.

In the field of external policy, a highly interest will be paid to the consolidation of Romania's role as an active and influent EU member, respectively the insurance of a stably, democratic and prosper neighborhood and the assertion and protection of Romanian citizens rights and interests, regardless to their position. In this matter, the main action lines will regard:

- The insurance of a non-discriminatory treatment for Romanian working in the EU space (free movement of labor force);
- The Republic of Moldova will be the main beneficiary of Romanian's assistance for development projects;
- The implementation of the Black Sea Synergy, with the aim of transforming this area in a space of stability, security, prosperity and democracy;
- Romanian's participation to the initiation and development of an efficient mechanisms for solving and preventing conflicts in the Black Sea region.

In the European affairs field, Romania generally supported:

- Regarding the free movement of persons, the recommendation of the European Commission addressed to the member states and concerning the non-restrictive access to labor market of workers from the new member states. The workers' mobility is a positive factor which determines economic growth and states that have not applied any restrictions have enjoyed the economic benefits of labor market. We support the interests of Romanians working in Europe and we sustain their rights
- Black Sea cooperation: we will assume an active roll in the region, together with the other EU member states, in the view of solving some major problems like fight against terrorism (illegal migration being one of the phenomena associated to terrorism)
- Common migration policy: migration has to become a common policy of the EU, which doesn't mean that member states won't have to provide certain available instruments for combating illegal migration and human trafficking and also for deciding in what sort of economical sectors they should allow the employment of highly skilled third country workers.

## **6. ROMANIAN NATIONAL DEFENSE STRATEGY**

Romanian National Defense Strategy shows how the international security environment is changing rapidly and is characterized, mainly, by the following major tendencies:

- acceleration of the globalization and regional integration processes, simultaneously with the persistency of some actions that can produce state fragmentation;
- reasonable convergence of the efforts devoted to structuring a new security architecture, stable and predictable, accompanied by anarchy tendencies in some areas;
- revitalizing the efforts of the states concerning the preservation of their influence in the dynamics of international relations, parallel to the multiplication of the forms and the increase of the non-state stakeholders' level of intervention in the evolution of these relations.

In this complex, dynamic and violent world the main conflict takes place between values, beliefs and different perceptions, between democracy and totalitarianism, and is determined by the major aggression of international terrorism, of extremist-religious origin, structured in transnational networks, against democratic states and rational political forces in states engaged in the process of democratization.

One of the main risks to national security is organized transnational criminality that represents a form of serious criminality that acquired the capacity to influence the policy of states and the activity of democratic institutions. It constitutes both an expression of the proliferation of some negative phenomena that amplify themselves under the conditions of globalization and a direct consequence of inefficient administration caused by radical political, economical and social transformations that took place in Central, Eastern and South-Eastern Europe after the fall of the communist regimes.

In the context of such a situation, the strategic area of interest in which Romania finds itself, became an authentic source and also a transit and destination area for some serious criminal activities such as: illegal traffic of weapons, munitions and explosives, respectively illegal migration and trafficking in human beings. Such activities are encouraged by the existence of local conflicts and by their nature and proportions, they can support terrorism and the proliferation of mass destruction weapons and can contribute to the perpetuation of separatist regimes.

With the aim of combating this type of risks and threats, the National Defense Strategy identifies a series of measures, such as:

- Developing internal, external and security policies, capable to neutralize negative phenomena within its own borders;
- Efficient and active cooperation between riverside to Black Sea states;
- Offering special attention to the relation with Republic of Moldova.

As for the mobility partnership with The Republic of Moldova, the main aspect is the development of a visible, solid, bilateral cooperation relation between the Romanian and the Moldavian authorities responsible with the migration management. Experience shows that the European Commission is never in favor of building a cooperation platform starting from nothing rather than using existing cooperation relations between member states and third countries. The key to success in this matter is building such a relation between the Romanian and the Moldavian authorities, which shall represent, in the view of the European Commission, a basis for the development of common projects. In the view of determining the third countries with which mobility partnerships were about to be signed, the European Commission launched a vast consulting process of the member states. Romania claimed that the first Eastern Europe state with which such a partnership should be signed is The Republic of Moldova. The EU Council from February 2008 endorsed a first evaluation of the progress recorded in the application of the approach for the Eastern and the South-Eastern European regions and approved the start of the negotiation for the signing of the EU-Republic of Moldova Partnership<sup>3</sup>. The final draft of the Declaration was signed at the JHA Council on 5-6 June 2008, Romania being one of the 16 member states signing the partnership, together with the European Commission<sup>4</sup>. After the signing of this partnership, the EU will pay an increased political attention to the Republic of Moldova and, not last, a significant financial assistance in the view of strengthening the national migration management system.

<sup>3</sup> The EU Council conclusions from 18 February 2008 regarding EU-Republic of Moldova Partnership.

<sup>4</sup> The EU-Republic of Moldova Partnership approved with the occasion of the EU Council of 5 June 2008.



## **6.1. NATIONAL STRATEGY ON THE INTEGRATED BORDER MANAGEMENT**

The aim of the national strategy is to establish policies, principles and objectives for the establishment of a common coherent and efficient management of the Romanian border state, in accordance to the community demands, that would assure the increase of the security level of citizens, observing their fundamental rights, free legal border traffic of persons and goods and fulfillment, as soon as possible. These are some of the necessary conditions for the application of Schengen acquis and the accession to this area.

The main instrument to apply the integrated border management is the Integrated System for Border State Security (ISBSS). ISBSS has an operative component, made up of the assembly of the operational procedures, the legislative subsystem and human resources, and a technical component. This technical component is composed of the infrastructure surveillance and control subsystem, the IT subsystem, the radio mobile communications subsystem, the fixed communications subsystem, the voice and data communications subsystem, the mobility and integrated logistical support subsystem.

Considering the time and place of action perspective for combating cross-border criminality and especially illegal migration, the Integrated Border Management comprises four complementary levels. The first level is the one of the activities that take place in third countries, especially in origin and transit countries. This level is projected in order to assure remote control of illegal migration and other forms of cross-border criminality and presents the activities that take place in third countries, especially in origin and transit countries for illegal migration. The responsible authorities are the Ministry of Foreign Affairs, with the Consular Offices of Romania abroad and the General Directorate for Consular Affairs, the Ministry of Internal Affairs, with the home affairs attaches and liaison officers, the Ministry of Transports and Infrastructure, with the economic agents that perform the activity of transporting international goods or passengers, the Ministry of National Defense with the defense attaches, the Ministry of Labor and the External Intelligence Service. In order to prevent unauthorized entry on the territory of Romania and EU Member States it is highly important to discover false or counterfeited documents both at the issuing of visas and when passengers are embarked on air, earth and sea means of transport.

The second level of international border cooperation is projected to assure border cooperation between neighbor countries, as well as between EU member states and other states in the area, taking into consideration the fact that a border control can't be performed only by a single partner. The main responsible institutions at this level are the Department for European Affairs, the Ministry of Foreign Affairs, the Ministry of Internal Affairs, with the Directorate for European Affairs and International Relations, the Centre for International Police Cooperation, the National Authority of Customs, the Ministry of Labor, the Ministry of Transports and Infrastructure.

In international border cooperation, the agreements with neighbor countries on cooperation in the domain of border management represent an efficient instrument for increasing border security.

The third level refers to the control and surveillance of the Romanian border state. This level resides in cross-border control and in border surveillance and it is based on risk analysis for the internal security and menaces that can affect border security. The main institutions with specific responsibilities are: the Ministry of Internal Affairs, with the General Inspectorate of the Romanian Border Police and the General Inspectorate of Immigration, the National Authority of Customs, the Ministry of Transports and Infrastructure, the Ministry of Health, the Ministry of National Defense, The National Sanitary-Veterinary Authority and for Food Safety, the National Guard for Environment.

The activities performed within national territory represent the forth level of the Integrated Border Management.

## **6.2.THE NATIONAL STRATEGY ON IMMIGRATION**

- Romania's strategy on immigration offers the general background for establishing the Romanian authorities' actions in the administration of the immigration phenomenon, for obtaining privileges and the reduction of the negative effects generated by it.

## **6.3.CONTROLLED IMMIGRATION**

- Assuring the administrative framework necessary to exert the right to free movement and residence of citizens of EU member states;
- Promoting admission of third nationals with the aim of working, according to the identified needs on the native labor force market;
- Encouraging admission with the aim of performing trade activities for certain categories of foreigners;
- Promoting an efficient system of selection for admission on the territory of Romania with the aim of studying;
- Projecting, developing and administrating efficient informational systems in the administration of immigration on the national territory.

## **6.4.PREVENTION AND COMBATING ILLEGAL IMMIGRATION**

- Efficient informing of potential immigrants on the legal admission methods and on the measures taken by Romania for combating illegal immigration;
- Intensifying cooperation of Romanian authorities for combating illegal immigration and illegal employment;
- Intensifying measures of removing foreigners who entered on the territory of Romania illegally or who entered legally, but their stay has subsequently become illegal;
- Preparation for Romania's accession to Schengen area;
- Intensifying cooperation of Romanian authorities with similar institutions in the EU member states and with origin and transit countries.

## **6.5.ASYLUM**

- Assuring free access to asylum procedure according to international standards that Romania assumed by means of the treaties and conventions it is part in;
- Developing the asylum system on the basis of efficiency criteria and the quality of procedures and adapting policies and practices in the mentioned domain in order to prevent, discourage and sanction abuses with relation to asylum procedure;
- Assuring and maintaining Romania's capacity to assume its responsibilities and obligations of EU member states in the domain of asylum;
- Assuming an active role within regional and international cooperation in the domain of asylum and contributing to the development of functional asylum systems in Eastern and South-Eastern Europe;
- Improving reception conditions for asylum seekers and improving analysis of the information in their origin countries by identifying adequate solutions of financing on behalf of the European Refugees Fund.

#### **6.6.SOCIAL FOREIGNERS' INTEGRATION**

- Supporting active participation of foreigners who live or have legal residence on the territory of Romania in the economic, social and cultural life, observing at the same time their cultural identity;
- Ensuring that those relevant categories of foreigners make all the necessary efforts to integrate sufficiently in the Romanian society, inclusively by participating in the programs organized by Romania with this scope.

#### **7. CONCLUSIONS**

With an active presence at EU level and in the Black Sea region, in the view of consulting the external partners regarding its initiative and also with the insurance of an internal political support for these initiatives and an efficient coordination between all the implicated national institutions, Romania can prove that it has a word to say and can impose migration related politics both at Brussels and in the Black Sea region.

This is a difficult and complex objective, but it's a highly necessary objective for Romania's registration as an important and active EU member state in the Black Sea region.

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## MULTIFUNCTIONAL CULTURAL CENTERS IN “ARHITECTURA R.P.R.”/ “ARHITECTURA” REVIEWS

Ioana Cătălina VĂRZARU<sup>1</sup>

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### ABSTRACT:

*THE STUDY IT IS BASED ON RESEARCHING THE FONDS OF THE FORMER MAGAZINE “ARCHITECTURA R.P.R.” (AFTERWARDS KNOWN AS “ARHITECTURA”)<sup>2</sup>, THE ISSUES BETWEEN 1952 AND 1992. THE PUBLICATION IS THE ONLY ARCHITECTURE PERIODICAL DEDICATED TO THE PUBLIC AND REACHEABLE IN THE COMMUNIST ROMANIA, REPRESENTING THE MAIN SOURCE FOR PROJECTS AND STUDIES CARRIED OUT IN THE COMMUNIST AGE. IN THIS RESEARCH AND INVENTORY, THE MAIN ISSUE WAS DEFINING THE TERMS THAT DESCRIBE THE CULTURAL PROGRAM IN ATTENTION OF THE FUNCTION OF CULTURAL CENTERS. IN THIS WAY, I WILL CRONOLOGICAL LIST THIS NAMES IN ORDER TO REACH A BETTER INSIGHT.*

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**KEY WORDS:** YOUTH HOUSES, COMMUNIST REGIME, CULTURE, ARCHITECTURE

### INTRODUCTION

In Romania, the idea of leisure has been found in people's lives since the beginning of times. Handicraft evening sitting, followed by various workers' circles, and then the coteries formed amongst intellectual communities - are just few examples that have preceded and actually led to the emergence of these houses of culture.

As a response to the necessity of culture among the majority of the population, a new programme appears – the Club, which will be the place of holding for numerous ways of spending free time. For this reason, its location should be close to the central area of the settlement, in the most favorable position, surrounded by gardens and parks - as part of joint activities that were also held outdoors (theater performances, bees, festivals and other events). From an ideological standpoint, they had to express a new content, socialist and to combine popular artistic traditions harmoniously with advanced technical achievements.

In urban areas, it is a noted concern amongst architects to create a relatively open interior spaces, so as the rooms can work together.

Also, these establishments become very important and having many functions such as becoming a civic center, having administrative functions, commercial or hotelier functions. All in all there were not the cultural establishments that they ought to be, even becoming simple ideological instruments. Due to the high demand of these centers the solution that was

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<sup>2</sup> The first issue appears in 1906. The publication didn't appear constantly, the periodicity being mutable depending on the financial availabilities of the Architects Union R.S.Romania.

found was to build generalized projects which in time led to monotony and the depersonalization of the centers.

The program of Youth Houses first appeared on the initiative of Professor architect Emil Barbu Popescu, initially as a subject in school for designing “Neighborhood equipment and leisure centers” and then as a guide/ regulation for different “Youth facilities”<sup>3</sup> (with the inspiration “Foyer de la Jeunesse”). This was the design theme for “Youth Houses” sent to U.T.C. (Communist Youth Union) led by Nicu Ceaușescu who coordinated, among other things, these constructions. The first building of this type is Youth’s Athenaeum in Reșița.

The freedom that young architects had in the design of the house was a brave start to practice the profession because there is a direct link between designers and users, without passing through advisory committees or other state institutions imposing financial restrictions. One thing that proves the importance of this liberty is the recognition among co-architects of the qualities these architectural projects had. In *Arhitectura* magazines, almost all Youth Houses are mentioned. Moreover, a part of them were awarded by the Union of Architects of SRR, the most representative being the one in Slatina, which received the Special Prize of the City Kardjali, Diploma of Honor and Silver Medal at Interarch '87, Sofia – Bulgaria, as well as the Union of Architects Award in 1986.

The archive of projects worked by C.U.A.S.C.-C.U.B. (Council of Architects' Union of Communist Students - University of Bucharest Center) where they made most of these projects, disappeared in 1986. So, at the moment, there is no clear evidence of this type of program.

As that period coincided with the fall of communism, many projects were never to be executed, while others were not completed. For example, the Youth House in Brașov which was begun before the 90s was decided to be demolished because of various disagreements regarding its location and volumetry.

Another example is in the case of the one in Giurgiu, construction designed in the middle of the '80s but remained unfinished because of the fall of the communist regime and was abandoned in the state of structure.

### GENUS PROXIMUM

In the beginning of 20th century, the need for rural inhabitants to socialize is striking. Therefore, in some areas, public appear buildings such as National Houses<sup>4</sup>. With minimal functions, answering the needs of citizens, the building were responding to some characteristics of their social life. An good example is the one put by Cosma Jurnov in his book *Arhitectura centrelor multifuncționale* (The Architecture of multifunctional building): in Băbșa, Timiș county, there was big hall in which you could design a stage with a capacity of 100-120 seats and a smaller room used as a library or a rehearsal room.

A new program is the Club<sup>5</sup> one, developed for the first time in Soviet Union as an effect of the cultural needs of „working” masses. In this way, the first project was displayed in the *1<sup>st</sup>-2<sup>nd</sup> issues of 1952*, the Cămpina Club, designed in 1951, „dedicated for working masses from Campina” and which contains o multifunctional room (conferences, shows, cinematography) with a 500 seats capacity and a room for various „political-social” activities (lecture assembly, chess, table tennis, library, etc.). The article displays in details information about the Club’s function, emplacement, finishing and the exterior architectural design, inspiration for the facade’s treatments, also the constructive system. The big quantity of works in this field requires the decision of typifying the projects for clubs by their type

<sup>3</sup> These were divided by category, with or without accomodation, with or without club.

<sup>4</sup> Case Națională (rom.)

<sup>5</sup> Clubul (rom.)

(syndical, districtal) and by the hall's capacity. This thing has been decided by C.C.S. (Central Council of Unions) and by C.S.A.C.<sup>6</sup> (State Committee for Architecture and Constructions) which, in 1953 draws up the „Normative for Club's planning”; normative which establishes rules for issues such as interior dimensions and the functional sketches. In the fourth issue from 1954, the study for a typified project of a Syndical club which answers to an adaptability requirement, and thanks to a symmetrical view of the volume, this would be able to successfully maintain a high posture. Functionally speaking, the club is divided into two sectors: entertainment and activities.

References for Cultural hostel<sup>7</sup> appear in *8<sup>th</sup> issue of 1954*, in an article about the urban planning for working masses, in which are described various urbanism analysis for possible approaches of habitation ensembles established in the proximity of industrial centers, in progress or fresh-new designs „for medium-quality accommodation for working masses”. Therefore, besides the habitation area, there is a space dedicated to the public services (shops, a club, daycare, kindergarten, school, sports, medical centers), as interest points in the community. The farmost important service is the club or the Cultural hostel which represents the center of cultural life of the entire area, being given the most favorable position. The club activity doesn't take part only inside the building. There is an outside space as well with outdoor cinematic projections, festivities and sports activities. That's why, the club has to be surrounded by gardens, parks, sport fields, which allows this kind of activities; a settlement that doesn't take notice of these necessities is wrong and inadequate. The typifying problem began to be highly-discussed between architects, so, the big quantity of articles<sup>8</sup> that approaches this subject is distinguished, not as far the function is concerned. The *4<sup>th</sup>-5<sup>th</sup> issue of 1956* and the *3<sup>th</sup> issue of 1968* are actually referring directly to this problem. In the *5<sup>th</sup> issue of 1956*, the *Plenara a VI-a a Uniunii Arhitecților* (The 6<sup>th</sup> Meeting of Union of Architects) is discussing the insufficient “assortment” of clubs and hostels.

The *6<sup>th</sup> issue of 1960* presents the winning projects of the typified projects for Cultural hostel with 300 seats, Cultural hostel with 400 seats and District's cultural center<sup>9</sup> with 400 seats; the last one being given the urban placement. There is however an exception; District center and Cultural hostel with 400 will have a show hall which will not host any other activities besides meetings. The old-fashioned show hall hosted events such as reunions and dances, but in time the furniture was being deteriorated and the evacuation conditions were not being suitable for such activities. Thus, it was considered that the meeting hall should be paired with the lounge, and that the event room should only host events. Thence, the criteria for architectural plastic and the spatial relation between interior functioning and the exterior background were appreciated. However, there was a special attention for the solving of disjointed access for the hall and club.

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<sup>6</sup> C.S.A.C. also deal with coordination, guidance and the practical pursuit of the typified projects for planning the social-cultural buildings; potency given by I.S.P.O.R. (Institute for Planning the cities, public buildings and habitation buildings), but also initiating some public contests for typified projects by cultural nature.

<sup>7</sup> Cămin cultural (rom.)

<sup>8</sup> I will only list the ones that beared upon the cultural program: *2nd issue of 1955* - Typified projects for social-cultural buildings from the agricultural environment; *4th issue of 1955* - About the typified planning issue; *10th issue of 1955* - Studies for typified projects of Cultural hostels for village, *3th issue of 1956* - Development of the typified projects - The main task in the architectural field; *4th-5th issue of 1956* - Typified projects for social-cultural buildings; *7th issue of 1957* - Typified planning; *6th issue of 1960* - Contest for typified projects for Cultural hostels and District's cultural center; *4th issue of 1962* -Typifying some social-cultural constructions: Cultural houses, Clubs, Cultural hostels; *5th issue of 1965* - Typified planning. Housing and social-cultural buildings;etc.

<sup>9</sup> Casă raională de cultură (rom.)

Nicolae Vlădescu's<sup>10</sup> Cultural House<sup>11</sup> from Mangalia is presented as a final piece of work in *4<sup>th</sup>-5<sup>th</sup> issue of 1961*. The design was conditioned by the trapezium silhouette, the declivity of the terrain, the monumental purpose and the marking of the access in relation to the plaza. The main functions are the ones for shows and club. The show hall has 470 seats. The appendages for the cinema (projection cabin, lights, sound, screen deposit) and the theatre (changing booths, showers, costumes, stage property rooms) were taken into consideration. Between 1960-1961, I.S.C.A.S (Institute of Studies and Design in Constructions, Architecture and Systematization) drew up typified projects for Cultural hostel with 400 and 600 seats. In the 4<sup>th</sup> issue of 1962, improvements of older projects were brought to light through possible constructive, functional and economical solutions. This typified step manages the answer of an „urgent need”, so that after being put into practice, conclusions of efficiency and design could be determined. Thus, conclusions lead to a „new phase” and design institutions accomplish a series of sights: Cultural house from Făgăraș (*6<sup>th</sup> issue of 1962*), Cultural house from Tulcea (*first issue of 1965*), Cultural house ensemble from Bacău (*4<sup>th</sup> issue of 1966*), Cultural house for unions from Baia Mare, Cultural House from Sibiu, Cultural house from Alexandria (*first issue of 1970*), Cultural house Vaslui (*3<sup>rd</sup> and 4<sup>th</sup> issue of 1971*), Cultural house for unions from Oradea, Cultural house from Suceava, Cultural house from Cîmpulung Moldovenesc, Syndical club in Arad (*3<sup>rd</sup> issue of 1973*), Cultural house for unions Alexandria, Cultural house for unions Sibiu, Cultural house for unions Ploiești, Cultural house for unions Buzău (*2<sup>nd</sup> issue of 1974*), Cultural house for unions from Tîrgoviște (*5<sup>th</sup> issue of 1977*), Cultural house from Alba-Iulia (*4<sup>th</sup> and 5<sup>th</sup> issue of 1981*), Cultural house for unions from Constanța county (*3<sup>rd</sup> issue of 1987*), Cultural house for unions Miercurea Ciuc (*4<sup>th</sup> issue of 1988*), Cultural house for unions from Colibași Argeș (*2<sup>nd</sup> issue of 1989*).

In the *5<sup>th</sup> issue of 1965*, head architect of I.P.C.T. (Institute of Design of Typified Constructions) was presenting his intention of removing negative aspects of typified projects and supporting unique projects from architects<sup>12</sup>.

From an organizational point of view, Cultural houses belong to C.S.C.A. (State Committee of Culture and Arts) and syndicalist clubs belong to C.C.S (Central Council of Unions). In the *3<sup>rd</sup> issue of 1963*<sup>13</sup>, their purpose is defined as „usage of leisure of working people and their families, in a controlled manner, given the option of lifting their cultural, political and professional level. The same issue presents the decision taken by the two involved institutions, of dividing the endowments the following way: the cities with a strong industrial character would have Syndical clubs belonging to C.C.S., other localities would have District's cultural centers belonging to C.S.C.A. and in district capitals or other places with similarities, it is taken into consideration the realization of central cultural units.

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<sup>10</sup> In 1976 he's PhD Thesis is being published in withing Ion Mincu Institute of Architecture - *Cultural Youth Houses* and which has nothing to do with the subject of the current work – Youth houses.

<sup>11</sup> Casa de cultură (rom.)

<sup>12</sup> A proposed decision would be planning by functional sections with multiple possibilities of assembly and potential partis. Another measure is the liberation of the endorsement of phase P.E.- which means decreasing the time required for endorsement, a bigger independence and granted liability for typified planning, but also for adapted planning.

<sup>13</sup> Also there are presented a number of principles regarding functions that should be proposed, necessities for a global thinking of the future sistematizations but also insuracing a coherent cultural network. Colaboration with C.S.C.A. constitutes "one of the important premises that will contribute to a solution as judiciously as possible.



Even though the existence of other rehabilitations and redesigns with cultural functions was certain, a single situation from the 5<sup>th</sup> issue of 1988 is presented – The redesign of Cultural house „Nicolae Bălcescu” of 4<sup>th</sup> sector in Bucharest<sup>14</sup>.

Every two years, the magazine was publishing articles about the ratio between social cultural constructions, trying to express the building power of the state: „An activity with a special constructive breadth, a testimony of our regime for creating the material conditions on the development of higher education; the accomplishment of having student dormitories with canteens, with a considerable level of comfort for future scientific and technical settings” (4<sup>th</sup> issue of 1964); this thing cancels the real needs of architects: „We find it hard to be able to cope with the thought of introducing inadequate materials only because they were accessible on the site; ordinary windows were installed instead of the original heat-absorbing ones, travertine pedestals and metal or wood confections were badly executed, the bathrooms from the accommodation spaces were not following the design, etc.” (6<sup>th</sup> issue of 1982)

### DIFFERNETIA SPECIFICA

On the score of the idea contest for Cultural house in Oradea, displayed in 2<sup>nd</sup> issue of 1967, architect Aurelia Teodorescu makes a few observations that underlie and announce the show up of the new architectural program. She also casts reflections on the near resemblances between the projects, concerning the activities "established without emplacement concern, not being centered on activities that characterize us as a country, with distinctive development in some regions of our country [...] for instance: ceramics studios, wood manufactory, braids, fabrics or glass manufacture, etc.". Simultaneously, it is noticed the deficiency of the sector that is supposed to ensure the leisure and the communication possibilities, which "suffers a didactic rigidity and doesn't enables a free, spontaneous and open practice". Other required functions are the ones serving sports activities and food services. In 6<sup>th</sup> issue of 1981, it is figured the contest for Cultural house of youth<sup>15</sup>, organized by Central Committee of U.T.C., which seeks "creativity stimulation with a view to obtain a complete study about the Youth house<sup>16</sup> functions' interrelationship and their optimization in order to achieve some constructions that respond to the multiple requirements dictated by the youth-specific activity dynamics". It has been registered a huge number of participants- over 270; which denotes a will for affirmation and expression about a new cultural program. Still, 46 projects were delivered. On this contest's account, there were many debated topics that were referring to the emplacement, functional freedom versus dictated restrictions, the typifying issue, the functional connections that were established indoor, monumentality versus plain volumes animated by events. This initiative suggests that most of the Cultural houses from cities do not properly answer to the actual needs of the youth. Unlike these, Cultural houses tend to be a place for "social contact" of the youth. The new functional requirements appear in addition to the Cultural house's theme: the educational workshop's diversification and proposed leisure time activities; besides the show hall, a polyvalent hall appears, designed for dinners that require public alimentation zones and that can contact the club zone, the accommodation unity - sector generated by the need for "youth tourism", halls for sport activities including gyms or aerobic, etc. Functionally speaking, a few zones are distinguished: the show sector (organized in multifunctional halls, so that it hosts theatre

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<sup>14</sup> Even though the study does not focus on the Bucharest situation, I wanted to make this notice because I think it is appropriate to mention that I have never met, in the magazine, the situation that brings up a reinstatement in the circuit of an existing building by cultural nature.

<sup>15</sup> This article being the only one in the Arhitectura magazine (excluding the other project presentations) that refers to the Youth houses, sometimes comparing them with other Cultural Houses.

<sup>16</sup> Casa tineretului (rom.)

shows, dance shows, music concerts, film screenings, etc.); the cultural-educational sector (covers various applied technology scenes, for hobbies, exhibition spaces, library, etc.); the recreative sector (for games, sport activities and entertaining reunions); also the accommodation unity - that doesn't exist in every project. The freedom that architects enjoyed, functionally, but also aesthetically, proved the need for new architectural expressions in the cultural-buildings field. There were no awards, besides five mentions: 73215 (C. Jurov and E. Jurov), symmetry, proportions, rythm (D. Patriciu), the old building (D. Ștefan), field (P. Curta and A.M. Nicolae), white, pink and pure bud (V. and S. Florea).

Issue number	Name	Architects	Information revealed in the magazine
no. 3/74	CASA TEHNICII – TÎRGU-JIU	arhitecții Emil Barbu Popescu (autor), Daniel Cincu, Nicolae Lascu, E. Ionescu, Petre Ciuta, Ștefan Șteblea, Ion Șerbănescu	- Presentation of the project - Plans, sections, facades - Model
no. 3/74	ATENEU – REȘIȚA	arhitecții Daniel Cincu, Emil Barbu Popescu, stud. arh. Ștefan Oлару, Mariana Paxino	- Presentation of the project - Plans, sections, facades - Model
no. 4/80	CASA TINERETULUI – TIMIȘOARA	-	The Union of Architects Awards 1978 - Mention
no. 5/82	CASA TINERETULUI DIN DROBETA TURNU SEVERIN	arh. Mihai Botescu	The Architects Union Awards 1981- social-cultural constructions field
no. 2/79	BAZĂ TURISTICĂ PENTRU TINERET. CASA ȘTIINȚEI ȘI TEHNICII CLUJ-NAPOCA	Radu Spânu (principal)	- Presentation of the project - Plans, sections, facades - Model
no. 4/86	CASA DE CULTURĂ A ȘTIINȚEI ȘI TEHNICII PENTRU TINERET – CLUJ-NAPOCA	-	The Union of Architects Awards 1985 - Mention
no. 2-3/81	CASA TEHNICII ȘI ȘTIINȚEI IAȘI	Nicolae Porumbescu, Constantin Lepădatu	- Presentation of the project - Plans, sections, facades - Photographies from the site
no. 1/82	CASA TINERETULUI GALAȚI	Emil Barbu Popescu (principal), Petre Ciută, Viorel Simion	- Presentation of the project - Plans, sections, facades - Model
no. 4/86	CASA TINERETULUI – GALAȚI	-	The Union of Architects Awards 1985 - Mention
no. 6/87	CASA DE CULTURĂ A TINERETULUI – GALAȚI	Emil Barbu Popescu, Viorel Simion Colaborator: arh. Mircea Chira	- Photographies completed building
no. 2/88	CASA TINERETULUI GALAȚI	Emil Barbu Popescu, Viorel Simion, Zoltan Takacs, Dorin Ștefan, Mircea Chira.	Nicolae Ceaușescu age. Fast-traking period, modernisations and developement unprecedented of cities all around the country.
no. 3-4/91	CASĂ DE CULTURĂ A TINERETULUI LA GALAȚI	arh. Emil Barbu Popescu, Viorel Simion, Petre Ciută, Mircea Chira.	nominalization
no. 1/	CASA TINERETULUI	Emil Barbu Popescu (principal), Dorin	- Presentation of the project

82	DIN SLATINA	Ștefan, Colaborators: Călin Irimescu, Andrei Molnar, Dana Ștefan, studenții-arhitecți Caius Filimon, Adina Alexiu, Mircea Corcodel, Mihai Crăciun, Ștefan Mantulescu, Laurențiu Samoilă	- Plans, sections, facades - Model
no. 3/ 85	CASA TINERETULUI DIN SLATINA	Dorin Ștefan, Emil Barbu Popescu (principal)	Project in-progress 1979 - 1981
no. 5/ 87	CASA ȘTIINȚEI ȘI TEHNICII PENTRU TINERET SLATINA	Emil Barbu Popescu, Dorin Ștefan	Special Award of Kardajali City, Honorary degree and silver medal, at Interarch 87, Sofia – Bulgaria, The Union of Architects Awards 1986 - award
no. 1/ 88	CASA TINERETULUI DIN SLATINA	-	The Union of Architects Awards 1986- award
no. 2/ 82	CASA ȘTIINȚEI ȘI TEHNICII PENTRU TINERET – RÎMNICU VÎLCEA	Ștefan Lungu, Petre Ciută	The Union of Architects Awards 1986 - award in the social-cultural constructions field
no. 6/ 82	CASA ȘTIINȚEI ȘI TEHNICII PENTRU TINERET DIN RÎMNICU VÎLCEA	Ștefan Lungu Consultant: Emil Barbu Popescu Colaborator: Mariana Fetti	- Presentation of the project - Plans, sections, facades - Photographies completed building
no. 3/ 88	CASA ȘTIINȚEI ȘI TEHNICII PENTRU TINERET – RÎMNICU VÎLCEA	-	Nicolae Ceaușescu age – big architectural and urbanistic achievements
no. 4/ 88	CASA ȘTIINȚEI ȘI TEHNICII PENTRU TINERET – RÎMNICU VÎLCEA	Barbu Emil Popescu, Ștefan Lungu, etc.	-Photography perspective
no. 5/ 84	CASA ȘTIINȚEI ȘI TEHNICII PENTRU TINERET BOTOȘANI	Stelian Morohoi (principal)	- Presentation of the project - Plans, sections, facades - Photographies completed building
no. 6/ 84	CASA TINERETULUI CRAIOVA	Dan Budică (principal), Ștefan Sertis, Bogdana Polizu, Nicoleta Pîrvănescu	- Presentation of the project - Plans, sections, facades - Drawn perspectives
no. 2/ 87	CASA ȘTIINȚEI ȘI TEHNICII PENTRU TINERET DIN CRAIOVA	Dan Budică (principal), Ștefan Sertis, Bogdana Polizu, Nicoleta Pîrvănescu	- Presentation of the project - Plans, sections, facades - Photographies completed building
no. 6/ 84	CASA TINERETULUI DIN ORȘOVA	Ion Giurcă (principal), Nicolae Ispas, Gabriel Bălan, Gabriela Crețu, Marian Diaconu	- Presentation of the project - Plans, sections, facades - Model
no. 1- 6/ 90	CLUB STUDENȚESC LA BRAȘOV	Emil Barbu Popescu, Dorin Ștefan Team: Dorin Ștefan, Dan Marin, Mircea Corcodel, Mihai Eftimie, Colaborators: Mihai Opreanu (exteriors), stud. arh. Horia Reit, Codrin Tritescu, Adrian Gîndilă, Dana Dobrescu, tehn. Eugen Fugaciu, Ioan Stefiuc	- Presentation of the project's status - Model
no. 5- 6/ 91	CASA STUDENȚILOR DIN BRAȘOV - EPILOG	Designed: D.S. Birou de Arhitectură – București (Dorin Ștefan, Teo Stancu, Vlad Vrejoiu, Alexandru Cișmigiu, Dragoș Badea, Dan Baci, Călin Ștefănescu, Mariana Andreescu)	- Presentation of the project's status - Plans, sections, facades - Model

In the chart there are listed, sorted by the appearance's date, the Youth houses from Romania that have been presented in the *Arhitectura* magazine, issues between 1952 and

1992; with indications referring to the number of the publication, the name appearing in the title, the architects and information about the written presentation and/or drawn found in the article.

Even though the topic of the study isn't the city of Bucharest, the Touring Complex for Youth - Lacul Tei<sup>17</sup> should be reminded, planned within C.U.A.S.C.-C.U.B., displayed in *1<sup>st</sup> issue of 1981*, and which had been listed for The Union of Architects Awards 1980, social-cultural constructions field. Not all the projects for Youth houses had been presented in *Arhitectura* magazine, among the unmentioned ones are Youth houses from: Brăila, Cîmpina, Ploiești, Balș, Zalău, Baia Mare, Oradea, Giurgiu. Some of them remained at the drawn stage. Others suffer a *decrepit condition or functional obsolescence of many public buildings repels any sympathy, while others linger as relics of a past epoch, awaiting (self-) demolition*.<sup>18</sup>

### CONCLUSION. NOTICES ON THE SCORE OF THE ANALYSIS

- It should be appreciated the strictness wherewith there were presented the projects for the studied cultural objectives between 1960 and 1970, fact that begins to attenuate by the end of the date. On the other hand, there are a few articles that should be mentioned: in *6<sup>th</sup> issue of 1982* – the story of Youth's Science and Technology House<sup>19</sup> from Rîmnicu Vîlcea and in *1<sup>st</sup>-6<sup>th</sup> issue of 1990* and *5<sup>th</sup>-6<sup>th</sup> issue of 1991*- the debate about the Youth house Brașov, project that was declined by C.N.M.A.S.I. (National Commission of Monuments, Ensembles and Historical Sites).

- Also, I am pointing out the critical attitude - critical view that is missing from the nowadays romanian speciality magazines, of the articles that refer to typifying the buildings, furthermore, the interest that architects show for clueing and clarifying this situation.

- Because some of the projects are displayed in more issues, often in different stages of planning, it is hard to establish which are the real authors of the constructions. This common law is caused, probably, by the many people from planning institutions involved in the project.

- Referring to the name of "Youth Houses"<sup>20</sup>, according to the list previously displayed, this varies - Youth's Athenaeum, Cultural house of youth, Technical Sciences House, Touring Complex for Youth, etc.

- Another remark about the cultural centers presented in the pages of the magazine is that rarely there are correlated the groups with other types of functions. For example, the social-cultural and commercial center of Țiglina 1 Galați neighborhood, from *6<sup>th</sup> issue of 1963*, has commercial unities, public alimentation, population services, management of the district, cinematography with 800 seats, clubs and exhibitions, and a district library.

<sup>17</sup> Complexul turistic pentru tineret (rom.)

<sup>18</sup> Zahariade, Ana Maria - *Architecture in the communist project, Romania 1944-1989*

<sup>19</sup> Casa științei și tehnicii pentru tineret (rom.)

<sup>20</sup> În no.3/1959 is succinctness presented the project for "casa tineretului la pitesti"- appellation that does not refer to the "casele de tineret" upkept by U.T.C.;the building being more of a "camin cultural"

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# EXPANDING INTERNATIONAL COOPERATION IN THE PROTECTION OF HUMAN RIGHTS AND THE SOVEREIGNTY OF STATES<sup>1</sup>

Ramona-Gabriela PARASCHIV<sup>2</sup>

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## ABSTRACT:

*CURRENTLY, MOST OF THE NATIONS ARE CONCERNED WITH STRENGTHENING DEMOCRACY AND, IN PARTICULAR, WITH ENSURING THE SAFETY OF THE HUMAN BEING, WITH THE PROMOTION AND COMPLIANCE, AS WIDELY AS POSSIBLE, OF HUMAN RIGHTS BY CREATING AN APPROPRIATE LEGAL FRAMEWORK AT GLOBAL, REGIONAL AND NATIONAL LEVELS, AS WELL AS THROUGH A BETTER COOPERATION BETWEEN STATES IN ORDER TO ESTABLISH THE MOST APPROPRIATE MECHANISMS FOR THE PROTECTION OF RIGHTS.*

*INTERNATIONAL COOPERATION IN THIS FIELD MAKES EACH STATE TO NO LONGER HAVE ABSOLUTE POWER OVER PERSONS UNDER ITS JURISDICTION BEING OBLIGED TO RESPECT THEIR RIGHTS UNDER INTERNATIONAL RULES, THEREBY THE SOVEREIGNTY OF STATES IS LIMITED BY THE RESPECTIVE REGULATIONS.*

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**KEY WORDS:** HUMAN RIGHTS, INTERNATIONAL COOPERATION, SOVEREIGNTY, PROTECTIVE MECHANISMS, COMPLIANCE WITH REGULATIONS

## INTRODUCTION

Ever since ancient times and the Middle Ages we have made references to human rights, but this concept was asserted in social practice during the bourgeois revolutions in Europe<sup>3</sup>, while the formulation of coherent theories and regulations regarding such rights was achieved after a long period, during which we accumulated prerequisites on the crystallization of legal bases of human rights<sup>4</sup>.

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<sup>3</sup> Adrian Năstase, *Human rights - religion of the end of the century* (Bucharest: Romanian Institute for Human Rights, 1992), 18.

<sup>4</sup> Charles E. Wyzanski, *The Philosophical Background of the Doctrines of Human Rights*, in *Human Dignity: the Internationalisation of Human Rights*, coordinator A. HENKIN (Aspen: Institute of Humanistic Studies, 1979) 10.

As a *major imperative* of the international community, human rights promotion was achieved only after the Second World War, in order to prevent the future atrocities like those committed by the Nazis.

In this regard, numerous universal or regional regulations were adopted, starting with the United Nations Charter and the Universal Declaration of Human Rights - the first document with universal vocation, which stipulates the fundamental principles of human rights: freedom, equality, universality and inalienability, as well as express provisions relating to the legal framework of the exercise of human rights, the right to participate directly or through representatives in drafting laws, freedom of speech, freedom of the press, and others.

Ever since the proclamation of the Universal Declaration of Human Rights, over 140 countries have incorporated, in their legal systems, rules with regard to human rights and the specific jurisprudence of the states brought new dimensions to the normative concepts adopted in 1948 by this fundamental act<sup>5</sup>.

As the axiological generator of rights runs differently in each historical era, nationwide valuation processes mutually coexisting and influencing each other with international ones<sup>6</sup> – internal regulations adopted by the states forming what is called “human rights with variable content”<sup>7</sup>, differentiated from the specific of each state – it is necessary to improve cooperation between states in order to improve human rights protection mechanisms.

#### **THE NEED TO ESTABLISH A FAIR BALANCE BETWEEN THE SOVEREIGNTY OF STATES AND THE EXPANSION OF INTERNATIONAL COOPERATION IN THE OBSERVANCE OF HUMAN RIGHTS**

Summing up a set of rights and freedoms and duties of the people (to one another), of states (to defend and promote these rights), of the entire international community<sup>8</sup> (ensuring their compliance in each country, intervening in those situations in which human rights would be violated in a particular state), human rights regulations are related both to domestic order, as well as the international order<sup>9</sup>.

The establishment of rights protection mechanisms at international level is based on the acceptance by states of the reality that their defence cannot be left just to the discretion of each state.

Although contemporary international life highlights the need for the coexistence of sovereign states<sup>10</sup>, sovereignty cannot be absolute just due to the expansion of relations between states, which must cooperate in order to have access to the achievements in science and technology, to ensure their development and participation in decisions concerning the organization of the international community, and others.

By searching the realities of contemporary international relations, we find that state interdependence cannot be opposed to sovereignty, which is “an affirmation of what one

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<sup>5</sup> Nihal Jazawickrama, *The Judicial application of Human Rights Law, National, Regional and International Jurisprudence*, reprinted, introduction (Cambridge University Press, 2006).

<sup>6</sup> Benedetto Conforti, *Diritto internazionale*, ediția a 3-a (Napoli: Editoriale Scientifico, 1987) 203.

<sup>7</sup> Gaetano Arangio Rui, *The UN Declaration on Friendly Relations and the System of the Sources of International Law* (Alphen: Sijthoff, 1979) 277.

<sup>8</sup> Victor Duculescu, *The Legal Protection of Human Rights* (Bucharest: Lumina Lex Publishing House, 2008) 24.

<sup>9</sup> George N. Coca, *The general interest and fundamental human rights* (Bucharest: Legal Universe Publishing House, 2009) 192.

<sup>10</sup> Dumitra Popescu, Felicia Maxim, *Public International Law*, volume I (Bucharest: Renaissance Publishing House, 2011) 65-66.

might call state dignity”<sup>11</sup>, and not an obstacle to international cooperation, as interdependence relations necessarily imply that involved states be sovereign and equal in rights<sup>12</sup>.

The sovereignty of states is the one that has enabled the creation of international law and it “recognizes sovereignty as its foundation and as a basic principle”<sup>13</sup>.

Moreover, the intervention of international organizations for the protection of human rights does not affect the sovereignty of states, as it should constitute grounds for protecting the rights of its own citizens or of other persons that are on their territories or that come in contact with them - and not for their violation.

The principles of sovereignty, non-interference etc. cannot be invoked as grounds for violation of human rights by states - just as the violation of human rights can ultimately lead to challenging the sovereignty of states - but they must comply with the rules that they have accepted internationally, under *pacta sunt servada* or *jus cogens* of the norms of customary international law<sup>14</sup>.

Sovereignty, previously regarded being absolute, as some thinkers thought to be entitled to deny the existence of a real international law, is today conceived as a necessity which restricts itself, in virtue of its own independent powers<sup>15</sup>.

By concluding agreements on human rights, states have the objective of determining the framework and forms of their cooperation in this area, without abandoning sovereignty<sup>16</sup>;

in this way, “state independence is not compromised by anything, nor its sovereignty affected through the existence of international obligations”<sup>17</sup>.

The application of the rules of public international law on the promotion and protection of human rights does not affect in any way the sovereignty of states<sup>18</sup>, but they are responsible for the persons under their jurisdiction, they must comply with the obligations arising from the specific international conventional or customary rules to which they adhere.

Therefore, by recognizing the authority of states, reflected in the condition required from persons under their jurisdiction (who report violations of human rights), to exhaust internal remedies before addressing an international organ, international practice substantially influenced the content of the national law of most democratic states in terms of human rights<sup>19</sup>.

In terms of human rights protection, the jurisdiction of states has not diminished<sup>20</sup>, but it must be increasingly receptive to the decisions of intergovernmental organizations and

<sup>11</sup> Claude-Albert Colliard, *Institutions des relations internationales* (Paris: Dalloz Publishing House, 1974) 108.

<sup>12</sup> Adrian Năstase, *The destiny contemporary of international law. Reflections from a European perspective* (Bucharest: „Nicolae Titulescu” University Publishing House, 2004) 182-183.

<sup>13</sup> Ram Prakash Anand, *Sovereign Equality of States in International Law*, in *Recueil des Cours de l'Académie de Droit International*, volume 197 (1986) 42.

<sup>14</sup> Dumitra Popescu, Sofia Popescu, Felicia Maxim, *The concept of sovereignty and its evolution over time*, in the *Journal International Law Notebooks* 1/2008 (no. 18) 56; Theodore S. Orlin, *Evolution of sovereignty limitations for a new global community “Limiting Leviathan through International Law”* (Part II), *Romanian Journal of International Law*, no. 9 (2009) 8.

<sup>15</sup> Nicolae Titulescu, *Dynamics of peace, in the volume Diplomatic Documents* (Bucharest: Political Publishing House, 1967) 298.

<sup>16</sup> David Ruzie, *Droit international public* (Paris: Dalloz Publishing House, 1987) 62.

<sup>17</sup> Nguyen Quoc Dinh, Alain Pellet, Patrick Dailier, *Droit international public*, 8-e édition (Paris: Librairie générale de droit et de jurisprudence, 2009) 371 and next.

<sup>18</sup> Dumitra Popescu, Felicia Maxim, *Public International Law* (Bucharest: Renaissance Publishing House, 2010) 86.

<sup>19</sup> Nicolae Purdă, Nicoleta Diaconu, *Legal protection of human rights*, second edition revised and enlarged (Bucharest: Legal Universe Publishing House, 2011) 22.

<sup>20</sup> Marc Agi, *René Cassin Père de la Déclaration Universelle des Droits de l'Homme* (Mensul-sur-l'Estrée: Librairie Académique Perrin, 1998) 230.



international courts jurisprudence, meant to influence increasingly more domestic practices<sup>21</sup>, even if the legal remedies of these international court, against human rights violations, are subsidiary<sup>22</sup>.

The concept of sovereignty has evolved so that states are responsible for the persons under their jurisdiction, and for the international community<sup>23</sup>, having to comply with their obligations under international conventions or customary rules on ensuring human rights protection.

## CONCLUSIONS

The existence of international conventions that establish, for involved states, obligations on human rights, is not a limitation of sovereignty, since they are the expression of the will of states to develop cooperation in this field, recognizing the prominence of certain fundamental values that are above the interests of each state.

In some areas of the world, many rights and freedoms enshrined by laws have not so far found any complete application between the securities provided and actual situations, therefore implying a considerable gap<sup>24</sup>, slowing down the implementation of formally recognized rights.

According to the doctrine<sup>25</sup>, the effective guarantee of certain rights remained fragile for political, economic, technological and institutional reasons, but we consider that this phenomenon is due to the customs, traditions and mentalities that act as a brake on change, which could require the intensification of international cooperation for improving human rights protection procedures and mechanisms intended to lead to economic development in those regions.

Starting from the reality that there are still numerous cases of human rights violations, we consider that it would be necessary to carry out a more rigorous global *research*, with the participation of the best specialists, based on in-depth understanding of the specific realities of each community, in order to know all the generating factors, so that we can establish, nationally and internationally, the most effective measures to be taken to remove the causes of human rights violation.

Moreover, educating people and those persons responsible in each country, in terms of knowledge of rights and means of preventing their violation, is more beneficial to the community, people exercising their rights and liberties freely, without the necessary expenses and other efforts to achieve international verification procedures and the measures of coercion in situations regarding their violation.

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<sup>21</sup> Mark Weston Janis, *International Law*, Fifth Edition (Aspen Publishers: Walter Kluwer Law & Business, 2008) 106.

<sup>22</sup> Manfred Nowak, *Introduction to the International Human Rights Regime* (Leiden: Brill Academia Publishers - Martinus Nijhoff Publishers, 2003), 63-64.

<sup>23</sup> Mary Ann Glendon, *A World made New; Eleanor Roosevelt and The Universal Declaration of Human Rights* (New York: Random House, 2002) 59-60.

<sup>24</sup> Ionel Cloșcă, Ion Suceavă, *Treaty of Human Rights* (Bucharest: Europa Nova Publishing House, 1995) 31.

<sup>25</sup> Ion Dogaru, Dan Claudiu Dănișor, *Human rights and public freedoms* (Chișinău: Zamolxe Publishing House, 1998) 49.

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## **PARTICULARITIES ON THE SUBJECTS OF LIABILITY FOR THE ACTS THAT HARM THE ENVIRONMENT<sup>1</sup>**

**Daniel-Ştefan PARASCHIV<sup>2</sup>**

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### **ABSTRACT:**

*THE LIABILITY FOR THE ACTS THAT HARM THE ENVIRONMENT INVOLVES THE APPLICATION OF SANCTIONS ON THE GUILTY NATURAL OR LEGAL PERSONS AND THE OBLIGATION OF REINSTATING THE PREVIOUS SITUATION, FROM THE AUTHORS, SO THAT ENVIRONMENTAL LAW TO FULFIL A SPECIFIC REPARATIVE FUNCTION, AS THE BASIS OF LIABILITY FOR ENVIRONMENTAL DAMAGE, THEREFORE CONSTITUTING THE PRINCIPLE THE "POLLUTER PAYS".*

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**KEY WORDS:** ENVIRONMENT, DAMAGE, REGULATIONS, LIABILITY, PARTICULARITIES

### **INTRODUCTION**

The right to a *healthy environment* is of particular importance for the development of life under proper conditions so that, in recent decades a broad social movement has been carrying out on awareness for environmental protection, which has trained civil society and specialized institutions nationally and internationally<sup>3</sup>, international, European and national institutions, organizations, bodies and having a more pronounced role in terms of instituting measures for preventing and sanctioning irreversible facts or with long-term consequences that can affect people's living conditions.

Based on current realities, states must cooperate to establish, at international and national levels, the best measures aimed at protecting and improving the natural environment, requiring not only the material and organizational efforts, but also to educate people adopt a new attitude towards the environment, based on the reconciliation of man with nature<sup>4</sup>.

Following the breach of a legal environmental rule, natural order is disturbed, so that it triggers a legal relationship of responsibility, which ends with the punishment of the guilty

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<sup>3</sup> Dumitra Popescu, Mircea Popescu, *Environmental law - International documents and treaties* (Bucharest: Artprint Publishing House, 2002) 16 and next; Ramona-Gabriela Paraschiv, *International mechanisms of human rights protection* (Bucharest: Pro Universitaria Publishing House, 2014) 225.

<sup>4</sup> N. N. Constantinescu, *Natural Environment Protection - intrinsic requirement of a modern economic development*, in „The Economist” no. 180 (3-6 April 1992) 5.

of committing the illegal act, which ensures the effectiveness of law, maintaining social order and directing behaviour under the law<sup>5</sup>.

### LIABILITY CHARACTERISTICS OF THOSE RESPONSIBLE FOR ENVIRONMENTAL DAMAGE

Formed in the context of affirming environmental law and the need for an adequate response to the need to prevent and repair environmental damage, the liability for environmental damage has a particular nature, borrowing from other forms of legal liability, but also with particular traits, which imply its own content<sup>6</sup>.

- Specific to environmental legal liability is *the principle the “polluter pays”*, inspired by economic theory, according to which the external social costs accompanying industrial production must be internalized, that is taken into account by businesses to establish production costs<sup>7</sup>.

More broadly, this principle establishes the obligation of the manufacturer to bear the social costs for the pollution he generates, which triggers a mechanism of accountability for environmental damage, covering all the effects of pollution not only on goods and people, but also on the nature itself<sup>8</sup>.

Therefore, the manufacturer must allocate pollution costs for the damage brought to the environment, supported by public authorities<sup>9</sup>.

Initially, the principle the “polluter pays” took into consideration the assumption, by the manufacturer, of the costs for environmental protection preventive measures, without reference to the costs of *ex post facto* measures.

As a result, pollution generators directly incurred lower costs, namely only the expenses for preventing pollution (providing devices and filters, adapting technologies etc.), while society, as a whole, supported - immediately or in time – the costs on combating the negative effects of economic and social activities generated on human health.

Subsequently, the principle has been developed, considering that the polluter should bear the costs not only for the preventive measures but also for remedial measures<sup>10</sup>.

- Defining the ecological damage is seen from the perspective of identifying its “victim”: “man” or the “environment” or, which requires the analysis of the legal status of environmental components (water, air, fauna, flora, etc.) to determine whether these environmental values can be legally protected or not<sup>11</sup>.

When the specific regulations of environmental law were reduced, it was considered that the ecological damage affected people or things in “the environment in which they live”<sup>12</sup>, so that nature would be the source of the damage and not its victim.

<sup>5</sup> Sofia Popescu, *General Theory of Law* (Bucharest: Lumina Lex Publishing House, 2000), 299.

<sup>6</sup> Mircea Duțu, *Introduction to Environmental Criminal Law* (Bucharest: Hamangiu Publishing House, 2013) 101.

<sup>7</sup> Michel Prieur, *Droit de l’environnement* (Paris: Dalloz Publishing House, 1991) 170-181; Patrick Girod, *La réparation du dommage écologique* (Paris: LGDJ, 1974) 84-91.

<sup>8</sup> Mircea Duțu, *Environmental Law Treaty*, Third edition (Bucharest: C.H. Beck Publishing House, 2007) 271 and next.

<sup>9</sup> Patricia W. Birnie, Alan E. Boyle, *International law and the environment*, Second edition (New York: Oxford University Press Inc., 2002) 92.

<sup>10</sup> Monica-Elena Oțel, *International environmental liability*, Volume 3 (Bucharest: Legal Universe Publishing House, 2009) 27 and next.

<sup>11</sup> Mircea Duțu, *Considerations about the delineation and correlation of legal systems (regimes) for the prevention and repair of ecological damage in Romanian law*, in the Law Journal, no. 3 (2013) 241 and next.

<sup>12</sup> R. Drago, *La protection du voisinage et de l’environnement*, PPS, 1979, quote by Michel Prieur, *Droit de l’environnement*, 6-e édition (Paris, 2011) 1052 and next.

It was further found that pollution primarily affects the environment, the ecological damage covering all the damages that degrade natural elements: water, air, soil, noise level, etc.<sup>13</sup>; so that victims are not only those directly harmed, by affecting their property or person, but the whole society, which has interests to protect ecological heritage.

Starting from the idea that *individual rights* cannot solve environmental liability - because pollution, even when it harms a particular heritage, most often affects, at the same time, the collective natural heritage of all living beings – it was recognized a direct *environmental damage (actual victim)*, independent of the repercussions of pollution on people or goods<sup>14</sup>.

Moreover, it is considered that there is a distinction between pollution damages (which are suffered by *identifiable and private patrimonies*) and the actual environmental damages suffered by the natural environment by affecting the ecological balance, as *collective heritage*<sup>15</sup>.

It is true that, most often, the same act triggers both types of damages, but such a situation raises the question of identifying the *representatives of the damaged natural elements* belonging to the common heritage, in order to recognize their interest and right to act for the defence of the environment. These would be, for example, environmental protection associations, but even more, it is expected to confer the right of every person to protect environmental assets, recognizing a subjective right to the environment, enabling an effective protection of natural elements, so far neglected in their capacity of *res communes*<sup>16</sup>.

The identification of the *active subject* of responsibility for the harmful consequences on the environment, involves the identification of the owner of prevention and management obligations of polluting activities.

For criminal acts which affect the environment, the responsibility lies, in principle, with guilty *natural persons*, but increasingly more accepted is the liability of guilty *legal entities*.

The magnitude and severity of environmental damage, the massive involvement of businesses in their challenge and the need for appropriate and effective criminal reactions that contribute to environmental protection, has led to the conclusion that the criminal liability of legal entities must be a priority issue in the field, motivated also by the fact that many crimes are committed by the negligence or omission of several persons, with the risk of not identifying and punishing perpetrators, which may cause the system strict individual criminal repressions that lead to impunity<sup>17</sup>.

In international environmental law, the liability is based on the principle of *state responsibility* for transboundary ecological damages, which has been enshrined in the *Declaration of Principles of Rio 1992*, states having the obligation to act so that the entities under their jurisdiction to not prejudice the rights of other states, including environmental rights.

According to international regulations on environmental protection, the liability for the damages caused by a legal activity *per se* is often channelled to the person who has decisive economic power over the activity that caused the transboundary environmental damage.

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<sup>13</sup> Patrick Girod, *La réparation du dommage écologique*, 29-31.

<sup>14</sup> Francis Caballero, *Essai sur la notion juridique de nuisance* (Paris: LGDJ, 1981), 293.

<sup>15</sup> Michel Prieur, *Droit de l'environnement*, 1052.

<sup>16</sup> Gilles Martin, *La responsabilité civile pour les dommages à l'environnement et la Convention de Lugano*, in *Revue juridique de l'environnement*, no. 2-3 (1994) 121.

<sup>17</sup> Francis Van Remoortere, *La question de la responsabilité pénale des personnes morale sen droit de l'environnement*, in *Revue de droit penal et de criminologie*, no. 4 (avril 1991) 313.

## CONCLUSIONS

Environmental degradation has a harmful effect on the development of life in suitable conditions, so that, in the future, it is necessary to act more effectively for its protection, instituting penalties for those who commit acts that affect people's health or even life.

Regarding the *entities responsible* for acts affecting or harming the environment, in principle, polluters are those who bear the costs of preventive and remedial actions, namely natural or legal persons guilty of altering the ecological balance.

The acceptance of criminal liability of legal persons - except the state and certain public authorities - for crimes committed in their name or by their representatives, has led to the gradual widening of the sanctions for environmental protection, so that, currently, in many countries, the convictions of legal entities for environmental offenses have a significant share.

The Council of Europe has made an important contribution to the development of regulations targeting the criminal liability of legal entities and the creation of a uniform system in this regard, within Europe, through Resolution 77 (28) of the Committee of Ministers recommending that Member States review the principles of criminal liability for the implementation, in certain cases, of criminal liability of those entities. Moreover, Recommendation no. 18 of October 20<sup>th</sup>, 1988 on the liability of legal entities for the offenses committed in their enterprises, has brought a number of important elements that regulate the respective legal institution.

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## MAIN TERMS OF LEGISLATIVE AND EXECUTIVE INTERFERENCE IN ROMANIAN CONSTITUTIONAL SYSTEM

Sevastian BELNDEA<sup>1</sup>

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**ABSTRACT:** *CONSECRATION AND THE PRINCIPLE OF CLASSIC SEPARATION OF POWERS - LEGISLATIVE, EXECUTIVE AND JUDICIAL- IN ROMANIAN CONSTITUTIONAL SYSTEM IS BASED ON BOTH THE DIVISION OF POWERS OF EACH AS WELL AS ESTABLISHING FORMS OF COLLABORATION AND MUTUAL CONTROL WHO CAN STOP EXCESSES AND ABSOLUTIST TENDENCIES OF A POWER OR ANOTHER. MODALITIES OF INTERFERENCE OF POWERS ARE ACTUALLY FORMS OF INTERFERENCE OR METHODS OF THE THREE MAIN FUNCTIONS OF EXERCISING STATE POWER, WHICH, BY ITS NATURE, CAN ONLY BE UNIQUE. WHAT GIVES SPECIFICITY AND ORIGINALITY BUT EXISTING CONSTITUTIONAL SYSTEMS IN THE WORLD TODAY IS THE GREAT DIVERSITY OF WAYS OF INTERFERENCE BETWEEN THE LEGISLATIVE AND EXECUTIVE POWER. NATURALLY THE PUBLIC AUTHORITIES ARE IN RELATIONSHIPS MORE OR LESS CLOSELY WITH OTHER ORGANIZATIONS: POLITICAL PARTIES, UNIONS OR TRADE UNIONS, NONGOVERNMENTAL ORGANIZATIONS ETC, WHICH SOMETIMES AFFECT THEIR OWN DECISIONS, BUT THESE RELATIONSHIPS HAVE ONLY A SECONDARY IMPORTANCE.*

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**KEYWORDS:** SEPARATION OF POWERS, THE BALANCE OF POWERS, CONTROL PARLIAMENTARY MOTION OF CENSURE, PROMULGATION OF THE LAW.

### INTRODUCTION

The three specialized state power are exercised by independent authorities; each power / public authority holds and exert a number of its own powers, neither of these powers prevail over the other. The principle of separation of powers has never considering a rigid separation of powers, as regards establishing relationships rather, some forms of collaboration and mutual control between the three powers. Since the Romanian constitutional system consecrated a bicephalous executive consists of the President of Romania, on the one hand, and the Government, on the other hand, the relationship between the legislative and executive concern both the relationship between Parliament and President of Romania and the relationship between Parliament and Government.

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## **A. RELATIONS BETWEEN THE PARLIAMENT AND THE PRESIDENT OF ROMANIA**

According to the constitutional relationship between Parliament and President of Romania are: *addressing Parliament messages (art. 88); convening and dissolution of Parliament (art. 63 par. (3) Article 66 and 89); enactment of laws (art. 77); consultation of Parliament by the President (art. 90); liability of the President in front of the Parliament (art. 95 and 96);*

### **1. ADDRESSING MESSAGES TO THE PARLIAMENT**

From the perspective of constitutional possibility of the President to address messages to the Parliament, the message fulfills a dual role: it is an institutionalized means of communication between the President and Parliament and at the same time is a way the President to attract the attention of the Legislature on priority policy issues or are viewed differently by the two powers, risking jams in state activity or seizure in social life.

In the absence of express provisions concerning the form and content of the message, Romanian doctrine held that the message can be: submitted directly by the President read a presidential sent or forwarded in the form of open letters and scope of problems that may be subject message is left to the discretion of the President, who may decide on its content<sup>2</sup>. Presentation of messages by the President of Romania is not a head of state interference in the work of the legislative body of the country, since it does not also require Parliament to debate them and approving them. Art. 65 para. (2) a) of the Constitution establishes the obligation only to the Chambers of Parliament in joint session to receive the message of the President of Romania. It is an act sole discretion of the President, that no legal effect similar decree. Message from the President can not be a breach of the principle of separation of powers, since it does not cause determines or directs decisions legislative power, Parliament having full freedom to decide as it sees fit. Constitution distinguishes itself message associated with the duty of Parliament to receive, and issues contained in the message to be debated only if Parliament considers it necessary and not because they have a constitutional obligation in this respect. Another legal regime is presidential message to Parliament under Art. 92 para. (3) of the Constitution, which informs Parliament Chairman measures to repel an armed aggression. If this message Rooms are obliged not only to meet in order to receive the message, but also to discuss. Since the message turned into a tool that wants to impose solutions even endorsed by Parliament, we would not be without interest that *ferenda law*, to interfere with the current rules, to clarify the legal status of this procedure and specify that the themes of the message must be within the existing constitutional order.

### **2. THE CONVOCAION AND DISSOLUTION OF PARLIAMENT**

According to constitutional provisions, Romanian President may convene the newly elected Parliament no later than 20 days after the election and request the convening of Parliament in extraordinary session, convened this time being made by the Presidents of Chambers. Convening by the President of Parliament resulted from elections is justified by the fact that after the elections it is a new Parliament, and the presidents of the two Chambers have not yet been elected to exercise the power to convene the legislature. Act by the President of Romania accomplishes this task is constitutional decree. As Parliament convened in special session request, please note that this is not an exclusive option to the President of Romania, which can be exerted by the Bureau of each Chamber, and at least one third of the Deputies or Senators.

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<sup>2</sup> Antonie Iorgovan, *Administrative Law Treatise*, vol. I. (Bucharest: Ed. All Beck, 2005), 299.

Constitutional rule does not clarify whether the request of the President to convene an extraordinary session or not binding on Parliament. In this regard, we believe that Parliament can not refuse meeting in special session, but plenum has full freedom to agree with the majority of senators and deputies present, or to reject the agenda of the extraordinary session (art. 81 of Regulation Senate or art. 84 of the Regulations of the Chamber of Deputies). The vote to reject the agenda of the extraordinary session shall result in rejection of the conduct of the extraordinary session. The legal doctrine is considered that special reasons would justify and request the President to convene only a single chamber<sup>3</sup>.

Exercising the right to dissolve Parliament by the President is subject to multiple conditioning and prohibitions concerning: a) consultation with the Presidents of both Chambers and the leaders of the parliamentary groups; b) censorship to form a government within 60 days after the first request, in conjunction with the decline of at least two requests for investiture; c) prohibition to dissolve Parliament during a state of mobilization, war, siege, emergency, in the last six months of office of the President or more than once in a year. According to art. 89 of the Constitution, dissolve Parliament remains a decision which is at the sole discretion of the President of Romania, even if the conditions mentioned.

### 3. PROMULGATION OF LAWS

Promulgation of laws passed by Parliament is the final stage of the legislative procedure or operation that allows the president to submit a final inspection law in terms of content and even its constitutionality. President promulgates the law within 20 days of receiving it, but before promulgation has two possibilities: a) to ask Parliament, once reconsideration of the law; b) to the Constitutional Court, if it considers that the law, in whole or in part, is unconstitutional.

=If the President has requested review or verify the constitutionality of the law, promulgation is made within 10 days of receiving the law passed after review, or the receipt of the decision of the Constitutional Court confirmed the constitutionality. Art. 77 of the Constitution provides that the law is sent for promulgation, without distinction, but if corroborate art. 77 and art. 151 para. last, that are subject to promulgation only organic and ordinary laws, but laws amending the Constitution. Constitutional rule of law on the review indicates that Parliament must amend the law following the review, taking into account the comments of the President or Parliament may adopt the new law in the same form, without taking into account the comments of the President. In this respect, the Constitutional Court no. 991/2008 stated that:

- Review is a new deliberation in each of the two Houses, or in rooms combined, the law was passed in joint session;
- Parliament must review only issues raised by the President in his request for review but to decide on all the provisions of the law under review, related to those covered by the President;
- Parliament may take any decision on the law reviewed: may accept all or part request, reject, or may amend all or part of certain texts relating to the review request.

In the absence of express legislative clarifications related to the possibility of the President to ask the same law review and finding its constitutionality, we believe that the President is able to notify Parliament and the Constitutional Court with the same law but different in legal matters.

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<sup>3</sup> Mircea Preda, Benonica Vasilescu, *Administrative Law. The special part.* (Bucharest: Ed.Lumina Lex, 2007), 31.

#### **4. CONSULTATION OF PARLIAMENT BY THE PRESIDENT**

President's decision to hold a referendum on issues of national interest, is preceded by its obligation to consult Parliament. Law, consultation is an administrative procedure prior to submitting an act or exercise an authority which is required to be covered, without the subject turned to her and bound to consult the opinion; this does not mean that the state authorities should remain passive wishes of the people and you do not have to fulfill his desire for change in the field has been consulted. The doctrine was shown that such a legal regime can not be interpreted in any way in the sense that the view of the body that was found has no effect on those who resorted to consultation<sup>4</sup>.

#### **5. LIABILITY PRESIDENT TO PARLIAMENT**

If the exercise of its Romanian President enjoys immunity, namely is not responsible for the opinions, acts or acts committed in the exercise of their office, respectively those that are part of the powers conferred on him by function instead for offenses unrelated to the prerogatives function The President will meet political and legal<sup>5</sup>.

In connection with the political responsibility of the President of Romania, constitutional provisions governing the liability of the President, states that, if committed grave acts that violate the Constitution, the President of Romania may be suspended from office, in a joint session of both Houses by a majority vote Senators and Members, after consulting the Constitutional Court. The procedure of suspension from office of President of Romania, may be initiated by at least one third of the deputies and senators; it is submitted simultaneously to the Standing Bureaus of the two Chambers and communicated immediately to the President that he can give explanations about the facts he is being held. If the proposal of suspension from office has been approved by Parliament no later than 30 days is held a referendum for dismissal of the President. Depending on the outcome of the referendum, President of Romania will resume the exercise of constitutional rights and obligations (if the referendum was rejected) and will be dismissed (if voters decided to dismiss the President of Romania).

While temporary suspension from office means termination, for a fixed period of exercise of the rights and obligations arising from such public office, dismissal results in permanent loss of office of President of Romania and, implicitly, the rights and obligations related to it . Because no clear constitutional provisions which are acts committed by President genuine serious violations of the Constitution, propose ferenda law, constitutional clarification of such facts.

As for the criminal responsibility of the President of Romania, this occurs only when the impeachment of the President for high treason. Proposal for impeachment of the President of Romania may be initiated by a majority of deputies and senators and may be approved by a vote of at least two-thirds of them; this proposal brings neântârziat informed the President of Romania in order to give explanations about the facts he is accused. If you decide to indict the President, Parliament and signed by the presidents of the two Chambers, notify the Attorney General's Office attached to the High Court of Cassation and Justice, which has jurisdiction proceedings. From the impeachment date and up to the dismissal date, the President suspended the law and the date of the final judgment of conviction is dismissed as President. The act of high treason is defined by the constituent legislator, but the organic and is regulated by art. 398 of the new Criminal Code.

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<sup>4</sup> Virginia Vedinaş, *Procedural Orgies*, (Bucharest: Ed. Legal universe, 2011), 50.

<sup>5</sup> Dana Apostol Tofan, *Liability of Republic presidents in AUB (Law Series) nr.III-IV / 2008*, 20.

## **B. RELATIONS BETWEEN PARLIAMENT AND GOVERNMENT**

According to the Constitution, Parliament relations with the Government refers to: *inform Parliament (Art. 111); questions and interpellations to the members of the Government (Art. 112 para. (1)); possibility of introduction of simple motions and censure (Art. 112 para. (2) and art. 113); Government liability (art. 114); Government liability and its members (art. 109)*. These links between legislative power and executive control function are elements of Parliament on the Government. Control function of the Legislature does not mean that the Government body which exercises the executive is subordinate to Parliament, but expresses only a way of cooperation between the institutions of legislative and executive power<sup>6</sup>. Parliamentary oversight is a means to subordinate Government Parliament, but only to ensure that his work received the investiture Government fulfills its mandate in terms of legality.

### **1. REPORTING TO PARLIAMENT**

According to the constitutional text, both the Government and other public administration bodies are obliged to provide information and documents requested by the Chamber of Deputies, the Senate, or parliamentary committees, through their respective presidents and for legislative proposals that involve an amendment to the state budget or state social insurance budget request for information is mandatory. If the Government does not send the information and documents requested Parliament, two consequences may occur:

a) if the request for information is considering proper documents or information if the Government did not submit to Parliament, its members have the opportunity to return with a new request may submit inquiries and even simple motions against the Government member late submission of documents or information;

b) if the request for information is considering the submission by the Government of its views on a legislative proposal involving budgetary changes, and this information was not provided within 60 days, it is considered that the point Government of view is to accept or support these legislative proposal.

As the obligation to inform mention that it acts in reverse, meaning that Government members have access to parliamentary proceedings, and when they are required, and their presence is required. It is clear that a request for the provision of information and documents should be confined to those data, information and non-public documents that can and should be known by the general public. If such a request is made by the presidents of the two Chambers or committee chairmen, without debate in plenary of these bodies shall be considered null and void.

### **2. QUESTIONS AND INQUIRIES TO THE GOVERNMENT OR ITS MEMBERS**

According to constitutional provisions, the Government and each of its members are bound to answer questions and interpellations raised by Deputies or Senators, as provided in the regulations of the two Chambers. In the Chambers, the question is presented as a simple request to answer whether a fact is true, if the information is accurate, if the Government and other public administration bodies will release to the Chamber, information or documents required or, where applicable, filed to rule on a specific problem and the request is understood as a request to the Government requesting an explanation of its policy on important matters of internal and external activities.

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<sup>6</sup> Adrian Gorun, *Political Theory. Basic concepts and political phenomena*, vol. I. Power, legitimacy state. (Cluj: Ed.Cluj University Press, 2005), 144

According to these regulations can not be formulated questions regarding matters of personal or private interest, the work of people who do not hold public, obtaining legal advice, lawsuits are pending in the courts. Questions can be submitted in writing or orally and the answer can be given immediately in writing or orally according to the desire questioner. If the lawmaker who formulated the question is considered dissatisfied with the response received, it may issue a query to the Government or a member thereof. Questions not answered during a parliamentary session be published in the official gazette of Romania, at the end of each regular session.

As interpellations, they shall be made only in writing and motivation object presentation addresses the Government or a member thereof, shall be presented at a public hearing, shall be recorded in a special register and displayed at the Chamber to which it belongs their author. Responding to inquiries must be made within two weeks this period being extended only for serious reasons.

### **3. INTRODUCTION OF SIMPLE MOTIONS AND CENSURE**

If questions and interpellations are legal instruments of parliamentary scrutiny of secondary importance, and that may be initiated by any parliamentarian, through a simple motion expressing the Senate and Chamber of Deputies position on an issue of domestic or foreign policy or, as case on an issue that has been the subject of an interpellation. The simple motion is a more effective tool for achieving control function of Parliament over the Government. At the doctrine is considered simple motion is a legal and not a political one, although it is the result of political debate, and the effects are still politically. An undeniable aspect is that simple motion no legal effect *ipso jure* but *ipso facto* legal effect because, if the executive ignores the simple motion, the two Houses of Parliament are able to use, if necessary, the motion of censure. In terms of the number of parliamentarians who can initiate a simple motion, both parliamentary regulations establish that simple motion is initiated by at least a quarter of the Senators or at least 50 deputies, must be substantiated and submitted during a plenary session its president.

We appreciate that no legal nature or intended purpose by initiating a simple motion, do not justify large number of parliamentarians needed to submit a simple motion. Thus, under the Constitution, on the one hand, the legal acts may be initiated even a member of Parliament and, on the other hand, simple motions can be claimed and a simple query, which also can be initiated only by a single parliamentarian. Therefore, I think that the *ferenda law* should be amended by two parliamentary regulations, downward the number of parliamentarians who can initiate a simple motion. After receiving the simple motions President of the Senate or the Chamber of Deputies shall forthwith communicate them to the Government, to notify the plenum, then have it displayed in the Senate or the Chamber of Deputies, simple motion debate taking place within six days after deposit. According to parliamentary rules, a simple motion is adopted in the Senate by a majority of Senators and the Chamber of Deputies, by a majority vote present. The effects of a simple motions are not to remove the Government or the Minister responsible for the simple motion which has been, is compulsory only for the Government to consider the position expressed in the contents of that motion and correct the issues flagged as inappropriate. Constitutional Court Decision no. 148/2007 shows that adopting a simple motion by Parliament for the work of a member of the Government Prime Minister does not oblige the dismissal of the minister concerned.

Regarding the motion of censure, this is the ultimate manifestation of the exercise parliamentary control over government. The constitutional text states that, in joint session, the two Houses of Parliament can withdraw confidence from the Government by adopting a motion of censure by a majority of deputies and senators. The adoption of a motion of

censure results in the withdrawal of confidence to the Government and its dismissal by Parliament. If censure motion was passed, the situation is promptly informed the President of Romania signed by the presidents of the two Chambers, the designation of another candidate for prime minister. If the censure motion was rejected, MPs and Senators who signed it, may not submit, during the same session, a new no-confidence motion unless the Government assumes responsibility under Art. 114 of the Constitution. Following the adoption of the motion, the outgoing government will continue to manage public affairs to sworn members of the new government, that fulfill only the acts of individual or normative need for administration of public affairs, without promoting new policies. During this period, the Government cannot issue orders, cannot initiate bills, except bills on ratification of international treaties, the state budget and state social insurance budget.

#### **4. ENGAGE THE GOVERNMENT'S RESPONSIBILITY TO PARLIAMENT**

Government may assume responsibility before the Chamber of Deputies and the Senate, in joint session, upon a program, a general policy statement or a bill. From presentation by the Prime Minister, in a joint session of the program, the general policy statement or a bill on which the Government commits its responsibility, commences within 3 days, which may be filed a motion to censorship. Failure to submit a motion of censure, the expiry of the above program, foreign policy statement or bill presented shall be considered adopted. If, however, within 3 days in the Constitution, a censure motion is filed, the adoption of that motion has the effect of rejecting the program, the general policy statement or bill and dismissal of the Government. If the motion of censure, not get a majority of lawmakers of both Chambers (art. 82 in conjunction with Article 74 of Regulation joint meetings of the Chamber of Deputies and the Senate), the bill shall be considered adopted and the application program or general policy statement becomes binding on the Government.

In our case, we share the view that the general policy program outlines the Government intends to implement it in practice and general policy statement is a Government position or opinion about an aspect of the government program<sup>7</sup>. Liability on a bill is an indirect legislative means adopting a law, but not by discussing it in the ordinary legislative procedure, but by a motion of censure debate taking place in rooms combined<sup>8</sup>. Adoption of a bill in this way, is not only a measure to avoid the rules of the legislative procedure, but also a way of adopting legii. In ultrafast time between the submission by the Government in Parliament intention to liable on a bill and date of submission of the joint meeting of the Prime Minister, the draft law, lawmakers are able to formulate and submit amendments on the bill in question, subject to their acceptance by the Government.

The law over which the Government has assumed responsibility, once adopted by Parliament, is a law like any other. Such a law is under review or at the request of the President of Romania (Article 77 of the Constitution), whether as a result of the finding of unconstitutionality them, in whole or in part, by decision of the Constitutional Court. However, a law passed by accountability must comply with the rules laid down by law on drafting laws and may be amended or repealed in accordance with the ordinary legislative procedure (Law no. 24/2000 on legislative technique for drafting laws).

In the absence of statutory or constitutional provisions, the Constitutional Court ruled in its case following:

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<sup>7</sup> Ion Deleanu, *Institutions and Constitutional procedures, in Romanian law and comparative law*, (Bucharest: Ed.CH.Beck, 2006), 656.

<sup>8</sup> Ion Vida, *Executive power and public administration official*, (Bucharest: Ed.RAMonitorul, 1994), 52.

- Liability is a mixed procedure, parliamentary scrutiny, as it allows initiating a motion of censure and legislative proceedings, because the bill on which the government assumes responsibility shall be deemed adopted if such a motion was not filed or being initiated, was dismissed (Decision no. 34/1998);
- Adoption of a draft law prepared by the government, by way of government liability, law-abiding ordinary procedure of adopting specific law, but with some exceptions: suppression committee and plenary debates (Decision no. 34/1998);
- Government liability procedure is a simplified way of regulation that must be reached in extremis, when the adoption of the bill in the ordinary procedure or emergency procedure is possible only times when Parliament's political structure does not allow adoption of the bill the usual procedure or emergency (decision no. 1557/2009);
- Because the Government may assume responsibility before Parliament on a bill, you must meet the following conditions: 1. The existence of an emergency the adoption of measures contained in the law on which the Government has assumed responsibility; 2. the need for regulation in question be taken with the utmost celerity; 3. The importance of the area covered; 4. The immediate application of the relevant law (decision no. 1655/2010);
- The draft law on which the Government may assume responsibility may be the nature of the organic laws, ordinary, but there may be constitutional laws of nature, for which a special procedure (Decision no. 34/1998);
- The draft law on which the Government commits its responsibility not deviate from the rules of drawing up a bill, that can be divided into several titles, chapters and sections and may cover several areas (Decision no. 147/2003);
- The Government may assume responsibility on several bills on the same day or the same parliamentary session (decision Nr.14154 / 2009).

From the consecration of express constitutional Parliament's role as supreme representative body and sole legislative authority of the country that government should not use, unless an exception the the primary rules of social relations, which are and must remain within the scope of Regulation Parliament<sup>9</sup>. If excessive use of this method of regulation by government liability, risks undermining the role of Parliament, distort relations between Government and Parliament, established in accordance with the principle of separation of powers and constitutional provisions.

## **5. THE LIABILITY OF THE GOVERNMENT AND ITS MEMBERS**

If government responsibility, as a whole, is a political responsibility, the responsibility of each member of the Government can be political or criminal. Government is politically responsible only to Parliament for all its work and each member of the Government is politically and jointly with others for the activity and acts of the Government in the sense that, for the offense of government can be dismissed entirely, because this mistake the team government as a whole, and not only the one who did it.

The most severe penalty occurs when government is dismissing political accountability by withdrawing confidence granted by the Parliament, and the procedure is applied to the sanctions motion of censure.

The analysis of constitutional provisions that relate specifically to the criminal liability of members of the Government or of art. 109 para. (2) of the Constitution, it follows that:

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<sup>9</sup> Radu Carp, *Ministerial Responsibility*, (Bucharest: Ed. All Beck, 2003), 46.

- The criminal liability of members of the Government has a derogation of the common law, as a special criminal liability;
- Special criminal liability of members of the Government refers only to acts committed in the course of their duties, ie facts that are directly related to the tasks arising from this function; Government members responsible for other acts under the rules of the common law;
- For criminal offenses committed in the exercise of a member of the Government, the prosecution may be requested only by the Chamber of Deputies, Senate and President of Romania;
- If the prosecution asked Romanian President may order the suspension of the person concerned. This is a faculty of the President, not its obligation. Regarding the suspension of a member institution of the Government, the doctrine held that the Prime Minister may, even after suspension, revocation Government member concerned, given the seriousness of the alleged facts [8];
- If the prosecution ended with the prosecution of a member of the Government, suspension from office is no longer at the discretion of the President of Romania, but he is obliged to suspend from office;
- Competent court of a member of the Government was suspended from office belongs High Court of Cassation and Justice.

### **CONCLUSIONS**

The implications of the way it is designed the executive-legislative report are multiple and complex, beyond the political sphere. The essential aspect in the relationship between the two powers take control over the executive and the legislature to regulate its *de jure* and how it is exercised *de facto* affect the operation of the entire political system and everything that the rule of law and the rule of law.

Legislative and executive powers should be clearly divided not only to avoid overlapping of functions but also judiciously combined together through a counterweight system that ensures the final balance of political balance.



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## **DEVELOPMENT OF COMMON HERITAGE OF MANKIND AND INTERGENERATIONAL EQUITY\***

**Oana Maria HANCIU<sup>1</sup>**

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### **ABSTRACT:**

*THE ARTICLE ANALYSIS THE CONCEPT OF COMMON HERITAGE OF MANKIND AND THE LINK WITH THE THEORY OF INTERGENERATION EQUITY. FIRST, IT PRESENTS THE CONCEPT OF COMMON HERITAGE OF MANKIND BY REFERRING TO THE AREA OF INTERNATIONAL SUBMARINE TERRITORIES AND THE PROBLEM OF MINING EXPLOITATION OF THE AREA. IT THEN PRESENTS SOME ASPECTS OF THE CONCEPT OF INTERGENERATIONAL EQUITY IN CONNECTION WITH ENVIRONMENTAL PROTECTION. THESE AND OTHER ASPECTS ARE REVIEWED IN DETAIL.*

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**KEY WORDS:** COMMON HERITAGE OF MANKIND, INTERGENERATIONAL EQUITY, ENVIRONMENT PROTECTION, MINING EXPLOITATION OF THE AREA

### **INTRODUCTION**

At world level there are concerns relating to the problem of global resources, which begin to be more and more limited. The population increase, and in the same time with it the increase of the need for more resources (food, energy, minerals etc.) have created an enormous pressure on the ecosystems at global level.

The issues relating to air and water pollution, hazardous waste, depreciation of ozone layer, or climate changes, reached international spread, fact that generated a series of concerns related to environmental protection, and raising awareness on the fact that pollution can no longer be stopped by political borders.

The concept of common heritage of mankind has been slightly used in practice. Its analysis is beneficial to be made in relation to 1982 Convention. Part XI of the Convention has been initially structured taking into account the interests of developed countries. Since the beginning, the concept of common heritage of mankind has been viewed differently by developed countries and countries in course of development.

### **DEVELOPMENT OF COMMON HERITAGE OF MANKIND**

This concept has been introduced in two Conventions: 1982 Convention and 1979 Agreement governing the states' activity on the Moon and celestial bodies (Treaty relating to the Moon). These treaties have attached to the concept of common heritage of mankind four key attributes: non-appropriation, international management (by the 1982 Convention, the

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International Authority of Submarine Territories was set up, and in the Treaty relating to the Moon is provided only the setup of an international regime only when the exploitation will become feasible), common benefits and its use in the peaceful purpose<sup>2</sup>.

The main stake was the mining exploitation of the areas of the international of the submarine territories (hereby, the area). The developed states objected in relation to the centralization of this area, as they interpreted the implementation of the concept of common heritage of mankind as an extension to the concept of the free sea up to the area and therefore the free access to mining exploitation on the sea bottom to be valid for all the states, equally and based on granting an exploitation license. This regime was to be imposed applicable only for mineral exploitation in the area, but not in case of other activities such as transportation and treatment. According to the developed countries from the area, it would grant the protection of property rights for the technology used. The benefits of these activities would take the form of a share of profit from the mining operation granted to each party with the license right for the exploitation, but only in the conditions established by financial institutions such as World Bank<sup>3</sup>.

On the other hand, the states in course of development regard the concept of common heritage of mankind in the sense that the area and the resources of sea-bed are common and indivisible, and exploitation must be made collectively by a mechanism of an organization belonging to all states, that would supervise the activities and distribute benefits to all states, taking into account their needs. Thus, states in course of development should participate to decision making equally to all other states<sup>4</sup>.

Provisions related to environmental damages caused by the mining exploitation of sea bottom we may found in the 1982 Convention part XI related to mining exploitation of the international area of submarine territories and XII related to maritime environment. Article 5 of part XI provides all necessary measures must be taken in case of the mining exploitation of the area in order to protect efficiently the marine environment from damaging effects that might occur as result of such activities. Article 209 of part XII provides that states must adopt norms, regulations and international procedures to protect the marine environment from such activities. The states are responsible for the environmental damages in these areas, caused by national operators (mining companies) only in the measure in which they fail to set up an internal plan of norms and regulations in accordance to the provisions of the convention. Article 22 of Annex III of UN Convention relating to the sea right establishes that an operator is responsible from the civil point of view for any damage caused by an illegal activity during the mining exploitation.

The increase of the requirements and of the prices at global level, as well as development of mining technologies led to increase of interest to exploit in commercial scope the minerals from the area. The International Authority of Submarine Territories<sup>5</sup> adopted recently, in this sense, regulations relating to exploring and exploiting marine minerals, especially of poly-metallic nodules.<sup>6</sup>

The Regulation relating to prospection and exploitation of poly-metallic nodules from the area, developed according to provisions of 1982 Convention, was approved by General

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<sup>2</sup>Malgosia A. Fitzmaurice, *International Protection of the Environment*, (Leiden /Boston ,Collected Courses of the Hague Academy of International Law, Volume: 293, Brill | Nijhoff, Leiden |, 2001) 154

<sup>3</sup>M.A.Fitzmaurice, *International Protection of the Environment*,( Leiden /Boston Collected Courses of the Hague Academy of International Law, Volume: 293, Brill | Nijhoff, 2001) 154

<sup>4</sup>M.A.Fitzmaurice, *International Protection of the Environment*,( Leiden /Boston ,Collected Courses of the Hague Academy of International Law, Volume: 293, Brill | Nijhoff, Leiden |, 2001) 154

<sup>5</sup>[www.isa.org.jm](http://www.isa.org.jm)

<sup>6</sup>Aline Jaekel, *An Environmental Management Strategy for the International Seabed Authority? The Legal Basis*, (Leiden ,The International Journal of Marine and Coastal Law 30 (2015), Brill NIJHOFF,), 93-119

Assembly of International Authority of Submarine Territories on the 13<sup>th</sup> of July 2000. This regulation provides surprisingly a detailed and strong regime relating to environmental protection and provides the possibility to carry out studies, environmental assessments, as a fast answer to incidents causing severe damages to the marine environment, the notification of the Authority in case of severe damages and its possibility to take emergency measures. Also, it provides the responsibility of its operators towards damages caused to marine environment and actions undertaken by them, both during the mining exploitation and after finalizing the exploitation, and their obligation to take all emergency measures in case of damages.

Article 16 of annex III, para. 16.1 provides that the operator is obliged to hold insurance policy against possible damages caused to the marine environment.<sup>7</sup>

Taking into account the increased interest in the exploiting activities in the area, it is a great challenge for the International Authority of Submarine Territories to elaborate a system adapted to the protection of marine environment.

### **THE THEORY OF INTERGENERATIONAL EQUITY**

The intergenerational equity is a sophisticated concept both pro and against. The concept has its roots in the book *A Theory of Justice* of John Rawls<sup>8</sup>, where he supports the idea of correctness and justice and takes into account the social and economic rights of the least privileged segment of the society. Also, he supports that all generations have mutual obligations, with no exception, including the present generation.

There is sustained also the doctrine that equity between generations has been influenced in a great extent by the development of the international environmental law.<sup>9</sup> This fact is obvious if we look at the Stockholm Statement (principles 1 and 2), where the future of present and future generations is in the first plane. Also, the interest for future generations may be found in UN Convention relating to climate changes or in the Convention relating to protection and utilization of water cross-border flows and lakes.

The issue of protecting interests of future generations has been analyzed in the arbitration relating to seals in the Bering Sea, where the concept of trust that represents fundament of the doctrine of equity between generations was used in a convincing manner<sup>10</sup>.

The central element of the theory of equity between generations may be found also in the book of E. Brown-Weiss - „Intergenerational Equity: A Legal Framework for Global Environmental Change”<sup>11</sup>, where it is stated: „the theory of equity between the generations sustains that we, human species, hold the national environment of the planet in common, with all members of our species: past generations, present generations and future generations. In the same time, we are the beneficiaries of the right to use and benefit of it. All generations are equal. There are no generations to be more cherished or favored. The basic concept is to see mankind as a partnership between all generations. Each generation must not transmit the

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<sup>7</sup>Louise Angelique de la Fayette, *International liability for damage to the environment in Research Handbook on International Environmental Law*, (UK Ed. By Malgosia Fitzmaurice, David M. Ong, Panos Merkouris, MPG Books Groupe, 2010).347

<sup>8</sup>J. Rawls, *A Theory of Justice*, Oxford, (Clarendon Press, 1972)

<sup>9</sup>M.F. Fitzmaurice, *International Protection of the Environment*,( Leiden /Boston ,Collected Courses of the Hague Academy of International Law, Volume: 293, Brill | Nijhoff, Leiden |, 2001) 187

<sup>10</sup>M.F. Fitzmaurice, *International Protection of the Environment*,( Leiden /Boston ,Collected Courses of the Hague Academy of International Law, Volume: 293, Brill | Nijhoff, Leiden |, 2001) 187

<sup>11</sup>E. Brown-Weiss - *Intergenerational Equity: A Legal Framework for Global Environmental Change*, in *Environmental Change and the Environmental Law. New Challenge and Dimension*, (Tokyo, United Nations University Press, 1992) 394

planet in less good conditions than those in which it received it and must ensure access to its resources and benefits.”

There are more criticisms in the doctrine in Brown-Weiss's doctrine, some considering it as “much too unrealistic”<sup>12</sup> Only the protection of environmental interests of the present generation is difficult to protect because of a weak international system of protection and a weak political will. At present, it is quite difficult that interests of future generations are protected and the recourse to courts of law in this sense is not convincing. The representation of unborn generations raises a series of legal issues, mainly in what regards the legal basis for such an interest or problem of *locus standi* in representing the interests of future generations. It was stated that in what regards the quality of *locus standi* of present generations, in quality of administrators of these interests, these could still come from the concept of *action popularis* or following the obligations *erga omnes*<sup>13</sup>.

### CONCLUSION

In the light of the recent progress relating to the exploitation of the area, the exploitation stage is imminent and therefore the need to adopt a framework regulation for the mining exploitation in the area appears, also important being underlying obligations that the Authority has in the field of environmental protection. Taking into account the gap regarding the regulation of marine diversity in the areas outside states' jurisdiction, the urgent protection of biodiversity by an institutional and legal framework is imposed, including by the involvement by the Authority.

The theory of intergenerational equity has been greatly influenced by the development of the international environmental law. Although in the last decade, the international community manifested a special concern for the issues of environmental protection, the following issue is raised *to what extent are the interests of future generations taken into account in the present discussions regarding the responsibility and the compensations, and in the assessment of damages in case of a prejudice*.<sup>14</sup>

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<sup>12</sup>A.E.Boyle, Review of the Book of Brown-Weiss, *International and Comparative Law Quarterly*, Vol. 40 (1991) 230

<sup>13</sup> M.F. Fitzmaurice, *International Protection of the Environment*,( Leiden /Boston ,Collected Courses of the Hague Academy of International Law, Volume: 293, Brill | Nijhoff, Leiden |, 2001) 192

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## **GOVERNMENTAL ACTIVITIES REGARDING REGIONALIZATION IN ROMANIA IN 2013**

**Andra Karla SIENERTH<sup>1</sup>**

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### **ABSTRACT**

*THE POLITICAL DISCOURSE ON REGIONALIZATION IN POST-COMMUNIST ROMANIA BECAME MORE VISIBLE IN THE LAST FEW YEARS. THIS RESEARCH AIMS AT ANALYZING THE STEPS TAKEN IN 2013 AT GOVERNMENTAL LEVEL IN ORDER TO IMPLEMENT THE REFORM OF REGIONALIZATION IN ROMANIA. IN OTHER WORDS, WE WILL IDENTIFY THE ACTIONS DEVELOPED IN THIS SENSE BY THE MAIN GOVERNMENTAL BODY, THE MINISTRY OF REGIONAL DEVELOPMENT AND PUBLIC ADMINISTRATION - AN INSTITUTION SPECIALLY DESIGNED IN 2013 TO MANAGE THIS REFORM. A SERIES OF PUBLIC DEBATES AND MEETINGS WERE ORGANIZED IN THE ABOVE-MENTIONED PERIOD AND THROUGH A QUALITATIVE DISCOURSE ANALYSIS WE WILL UNDERLINE THE VARIATIONS IN APPROACH IDENTIFIED IN 2013 WITHIN THE ROMANIAN POLITICAL ELITE IN POWER AT THAT TIME – FROM AN URGENT REFORM TO A REFORM WHICH HAS TO BE IMPLEMENTED ATTENTIVELY, WITH NO HURRY. THE ANALYSIS IS MAINLY BASED ON THE TRANSCRIPTS OF THE PUBLIC EVENTS AND PRESS RELEASES.*

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**KEYWORDS:** REGIONALIZATION, DECENTRALIZATION, GOVERNMENT, GOVERNMENT PROGRAM, YEAR 2013, MINISTRY OF REGIONAL DEVELOPMENT AND PUBLIC ADMINISTRATION, PUBLIC DEBATES;

### **INTRODUCTION**

The analysis of the evolution of the regionalization issue in the local political discourse after 1989 can be achieved by reference to separate analysis units. This article examines how governmental activity has articulated the regionalization process in Romania. As regards to the temporal delineation, the study focuses on the measures adopted in this period by looking at the measures taken in 2013 at institutional level and in the field of public consultation. The option for this year is justified by the fact that only towards the end of 2012 the governmental program lists among the reforms that of regionalization, which led in 2013 to the broadening of the debate on this matter.

In order to elaborate the previously mentioned analysis, we first need to define the concept of regionalization. The definition actually depends on how the basic unit of this process is understood, namely the region: “while there is consensus that the term refers to space, the notion of space itself can have several meanings: territorial space, political space

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and the space of social interaction, economic space, functional space (...) the region is the result of the meeting of various concepts of space”<sup>2</sup>.

A significant contribution in this regard is the study by Gérard Marcou on the types of regionalization existing within the Member States of the European Union, which identifies a number of models of regionalization that fall within the definition of the region previously mentioned: "administrative regionalization, regionalization through existing local communities, regional decentralization, political regionalization or regional autonomy, regionalization through federal authorities"<sup>3</sup>. There is no hierarchy in these models, since there is no *ideal-type* of regionalization, all of these being applicable to different contexts. States are complex and different from each other, even more regions within a state are different from each other, so it is impossible to identify a single regionalization model that can respond to such multiple requests. Therefore, what we can identify is a set of principles that can be applied in accordance with various situations encountered at state level<sup>4</sup>.

Another analysis on regionalization, still from the perspective of the functioning of the European Union, highlights the importance of regionalism and more specifically of the regions as basic units of this process: “the less institutional autonomy a region has, the more disadvantages it accumulates (...) regions without an elected tier of government are unable either to wield the same influence in national and EU politics or to impose priorities and organize support internally. And not only are the less-organized regions less able to extract EU funds, EU funds are also less able to help them”<sup>5</sup>.

An outlook on the governmental programs in the years after the fall of communism reveals that in the early years of transition, given the large number of reforms necessary to implement democratic mechanisms, the shift from a centralized to a decentralized state was rather tentative, without taking into account the need for an administrative-territorial cutout that would ensure a balanced development of the national territory. With the start of accession to the international bodies, such efforts have been stepped up, on the one hand in order to meet the European requirements and standards, and secondly due to the need for internal development. Thus, in recent years, governmental programs started to plead for the introduction of a new administrative layout, complementary to the administrative and financial decentralization, which, under the principle of subsidiarity, is meant to ensure a balanced development of the state, to meet the requirements and needs of citizens and to take better advantage of the European convergence policies (finance, development, etc.).

Yet most of the initiatives following the accession to the European Union were confined to introducing the region of development that lacked legal personality and therefore an administrative character. It was only after 2012 that a governmental program advocated the modernization of the state through decentralization associated administrative regionalization.

Specifically, the governmental program pertaining to the Victor Ponta II Government (December 21<sup>st</sup> 2012 – 05<sup>th</sup> March 2014)<sup>6</sup> is the first governmental program in which the process of regionalization (along with administrative and financial decentralization) is expressly indicated as a course of action. Once stating these guidelines, it mentions the aspects of the reforms required for its implementation: it is primarily about establishing a

<sup>2</sup> Patrick Le Galès, Christian Lequesne (eds), *Regions in Europe* (London: Routledge, 1998), 11

<sup>3</sup> Gérard Marcou, “La régionalisation en Europe”, European Parliament, (1999):1-34

<sup>4</sup> Andra Karla Sienerth, “Aspecte teoretice privind regionalizarea”, *Polis*, 1(3) (2014): 41

<sup>5</sup> Martin Rhodes, *The Regions and the New Europe: Patterns in Core and Periphery Development*, (Manchester: Manchester University Press, 1995), 10

<sup>6</sup> Decision no. 45 of 21<sup>st</sup> decembre 2012 on the granting of confidence to the Government (Bucharest: Official Journal of Romania, no. 877 of 21<sup>st</sup> decembre 2012)



roadmap for accomplishing administrative and financial decentralization, by means of creating the institutional and regulatory frameworks of this new system of administrative-territorial organization. Victor Ponta Government III (March 5, 2014 - present) <sup>7</sup> retains the same provisions in the governmental program, which is actually identical to the one adopted by the Ponta II Government, previously presented.

### **THE INSTITUTIONAL STRUCTURE - THE MINISTRY OF REGIONAL DEVELOPMENT AND PUBLIC ADMINISTRATION**

Following the previously exposed situation in 2013, when the debate over regionalization widened on the Romanian political scene, a new body – the Ministry of Regional Development and Public Administration (MDRAP) – was set up through a Government Decision which provides that "The Ministry of Regional Development and Public Administration is a specialized body of the central public administration, with legal personality, which is organized and operates under the Government, established by reorganizing the Ministry of Regional Development and Tourism and by taking over the work in public administration, structures and institutions specialized in this field from the Interior Ministry." <sup>8</sup>

Given that this ministry was set up in a political context where the regionalization process was listed as a priority, its central mission was to coordinate the reform of the Romanian public administration (at central and local levels), namely the administrative-territorial reorganization processes of decentralization and regionalization.

From the Ministry's perspective, the regionalization process should be designed in conjunction with the administrative and financial decentralization process and its implementation must be done in several stages, including the establishment of working structures and organization of debates and meetings with representatives of local authorities and associative structures (civil society).

After setting this roadmap, further steps for regionalization are, firstly, the adoption of the Memorandum<sup>9</sup> and the establishment of working groups and, secondly, the organization of meetings and debates. As far as the Memorandum is concerned, it sets forth the end of 2013 as the moment for introducing the regions in the administrative-territorial structure of Romania, which requires three processes running simultaneously: the revision of the Constitution, the setup of the legal and regulatory framework for the new administrative structure (the region) and finally the devolution of powers to local and regional levels.

Regarding the first step, the working groups set up in the Ministry are: Regionalization Advisory Council (CONREG) – being structured in three branches: the academic working group, that of the local officials and dignitaries and that of the civil society, as well as the Inter-ministerial Technical Committee for Regionalization - Decentralization (CTIRD). Their role is to propose, based on the expertise of their members, the new administrative formula based on regions and to coordinate the process of decentralization.

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<sup>7</sup> The Program from 11<sup>th</sup> March 2014 over which the Cabinet has assumed responsibility pursuant to art. 114 par. (1) from the Constitution of Romania in the joint session of the Chamber of Deputies and the Senate (Bucharest: Official Journal of Romania, no. 185 of 14<sup>th</sup> March 2014)

<sup>8</sup> Article 1, Governmental Decision no. 1 from 4<sup>th</sup> January on the organization and functioning of the Ministry of Regional Development and Public Administration (Bucharest: Official Journal of Romania, no. 14 of 18<sup>th</sup> January 2013)

<sup>9</sup> Memorandum on the adoption of necessary measures for initiating the process regionalization-decentralization process in Romania, February 2013, website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), last accessed on 01/23/2015

As already mentioned, among the stages of regionalization is also found the one consisting in organizing public debates and meetings. Next we analyze these representative moments in the course of the regionalization-decentralization process, namely the public debates and meetings.<sup>10</sup>

### **PUBLIC DEBATES AND MEETINGS**

The first such event was public debate organized at the Romanian Academy in April 2013 on the topic "The process of regionalization-decentralization in Romania", which was attended, apart from the representatives of political institutions (notably Victor Ponta - Prime Minister, Liviu Dragnea - Deputy Prime Minister, Crin Antonescu - President of the Senate), by a number of academics and experts<sup>11</sup>. Analyzing Deputy Prime Minister Liviu Dragnea's speech, it results that from the very beginning he emphasizes how central the regionalization process is for the current government, given that his appointment was specifically aimed at coordinating the regionalization and decentralization process. Further, it highlights the importance of debates and meetings, arguing that although the implementation of regionalization is a political decision pertaining to the Cabinet and Parliament, there must be public support, and the latter can only be achieved by keeping the public informed, which in turn presumes involving local officials. Regarding the relevance of regionalization, he argues against the small size of the counties that could impede them to generate consistent projects, as opposed to regions, which could achieve this goal. In fact, the size of the regions is considered an important decision because they must be large enough to generate large projects, yet not too large in order to never depart from the local needs. A key point of the speech is stating that 2013 is the year when regionalization should occur, in order for the new structure to exist in the new financial framework of the European Union. At the end of the speech, in order to disperse any fears in this respect, he notes that the regionalization process does not bring prejudice to the unitary character of the state. In the same register fits also the discourse of the Senate President Crin Antonescu, who additionally emphasizes that regionalization is an undertaking that Romania assumes not to join the foreign trend, but for its advantages.

From this first moment of public debate on regionalization, following the discourse analysis, it appears that political leaders have placed the achievement of regionalization high on the political agenda of 2013, given the benefits envisaged, noting that its implementation requires the completion of several stages, in particular that of informing and consulting the stakeholders through public debates and meetings.

The second seminar organized by MDRAP, also benefited from the presence of foreign experts, representatives from the Council of Europe and CONREG working groups<sup>12</sup>. The purpose of this event was, on the one hand, to emphasize the progress made up to that point in Romania in the field of regionalization, and on the other hand to identify the objectives pursued by other countries in implementing similar processes on their territory. Again, Deputy Prime Minister Liviu Dragnea delivered the introductory speech, focusing this time on the underlying reasons for regionalization (e.g. an unbalanced development of different areas in Romania), while noting that the establishment of regions will not cause

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<sup>10</sup> The materials used for this analysis are the ones contained on the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), accessed on 01/23/2015

<sup>11</sup> Analysis on the press release from the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), accessed on 01/23/2015

<sup>12</sup> The seminar took place in the period 11<sup>th</sup> – 12<sup>th</sup> April 2013 in Bucharest; the discussions of the participants according to the documents from the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), last accessed on 01/23/2015

these disparities to fade away instantly. Foreign experts have also expressed a few remarks on the process of regionalization-decentralization in Romania: Pawel Swianiewicz referred to differences between Romania and Poland regarding the process, stressing that in Romania regions do not replace the existing counties, which retain their status and thus no loss is foreseen due to the new layer. Gérard Marcou refers to the criteria to be followed in the demarcation of the regions, and more specifically to the role of historical regions in shaping the new regions, arguing that the reform should be carried out by mainly looking into the future, since excessive reference to the past may undermine the modern state. In this direction unfolds also Rudolf Bauer's speech, who pointed out that in Slovakia, in the initial draft the new configuration was drawn along the historical regions, whereas the final version was based on economic criteria that do not fully overlap with the historical regions.

We conclude regarding the second debate that the need for regionalization was felt in other states, as is the case Romanian, but it is a complex process that must take into account many considerations in shaping the regions (e.g. the role of historical regions, economic criteria, etc.) – a complexity illustrated by the case of Italy, which saw a lengthy process that resulted in regions with different sizes and statuses. This debate can be considered an important step, since it was conceived as a best practices and learning exchange.

With a similar aim, the Romanian Senate organized a Franco-German seminar<sup>13</sup>. The host of the event, Senate President Crin Antonescu, argued in the first part of his speech about the importance of regionalization, after which he signaled two issues that the media considered as central in the debate on the subject, but were not actually essential. We note in this sense the question of the fundamentally understanding the importance and challenges of regionalization, in terms of establishing the number of regions, their residences, and their administrative (management) structure. A highly relevant aspect is that although there is time pressure due to the new European Union financial framework 2014-2020, the process should not be done in haste; it must be done as soon as possible, but in a sustainable manner. We find this approach particularly interesting, because in the first debate, Deputy Prime Minister Liviu Dragnea emphasized that regionalization should occur in 2013 specifically in order to introduce the regions in view of the upcoming European financial framework, whereas now there is no longer a sense of urgency, but rather a cautionary approach to its implementation.

The following debates were organized by the Ministry at local level. Hence, from May to July 2013 there were nine meetings taking place in: Iasi, Craiova, Timisoara, Cluj, Galați, Constanța, Sibiu, Baile Balvanyos and Ploiesti. These events followed the same pattern: similar topics and similar categories of participants (local and central government representatives, civil society, academia, etc.). Thus, we will summarize the key issues, individualizing cases where the political leader Liviu Dragnea's keynote speech had an essential feature<sup>14</sup>:

The underlying reasons for regionalization are the unbalanced development and persisting disparities in the country, and thus regionalization aims at reducing these gaps, the excessive bureaucracy due to centralization, and difficulties in absorbing EU funds. Liviu Dragnea argued that regionalization is a process concomitant to decentralization, which requires also the revision of the Constitution, and insisting that definitely not all fields will be decentralized, such as: the army, the judiciary, the intelligence services, the gendarmerie, the foreign policy and the national fiscal policy. The clarification of the relationship between

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<sup>13</sup> The seminar "Regionalization: Franco-German Comparative Approaches", 17<sup>th</sup> April 2013, the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), last accessed on 01/23/2015

<sup>14</sup> Analysis of the communiqués of the public debates/meetings published on the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), last accessed on 01/23/2015

regionalization and the unitary state is also noteworthy: the regionalization does not mean federation, as regions are administrative structures that have a president and a governor in the place of residence instead of the capital. Furthermore, the Regional Councils do not pass laws but decisions/regulations, and have competences in terms of regional development, whereas the administrative competences remain in the responsibility of the County and Local Councils. Drawing the regions requires determining of optimal size enabling pursuing large-scale projects, while remaining attached to the needs of the local citizens. In fact, it was argued that a circular shape would facilitate collaboration and administrative coordination between regions, as the distance between them is smaller than in the case of elongated shapes. As regards to the timeframe for completing this process, he referred to the current year, 2013 or the following year (idea expressed in the debate in Ploiesti, July 17, 2013). Worth mentioning in this context is the statement in Iasi (23 May 2013) that at that moment there was no regionalization project undergoing. The lack of a completed project by mid-year can explain why, in Ploiesti, the deadline of the project was no longer (necessarily) at the end of 2013, as expressed in early 2013, but rather somewhere in 2014.

Analyzing these speeches and referring to the items identified and presented above, we can conclude that the role of these meetings was to clarify the fundamental issues related to regionalization, to inform stakeholders on the process and to gather suggestions from these stakeholders, in order to integrate them into the final draft of the regionalization. The need to clarify any uncertainty arising either from the incognizance of the undertaking was highlighted. Towards the last consultation sessions, there the sense of urgency for implementing the regionalization in 2013 started to fade away.

In addition to these consultations held in the territory, there took place also a working meeting concerned with the devolution of powers from the central government to the local and regional levels<sup>15</sup>, which was attended by participants from central and local administrative bodies, members of CONREG working groups and representatives of the associations of local public administrations. The topics debated were the same as those identified above: the relevance and need for regionalization, the transfer of powers and responsibilities between the various administrative levels.

These local consultations were followed again by meetings in which, in addition to national stakeholders, foreign experts also took part. Such a seminar was attended by representatives of the Committee of the Regions (CoR), with the extraordinary participation of CoR President, Ramón Luis Valcárcel Siso<sup>16</sup>. From Romania, Deputy Prime Minister Liviu Dragnea's speech was built on the same ideas - the importance of the process, the need to select criteria for the new layout and current state of the project. From the international side, CoR leader welcomed Romania's decision on regionalization (and decentralization), noting that decentralization contributes to increased welfare, whose main beneficiaries are the citizens. He argued that in this project Romania must use the European resources and design the regionalization policy on the principle of subsidiarity.

This seminar had a rather formal character, ascribable to the diplomatic practices of presenting the projects initiated by Romania to its European partners and the European institutions concerned, in order to find out how they perceive the undertaking and to receive constructive feedback.

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<sup>15</sup> Analysis of the communiqués published on the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), last accessed on 01/23/2015

<sup>16</sup> The event took place on 5<sup>th</sup> July 2013; analysis of the communiqués of the public debates/meetings published on the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), last accessed on 01/23/2015

Given that one of the aims of regionalization is to ensure better absorption of European funds, a Romanian-Polish seminar was organized on this subject<sup>17</sup>. From the Polish side, the Minister of Regional Development, Elżbieta Bieńkowska, presented the Polish case regarding the regionalization and status of the regions in the absorption of European funds. The Romanian counterpart, Liviu Dragnea, in addition to presenting the advantages of regionalization in the context of accessing European funding, said that the draft project of regionalization and decentralization is completed and that comments from the local associative structures are being expected, and that later a meeting will be held for final decision. In other words, after carrying out local-level meetings, the feedback gathered from the debates, along with the analyses made by the working groups, will contribute to the design of the regionalization - decentralization project.

By the end of 2013, two more such debates were held, namely the one by the General Assembly of the Association of Municipalities of Romania and the public debate on the decentralization project. If the former debated about the status of the proposals for improving the legal framework for local government in Romania and was attended by the mayors of municipalities in Romania and governmental and parliamentary representatives, the latter focused on the bill regarding decentralization and benefited from the participation of representatives of non-governmental organizations and trade unions<sup>18</sup>. Their main mission and contribution was to clarify the powers and duties after decentralization.

## CONCLUSIONS

These were the main undertakings by the actor under scrutiny: the establishment of an institutional structure to implement this reform centered on regionalization-decentralization and public debates and meetings held during 2013 on this topic. By looking at the latter, it can be noticed a decrease in the "dynamics" concerning the implementation of the reform: even though the intention of achieving regionalization was maintained at the same levels throughout the whole year, by the end of 2013 the deadline for implementation had faded away. As it results from the speeches, this deferral was due to uncertainties and the motivation not to carry out the process at haste and fail. It is noteworthy that debates were indeed organized, their importance being crucial in the implementation of any such large-scale reform: firstly, to properly inform all stakeholders on various aspects of the project in order to remove uncertainty and reduce misunderstandings, secondly to capitalize on the feedback received during the meetings and finally to integrate the relevant views into the project. It must be noted also the international dimension in these meetings and debates, which allowed for the best practices exchanges with representatives of countries that have gone through similar experiences and for obtaining recommendations from European experts.

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<sup>17</sup> Romanian-Polish seminar on the impact of the regionalization-decentralization process on the absorption of European funds, 27<sup>th</sup> September 2013; analysis of the communiques of the public debates/meetings published on the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), last accessed on 01/23/2015

<sup>18</sup> The first debate took place on 18<sup>th</sup> October 2013, the second on 12<sup>th</sup> November 2013; analysis of the communiques of the public debates/meetings published on the website of the Ministry of Regional Development and Public Administration, [www.mdrap.ro](http://www.mdrap.ro), accessed on 01/23/2015

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## ROMA “GOVERNANCE” INSTITUTIONS AND PUBLIC POLICIES

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### ABSTRACT:

THE „ROMA PROBLEM” HAS ALWAYS BEEN A DISCUSSION SUBJECT, IN THE EUROPEAN AND NATIONAL GOVERNANCE. SINCE ROMANIA JOINED THE E.U. THE SUBJECT BECAME MORE AND MORE “ADVERTISED”, THEREFOR, AT THE EUROPEAN AND NATIONAL LEVEL “GOVERNANCE FOR THE ROMA COMMUNITY” IS A TOP POINT OF THE PUBLIC POLICIES.

IN ROMANIA “THE GOVERNANCE FOR ROMA” WISHES TO DESIGNATE SOLUTIONS IN THE ROMA ISSUES, THROUGH TWO ELEMENTS WHICH ARE SUPPOSED TO MAKE A WHOLE UNIT: ROMA INSTITUTIONS AND PUBLIC POLICIES FOR ROMA. IF AT THE GOVERNANCE LEVEL WE DO HAVE A FEW INSTITUTIONS OF LOCAL AND CENTRAL LEVEL THAT DEALS, COHERENTLY WE MIGHT SAY, ESPECIALLY WITH THE ROMA ISSUES, AT THE PRACTICAL LEVEL, OR IF YOU WILL, AT THE IMPLEMENTATION LEVEL, PUBLIC POLICIES FOR ROMA ARE AT LEAST OBJECTIONABLE. THIS GIVES US THE CHANCE TO CHANGE THE TERM OF INTEGRATION WITH THE TERM OF „GOVERNANCE”.

IN A COMMOM AGREED WITH THE EUROPEAN MINORITYES PROTECTION PRINCIPALES AND LEGISLATION, ROMANIA SUCCEDED PARTIALLY TO START A ROMA INTEGRATION PROCESS, BUT BECAUSE OF LACK OF BUDGET FUNDS (WITH SMALL EXCEPTIONS) FROM NATIONAL STATE ORIGIN, THE WHOLE PROCESS IS MUCH DELAYED, WHICH EVENTUALLY CONDUCTS TO ROMA MIGRATION FROM ROMANIA TO WESTERN EUROPEAN COUNTRYES.

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**KEYWORDS:** ROMA COMMUNITY GOVERNANCE, E.U. ROMA ISSUES AGENDA, ROMA PUBLIC POLICIES, ROMA INSTITUTIONS.

### INTRODUCTION

“Roma inclusion become an intensive discussed subject at the european level, especially after 2007, a time when more and more roma persons, citezens of the new E.U. member states, migrated into those with a higher life standards<sup>2</sup>.” Roma issue is a topic often bandied about in the European Union. The reason for many hot debates in the institutional, public or media environment, is an eternal debate over methods of integration approach and development of Roma community. We believe that we are at the point where we no longer question whether the Roma minority needs to be integrated but rather how we integrate the Roma community. The answer comes with in the explanation from the title of this article. I mean by "governance" for Roma. It is true that usually we use the term integration,

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<sup>2</sup> Daniela Tarnovschi, *Roma from Romania, Bulgaria, Italy and Spain, between social inclusion and migration*, (Cluj Napoca, Ispmn, 2012), 1

community development on Roma issues. But as we shall see, by the end of this article, to the risk of being accused of too much "courage" or too little caution, the term "governance" introduced in place of terms of integration or development on Roma issues, will not appear to be exaggerated, but on the contrary, it will express the last directions or lines of the European institutions but also of Romania.

## 1. THE ISSUE IN EUROPEAN UNION

*"Any minority issue is caused by a conflict situation between a minority and the nation state in question. Often involved in this conflict are also other actors ... We must not forget in this equation the international organizations since the League of Nations and continued with the UN, Council of Europe, OSCE, EU and NATO, who took into account the protection of minorities"*<sup>3</sup>. Those kind of statements are important because since the late twentieth and twenty-first century began, the integration of the Roma community became the Roma issue and at European level was necessary for the creation of tools to try to solve this problem. From the chronology of documents issued at European level and supported the integration of the Roma community we remember in 1966- the International Covenant on Civil and Political Rights, 1992-the Declaration on the rights of persons belonging to national, ethnic, linguistic and religious minorities, 1993-Recommendation no 1203 of the European gypsies, 1995-Conventionally Framework for national minority protection, 2000-Lisbon Strategy, 2005-the Decade of Roma Inclusion 2005-2015. The sequence above mentioned documents, are able to paint a chronological picture of protecting the Roma minority in the European Union.

In Europe the Roma issue became visible because of migration of this community in two major waves, both starting from SE European countries into Western countries. A first wave took place in the 90s immediately after the fall of the "Iron Curtain" when the migration of Roma in South Eastern Europe was much inspired by new feelings of democracy, freedom, thus seeing new opportunities in getting a decent living. The second major wave of migration took place immediately after the intervention of the economic crisis in 2007. This time the migration of Roma in SE Europe, as well as of the majority population in these countries took place out of necessity, hoping that the free movement of persons within the European Union will give them the chance to escape the economic crisis in which they found themselves. Migration of the Roma community in western countries especially in several years led to reactions to many racist and discriminatory actions from the majority populations of these countries. In this climate the European Union, its institutions reacted positively, so that there were some plans for integration and development of Roma in Europe.

An important organization that has made considerable steps in defending the rights of the Roma community, but also in the integration process and its development is the ODIHR office of OSCE (Office for Democratic Institutions and Human Rights). *"Contact Point for Roma and Sinti Issues was established in 1994 within the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw. It was the first such office established to promote the rights of Roma and Sinti and their integration into society"*.<sup>4</sup> What is important to remember is that for the first time an international organization has allocated a true institution, CPRS (part of OSCE) Contact Point for Roma and Sinti, human resources and sustainable plans, for the integration of the Roma community.

<sup>3</sup> Vasile Vese and Adrian Ivan, "Ethnic minorities and European security at the end of the twentieth century and beginning of the XXI century *Case Study Romania*", in *Society and civilization*, edited by Calin Florea, Ciprian Năprădean, (Târgu-Mures, Dimitrie Cantemir, 2003), 752

<sup>4</sup> OSCE, ODIHR and Roma and Sinti issues, accessed June 12, 2015, <http://www.osce.org/odihr/102598?download=true>



Since 2000 the integration of the Roma community is slowly turning into a Roma issue, for which the European Union had to take a stronger stance so that, for example, the 2007 Lisbon Treaty starts with an article which mentions *that "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities"*<sup>5</sup>. To support the term "Roma governance" instead of concepts like roma integration and roma development with all that they imply, we will continue to highlight below some examples:

European Roma and Travelers Forum is an international association that was created in 2004 and which has special ties with the Council of Europe and evidenced by a partnership between the two parties in order to solve the problems faced by roma and traveler community in the European territory<sup>6</sup>.

An international initiative namely the Roma Inclusion Decade 2005-2015 is able to emphasize the importance of the situation of Roma in the European Union but also to demonstrate the right to use the term "roma governance" as *"the Decade of Roma Inclusion 2005-2015 is a political unprecedented commitment where the European governments tries to eliminate discrimination against Roma and closing the unacceptable gaps between Roma and the rest of society. The decade focuses on the priority areas of education, employment, health and housing, and commits governments to consider other basic issues of poverty, discrimination and gender mainstreaming. The Decade is an international initiative that brings together governments, intergovernmental and non-governmental organizations and Roma civil society"*<sup>7</sup>. At this moment, more exactly in the face of such an instance, it is pretty hard to ignore the use of the word "roma governance" as this international initiative brings together the socio-political domains at the European level, specifically only for Roma communities, assembling public policy, public institutions, mechanisms and financial procedures in order to integrate and develop this community.

Public policies for Roma in the European institutions are willing to be very coherent, integrated and with supranational effects of course. Since we have a common currency, common market and free movement of persons and services within the European Union, but not common financial instruments, for example in the areas of investment and development, causes the effect of public policies for Roma to be different from a national state to another. We believe that for a homogenous implementation of public policies for Roma in all EU Member States, it is necessary to get closer a little more to what is called the "European dream" or if you want the United States of Europe.

In concluding this subtitle we can't talk about the Roma minority in the EU, without mentioning the recent events in Europe which tend to stretch the *rope tensions* between "nationalists" of different European countries and minorities in the respective territory. It's about the recently concluded elections for the European Parliament in 2014, with a number of nine extreme-right parties that were elected with representatives in the European Parliament. Thus it appears a clear evidence of rising the euro skepticism in Europe. Immediate question that arises in this scenario is whether euro nationalism starts losing territory and ultimately a more and more invisible appearance of the European citizen term. We affirm with conviction the term of "euro nationalism" as yet not far away in the past there was a lot of talking about the United States of Europe or the Federal States of Europe, notions that wanted to appoint and announce the future of this continent. Following the last elections for the European Parliament observing the rise of the extreme right and their political campaign with an anti-immigrant agenda, so it seems to take shape a future conflict between these parties and ethnic

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<sup>5</sup> Lisbon Treaty, 2007, art.1a

<sup>6</sup> The Voice of the United Roma in Europe, accessed at 12.06.2015, <http://www.ertf.org/index.php/about-us>

<sup>7</sup> Decade in Brief, accessed at 12.06.2015, <http://www.romadecade.org/about-the-decade-decade-in-brief>

minorities. Somehow it seems logical that assumption, if we consider some statements and slogans of the parties concerned. For example according to some media reports, the founder of the National Front in France, 25% in euro elections in France (The leader Marine Le Pen) said that only "the Ebola Lord" can solve the problem of immigrants in France, also the slogan of the NPD (neo-Nazi party with a mandate to euro-Germany) was "Money for grandma not Sinti and Roma"<sup>8</sup>.

On the other hand we have the chance to overthrow the above lines trying to explain them on the economic crisis and not on a local revival of nationalism in countries like France, Greece and Germany, as shown in the 2014 European elections. In other words, dissatisfaction of the European population, to the behavior and policies of their representatives generally was at a fairly large scale, so that the population come at the voting election box in a proportion of 43% as shown by the statistics provided by the European Parliament<sup>9</sup>. Although comparative for 2009 and 2014, there are no huge differences for euro elections in the presence of European population, public frustration can be seen in the results of this last year euro elections. We believe that the boom of the extreme right in the European Parliament of this year took place thanks to the simplistic thinking of the European citizen " *i don't care about the extreme nationalism of the NDP (Germany), NF (France) UMP (United Kingdom), maybe they will be able getting us out of the economic crisis, or imigrants who occupy our jobs.*" In other words we do not exaggerate if we say that the European citizen can accept any alternative governance, an Eurosceptic one, a nationalist or extremist one, as long as the result will succeed in adjusting the economic engine of Europe.

Whether is based on a reviving local nationalism (French, German, Greek), whether due to euro skepticism, or economic crisis, 2014 will be recorded in history as one of the years when European elections were revived by the extreme right nationalism. The logical consequence of this fact, we believe it can be the announcement of future conflicts between the concerned parties and ethnic minority representatives in the respective territory, including the Roma communities.

On the other hand, in spite of all this, there are a lot of positive forces at the European level that deals a lot with the roma community, as we showed above. There for as long as we can seriously say we have European institutions, procedures, and human resources that deals especially with "the roma problem" we think we arrived at a new train station called "roma governance" and we just passed the "roma integration" station a couple of years ago.

## 2. THE ISSUE IN ROMANIA

We can discuss public policies for Roma in Romania, with the support of the European documents for the motivation of the roma policies but not to that limit alone. A small historical of the contribution of the Roma in Romanian history show us about them *that "in several countries took place in the interwar period, a Gypsy process of organizing and action in favor of promoting their own interests. Some roma scientists even talks for this period, about a Romanian Gypsy nationalism. What happened in Romania was part of the overall progress of the Gypsy population in Europe"*<sup>10</sup>. Therefore an explanation for the construction of public policies for Roma shouldn't be motivated, only legally, just by the mere fact that there is a right conferred by the European institutions. We can built a motivation by

<sup>8</sup> Mike Doherty, "German Sinti activists destroy racist election poster", 29 May 2014, accessed at 29 May, 2015 <http://travellerstimes.org.uk/News/Sinti-activists-destroy-racist-election-poster.aspx>

<sup>9</sup> "Post electoral survey 2009", European Parliament Report, coordinated by the Directorate- General for Communication of the European Comission, 2009, 50, accessed at 29 May 2015 [http://www.europarl.europa.eu/pdf/eurobarometre/28\\_07/EB71.3\\_post-electoral\\_final\\_report\\_EN.pdf](http://www.europarl.europa.eu/pdf/eurobarometre/28_07/EB71.3_post-electoral_final_report_EN.pdf)

<sup>10</sup> Viorel Achim, *Gypsies in Romania's history*, (Bucharest, Enciclopedică, 1998), 132

the fact that the Roma community has certain contributions to many aspects of the Romanian history, as Romanian nationalism, as shown in the above quote. Of course this topic will have to be part of a separate study subject of an article or even a book. Anyway those kinds of episodes will need to be very carefully examine because there are always “issues” and “debates” and “problems” when we are talking about the Romanian history, because “*never being a great power, Romania had to adapt at first, at her own geopolitical situation and then, in front of threats, to react in the sense of safeguarding her own identity.*”<sup>11</sup>

“*A public policy is a network of interrelated decisions regarding the choice of objectives, means and resources allocated to achieve them (note - the objectives in specific situations)*”<sup>12</sup>. In other words, public policy is a cohesive set of measures in a plan of state power institutions which seeks to solve a number of certain problems. From the above definition, it follows that the issue of public policy questions asked are Who? How? And how much it costs? Since the subject that interests us are public policy for Roma we will attach this questions above to the issue. We will not insist on who or how much, but rather upon how. It is understood that the answer to the question who is “the state through its institutions of power”. Vis a vis how, we can’t allow in the little space for this article a financial analysis, but if we agree that creating a single job as says the National Credit Guarantee Fund, reaches from 30,000 euro to 100,000<sup>13</sup> euro, depending on its complexity, one can only imagine the huge costs that we deal on an entire labor market policy. The example above is from the labor market domain because as I have said with other occasions it is the core area, the basic pillar of development, which if it is well constructed, will give access to other basic areas of development such as health, education, housing and access to justice, in other words *general access to human security*.

On the other hand the nature of a public policy may be an omission one or a passive one, namely that of not doing something specifically in order to protect an interest or goal.

Another definition according to HG 870/2006 the policy term is defined as “*all activities performed by central government specialists in public policy, troubleshooting purposes and to ensure the necessary developments identified in a particular field*”<sup>14</sup>.

Speaking of public policy for Roma, we believe that their purpose is one and only one: to develop coherent this vulnerable group (though some authors disagree with that name), minority ethno-cultural group, or if you want the community. A coherent development we believe that should mean a medium and long term plan where areas of development are budgeted according to their importance, namely in the first place the labor market access, then access to education and so on. Of course all this system entails legislating in these areas a budget national system specially designed for the Roma community in accordance with the specific problems of this minority. Undoubtedly development system should include all institutions of power from central to local level. “*Understanding the public intervention for Roma situation, not only for reasons related to social justice and protection, but also for considerations that relate to the economic and social development of Romania - Roma human resource provided, one of the youngest from EU, gaining a very important stake ... so, in 2010, the World Bank estimated for Romania the annual productivity losses due to*

<sup>11</sup> Liviu Petru Zapartan, *Actual Geopolitics*, (Cluj Napoca, Eikon, 2009), 327

<sup>12</sup> Adrian Miroiu, *Introduction to policy analysis*, (Bucharest, Paidea, 2001), 9

<sup>13</sup>Creation of one job in time of crises costs 100.000 euro, 8 May 2009, accessed at 10.05.2015, <http://www.ziare.com/nationala-romaniei/stiri-nationala-romaniei/crearea-unui-nou-loc-de-munca-pe-timp-de-criza-costa-100-000-de-euro-744744>

<sup>14</sup> HG. 870/2006, regarding the approval of Strategy for the improvement of public policies planification at the central public administration

*the exclusion of Roma, to 887 million euro*<sup>15</sup>. This is just one example that can highlight the importance and obligation of the state to intervene in the development inclusion of Roma in Romania. Analyzing the old and new government strategy for Roma inclusion HG.18/2015, respectively HG 430/2001, at the writing records we are talking about an integrated strategy at local level up to the central level, but as I underlined just at the writing record. In order to ensure a process of integration, to a sustainable development, the access to employment of Roma communities is of course a priority that this community needs. The motivation is a simple one. The access to the labor market means the possibility of access to health, housing and education. Simply put, if there is a job, there is medical insurance, there is the possibility at least of paying a modest rent, and the possibility of sending children to school.

In Romania, the Roma issue, and not necessarily its solutions, is quite well reflected in the strategy for Roma inclusion, HG 18/2015, where most Roma social inclusion issues were divided into education, employment, health, housing and small infrastructure, culture, social infrastructure. Which of these areas are closely related to social development and it has a major importance in the life of Roma communities? Of course the answer is employment or access to employment. In theory we could probably find options, where the labor market has not a major importance in the progress of a community, because there wouldn't be few who would support the education to have the highest importance in development of a community. On a practical level, without access to the labor market all other areas are more difficult to access by ordinary individual.

However in recent years, Romania has made progress in integrating the Roma minority. There are some public policies budgeted by national funds that materialized as follows:

- In each county exists in the Prefect Institution, a specialized structure for the development of the Roma community, namely the County Office for Roma where, as a human resource is also included the prefect adviser for Roma issue.

- From County Council budget are remunerated two types of mediators for Roma communities, namely community health mediator who signalizes problems related to public health system, and the school mediator who liaise between the community- school- County School Inspectorates.

- We can also exemplify local government institutes that are working under the Government and the Institute for Research on National Minorities such as the one in Cluj, where there exists a significant involvement and attempt to resolve the Roma issue, through the publication of materials, studies, compendiums in order to be placed in the public consciousness.

- Also as a national policy of Roma community integration is the allocation of special positions for Roma in higher education at various universities.

- At general level, the national public policies for Roma are coordinated centrally by the National Agency for Roma, headed by a Secretary of State, which is subordinated to the Government; therefore its functionality depends on the state budget.

- Integration of Roma community through the preservation of Roma culture and history is supported by the state through a public policy by which was introduced in the educational system the study of the Roma language and history in the 1-8 grades.

Even though the above examples are covered in a National Strategy for Roma Integration through a government decision, we must recognize that despite the state opening to Roma issue, this strategy is the result of a continued struggle of Roma civil society, without which, otherwise, we do not think would have reached this point.

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<sup>15</sup> Strategy of the Romanian Government for inclusion of Romanian citizens belonging to Roma, for 2015-2020 period, 14 January 2015, 1

Public policies for Roma, as they look today, in Romania are lacked of cohesion, or if you like, are not interconnected. Of course, for this, there are two general criticisms of these types of policies: 1. Interconnection of public policies for Roma in the fields of intervention (education, housing, health, access to the labor market, etc.) require a much consistent budget, maybe much too large for the existing funds of the state. 2. Public Policies for Roma expressed in the strategy or other legal documents, does not represents sanctions in case of infringements, in other words, are white legal norms.

Besides a lot of criticism that can be built on the situation of public policies for Roma in Romania, starting with the method of their conception and until the construction of procedures that needs to be implemented, we can at least admit that there is a beginning, a base which can be improved and which can be constructed on. Furthermore we can support the term of "Roma governance" as we showed at European level, also at national level as well. Because if we already have procedures, institutions, human resources, specially allocated or design for the roma community we seem to get into another level of dealing with things, meaning not just integration or community development, but a full "roma governance".

### **CONCLUSION**

This article doesn't have the expectation to expose all the problems of public policy for Roma, but rather placing the reader in a picture where each "painted color" may be a separate subject of "other paintings" which will need to have much more consistency. Thus, we conclude that this article can be considered a general image of the subject discussed and a demonstration that the "*roma governance*" term it can be used instead of terms like roma integration or roma inclusion, for motivated theoretically but also practically reasons.

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## **SYMBOLIC VIOLENCE AND ITS' IMPACT ON THE POLITICAL DECISION-MAKING PROCESS IN ROMANIA<sup>1</sup>**

**Monica PAVEL<sup>2</sup>**

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**ABSTRACT:** *THE POLITICAL VIOLENCE IS A SOCIAL PROCESS THAT EXISTS IN EVERY SOCIETY WHERE THERE IS A SOCIAL DOMINATION. OUR RESEARCH IS FOCUSED ON ELITE'S POSITION IN POLITICAL DECISION-MAKING PROCESS IN ROMANIA DURING THE 2004-2008 LEGISLATURE. THERE WERE YEARS WHEN ROMANIA HAD TO REALISE THE LEGISLATIVE HARMONISATION WITH THE EUROPEAN COMMUNITY. THE EUROPEAN INTEGRATION WAS THE PROCESS WHICH IMPOSED TO THE ROMANIAN POLITICAL ELITE A NEW PATTERN, NEW RULES AND A DIFFERENT POLITICAL STRATEGY. OUR ANALYSIS STARTS BY ASKING THE FOLLOWING QUESTIONS: IS THE SYMBOLIC VIOLENCE AN INFLUENCE FACTOR IN THE POLITICAL DECISION-MAKING PROCESS? HOW IT ACTS? IN ORDER TO CLARIFY THOSE QUERIES WE ANALYSE (QUANTITATIVELY AND QUALITATIVELY) THE PAPER REGISTRATIONS OF ANY LEGISLATIVE INITIATIVE WHICH HAVE BEEN MADE DURING THE MENTIONED LEGISLATURE. FROM A TOTAL OF 3457 LEGISLATIVE PROJECTS, IN ROMANIAN PARLIAMENT, 1387 COME FROM THE GOVERNMENT AND ONLY 35 WERE REJECTED. THIS MEANS THAT THE SYMBOLIC VIOLENCE PROCESS IS AN IMPORTANT FACTOR WHICH CAN INFLUENCE THE DECISION-MAKING PROCESS.*

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**KEY WORDS:** *SYMBOLIC VIOLENCE, POLITICAL DECISION-MAKING PROCESS, EUROPEAN INTEGRATION, LEGISLATIVE PROJECT – ADOPTED LAW, SOCIAL DOMINATION.*

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### **INTRODUCTION**

*La décision politique représente le plus efficace instrument de changement social, qui peut pénétrer les plus profondes couches sociales. Ou, par contre, le plus efficace instrument de résistance à l'instabilité sociale sous les formes multiples sous lesquelles celle-ci pourrait apparaître.*<sup>3</sup> Le fait que la décision politique est un instrument si important pour la vie de toute la population d'un pays constitue la raison de la participation des représentants de toute la société roumaine (soit à son adoption, soit à sa mise en œuvre). Le Parlement est l'organisme représentatif suprême de la Roumanie. Quand on dit parlement, on pense à l'organe législatif, aussi qu'au lieu où les lois du pays sont adoptées, modifiées ou abrogées. C'est donc dans l'activité du parlement roumain qu'on peut mieux observer le processus et les résultats de la décision politique.

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<sup>3</sup> Camelia Florela Voinea, comp., *La décision – une formule interdisciplinaire : élites, mentalités, genre et modélisation dans la décision politique*, (Bucaresti: Maison d'édition de l'Université de Bucarest, 2007), 67 ;

L'objet de notre recherche scientifique est constitué par la décision politique, analysée de plusieurs points de vue – acteurs, processus, étapes – parallèlement avec l'un des facteurs principaux qui peuvent influencer ce mécanisme politique : la violence symbolique. La période que mon étude envisage est la législature 2004-2008, période qui a constitué le cadre de l'harmonisation législative que notre pays a dû réaliser après son adhésion à la Communauté européenne.

La question de recherche qui va guider notre démarche scientifique est la suivante : est-ce que la violence symbolique représente réellement un facteur d'influence dans le cadre du processus décisionnel ? L'hypothèse de travail de mon étude est que le phénomène social représenté par la violence symbolique influence vraiment la décision politique, n'importe quels sont les domaines dans lesquels cette décision produit ses effets (social, politique ou économique). Du point de vue méthodologique, j'ai utilisé l'analyse quantitative et l'analyse qualitative des débats parlementaires qui ont accompagné l'harmonisation législative de la période mentionnée, au niveau des initiatives législatives déposées dans le cadre du Sénat en tant que première chambre qui reçoit les projets de loi.

### MAIN TEXT

Pour illustrer mieux l'hypothèse de travail, nous commencerons par la définition des concepts fondamentaux de cette analyse : *la décision politique* et *la violence symbolique*.

La violence symbolique est un phénomène spécifique à toutes les sociétés dans lesquelles il y a de la domination sociale. C'est un processus par lequel les normes et les valeurs propres aux gens qui forment le gouvernement sont imposées à tous les autres membres de la société. Le but est celui de maintenir les privilèges et l'autorité de l'élite dominante. Le paradoxe de ce processus de manipulation sociale et politique est représenté par le fait qu'il se développe avec le consentement tacite de la classe dominée. Ce processus de manipulation se réalise continuellement par l'intermédiaire des médias et de l'enseignement, par lesquels le pouvoir politique - à l'instar de l'élite dominante - impose une certaine représentation de la société, en créant des modèles et ainsi, elle influence les attentes des membres de la société en ce qui concerne la classe politique et son autorité.

Le créateur du concept de violence symbolique a été le sociologue français Pierre Bourdieu. Il considérait que ce type de violence représente un moyen de persuasion par lequel la classe dominante exerce une manipulation de la classe dominée, manipulation qui la détermine d'agir dans l'intérêt des membres de l'élite dominante et permet à ces derniers de se préserver les privilèges et les positions d'autorité dans la société. La violence symbolique représente un processus de *soumission* par lequel les couches sociales dominées conçoivent la réalité comme une hiérarchie sociale naturelle et légitime. Ils ont une vision de leur réalité sociale où les privilèges et les positions de ceux qui constituent la classe dominante sont perçus comme quelque chose de commun, de normal, de *comme il faut*. Les éléments théoriques que Pierre Bourdieu utilise en identifiant et en analysant ce processus social sont *le champ politique* et *l'habitus*.

*Le champ politique* est une arène qui se donne comme telle et dans laquelle il y a des combats, des affrontements déclarés.<sup>4</sup> Tout comme dans le domaine de la physique, c'est une accumulation de force, de capital politique dans ce cas, d'où se met en évidence l'élément dominant. L'élite dominante d'une société est née de la stratification sociale. Cette stratification sociale à l'intérieur d'un champ met en évidence l'élite dominante, qui gagne une position dominante : ce qui signifie que ses membres ont accumulé assez du capital spécifique au champ respectif :

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<sup>4</sup> Pierre Bourdieu, *Propos sur le champ politique*, (Lyon: University Press of Lyon, 2000), 39;



- le capital intellectuel (les diplômes et les titres obtenus);
- le capital culturel (les œuvres d'art détenues);
- le capital économique (les ressources économiques et matérielles détenues);
- le capital politique (de l'autorité - qui donne à une certaine personne la légitimité d'établir les règles du jeu à l'intérieur du champ politique).

*L'habitus* représente un système de goûts ou de dispositions acquis commun à un ensemble d'agents qui donne une même signification à l'ensemble de leurs actions. C'est aussi un système de définition de la réalité, reposant sur des catégories socialement construites. Ce qui signifie que les membres de la classe dominée se construisent une représentation du monde et de la réalité sociale au milieu de laquelle ils vivent, représentation qui s'appuie sur les éléments et les structures, bref sur les attentes, nées dans la mentalité collective. C'est comme ça que les stéréotypes sont nés et ils engendrent certaines actions et certains comportements aux membres de la société.

Une forme de la violence symbolique est représentée par *le discours politique*, par l'intermédiaire duquel l'élite politique désire de convaincre la classe dominée que les intérêts et les privilèges de ceux qui forment la classe dominante sont leurs propres intérêts et qu'il vaut la peine d'agir pour les réaliser et, même, qu'ils (la classe dominée) veulent cette chose. Selon le sociologue français, le spécifique du langage politique est représenté par *la capacité du langage de dire le rien, le néant, de faire exister dans les mots et par les mots ce qui n'existe pas dans les choses, de donner une forme d'être, capable de susciter la croyance, au non-être ou à l'apparence*<sup>5</sup>. Et par cette affirmation nous pouvons comprendre mieux pourquoi on a considéré que langage peut devenir *pouvoir dans les mains du pouvoir*.<sup>6</sup>

Le concept de la décision est un concept très complexe. La première théorie générale du processus décisionnel appartient au philosophe et mathématicien français Nicolas de Condorcet<sup>7</sup>, dans la vision duquel la décision représentait un choix d'un ensemble d'alternatives. À présent, la *Théorie de la Décision* représente un domaine de recherche situé à la frontière des sciences humaines (psychologie, sociologie, anthropologie, sciences politiques) et des sciences exactes (qui s'occupent de statistiques, de probabilités, de l'intelligence artificielle et de la modélisation électronique). Du point de vue politique, quand on s'occupe de l'analyse de la décision en tel que processus, on doit la concevoir dans sa logique globale, d'ordre politique, économique et social, selon les domaines de ses effets. De plus, le processus de la décision politique a évolué en même temps que les sociétés. À nos jours, *le critique* déclaré du vieux système cartésien de la tripartition du processus décisionnel – concevant le processus formé de trois étapes : conception, décision et exécution – Lucien Sfez considère que dans la société moderne la décision politique a quatre fonctions fondamentales :

- Elle permet à l'acteur social d'actionner;
- Elle permet au citoyen d'accepter le monde tel qu'il est, en lui créant l'illusion que par ses choix il a participé à la réalisation de ce monde;
- Engendre la séparation des pouvoirs dans le cadre de l'Etat;
- Assure la fonction idéologique de préservation sociale, ce qui signifie la conservation du système des normes.

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<sup>5</sup> Pierre Bourdieu, *Langage et pouvoir symbolique*, (Paris: Fayard, 1982), 327;

<sup>6</sup> Christian Le Bart, *Le discours politique*, (Paris: University Press of France, 1998), 106;

<sup>7</sup> Nicolas de Condorcet, *Essai sur l'application de l'analyse à la probabilité des décisions rendues à la pluralité des voix*, Paris, Royal Publishing House, 1785;

La conclusion de l'écrivain français est que la décision politique représente *l'arme légendaire des gouverneurs*<sup>8</sup>. Cette conclusion se reflète aussi dans les résultats de notre recherche.

J'ai structuré mon analyse de la législature 2004-2008 du point de vue des éléments principaux par lesquels se manifeste la violence symbolique : les médias et le système national d'enseignement. En analysant les débats générés par les modifications des lois concernant les domaines de l'audiovisuel (L504/2002) et de l'enseignement (L1/2011), nous allons découvrir des éléments qui décelent l'influence du phénomène de la violence symbolique sur le processus décisionnel.

En ce qui concerne les normes des médias, il y avait depuis 1993 la résolution 1003 concernant l'éthique journalistique, résolution qui avait un caractère de recommandation. Plus tard, il y avait nombreuses guides concernant les émissions et les réclames de télévision recommandés par l'Union européenne. Quand même la résistance au changement a été grande et difficilement à dépasser. Seulement en 2007, quand le Parlement européen a demandé des stratégies nationales de tous les États adhérents – demande qui a eu un caractère de directive – les autorités roumaines ont réagi et ont essayé de donner une suite favorable à cette demande. Les effets ont été visibles seulement dans la législature suivante (2008-2012): la *Décision 220/24.02.2011*, concernant *Le Code de réglementation du contenu audiovisuel*, décision qui soulignait le fait que parmi les fondements d'une société démocratique se trouvent *la liberté d'expression* et *l'accès libre à toute information d'intérêt public*; en même temps le document renforçait l'idée que les médias ont l'obligation d'assurer une information correcte, vérifiée et présentée impartialement et avec bonne foi. En fait, cette décision avait le rôle de nommer, au niveau national, un organisme qui soit un instrument de pouvoir et de contrôle dans les mains de l'élite gouvernante : le Conseil National de l'Audiovisuel.

La loi de l'enseignement nous offre, par les modifications qu'elle a subies, des signes de la violence symbolique. Même si la loi a été adoptée seulement en 2011 dans la forme actuelle, pendant la législation 2004-2008, elle a engendré des débats acharnés. L'opinion publique roumaine et surtout les générations jeunes, en plein processus de formation, ont assisté à une modification perpétuelle des programmes scolaires qui ne touchait jamais les structures et les modèles promouvés pendant les dernières décennies: on apprécie toujours les modèles de comportement et les stéréotypes qui ne mettent en péril l'autorité et les privilèges de l'élite dominante. Ceux-ci constituent très rarement l'objet des débats – quand on modifie ou on complète cette loi – parce que leur changement entraînerait des changements dans la représentation que la classe dominante s'a créée et a entretenue dans l'esprit de la grande majorité de la population de Roumanie.

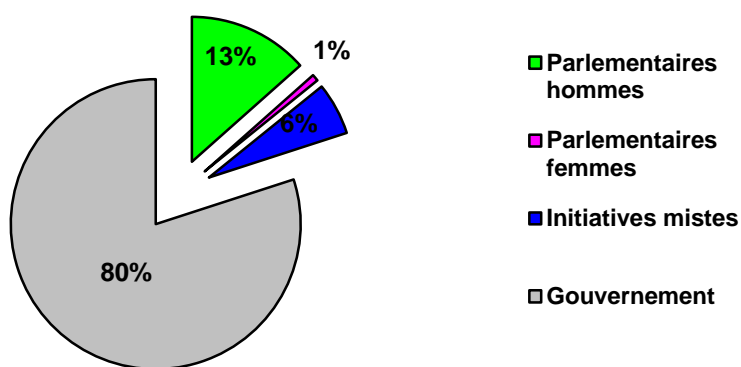
D'autres signes de la présence du phénomène analysé dans le processus de la décision politique, et qui ne peuvent pas être négligés, sont représentés par le fait que la grande majorité des initiatives législatives proposées pendant la législature envisagée ont appartenu au Gouvernement et de ces propositions seulement une très petite partie a été rejetée, le reste devenant des lois et produisant leurs effets en faveur de la même élite dominante. La réalité concrète nous montre que d'un total de 3457 initiatives législatives 1387 ont été faites par le Gouvernement et seulement 35 ont été rejetées, le reste de 1352 étant devenues lois.

Dans les graphiques suivants on peut constater l'importance que le parlement et l'élite politique en général a accordée à cette harmonisation législative et aux initiatives parvenus du Gouvernement de la Roumanie.

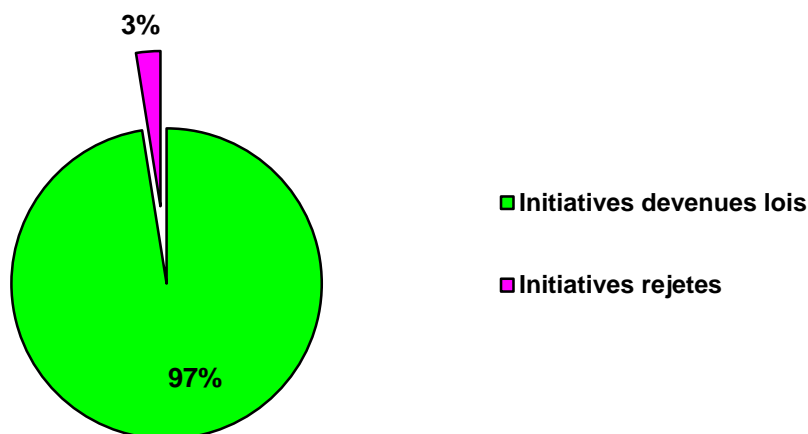
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<sup>8</sup> Lucien SFEZ, *Critique de la décision*, (Paris: National Foundations of Political Sciences Press), 27;

Graphique no. 1 La participation du gouvernement au processus législative : initiatives législatives



Graphique no. 2 La proportion des initiatives du Gouvernement qui sont devenues lois



### CONCLUSION

La conclusion de notre recherche est que dans la société roumaine les instruments de la violence symbolique sont puissants et bien représentés et qu'ils agissent avec le consentement de la population qui constitue couche sociale dominée.

Si ces instruments aident la classe dominante à construire des structures sociales et politiques nouvelles et modernes, basées sur les mêmes modèles de comportement et de pensée que ceux qui ont soutenu la naissance de leur élite sociale, le changement de notre société s'attarde trop. Il reste alors à la société démocratique d'équilibrer la balance par des instruments tels : une société civile active et un dialogue social réel, qui peuvent, à leur tour, influencer la décision politique.

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**CUCUTENI: BIRTH OF A COLLECTIVE HERITAGE****Alina TRIF<sup>1</sup>****ABSTRACT**

*THAT ARCHEOLOGY HAS ALWAYS SERVED AS MATERIAL SUPPORT FOR IDENTITY CLAIMS, IS A FACT ALREADY KNOWN. THE MAJOR EMPHASIS ADDRESS TO THE OLDEST VESTIGES RESPOND AT THE NEED OF SEARCHING OUR "ORIGINS" IN HISTORICAL DEPTH, BUT BETWEEN THE ROMANS AND THE DACIANS WE EXPERIENCE A VAGUE DISCOMFORT. INCREASED AWARENESS THAT THERE ARE MANY PREHISTORIC OBJECTS AND "BARBARIANS" WHO DESERVE TO BE STUDIED AND COLLECTED BRINGS MEANINGFUL CHANGE. THUS, THE ARCHAEOLOGICAL HERITAGE, BUILT UP OVER THE CENTURIES, THANKS TO COLLECTORS, INDIVIDUALS, OR BY THE STATE, IS RELATED TO THE NATIONAL IDEOLOGY. IN THIS CONTEXT, THE CUCUTENI DISCOVERIES OF THE LATE NINETEENTH CENTURY COULD NOT GO UNNOTICED AND THESE ANTIQUITIES, IN A WAY LOCALS, INTEGRATED IN THE AESTHETIC AND HISTORICAL MANIPULATION, QUICKLY BECAME NATIONAL HERITAGE OBJECTS. HOWEVER, THE IDENTITY MODELED ON ARCHEOLOGY MIRROR IS OFTEN FRAGILE AND TEMPORARY. THIS CONTRIBUTION IS A CRITICAL LOOK AT ARCHEOLOGY AS A RECOVERY OF THE NATIONALIST HERITAGE. THE EXAMPLE IN THIS ARTICLE SHOWS THAT THE SAME REMAINS CAN RESPOND TO THE AFFIRMATION OF NATIONAL IDENTITY, TO THE PROMOTION OF UNIVERSAL IDEALS AND TO THE STIMULATION OF LOCAL PRIDE, WITHOUT THESE THREE AIMS ARE MUTUALLY EXCLUSIVE.*

*ALL THE FACTS MENTIONED HERE CONCERNS THE INSTRUMENTATION OF "ANTIQUITIES" OF CUCUTENI SINCE THEIR DISCOVERY BY CHANCE -TO THE LATE NINETEENTH CENTURY UNTIL THEY HAVE BEEN HONORED IN A MUSEUM DEDICATED FRAMEWORK INCLUDING THE CULTURE OF CUCUTENI, IN 1934, IN THE MUSEUM OF PIATRA NEAMT. IF THIS CONTRIBUTION IS NOT A TRUE STORY OF THE CONSTRUCTION OF THE ARCHAEOLOGICAL HERITAGE OF CUCUTENI, THE DATA COLLECTED HERE ALLOW AT LEAST FORWARD A NUMBER OF PLAUSIBLE ASSUMPTIONS.*

**KEY-WORDS:** CUCUTENI, COLLECTION, ARCHAEOLOGICAL HERITAGE, SCIENTIFIC MEANINGS, SYMBOLIC MEANINGS .

**APERÇU CHRONOLOGIQUE: L'HISTOIRE DES DECOUVERTES**

Il est exact que l'année 1884 est traditionnellement retenue comme la borne chronologique des recherches préhistoriques sur la céramique peinte de Cucuteni. Cette année-là, Theodor Burada visite le site Cucuteni-*Cetățuia* -le site éponyme. Ici, dans une carrière de pierre ouverte sur la propriété de la commune Cucuteni -Băiceni, pour la

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construction de la route Târgu-Frumos-Hârlău, les ouvriers ont découvert un amas d'objets paraissent anciens -de la céramique peinte, des outils en pierre et des idoles en terre cuite, ainsi que deux bracelets en métal<sup>2</sup>. Le folkloriste qui saisi sans doute la valeur esthétique de ces trouvailles mène des démarches pour empêcher leur destruction irraisonnée et convainc Nicolae Beldiceanu d'y entreprendre des fouilles (sic!). Si cette date est irréfutable la retenir seule revient à établir une certitude en quelque sorte rigide. Il est certain que personne n'avait à l'époque l'intention de créer une "préfiguration" d'une icône culturelle préhistorique roumaine. Pourtant, cette date de 1884 demeure une borne constamment citée dans l'historiographie sur Cucuteni.

En fait, les premiers témoins de la culture de Cucuteni, attribués d'abord à l'ancienne cité de Petrodava, ont été découverts en 1847 par Gheorghe Asachi, lors de la construction de son usine à papier à Văleni, près de Piatra-Neamț<sup>3</sup>. Plus tard, en 1869, Balázs Orban découvre le site de la céramique peinte transylvaine d'Ariușd, sondé au début de XXe siècle par Zsigmond Csulak și Julius Teutsch<sup>4</sup>. En 1893, Vikentie Hvojko découvre le site éponyme de céramique peinte en Ukraine, à Tripolie, près de Kiev<sup>5</sup>. Cette même année, le site de Schipenitz, à l'époque appartenant à Bucovina, une province qui faisait partie de l'Autriche, permet de mettre au jour les premiers vestiges de céramique peinte<sup>6</sup>. Ainsi se dessine progressivement l'aire géographique de cette culture énéolithique de la céramique peinte.

### LES ANTIQUITES "CUCUTENIENNES" AU PRISME DES COLLECTIONS

Ce bref aperçu témoigne du caractère positiviste et cumulatif de l'historiographie qui établit une chronologie et des filiations, fixe ainsi les traditions et désigne les précurseurs. Longtemps les chercheurs ont construit l'historiographie sur la céramique peinte comme étant le résultat d'un processus naturel, d'une conséquence des nouvelles découvertes. Cette manière de faire, qui ne se soucie pas de la construction sociale de l'histoire de la céramique peinte, écarte toute réflexion épistémologique<sup>7</sup>. Or celle-ci doit se matérialiser dans des cadres appropriés pour la production scientifique qui demandent l'engagement de certains acteurs de la recherche scientifique<sup>8</sup>.

Comment repérer les moyens qui ont permis aux acteurs de constituer le nouveau phénomène - la céramique peinte de Cucuteni - en objet de patrimoine? Cette contribution se centre à cette fin sur les objets "cucuteniens" intégrés aux collections. Considérées comme des marques indélébiles de l'histoire culturelle, les collections représentent les différents

<sup>2</sup> Nicolae Beldiceanu, *Antichitățile de la Cucuteni. Schiță arheologică (Les Antiquités de Cucuteni. Esquisse archéologique)*, (Iassy: H. Goldner Press, 1885): 1.

<sup>3</sup> Dan Monah and Ștefan. Cucuș, *Așezările culturii Cucuteni din România, (Les sites de la culture de Cucuteni en Roumanie)*, (Iassy: Junimea, 1985): 15; Cornelia M. Mantu, *Cultura Cucuteni. Evoluție, cronologie, legături (La culture de Cucuteni. Evolution, chronologie, liaisons)*, (Piatra-Neamț: Bibliotheca Memoriae Antiquitatis Press, 1998): 15.

<sup>4</sup> Dan Monah and Ștefan Cucuș, *Les sites*, 18; Atilla László, *Un chapitre de l'histoire de la recherche de la civilisation Ariușd-Cucuteni-Tripolie: les fouilles d'Ariușd dans le premier quart de notre siècle* In *La civilisation de Cucuteni en contexte européen. Session scientifique dédiée au centenaire des premières découvertes de Cucuteni (Iași - Piatra Neamț, 24-28 septembre 1984)*, ed. Mircea Petrescu-Dîmbovița, Nicolae Ursulescu, Dan Monah, Vasile Chirica, (Iassy: Bibliotheca Archaeologica Iassiensis, 1987): 49.

<sup>5</sup> Dan Monah and Ștefan. Cucuș, *Les sites*, 18.

<sup>6</sup> Olga Kandyba, *Schipenitz. Kunst und Geräte eines Neolithischen Dorfes*, (Leipzig - Viena, 1937).

<sup>7</sup> Marc -A. Kaeser, "The first establishment of Prehistoric Science: The Shortcomings of Autonomie" In *Die Anfänge der ur- und frühgeschichtlichen Archaologie als archaologisches Fach (1890-1930) im europäischen Vergleich. Internationale Tagung an der Humboldt-Universität zu Berlin vom 13. -16. März 2003*, ed. Johan Callmer et al., (Rahden, M. Leigorf (Berliner Archaologische Forschungen, 2, 2006): 146-160.

<sup>8</sup> Claude Blanckaert, "Les fondements disciplinaires de l'anthropologie française au XIXe siècle: Perspectives historiographiques" *Polix*, 8, 29, Premier Trimestre (1995): 31-54.

domaines de l'archéologie - classique et nationale - et témoignent de la curiosité de l'antiquaire<sup>9</sup>. Les collections classiques jettent les bases de l'archéologie nationale et le patrimoine préhistorique prend racines sur ce terrain.

### **CREER D'ABORD LE "LIEU DE MEMOIRE"**

Cucuteni, "un nom si populaire comme lieu pour la découverte des antiquités"<sup>10</sup> est, premièrement, un toponyme qui doit tout à sa localisation précise et son enracinement au sol - un hameau de la commune Băiceni, du district de Iasi. En l'année "canonique" 1884, Cucuteni était déjà et pas encore un "lieu de mémoire", comme l'aurait dit Nora<sup>11</sup>. En 1889, en revanche, par la note rédigée de Butzureanu (traduite en français par Odobescu) sur les sites préhistoriques situés dans le nord de la Moldavie, et présentée au Congrès International d'anthropologie et d'archéologie préhistoriques, Cucuteni est installé en lieu de mémoire officiel<sup>12</sup>. La région du nord de la Moldavie, depuis la rivière Prut jusqu'aux Carpates, présente, par les objets recueillis, "de la même forme que ceux de Cucuteni", une même semblable. Pourtant, l'introduction de site de Cucuteni dans le circuit scientifique international fonctionne comme levier d'affirmation nationale: "La Roumanie -par sa position géographique comme pour les restes des anciens peuples qui y ont vécu, mérite une sérieuse attention de la part du monde archéologique"<sup>13</sup>. Désormais Cucuteni représente un lieu de mémoire dominant pour tout ce qui tient à la préhistoire de la Moldavie.

#### *Prouver la valeur universelle de Cucuteni*

Pour mieux déterminer en quoi consiste cette universalité, il faut d'abord se faire une idée précise de l'importance de l'héritage qu'il incorpore. Dans ce sens, le professeur allemand Hubert Schmidt, entreprend, en 1909 et 1910, les premières fouilles méthodiques du site. La céramique peinte de Cucuteni présente, par sa décoration enroulée, des parallèles avec celles de Thessalie et de la période minoenne de Crète. La région du nord de la Moldavie est donc présentée comme un point de liaison entre l'Europe Centrale et le cercle culturel égéen<sup>14</sup>. Suite aux observations stratigraphiques mais surtout à une analyse stylistique minutieuse de la céramique peinte, Schmidt établit, dans sa monographie sur le site, les étapes de l'évolution topologique et chronologique de cette civilisation régionale Ariuşd-Cucuteni-Tripolie, A et B<sup>15</sup>. Cet ouvrage est à juste titre considéré jusqu'à nos jours comme une contribution fondamentale pour la littérature scientifique.

Quoique d'une importance scientifique écrasante pour la compréhension du phénomène européenne de la céramique peinte, cette intrusion d'un "étranger" venant "de faire connaître nos trésors antiques" est déplorée<sup>16</sup>. Le transport des objets de Cucuteni au

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<sup>9</sup> Annie F. Laurens and Krzysztof Pomian, *L'anticomanie. La collection d'antiquités aux XVIIIe et XIXe siècle*, (Paris: EHESS, 1992): 59-68.

<sup>10</sup> "Săpăturile de la Cucuteni (Les fouilles de Cucuteni), Conférence tenue à la Société Anthropologique de Berlin: compte rendu, (Rapport envoyé au journal Bukarest Tagblatt, n. 149, 1911)", *Revista pentru istorie arheologie si filologie, (Revue pour histoire, archéologie et philologie)*, XII, (1911): 145-147.

<sup>11</sup> Pierre Nora, "Entre mémoire et histoire. La problématique des lieux" In *Lieux de mémoire*, ed. P. Nora, (Paris: Gallimard, 1997): XVII-XLII.

<sup>12</sup> Grigore C. Butzureano, "Note sur Coucuteni et plusieurs autres stations de la Moldavie du Nord" In *Congrès International d'anthropologie et d'archéologie préhistoriques: compte-rendu de la dixième session à Paris 1889*, (Paris: Ernest Leroux Press, 1891): 299-307.

<sup>13</sup> Grigore C. Butzureano, *Note*, 307.

<sup>14</sup> *Săpăturile de la Cucuteni (Les fouilles de Cucuteni)*, 147.

<sup>15</sup> Hubert Schmidt, *Cucuteni in der Oberen Moldau, Rumänien. Die befestigte Siedlung mit bemalter Keramik von der Steinkupferzeit bis die vollentwickelte Bronzezeit*, (Berlin-Leipzig, 1932).

<sup>16</sup> Mircea Petrescu-Dimbovita, "Le rôle de l'Académie Roumaine dans l'exploration de la station néolithique à céramique peinte de Cucuteni" In *Cucuteni 120 -Valori universale (Cucuteni 120 -Valeurs universelles)*, (Iasi, 2006): 10.

musée de Berlin officiellement afin de mieux les étudier - fait l'objet de vives discussions, faute d'un règlement précis sur le "voyage" des antiquités<sup>17</sup>. Ainsi, les "doublons" vont à Berlin tandis que les autres matériaux restent à l'Université de Iasi. Si à l'étranger les belles antiquités de Cucuteni ont exposées dans le musée, celles restées à Iasi sont entassées dans les caves de l'Université<sup>18</sup>.

### AJUSTER UNE VALEUR DE DIMENSION UNIVERSELLE AU NIVEAU NATIONAL -CHRONIQUE D'UN ECHEC

Iași, qui fait figure d'une importante capitale provinciale, fière de son histoire et de sa culture, s'attache à préserver la mémoire de la région mais n'arrive pas à concrétiser cette ambition dans une démarche raisonnée. Cucuteni représente désormais un élément de poids dans la construction de l'histoire de la région et l'enseignement sur ce lieu de mémoire devient rapidement une préoccupation dans le milieu universitaire. "Qui n'a pas entendu parler de Cucuteni, parmi ceux qui étudient l'archéologie préhistorique en Roumanie? C'est le premier nom présenté au chercheur en archéologie préhistorique de Moldavie."<sup>19</sup>. Néanmoins, après Schmidt, le célèbre site ne fait pas l'objet de fouilles pendant un demi-siècle et il est dépecé par l'extraction de la pierre, la "chasse" aux antiquités ou encore pour la construction des tranchées lors de la Deuxième Guerre Mondiale<sup>20</sup>.

L'apparition des antiquités "cucuteniennes" dans l'historiographie témoigne plutôt de l'esprit d'antiquaires qui caractérise la fin du XIXe siècle et s'étend aisément au XXe siècle. Recueillies par des paysans, les pièces qualifiées de "cucuteniennes" apparaissent en Moldavie en la possession d'un moine de l'église de Baia depuis 1834-1835<sup>21</sup> - étude plus attentive permettrait peut-être de faire reculer cette date. D'ici, les antiquaires Saraga de Iasi restent les premiers dont nous savons avec certitude qu'ils possédaient de telles pièces dans leur collection<sup>22</sup>. Conservées par ces antiquaires, celles-ci enrichissent ensuite les collections d'amateurs, souvent des collectionneurs. Les collections de deux premiers archéologues amateurs qui ont sondé le site de Cucuteni contenaient, pour, celle de Nicolae Beldiceanu "plus de six cents objets" de Cucuteni, Rădășni et Siret<sup>23</sup> et, pour celle de Grigore Butculescu "près de cent pièces énéolithiques de Cucuteni"<sup>24</sup>. Les "restes des anciens peuples de

<sup>17</sup> Constantin Dascălu, "Săpăturile de la Cucuteni și Colecția Buțureanu (Les fouilles de Cucuteni et la Collection Butureanu)" Buletinul Comisiei Monumentelor Istorice, IV, (1911): 106-107; Lucian Năstasă, "Unele date în legătura cu istoricul descoperirilor de la Cucuteni (Quelques données sur l'histoire des découvertes de Cucuteni)" Acta Musei Napocensis, V-VI, (1983-4): 512-522.

<sup>18</sup> Ion Andrieșescu, *O lecțiune de deschidere la Facultate de litere și filosofie din Iași: Câteva considerațiuni și îndemnuri de început cu privire la Istoria veche și științele ei ajutătoare (Une conférence d'ouverture à la Faculté des Lettres et Philosophie de Iasi: Plusieurs considérations et conseils de début sur l'Histoire Ancienne et ses sciences auxiliaires)*, (Bucharest: "Cultura neamului românesc" Press, 1920): 10.

<sup>19</sup> Vladimir Dumitrescu, *Cursuri universitare de arheologie preistorică (Cours universitaires d'archéologie préhistorique)*, (Bucarest, 2002): 193.

<sup>20</sup> Mircea Petrescu-Dimbovița and Madalin -C. Valeanu, *Cucuteni-Cetatuie: Săpăturile din anii 1961-1966. Monografie Arheologica (Cucuteni-Cetatuie: les fouilles des années 1961-1966. Monographie archéologique)*, (Piatra- Neamt, Musée d'Histoire et Archéologie de Piatra-Neamt Press, 2004): 9.

<sup>21</sup> Theodor Burada, "Antichitățile de la Cucuteni (Les antiquités de Cucuteni)" In *Arhiva, Organul Societății Științifice și Literare din Iași*, XII, 5-6, mai-iunie, (1901): 273.

<sup>22</sup> Theodor Burada, *Les antiquités*.

<sup>23</sup> Grigore C. Butzureano, *Note*, 307.

<sup>24</sup> Alexandru Păunescu, "Dimitrie C. Butculescu, unul dintre precursorii studiilor arheologice din țara noastră (Dimitrie C. Butculescu, l'un des précurseurs des études archéologiques de notre pays)" In *Din istoria arheologiei romanesti pe baza unor documente de arhiva (De l'histoire de l'archéologie roumaine sur la base de quelques documents d'archive)*, (Bucharest: Agir, 2003): 61.



Cucuteni" suscitent donc la curiosité. Connus à peine, ils font plutôt l'objet d'une âpre lutte entre collectionneurs privés<sup>25</sup>.

### **L'EVEIL D'UNE CONSCIENCE LOCALE PROFONDEMENT HISTORIQUE**

Le retentissement des ces trouvailles au XIXe et au début du XXe siècle - ne s'avère pas suffisant pour mettre en place des recherches systématiques, locales ou internationales. L'apparition d'un musée à Piatra-Neamț en 1934 reflète l'incarnation en un lieu de la disparition de la mémoire collective de Cucuteni quand la Maison nationale "La Reine Maria" est transformée en musée, il n'y existe qu'une mini-exposition de quatre vitrines, abritaient spécialement des objets de Cucuteni<sup>26</sup>. Le musée local est établi dans le but de conserver et de présenter les objets pour leur valeur de témoignage sur l'histoire de la région. Ainsi, à l'objet préservé comme image de la culture nationale, vient s'ajouter l'objet comme illustration de l'histoire régionale<sup>27</sup>. L'explication de l'installation de Cucuteni dans ce lieu, réside plutôt dans la présence de vestiges des civilisations antiques qui, exerçant une fascination du fait de leur prestige culturel, ont favorisé le développement d'une forte conscience historique. Le prêtre Constantin Matasă s'est attaché à valoriser ces objets "cucuteniens"<sup>28</sup> jusqu'à la fin de sa vie. A l'ombre du musée de Piatra-Neamț et par la volonté des hommes, la culture de Cucuteni est devenue un symbole éclatant pour la région.

### **CONCLUSIONS**

Ces quelques données permettent d'ores et déjà de dégager quelques conclusions.

1. En Roumanie, comme ailleurs, la curiosité des antiquaires au delà de la seule valorisation du patrimoine antique classique, commence à attribuer de l'importance à des vestiges locaux, "barbares". Promues au rang d'"antiquités nationales", ceux-ci deviennent des instruments de promotion nationale.

2. L'intérêt pour les "antiquités" de Cucuteni n'est pas étranger à l'effet esthétique qu'elles produisent. C'est pourquoi, une fois acceptées et assimilées dans le circuit scientifique international, elles ne peuvent plus être négligées.

3. Faute d'une organisation systématique de la recherche de la préhistoire en Roumanie, la charge historique, esthétique, politique portée par les vestiges de Cucuteni a subi une considérable baisse d'intérêt. Néanmoins, le prestige de cette civilisation sert de levier local pour la ville de Piatra-Neamț.

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<sup>25</sup> Mircea Petrescu-Dimbovita, *Le rôle de l'Académie Roumaine*, 9.

<sup>26</sup> Gheorghe Dumitroaia et al, *Primul muzeu Cucuteni din Romania (Le premier musée Cucuteni de Roumanie)*, (Piatra- Neamț: Foton Press, 2005): 12.

<sup>27</sup> Edouard Pommier, "Naissance des musées de province" In *Lieux de mémoire*, 1471.

<sup>28</sup> Gh. Dumitroaia et al, *Le premier musée*, 16.

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## FRENCH CULTURAL MODELS IN ALEXANDRU GEORGE'S CRITICISM

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### ABSTRACT:

IN THIS ARTICLE, WE WILL TRY TO RESEARCH ALEXANDRU GEORGE'S CRITICAL STUDIES IN CONNECTION WITH HIS FRENCH CULTURAL MODELS, AMONG WHICH WE CAN ENCOUNTER HENRY BERGSON, LÉON BLOY, ÉMILE FAGUET, REMY DE GOURMONT, JULES LEMAÎTRE. WE WILL ALSO TRY TO STUDY ALEXANDRU GEORGE'S TRANSLATIONS FROM FRENCH AUTORS LIKE ANATOLE FRANCE, JEAN-PIERRE RICHARD, JEAN STAROBINSKI, PHILIPPE VAN TIEGHEM IN ORDER TO DISCOVER CRITICAL PATTERNS AND ALSO THE WAY IN WHICH THESE AUTHORS HAVE INFLUENCED AND SHAPED ALEXANDRU GEORGE'S CRITICAL THINKING. FURTHERMORE, WE WILL TRY TO UNDERLINE ALEXANDRU GEORGE'S ROLE AND ALSO HIS ACTIVITY IN THE RECONSIDERATION OF SOME IMPORTANT ROMANIAN AUTHORS.

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**KEYWORDS:** ALEXANDRU GEORGE, CRITICAL MODELS, LITERARY CRITICISM, LITERARY HISTORY, REVIEWS.

### INTRODUCTION

Alexandru George a été un critique et historien littéraire, romancier, narrateur, essayiste roumain, ainsi qu'un important traducteur d'études critiques et d'études d'art. En ce qui concerne sa critique, il a écrit des études qui traitent des auteurs comme Tudor Arghezi – *Marele Alpha (Le Grand Alpha)*, 1970, E. Lovinescu – *În jurul lui E. Lovinescu (Sur E. Lovinescu)*, 1975, Mateiu I. Caragiale (*Mateiu I. Caragiale*), 1981, I. L. Caragiale – *Caragiale. Glose, dispute, analize (Caragiale. Notes, controverses, analyses)*, 1996. Dans d'autres études critiques, comme par exemple *Semne și repere (Signes et repères)*, 1971, la série des volumes *La sfârșitul lecturii, vol. I-IV (À la fin de la lecture)*, 1973-1993, *Întâlniri (Rencontres)*, 1997, *Reveniri, restituiri, revizuri (Retours, restitutions, reconsidérations)*, 1999, *Alte întâlniri (D'autres rencontres)*, 2000, *Alte reveniri, restituiri, revizuri (D'autres retours, restitutions, reconsidérations)*, 2003, il parle de nombreux auteurs roumains.

On pourrait mentionner également ses traductions des publications appartenant aux auteurs français comme Philippe Van Tieghem – *Les grandes doctrines littéraires en France* (1968), Jean Starobinski – *La relation critique* (1970), Remy de Gourmont – *Essais*<sup>2</sup>, Anatole France – *La vie littéraire (Œuvres complètes illustrées (vol. VI-VII, 1926))*, Jean-Pierre

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<sup>2</sup> Les essais ont été sélectionnés des volumes de Remy de Gourmont: *La Culture des idées* (1926), *Le chemin de velours* (1911), *Promenades philosophiques* (vol. I-XI, 1913-1920), *Promenades littéraires* (vol. I-III, 1910-1916), *Livres des masques* (vol. I-II, 1921-1925), *Dissociations* (1925).

Richard – *Littérature et sensation* (1954). Il a traduit aussi des œuvres de Villiers de l'Isle-Adam – *Contes cruels*, Jean-Paul Sartre – *La Nausée* et en ce qui concerne les études d'art (ou historiques) on pourrait mentionner Émile Zola – *Les Salons*, Edmond et Jules de Goncourt – *L'art du dix-huitième siècle*, Louis Hautecoeur – *Littérature et peinture en France du XVIIe au XXe siècle*, Voltaire – *Le Siècle de Louis XIV*, Pierre Joseph Proudhon – *Du principe de l'art et de sa destination sociale*.

Dans cet ouvrage nous allons essayer à découvrir si Alexandru George peut être mis en relation avec ses possibles modèles culturels français, dont nous pouvons énumérer Henry Bergson, Léon Bloy, Émile Faguet, Remy de Gourmont, Jules Lemaître. De plus, nous allons également établir si on pourrait faire des connexions avec ses traductions des œuvres signées par d'auteurs français comme Anatole France, Jean-Pierre Richard, Jean Starobinski, Philippe Van Tieghem.

Comment nous allons le constater ensemble, Alexandru George est un critique avec une formation prépondérante française, spécifique pour une culture comme la notre.

Un premier modèle culturel français pour sa critique pourrait être Henri Bergson. Celui-ci écrivait dans le chapitre *Introduction à la métaphysique*, de son livre *La pensée et le mouvant*, qu'il y aurait

... deux manières profondément différentes de connaître une chose. La première implique qu'on tourne autour de cette chose ; la seconde, qu'on entre en elle. La première dépend du point de vue où l'on se place et des symboles par lesquels on s'exprime. La seconde ne se prend d'aucun point de vue et ne s'appuie sur aucun symbole. De la première connaissance on dira qu'elle s'arrête au *relatif* ; de la seconde, là où elle est possible, qu'elle atteint l'*absolu*.<sup>3</sup>

Pour Alexandru George, la manière de connaître une chose pourrait être celle qui implique "qu'on tourne autour de cette chose". En ce sens-là, il y a un exemple dans l'étude *În jurul lui E. Lovinescu* (une traduction approximative *Sur/ Autour d'E. Lovinescu*), 1975, où la manière de connaître la critique d'E. Lovinescu est celle de graviter autour de celle-ci, parce qu'il serait important de prendre une sorte de distance du sujet traité. L'autre manière, celle qui exige qu'on entre dans la chose, pourrait-être risquée parce qu'on ne peut pas prendre distance et on peut arriver à être manipulé par la vision que le sujet respectif impose.

De plus, "...un absolu ne saurait être donné que dans une *intuition*, tandis que tout le reste relève de l'*analyse*. Nous appelons ici intuition la *sympathie* par laquelle on se transporte à l'intérieur d'un objet pour coïncider avec ce qu'il a d'unique et par conséquent d'inexprimable."<sup>4</sup> Ainsi, l'autre manière, qui implique l'*intuition*, serait aussi intéressante, parce que celle-ci peut conduire à une *intuition* plus profonde, étant donné qu'on "se transporte" à l'intérieur de l'objet. Au contraire, l'*analyse* "est l'opération qui ramène l'objet à des éléments déjà connus, c'est-à-dire communs à cet objet et à d'autres. Analyser consiste donc à exprimer une chose en fonction de ce qui n'est pas elle."<sup>5</sup> L'*analyse* pourrait signifier, dans la vision d'Henri Bergson, une "traduction", un "développement en symboles", mais l'*intuition* serait un "acte simple".

Entre Léon Bloy et Alexandru George on pourrait trouver quelques traits qui conduisent à la même conclusion. Par exemple, les deux préfèrent exprimer sans restriction leur vision sur n'importe quel sujet. Par exemple, la vision de Léon Bloy pourrait être cataloguée comme celle d'un "entrepreneur des démolitions"<sup>6</sup>, un homme qui parle carrément. Son style est celui d'un pamphlétaire, mais on ne pourrait dire la même chose sur Alexandru George, qui est surtout un critique qui parle carrément, mais il n'arrive pas,

<sup>3</sup> Henri Bergson, *La pensée et le mouvant* (Paris: Presses Universitaires de France, 1990), 177-178.

<sup>4</sup> Bergson, *La pensée et le mouvant*, 181.

<sup>5</sup> Bergson, *La pensée et le mouvant*, 181.

<sup>6</sup> Voir Léon Bloy, *Propos d'un entrepreneur de démolitions* (Paris: Tresse, 1884).

comme Léon Bloy le fait, aux considérations qui pourraient être cataloguées comme des attaques *ad personam*. Alexandru George a été considéré aussi un "entrepreneur de démolitions" :

Ma façon de concevoir la critique, comme le volume *Semne și repere (Signes et repères)*, 1971, la montre, a suscité une tempête d'indignation dans le camp communiste, de conformistes et des partisans du style nomenklaturiste qui était cristallisé à ce moment-là. En outre, un certain nombre de gens honnêtes, mais naïfs, des esprits peureux de tout type de non-conformisme ont été convaincus par les autres et se sont précipités voir dans mon écriture l'action d'un «entrepreneur de démolitions», aussi comme Eugen Barbu ou Traian Filip, Al. Piru et Gh. Gheorghiuță se sont exprimé dès début, et combien d'autres l'auraient fait.<sup>7 8</sup>

Entre Remy de Gourmont et Alexandru George, on pourrait trouver une différence, par exemple la vision sur la subjectivité de la critique. Pour Gourmont,

Comme je l'ai déjà expliqué plusieurs fois, contre l'opinion commune, la critique est peut-être le plus subjectif de tous les genres littéraires ; c'est une confession perpétuelle ; en croyant analyser les œuvres d'autrui, c'est soi-même que l'on dévoile et que l'on expose au public. Cette nécessité explique fort bien pourquoi la critique est en général si médiocre et pourquoi elle réussit si rarement à retenir notre attention, même quand elle traite des questions qui nous passionnent le plus. Pour être un bon critique, en effet, il faut avoir une forte personnalité ; il faut s'imposer, et compter pour cela, non sur le choix des sujets, mais sur la valeur de son propre esprit. Le sujet importe peu en art, du moins il n'est jamais qu'une des parties de l'art ; le sujet n'importe pas davantage en critique : il n'est jamais qu'un prétexte.<sup>9</sup>

Une similitude avec Remy de Gourmont pourrait être dans le sens de la critique des idées, comme Alexandru George écrit : "dans tout ce que j'ai écrit, des essais, des pages d'histoire littéraire, des commentaires divers, voire des romans, je suis allé précisément au-delà du «littéraire pure», je me suis affirmé comme un critique des idées (dans le sens, disons, gourmontien), préoccupé de questions controversables, de problèmes, de l'aspect idéologique, mais aussi politique et social."<sup>10</sup>

Alexandru George considère que la critique "créatrice" de G. Călinescu et celle scientifique (le structuralisme) sont des orientations "malheureuses", pour celui-ci serait important une critique d'*interprétation*, parce que "la critique n'atteint son but que dans le moment où arrive au jugement de valeur"<sup>11</sup>. De plus, la critique doit se subordonner à la création, son rôle n'est pas celui de critique créatrice, surtout "parce que, selon l'auteur de ce livre, la critique doit être l'utopie logique de la création"<sup>12</sup>.

Alexandru George considère qu'en "proposant l'*adéquation* comme principale qualité de la critique, on va observer que l'action du critique ne se justifie proprement-dit par la méthode choisie : impressionniste, scientifique, historique, dogmatique etc., mais seulement par les résultats"<sup>13</sup>.

Des modèles critiques pourraient être Jules Lemaître, Anatole France, Émile Faguet ou Remy de Gourmont pour ce style de "feuilleton", c'est-à-dire une sorte de critique ponctuelle, qui n'a pas un bout de critique totalisante, d'"Œuvre", mais qui veut faire une critique simple et immédiate, sans prétentions scientifiques. Il y a quelques livres

<sup>7</sup> Alexandru George, *Întâlniri* (București: Editura Cartea Românească, 1997), 339.

<sup>8</sup> Toutes les citations des textes en langue roumaine sont dans notre traduction, F.-M. S. Les traductions sont présentées directement dans la version traduite, pour la version en roumain on peut consulter les éditions citées.

<sup>9</sup> Remy de Gourmont, *Promenades Littéraires* (Paris: Mercure de France, 1929), 13-14.

<sup>10</sup> George, *Întâlniri*, 170.

<sup>11</sup> Alexandru George, *Semne și repere* (București: Editura Cartea Românească, 1971), 10.

<sup>12</sup> George, *Semne și repere*, 14.

<sup>13</sup> George, *Semne și repere*, 11.

d'Alexandru George qui traitent par ensemble un auteur, donc ceux-ci sont des œuvres totalisantes, mais la plupart de ses études sont des articles publiés, qui ont été réunis dans les volumes qu'on avait mentionné dans le début de notre article. Étant donné cette disparité, on pourrait dire que ceux-ci sont des articles de type "feuilleton", parce qu'ils traitent de nombreuses questions ou des auteurs qui ne peuvent pas se constituer dans une vision d'ensemble.

Si à un moment donné, le critique interprète une œuvre dans une vision et à un autre moment il reconsidère l'œuvre respective dans une autre perspective, c'est parce que "les œuvres défilent devant le miroir de notre esprit ; mais, comme le défilé est long, le miroir se modifie dans l'intervalle, et, quand par hasard la même œuvre revient, elle n'y projette plus la même image"<sup>14</sup>. Cette question est très intéressante, parce qu'une critique disons d'accueil ne peut pas être une critique qui valorise les œuvres et qui impose une perspective plus vaste. Donc, la vision sur un auteur ou sujet peut changer pendant le temps, par exemple un auteur très apprécié au début n'occupe la même place dans la hiérarchie qu'on fait quelques ans après :

Mais, dogmatique ou non, la critique, quelles que soient ses prétentions, ne va jamais qu'à définir l'impression que fait sur nous, à un moment donné, telle œuvre d'art où l'écrivain a lui-même noté l'impression qu'il recevait du monde à une certaine heure. Puisqu'il en est ainsi et puisque, au surplus, tout est vanité, aimons les livres qui nous plaisent sans nous soucier des classifications et des doctrines et en convenant avec nous-mêmes que notre impression d'aujourd'hui n'engagera point celle de demain.<sup>15</sup>

On pourrait trouver d'exemples dans l'œuvre d'Alexandru George, le volume *Reveniți, restituiți, revizuiți (Retours, restitutions, reconsidérations)*, 1999, *Alte reveniri, restituiri, revizuiți (D'autres retours, restitutions, reconsidérations)*, 2003, où l'auteur fait des "retours" dans la littérature roumaine appartenant à la période communiste, essayant de reconsidérer des sujets ou des auteurs sur lesquels on ne pourrait dire la vérité dans la période mentionnée. Dans ces volumes-là, il réunit des articles sur des auteurs comme Tudor Arghezi, Eugen Barbu, Ion Luca et Mateiu Caragiale, G. Călinescu, Șerban Cioculescu, Mircea Eliade, Paul Goma, Nae Ionescu, Eugen Lovinescu, Camil Petrescu, Marin Preda, Liviu Rebreanu, Mihail Sebastian.

Mais il s'agit plutôt d'une puissante formation culturelle française, parce qu'Alexandru George ne suivit pas un programme ou une direction de ses modèles culturels. Par exemple, Jean Starobinski est surtout un théoricien, un critique qui s'approche du structuralisme, dans la situation d'Alexandru George on ne pourrait pas dire cela. De plus, Alexandru George a été un libéral, contrairement à Jules Lemaître, Remy de Gourmont (qui se caractérisaient par leur conservatisme politique et par un radicalisme de la pensée) ou Anatole France, qui a adhéré au communisme.

En ce qui concerne ses traductions des œuvres critiques, on a déjà mentionné Philippe Van Tieghem – *Les grandes doctrines littéraires en France* (1968), Jean Starobinski – *La relation critique* (1970), Remy de Gourmont – *Essais*, Anatole France – *Œuvres complètes illustrées* (vol. VI-VII, 1926), Jean-Pierre Richard – *Littérature et sensation* (1954). Ainsi, en traduisant ces œuvres, Alexandru George a adopté, puis a approprié, peut-être, le style et la pensée des écrivains respectifs. Mais surtout on doit attirer l'attention sur le fait qu'il est un écrivain formé dans le style de la culture française et qu'il a réussi à créer un style propre, ce que nous ne fait pas penser au fait qu'il a dépassé ses modèles (il n'y a pas le cas), mais qu'il a réussi à créer sa propre direction et qu'on reconnaît son écriture lors de la lecture.

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<sup>14</sup> Jules Lemaître, *Les contemporains: études et portraits littéraires* (Paris: H. Lecène et H. Oudin, 1886), 84.

<sup>15</sup> Lemaître, *Les contemporains*, 85.

## CONCLUSION

On a essayé de voir si Alexandru George peut être mis en relation avec ses possibles modèles culturels français, parmi lesquels on a rencontré Henry Bergson, Léon Bloy, Émile Faguet, Remy de Gourmont, Jules Lemaître. Ses traductions d'œuvres appartenant aux auteurs comme Anatole France, Jean-Pierre Richard, Jean Starobinski, Philippe Van Tieghem ont été mentionné aussi comme des points de connexion. Comme on a déjà vu, il y a des connexions entre Alexandru George et les auteurs mentionnés, mais sa situation c'est plutôt celle d'un écrivain qui s'est formé avec les livres et les idées de ceux-ci, il n'a pas suivi un programme ou une direction de ses modèles culturels. De plus, Alexandru George a été un esprit libéral, à la différence de Jules Lemaître, Remy de Gourmont (qui se caractérisaient par leur conservatisme politique et par un radicalisme de la pensée) ou Anatole France, qui a adhéré au communisme.

Peut-être qu'en traduisant les œuvres de Philippe Van Tieghem, Jean Starobinski, Remy de Gourmont, Jean-Pierre Richard, Alexandru George a été influencé par le style, la pensée des écrivains respectifs, mais ce qui est vraiment important est qu'il a réussi à créer son propre style, qu'on reconnaît en toute occasion.

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## SOCIAL ASPECTS OF WORKFORCE MIGRATION IN ROMANIA

Ana-Maria UDREA<sup>1</sup>

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### ABSTRACT:

*MIGRATION HAS BECOME A SIGNIFICANT PHENOMENON WITH SINUOUS SOCIETAL IMPLICATIONS REGARDING THE POVERTY RATE OF THE NUMEROUS PEOPLE AFFECTED BY IT AND THE STATE'S BURDEN OF ENSURING EQUAL OPPORTUNITIES FOR ALL EUROPEAN CITIZENS. THE PAPER INVESTIGATES THE LINKS IN TERMS OF PRINCIPLES AND OBJECTIVES OF EUROPEAN UNION AND ROMANIA'S CASE, AS WELL AS THE EXISTING SHORTCOMINGS AND GAPS OF THE SOCIAL ASSISTANCE SYSTEM AND EMPOWERING MEASURES. FURTHERMORE, WE EXAMINE THE STATUS QUO REGARDING THE IN COMINGS AND OUT COMINGS IN TERMS OF IMMIGRANTS AND THE BRAIN DRAIN PHENOMENA. CURRENTLY, MIGRATION IS STILL SEEN AS A SOURCE OF SOCIAL DEVELOPMENT AND ECONOMIC INCREASE FOR THE COUNTRIES OF ORIGIN.*

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**KEY WORDS:** MIGRATION, BRAIN, DRAIN, EUROPE 2020, SOCIAL POLICIES

### INTRODUCTION

Workforce migration has become the most important component of migration in Romania. But, unfortunately, statistics cannot present all the implications of this complex phenomena. A recent study<sup>2</sup> presents an assessment of the level of unemployment and the employment of the population of the Member States in the mid-term implementation of Europe 2020. In these circumstances, there are some questions to be answered: „Is Europe still suffering because of the consequences of the crisis or the current situation is rather the result of failed policies? Or if, indeed, wrong policies were implemented, it is possible to consider appropriate alternatives?”. A possible answer is that policies are applied within the State inconsistently as an attribute of the principle of subsidiarity.

During 1950-1960, the workforce migration was considered as an essential element of development, based on the benefits of reducing the supplementary workforce in the origin countries and capital inputs and of the new workforce in the destination country as well. Many countries such as Morocco, Turkey, and Philippines have understood the benefits of emigration and encouraged the population to emigrate in Western Europe or United States of America, and later in oil countries in Gulf. But the results of immigration have not been so spectacular for the countries of origin because many immigrants remained in the adoption

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<sup>2</sup> Benchmarking Working Europe 2014, ETUI aisbl, Bruxelles, 2014, available at: [[www.etui.org/.../file/14+BENCHMARKING+2014+A4+Web+version.pdf](http://www.etui.org/.../file/14+BENCHMARKING+2014+A4+Web+version.pdf)], last access: 23.04.2015.

countries for a longer term. As a consequence, many countries of origin instead to prosper and develop stagnated and became dependent on remittances from the immigrants<sup>3</sup>.

Currently, migration is seen again as a source of social development and economic increase for the countries of origin, considering the public policies on facilitating migration (although there are still restrictive measures for certain countries)<sup>4</sup>. Moreover, we can consider migration as a global phenomenon with global effects.

The main reason for workforce migration is an economic one: to obtain a higher income than in the country of origin. The income obtained in the destination country has in principle two uses: subsistence use and transfers in the origin country to their families. The remittances can be found in economies, investments or in durable goods (houses, automobiles, lands).

In Romania, after 1989, migration has become a worrying phenomenon because almost 15% out of Romania's population has left the country<sup>5</sup>. During the years the migration trend has increased<sup>6</sup> from 7 persons to 1,000 people (1990 and 1995) and currently over 28 persons to 1,000 people. The destination countries are more or less the same: Germany, Spain, Hungary, and Israel, Great Britain or United States of America<sup>7</sup>.

The immigration to Romania has been low, generally involving people from poorer countries. But other problems have arisen here. Amid Romania's EU membership and a large influx of immigrants from Asian countries is such as China and neighbouring countries not belonging to the European Union, for example Moldova, had open the gates of illegal migration, most of the times.

In terms of methodological research, the research question is how the immigration in Romania has evolved during the last years after the accession to European Union. In this context, the work method is a combination of a narrative-descriptive research with quantitative analysis of available data from various information sources: from other studies, surveys, reports, to data collected by Eurostat and National Institute of Statistics.

## MAIN TEXT

Emigration may be called a "survival strategy" and can lead to professional development opportunities, thus making it a complex phenomenon that requires continuous monitoring and analysis for social and macroeconomic impacts, causing investment in social and educational services or causing social imbalances, or the dependence of the families of those who left the country's remittances. At a societal level, it can cause vulnerability in terms of ensuring a skilled workforce. According to National Institute of Statistics, international migration is one of the factors that have reduced the country's population, along with family planning and mortality. Every year, in Romania, there is a decrease by nearly 104,200 people due to migration<sup>8</sup>. The main reasons to emigrate are: financial – living

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<sup>3</sup> Massey, D. S., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A. and Taylor, J. E., *Worlds in Motion, Understanding International Migration at the End of the Millenium*, Oxford: Clarendon Press, 1998

<sup>4</sup> Castles, C., *Development and Migration – Migration and Development. What comes first? In SSRC Migration & Development Conference Papers*, 2008, New York, available at la: [<http://essays.ssrc.org/developmentpapers/wp-content/uploads/MigrationDevelopmentSSRCConferencePapers.pdf>], p. 8, last access: 22.04.2015

<sup>5</sup> Dănăică, D., Caracteristici ale migrației în România, *Analele Universității „Constantin Brâncuși” din Târgu Jiu, Seria Economie*, Nr. 2/2010, p. 190

<sup>6</sup> Dănăică, D., Caracteristici ale migrației în România, *Analele Universității „Constantin Brâncuși” din Târgu Jiu, Seria Economie*, Nr. 2/2010, p. 190

<sup>7</sup> In 2012, according to the report *International Migration of Romania*, by National Institute of Statistic, 2014, available at: [<http://www.insse.ro/cms/files/publicatii/pliante%20statistice/Migratia%20internationala%20a%20Romaniei.pdf>], last access: 22.04.2015

<sup>8</sup> *International Migration of Romania*, National Institute of Statistics, available at:

standards and wage differs between countries, employment opportunities (pull factor) - gaps related to income, and governance and public services: poor governance, corruption, lack of health care services and education quality (push factor).

Further, we present in tabular form the social effects of migration:

❖ For the country of origin:

Negative effects	Positive effects
Affects the stability of the family	Transfer of civilization, technology, new ways of working
Qualified workforce deficit (brain drain – medical doctors, nurses)	Contributions to the development of the country of origin
Increase in school dropout and juvenile deviance	Remittances - contribution to capital input in the country

❖ For the destination country:

Negative effects	Positive effects
Enhances xenophobia and preconceptions	Multiculturalism - modernisation
Lead to inter-ethnic conflicts	Cheaper skilled labour and cheaper - it reduces the unemployment

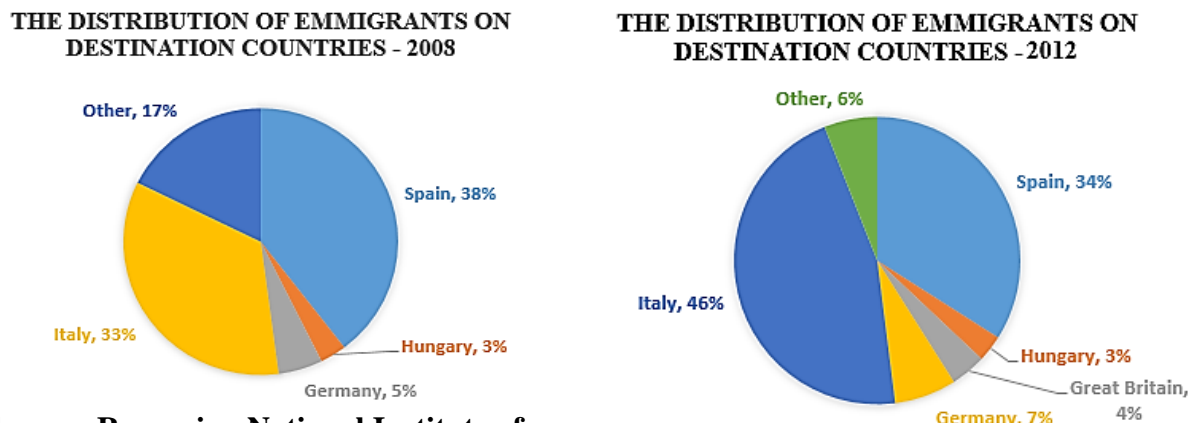
The (EC) regulation no. 862/2007 of the European Parliament and of the Council on Community statistics on migration and international protection requires that the number of immigrants in a Member State, namely immigrants, to be determined by the concept of habitual residence and the 12-month threshold. The migration analysis should begin by analysing migration laws, policies and institutions involved in migration. Referring to the European Union, the Treaty of Rome in 1957, provides four fundamental freedoms: free movement of goods, persons, services and capital. The legal support on which the free movement of persons within the EU consists of a series of articles of the said Treaty. In Romania the first initiatives for a new legislative framework in this area occurred in early 1990s. Then, once Romania joined the European Union, has determined the review of the existing legal acts to converge with European regulations aimed at ensuring adoption European acquis.

### QUANTITATIVE ASPECTS OF MIGRATION

As stated, previously, Romania's migration situation is mainly characterised by emigration, especially after the accession to the European Union in 2007. The number of Romanians working abroad in 2010 is estimated to be around 3 million persons, but this is a complex issue, and there is a limited data on emigration of Romanian citizens.

In this context, we present a panoramic analysis of the immigration in Romania.

**Figure 1. The distribution of emigrants on destination countries, 2008 and 2012**

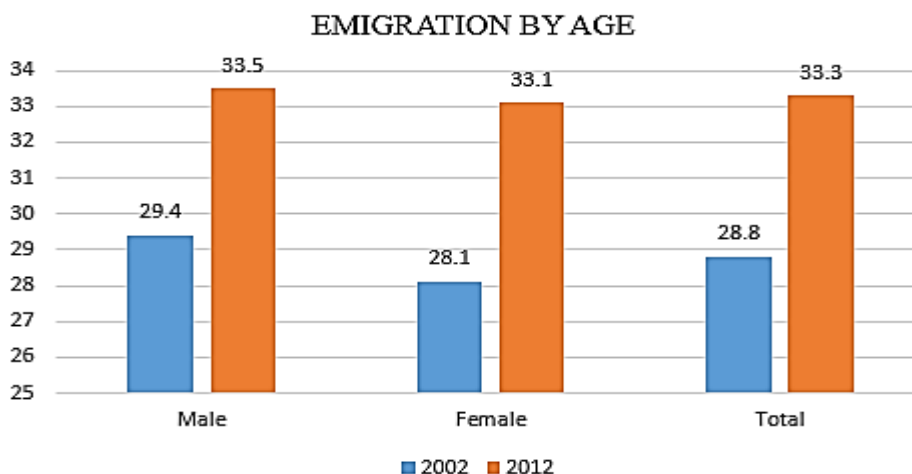


**Source: Romanian National Institute of Statistics**

The analysis of figures above, we can see that over 4 years 1<sup>st</sup> and 2<sup>nd</sup> most popular with interchange as destination countries, involving significant differences: Italy's share increased by 13% and Spain share fell by 4%. As for the other destination countries (Germany, UK, Hungary), the percentages have remained almost the same, significantly lower than the aforementioned countries.

As it can be seen in the figure below, most of those who emigrate are young, and their share is growing, and this affects age groups with high rates of fertility, thus reducing the potential for new-borns in Romania. All of this is in the context of a certain permanence of emigration. The analysis of the structure of emigration by gender reveals some changes so that immigrant women are becoming more numerous in recent years.

**Figure 3. Average age at 1<sup>st</sup> of January in 2002 and 2012, by genres**



**(Source: Romanian National Institute of Statistics)**

In the breakdown by age and gender, we can see a rise in average age from 29.4 to 33.5 for men and from 28.1 to 33.1 in women. Thus, the overall population, the average age has increased by almost 16%. As shown in the figure below, the average age of the population who emigrate fall within the active population aged 25-64 years, representing over 50% of the total population. The age category of 24-64 registered an increase of almost 12%, of which over 65% of people have emigrated (68% in 2002 and 76% in 2013).

## CONCLUSION

Post-communist Romania has undergone a series of profound transformations that have changed the profile of social development: from a planned economy to a market economy, from job security to the flexibility of labour relations etc., who had both positive impact and negative in society. These changes had the effect of both changes in the financing of social sector and growth of various social risks. One of the most important issues on the development and implementation of social policies might be considered poverty, which until now Romania, was a product of underdevelopment, not as a development cost (involving financial resources in infrastructure, institutional restructuring etc.). Migration can be considered as a result of poverty and underdevelopment, in the context, of Maslow pyramid of needs, both primary needs (survival), and self-determination (succeeding in life).

During the nearly 25 years of transition, the creation, development and application of social policies were under the pressure aspirations align with Western European societies developed, while the legacy of underdevelopment influence was felt significantly from previous years. Thus, it is important to establish of a more effective system of social protection, and build the foundation for socio-economic development of the country. European Union has started an important process of convergence regarding education (diploma recognition), social system (migrants can receive pensions from their destination country) and the process of standardisation continues.

For short term, Romania, has only gain from migration, but the effects on longer term are difficult to predict, but they are foreseen as negative impacts.

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## THE RELATION BETWEEN RELIGION AND POLITICS IN THE WORK OF THE DIPLOMAT DAG HAMMARSKJÖLD (1905-1961)

Iuliu-Marius MORARIU<sup>1</sup>

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### ABSTRACT

*THE PERSONALITY AND WORK OF THE SWEDISH DIPLOMAT DAG HAMMARSKJÖLD (1905-1961) – THE SECOND UN SECRETARY-GENERAL, FORMER GOVERNOR OF THE RIKSBANK (THE BANK OF SWEDEN) AND ACTIVIST FOR HUMAN RIGHTS AND EQUALITY AMONG THE UN MEMBRE STATES, WHO DIED TRAFICALLY IN A PLANE CRASH IN 1960, WHEN HE WAS TRAVELLING FOR SOLUTIONATE THE CONGO CRISE, ARE UNFORTUNATELY LITTLE KONWN IN THE FIELD OF BOTH ORTHODOX AND CATHOLIC THEOLOGY. NEITHER ARE HIS IDEAS PROPERLY VALORIZED, DESPITE THEIR IMPORTANCE, TOUCHING UPON POLITICAL, DIPLOMATIC, ECONOMIC ANT THEOLOGICAL ASPECTS.*

*IN THIS CONTEXT, THIS PAPER AIMS HIGHLIGHTING THE INTERWINING THEOLOGICAL, ECONOMIC, DIPLOMATIC AND POLITICAL ELEMENTS IN HIS WORK AND LIFE. THUS, WE SHALL RECREATE IN A HOLISTIC MANNER HIS BODY OF WORK AN ACTIVITY. TO THIS INTENT, WE SHALL ANALYTE BOTH HIS WORK, ESPECIALLY HIS BOOK MARKINGS, BUT NOT ONLY, ANT THE FEW RESEARCH PAPERS WHICC TACKLE HIS WRITINGS AND ACTIVITIES. IN ADDITION, WE SHALL TRY TO OBSERVE THE UTILITY OF HIS IDEAS AT THE PRESENT MOMENT AND THE RESPONSE OF THE CONTEMPORARY SOCIETY.*

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**KEY WORDS:** UNITED NATION ORGANIZATION, MARKINGS, CONGO CRISE.

Dag Hammarskjöld (1905-1961) was the son of Hjalmar Hammarskjöld, Prime Minister of Sweden (1914-1917) and chairman of the Nobel Foundation (1924-1927)<sup>2</sup>, the grandson of the Swedish poet Almqvist<sup>3</sup> and the second UN Secretary-General (1953-1961). He stands out by his contribution to solving important international tensions such as the Suez Crisis (1956)<sup>4</sup>, the Lebanon Crisis (1958), as well as the Congo Crisis (1959-1960). His

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<sup>2</sup> \*\*\*, *The new Encyclopaedia Britannica*, vol. V, XVth Edition (Chicago: Encyclopaedia Britannica Inc, 1991), 664.

<sup>3</sup> Bernd Jordan, Alexander Lenz, *100 de personalități ale secolului- politicieni (100 personalities of the century – politicians)*, translated by Dragoș Dinulescu (Bucharest: All Educational Press, 2002), 80.

<sup>4</sup> Cf. Gheorghe Văduva, Mihai-Ștefan Dinu, *Crizele politico-militare ale începutului de mileniu (Politics and military crises of the beginning of millenium)*, (Bucharest: Press of National University of Defense, 2005) 26; Andre Siegfried, *Suez, Panama: et les routes maritimes mondiales, avec 33 cartes et graphiques*, Nouvelle



efforts gained him a Nobel Prize. The international cultural community knows him well and considers him a great man of culture and a tenacious diplomat<sup>5</sup>.

In Romania, however, despite references in translated encyclopaedias<sup>6</sup> and in studies of international relations on the aforementioned events<sup>7</sup>, Hammarskjöld remains almost unknown. Even more, the little information there is refers mostly to his work as a diplomat, belittling his role as theologian and publicist. Withal, he was a practicing Protestant and was eager to present theological information, to quote old and new theologies and to express his opinion on the role of faith and the Church.

Thus, his work *Markings*<sup>8</sup>, fundamental in terms of theology, is yet untranslated into Romanian and any research related to it is rather scarce, despite its importance and the interest it raised amongst the international theological community. Meanwhile, his political ideas, streaming from a Christian basis, remain almost unknown within the Romanian theological and cultural community.

This being the case, our research aims at highlighting the way in which the Swedish diplomat understood and applied the relation between religion and politics. He was raised and anchored in Christian values, which is why he had good knowledge of the Scriptures and of various writings of theologians from different epochs. This is made evident by the myriad quotations in the *Markings*<sup>9</sup> and by some of the speeches he gave to different TV channels as a representative of the UN and which can be consulted even today<sup>10</sup>. However, beyond his epistemological knowledge, he was a true practicing Protestant with an impeccable conduit. A secular researcher, who set off to illustrate Hammarskjöld's personality through his diplomatic qualities, makes reference to his moral profile as well. Thus, Hammarskjöld is portrayed as follows:

“In April 1953, Dag Hammarskjöld (1905-1961) was elected UN Secretary-General, a position he held for eight years. His predecessor had told him that he was about to “get hold of the most impossible job on earth”. Yet, through his integrity, courage, diplomatic skills and enthusiasm in enforcing the Charter of the United Nations, Hammarskjöld brought new authority to this role. His innovative approach made the UN more powerful in avoiding imminent conflicts. During the 20<sup>th</sup> century, Hammarskjöld was the

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édition revue et augmentée (Paris: Armand Collin, 1948), and William Roger Louis, Owen Roger, *Suez 1956: the crisis and its consequences* (Oxford: Oxford University Press, 1991), for more informations about this subject.

<sup>5</sup> Cf. Jordan, Lenz, *100 personalities*, 80-81; \*\*\*, *The new Encyclopaedia Britannica*, 664-665; \*\*\*, *Enciclopedia de istorie universală (Encyclopedia of Universal History)*, translated by Alexandru Balaci, Mădălina Chelemen, Radu Gâdei, Sorina Venier (Bucharest: All Educational Press, 2003), 694; Thomas Parish, *Enciclopedia Războiului Rece (The Encyclopedia of Cold War)*, translated by Ion Nastasia, (Bucharest: Enciclopedia Univers Press, 2002), 130, for more biographic informations about the person. An important contribution in the promotion of his activity and his ideas brings the eponymous foundation. See: <http://www.dhf.uu.se/>, accessed in 12. 12. 2014, for more informations about the activity of this institution.

<sup>6</sup> See up.

<sup>7</sup> Like: Maurice Vaisse, eds. *Dicționar de relații internaționale, secolul XX (Dictionary of International Relations, XXth Century)*, translated by Marius Roman (Iași: Polirom Press, 2008), 152; Constantin Hlihor, Ecaterina Hlihor, *Comunicarea în conflictele internaționale – secolul XX și începutul secolului XXI (The Communication in international conflicts)*, (Bucharest: Comunicare Press, 2010), 147-174; Tony Busselen, *Une histoire populaire du Congo*, (Bruxelles: Editions Aden, 2010); Michel Dumoulin, Anne-Sophie Gijs, eds., *Du Congo belge à la République du Congo (1955-1965)*, (Bruxelles: Peter Lang Press, 2012), but also the books quoted in the other notes.

<sup>8</sup> Dag Hammarskjöld, *Markings* (London: Faber and Faber, 1972). The princeps edition appeared in 1963.

<sup>9</sup> Cf. Hammarskjöld, *Markings*, 59, 63, 71 et passim.

<sup>10</sup> See, for example: [http://www.youtube.com/watch?v=xEQr\\_dbH79Q&hd=1](http://www.youtube.com/watch?v=xEQr_dbH79Q&hd=1), accessed in 12. 11. 2014.

Swede who became known for his knowledge of the international context.”<sup>11</sup>

As mentioned above, while working for the UN, Hammarskjöld mediated two of the greatest crises of the 20<sup>th</sup> century, namely the Suez and Lebanon Crises<sup>12</sup>. He also began mediation for the Congo Crisis and his role would have definitely been a decisive one, had it not been for his tragic ending in a plane crash, while on his way to Congo. During his entire activity, his endeavours aimed at freeing the UN from its dependency of great powers such as the USSR. This gained him the resentment of Khrushchev and made him resign from his position of Secretary-General with the UN<sup>13</sup>. His speech with respect to great powers such as the USSR, as well as his mediation, his dialogues and ordinary addresses<sup>14</sup> within the UN were marked by Christian terminology, passages from the Scriptures and other similar elements, his approach being therefore marked by his religious beliefs.

He militated for ecumenism and was thence a member of various committees, participating to ecumenical reunions<sup>15</sup>. For him, ecumenism was an instrument for bringing peace into the civil space, with the help of religion. He borrows some of the religious ideas related to peace and introduces them into his speech. The seven principles he puts forward for the functioning of the UN are a case in point. Here, religion is seen as a powerful weapon against terrorism (principle 7), since it cannot be a source of hatred or division, because it is the guarantor of morality (principle 6); it also has to be the foundation for common dialogue (principle 2) and the bridge for restoring human dignity in its entirety (principle 3) and for any kind of political demarche, given that morality lies on a religious basis (principle 5)<sup>16</sup>. Therefore, Hammarskjöld fathoms the relation between religion and politics and encourages the collaboration of the two, by using any necessary leverage at his disposal.

We thus understand that, for Dag Hammarskjöld, the second UN Secretary-General, there has to be good collaboration between religion and politics, the former being the guarantor of fair and coherent politics. He considers that religion represents the basis for morality and, from this point of view, it has to contribute to inter-human dialogue, peace and to restoring the primacy of equality and human dignity. This principle is valid and important even today. Its roots are to be found in the diplomat's education and convictions, which, as a practicing Christian, he never abjured even if, at times, his political life had to suffer.

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<sup>11</sup> Gunel Torren, „Dag Hammarskjöld- the Pacemaker“, in. *Dag Hammarskjöld, Literature (On the 50th Anniversary of his Death)*, ed. Gunnel Toren (Uppsala: Dag Hammarskjöld Library 2011), 5.

<sup>12</sup> Vaisse, ed. *Dictionary of International Relations*, 152; Hlihor and Hlihor, *Communication in international conflicts* 150.

<sup>13</sup> Cf. Vaisse, ed., *Dictionary of International Relations*, 152.

<sup>14</sup> For that, the Swedish diplomat was very known. Look what the analysts say about that subject: „His discourses were not especially charismatic, like his ancestor Trygve Lie, and he was often reading the discourses that he was written, in a monotone mode“. Kristian Stålne, „The Meaning-making of Dag Hammarskjöld“, in *Integral Review*, vol. 7, Nr. 2/2011, 138.

<sup>15</sup> \*\*\*, *The new Encyclopaedia Britannica*, 664-665.

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## MEDICAL VS. INTERVENTIONAL THERAPY FOR ECTOPIC PREGNANCY

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### ABSTRACT:

*ECTOPIC PREGNANCY REMAINS AN IMPORTANT CAUSE OF MATERNAL MORBIDITY AND MORTALITY. THE FREQUENCY OF ECTOPIC PREGNANCY VARIES BETWEEN 0.58 AND 1.3 %. CERVICAL ECTOPIC PREGNANCY IS VERY RARE (0.1% OF ALL EXTRA-UTERINE PREGNANCIES). MOST ECTOPIC PREGNANCIES ARE LOCATED IN THE FALLOPIAN TUBES, AND IN LESS THAN 5% OF ECTOPIC PREGNANCIES, THE IMPLANTATION IS IN THE CERVIX, OVARIES, OR THE ABDOMINAL CAVITY. THIS ARTICLE REVIEWS THE MODERN MEDICAL AND ENDOVASCULAR THERAPEUTIC APPROACH OF UNCOMPLICATED AND COMPLICATED ECTOPIC PREGNANCY.*

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**KEY WORDS:** ECTOPIC PREGNANCY, METHOTREXATE, ENDOVASCULAR THERAPY.

### INTRODUCTION

An ectopic pregnancy is the condition in which the blastocyst implants anywhere other than the uterine cavity [1-4]. In Western countries the incidence of ectopic pregnancies varies between 1-2% [3,6]. The incidence of cervical pregnancy varies between 1 to 8600 and 1 to 12.400 pregnancies [5].

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Many patients with ectopic pregnancies have one or more risk factors, such as: age over 40, chronic smoking (more than 20 cigarettes/day) [7], previous history of salpingitis or unapparent or treated genital tuberculosis that can cause inflammatory stenosis, sequelae of tubal surgery, prior ectopic pregnancy, three or more prior spontaneous miscarriages, infertility >1 year, previous intrauterine device use [7-9,11].

The fallopian tube is by far the most common site of ectopic implantation, accounting for more than 95% of all ectopic pregnancies.

<p>Tubal 95-96%</p> <ul style="list-style-type: none"> <li>• Ampullary 70%</li> <li>• Isthmic-12%</li> <li>• Fimbrial 11%</li> <li>• Cornual (interstitial) segment 2-3%</li> </ul> <p>Cervical &lt;1%</p> <p>Ovarian 3%</p> <p>Peritoneal (abdominal) 1%</p> <p>Cesarean scar&lt;1%</p>
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**Table 1 - Various sites and frequency of ectopic pregnancies [12,13]**

Specialists should consider the diagnosis of ectopic pregnancy in any woman with amenorrhea, abdominal or pelvic pain followed by vaginal bleeding [10]. Also nausea, breast tenderness and urinary disorders may be encountered. Other symptoms associated with ectopic pregnancies include shoulder pain (irritation of the diaphragm by blood in the peritoneal cavity), lightheadness and shock [14,15].

The diagnosis of ectopic pregnancy is established by dynamic dosage of serum beta human chorionic gonadotropin ( $\beta$ -hCG) and pelvic ultrasonography. The first developmental structure that can be visualized by transvaginal ultrasonography is the gestational sac, which appears at 4.5-5 weeks of gestation in the endometrial cavity ( $\beta$ -HCG =1000-1500 mIU/mL). Measurement of the mean sac diameter (MSD) is important for estimating the gestational age. The absence of an intrauterine gestational sac 38 days or more after onset of menses or 24 days after conception is an evidence for a nonviable pregnancy [17]. Some specialists observed that measurements of endometrial thickness have predictive value because the endometrium is thinner in women with ectopic pregnancy [18]. In a study involving 576 women who referred to the emergency room for pain and/or vaginal bleeding, the mean endometrial thickness was  $9.56 \pm 4.87$  mm for women with ectopic pregnancies,  $12.12 \text{ mm} \pm 6.0$  mm for those with intrauterine pregnancies and  $10.19 \text{ mm} \pm 6.10$  mm for women with spontaneous abortions [19].

Human chorionic gonadotropin is a glycoprotein produced by syncytiotrophoblast and can be detected in serum within 9 days after ovulation in normal conception cycles. Levels of hCG can first be detected by a normal blood test approximately 11 days after conception and, in a healthy pregnancy, will typically double every 48 to 72 hours. A hCG level that is rising by less than 66% over 48 hours means it is likely, but not a certainty, that the pregnancy is ectopic [16].

Gestational age (weeks of amenorrhea)	Embryo size (mm) at ultrasound	Values of B-HCG mIU/ml
4	0.5	28
5	1.5-3	300
6	4-8	3000
7	9-16	50000

**Table 2 - The relation between the size of the embryo, B-HCG and gestational age in a normal pregnancy [20]**

Determination of serum progesterone concentration is used to diagnose ectopic pregnancy when serum b-hcg levels and sonographic findings are inconclusive [21]. The levels are lower in ectopic pregnancies than in intrauterine pregnancies [22-25]. Levels greater than 20ng/mL indicate a normal pregnancy. Concentrations less than 5ng/mL always indicate a nonviable pregnancy, which may be either ectopic or intrauterine [21, 26].

Recent studies have shown that 50% of ectopic pregnancies, nearly 20% of spontaneous abortions and almost 70% of viable intrauterine pregnancies are associated with serum progesterone concentrations between 5 and 20 ng/mL [27,28].

Conservative treatment is indicated in patients with uncomplicated ectopic pregnancy. Choosing this modality of treatment should be determined by the score Fernandez.

<b>FERNANDEZ SCORE</b>			
<b>Criterion</b>	<b>1 point</b>	<b>2 points</b>	<b>3 ppoints</b>
<b>Gestational age (weeks of amenorrhea)</b>	<b>&gt;= 8</b>	<b>6-7</b>	<b>&lt;/=6</b>
<b>β-HCG (UI/l)</b>	<b>&lt;1000</b>	<b>1000-5000</b>	<b>&gt;5000</b>
<b>Progesterone ng/ml</b>	<b>&lt;5</b>	<b>5-10</b>	<b>&gt;10</b>
<b>Abdominal pain</b>	<b>absent</b>	<b>induced</b>	<b>spontaneous</b>
<b>Hematosalpinx(cm)</b>	<b>&lt;1</b>	<b>1-3</b>	<b>&gt;3</b>
<b>Hemoperitoneum(ml)</b>	<b>0</b>	<b>1-100</b>	<b>&gt;100</b>
<i>Scor &lt; 12</i> success with various nonsurgical treatments, including expectant management.			
<i>Scor ≥ 13</i> less than 50 % success rate of medical management			

**Table 3 - Predictive score for successful treatment of ectopic pregnancy [29]**

Ectopic pregnancy may be managed surgically, medically or by expectative. The usual drugs used are: methotrexate, potassium chloride, hyperosmolar glucose, actinomycin-D and prostaglandins [30-36]. Methotrexate is a folic acid antagonist that targets rapidly dividing cells and arrests mitosis [37,38]. The most common side effects of methotrexate

include dizziness, drowsiness, headache, tender gums, decreased appetite, reddened eyes, blood in the urine or stools ,bloody vomit and hair loss [39]. The requirements for medical treatment of ectopic pregnancy are hemodynamic stability, minimal symptoms and a low volume of free intraperitoneal fluid on ultrasound scan, no contraindications to methotrexate treatment, serum b-hcg levels less than 5000IU/L, absent embryonic heart activity, ectopic mass measuring less than 4 cm in diameter [40-42]. Contraindications of methotrexate treatment are: active peptic ulcer disease, imunodeficiency states, advanced renal failure, leukopenia, thrombocytopenia, pleural effusion, ascites, pregnancy, breast-feeding, alcoholism [39]. Before starting methotrexate therapy, pre-treatment evaluation should include the following-complete blood count, blood type and Rh, serum creatinine, lever function tests and transvaginal ecography[43, 44]. The commonly used single-dose methotrexate treatment regimen involves a deep intramuscular injection at a dose of 50 mg/m<sup>2</sup> of the calculated body surface area [45]. Methotrexate treatment is very successful for small stable ectopic pregnancies. This meta-analysis of non-randomised studies showed success rates of 93% (95% CI 89–96%) for multi-dose protocols and 88% (95% CI 86–90%) for single dose therapy [46]. Uterine and ovarian artery embolization are minimally invasive techniques. It represents a treatment option for cervical ectopic pregnancies by means of devascularization and resorbtion [47-50].

**MATERIALS AND METHODS**

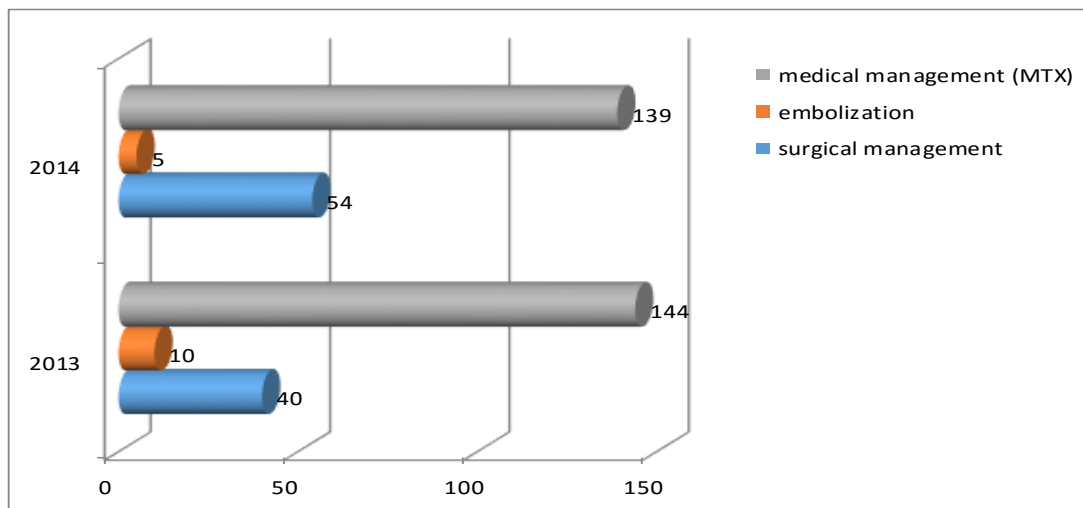
We retrospectively analysed the charts of all the patients diagnosed with ectopic pregnancy, who were hospitalized in the Department of Obstetrics and Gynecology of the University Emergency Hospital Bucharest between 1st January 2013 and 31 December 2014.

We evaluated the risk factors for ectopic pregnancy of each patient enrolled in the study and the diagnostic and curative methods used. We analysed and compared the different types of treatment, in order to determine the profile of the patient who can be cured with Methotrexate, can undergo embolisation, or who requires surgical management.

**RESULTS AND DISCUSSIONS**

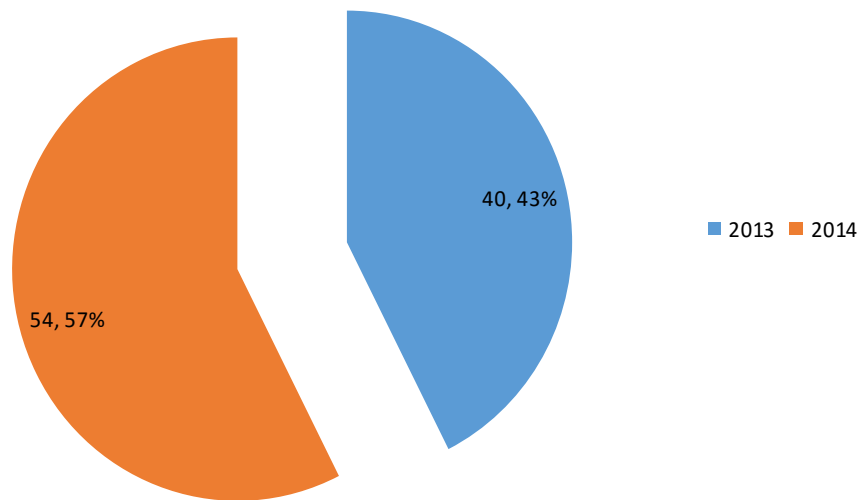
Between 1st January 2013 and 31 December 2014, in the Department of Obstetrics and Gynecology of the University Emergency Hospital Bucharest, 387 patients were diagnosed with ectopic pregnancy, 189 in 2013 and 198 in 2014.

Analysing the type of treatment performed we observed that 94 patients underwent surgery, in 15 cases interventional therapy was preferred and medical management using MTX protocol was applied in 283 patients.

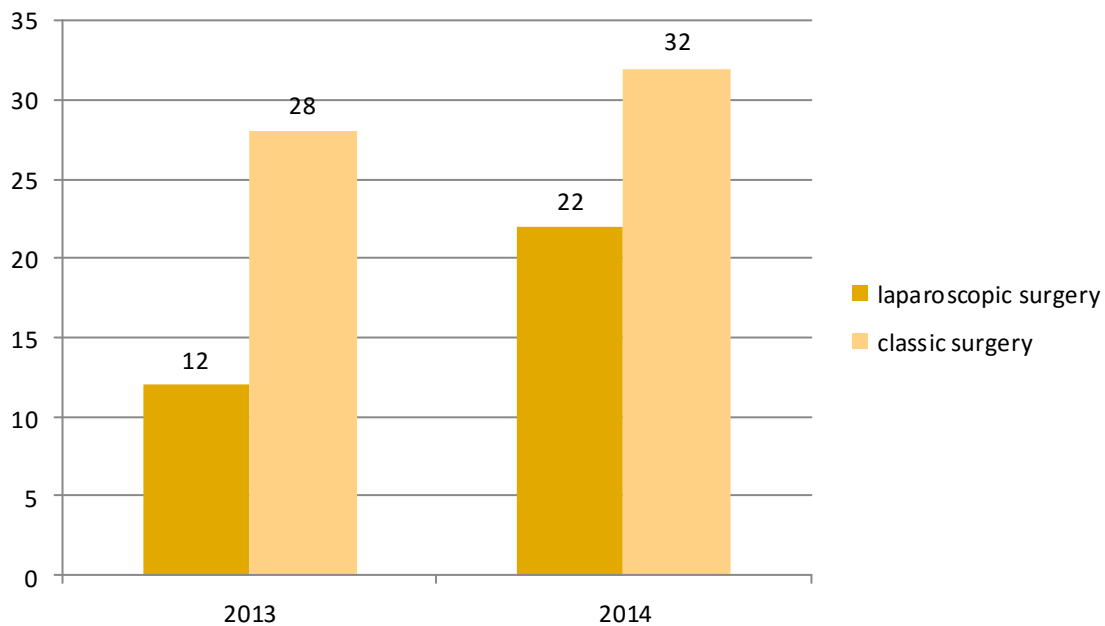


**Figure 1 – The distribution of patients diagnosed with ectopic pregnancy according to the therapeutic management** 287

94 patients diagnosed with ectopic pregnancy underwent surgical treatment (classic or laparoscopic) – see Figure 1 and Figure 2.



**Figure 2 – The distribution of patients who underwent surgical treatment between 1st January 2013 and 31 December 2014**



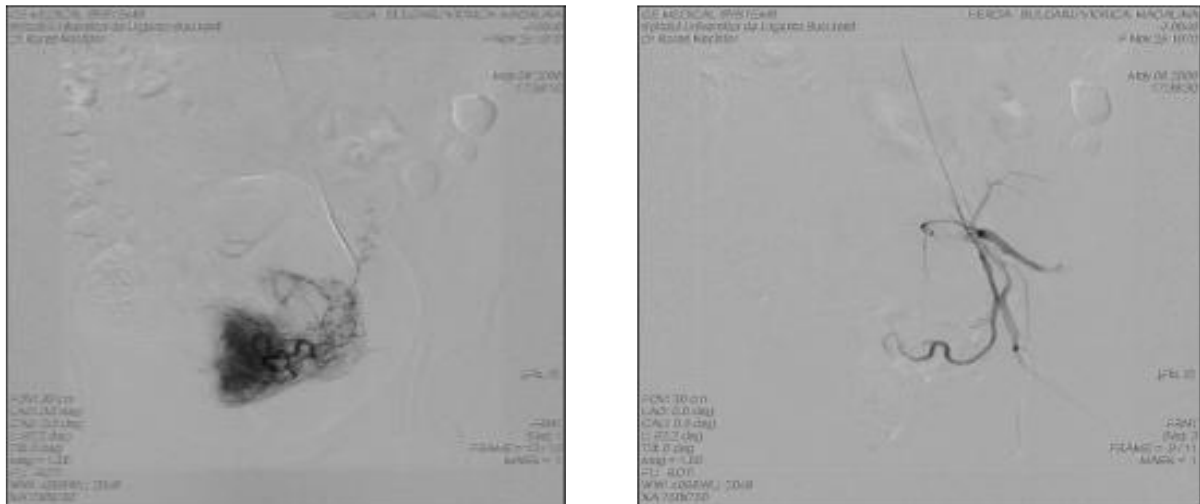
**Figure 3 – The distribution of patients who underwent surgical treatment between 1st January 2013 and 31 December 2014, according to the operative management**

Analysing Figure 3, one can observe that in 2014 the number of laparoscopic surgeries increased with 10.74%.

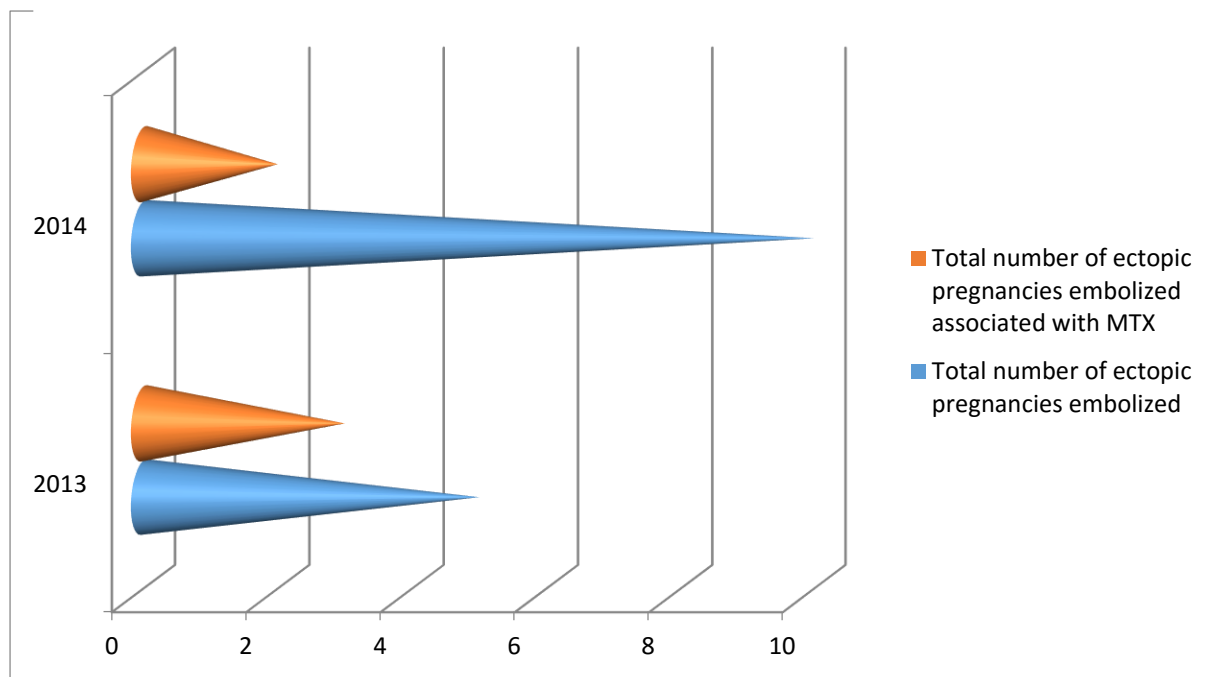
15 patients with cervical ectopic pregnancy were hospitalized complaining of abnormal vaginal bleeding. These patients underwent uterine artery embolization. The procedure was performed under local anesthesia, by radial or femoral approach. A guiding



catheter was used and placed into the uterine artery under x-ray fluoroscopy guidance in order to select the uterine vessels for embolization. An angiogram with contrast was performed to confirm placement of the catheter. Afterwards an embolizing agent with rapid resorption (complete reperfusion within a few days) was released.



**Figure 4 – Left tubal pregnancy – ovarian and uterine artery embolization (intraprocedural aspect)**

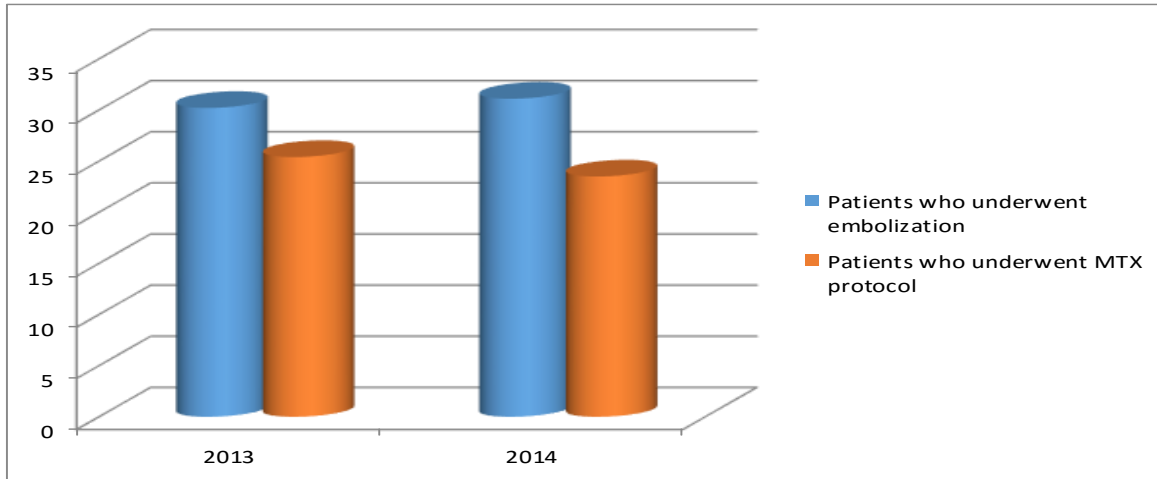


**Figure 5 – The distribution of patients who underwent combined therapy – embolization and MTX protocol**

A single-dose MTX protocol before endovascular therapy was administered to 3 patients in 2013 and 2 patients in 2014.

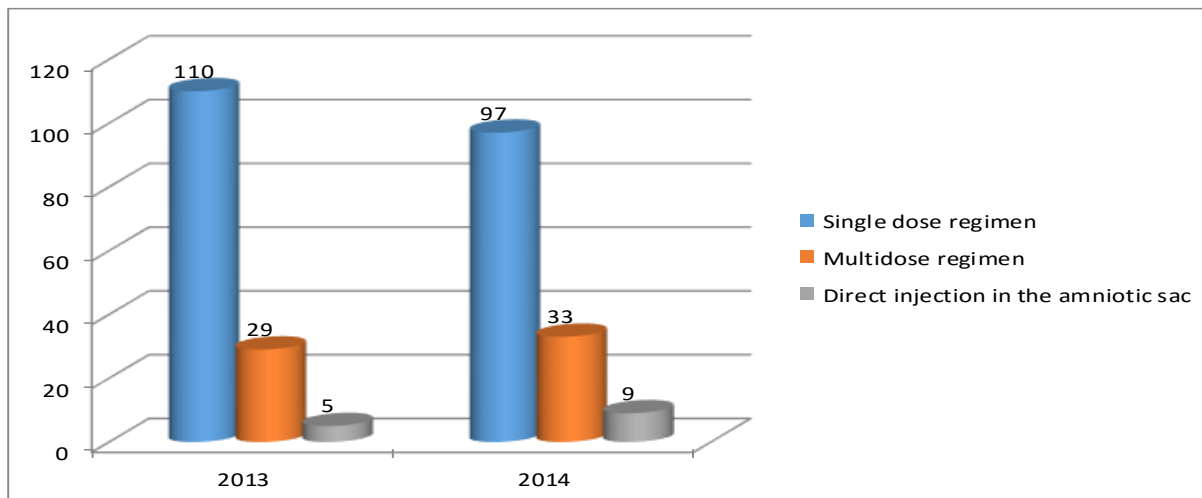
There are significant differences considering the response to a different type of treatment, considering the ages of patients enrolled in the study (see Figure 6) - in 2013 the mean age of patients cured using uterine and ovarian artery embolization was 30.2, while in

2014 the mean age of patients was 31.1. Regarding conservative treatment with Methotrexate, patients with a good response to therapy were younger - the mean age of patients was 25.4 in 2013 and 23.5 years in 2014.



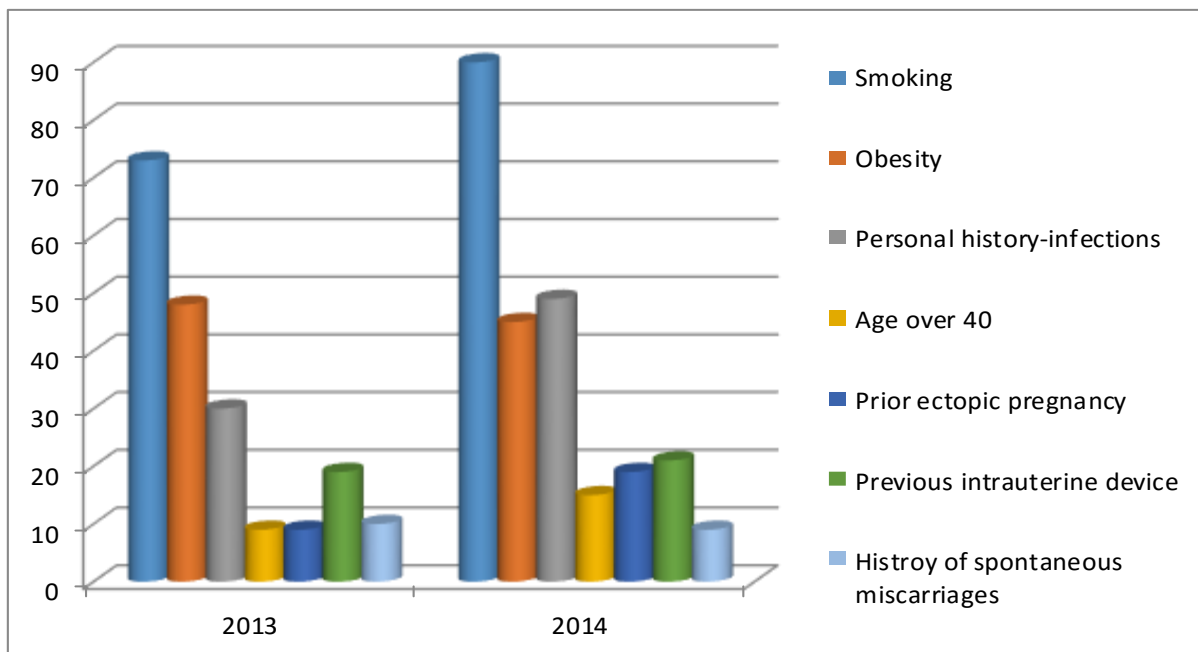
**Figure 6 – The differences between the mean ages of patients with a good response considering different types of treatment**

The patients included in this study who received the single-dose regimen that uses an intramuscular injection dose of 50 mg/m<sup>2</sup> of Methotrexate without Leucovorin meet the following criteria: uncomplicated ectopic pregnancy, hemodynamically stable, gestational sac <3.5 cm,  $\beta$ -hCG <5000 mIU/mL and no fetal cardiac activity. It had a success rate of 76.38% in 2013, and 69.78% success rate in 2014.  $\beta$ -hCG levels were measured after 4 and 7 days. If the  $\beta$ -hcg levels decreased by less than 15% between days 4 and 7, the patients received another dose of Methotrexate. This regimen was performed to 20.13% of women in 2013 and 23.74% of patients in 2014 (see Figure 7). Under ultrasound guide, Methotrexate was administrated directly into the amniotic sac in 14 patients (5 in 2014 and 9 in 2014). In these case the efficacy was 100%.



**Figure 7 – The distribution of patients according to the type of regimen with Methotrexate received**

We detected that 46 patients who received the Methotrexate protocol, consecutively underwent surgery – therefore the mean failure rate of medical therapy in this study is 16.25%.



**Figure 8 – The distribution of patients enrolled in the study according to the risk factors for ectopic pregnancy**

Smoking and obesity are the most important risk factors for ectopic pregnancy. We detected that from a total of 387 patients diagnosed with ectopic pregnancies, 163 were chronic smokers, 93 were obese (BMI>30), 79 had sexually transmitted diseases, 24 patients were over 40 years, 29 had a prior ectopic pregnancy, 40 used an intrauterine device as a method of contraception and 19 had at least two spontaneous miscarriages.

### CONCLUSIONS

Ectopic pregnancy remains an important public health issue due to increased maternal morbidity. Every patient diagnosed with this condition requires a strictly individualised management. Medical and interventional therapy play an essential role in the treatment of patients with ectopic pregnancy in incipient stages, therefore it is mandatory to establish the diagnosis rapidly and correctly.

**DISCLOSURE:** All authors contributed equally in developing this study.

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## **SPECIFIC FEATURES IN THE TREATMENT OF UTERINE FIBROIDS: SURGERY VS. UTERINE ARTERY EMBOLIZATION**

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### **ABSTRACT:**

*UTERINE LEIOMYOMAS OR “UTERINE FIBROIDS” ARE THE MOST COMMON BENIGN UTERINE TUMORS IN WOMEN OF REPRODUCTIVE AGE. USUALLY, THEY DEVELOP AS MULTIPLE SMALL TUMORS OR AS LARGE MASSES WITH DIFFERENT LOCATIONS RELATED TO THE LINING OF THE UTERUS. THE PATIENT HAS EITHER NO SYMPTOMS FOR A LONG PERIOD, OR SHE REPORTS HEAVY MENSTRUAL BLEEDING, PELVIC DISCOMFORT OR FERTILITY ISSUES. THERE IS A WIDE NUMBER OF TREATMENT OPTIONS, WHICH MUST BE ADAPTED TO EACH CASE, BUT THE MOST COMMON SOLUTION FOR LARGE SYMPTOMATIC TUMORS IS SURGERY. A NEWER ALTERNATIVE TO HISTERECTOMY OR MIOMECTOMY IS UTERINE ARTERY EMBOLIZATION. EACH OF THESE OPTIONS IS SUITED FOR A CERTAIN TYPE OF PATIENT, ACCORDING TO A SERIES OF CRITERIA. THESE PROCEDURES HAVE THEIR RISKS AND BENEFITS, BUT THE PATIENT IS CONCERNED BY SUCH ASPECTS AS: PAIN LEVEL, HOSPITALIZATION PERIOD AND RECOVERY. THE FOLLOWING ARTICLE PRESENTS SPECIFIC ASPECTS ON THIS TOPIC ACCORDING TO OUR EXPERIENCE WITH UTERINE FIBROID TREATMENT IN THE UNIVERSITY EMERGENCY HOSPITAL BUCHAREST.*

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**KEYWORDS:** UTERINE FIBROIDS, HYSTERECTOMY, PAIN, EMBOLIZATION

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## INTRODUCTION

Uterine fibroids, also called “myoma”, “leiomyoma”, “fibro-leiomyoma” are the most common benign tumors of the female genital tract. According to statistics, their incidence is 25% or even 80%, as shown by recent studies using ultrasound examination and histologic tests.

The tumors originate from the myometrium and are found in different locations, being classified according to their location and direction of growth:

- Intramural (growing within the uterine walls)
- Subserosal (originate from the myocytes near the uterine serosa and growing outward)
- Pedunculated (attached to the uterine wall by a pedicle)
- Submucous (growing near the endometrium, bulging into the endometrial cavity)
- Cervical (developing in the cervix)
- Rare locations: ovarian, fallopian, in the broad ligament, vaginal, vulvar.<sup>1,2</sup>

Myomas are hormone-sensitive tumors, mainly estrogens augment their growth and therefore these tumors increase in size in women of reproductive age, during pregnancy or during hormonal therapy and decrease after birth or at menopause.

Most women with uterine fibroids are asymptomatic. However, some patients experience heavy menstrual or inter-menstrual bleeding, dysmenorrhea, pelvic pressure, infertility; the larger the tumor, the most frequent the symptoms.

Treatment options for uterine leiomyomas are chosen according to criteria related to: size of the tumor, location of tumor, related symptoms, patient’s age, and patient’s desire for procreation and preservation of fertility.

Treatment alternatives include:

- Expectation (small non symptomatic fibroids can be kept under surveillance by regular ultrasound examinations)
- Drug treatment (in order to release symptoms such as: pain, heavy bleeding, anemia, or to reduce tumor size). The therapy is either non-hormonal (non-steroidal anti-inflammatory drugs) or hormonal- androgens, gonadotropin releasing hormone agonists (GnRH agonists), GnRH antagonists, combined oral contraceptives (COCs), antiprogestins (Mifepristone), levonorgestrel releasing intrauterine system.
- Surgical management: includes hysterectomy and myomectomy of different techniques.
- Uterine artery embolization: an alternative to surgery in women who do not desire radical interventions, women who have contraindications for surgical intervention or in order to shrink large tumors prior to surgery in certain cases.<sup>3,4</sup>

The patient whose condition cannot be managed by drug therapy is usually informed and advised to choose a more aggressive solution, such as surgery or uterine artery embolization. Both options raise questions about risks, benefits, complications, hospitalization days, recovery and follow-up.

Hysterectomy is a major surgical intervention that can be performed either by abdominal approach, vaginal approach or laparoscopy. There are many techniques used to remove the uterus and/or cervix and also both or just one ovary and salpinx.<sup>5</sup>

Myomectomy is also a surgical intervention aimed to remove only the uterine fibroid, by making a slice-type incision on the uterus. The intervention can be performed by an abdominal approach or by laparoscopy. The uterine wall is then sutured and closed.<sup>6</sup>

Uterine artery embolization is a procedure of minimally invasive radiology, which implies the injection of small particles into the uterine arteries in order to obstruct the



vascularization of the fibroids. The fibroids decrease in size in the next 3 to 12 months and related symptoms are reduced.<sup>7</sup>

### **AIM OF STUDY**

The aim of this article is to highlight the particular features about pain level, hospitalization days, complications and follow-up in patients treated for uterine fibroids by hysterectomy versus those treated by uterine artery embolization (UAE).

### **MATERIAL AND METHODS**

Data was extracted from files of patients admitted and treated in the University Emergency Hospital Bucharest between 01.01.2013 and 31.12.2014. We have studied patients diagnosed with uterine fibroids in the Department of Obstetrics and Gynecology who underwent hysterectomy in the same department or in the Department of General Surgery and compared them to patients who underwent UAE for uterine fibroids in the Department of Interventional Radiology.

### **RESULTS AND DISCUSSIONS**

#### **The surgical management of selected cases**

A number of 566 total abdominal hysterectomies for uterine fibroids was performed in our hospital from 01.01.2013-31.12.2014. We have excluded from this study the interventions performed for cervical cancer or other pathologies which required hysterectomy (genital prolapse, endometriosis, emergency hysterectomy after uterine relaxation or severe bleeding after delivery). Patients who underwent vaginal and laparoscopic hysterectomy were also excluded.

The age of the operated patients has varied between 37 and 83 years old, with a mean of 60 years old. The main symptoms that brought the patient to see a specialist were: heavy uterine bleeding in perimenopause or menopause, pelvic discomfort, pressure or pain and visible enlargement of the abdomen (the uterus).

The patients underwent clinical and para-clinical examination, Pap smear, ultrasound examination to measure the size of the mass and identify other possible masses or transformations of the fibroid. Once the diagnosis of uterine fibroid was established, according to patient's age, comorbidities and will for fertility preservation, the patients selected for hysterectomy were headed for surgery.

A total abdominal hysterectomy is a major surgical intervention, requiring total anesthesia. The uterus and cervix, sometimes even the ovaries and fallopian tubes are removed through an abdominal incision. The incision can be either horizontal (Pfannenstiel incision) or longitudinal, depending on the size of the tumor and on peculiarities of each case. Usually, a longitudinal incision offers the surgeon a better view and a wider space to perform the intervention with less risk.<sup>8</sup>

The main intraoperative complications of an abdominal hysterectomy are hemorrhage, injuries of nearby organs: ureters, bladder, and intestines. The most common postoperative complications are infection, hemorrhage and thromboembolic disease. The hormonal changes secondary to hysterectomy lead to early onset menopause with its broad spectrum of manifestations. According to studies in the literature, patients who underwent hysterectomy without oophorectomy entered menopause 4 to 5 years earlier than women without hysterectomy. Early onset menopause predisposes the patient to cardiac disease, osteoporosis and depression.<sup>9</sup>

In our group of patients who underwent hysterectomy with or without oophorectomy, we have not encountered a large number of complications. The most common postoperative

complication, such as suture infection, was treated with appropriate antibiotics. Infection prevention with an intraoperative dose of cephalosporin proved to offer good protection. Thromboembolic disease prevention was performed with the administration of low molecular weight heparin products to all patients in different doses according to their risk factors and conditions.

Immediately after surgery, the main concern for the patient is the amount of pain she feels and the possibility to move, to walk and regain the ability to perform normal tasks. Active management lowers the risk of thromboembolic incidents. Therefore, the patient is advised to get off bed the next day after surgery. The urinary catheter is usually removed 12 hours after surgery if there is no suspicion of bladder or ureteral injury. The risk for urinary infection increases with the amount of time the catheter is kept in place.

The intraperitoneal drainage tube set intraoperative to monitor intra-abdominal hemorrhage was usually removed 48 hours after surgery, giving the patient more freedom to regain full mobility.

Pain management was mandatory and was performed using different types of medication. Hysterectomy was performed under general anesthesia. Opioids, non-steroidal anti-inflammatory drugs, analgesics and antipyretic drugs were administered from day one, adjusting doses according to patients needs. Medication for protecting the gastrointestinal tract was also administered. Antibiotics were administered for at least 3 days after surgery.

Usually, the hospitalization days after an uncomplicated hysterectomy varied from 4 to 7, depending on particularities of cases. All patients have been released with a prescription to continue the anti-inflammatory and analgesic treatment for the next 5-7 days. The patients returned 10-14 days after surgery to have their stiches removed and to establish further follow-up. The next visits were performed at one month and three months after the intervention.

#### **Uterine artery embolization of selected cases**

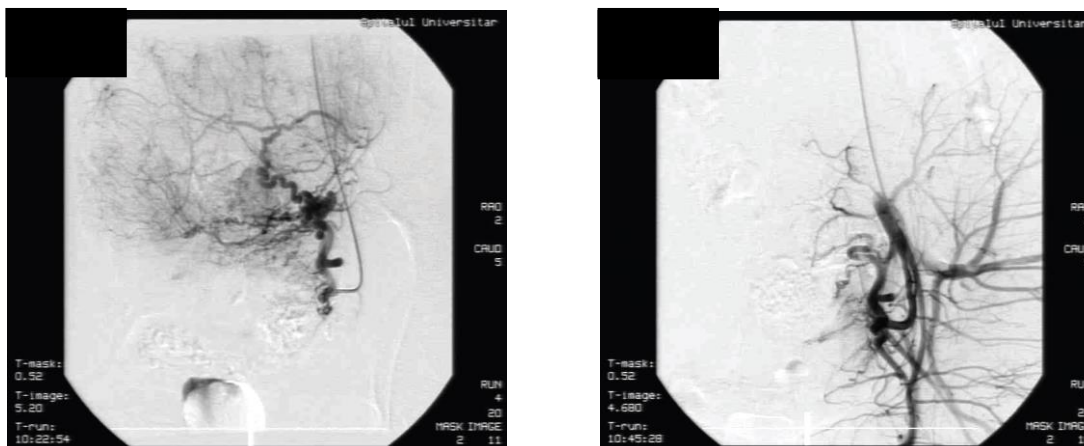
During the same period of time (01.01.2013-31.12.2014), in the University Emergency Hospital Bucharest a total number of 300 uterine artery embolization interventions for uterine fibroids was performed. The patients age varied from 24 to 47 years old, with a mean age of 35,5.

These patients have been previously diagnosed by ultrasound examination with uterine myomas after complaining for a wide range of symptoms. They have also tried drug treatment for symptoms caused by myomas, but treatment failed for multiple times. Being mostly patients of reproductive age, they experienced recurrent heavy menstrual bleeding, anemia, dysmenorrhea, recurrent inter-menstrual bleeding, pelvic pressure, bloating, infertility or pregnancy loss. Neither hormonal nor non-hormonal treatment was efficient in the last 2 years.

All patients underwent a full clinical and para-clinical examination, Pap smear and vaginal ultrasound examination. Doppler ultrasound was performed to all patients in order to establish the vascularization of the uterine fibroids. Genital and urinary infections were treated first and patients with abnormal Pap smears continued to be investigated according to protocols.

The patients selected for uterine artery embolization were mostly females of reproductive age with symptomatic uterine fibroids of small to medium size, who wanted to preserve fertility or who refused surgery (myomectomy or hysterectomy). Another category consisted of peri-menopausal patients with contraindications for general anesthesia and surgery.

Uterine artery embolization implies the injection through a catheter placed in the brachial artery or femoral artery of small particles aimed to obstruct the vessels that supply the uterine leiomyoma.<sup>10</sup> The procedure was performed under local anesthesia in the Invasive Radiology Department and it usually took less than one hour.



**Figure 1. – Uterine artery embolization of a voluminous leiomyoma (intra-procedural aspect)**

The symptoms associated to UAE appeared immediately after embolization and intensified in the first 6 hours, gradually decreasing in the next 24-48 hours.

Pain was the main symptom, usually described by the patient as mild to severe. The pain was described as colicky intermittent pain, frequently associated with nausea and vomiting. The cause of pain is considered to be ischemia of blood vessels and fibroid tissue.

Management of pain and other symptoms required the administration of anti-inflammatory drugs, analgesics and opioids given intravenously. Patients also required antiemetic medication in the first 6 hours as vomiting occurred and as pain became more intense. The best response was obtained in patients who used a patient controlled analgesia pump (PCA) with fentanyl associated with anti-inflammatory drugs taken intravenously or orally. Usually the pain decreased gradually after 24-48 hours. Persisting pain was the main reason for prolonging hospitalization. During hospitalization, patients had no restriction in moving, no intestinal or urinary tract problems and, of course, no incisions. Protection against uterine infection was made using antibiotics such as ampicillin and gentamicin or cephalosporin and metronidazole. More than 80 % of patients were released from hospital after 1-2 days after the intervention.

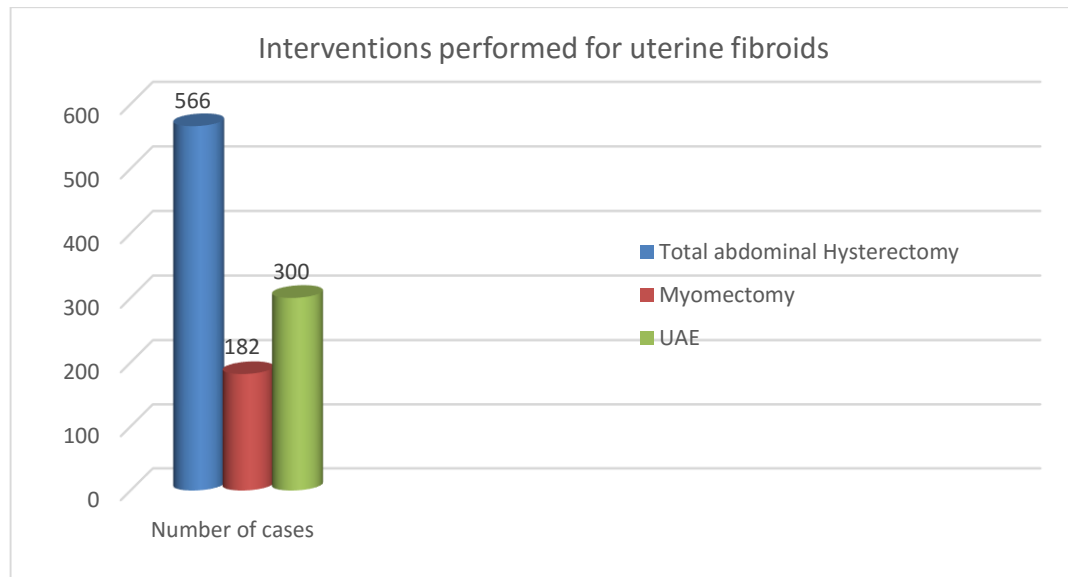
Recovery took less than 30 days according to patients' statements, most of them being able to restart their daily activities and jobs after less than 2 weeks of rest.

The patients were examined by ultrasound at 1 month after embolization but most effects were observed at 3 to 6 months after uterine artery embolization. Symptoms caused by fibroids, such as heavy menstrual bleeding, pelvic pressure or dysmenorrhea decreased or disappeared in the next 12 months after the intervention. Fibroid size decreased after UAE as observed at regular ultrasound examinations.

Complications of uterine artery embolization are rare, most of them being caused by infarction and necrosis of the fibroids. The most common complications are persisting pain, fever, urinary tract infections, vaginal discharge and endometritis. Rare but possibly severe complications are deep venous thrombosis, pulmonary thromboembolism, necrobiosis, persistent heavy bleeding or sepsis.<sup>11, 12</sup>

Fertility is preserved in most patients who underwent UAE, but as we observed, a pregnancy can be obtained after at least 2-3 years after embolization.

Interestingly, in the same period of time (01.01.2013-31.12.2014) in the Bucharest University Emergency Hospital, only 182 myomectomies were performed. (Figure 1).



**Figure 2 - Number of interventions performed for uterine fibroids**

The main concern of patients who underwent myomectomy instead of UAE was the possibility of fertility problems induced by UAE. According to literature studies, women who underwent UAE have an increased risk for malpresentations, preterm birth, spontaneous abortion and ovarian insufficiency. However, further studies are required in this area.<sup>13-15</sup>

## CONCLUSIONS

Women of reproductive age who are diagnosed with small to medium symptomatic uterine fibroids should be informed about the possibility of choosing UAE if medical treatment failed.

UAE procedure takes less than one hour, the pain, although intense, diminishes in 24 hours with appropriate intravenous medication or with a PCA. Complications are rare and can be prevented. The patient requires only 1 or 2 hospitalization days; it has no stitches or scars, no food intake restrictions, little limitation of activity and the possibility of going back to work after less than 10 days. Sexual activity is restricted for only one month and it has no other impediments afterwards. An important aspect in some cases is that UAE only releases symptoms without actually making the fibroid disappear. Therefore, UAE is in some cases, just a step prior to hysterectomy or myomectomy.

Hysterectomy is the best choice for perimenopausal or menopausal patients with large symptomatic uterine fibroids. Although is a major surgical intervention with important immediate and late complications, it has better outcomes than UAE for this group of patients. Pain can be reduced with proper medication, but hospitalization and recovery takes a lot longer. Early onset menopause and its hormonal manifestations secondary to hysterectomy are a specific problem to deal with in this category of patients. Physical activity, sexual activity and even psychological aspects change in a woman who underwent a hysterectomy.

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All patients must be informed about the complications and benefits of all treatment options they have for uterine fibroids.

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## CUSTOM SURGICAL SOLUTIONS IN EXTREME CASES, USING THE FEMTOLASIK AND VISIAN ICL LENS

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### ABSTRACT:

*PRESENTATION OF A CASE OF A PATIENT WHO HAS TWO EXTREME REFRACTIVE ERRORS, WHICH HAVE NECESSITATED TWO DIFFERENT SURGICAL INTERVENTIONS FOR EACH EYE, THUS PREVENTING THE POSTOPERATORY COMPLICATIONS AS ECTASIA. THE 29-YEAR-OLD PATIENT HAD BEEN DIAGNOSED WITH COMPOSED MIOPIE ASTIGMATISM, AND USING THEIR OWN CORRECTION HAD A VISUAL ACUITY OF 0.8. AS A RESULT OF THE TWO DIFFERENT SURGERIES, SHE HAS MANAGED TO HAVE A BETTER VISUAL ACUITY, WITHOUT ANY CORRECTION.*

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**KEY WORDS:** FEMTO LASIK, EXCIMER LASER, VISIAN ICL, MIOPIE ASTIGMATISM, REFRACTION, REFRACTIVE SURGERY

### INTRODUCTION

The refractive errors mean deficit of the eye which manifests itself as a low visual acuity, which can be corrected in the vast majority of cases by dioptries (contact lenses, glasses). There are situations in which patients who suffer from these refractive errors, no longer wish to wear these dioptries, which resulted in an extremely fast-growing of extraocular or intra-ocular refractive surgeries.

The refractive errors are: miopia, hipermetropia and astigmatism. Worldwide, it is estimated that these affect about 2 billion people.

Numerous studies have shown that most patients who ask for refractive surgery are wearers of contact lenses. (9)

Techniques of refractive surgery currently available are:

- Photorefractive keratectomy (PRK)
- Laser epithelial keratectomy (LASEK)
- Laser in situ keratomileusis (LASIK)
- Intracorneal ring segment (ICRS)
- Corneal inlay lenses (CIL)
- Phakic intraocular lenses (phakic IOL)
- Clear lens extraction (CLE)

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- Presbyopic surgery

Of all the techniques listed, the most commonly used procedure is undoubtedly the LASIK, in recent years even a derivation of it, namely FemtoLASIK. The latter is used to create the corneal flap with a femtosecond laser, unlike the initial technique which uses a microkeratom. The new technique has numerous advantages, studies showing that it is a safe, predictable and efficient technique. (2,3,8)

We need a thorough knowledge of these techniques to be able to provide our patients the best surgical solutions, because each technique has his indications, counter-indications and limits.

In the case of miopias and even small and medium-sized astigmatism, the results are similar between PRK and LASIK techniques (6), but in the case of extreme miopy and astigmatism, the surgical technique should be chosen extremely well to prevent possible complications during or postoperative, or outstanding refractive errors.

**CASE REPORT:**

We present the case of a 29-year-old patient, who addressed our clinic in order to establish a therapeutic solution for diopter removal.

Following comprehensive eye examination she was diagnosed with compound myopic astigmatism (RE: -7.5 Dsf x - cyl 3.5 ^5°, LE - 11 Dsf x - 3.5 cyl ^170°). The best corrected visual acuity was 0.8 in the case of both eyes. Intraocular pressure was 15 mmHg in both eyes. The slit lamp examination of the anterior pole and of the fundus has not detected any pathological change, the appearance being within age and refraction error. Local and general clinical examination did not reveal any pathology that would be relatively counterindicated (significant cataracts, patients with obsessive personality, diabetes, autoimmune diseases etc.) or absolute (keratoconus, herpes virus infection of the cornea, corneal dystrophy deep, grossly amblyopic eye, corneal melt, unstable refraction) a refractive surgery procedure. (7) Corneal topographies were normal and pachimetry values of the two eyes were 542 microns for the right eye and 540 microns for the left eye.

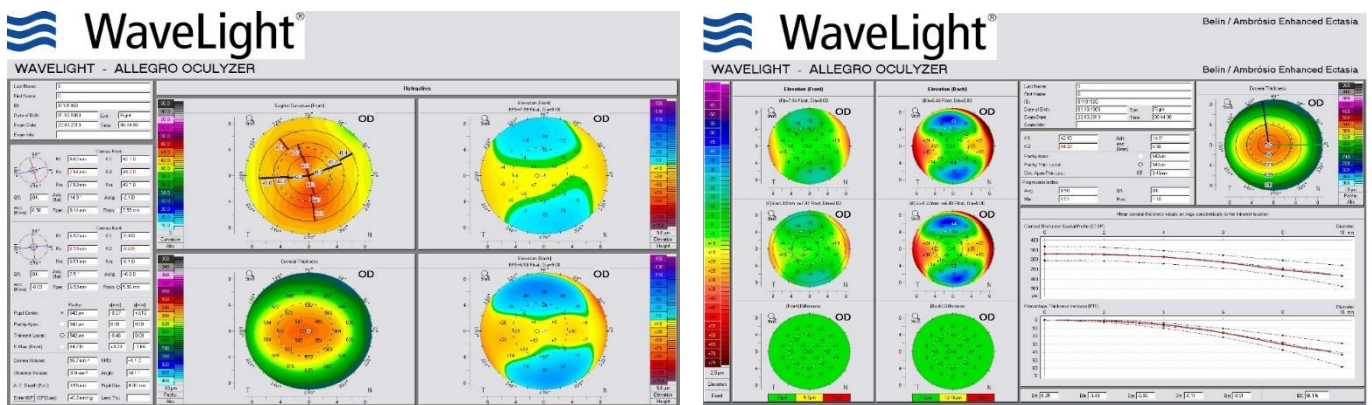


Fig 1.Right eye topographies (normal appearance)

Residual stromal thickness after removal of the right eye refraction (-7,5 Dsf x - 3,5 cyl ^5°), calculated using the firmware excimer laser was 297 microns, which led us to recommend the Femto LASIK technique in this case. The flap was created by using the FS200 femtosecond laser with a diameter of 9 mm and a thickness of 120 microns. At three months after surgery, using an anterior pole OCT we have measured the thicknesses of the stroma and the flap which have been 298, i.e. 120 microns.



The much larger value of the refractive error of the left eye (-11 Dsf x - 3,5 cyl ^170 °) made the therapeutic solution adopted in this eye to be an implantation of a phakic IOL-Visian ICL toric type.

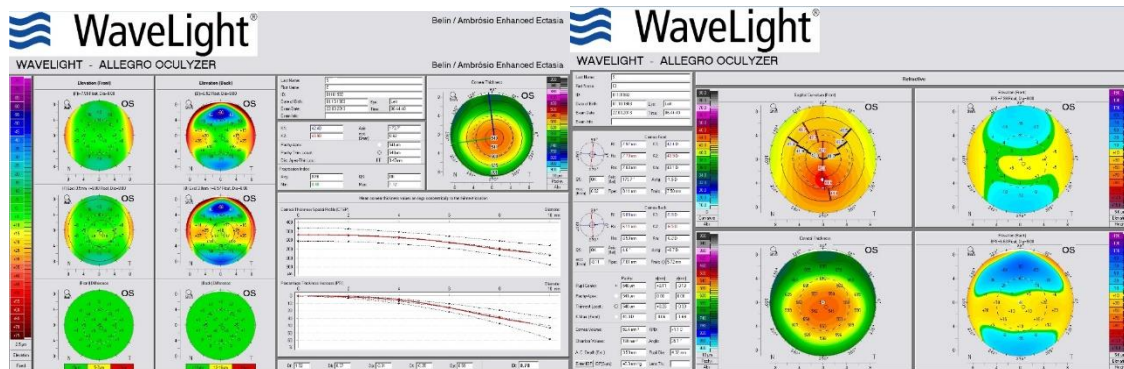


Fig 2. Left eye topographies (normal appearance)



Fig 3. Visian ICL phakic lens Implantation

Surgical interventions have been carried out at an interval of 3 weeks, both going without incidents.

The patient has been re-evaluated from an ophthalmological point of view (UCVA, BCVA, and manifest refraction) at one day, a week, a month and three months after surgery. The postoperative visual acuity at 3 months was 0.9 without correction for both eyes.

**DISCUSSIONS:**

The particularity of the case is the high value of the two refractive errors, and surgical approach by two different techniques, appropriate to each eye. Carrying out a FemtoLASIK technique would have required a fairly deep ablation, resulting in a residual corneal stroma below 300 microns. Numerous studies have shown an increase in the number of postoperative complications of corneal ectasia type after surgery, after which the residual stroma is below 300 microns. (1)

A major advantage in the presented case was the creation of the flap in the right eye using the femtosecond laser, because it needed a more accurate thickness to keep the residual stroma as close as possible to the 300 microns. Studies have shown that standard deviation of flap thickness made with the microketatom is about 22-16 microns (4,5,10), compared with those made with the laser where standard deviation is about 10-14 microns.

The physicians availability to implant the artisan phakic IOL- Visian ICL in the case of the left eye, made it possible to resolve the case in a very efficient manner, because the lack of this surgical solution would have made the patient to have a post LASIK residual

refractive error of about 2-3 D. So we believe that this case has been resolved in a manner that led to the satisfaction of both patient and surgeons.

Although there are ophthalmologists who consider surgeries performed in refractive surgery with an aesthetic purpose, for this type of patients suffering from extreme refractive defects, their life changes radically after glasses independence.

We believe that the enormous technical progress of the refractive surgery solutions is a major advantage for patients wanting an independence from glasses and contact lenses too, but also for the ophthalmologists involved, providing fast, efficient and safe solutions.

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## THE VALUE OF A PREOPERATIVE SCORE TO ASSES THE RISK FOR IATROGENIC INJURY OCCURRED DURING CHOLECYSTECTOMY

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Victor STRAMBU<sup>2</sup>

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### ABSTRACT:

*THE PURPOSE OF THIS PAPER IS TO DEMONSTRATE THE VALIDITY OF A PREOPERATIVE SCORE MEANT TO DECREASE THE INCIDENCE OF IATROGENIC BILIARY DUCT INJURIES.*

*DESPITE THE INTRODUCTION OF NEW MININVASIVE TECHNIQUES – ENDOSCOPIC AND LAPAROSCOPIC – THE NUMBER OF ACCIDENTS AND INCIDENTS ENCOUNTERED INCREASED.*

*THE INCIDENCE OF EXTRAHEPATIC BILIARY LESIONS IS DOUBLE IN LAPAROSCOPIC SURGERY (0.4-0.6%) COMPARED TO OPEN SURGERY (0.2-0.3%), SEVERITY OF INJURIES CONSISTING OF SURGICAL REPAIR DIFFICULTIES.*

*THE PERSONAL EFFORT MADE BY PROSPECTIVE ANALYSIS TO CALCULATE A PREOPERATIVE RISK SCORE TO PREDICT THE POSSIBILITY OF IATROGENIC INJURY AND TO SET THE INDICATION TO PERFORM PREOPERATIVE OR INTRAOPERATIVE FURTHER INVESTIGATIONS.*

*I ENROLLED A TOTAL OF 62 PATIENTS WHO HAD INDICATION FOR CHOLECYSTECTOMY AND CALCULATED FOR EACH ONE THE PREOPERATIVE SCORE. THE RESULTS SHOWED THAT THE PATIENTS WITH A SCORE HIGHER THAN 5 POINTS HAVE A SIGNIFICANT RISK FOR IATROGENIC BILIARY LESION.*

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**KEYWORDS:** IATROGENIC BILIARY LESIONS, PREOPERATIVE SCORE BACKGROUND

The problem of iatrogenic lesions dates back thousands of years and is still out of date because of the social, medical, economic, legal issues that involve their occurrence . Etymologically iatrogenic = IATROS - doctor and genie - generators.

Although we are in the era of minimally invasive surgery the rate of occurrence of iatrogenic biliary lesions it is high, virtually double in laparoscopic cholecystectomy versus open cholecystectomy. Over time efforts have been made to prevent, diagnose and treat as early and as optimally these injuries. There is a no widely accepted consensus for all to achieve all these goals.

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### MATERIAL AND METHOD

I proposed the use of a preoperative score in order to evaluate the risk of iatrogenic injury to bile ducts and establish indication of further investigation (used pre / during surgery) to decrease the rate of occurrence of these injuries.

The need to develop this score resulted from doctoral research that I have made during 2009-2013, in the paper entitled "Iatrogenic biliary duct lesions during cholecystectomy -diagnostic and therapeutic approach." In this retrospective study on a group of 2,707 patients who underwent laparoscopic or open cholecystectomy I have met 18 cases of iatrogenic lesions of the bile ducts. Iatrogenic lesions are a redoubtable complication of cholecystectomy representing "Achilles Heel" for surgeons who approach this region.

Remaining in the shadows at a time the incidence has increased with the introduction of minimally invasive techniques (laparoscopic and endoscopic).<sup>3 4 5</sup>

The paper tried to answer the question: "Could it be avoided?" I searched for solutions and proposed new ways of tackling these injuries.

The number of cases and severity of the lesions encountered, along with new possibilities of laboratory and imagistic diagnosis used led me to deepen and establish criteria that will help reduce the incidence and severity of these lesions and lead to an early diagnosis and optimal treatment choice.

The conclusions of the doctoral research showed that iatrogenic biliary injuries can not be prevented completely and their appearance is the result of several factors (favoring, predisposing) rather than a single factor itself.

Decreasing the incidence of these injuries should be a constant concern for any surgeon who performs cholecystectomy and prevention of iatrogenic lesions depends also on the performance of intraoperative investigations.

Prevention is the main factor for decreasing the incidence of iatrogenic lesions of the bile ducts.

Based on data obtained from the study I have proposed an algorithm for calculating a preoperative risk score, based on which I have settled the new criterion to carry out further investigations (not routinely performed) preoperatively and especially intraoperatively.

Scoring tries to establish increased risk of iatrogenic injury and to determine the indication of performing imagistic investigations with the role to prevent these injuries.

Criteria for calculating the score:

- 1. Patient's age :
  - > 50 years..... 1 point
  - > 70 years..... 2 points
- 2. Patient's sex :
  - Female.....2 points
  - Male .....1 point
- 3. Obesity ( ranked as BMI)
  - BMI> 30..... 1 point
- 4. Billiary symptoms > 2 years or history of billiary interventions .....1 point
- 5. Elevated preoperative inflammatory tests (leukocytosis, raised CRP) .....1 point
- 6. Indication for laparoscopic intervention.....1 point
- 7. Surgical team's experience

<sup>3</sup> Cuschieri A, Dubois F, Mouil J et al. *The European experience with laparoscopic cholecystectomy*. Am J Surg 1991; 161: 385-387

<sup>4</sup> Moosa A.R, Mayer A.D., Stabile B., *Iatrogenic injury to the bile duct*, Arch Surg 25:1028, 1990

<sup>5</sup> *NIH Consensus Development Panel on Gallstones, Laparoscopic Cholecystectomy* (1993) Gallstones and laparoscopic cholecystectomy Surg Endosc 7:271-279

- Low (<50 gallbladder interventions made) ..... 1 point
- 8. ultrasound criteria
- Gallbladder wall thickening.....1 point
- Distended gallbladder ..... 1 point
- Murphy sign.....1 point

The value of this score may vary between 1 and 12 points.

It's simple and convenient calculated based on historical data, basic clinical and laboratory data.

For values of this score > 5 points I propose:

- Further investigation performed preoperative (Colangio-MRI, ERCP)
- Making mandatory intraoperative cholangiography (or intraoperative ultrasound )

Subsequently, during postdoctoral research I applied this score system on patients undergoing cholecystectomy admitted in the Surgery Clinic I work in. In the period June 2014 - February 2015 I made a lot of 62 patients who underwent cholecystectomy for biliary suffering. Demographic lot structure was : 37 women representing 59.67% and 25 men representing 40.3%, with an average age of 56 years (range between 29 and 85 years).

Surgical interventions were performed in classic open way in 2 cases (as per primam indication), and in 60 cases using laparoscopic approach. In 3 cases the laparoscopic interventions were converted to open way (1 case of necessity because of bile leak appearance).

For the entire group of patients I calculated the preoperative score, obtaining values between 2 and 11 points, the number of patients with scores above 5 being 17 (27.4% of the group).

In these 17 patients I have conducted further investigations (2 cholangioMRI preoperative and 15 intraoperative cholangiography ).

Cholangio MRI was performed in a patient with a score of 11 points, the result being chronic sclerous cholecystitis , with a short cystic duct and probability for a bilio-biliary fistula. In this case the surgery took place in classical open way. The second cholangioMRI was a case of a patient with unclear medical history, the patient stated history of gastric and biliary surgery but unable to specify the type of surgery performed. The investigation showed a chronic cholecystitis with a single large calculus, the main bile duct of about 8 mm, but uninhabited, with wide passage into the duodenum (so probably was ERCP). In this case the surgical intervention was performed laparoscopic way.

Intraoperative cholangiography was performed in 15 patients for one of its setting the diagnosis of iatrogenic injury to bile ducts. Is the case of a patient in whom laparoscopic surgery began, but was found bile leak in the operating field, probably from the cystic stump. The surgery was converted and intraoperative cholangiography was performed and was detected lesion of the main biliary duct . Subsequently wound was sutured and a type Kehr biliary drainage was inserted (which has been maintained 6 weeks postoperatively, with favorable evolution).

In other cases the criterion for performing cholangiography was established preoperative by risk score calculation; in 7 patients being particularly useful for determining the local anatomy and possible anatomic variations encountered. There have been detected 2 anatomical variations: origin of cystic duct from the right hepatic bile duct and an accessory bile duct.

## RESULTS

There were found two Iatrogenic lesions : one type D Strasberg (lateral lesion of the main biliary duct) which was diagnosed intraoperatively and a type A Strasberg lesion (bile leak from accessory hepatic duct). Both patients evolved favorably postoperative and no surgical re intervention was required. Similarly, both patients were part of the batch with a score more than 5 points and that further investigation was imposed intraoperatively.

When performing intraoperative cholangiography on criteria established by the proposed algorithm I got the diagnostic of biliary lesion in 2 cases and prevented the appearance of biliary lesions in the group of patients in whom: was established indication open for intervention per primam (1 case), and was clarified biliary duct anatomy during surgery (7 patients).

## DISCUSSIONS

Performing further investigation (cholangioMRI, intraoperative cholangiography, intraoperative ultrasound, choledocopy) has raised many discussions, considering the costs of these investigations, the risks (allergies, able to produce injuries themselves), extending operating time.

Therefore there is controversy in the literature especially in terms of the type of investigation chosen and the time of performing it. In the previous study I demonstrated the superiority of 2 investigations: cholangioMRI (considered the gold standard in the diagnosis of iatrogenic biliary lesions) and intraoperative cholangiography. The other possible investigations (intraoperative ultrasound, choledocopy, endoscopic retrograde cholangiopancreatography) have numerous disadvantages, among which: increased cost, need for expensive equipment, trained staff, slow learning curve, technical difficulties.<sup>6 7 8</sup>

Of all investigations intraoperative cholangiography is the easiest, with cheap cost, well known by all surgeons or having a quick learning curve, extends the operating time in average with 20 minutes (range 15-45 minutes).

Another discussion in literature refers to the criteria for routinely or selective intraoperative cholangiography.

I do not support routinely performing of this maneuver because has disadvantages: increases costs and duration of surgery, if false positive result leads to non- required biliary tract exploration. However, in carrying out routinely has the advantage of surgical team training and leads to a correct identification of the anatomy of the biliary tree.

I sustain making this maneuver on selective basis - preoperative or intraoperative criteria.<sup>9</sup> The criteria that justify conducting intraoperative cholangiography are:

- Unclear local anatomy, anatomical anomalies identification
- The presence of stones in the cystic duct or cystic dilated than 4 mm
- Suspected iatrogenic injury (bile leak, identify several "cystic channels")
- Suspicion of common bile duct stones

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<sup>6</sup> Soper, Dunnegan, R.N, *Routine versus selective intraoperative cholangiogram during laparoscopic cholecystectomy*. World Journal of Surgery 16, 1133 – 1140, 1992:

<sup>7</sup> A Ragozzin, Rosaria De Ritis, A Mosca, V Iaccarino and M Imbriaco *Value of MR Cholangiography in Patients with Iatrogenic Bile Duct Injury After Cholecystectomy* AJR 2004, Volume 183, Number 6

<sup>8</sup> Callery MP. *Avoiding biliary injury during laparoscopic cholecystectomy: technical considerations*. Surg Endosc. 2006; 20: 1654–1658

<sup>9</sup> Davidoff AM, Pappas TN, Murray EA et al : *Mechanisms of major biliary injury during laparoscopic cholecystectomy*, Ann Surg 1992, 215(3):196-202

I have demonstrated, analysing the cases studied that performing intraoperative cholangiography may have a protective effect in case of iatrogenic biliary injuries. This is consistent with data reported in the literature:<sup>10</sup> "Making intraoperative cholangiography can reduce the rate and severity of iatrogenic biliary lesions and may help diagnosing them earlier" (SAGES Guidelines).

Several observational studies demonstrate that reduces by 50% the rate of iatrogenic lesions (Australia in 1988-1994)<sup>11</sup> or on the contrary, a study of 30 630 discharged patients who underwent cholecystectomy between 1991-1998, Washington showed a 61% higher rate of biliary lesions when cholangiography was not made.<sup>12</sup> Also it can limit the severity of a lesion already produced already (eg. avoid cutting the bile duct after clipping it wrong).

## CONCLUSIONS

Performing intraoperative cholangiography on selective criteria has an important role in preventing iatrogenic biliary lesions.

Establishing preoperative criteria for making this investigations (the proposed scoring system) identifies patients at highest risk of suffering an iatrogenic injury and establishes preoperative indication for performing them.

CholangioMRI recognized as the gold standard in the diagnosis of iatrogenic lesions has proven its value in terms of preventing possible iatrogenic injuries when it is performed preoperatively.

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<sup>10</sup> *Guidelines for the Clinical Application of Laparoscopic Biliary Tract Surgery*, 2010, [www.sages.org](http://www.sages.org)

<sup>11</sup> Fletcher DR, Hobbs MST, Tan P, Valinsky LJ, Hockey RL, Pikora TJ, Knuiman MW, Sheiner HJ, Edis A. *Complications of cholecystectomy: risks of the laparoscopic approach and protective effects of operative cholangiography*. *Ann Surg*. 1999;229:449–57.

<sup>12</sup> Flum DR, Koepsell T, Heagerty P, et al – *Common bile duct injury during laparoscopic cholecistectomy and the use of intraoperative cholangiography: adverse outcome or preventable error?* *Arch. Surg.* 2001;136:1287-92



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