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## **SPORT POLICY AND HEROES IN THE ROMANIAN COMMUNISM BETWEEN 1945 AND 1965<sup>1</sup>**

**Pompiliu-Nicolae CONSTANTIN \***

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### **ABSTRACT**

*SPORT OCCUPIED A CENTRAL PLACE DURING THE COMMUNISM. THIS ARTICLE COMES TO EXPLAIN HOW THE COMMUNIST REGIME IMPOSED A NEW VISION UPON ROMANIAN SPORT AND IDEA OF A HERO. THIS PAPER PRESENTS THE WAY HOW THE ROMANIAN SPORT DEVELOPED AND OBSERVES THE PROCESS OF HEROIZATION, WHICH TRANSFORMS THE SPORT CHAMPIONS INTO HEROES OF A NATION.*

*THE INTERNATIONALIST PERIOD OF ROMANIAN COMMUNISM DOESN'T MAKE ANY EXCEPTION. IN THIS CONTEXT, THE SPORT STARS WHO COME FROM THE ETHNIC OR NATIONAL MINORITIES DOMINATED THE LANDSCAPE OF SPORT PERFORMERS BETWEEN 1945 AND 1965.*

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**KEY WORDS:** SPORT IN COMMUNISM, ROMANIA, HEROIZATION, SPORT STAR

Le sport est un domaine important pour le régime politique totalitaire et chaque système de ce genre alimente l'espace sportif avec des compétitions diverses. La propagande occupe un lieu central<sup>2</sup>. Les événements qui se passent dans le sport sont déterminées par les décisions politiques. Il existe une interdépendance entre les deux parties. Dans ce sens, la propagande de la politique sportive communiste nous aide à comprendre le rôle du sport dans la construction d'une image favorable pour le régime politique.

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<sup>2</sup> XU, Guoqi, *Olympic Dreams: China and Sports, 1895-2008* (Londres, Harvard University Press, 2008), 227.

L'idéologie du Parti Communiste influence le parcours des activités sportives. Le modèle Soviétique est imposé dans l'espace roumain. De ce point de vue, on constate la formation des structures spécialisées dans l'organisation et la gestion du sport après les directions dictées par Moscou, en proclamant la doctrine marxiste-léniniste.

## **LES BASES DU SPORT DANS LE COMMUNISME EN ROUMANIE**

Le sport est un attribut du nouveau pouvoir. Le premier organisme conçu à s'occuper du problème sportif dans la Roumanie Communiste après le 23 août 1944 est « Organizația Sportului Popular » (L'Organisation du Sport Populaire, OSP).

La nouvelle situation du sport communiste se dresse contre le modèle d'organisation d'entre les deux guerres mondiales, basé sur des associations indépendantes. On constate une étape de transition entre le 7 mars 1946 et le 9 août 1949. Après cette date on peut affirmer que la construction de « l'homme nouveau » un correspondant dans le « sportif nouveau ». L'OSP avait la responsabilité d'établir le sport de masse, en ayant des indications précis de ce point de vue<sup>3</sup>.

Le 26 juin 1949, le Bureau Politique du Comité Central de Parti émet « la Décision sur le problème de la stimulation et du développement continu de la culture physique et du sport », un document politique avec le rôle de dynamiser le mouvement sportif en Roumanie. Les prérogatives de l'OSP sont prises en charge par le Comitetul de Cultură Fizică și Sport (Comité de Culture Physique et du Sport, CCPS). Les cours d'éducation physique deviennent obligatoires dans les écoles. Selon le modèle soviétique on prévoyait que le sport roumain était « un sport de masse, un sport multilatéral et un sport scientifique »<sup>4</sup>.

L'influence soviétique est observable dans le plan administratif. Un aspect important est le fait que les institutions de l'Armée et de la Police constituent leurs propres clubs, « Steaua » et « Dinamo ». Les deux clubs sont des organismes essentiels dans la production de sportifs, mais ils doivent être « des défenseurs pour la paix ». Steaua et Dinamo deviennent les principaux centres sportifs et les institutions offrent des avantages pour leurs membres.

Toute l'activité sportive est organisée dans un système pyramidal, bien ordonné par la stratégie de propagande du Parti. La Constitution de 13 avril 1948 proclame que

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<sup>3</sup> La loi no. 135/1946 concernant la formation de « L'Organisation du Sport Populaire » (OSP), troisième article, dans la Gazeta [Gazette], no. 58 de mars 1946, article 5, lettre a,b,c,d.

<sup>4</sup> Ion Balas, *Le Sport dans RPR*, (Bucarest, L'Édition du Comité Central d'OSP, 1949), 18.

l'éducation physique et le sport sont des « problèmes de l'état »<sup>5</sup>. En outre, l'ancien ministre dans le gouvernement Petru Groza, Emilian Angheliu, promettait au début de 1948, devant les responsables du sport de la Roumanie que le sport deviendrait une question d'intérêt politique, et le journal *Sportul Popular* (Le Sport Populaire) titrait à la une « Nous ferons du sport un problème de l'état »<sup>6</sup>. La direction est claire. Par les premières années, le sport est un instrument de légitimation pour le pouvoir communiste.

## LE SPORT ET L'HÉROÏSATION DE SES PRATIQUANTS

Dans ce contexte, le contrôle de la presse représente un autre argument que le sport est vue comme un instrument dans les mains de l'Etat. L'idéologie sportive est propagée par l'intermédiaire des publications de niche, surtout le *Sport Populaire*. Au début de l'année 1949, le journal *Sportul Popular* (Le Sport Populaire) annonçait qu'il éditerait une publication dans en hongrois aussi, pour la « population cohabitante », ayant le but « de l'engager plus que jusqu'à ce moment dans les grandes actions sportives de masse ». La publication se nommerait « Bukaresti Nepsport » et serait imprimée deux fois par semaine. On désirait la promotion de nouvelles réglementations qui concernaient « les minorités cohabitantes », mais dans le même temps, le nouvel journal sportif souhaitait promouvoir « l'esprit de l'amour pour la patrie et l'internationalisme prolétarien »<sup>7</sup>. En fait, l'apparition d'un tel journal dans la langue hongroise était aussi une reconnaissance du rôle des Hongrois dans le sport en Roumanie<sup>8</sup>.

En même temps, l'attitude et le style des articles du *Sportul Popular* concernant l'organisation du sport roumain est un argument qui soutient la politique d'intégration par la voie du sport des minorités. De ce point de vue, on diffusait « le mythe de l'unité » vu comme un aspect normal dans une république et en même temps nécessaire pour assurer une stabilité politico-économique et d'ordre social. Les performances sportives ont le rôle d'unifier les sentiments dans un pays.

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<sup>5</sup> « L'art. 20 – Les citoyens ont le droit de se reposer. Le droit de se reposer est assuré par la réglementation des horaires de travail, par des congés payés, en conformité de la loi, par l'organisation des maisons de repose, de maisons de soin, des clubs, des parcs, des terrains de sport et des établissements spécial aménagés. » La loi no. 114/1948, La Constitution de la République Populaire Roumaine dans la *Gazette* [Gazette], no. 87 bis de 13 avril 1948.

<sup>6</sup> *Sportul Popular* [Le Sport Populaire], 22 janvier 1948, 1.

<sup>7</sup> *Sportul Popular*, 3 mars 1949, 1.

<sup>8</sup> Presque 19,2% dans le juillet 1948, selon ANIC (Archives Nationales Historiques Centrales), fond CC de PCR, dossier no. 40/1945, f. 3.

En luttant contre la préoccupation de s'affirmer n'importe comment et contre la popularité des sports entre les deux guerres mondiales, le football et la boxe, les théoriciens du sport communiste roumain établissent la promotion d'autres sports. Dans ce cas, la discussion est plus complexe. En ayant à la base l'idée de la collectivité, le communisme soutient les sports d'équipe. L'explication vient du fait que la présence de plusieurs minoritaires dans le sport en Roumanie peut être masquée par leur intégration dans le cadre d'une équipe.

En plus, le communisme a un autre objectif important regardant le sport : la disparition des vedettes de type occidental. Pour ce raison, le régime politique fait une propagande pour les sports en équipe. L'argument des médailles n'est lui non plus oublié et les dirigeants du sport roumain accordent la priorité aux sports qui ont des résultats dans l'espace soviétique, d'où ils apportent des spécialistes en athlétisme, volley-ball, gymnastique, tir et natation. « Il faut que nous développons les sports de base pour le renforcement du peuple travailleur », on écrivait aussi à la une du journal *Sportul Popular* (Le sport Populaire). Ces sports étaient la gymnastique, l'athlétisme, la natation, le tir, le tourisme, l'aviation sportive, les sports nautiques et les échecs<sup>9</sup>.

Observant cette liste on constate une tendance de militarisation du sport. Les sports qui produisent les vedettes, le football, la boxe, ne sont pas mentionnés. Ils sont vus comme une connexion avec le passé. En même temps, l'idéologie communiste roumaine sollicitait un repositionnement et une ouverture vers les sports qui symbolisent la classe « bourgeois », le tennis de champ et l'escrime.

Pour ne pas abuser par la notion de héros, le communisme instrumentalise une décoration « maître du sport », selon le modèle soviétique. Le nouveau titre s'accorde annuel et le nom des lauréats est propagé à l'intermédiaire des medias. Le titre de « maître de sport » était une sorte d'attestation de la valeur, une reconnaissance officielle de la part du système politique. En mars 1951, 63 sportifs reçoivent le titre du « Maître du Sport » de la République Roumaine, parmi lesquels Nicolae Gurău, Ion Moina, Angelica Rozeanu, Vasile Teodosiu, Lia Manoliu, Mihai Bără, Nicolae Linca. En 1952, 80 sportifs reçoivent la même distinction<sup>10</sup>.

Dans ce temps, le régime communiste élimine rapidement la possibilité d'affirmation de quelques personnages avec un haut potentiel économique dans le monde

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<sup>9</sup> *Sportul Popular*, 5 Juillet 1949.

<sup>10</sup> *Sportul Popular*, 8 mars, 1952, 1.

du sport. Le plus célèbre est Dumitru Mociornita, le patron de Carmen Bucuresti. Un autre cas est Francisc Neumann<sup>11</sup>, d'origine juive, qui a formé en 1945 le Club ITA, avec 18 sections sportives, mais qui est la victime de quelques mesures économiques draconiennes avec un caractère politique. La nationalisation de sa propriété a enregistré aussi le départ d'un important nombre de Juifs d'Arad de son club. Tels attaques économiques ont affecté aussi d'autres investisseurs entre les minorités. Un autre exemple du même genre est celui de l'homme d'affaires arménien Armenag Damadian de Constanța. Il qui a contribué au développement des activités sportives entre les deux guerres mondiales. La nationalisation imposée par le système communiste l'a laissé sans propriété, mais sur ses terrains on a bâti entre autres un stade de football<sup>12</sup>.

### **LES « MINORITÉS COHABITANTES » ET LE SPORT**

Les minorités nationales et ethniques avaient dominé ces sports dans le période de l'entre-deux-guerres et elles continuent leur parcours sous la nouvelle idéologie. Le sport de masse impose un plus grand nombre de manifestations athlétiques, sous le prétexte des diverses occasions (le premier mai, 23 août, la célébration de quelques personnalités communistes ou la collaboration avec un autre état ami).

Le sport reste un phénomène avec une prédominance urbaine même dans les premières deux décennies de communisme. Dans ce contexte, regardant les rapports démographiques, l'influence urbaine des minorités est visible dans la participation sportive. Cet aspect est visible par la quantification du nombre des médailles et des records.

La question ethnique est liée avec la construction de « nationalités cohabitantes » (« naționalități conlocuitoare » en roumaine), qui a été instauré par Gheorghe Gheorghiu Dej. En théorie affirme une tolérance envers les minorités nationales, mais symboliquement il suppose que le Parti Communiste Roumaine voit la relation comme un lien de subordination<sup>13</sup>. Cette notion est seulement une redéfinition d'une construction terminologique utilisée par le Komintern de l'entre-deux-guerres.

<sup>11</sup> Francisc Neumann a été arrêté en 1947, et en 1948 réussit à émigrer dans Etats-Unis, où il mourra en 1998.

<sup>12</sup> Simion Tavitian, *Armenii dobrogeni în istoria și civilizația românilor* [Les Arméniens de Dobroudja dans l'histoire et la civilisation des roumains] (Constanța, Ex Ponto, 2004), 89.

<sup>13</sup> Olti Ágoston, Gidó Attila, *Minoritatea maghiară în perioada comunistă* [La minorité magyare pendant la période communiste] (Cluj-Napoca : Editions de l'Institut pour l'étude des problèmes de minorités nationales & Kriterion, 2009), 93.



Un document qui argumente cette tendance d'orientation de sportifs minoritaires vers les clubs de type soviétique est fourni par le Service de Comité de Sécurité Bacău, qui en faisant un rapport d'activité de l'Association Sportive Maccabi de la ville, suggère que l'orientation politique sioniste de ses membres est « incompatible avec notre régime démocratique d'aujourd'hui »<sup>15</sup>.

De toute façon, dans les premières années du communisme, les minoritaires représentent encore la principale source de champions, aspect explicable par le fait que le procès d'urbanisation découle lourdement, et les hommes qui proviennent du village préfèrent de se soustraire aux activités sportives, par commodité, à cause de la routine et de la préoccupation pour les travaux agricoles (qui les épuisaient physiquement dans les localités de naissance) ou par le manque d'une culture sportive.

Les sportifs minoritaires sont plus disposés à participer aux compétitions. Selon quelques stéréotypes qui ont persisté au vingtième siècle, la mentalité de ceux-ci aurait été un facteur essentiel dans le maintien d'un niveau élevé de préparation sportive. Le psychosociologue et anthropologue Vintilă Mihăilescu discute la connexion historique entre la mentalité et la culture roumaine et observe que la mentalité a acquis des connotations négatives dans la construction de l'identité roumaine<sup>16</sup>.

Ainsi, selon les sens de la notion d'altérité, on peut conclure qu'aux minorités de l'espace roumain on attribue au cours du vingtième siècle des traits positives au niveau mental. La translation de ce fait en plan sportif peut expliquer la perception que l'implication sportive des minoritaires a comme cause un raisonnement plus ample que la culture sportive. Pourtant, cette participation est explicable aussi du point de vue de la tradition, qui ne peut pas être interrompue brusquement par le régime communiste<sup>17</sup>.

En plus, le nouveau pouvoir a besoin de la représentation sportive de qualité des minoritaires. Comme le sport de masse ne donne pas des résultats immédiats, l'utilité des sportifs minoritaires est normale, surtout que cet aspect justifie aussi la collaboration avec les « nationalités cohabitantes ». Ainsi, les sportifs minoritaires contribuent décisivement

<sup>15</sup> Les Archives de l'Etat, Bucarest, La Direction Générale de la Police, dossier 102/1947, f. 126.

<sup>16</sup> Vintilă Mihăilescu, *Sfârșitul jocului. România celor 20 de ani* [La fin du jeu : la Roumanie de ceux 20 années] (Bucarest : Curtea Veche, 2010), 64.

<sup>17</sup> Dans le pire des cas on peut discuter sur une diminution de l'implication des minoritaires dans le sport comme le montre par exemple Stefano Bottoni dans le cas des artisans hongrois, qui avaient une vie sportive active (Stefano Bottoni, *Transilvania roșie. Comunismul român și problema națională : 1944–1965* [La Transylvanie rouge: le communisme roumain et le problème national : 1944–1965], (Cluj-Napoca, L'Édition de l'Institut pour L'Étude des problèmes des Minorités Nationales, Kriterion, 2010), 200.

aux premières performances externes remarquables du sport roumain pendant le communisme. On parle des titres mondiaux et des médailles olympiques surtout au handball et volley-ball. Ainsi, en 1956 le lot féminin de handball de la Roumanie obtient le titre mondial à Frankfurt, en 1960 obtient le deuxième titre mondial, et en 1962 le troisième titre mondial à Dortmund, en 1964 le deuxième titre mondial à Prague.

L'amitié déclarative avec les « nations cohabitantes » connaît un silence superficiel jusqu'aux années 1956-1958. La mort de Staline en 1953, la révolution hongroise en 1956 et le retrait des troupes soviétiques d'occupation en 1958 offrent la possibilité au communisme roumain de redéfinir sa politique interne et internationale. Avec 1958 commence une réduction graduelle des droits collectifs des minoritaires. L'enseignement connaîtra des modifications de ce point de vue, mais les effets ne peuvent pas être vus immédiatement.

Tous ces aspects concrétisent l'idée de l'existence d'un internationalisme de circonstance dans le sport roumain. Il est imposé sans objections jusqu'à l'arrivée au pouvoir de Gheorghe Gheorghiu-Dej. Le manque de cohésion au niveau des structures administratives du sport roumain contribue à cet aspect, parce que le modèle soviétique imposé ne pouvait pas être contesté, parce qu'on ne désirait pas cette chose.

Les politiques concernant l'organisation du sport reçoivent des directions claires de Moscou, et la désapprobation et la déstructuration du système qui caractérise la période de l'entre-deux-guerres est un aspect commun. Pratiquement, sans le vouloir, l'internationalisme de circonstance ne fait que prolonger un état de fait déjà existant pourtant entre les deux guerres mondiales, et même le fortifier, parce que l'implication des minoritaires grandit. Il est vrai que leur apport sera équilibré par l'intermédiaire de l'idéologie du sport de masse, vue comme un attribut du génie soviétique tutélaire. Le sport de masse amène vers le sport une bonne partie du monde rural ou du monde urbain immobile, en équilibrant numériquement la situation ethnique dans le sport.

Bien que le sport suppose sous une certaine forme le conflit et la compétition, le système communiste d'après 1948 a imposé l'idée selon laquelle le sport doit être un symbole de paix. Sous la coupole de l'internationalisme, le régime politique a propagé par la voie de ses instruments médiatiques l'idée que l'entendement domine les relations autrefois froides et belligérantes, comme dans le cas des rapports entre la Roumanie et la Hongrie et implicitement des relations entre les Hongrois à l'intérieur de RPR. Du point de

vue théorique, les choses semblaient claires. Les deux parties étaient amies et faisaient tout pour le démontrer à Moscou.

De ce point de vue, on impose le combat de quelques stéréotypes qui affirmaient la supériorité sportive de quelques régions avec une présence athlétique ethnique importante, comme le Banat. La presse de la capitale accuse beaucoup l'autoproclamée supériorité de Banat dans un article intitulé « Le Banat est-il encore le premier ? » où l'on critique la manque de développement du basket-ball dans la région<sup>18</sup>. La réponse vient dans le journal « le Sport populaire de Banat », qui écrit qu'il fixera ce problème, si celui-ci est la seule imperfection du sport local, mais il répond avec ironie qu'il ne se préoccupera pas du développement de tous les sports en transmettant d'une manière indirecte que la prétention de la presse de Bucarest est exagérée<sup>19</sup>. De ce point de vue, en commençant avec l'année 1948, le régime communiste mène un combat intensif pour limiter toute tendance d'affirmation régionale.

## CONCLUSION

L'implémentation du nouveau système sous modèle soviétique influence l'identité des sportifs. On constate que l'idée d'une nation directrice reste dans le centre de l'attention. Sur sa base, on arrose les performances sportives d'une seule nation, bien que la vérité soit plus complexe. L'environnement sportif souffre des mutations et cet aspect n'influence pas seulement les sportifs, mais aussi les clubs et le public, celui qui valide la popularité finalement, en dehors des résultats sportifs.

Le sport offre un note de nationalisme soit qu'on parle d'une période internationaliste, en théorie et dans le discours publique. Peter Zwick souligne que le communisme et le nationalisme se recourent dans un plan pratique et la Roumanie confirme son affirmation<sup>20</sup>.

On constate que le sport est utilisé pour l'éducation du peuple, en intérêt politique. Dans le même temps, par sa politique qui contrôle le sport, le régime communiste cherche à éliminer constamment les stéréotypes de l'espace sportif roumain. On valide la conclusion que les mesures du régime politique totalitaire sur le sport ont une influence multiple en plan sportif. Le profil de héros sportif se change. Il adopte, en théorie, des

<sup>18</sup> *Sportul Popular*, 8 avril 1948, 1.

<sup>19</sup> *Sportul popular bănăţean* [Le Sport populaire de Banat], 12 avril 1948, 1.

<sup>20</sup> Peter Zwick, *National Communism* (Boulder: Westview Press, 1983), 11-12.

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qualités caractéristiques pour les ouvriers. Le sportif doit être un personnage complexe. L'instrumentalisation du sport est synonyme avec une mutation du héros sportif.

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## SOME NARRATIVE ACCOUNTS REGARDING THE MILITARY USE OF ARCHERY IN 17<sup>TH</sup> CENTURY MOLDAVIA

Marius - Vasile VRÂNCIANU<sup>1</sup>

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### ABSTRACT:

THE MOLDAVIAN ARMIES OF THE SEVENTEENTH CENTURY SAW A CONTINUITY IN THE MILITARY USE OF ARCHERY, UNLIKE MOST OF THE EUROPEAN CONTINENT, WHERE MODERN FIREARMS QUICKLY REPLACED THE OLD TACTICS AND WEAPONRY.

DIFFERENT SOURCES REPORT THAT FOOT OR MOUNTED ARCHERS WERE DEPLOYED AS AUXILIARY TROOPS ON THE BATTLEFIELD IN MOST OCCASIONS AND USED IN PARRALEL WITH ELITE SOLDIERS WIELDING GUNPOWDER WEAPONS. PRACTICALLY APPLIED AS LATE AS THE EARLY EITEENTH CENTURY, ARCHERY KNEW A SIGNIFICANT DECLINE IN MOLDAVIA ONLY ALONG WITH THE CRITICAL MILITARY REGRESSION DURING THE SO-CALLED "PHANARIOTE RULE", HAVING BEEN COMPLETELY DISAPPEARED PROBABLY BY THE MID-1700'S.

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**KEY WORDS:** MOLDAVIA, SEVENTEENTH CENTURY, ARCHERY, MILITARY HISTORY.

### INTRODUCTION

In his monographic work, *Descriptio Moldaviae* ("The Description of Moldavia"), written in 1714, the former Prince of Moldavia Dimitrie Cantemir alleged that "*the Moldavians are very good archers, as well as spear bearers; but their greatest victories were won by the sword. Only hunters use rifles, for Moldavians consider it a shameful thing to use firearms against their enemies whom they wouldn't be able to reach either by military art or bravery*<sup>2</sup>". As it may easily be observed, a long-lasting military tradition such as archery was still common and in customary use in Moldavia at the mere beginning of the 18<sup>th</sup> century.

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<sup>2</sup> Dimitrie Cantemir, *Descrierea Moldovei*, ed. Miron Nicolescu (București: Socec & Co., 1909), 225.

Throughout the Middle Ages, in most of the Western and Central Europe, bows and arrows were largely replaced by the more powerful and effective (in certain circumstances) crossbows<sup>3</sup>. Thus, by the 14<sup>th</sup> century, archery was used in combat only by armies traditionally related to it, in regions such as England or Hungary. However, a completely different situation can be noticed regarding the Eastern part of the continent, where in Russian or Ottoman armies irregular troops of archers (mostly mounted) still played an important role until the early 19<sup>th</sup> century<sup>4</sup>. Of course, Moldavia didn't make an exception. Ever since the foundation of the principality, in the 14<sup>th</sup> century, the bow was a primary weapon to be used in combat and large formations of archers, combined with light cavalry divisions, were amassed for the battle disposition<sup>5</sup>. This general strategy was mainly used until the second half of the 16<sup>th</sup> century and, although crossbows and early gunpowder weapons (handguns and arquebuses) were utilized, they never fully replaced bows.

Nevertheless, as the Moldavian army started to rely on mercenaries<sup>6</sup> (as most European armies of the time), beginning around middle 16<sup>th</sup> century, and firearms industry saw an "explosion" of technological development, archers would soon be substituted by arquebusiers and, later, musketeers. For all that, archers were not completely replaced and the bow was still used extensively by irregular units throughout the next century.

Although a series of comprehensive works have been published concerning the military history of Eastern Europe and some focused, particularly, on Moldavia and Wallachia<sup>7</sup>, none of them described later use of archery (17<sup>th</sup> – 18<sup>th</sup> centuries) with more than a few short passages, "*en passant*". This brief article aims to bring some light over the subject, with an emphasis on narrative sources – chronicles, campaign diaries, foreign descriptions – regarding Moldavian military archery along the 17<sup>th</sup> century.

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<sup>3</sup> For further information see Terence Wise, *Medieval European Armies*, ed. Martin Windrow (London: Osprey Publishing, 1975).

<sup>4</sup> Radu Rosetti, *Istoria artei militare a românilor până la mijlocul veacului al XVII-lea* (București: Imprimeria Națională, 1947), 272. See also Laurence Spring, *The Cossacks: 1799 – 1815* (London: Osprey Publishing, 2003).

<sup>5</sup> Ian Heath, *Armies of the Middle Ages*, Vol. 2: *The Ottoman Empire, Eastern Europe and the Near East, 1300 – 1500* (Worthing, Sussex: Flexiprint Ltd., 1984), 79.

<sup>6</sup> See Nicolae Iorga, *Istoria armatei românești*, Vol. 2: *De la 1599 până în zilele noastre* (București: Tipografia „Cultura Neamului Românesc”, 1919), 1 – 93.

<sup>7</sup> Regarding this matter, worthy of consideration are the efforts of Romanian military historians like Nicolae Iorga, Radu Rosetti, Nicolae Stoicescu, Ion Barnea and so on.

## MOLDAVIAN ARCHERS AS IRREGULAR AUXILIARIES (1611 – 1630's)

Obviously, as the professional mercenaries were not yet significant in numbers like an absolute majority, auxiliary local troops were still present on the battlefield in the first decades of the 17<sup>th</sup> century. This meant more archers being deployed more often, so the accounts about them are significantly more frequent than in the middle third of the 1600's.

For Moldavia, strong evidence about 17<sup>th</sup> century use of archery can be traced back to Michael the Brave's campaign and brief rule (1600 - 1601), when archers were widely used on both sides<sup>8</sup>. However, for our considered purpose, worthy of mentioning are later events. As the three principalities, Moldavia, Wallachia and Transylvania were thrown into a period of political instability, military conflict and diplomatic disputes, both Constantin Movilă<sup>9</sup> and Radu Șerban<sup>10</sup> intervened in Transylvania against Gábor Báthory<sup>11</sup>, defeating him at Sânpetru, near Brașov (July 1611). About the battle, Báthory's biographer, Bojthi Veres Gáspár, tells us that Radu Șerban's army was supported in the left flank by two thousand Moldavian archers (the source doesn't mention if they were on foot or mounted), as well as some Polish arquebusiers and Tatars, all of them sent by Constantin Movilă<sup>12</sup>. A conspicuous observation can be drawn here, that archers were still preferred as a prevalent unit for skirmish in the Moldavian army.

Other reports will appear couple of years later, mostly from Polish sources, in a conjuncture marked by internal struggle, exceedingly short reigns (1 – 3 years) and Polish – Ottoman disputes. As the Moldavian and Polish joint armies were retreating, with Alexandru Movilă<sup>13</sup>, from a large force consisting of Turks, Wallachians and Tatars, they were ambushed and defeated near the lake Drăcșani (Northern Moldavia) in August 1616. Accounts described arrow shots from both sides (most likely from the Moldavians in the first case) as a prologue to the battle, in which several Polish high-ranking officers were badly wounded<sup>14</sup>, including Hetman Potocki<sup>15</sup>.

Four years later, in the same violent political context, we have two sources revealing the importance of the bow as a weapon, but also as a symbol of distinction and

<sup>8</sup> Iorga, *Istoria armatei*, 21 – 32. See also Rosetti, *Istoria artei militare*, 372 – 376.

<sup>9</sup> Prince of Moldavia, 1607 – 1611.

<sup>10</sup> Michael's successor in Wallachia, 1602 – 1610/1611.

<sup>11</sup> Ottoman-protected ruler of Transylvania, 1608 – 1613.

<sup>12</sup> Iorga, *Istoria armatei*, 88 – 89.

<sup>13</sup> Prince of Moldavia, 1615 – 1616, Constantin's Brother.

<sup>14</sup> Miron Costin, *Letopiseșul Țării Moldovei de la Aron Vodă încoace*, ed. P.P. Panaitescu (București: Fundația Regală pentru Literatură și Artă, 1944), 35.

<sup>15</sup> Nicolae Iorga, "Doamna lui Ieremia Vodă", *Analele Academiei Române. Memoriile Secțiunii istorice*, s. II, tom XXXII (1910), 1043 - 1044.

high social status (other references on this matter will follow in the further pages). One of them is a [probable] Polish description<sup>16</sup> of Gaspar Graziani's<sup>17</sup> Princely Court, which states that the Prince's personal guard consisted, among others, of "*seventy bearded halberdiers, six officers with yellow leather boots, long red mantles and small satin caps (...) they carry quivers tied with large silver belts, bows on their shoulders and silver maces.*"<sup>18</sup>. The bows, in this matter, are clearly related to social and military status, as are the silver maces. Afterwards, in the same year, as Polish – Moldavian troops once again fled from the Turks, a middle-ranking hussar officer held a semi-official campaign diary<sup>19</sup>. According to him, after the Turkish troops reached them up, most of the Moldavians, feeling betrayed by their foreign ruler, changed sides. As the Polish tried to defend in made-on-the-spot trenches, the diary has repeatedly reported waves of arrows coming from the last ones, usually fighting alongside Tatars in the Ottoman rearguard<sup>20</sup>.

One last testimony about the present matter in the "*pre-mercenary era*" comes from an Italian monk, Niccolo Barsi, who, between 1633 and 1639, traveled twice through Moldavia. In his short descriptions (probably written between 1633 and 1634) he mentions, regarding the customs of the Prince<sup>21</sup>, that "*he travels with a large suite. Four companies of arquebusiers, each one of 150 men, escort him. An equal number, bearing only bows with arrows and a sabre, walk behind them*"<sup>22</sup>. Needless to specify here that bows and arrows are slowly becoming nothing more than parade accessories.

### **ARCHERY IN THE "MERCENARY ERA"<sup>23</sup> (1630's – 1660's)**

The medial lapse of the 17<sup>th</sup> century was defined, for both Moldavia and Wallachia, by the two longer reigns of Vasile Lupu and, respectively, Matei Basarab<sup>24</sup>. A longer rule meant, of course, a period of relative peace and political stability (at least compared with the past thirty years of struggle). It also meant prosperity for both of the principalities and

<sup>16</sup> Made in the context of a meeting between Graziani and hetman Zolkiewski, autumn 1620.

<sup>17</sup> Prince of Moldavia of Croatian origin, 1619 – 1620.

<sup>18</sup> Iorga, *Istoria armatei*, 113.

<sup>19</sup> Maria Holban *et al.*, *Călători străini despre țările române*, vol. IV (București: Editura Științifică, 1972), 444.

<sup>20</sup> Holban *et al.*, *Călători străini*, vol. IV, 451 – 460.

<sup>21</sup> Either Moise Movilă (1633 - 1634) or Vasile Lupu (1634 - 1653).

<sup>22</sup> Holban *et al.*, *Călători străini*, vol. V, 77.

<sup>23</sup> See Iorga, *Istoria armatei*, 111 – 157.

<sup>24</sup> Prince of Wallachia, 1632 – 1654.

economical growth, thus leading, certainly, to better equipped armies<sup>25</sup>. Which, in other words, designates a much larger proportion of professional, elite mercenary units, in the numerical detriment of archers.

In this area of the 1600's we can only provide three sources regarding the use of the bows, two of which describe them as merely more than "pompous gadgets". The first of them comes from an Italian of Bosnian origins, Marco Bandini, who, ordained as a catholic archbishop, arrives in Moldavia in 1644 as a Jesuit missionary<sup>26</sup>. There is comprised, in his letters to Ingoldi<sup>27</sup> (same year), a brief but detailed description of the local military "attire", where it is recalled that "*they (the Moldavians, A/N) are usually bearing the bow and a quiver of arrows, the bent sabre and, few of them, the double-edged broadsword.*"<sup>28</sup>. Another close description of "ceremonial archery" is offered by the German author and polymath Eberhard Werner Happel, who was present at the wedding of Polish magnate Janusz Radziwiłł with Maria Lupu, daughter of Vasile Lupu. His depiction sketching the military games at the wedding includes a few paragraphs about the exquisite skills of the Turkish horse archers (serving in the personal guard of the Prince)<sup>29</sup>.

Last, but not the least, a third indication on the current issue is given by a Romanian chronicle, this time. More precisely, the summary exposition about the Battle of Finta – a major landmark in the conflict between the above-mentioned Vasile Lupu and his Wallachian counterpart, Matei Basarab – from the presumably anonymous<sup>30</sup> "*Letopisețul Cantacuzinesc*" (or "*The Cantacuzene Chronicle*"). In May 1653, the Wallachian army was entrenched trying to defend against the Moldavian – Cossack offensive. Apparently, when the soldiers' morale was at its lowest, Matei Basarab held an impressive speech, rising their combative spirit, after which according to the unknown author of the chronicle, "*they, being heartened again, started to fight with great bravery, all that day; with muskets and cannons, with arrows, with swords, hand-to-hand (...) terrifying and scattering the enemy*"<sup>31</sup>. No reference to Moldavian archers whatsoever. Yet, considering that a storm prevented the Moldavian victory (because of the heavy rainfall, the Moldavian muskets

<sup>25</sup> See Nicolae Iorga, *Istoria românilor*, vol. VI: *Monarhii* (București, 1938), 1 – 204.

<sup>26</sup> Holban *et al.*, *Călători străini*, vol. V, 294.

<sup>27</sup> Secretary of "*Sacra Congregatio de Propaganda Fide*" ("Sacred Congregation for the Propagation of the Faith").

<sup>28</sup> Holban *et al.*, *Călători străini*, vol. V, 331.

<sup>29</sup> Holban *et al.*, *Călători străini*, vol. V, 646.

<sup>30</sup> Written by Stoica Ludescu, according to certain historians of the Romanian literature.

<sup>31</sup> Stoica Ludescu (?), *Istoria Țării Românești (1290 – 1690): Letopisețul Cantacuzinesc*, ed. C. Grecescu (București: Editura Academiei R.P.R., 1960), 111.

became useless) we cannot refrain from asserting that Vasile Lupu's strategy was largely based on ranged infantry, both arquebusiers/musketeers and archers (especially since almost two thirds of the entire army were Cossacks).

As a very laconic ending, we believe it can be properly sustained that this last phase of warfare in the medieval history of Romanians meant, for the martial art of archery, a "beginning of the end", as it started to rapidly lose its significance and decline in popularity, while its equipment got close to nothing more than display dressing ornaments. Nevertheless, a short and ephemeral revival of the archers' practicability would follow.

### **ARCHERS AT THE TURN OF A CENTURY: SERVING THE OTTOMANS (1660's – 1711)**

In the following decades, last of the concerning century, we can plainly remark the emergence of a general phenomenon, in all of the three principalities: "national" armies cease to be national and begin to be used increasingly often as auxiliary forces in the wars of a regenerate Ottoman Empire<sup>32</sup>. This will ultimately lead to an accelerated decline, in the next hundred years, of the already broken-down armies; but for now it will only mean a noticeable increase in the proportional numbers of the old, traditional and almost forgotten types of units.

Following a last zenith of political and military power, the Turks started waging a series of campaigns in Eastern and Central Europe, culminating with the Siege of Vienna, in 1683. Because the Moldavian army, like the others, played a minor role of assistance and logistic support, the State's concern for a well-equipped and well-trained army began to diminish. Thus, in just a few years, the proportion of professional hired mercenaries went considerably down.

There seems to be a wider range of accounts related to archery in the late 17<sup>th</sup> century Moldavian army, from local chroniclers to foreign reports. Two of the most significant ones specify it to be successfully utilized during the Transylvanian campaigns, in the early 1660's. When György Rákóczi II was reestablished, in spite of Ottoman warnings, as Prince of Transylvania (1657), a Turkish intervention was imminent. As recalled by Miron Costin<sup>33</sup>, at the Battle of Gilău (where Rákóczi was finally defeated)

<sup>32</sup> For further details see Iorga, *Istoria armatei*, 157 – 192.

<sup>33</sup> Moldavian chronicler (1633 - 1691). Himself a participant in several Turkish military undertakings, he would later recall some of the witnessed events in his main work, "*Letopiseșul Țării Moldovei de la Aron Vodă încoace*" ("A Chronicle of Moldavia from Prince Aron till Today").

there were two thousand Wallachians and one thousand Moldavians fighting alongside Ottoman forces. Describing the strategy used, a full cavalry charge, the same author presents the Ottoman commander, before the main assault, as giving specific orders that only hand-to-hand combat weapons should be used, and “*if anyone would grab a bow or another weapon, he shall be beheaded*”<sup>34</sup>. Some years later, as the Austrian – Ottoman conflict will reemerge<sup>35</sup>, Transylvania will become the main battlefield for the two belligerents. In the frequent disputes arisen here between different throne candidates (each supported by one or the other party), we notice a significant participation of Wallachians, Moldavians and Tatars on the Turkish side. In the summer of 1663, there were apparently as much as four thousand troops coming from each principality, both armies comprising horse archers in large numbers<sup>36</sup>.

Later significant statements regarding Moldavian archery are provided by the will of a French secretary in Constantinople, known only as „sieur Delacroix”<sup>37</sup>. Among his descriptions of the various subject provinces and populations of the Ottoman Empire, there are two mentionings (both from 1676) worthy of consideration. Depicting the investiture of the Moldavian ruler by the Sultan, Delacroix tells us that when leaving the Turkish capital, the Prince is followed by a personal guard consisting of „*two companies of Turkish soldiers, given by the Porte, (...) followed by sixty horse archers of his own and the sword bearer*”<sup>38</sup>. In the same writings, there are featured some Moldavian Easter customs, as seen in Iași (the country’s capital), among which a particular game shows some importance within our perspective: “*A fur cap was thrown in the air and it had to be shot with an arrow by a moving horse archer, before falling to the ground*”<sup>39</sup>.

Based on the last three pieces of information we can safely assume that foot archers were no longer used in the Moldavian army for some time (probably since the 4<sup>th</sup> or 5<sup>th</sup> decades), due to their relative inefficiency against modern, sophisticated weaponry. However, as it can be seen, horse archers were still attending the battlefields, being efficacious enough for their mobility and “bite and run” strategy. Such an assertion could be supported by a fourth reference, regarding the military equipment of a Moldavian

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<sup>34</sup> Costin, *Letopiseșul*, 216.

<sup>35</sup> See Christabel Donatienne Ruby, *Austro-Turkish War (1663-1664)* (Fidel, 2011).

<sup>36</sup> Iorga, *Istoria românilor*, vol. VI, 283.

<sup>37</sup> Holban *et al.*, *Călători străini*, vol. VII, 232.

<sup>38</sup> Holban *et al.*, *Călători străini*, vol. VII, 259.

<sup>39</sup> Holban *et al.*, *Călători străini*, vol. VII, 265.

mercenary (a certain Lascăr Cioranul) attempting to enlist for the Zaporozhian Host, around 1690: “*two horses, one pair of arrow quivers with their bows and a sabre*<sup>40</sup>”.

In order to better exemplify the hypostasis of archery during the last years of the 17<sup>th</sup> century, we had to take into consideration, as we lack direct accounts, three sources related to the last anti-Ottoman action of Moldavia, the Russian Pruth River Campaign. Planning to ally himself with the Russians against the Turks<sup>41</sup> (which he did), Prince Dimitrie Cantemir ordered a general conscription<sup>42</sup> in the spring of 1711, about which a local chronicler, Ion Neculce<sup>43</sup>, recalls: “*So many people wanted to enroll (...) [that] the bowyers sold out [all] their bows, arrows and quivers, and their stores were empty*<sup>44</sup> ”. Two other sources acknowledge the presence of archers during the above-mentioned campaign. Erasmus H. Schneider von Weismantel, a German officer fighting in Poland for the Swedish army, reaches Northern Moldavia (1710) in a rather complicated conjuncture<sup>45</sup> and holds a campaign diary (1710 - 1714) containing some monographic notes about the country. Observations about the local army (presented as being in a poor condition), include a note about the weapons utilized: “*the sword, the bow and arrow and also the pike, few are those who have pistols or a musket.*<sup>46</sup>”. The second annotation comes from a French officer in the Russian army, Jacques Moreau de Brasey<sup>47</sup>, who wrote in 1711: “*He (Prince Cantemir, A/N) swore allegiance to the marshal (field marshal Count Sheremetev, A/N) and gave him about five or six thousand Moldavian troops, mostly light cavalry, armed with arrows and short pikes, like the Cossacks.*<sup>48</sup>”. Another reference to mounted archers, as we can see.

As previously emphasized in “Introduction”, the military use of archery was patently still alive and currently in the early 18<sup>th</sup> century Moldavia. Its regression and total disappearance would only occur as a part of a general phenomenon of severe military

<sup>40</sup> Iorga, *Istoria armatei*, 170.

<sup>41</sup> See Lambert M. Surhone, Mariam T. Tennoe and Susan F. Henssonow, *Russo-Turkish War (1710 – 1711)* (Betascript Publishing, 2010).

<sup>42</sup> Nicolae Stoicescu, *Curteni și slujitori. Contribuții la istoria armatei române* (București: Editura Militară, 1968), 305 - 306.

<sup>43</sup> Moldavian chronicler (1672 - 1745). Main work, “*Letopisețul Țării Moldovei de la Dabija Vodă până la a doua domnie a lui Constantin Mavrocordat*” (“*A Chronicle of Moldavia from Prince Dabija to the Second Reign of Constantin Mavrocordat*”).

<sup>44</sup> Mihaïl Kogălniceanu (ed.), *Cronicele României sau Letopisețele Moldaviei și Valahiei*, vol. III (București: Imprimeria Națională C.N. Rădulescu, 1874), 45.

<sup>45</sup> Holban et al., *Călători străini*, vol. VIII, 311.

<sup>46</sup> Holban et al., *Călători străini*, vol. VIII, 347.

<sup>47</sup> Holban et al., *Călători străini*, vol. VIII, 459 - 460.

<sup>48</sup> Holban et al., *Călători străini*, vol. VIII, 463.

decline along the next decades, as a consequence of stricter Ottoman control and supervision.

## CONCLUSION

Bows and arrows were a primary weapon in Moldavia throughout the Middle Ages and continued to be so long in the Pre-Modern Era. Although firearms spread over the Eastern Europe with the same speed they did in the Western part of the continent, they were not as popular in replacing old tactics and weaponry.

In the 17<sup>th</sup> century, Moldavia was one of the last areas in Europe (along with England<sup>49</sup>, Sweden<sup>50</sup>, Hungary<sup>51</sup>, Russia<sup>52</sup>, Wallachia and the Ottoman Empire) where bows were still in full use. Probably the best explanation for this would take into consideration the strong influences manifested through the region, such as the Mongol/Tatar, or – later – the Hungarian and Turkish ones. A significant, inherent tradition was thereby formed, with deep roots in the collective mentality. A comparison with Early Modern England could be made in this direction, as the traditional longbow was used in parallel with firearms for more than two hundred years and, even after, it was not easily replaced, but gradually. The value and significance of archery, in both cases, appear to be similar, also<sup>53</sup>. Under such circumstances, we can perceive an emerging pattern: areas where crossbows were extensively used in the Late Middle Ages (Western Europe, excepting the British Isles, Central and Southern Europe) were the first to replace them with gunpowder weapons, as soon as they were invented. In the other regions, where the bow prevailed on the battlefields, firearms would be adopted progressively and used along with bows for some time (decades or, in the current case, centuries). There is no point, however, to change the hereby discourse towards a new direction whereof completely independent studies could be made. It is only important to acknowledge that archery was still a considerable domain of the military art in Moldavia over the whole 17<sup>th</sup> century, its disappearance (probably by the mid-1700's) could only be placed in the general context of a hastened military decline, a defining process of the 18<sup>th</sup> century in the region.

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<sup>49</sup> See E.G. Heath, *Archery : A Military History* (London: Osprey Publishing, 1980).

<sup>50</sup> Sámi archers were present in Charles XII's army.

<sup>51</sup> See in Rosetti, *Istoria artei militare*, 321.

<sup>52</sup> Rosetti, *Istoria artei militare*, 321.

<sup>53</sup> See Clive Bartlett, *English Longbowman: 1330 – 1515* (London: Osprey Publishing, 1995).

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## ON THEACHING RELATED ASPECTS IN ALBA DE JOS COUNTY IN THE 18<sup>TH</sup>-19<sup>TH</sup> CENTURIES: ROMANIAN CONFESSIONAL SCHOOLS.

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### ABSTRACT:

*DURING THE 18<sup>th</sup>-19<sup>th</sup> CENTURIES, SCHOOL AND CHURCH REPRESENTED SPIRITUAL FOCAL POINTS FOR THE RESISTANCE MOVEMENT OF THE TRANSYLVANIAN ROMANIANS. WHILE THE GOVERNING LAIC STATE INSTITUTIONS TOOK OVER FROM CHURCH SOCIAL PREROGATIVES, SUCH AS: CIVIL STATUS, SOCIAL ASSISTANCE, CHARITY AND EDUCATION, IN THE CASE OF THE ROMANIAN POPULATION CHURCH CONTINUED TO BE THE PROTECTOR AND SUPPORTER OF THE EDUCATIONAL, POLITICAL AND CULTURAL NEEDS AND ASPIRATIONS. THIS SITUATION WAS THE RESULT OF THE POLITICAL-RELIGIOUS DEVELOPMENTS OF THE TIME, WHEN ROMANIANS WERE GIVEN THE STATUS OF "TOLERATED-ACCEPTED" ETHNIC GROUP, ASIDE FROM THEIR DIFFERENTIATION FROM RELIGIOUS POINT OF VIEW.*

*ACCORDING TO THEIR CONFESSION, I.E., GREEK-CATHOLIC OR ORTODOX, ROMANIANS HAD MORE OR LESS ACCESS TO KNOWLEDGE, TO EDUCATION. THE LEADERS OF THE TWO ROMANIAN CHURCHES WERE CONFRONTING WITH THE AUTHORITIES CONCERNING THE IMPLEMENTATION AND APPLICATION OF THE IMPERIAL POLICIES CONCERNING THIS ETHNIC GROUP. IT IS WELL KNOWN THAT IN THE BEGINNING THE TWO APPROACHES WERE INDIVIDUAL; NEVERTHELESS, AFTER A WHILE THEY GATHERED INTO A COMMON VOICE TO PROTECT THE INTERESTS OF THE ROMANIAN NATION. ALBA DE JOS COUNTY PROVIDES SOME OF THE BEST EXAMPLES OF THIS BICENTENNIAL POLITICA, SOCIAL AND CULTURAL STRUGGLE. NOT ONLY THAT ALBA DE JOS WAS ONE OF OLDEST ADMINISTRATIVE UNITS IN TRANSYLVANIA, WITH ONE OF THE LARGEST ROMANIAN COMMUNITY, BUT IT ALSO PRODUCED A LARGE NUMBER OF HISTORICAL PERSONALITIES. MANY OF THESE HEROES WERE EITHER MEMBERS OF THE ROMANIAN CLERGY, OR THEY WERE TRAINED IN CONFESSIONAL SCHOOLS FROM ALBA DE JOS COUNTY.*

*WHILE THE PRESENT-DAY ROMANIAN SOCIETY SEEMS NOT TO BE ABLE TO OVERCOME THE POST-REVOLUTIONARY TRANSITION, AND THE EDUCATIONAL SYSTEM SEEMS TO BE BANKRUPT, AN OVERVIEW ON THESE TWO CENTURIES OF INSTRUCTION AND FORMATION OF STRONG CHARACTERS COULD PROVIDE VALUABLE EXAMPLES. WHILE SIGNIFICANT PART OF THE OFFSPRING OF THE CURRENT EDUCATION SYSTEM LEAVES THE COUNTRY WITHOUT RETRIEVING ANY BENEFIT, SUCH HISTORICAL EXAMPLES OF COHERENT EDUCATION POLICIES TOWARDS THE NATIONAL INTEREST SHOULD BE AN INSPIRATION FOR THE PRESENT GENERATIONS.*

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**KEY WORDS:** EDUCATION, CONFESSIONAL SCHOOLS, ALBA DE JOS COUNTY.

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## INTRODUCTION

In Transylvania of the 18<sup>th</sup>–19<sup>th</sup> centuries, school and church represented the spiritual leadership of the Romanian Resistance. The educators and the priests, “genuine apostles of belief and knowledge, have preserved the aspirations and hopes of the Romanian community, while also building-up knowledge, attitude and characters”<sup>2</sup>. During these two centuries, the laic state gradually tried to take over most of the traditional social attributes of church, such as: *civil status, charity, assistance and education*, in the process of “becoming the new protecting and paternal authority”<sup>3</sup>. In the case of Transylvania, when addressing the topic of *Romanian schools*, one has to mention that during the 18<sup>th</sup>, but also the 19<sup>th</sup> century, this institution was closely related to church.

We have decided to study churches and schools in the former Alba De Jos County based on the fact that it is the oldest county in Transylvania<sup>4</sup>, officially attested in 1117<sup>5</sup>. Moreover, during the 18<sup>th</sup> and 19<sup>th</sup> centuries, the Romanian population represented an overwhelming majority<sup>6</sup>. For example, in 1857 *Alba Prefecture* had a population of 174,282 of which 151,625 (86.99 %) were Romanians. Thus, the Alba de Jos County provides the best case study for studying education in Romanian in those times. Additionally, when observing the administrative situation and evolution of this county, independent on the imposed imperial or Hungarian administrative reforms<sup>7</sup>, one can notice two important centers for Romanian school and church, and overall history in general, i.e., Alba-Iulia and Blaj were located here.

<sup>2</sup> Florin Zamfir, *Scoala si societatea din Comitatul Timis*,

<sup>3</sup> Simona Nicoară, *Națiunea modernă. Mituri, simboluri, ideologii*, (Cluj Napoca, :Accent, 2002), 183.

<sup>4</sup> Concerning the procedure of administrative dissolution of other counties from Alba County, see also Josif Benkő, *Transilvania sive Magnus Principatus olim Dacia Mediteranae*, Vinndobonae, 1788 vol.I chapt. IV, cart.VI, M.a chapt.VI, pp 3-8, apud Gheorghe Anghel, *Alba Iulia*, București 1987, 5-37.

<sup>5</sup> V. Meruțiu, *Județele din Ardeal și din Maramureș până în Banat*, (Cluj 1929), 15-18.

<sup>6</sup> The only county in Transylvania with a larger Romanian population as compared to that of Alba de Jos was Zarand County. The latter was dissolved by the Austrian-Hungarian authorities via the last administrative reform of the 19th century, in 1876, being considered „too Romanian”.

<sup>7</sup> Mathias Bell, *Compendium Hungariae geograficum, Posonii et Casoviae*, 1779, p 144; for the same evolution trend, see also Cserni Béla, *Alsóféhér Vármegye Monografiája*, vol I, part 1, Nagy-Enyed, 1896, pp 3-7; Lucas Iozeph Marienburg, *Geographie der Grossfürstentums Siebenbürgen*, Hermanstadt, 1913,II, pp 1-13; Rotariu Traian, *Recensământul din Transilvania 1869*, (Presa Universitară Clujeană 2008), 7-37; V.Meruțiu, op cit, pp 144-150; Virgil Ciobanu, *Statistica românilor din Ardeal făcută de administrația austriacă la anul 1760-1762*, excerpt from the "Anuarul Institutului de Istorie Națională", Cluj, III (1924-1925), 9-17.

## 1. CULTURAL LIFE BETWEEN ALBA IULIA AND BLAJ

The first aspects related to independent cultural life in Alba-Iulia town are represented by the continuity of the “ancient Dacian-Roman culture”<sup>8</sup> during the 10<sup>th</sup>–12<sup>th</sup> centuries. In those times, Alba-Iulia represented an important centre of the Principality of Transylvania,

hosting the first schools in connection to the monastery churches<sup>9</sup>.

Genuine cultural dimension is present only in the 15<sup>th</sup> century, when the first humanistic influences led to teaching Latin and German in the Catholic schools in Alba and its surroundings during the leadership of Bishop Gheorghe Lepeș. Financial support for schools, originally provided by clerical authorities only, started to be covered also by laic administrative authorities<sup>10</sup>. In the second half of the 15<sup>th</sup> century, a school connected to the Roman-Catholic Church was created, aimed at teaching the seven liberal arts<sup>11</sup>.

This situation changed in the period of the Transylvanian Principality, when education in *towns* improved under the influence of the new political-economic-religious conditions created following the *Reform*. Additionally, Alba-Iulia was elected as the capital of the new Principality. The starting point was represented by the Diet meeting in 1557, when several monasteries were transformed into Protestant colleges, among them being also the Alba-Iulia one. Prince Ioan Sigismund even intended to proclaim the Alba College a high education institution. In response, in 1579 Prince Stefan Bathory asked for the help of the Jesuits, whom he installs in Alba-Iulia, as well as in Cluj and Cluj-Mănăștur, in the view of creating new schools. In Alba-Iulia, starting with the 18<sup>th</sup> century, the most prolific educational activity took place on the *Jesuit Gymnasium*, supervised and financially supported by the *regional (“gubernial”) and royal (“aulic”) Austrian authorities*. The curriculum here included *writing, Latin and Religion*<sup>12</sup>. For example, by mid-18<sup>th</sup> century, about 100 pupils were registered at the Jesuit Gymnasium. Concerning the Romanian schools required by the Greek-catholic church leaders and guaranteed by the *Leopoldine Diplomas* for the Romanians in Alba-Iulia, they were left on stand-by. Accordingly, the only solution for the young Romanians interested in getting an education

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<sup>8</sup> N. Albu, *Istoria învățământului românesc din Transilvania până la 1800*, Blaj 1944, Tip. Lumina, p 144.

<sup>9</sup> Iacob Mârza, *Aspecte din istoria învățământului la Alba Iulia sec.XVI-XVIII*, 73.

<sup>10</sup> *Istoria României*, II, Bucuresti 1962, 687-688.

<sup>11</sup> Constantin H. Economu, *Viața culturală a orașului Alba Iulia până la 1700*, in "Apulum", 1, 1939-1943, 233.

<sup>12</sup> N. Albu, *Istoria invatamantului romanesc din Transilvania pana la 1800*, Blaj 1944, 144.

was represented by the Jesuit Gymnasium; there, about 30 Romanians were registered as pupils each year<sup>13</sup>. This situation continued also under Ioan Bob as Greek-catholic Bishop, who was financially supporting with fellowships the Romanians studying at this gymnasium in Alba Iulia<sup>14</sup>.

The scholastic history of Blaj<sup>15</sup> starts with the Greek-catholic Bishop Ioan Inochentie Micu Klein who managed to bring the United Bishop Seat here between 1728, the year of his nomination, and 1736. The opening of the first schools in Romanian was also tested in Blaj. We will come back in the following chapters to the importance of this locality for confessional education; nevertheless, here we would like to mention that until the Great Union of Transylvania with Romania in 1918, Blaj represented the only urban community from Transylvania dominated by a Romanian majority<sup>16</sup>.

## 2. SCHOOL LEGISLATION.

For long-term, the Habsburg Empire was restricting the access to education and the usage of their language in public life for the Romanians in the Transylvania, Banat and Crişana provinces. Thus, the reforms introduced by Emperor Maria Theresa and then especially by Joseph II marked a turning point, providing an opportunity for opening new schools, in Romanian.

In 1760, the *Aulic Commission* for education was created in Vienna with the goal of supervising the reorganization of the educational system in the whole empire.

This was followed by two important laws, *Ratio Educationis* (1777) and *Norma Regia* (1781) that defined the framework for the educational reform, with an increasing central control as opposed to that of the church. In this context, schools for the Romanian population were also opened. Most of the primary schools were opened after the mutiny in 1784, the *Patent* in August 1785 explicitly stipulating the right to education for the Romanian peasants. The tens of communal schools founded in Arad County, in Bihor, in Banat border area, in the area of the 1<sup>st</sup> Border Regiment, in Zlatna mining area, in Bârsa

<sup>13</sup> Nicolae Iorga, *Istoria învăţământului românesc*, Bucureşti 1971, 60-61.

<sup>14</sup> Iacob Mârza, *Şcoală şi naţiune. Şcolile din Blaj în epoca renaşterii naţionale*, Ed. Dacia, Cluj-Napoca, 1987, p 64; N. Albu, *Istoria scolilor romanesti din Transilvania între 1800-1867*, 71.

<sup>15</sup> the first mention to Blaj locality was done in 1252, when Count Herbord bought the property located "at the junction of the Târnavă Rivers"; in 1313, Blasius the son of Herbord was the owner of this property. The name Blaj comes from him: Villa Blasii, Balázsfalva (Blasiu's village), Blasendorf

<sup>16</sup> Rotariu Traian, op cit, pp 7-37.

area, are all proofs of the Imperial Court's intention to gain the Romanian population from Banat and Transylvania on its side<sup>17</sup>.

Another important step in promoting education in Romanian language was represented by the assertion of the *confessional education* following the *Tolerance Edict* (1781). This was achieved by the opening of new schools for the Orthodox from Transylvania adding to the older confessional schools from Blaj. Every national community exceeding 100 members was entitled to found its own church and school<sup>18</sup>.

Following the degradation of the relationship between Joseph II and the pope Pius VI, the imperial authorities stopped the financing for study fellowships to Rome and in exchange supported the access of young Romanians to study in Vienna, especially at the *St. Barbara College*<sup>19</sup>. In 1783, the emperor gave a positive resolution to the Bishop Ioan Bob's complaint related to the endowment of the *Romanian Church United with Rome* clergy and schools, in the view of improved education of the Romanian population<sup>20</sup>.

In the 19<sup>th</sup> century, the organisation of the educational system in Transylvania was based on the *Nova Ratio Educationis Publicae* law issued in 1806<sup>21</sup>.

After 1830, the educational system in Transylvania registered several progressive trends, related to its secularization on one hand, and to the generalization of the village schools on the other. Leaders of the Romanian intellectual elite of Transylvania such as Gh. Barițiu and Simion Bărnuțiu, as well as the German erudite Stefan Ludvig Roth were actively promoting scientific education adapted to the current needs of the society. The framework for these developments were the secondary schools and the universities in the old educational centres of Transylvania in Cluj, Sibiu, Brasov, Blaj, Aiud, Beius, or Sighisoara. The new educational structures were supporting the interests of the bourgeoisie, but also the emancipation of other social categories. The oldest higher education centre in Romanian language from Blaj was reorganized based on modern principles, with an emphasis on the study of mathematics and physics, besides geography, history and philosophy. Here, Simion Barnutiu was teaching *Philosophy*, while I. Rusu was teaching *Universal history*, including the new topic *History of Romanians*.

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<sup>17</sup> Jacob Mârza, *Fapte și momente din istoria învățământului în Transilvania. Secolele XVIII-XIX*, Editura Imago, Sibiu, 2002

<sup>18</sup> N. Cordoș, Un plan de școală românească din anul 1828, in "Acta MN", VI, 1969, pp 585-591.

<sup>19</sup> David Prodan, *Supplex Libellus Valachorum*, chapter "Ideile noi social-politice", Ed. Științifică și Enciclopedică, București 1984, p 243.

<sup>20</sup> Ioan Chindriș, Un *Supplex Libellus Valachorum* inedit, in "Manuscriptum", 1980, nr. 1, pp 89-104.

<sup>21</sup> N. Albu, *Istoria școlilor românești din Transilvania între 1800-1867*, București, 1971, p 72.

In 1833, the government of Transylvania issued a decree stating the *history* was considered a tolerated subject in the Romanian schools' curriculum, while in 1842 the *Diet* in Cluj ruled that Hungarian was going to be introduced as teaching language in all the schools in Transylvania. Accordingly, this resulted in strong protests among the leaders of the national Romanian movement.

The evolution of the Romanian education during the second half of the 19<sup>th</sup> century can be subdivided into two periods: a) between 1848 and 1868, when the education law was elaborated and the Romanian school system registered a significant progress especially due to the activity of the metropolitan bishop Andrei Șaguna, and b) after 1868 when, following the installation of the dualist system the precepts of the law of education were not any more applied and the national pedagogical system recorded a forced Hungarian influence (the “*maghiarization*” process).

Starting with 1850, when the administration of the schools was taken over by the Consistories and the leaders of the two *confessions*<sup>22</sup>, *Orthodox* and *Greek-Catholic*, we can objectively define a *confessional educational system*.

In 1868 the primary education system is reorganized in Hungary following the *Law of the Cult Ministry*, of Baron Josef Eötvös. This law states that primary education is obligatory for all the citizens in ages between 6 and 15, and that parents are free to decide the school where to send their children. Concerning *Romanian confessional schools*, the authority of the church is granted by article IX of the Constitution, except for the right of “supreme inspection” that is granted to the state<sup>23</sup>.

The “*maghiarization*” of the Romanian schools is first perceived following the *Law XVIII* (1879) that imposed Hungarian language as obligatory subject starting with the second year of popular education. Confessional teachers were forced to learn Hungarian too, in order to be able to educate their pupils.

Towards the end of the 19<sup>th</sup> century, some changes could be noticed as a result of the national politics of the church in order to support the education in Romanian, but also following the “*maghiarization*” process resulting in an increased economic pressure on the Romanian communities. In order to get a clear image on the situation of the teaching staff, the district protopopes were required via the Address no. 2255/1895 to ask for error-less

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<sup>22</sup>N. Albu, op cit, p73 .

<sup>23</sup>Onisifor Ghibu, Școala românească din Transilvania și Ungaria. Dezvoltarea ei istorică și situația ei actuală , București, 1915, p 18.

statistics on the number of occupied and free positions, equipment, frequency in the classroom – all signed by the priests and the church curators.

The involvement of the priests representing both Romanian confessions in Transylvania in the management of the educational act played a decisive role in including the Transylvanian Romanian population into the “cultural class”<sup>24</sup>.

### 3. CONFESSIONAL ROMANIAN SCHOOLS

At the transition from the 16<sup>th</sup> to the 17<sup>th</sup> century, the idea of a Romanian school associated to the Metropolitan church funded by Mihai-Viteazul was outlined<sup>25</sup>, but only for short while. Documents of the 17<sup>th</sup> century, during the leadership of Price Gabriel Bethlen, mention the idea of a Romanian school<sup>26</sup> associated to the well-known *Academia Collegium*, as a way to attract the Romanian population to *Calvinism*<sup>27</sup>.

By the end of the 17<sup>th</sup> century, once that Transylvania is integrated as province of the Habsburg Empire, the life of the Romanian population is doubtlessly recording big changes: not only from religious point of view – through the foundation of the Greek-catholic church, but also administratively, with the loss of Province capital status for Alba-Iulia. Here, also at the end of the 17<sup>th</sup> century, the Reformed Gymnasium is reorganized in 1698.

The first Greek-catholic hierarch, Atanasie-Anghel, intended to create in Alba-Iulia a Latin-Romanian school<sup>28</sup>. This trend was underpinned by the Imperial policies related to the opening of schools for Romanians<sup>29</sup> resulting in the formation of educated and devoted citizens, and in the increase influence of the clergy in convincing the population towards the *religious union*<sup>30</sup>. All these projected outcomes were desirable for the imperials in order to reinforce the Catholic establishment vs. the Protestants, taking into account that the Romanian population represented the majority in Transylvania.

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<sup>24</sup> Remus Campeanu, *Intellectualitatea romanilor din Transilvania in veacul al XVIII-lea*

<sup>25</sup> Iacob Mârza, *Alba Iulia 2000*, Alba-Iulia 1975, 35.

<sup>26</sup> George Barițiu, *Părți alese din istoria Transilvaniei pe două sute de ani in urmă*, 1, Sibiu 1889, 120.

<sup>27</sup> Iacob Mârza, *Aspecte din istoria învățământului la Alba Iulia sec. XVI-XVIII*, 73.

<sup>28</sup> Ileana Bozac & Pompiliu Teodor, *Învățământul românesc din Transilvania în sec. al XVIII-lea și începutul sec. al XIX-lea*, in "Din istoria pedagogiei românești", 2, (Bucuresti 1966), 14.

<sup>29</sup> David Prodan, *Supplex Libellus Valachorum*, (Bucuresti 1967), 128-154.

<sup>30</sup> Mathias Bernath, *Habsburgii și începuturile formării națiunii române*, (Cluj 1994), 71-158.

### 3.1. *The Greek-catholic (United) schools.*

Bishop Ioan Inochentie Micu Klein was the first promoter of Greek-catholic schools in Transylvania. In the short interval from his nomination in 1728, till 1736, he managed to establish in Blaj the United Bishop's seat. It was also in Blaj where Ioan Inochentie Micu Klein intended to open the first schools with Romanian as language of teaching. For this, he addressed a series of reports to King Carol VI requiring the end of the discrimination and injustice affecting the Romanians. For example, in one report written in 1732, the bishop argued for the absolute need to open schools for "the offspring of our nation". As a result, he obtained a larger domain as property that could better support the episcopate's financial needs. At the same time, the approval was granted for building a monastery for 11 basilitanian monks, a theological seminar, and several schools. Thus, the small village of Blaj, inhabited by only 23 families in 1733, will shortly grow into the cultural centre of the Romanians in Transylvania.

The activity of Bishop I. Micu-Klein represented not only the basement for modern Romanian education in Transylvania, but also a successful outcome of his program of political and national emancipation. His legacy was continued by Bishop Petru Pavel Aaron, who after two years since his nomination, in the document issued on 11 October 1754, was announcing the opening of the following schools:

-*The communal, or elementary school* – "addressing all the population of any age, citizenship, religion and language, without any fee required from the apprentices".

-*The Latin, or secondary school* – intended for an advanced training, including Latin and science classes. This school represented the precursor of the further Highschool for boys *Sfântul Vasile cel Mare*.

- *The seminar* - opened in the *Sfânta Treime* monastery; the topics thought here were *religion, Christian dogma and moral*. From this school, the *Theological Academy* will be further developed.

- *The seminar for monks* – opened in 1760 in the new monastery with the Feast of the Annunciation as parish fair; this institution did not last too long.

These schools founded in Blaj represented the first secondary-level Romanian educational institutions in Transylvania. They were also stimulating the development of

rural schools in this province<sup>31</sup>. The same Greek-catholic bishop Petru Pavel Aaron and still in 1754 founds a monastery in Maieri parish, belonging to Alba-Iulia town, where documents mention about the existence of a school for *United, Greek-catholic Romanian children*<sup>32</sup>. The large number of well-educated priests in specialized institutions in Western Europe located in Blaj represented a valuable human potential that could support the education in the newly opened schools.

During the office of the first metropolitan Greek-catholic bishop, Alexandru Șterca Șuluțiu, the first *school for girls* was opened in 1855, while at October 15, 1865 classes started in the *Archdiocesan Pedagogical Institute*, training teachers for primary schools. The *Consistory* in Blaj issued a number of norms and orders aimed at improving the rural education in the whole eparchy; nevertheless, significant improvement was not recorded even after 10 years<sup>33</sup>.

*The Greek-catholic metropolitan bishop* Ioan Vancea is considered the second founder for the schools in Blaj, following Bishop Petru Pavel Aron. His main tools for an efficient supervision of spiritual life and progress of church were the canonic visitations and the archdiocesan and provincial synods. Thus, during the provincial synods in 1872 and 1882 from Blaj dogmas were issued concerning the church organisation, the life of clergy, education of the youth, the basilitan monks order (of St. Vasile the Great). The common beliefs with the Roman Catholic Church (of Latine rite) were emphasized. At the same time, it was stated that the Greek-catholic rules such as rite, cleric discipline or calendar, have to be strictly preserved. All these statements were approved by Pope Leon XIII. During the archdiocesan synods in 1869, 1882 and 1889 it was decided to support the development of foundations, and to get financial support for priests, widows, confessional schools and orphans.

The scholastic archdiocesan congress from Blaj (June 1-5, 1987) has released important decisions concerning the advancement of the *Romanian Greek-catholic education*, complying with the Eötvös Education law (1868). The priests, protopopes and cantor-teachers were asked to work hard “day and night” in order to provide the best performance in the confessional schools, including the ones that were transferred under the

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<sup>31</sup> Iacob Mârza, Școală și națiune. Școlile din Blaj în epoca renașterii naționale, Ed. Dacia, Cluj-Napoca, 1987, p 22.

<sup>32</sup> N. Albu, Istoria scolilor romanesti din Transilvania intre 1800-1867, 74.

<sup>33</sup> MMIRS, D. 356 - Ordinariul Metropolitanu nr. 978, Blaj, 25/13 noiembrie 1862, MMIRS, Biblioteca documentară, inv. 4925/D. 356.

state's administration thus endangered to lose their connection with the community. The protopopes were appointed as school inspectors for their area of religious supervision. Parents were required to send their children to school on a regular basis, by this fulfilling a duty to both God and the Romanian nation. „Knowledge is enlightening, it makes people cleverer, and it strengthens and enriches the nations”

Metropolitan bishop Ioan Vancea has significantly contributed to the curricula improvement in theological, secondary and elementary schools. In 1879, he added to the curriculum of the Theological seminar several practical topics: oriental rite, singing, churchly rite, civil rights, rural economy, and pastoral medicine; in 1888 he added philosophy, liturgics, and homiletics. Only faculty with a PhD title was eligible for teaching in the Theological seminar. The metropolitan bishop was presiding the examination committees for the young priests-to-be. From his own funds, bishop Ioan Vancea has sponsored the construction work for the *boys' dormitory in Blaj*, which starting with the academic year 1892-1893 was transformed into the *Civil Higher School for Girls* (lyceum level). For the boys, he ordered the construction of a larger dormitory, the *Vancean College* as well as of a gymnastic hall, all in Blaj.

Bishop Vancea has also encouraged the further instruction of the young theologians with special intellectual and religious skills, by providing fellowships for studies in *Vienna* or *Rome*. For example, he send Augustin Bunea<sup>34</sup> to study philosophy and theology at the famous institute *De Propaganda Fide* in Rome. Also, he has supported the construction of more than 300 schools in Transylvanian villages.

3.2. *Orthodox (Eastern-Greek) schools* For the 18<sup>th</sup> century, one can hardly discuss about confessional schools for the Romanian Orthodox (Greek - not-united, or Eastern-Greek) community, as a consequence of the fact that the cleric hierarchy was dissolved following the issuing of the *Leopoldine Diploma*<sup>35</sup>. Nevertheless, documents mention a printer, Popa Dobre, who was travelling from Wallachia to Transylvania with the mission to instruct and mentor the teachers-to-be from Alba-Iulia. This mission was continued around the year 1763 by Ioan of Balgrad<sup>36</sup>; unfortunately, he was accused of collaboration

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<sup>34</sup>“the remarkable scholar of Blaj”, dr. Augustin Bunea, stated the following about the schools in Blaj: "It is possible that no other Romanian cultural institution was so timely founded", in a time when "almost nobody was still aware of our remarkable origins; or able to tell about the glory and sufference of our parents, grand- and grand-grand parents; or able to preach and nourish the future aspirations " .

<sup>35</sup> until 1759, when the Tolerance Edict was promulgated by the Emperor Maria Theresia

<sup>36</sup> Nicolae Albu, *Istoria învățământului românesc din Transilvania până la 1800*, 145.

to the religious movement led by the monk Sofronie from Cioara monastery, due to his frequent travels to Wallachia related to obtaining educational materials for his pupils.

Another Orthodox priest that was active in educational activities in Alba-Iulia was Ioan Fulea. In 1786, the school director Dimitrie Eustatievici from Sibiu was mentioning that Ioan Fulea "was not fully trained concerning the pedagogical method, thus he would need to complete his training in Sibiu, starting with that autumn"<sup>37</sup>.

In 1811 the Orthodox Seminar was opened in Sibiu; in 1812 the first pedagogical school was opened in Arad, under the name of "The Preparatory or Pedagogical School for the Romanian Nation" (Romanian: *Școala preparandă or pedagoghicească a nației românești*) with Dimitrie Țichindeal and C. Diaconovici-Loga as professors.

An increasing interest in Romanian school system was developed following the revolution in 1848, when the metropolitan bishop Andrei Șaguna took the leadership of Romanian education in Transylvania. His first concern was to remove education from the jurisdiction of the Roman-catholic Episcopate, situation existing since 1837<sup>38</sup>. The next step was represented by the proper evolution of schools and the implementation of a legal framework under the supervision of the church. In 1850, Andrei Șaguna issued a Circular requiring that, "each of the protopopes has to act also as school inspector"<sup>39</sup>. The Circular in 1852 regulates the *confessional principle* as basis for the school system organization<sup>40</sup>. However, *the nationalists* interpreted *confessionalization* as a mean to separate Romanians; accordingly, they were supporting a *national education* system, independent from confession and administrated by the state. Education in Romanian recorded significant progress in the following years, for example between 1850 and 1856, when 339 Orthodox confessional schools were built in Transylvania<sup>41</sup>.

## CONCLUSION

It was the intellectuals formed in the schools in Blaj, together with those graduating the Orthodox confessional schools who became the ideologists and organisers of the 1848 Revolution in Transylvania, who contributed to the elaboration and publication of the Memorandum in 1894, and especially who made the union of Transylvania with Romania,

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<sup>37</sup> Lucia Protopopescu, *Contributii la istoria invatamantului din Transilvania 1774-1805*, București 1966, 66.

<sup>38</sup> Lazăr Triteanu, *Școala noastră 1850-1916*, (Sibiu, Tiparul Tipografiei Arhidiecezane, 1919), 5.

<sup>39</sup> Ioan Lupaș, Andrei Baron de Șaguna, Sibiu, Tiparul Tipografiei Arhidiecezane, 1909, 1.

<sup>40</sup> Triteanu, *Școala noastră 1850-1916*, p. 7.

<sup>41</sup> Triteanu, *Școala noastră 1850-1916*, p 10.

at December 1, 1918, possible. These facts should make us reflect more on the role of education even in the present-day society, when the educational system seems to be inefficient and the society seems to lack a reward to its educational efforts towards the young generation.

The brave deeds of the 18<sup>th</sup>–19<sup>th</sup> century's intellectuals also provide an insight into the role of clerical institutions, representing both Romanian confessional churches. This role is still of importance today, when the young generations need more than ever examples of strong characters that they can follow.

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## THE RE-LAUNCH OF *KERESZTÉNY MAGVETŐ* (THE CHRISTIAN SOWER) IN 1971\*

Krisztina SÁNDOR<sup>1</sup>

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### ABSTRACT:

VERY LITTLE RESEARCH HAS BEEN CONDUCTED IN THE FIELD OF ECCLESIASTIC PRESS HISTORY UP UNTIL NOW. AFTER THE NATIONALISATION IN 1948, ALL TRANSYLVANIAN PERIODICALS OF HUNGARIAN HISTORICAL CHURCHES WERE BANNED. MY STUDY PRESENTS THE RE-LAUNCH PROCESS OF *KERESZTÉNY MAGVETŐ* IN THE YEARS OF CEAUȘESCU'S ERA. THE PERIODICAL WAS ESTABLISHED IN 1861 IN KOLOZSVÁR (CLUJ-NAPOCA) AND IN THE PRESENT IT IS CONSIDERED THE OLDEST ECCLESIASTIC PERIODICAL.

MY RESOURCES IN THIS RESEARCH WERE THE ECCLESIASTIC WRITINGS AND CORRESPONDENCE OF THE ARCHIVES OF HUNGARIAN UNITARIAN CHURCH FROM KOLOZSVÁR (CLUJ-NAPOCA). IN 1968 AN APPLICATION WAS FILED FOR ITS RE-LAUNCH, BUT ONLY IN 1971 WAS IT APPROVED BY THE BUREAU OF RELIGION. THE CHURCH WAS ALREADY OPERATING AT FULL SUBORDINATION TO THE BUREAU OF THE MINISTERS OFFICE. BY APPROVING THE *KERESZTÉNY MAGVETŐ* THE STATE SECURITY FORCES HAD BETTER POSSIBILITY OF CONTROL, AND LATER THEY USED THE PERIODICAL FOR POPULARIZATION OF THE POSITIVE IMAGE OF THE COUNTRY.

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**KEY WORDS:** PRESS HISTORY, HUNGARIAN, CHURCH, COMMUNISM, CENSORSHIP

### INTRODUCTION

This paper investigates the re-launch of *Keresztény Magvető* in 1968, which in 1948 was closed by the state, and presents in details the conditions of its appearance after it received its permission to be published in 1971. Beside the above mentioned archives, I used the issues of *Keresztény Magvető* from 1971, and the press history studies on the era.

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The re-launch of *Keresztény Magvető* was completed after two years of continuous correspondence and consultancy. My hypothesis is that by approving the re-launch of the magazine the state security forces have got better possibilities for controlling it, and at the same time, they used it in the popularization of the country's image abroad. The study reflects on the subordinated role, which the churches were derogated to after the confiscation of their goods by the state.

The *Keresztény Magvető* is the periodical of the Hungarian Unitarian Church, in fact Transylvania's oldest ecclesiastic paper, which is still being published. It was founded in 1861 with the aim to serve the cultural, scientific and literary life of Transylvania. The paper was continuously published until 1918, and at the end of World War I. it was suspended for a few years. It was re-launched in 1922, and appeared until 1944. After this, as a consequence of Romanian political changes, it was banned together with other periodicals.<sup>2</sup>

## RE-LAUNCH ATTEMPTS SINCE 1968

In 1968 there was a certain relief in the relation between the communist regime and the Hungarian community: a meeting between the leaders of the party and the most important Hungarian intellectuals was organized. As the consequence of organizing the territory of the country into counties, the two Hungarian majority counties were established, with new cultural institutions, the Kriterion Publishing House was founded, as well as the Hungarian and German language programme of the Romanian Television for the minorities, the *A Hét* magazine, etc.<sup>3</sup> In this process of relief the Unitarian Church asked for re-launch of the *Keresztény Magvető* in 1968.

In the minute-book of Church's Council of Representatives<sup>4</sup> held on May 9th 1968, the following is recorded: „Right reverend Bishop with a reflection to the discussion at your visit to the Bureau of Religion, when the assigned functionary commented positively

<sup>2</sup> Gaal György, *A szép, jó és igaz magvetője. Százötven év az egyház és művelődés szolgálatában.* [The sower of the beautiful, the righteous and the true. 150 years in the service of the church and of culture.] (Kolozsvár: Erdélyi Unitárius Egyház, *Keresztény Magvető* füzetek 47., 2011)

<sup>3</sup> Denisa Bodeanu and Novák Csaba Zoltán, *Az elnémult harang. Egy megfigyelés története, Pálfi Géza élete a Securitate irataiban,* [The silent bell. The history of an observation, the life of Géza Pálfi in the documents of the Secret Police] (Csíkszereda: Pro-Print Könyvkiadó, 2011). 18–19.

<sup>4</sup> The Church's Council of Representatives is held quarterly (in the following CCR), it is the primal decision-making committee of the General Council and of the synod, which consists of elected and ex officio members and of ecclesiastic presidency (whose members are: the bishop, the chief clerk, and the two curator generals).

regarding the possibility of an ecclesiastic periodical suggests to take immediate measures in the interest of a magazine with a proper content. Curator general advocated the proposal, so he urged to launch the first issue by the synod from 17-18th August. After a detailed discussion the participants accepted the necessity of launching the magazine, Dr. János Erdő and Ferenc Sebe with the lead of Dr. Lajos Kovács curator were asked to make a proposal for the edition and content of the paper.”<sup>5</sup>

At September 11th 1968, at a board meeting Imre Mikó curator general proposed „taking concrete measures in the favour of publishing the *Unitárius Közlöny*. The first issue should be created as soon as possible and it should contain the report about the synod.”<sup>6</sup> The Unitarian Church held its anniversary synod in 1968, as it was the 400th anniversary of the existence of the Church and the Church officials wished to create a worthy record of this historical landmark in the columns of a re-launched ecclesiastic magazine. Although the sources suggest that in 1968 it was not obvious which magazine they planned to revive: the church magazine with the name *Unitárius Közlöny* [Unitarian Journal] or the *Keresztény Magvető*, the periodical with a scientific value. This is indicated by the fact that on September 24, 1968 Chief Clerk Lajos Kovács and Ferenc Sebe referent called upon the presidency, Imre Mikó chief curator, Lajos Kovács chief clerk, Árpád Szabó professor of theology and János Erdő „to create the draft of a quarterly Unitarian magazine (*Unitárius Közlöny*). On day 11th of the above mentioned current month a chair meeting was held regarding the contents of the journal: the first issue should include the materials of the synod council meeting held for the 400th anniversary of the founding of our Church, as well as the reports issued on this occasion. It would be highly appreciated that this number is created first and foremost, which would also include the formal and content aspects of the publishing of the journal.”<sup>7</sup>

In his letter written on October 12 János Erdő issued the plans for the journal to the Council. „I had prepared the plans for the quarterly journal to be launched before receiving the appeal. In creating these plans I took into consideration the informative discussions held with the Dean and Minister. In creating the plans for the journal I also took into consideration of the theoretical and practical aspects of pastoral training. The field included in the plans is only the revival and completion of the original goals of the *Keresztény*

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<sup>5</sup> The Kolozsvár (Cluj-Napoca) Archives of the Hungarian Unitarian Church (in the following MUEKGyLt) KM II-A. 41/4. 1. 1.

<sup>6</sup> MUEKGyLt KM II-A. 41/4. 2. 8.

<sup>7</sup> MUEKGyLt KM II-A. 41/4. 2. 11.

*Magvető*.<sup>8</sup> János Erdő, professor of theology<sup>9</sup> had a prominent role in the re-launch of the *Keresztény Magvető*, as well as in the redaction of the journal.<sup>10</sup>

During the chair meeting of October 15, 1968 Dr. János Erdő submitted his plans for the journal, which „would represent the joint continuation of the *Keresztény Magvető* and the *Unitárius Közlöny*. If possible, the title should be *Keresztény Magvető*.” The project precisely defined and specified the domains and fields of study of the journal, which include the following: A. Unitarian theology, B. Pulpit and communion table, C. Church life, D. Reviews. The journal would be published in 500 copies, the yearly subscription would be 60 lei. It would be published quarterly with 64 pages.<sup>11</sup>

On October 21, 1968 they issued a request to the representative of the Council on Religious Affairs<sup>12</sup> to authorize the publication of the journal from 1969 with the title *Keresztény Magvető*. A preliminary authorisation was also requested in order to prepare the materials of the first issue.<sup>13</sup> The report compiled the following day, on October 22, by Ferenc Sebe „regarding the discussions carried out in the Council of Religious Affairs” includes the following: „We filed our request regarding the re-launch of the *Keresztény Magvető* journal to the state secretary. (...) The state secretary, upon receiving our request, promised to consult it and arrange for it, if possible.”<sup>14</sup>

In the following I give a detailed presentation of the journal project as it is where the aims of the newly re-launched journal were formulated. The short description of the four columns according to topic and aim:

„A. Unitarian theology. Topics: studies, smaller papers on the general history religions as well as on the comparative study of religions, on Biblical theology, history of the church, systematic and practical theology. Aims: the theoretical and practical training of the ministers, as well as the cultivation of Unitarian theological scholarly literature.

B. Pulpit and communion table. Topics: ecclesiastic and liturgical speeches,

<sup>8</sup> MUEKGyLt KM 41/4. II-A. 2. 9.

<sup>9</sup> The later Bishop of the Unitarian Church of Transylvania, between 1994 and 1996.

<sup>10</sup> His role in the assurance of the subsistence and continuous publication of the journal was a significant part of his ecclesiastic work. The journal became an important constituent of his activity, as he edited it with consistency in the following decades.

<sup>11</sup> MUEKGyLt KM 41/4. II-A. 2. 12.

<sup>12</sup> The Council of Religious Affairs (in Romanian: Departament al Cultelor de pe Lîngă Consiliul de Miniştri) appears in the ecclesiastic documents with the Hungarian name of *Vallásügyi Hivatal*, but the name *Egyházügyi Hivatal* [Council of Church Affairs] is also used. The Council of Religious Affairs was a central body functioning under the Office of the Prime Minister, and its role was the supervision of the churches.

<sup>13</sup> Word-for-word translation. MUEKGyLt KM 41/4. II-A. 3. 14.

<sup>14</sup> MUEKGyLt KM 41/4. II-A. 3. 25.

sketches, Bible studies, prayers, devotional materials for family and diseased visitations, as well as practical guides for the practice of ministry (clerical care, catechization, diaspora care, public activity, culture of religious music in the churches). Aims: practical help for the ministers in performing their duties.

C. Church life. Topics: most important official circular letters, reports and accounts regarding the work of the church, the different parishes, church anniversaries (such as the 400th anniversary of the founding of the church), local and international church news, the peace services of the church, changes in the inner circles, obituaries. Aims: informing the sequelae and inner circles of the most important events of church life, and as such a tighter inclusion in the church blood-flow.

D. Review. Topics: the review and presentation of local and international ecclesiastic journals, of new theological books, as well as important literary and artworks. Aims: informing the sequelae and inner circles regarding the newest religious, clerical and theological issues, and raising awareness regarding literary and art creations on religious life.”<sup>15</sup> It is important to notice the expression of *inner circles* which implies that a certain inner church publicity was aimed at, ministers and church members, as well as members of the congregation. The project also included two title plans as well, which included the two different names, *Keresztény Magvető* and *Unitárius Közlöny* as well.

On November 16, 1968 the church headquarters received a call from the Council of Religious Affairs, in which they requested further information on „formatul - dimensiunile - cine conduce.”<sup>16</sup> The data requested was decided upon on November 19 on the church chair meeting, the dimensions of the journal (24x17) were set, while regarding the leadership „a unanimous agreement was made, after a thorough discussion of the topic, stating that the publishing of the journal would be led by the Editorial Board.” This Board includes the following: Dr. Elek Kiss, bishop, the chair of the board, Dr. Lajos Kovács, Dr. János Szathmáry, Dr. János Erdő, Árpád Szabó and Ferenc Sebe, members. The editing of the journal will be performed by the following board members: Dr. Lajos Kovács, editor in chief, Dr. János Erdő, deputy editor, Árpád Szabó, editor. The following day the response was drafted and sent to the Council of Religious Affairs.<sup>17</sup>

One and a half months later, on January 7, 1969 Nedeianu Janeta from the Council

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<sup>15</sup>MUEKGyLt KM 41/4. II-A. 3. 15–16. p.

<sup>16</sup> Format, dimensions and who is in charge - word-for-word translation. MUEKGyLt KM 41/4. II-A. 3. 21. p.

<sup>17</sup> MUEKGyLt KM 41/4. II-A. 3. 22–23.

of Religious Affairs made a call, „according to which the in order to publish the *Keresztény Magvető* journal the first issue must be prepared as soon as possible, as the publication has been approved.”<sup>18</sup> As a result Elek Kiss bishop and Ferenc Sebe referent asked in the name of the Chair the Editorial Board of the *Magvető*, Dr. Lajos Kovcs chief clerk-editor to prepare the first issue as soon as possible, „which must be presented in order to be approved” in Bucharest.<sup>19</sup> There is no correspondence for two months, during which the preparing of the *Keresztény Magvető* was most probably done.

On June 4, 1969, Lajos Kovcs chief clerk and Mr Rzmny councillor personally handed over the first two issues of the *Magvető* in order to receive the authorization for publication. The cover letter included a short description of the contents of the articles.

The editorial board partly explained why there was need for the almost 6 months since the phone request in January: „Regarding the fact that in the first issue of the journal aimed at including a detailed report on the Synodic Chair Meeting, as well as the fact, that we wished to present the most important events of church life ( ) starting with January 1, 1968, which increased the amount of material to be published, as well as regarding the fact that the materials requested and promised for the first issue were handed over with delay, the editorial board has decided to publish the first issue of the *Keresztény Magvető* including the first two quarterly issues. We hope that the difficulties faced when preparing the first issue can be prevented, and thus the *Keresztény Magvető* would be published quarterly, in independent issues, on time.”<sup>20</sup>

For three months nothing happened, as a response from Bucharest was waited for. Phone inquires were made, and on September 24 Janeta Nedeianu executive director responded that „the issuing of the authorization will not take much time, and the Council of Religious Affairs will do everything in order to get it.”<sup>21</sup> On the meeting of the CCR held on October 2, 1969 a proposal was presented regarding the re-launch of the *Magvető*. Dr. Lajos Kovcs chief clerk attended a hearing with Dr. Dumitru Dogaru, the leader of the Council of Religious Affairs, where the state secretary informed him that the authorization „was about to be issued”.<sup>22</sup>

The 6 months following the presentation of the first two issues was in fact and

<sup>18</sup>MUEKGyLt KM 41/4. II-A. 4. 27.

<sup>19</sup> MUEKGyLt KM 41/4. II-A. 4. 27.

<sup>20</sup> MUEKGyLt KM 41/4. II-A. 7. 36.

<sup>21</sup> MUEKGyLt KM 41/4. II-A. 7. 41.

<sup>22</sup> MUEKGyLt KM 41/4. II-A. 7. 43.

administrative waste of time. Ferenc Sebe referent went to Bucharest at the beginning of December, and his report includes the following: „I rushed the authorization of the publication of the *Keresztény Magvető*. In connection with this the executive director responded that the state secretary mediated in this respect and they keep urging the issue, but the reply of the authorities is that they have to wait a little bit longer for the authorization of publishing.”<sup>23</sup> This period was almost a year long, and in 1970 virtually nothing happened regarding the publishing of the *Magvető*.

On January 21, 1970 another letter of request was sent in the name of the Bishop to the Council of Religious Affairs, in which they referred to the letter of June 3, 1969, and stressed that they would be very grateful, if they could present the authorization on the Synod organized on March 1, 1970. Ferenc Sebe went to Bucharest in June 1970 requesting the authorization of the publishing of the journal. Janeta Nedeianu executive director reasserted that the state secretary promised on the hearing held on April 27 with the clerical leaders that he would mediate personally, but there is still no result, and that Council of Religious Affairs would keep doing everything in their power to move the issue forward. On November 12 Vasilescu, county secretary general and Țepes Hoinărescu inspector general participated in a discussion with the bishop, during which he asked the inspector general to help in getting the authorization to publish the journal. Țepes responded that he would contact the director of the Council of Religious Affairs. And this is how it became clear that this was the competent authority, and that they were temporizing.<sup>24</sup>

## **1971 THE KERESZTÉNY MAGVETŐ IS PUBLISHED**

On January 12, 1971 the Council of Religious Affairs issued the authorization to publish the *Magvető*, addressed to the bishop. The notification of the Directorate of Study, Research and External Relations of the Council of Religious Affairs<sup>25</sup> included the authorization regarding the publishing of the *Keresztény Magvető*, annexing a short instruction guide. In the letter it was requested to name the members of the editorial board, the name of the editor and the members of the editorial office, as well as the address of the editorial office.

On the chair meeting of January 19, 1971 Dr. Elek Kiss bishop and Dr. Lszl

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<sup>23</sup> MUEKGyLt KM 41/4. II-A. 7. 45.

<sup>24</sup> MUEKGyLt KM 41/4. II-A. 9. 50–52.

<sup>25</sup> Word-for-word translation (“Direcțiunea de studii, documentare și relații externe”)

Barabssi curator general reported on their visit to Bucharest on January 12, and announced gladly that they received the authorization for the publishing of the *Magvető*. „The attendants also proposed further actions in order to keep in mind the Instruction guidelines of the Council of Religious Affairs<sup>26</sup> as well as the instructions and remarks included in the reports of the curator general.”<sup>27</sup> The editorial board was also requested to take the necessary measures on their meeting the following day.

The arrival of the much waited for authorization was very pleasing, and resulted in special administrative actions. Elek Kiss, bishop and Ferenc Sebe, referent ordered Erzsébet Szabó treasurer in the name of the CCR to „deposit the original copy of the authorization in the safe of the accountant office and ensure its safe preservation.”<sup>28</sup>

The authorization issued on January 4, 1971 by the General Directorate of Press and Print<sup>29</sup> included the formal description of the *Magvető*: Hungarian language quarterly journal, 17x24 format, 64 inner pages, 500 copies. The *Other conditions* part included, that in the case of the copies printed for abroad „I A” type paper will be used.<sup>30</sup> In case of any deviations from the conditions included in the authorization the above mentioned Directorate will be informed. This was annexed to the letter of the Office of Religious Affairs issued on January 12. It can be noticed that not one, but more institutions dealt with the issue. The professional authority of censorship was the aforementioned Directorate. The aim of the overlaps and institutions with similar tasks was ensuring the parallel and manifold control performed by the local and central offices of censorship, the bodies of the party as well as the competent departments of the Council for Socialist Culture and Education. „Another advantage of the system from the point of view of the authorities was that the different bodies supervised each others activity, which maintained the atmosphere of permanent distrust.”<sup>31</sup>

In the above mentioned Informative Instructions an important trend was set for the editing process of the newly re-launched *Magvető*. As the document is of high importance, I publish the English translation of the complete text:

<sup>26</sup> Word-for-word translation (“Îndrumar orientativ”). In the ecclesiastic documents the term “*Tájékoztató-Utasítás*” [Informative Instructions] is used. This latter term is more expressive of the era in question.

<sup>27</sup> MUEKGyLt KM 41/4. II-A. 7. 46.

<sup>28</sup> MUEKGyLt KM 41/4. II-A. 10. 61.

<sup>29</sup> Word-for-word translation (“Direcția Generală a Presei și Tipăriturilor”).

<sup>30</sup> In Romanian: Exemplarele destinate străinătate apar pe hîrtie scris I A. MUEKGyLt KM 41/4. II-A. 10. 54.

<sup>31</sup> Györfy Gábor: *Cenzúra és propaganda a kommunista Romániában* [Censorship and propaganda in the communist Romania], Komp-Press Kiadó, Kolozsvár, 2009. 160.

„1. Every writing that is to be included in the manuscript of the issues must be read in the editorial office, and the editor in chief requests the editorial board to discuss and accept it.

2. The manuscript of every issue must be handed in to the Directorate of Study, Research and External Relations of the Council of Religious Affairs for approval, in three typed copies, with 31 rows x 65 characters per page. Thin paper must not be used.

3. The manuscript must include a proper number of typed pages, the texts of which must fit into 64 printed pages, in 17x24 format, which has been authorized.

4. The full manuscript must be numbered using digits, from the page number of the first page and the table of contents of the journal to the last page that includes written text.

5. All three copies must be signed by the editor in chief with the following remark: kWe are familiar with the contents, we take full responsibility, recommended for printing. { taking onto consideration that the materials and the issues discussed are in compliance with the system regarding journals and printed materials in our country, regulated by law.

6. For the journal to be published in the given quarter, the manuscript needs to be handed in 3 months beforehand. For example: the manuscript for the quarter 1971/3 (July-September) must be sent by June 30, the latest.

7. At the end of every quarter year a statistical account must be made (based on the annexed instructions) regarding the publishing of the journal and the paper usage. This must be sent to the Council of Religious Affairs by 15 of every first month of every quarter year.

8. The editorial board is in a permanent relation with the Directorate of Study, Research and External Relations of the Council of Religious Affairs through the editor in chief, who presents every issue regarding the activity of the paper.”<sup>32</sup>

During the visit to Bucharest of the bishop and the curator general on January 12, 1971 it turned out that I. Rusu director made „verbal suggestions and instructions” during the hearing: he asked for the election of the editorial office, the editorial board and an editor in chief. Regarding the contents of the journal „it should mainly discuss issues regarding our church”, „it should avoid offensive polemics regarding other denominations” and „it should deal with the freedom of conscience ensured by our country.”<sup>33</sup> „Regarding the material of the paper, the copies sold in the country were to be printed on lower quality

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<sup>32</sup> Translation by me. MUEKGyLt KM 41/4. II-A. 10. 55–56.

<sup>33</sup> MUEKGyLt KM 41/4. II-A. 10. 59.

standard paper, while the copies sent abroad on higher quality standard paper.”<sup>34</sup> As the first two issues were handed in in June 1969, the „executive director informed us that in their opinion the first issue has lost its relevance, and it cannot be considered a final issue, and requested the handing in of a revised and reshaped variant.” As a final issue the Instructions notify that: „Before sending the circulation to the press the editor must personally come to the Department with a plan regarding circulation number in order to receive the necessary instructions.”

On February 1, 1971 Țepeș Hoinărescu „regional chief inspector” requested on the phone that Ferenc Sebe should present the following morning a brief „regarding the general contents of the journal and the material of the first issue, as well as the composition of the editorial board and team, as well as the person of the editor in chief.” Besides this monitoring from Bucharest the process of publication was also controlled on the county level. „Țepeș Hoinărescu general inspector said, that he needed these information, because he was supposed to inform the competent authorities himself.” Ferenc Sebe in his phone response said, that „the editorial board has been created in 1968, its composition was transmitted to the Council of Religious Affairs. The issues regarding the publication were not petitioned via the local inspectorated, because we received the instructions from the Council of Religious Affairs to keep in touch directly with the Council of Religious affairs.”<sup>35</sup>

The following day Ferenc Sebe met the inspector general, and presented a report on this meeting to the CCR. He stressed the fact that he informed the latter regarding the authorization of publishing. The inspector general asked for the records of the debates of editorial board to be translated into Romanian, and to present it to the Council of Religious Affairs for acquiescence. He asked the managing editor to present a report to the editorial board, in relation with the publication of the journal. The report should contain information about the edition rota, methodology, general planning of the journal, and about the material of the first or the first two issues. The inspector general planned the methodology journal edition step by step, which was handed over to representative of the church. The journal should contain articles related to festivities (ex. an „omagiale”, written for the 23rd of August), to peace, remembrance, to other churches' festive events (ex. the Patriarch of the

<sup>34</sup> MUEKGyLt KM 41/4. II-A. 10. 59

<sup>35</sup> MUEKGyLt KM 41/4. II-A. 11. 65.

Orthodox Church was going to be 70 years old) etc.<sup>36</sup> In the postscript of the report we find the following: „Inspector general informed that the thematic of the journal for the 1972 year should be planned until 1st of September of the running year.”<sup>37</sup> It is clear that the county representative of the Council of Religious Affairs reinforced central inspection. The launch of the journal happened under total control of state forces.

The editorial board of the *Keresztény Magvető* held its inaugural meeting in the room of the bishop, on February 15, 1971. The following were present: Țepeș Hoinărescu territorial inspector general, and the members of the editorial board assigned by the church leadership. According to the record, Dr. Elek Kiss bishop-chairman presented the aim of the journal: „The aim of the journal which has been published since 1861 with some interruptions is: 1. Theological formation of ministers and theological youth regarding scientific and practical issues; 2. Information of church leaders about our ecclesiastic life, and about the most important events of the churches in our country, in the spirit of co-operation and understanding.”<sup>38</sup> They elect the editorial team: Dr. Elek Kiss chairman; Dr. Lajos Kovács managing editor; Dr. János Erdő assistant managing editor, Árpád Szabó and Dezső Szabó editors, Ferenc Sebe and Dr. János Szatmáry. Lajos Kovács reports, that the first issue of the journal is ready, and with a few exceptions it contains the material prepared two years before, which „with few changes was approved by the Council of Religious Affairs.”<sup>39</sup>

On March 6, 1971, three copies of the first issue of the *Keresztény Magvető* was sent to Bucharest. In May the manuscript of *Keresztény Magvető* 1971/1, together with the print license, was sent back from the competent department of the Council of Religious Affairs, with the signature of director Rusu Ioan. The director asked for a complimentary copy, when the journal appeared.<sup>40</sup>

On May 11, Ferenc Sebe informed the CCR, that assigned by Dr. Lajos Kovács and Dr. János Erdő he asked the Council of Religious Affairs to approve the contraction of the material into issue 1-2./1971., because there was not enough space to publish all in the first number. On August 20, the managing editor, with the signature of Ferenc Sebe informed the press of Cluj-Napoca that the first contracted issue of *Magvető* has got the print licence, and they asked to deliver the ordered examples. On August 27, Ferenc Sebe referent and

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<sup>36</sup> MUEKGyLt KM 41/4. II-A. 11. 66. p.

<sup>37</sup> MUEKGyLt KM 41/4. II-A. 11. 66. p.

<sup>38</sup> MUEKGyLt KM 41/4. II-A. 13. 70. p.

<sup>39</sup> MUEKGyLt KM 41/4. II-A. 13. 71.

<sup>40</sup> MUEKGyLt KM 41/4. II-A. 16. 243.

Elek Kiss bishop informed the presidency, and the editorial board, about the appearance of the first issue of the *Magvető*. On September 3, in the name of the CCR they inform the dean offices about the appearance of the *Magvető*, and they present them the proposals of the editorial board, regarding distribution. They inform that on the CCR meeting, which was going to be held on 30 September, the *Magvető* will be a separate item of discussion.

**On September 30, 1971 the CCR notes with happiness and satisfaction that the *Keresztény Magvető* after a more than twenty years long break has newly appeared. The CCR considers it an „important event of the church.”<sup>41</sup>**

## CONCLUSION

The re-launch troubles of *Keresztény Magvető*, the long period for the issuing of authorization reflects the subordinated relation of the church to the communist state forces. With the re-launch of the *Magvető*, the church got an opportunity for spreading the scientific and theological culture among its sequelae and ministers. This meant at the same time the acceptance of censorship and a subordinated role.

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<sup>41</sup> MUEKGyLt KM 41/4. II-A. 10. 64.

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## **FOOD IN WAR TIME TRANSYLVANIA IN THE FIRST WORLD WAR**

**Crucița-Loredana BACIU<sup>1</sup>**

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### **ABSTRACT**

*THIS STUDY AIMS TO REVEAL A PIECE OF ALIMENTATION'S HISTORY: THE FAMINE DURING THE WAR IN TRANSYLVANIA, AND IS BASED UPON SOURCES LIKE: DIARIES, LITERATURE, MEMORIES AND PRESS. AS HYPOTHESIS, WE'VE STARTED THIS RESEARCH CONSIDERING THE COMMON KNOWLEDGE THAT ANY WAR IMPLIES FAMINE FOR THE TERRITORIES AFFECTED AND THE SOURCES CONSULTED CONFIRMED THAT. TRANSYLVANIA FACED FAMINE DURING THE WAR, AND THE MILITARY IT WASN'T ONLY COMPONENT OF THE SOCIETY AFFECTED BY IT, CIVILIANS ALSO SUFFERED DEPRIVATIONS.*

*THE SOURCES CONSULTED OFFERED US THE POSSIBILITY OF RETRIEVE SOLDIERS' MENU. THEY WERE FEED WITH BISCUITS, BEANS AND LOW QUALITY BREAD, BUT THE REGIMENTS WERE DEFICIENTLY SUPPLIED BECAUSE SUPPLY TRUCKS WERE OFTEN ATTACKED BY THE ENEMY. WHEN FAMINE STROKED, SOLDIERS ROBBED FARMS TO TEMPER THE HUNGER, ATE CEREALS HARVEST FROM THE FIELD OR SIMPLY STARVED.*

*THE CIVILIANS WERE ALSO AFFECTED BY THE FAMINE BECAUSE THE AGRICULTURE FACED FAILURE DUE TO ITS DEPRIVATION OF THE MANPOWER, ROBBERIES OF THE SOLDIERS, REQUISITIONS AND SOCIAL INSTABILITY. FURTHERMORE, THE AUSTRO-HUNGARIAN EMPIRE'S ECONOMIC MEASURES LIKE REQUISITIONS, PRICE CONTROL, PROHIBITION OF MEAT AND FATS AND FUNDRAISINGS PUT IN DIFFICULTY EVERY MEMBER OF THE SOCIETY. THE RESOURCES WERE REDIRECTED TO THE ARMY AND THE CIVILIANS' MARKETS REMAINED EMPTY. THE ALIMENTS SOLD ON THE BLACK MARKET WERE EXPENSIVE AND EVEN DANGEROUS SO SURVIVAL WAS TO BE SEEN ONLY IN PEACE MAKING.*

*THE SOURCES DESCRIBED A SOCIETY DEPRIVED OF FOOD. EVEN IF WE CAN'T EQUALIZE CIVILIANS' LACK OF RESOURCES WITH THE FAMINE OF THE SOLDIERS, IT'S SAFE TO SAY THAT TRANSYLVANIAN TERRITORY FACED FAMINE DURING THE FIRST WORLD WAR.*

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**KEY WORDS:** WAR, FOOD, FAMINE, SOLDIERS, CIVILIANS, ECONOMY, AGRICULTURE.

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## INTRODUCTION

The First World War, due to its amplitude, its span and the resources it implied, it generated the attention of every historian who was concerned himself with the analysis of the XX century. Subjects like: outbreak, reasons of the outbreak, war strategies, camps' forming, main battle's theatres and alliances and so on were priorities. Slowly, the historiography adopted the Annales' spirit and the priorities changed. Historians got interested in subjects like: war's influence over economy, over civilians and daily life during war. At the boundaries of daily life and economic history, the contemporary historiography created a new field of expertise: food's history in war time.<sup>2</sup>

Romanian historiography, following the contemporary trends, has vaguely touched those new subjects. Ioana Elena Ignat<sup>3</sup> and Eugenia Bârlea<sup>4</sup> attempted, in their studies economic aspects like: food stuff's prices, requisitions, black market and daily life's aspects that could be used in the large context of food's history.

This study aims to prove how people perceived food and daily diet during the First World War (1914-1918) in Transylvania, a part of Austro – Hungarian Empire by then. Because soldiers and civilians had been involved together in the strife, we would analyze both categories' diet. As sources, we used journals, diaries, literature and mail.

A war, no matter its amplitude, determines, on one hand, the concentrations of the young men, which means depriving economy of its main manpower. In agriculture, the lack of men meant uncultivated land because the field's work has been done by then only with primitive tools and using animals as driving force, a work incompatible with women, children and old men's strength. In the industrial field, that meant the lack of an important manpower, especially in the assignments which implied physical force needed considering its new orientations towards making guns and ammunition.

Another important consequence of the war was its instability. Small wars were developed only in the trenches, but the two world wars exceeded it. The continuous

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<sup>2</sup> Dewey P. E., „Nutrition and living standards in war time Britain” in *The Upheaval of War: Family, Work and Welfare in Europe, 1914-1918*, ed. Winter J. M., Wall R., (Cambridge, 1988), passim; Winter, J.M., „The Impact of the First World War on Civilian Health in Britain”, in *Economic History Review*, Vol. 30, 1977, passim.

<sup>3</sup> Ioana Elena Ignat, „Civili în război: controlul prețului la alimente în Transilvania în primul război mondial (reflectat în presa românească)”, in *De la lume adunate...*, ed. Crucița-Loredana Băciu, Anamaria Macavei, Roxana Dorina Pop, (Cluj-Napoca: Presa Universitară Clujeană, 2011), passim.

<sup>4</sup> Eugeniei Bârlea, „Perspectiva lumii rurale asupra Primului Război Mondial”, (Cluj-Napoca: Argonaut, 2004), passim.

displacement of the troupes disturbed the daily life of the civilians because of the robberies and the destructions suffered by their cultivated land.

The costs of the war included food among the ammunition. For an ordinary war, that wasn't a big problem, but during the First World War, alimentation was an important issue and the government had to deal with it. Requisitions were ordered for almost every food stuff.

## **I. SOLDIERS' FOOD DURING THE FIRST WORD WAR**

The main concern of a soldier was surviving the battle. To survive in the trenches implies heart, spirit and luck, but to get there, soldiers needed to exceed the rough conditions of life. The precarious hygiene, bad quality food, the inadequate intake put the soldiers in a double fight for survive; they had to shun not only of the ammunition of the enemy, but also of the starvation.

Ion D. Isac, in his memories, evoked his rough experience that he had on the front for conquering Transylvania. It was not only technical issues that he mentioned; he also remembered fighting famine, hardly surviving. The supply for the soldiers of his division was done deficiently and sometimes they got to starve because the food never got there or it got very late.<sup>5</sup> The supplying day was a holiday because they were receiving soup made two days before, cleaved to the cauldron and two breads each.<sup>6</sup> Ordinary, their daily diet consisted in biscuit and water.<sup>7</sup>

Romanian soldiers considered themselves lucky receiving supplies, even when they could eaten biscuit because there were days when they hadn't eat anything. In one of these unfortunate days, they captured a German truck with supplies. That day, they ate tea with rum and bread.<sup>8</sup>

In exchange for daily food and some money, soldiers worked on farm near trenches. Alexandru Vasiliu Tătăruși, soldier in the Romanian army, was called in for recruitments in 1916. His experience on the battle implied starvation too. Supply was brought by train, often targeted by the enemy.<sup>9</sup>

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<sup>5</sup> Ion D. Isac, „Din zilele unui învățător de țară” (București: Eminescu, 1986), 37.

<sup>6</sup> Isac, Din zilele unui învățător de țară, 61.

<sup>7</sup> Isac, Din zilele unui învățător de țară, 93.

<sup>8</sup> Isac, Din zilele unui învățător de țară, 37.

<sup>9</sup> Alexandru Vasiliu Tătăruși, „Focul cel Mare. Amintiri din Primul Război Mondial”, (Iași: Junimea, 1978), 37.

A phenomenon often to be seen in war time is the one of abandonment of the settlement by the civilians. Tătăruși related that he met some cases like that, for the joy of the entire corps of the army because an abandoned settlement meant forgotten reserves, abandoned houses to harbor, animals to sacrifice.

The joy of his corps was intense when, in a basement, they found pickle cabbage which they consumed with duck meat and corn mush<sup>10</sup>. Such food was considered to be a feast knowing that their ration consisted in bean soup and bread.<sup>11</sup> Sometimes they received biscuit and meat with cabbage.<sup>12</sup>

The diaries reveal the secret of survival, the packages received from home along with the letters. Those food stuff were usually shared with the others soldiers because they say that in those times, people lived closer and they shared all together as brothers.<sup>13</sup> The content of those packages was never revealed in letters, but it's easy to imagine that only food stuff that wasn't likely to go bad quickly and with a high caloric power like bacon and cheese could be sent.

Mihai Dan was recruited in 1914 in Austro-Hungarian army. The policy of multinational empire was to avoid Romanian soldiers to fight against their brothers, so Dan was sent on others battle fields.<sup>14</sup>

In the first day, he received bread and bacon, but afterward, for three day, he was deprived of food. He ate vegetables. Situations alike were to be seen all over the war theatre. Sometimes, rations were served only once on week. Meanwhile, soldiers ate corn and grain from the land.

In settlements, they usually searched for food from door to door and they were willing to pay important amount of money for a slice of meat, a hunk of cheese or a loaf of bread.

An old man was impressed by Dan's situation and sold him a loaf of bread<sup>15</sup>. The time he spent there, the old man took care of him and sent him meat and bread, as cordial.<sup>16</sup>

Christmas during war hadn't had the same spirit, but soldiers tried to make those holidays special, to feel like home. Romanian winter holidays are defined by food

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<sup>10</sup> Tătăruși, Focul cel Mare. Amintiri din Primul Război Mondial, 68-69.

<sup>11</sup> Tătăruși, Focul cel Mare. Amintiri din Primul Război Mondial, 84.

<sup>12</sup> Tătăruși, Focul cel Mare. Amintiri din Primul Război Mondial, 94.

<sup>13</sup> Tătăruși, Focul cel Mare. Amintiri din Primul Război Mondial, 69.

<sup>14</sup> Mihai Dan, „Istoria ce am petrecut în crâncenul război”, (Baia Mare: Muzeul Sătmărean, 2008), 18.

<sup>15</sup> Dan, Istoria ce am petrecut în crâncenul război, 21.

<sup>16</sup> Dan, Istoria ce am petrecut în crâncenul război, 21.

abundance: pork meat, sausages, bacon and others traditional meals. In order to make a Christmas spirit, they tried to buy all those dainties they enjoyed home. The commandant succeeded to buy sausages and bacon in the first holiday of war and a small pig to sacrifice in the third. This acquisition was cooked for all the soldiers of the troop as steak.<sup>17</sup>

Soldier's life wasn't always difficult. There were times when they could buy food stuff from the villages' inhabitants: meat, bread and vegetables.

In Slavonic lands, Mihai Dan, along with his comrades, bought a hen to feed five people. It wasn't an easy task, but one of the soldiers cooked it so well that everyone was satisfied.<sup>18</sup> Other settlements offered them a better source of food: eggs, bacon, sausages, bread and cheese, aliments to be used in dressing a complex meal.<sup>19</sup>

The good faith of the seller wasn't a constant. Sometimes they bought contaminated meat, but the desperate situation determined them to eat it to prevent starvation. The ration of a soldier was modified due to the supplies quantity; so in late 1916, the bread served for the ones that risked their lives to save their land was made from corn and even its quality was doubtful. As in concern for its quantity, 2 loaves were spared in 5 and often that was the only supply given. When their camp was near a village, along with bread, they also received cans.

In 1916, Mihai Dan fought in the Italian front. There, life wasn't that hard and that was to be seen especially in ration. The natives sold or simply gave food stuff to soldiers. Butter, bacon and wine completed their diet. Abundance was often recalled by Dan, the lack of food was, for some reasons neglected but he never forgot those times when he fed with ear of corn or grain in the land field, those times when he and his companions had to steal food in order to stay alive and bread wasn't to be seen in weeks.

Idealizing the spirit on the battle field, Cassian R. Munteanu remembers how wounded soldiers came in a hurry in the first aid camp for a bandage and returned in the tranches with a hunk of bread in their hands.<sup>20</sup>

Diaries revealed not only the famine, the fights, the instability, but also the differences between soldiers and their superiors, differences made especially in ration. Vasiliu remembers that his superiors had a better life and that his life improved when he

<sup>17</sup> Dan, *Istoria ce am petrecut în crâncenul război*, 22.

<sup>18</sup> Dan, *Istoria ce am petrecut în crâncenul război*, 25.

<sup>19</sup> Dan, *Istoria ce am petrecut în crâncenul război*, 40-42.

<sup>20</sup> Constantin Căzănișteanu and Dorina Rusu, „Pe aici nu se trece! Mărturii, amintiri”, (București: Albatros, 1982), 223.

was assigned to become the assistant of a captain. His ration included meat and wine for that period.<sup>21</sup>

Romanian literature inspired by the war tended to approve what Vasiliu affirmed. Camil Petrescu, through his character, Ștefan Ghiorghidiu reconstructed officers ration prior to war: deer meat cooked with mushrooms and a special dressing, trout with butter, fresh cheese, vegetables, boiled eggs and meat balls.<sup>22</sup> To afford such a luxury, the officers cut the sugar ration meant to sweeten the soldiers' tea.

Hospitality characterized even the battle fields. The captain, Ghiorghidiu's superior waited for his soldiers with coffee and sweets.<sup>23</sup>

The break out of a fight disrupted the camp's silence. A day before, the orderlies threw away an ox's meat because they were sure that they wouldn't survive and even if they hadn't died, they wouldn't be able to eat.<sup>24</sup> At the contrary, they survived and they also starved.

Superiors ration was consisted of: chicken steak, bread, currants and wine. Meanwhile, soldiers ate tea and beans.<sup>25</sup>

In the evening, officers often had special dinner. There, orderlies served outlawry steak, white sauce stew, chicken meat, chocolate, jam, cheese and eggs.<sup>26</sup> A feast's menu consisted in fried chicken, sardines, peppers stuffed with rice, and meat and the event that caused it was the packages received from home. Solidarity determined them to share everything they got.<sup>27</sup>

Apostol Bologa, Liviu Rebreanu's character didn't account much for his living conditions because his orderly took good care of his menu. As a superior officer, he was taken in by the officials of the villages he camped that provided for him.<sup>28</sup>

As we could see, the testimonies of the soldiers spoke out about rough living conditions: supplying was made in difficult conditions, with insufficient food stuff; the calories intake weren't enough, civilians often chose to protect soldiers, but sometimes their hostility was even bigger. For the ones who fought, the war meant starvation,

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<sup>21</sup> Alexandru Vasiliu Tătăruși, „Focul cel Mare”, 93.

<sup>22</sup> Camil Petrescu, „Ultima noapte de dragoste, întâia noapte de război”, București: Curtea Veche, 2009, 170.

<sup>23</sup> Petrescu, Ultima noapte de dragoste, întâia noapte de război, 173.

<sup>24</sup> Petrescu, Ultima noapte de dragoste, întâia noapte de război, 214.

<sup>25</sup> Petrescu, Ultima noapte de dragoste, întâia noapte de război, 235-236.

<sup>26</sup> Petrescu, Ultima noapte de dragoste, întâia noapte de război, 265, 279, 294.

<sup>27</sup> Petrescu, Ultima noapte de dragoste, întâia noapte de război, 303.

<sup>28</sup> Liviu Rebreanu, „Pădurea Spânzuraților”, (București: Litera, 2010), 198.

diseases, imminent danger and death. Their life was put in danger not only by the ammunition of the enemy, by shells and cannons, but also by the famine that debilitate them. They were the ones who got sacrificed, but looking closer one can notice that civilians suffered also the consequences of the war. We cannot compare their suffering, but we cannot ignore it either.

## II. FOOD AMONG CIVILIANS IN THE FIRST WORLD WAR

Historians hadn't much to say about civilians during war because such history seemed glory less. At a closer look, one could notice that they had an important role in the economy, keeping agriculture alive and transforming factories to produce ammunition. The military hospitals were served by civilians as well and producing food was another important task they had to complete.

The civilians' suffering could't be compare with soldiers' but for the followers of a complete history, it couldn't be neglected. At home, important transformations took place: the young men gone, cities and villages remained empty of the most important manpower and their survival depended on the women and their new role. Economy had to be transformed in order to supply the army with the needed ammunition. The food necessary rose and the power of obtaining good harvest decreased.

From the beginning, the governments involved themselves in the alimentary problem establishing maximums in food stuff prices. It was established a necessary quota of food for each habitant as well. This quota was to be used only for farms that produced food stuff. What exceeded this quota it was requested by the state in exchange for an amount of money. In Transylvania, cereals, foddery, milk, leather and animals, especially horses were requisitioned touched. Later, in 1916 and 1917, the empire decided to take beans, peas, lentils and millet.

Money depreciated, the precious metal coins were redrawn from the monetary market to create a covering fund, the prices rose continuous and touched values up to 445% beside the ones prior the war and speculation became a profitable business.<sup>29</sup>

The black market developed, even if the food stuff prices doubled. Horse meat, considered unworthy to be consumed got in the daily diet to increase the protein intake. Bread lost its quality. The flour used to bake it wasn't grain madden any more. Bakers

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<sup>29</sup> Eugenia Bârlea, „Perspectiva lumii rurale asupra Primului Război Mondial”, 97.

usually used flour mixture. Its price rose and, by the end of 1915 it was forbidden to sell pastries that contained over 50% of that ingredient.<sup>30</sup>

In the same time, meat became a luxury aliment and it was forbidden to sell it on Wednesday and Friday. At the end of the year, the monarchy introduces rations books for flour and bread. In 1917, potatoes and vegetables were being requisitioned and fats weren't sold in some of the week's days. The prohibition didn't stop here. The Empire forbade not only the commerce of fats and meat, but also the use of it in those days.

All aliments were ration: bread, milk and vegetables, for each one of this, the ration was established. For children, the quantity of the ration was reduced to a half and the infants weren't considerate, even if breast feeding required a double ration for the mother.

Ion D. Isac remembers that another source of suffering were the soldiers. They robbed the farmyard taking animals and poultry and the larder to take bacon, eggs and even alcohol.<sup>31</sup>

Soldiers weren't always a fear. Sometimes they tried to help women in need in exchange for food and clothes. That kind of behaviors encouraged in others regions wasn't allowed in the Empire. The courts of law punished the civilians for sheltering foreign soldiers, especially if they were Russians. Cases like that fulfilled the activity of the court of law from Cluj.<sup>32</sup>

In 1917, Elie Dăianu wrote about the awful situation that inhabitants of Alba had to face. The soldiers, starving, begged from door to door to find some bread, but no one could give them because this aliment couldn't be found on the market. Ladies had to travel till Teiuș in order to find some, but not everyone was lucky enough to find a seller.<sup>33</sup>

As in every situation that went beyond the limits, to survive, civilians and soldiers had to find food stuff to deaden the hunger. One of this aliment was considered to be the fodder beet. Fodder for animals, this food stuff was adopted in the soldiers and prisoners' diet, after it was tested on civilians.<sup>34</sup> Pumpkins were other good example. They were used in feeding pigs and cows and entered in human diet as a necessity. But nothing goes that far that alfalfa. It was used in human nutrition cooked with flour and onion and it was served to soldiers.<sup>35</sup>

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<sup>30</sup> Bârlea, *Perspectiva lumii rurale asupra Primului Război Mondial*, 111.

<sup>31</sup> Ion D. Isac, „Din zilele unui învățător de țară”, 92.

<sup>32</sup> Elie Dăianu, „Însemnări din închisoare și exil”, vol. II, (Cluj-Napoca: Argonaut, 2003), 22.

<sup>33</sup> Dăianu, *Însemnări din închisoare și exil*, vol. I, 65.

<sup>34</sup> Dăianu, *Însemnări din închisoare și exil*, vol. II, 46.

<sup>35</sup> Dăianu, *Însemnări din închisoare și exil*, vol. II, 47.

Famine caused important social crisis. Pushed beyond the limits by the need to feed their babies, thousands of women protested in the streets of Cluj, in front of the city hall asking for food and menacing. This type of actions uncounted no success at all; they were only cries for help.

The life of ordinary people was very difficult during the war. For some, even the problem of survival was posed, but in Transylvanian society there were families in which war meant only a decrease of supplies. Valeriu Braniște's family<sup>36</sup> can be considered one of those. In his correspondence with his wife and mother, they deplore family's new problem: the daily diet. Maria, his mother, discussing about her daughter in law and about her grandchildren, mentioned that war became a real problem for them. Their meal had to be cooked only with flour, bacon, fat, vegetables, meat and milk.<sup>37</sup> Those were the ingredients used in ordinary conditions in every family, but in the last year of war meat had become a luxury, bacon was very expensive, fat was difficult to find on market and milk had a special treatment.

Besides that, Maria, the wife, had to take care of his husband confined at Szegedin prison. She sent him packages with cheese, bacon, a half of bread, roe, fish, onion, cucumbers, meat (chicken, geese, cow or pork), salame, eggs, cookies, sponge cake, biscuits, coffee, tea or cappuccino and fresh fruits.<sup>38</sup>

Dăianu family<sup>39</sup> is also one of those in which supplies decreased during war, but survival wasn't a problem, even if requisitions limited the resources, the commerce was prohibited and the harvest was meagerly, Elie's daughters afforded to send packages with appetizers, boiled eggs, sausages, cakes and apples from Reteag, cheese from Bistrița, wine from Micești and coffee from Cuba.<sup>40</sup> On winter holidays, the packages were made only from products obtained from their pork, an animal saved by his silence from the Bavarians.<sup>41</sup> On Eastern, the sacrificed lamb was transformed into steak, soup and stewed

<sup>36</sup> Valeriu Braniște (n. January, 10th 1869, Cincul Mare, Brașov county - d. January 1st 1928, Lugoj, Timiș county), was a journalist, politician and a member of Romanian Academy.

<sup>37</sup> DJAN Cluj, Fond personal Valeriu Braniște, dos. 2, f. 36.

<sup>38</sup> Valeriu Braniște, „Scrisori din închisoare”, Reșița: Banatica, 1996, 52.

<sup>39</sup> Elie (Ilie) Dăianu (1868-1956) was a priest and a militant for the national cause. He worked for journals like: *Familia*, *Tribuna*, *Dreptatea*, *Răvașul*, *Asociațiunea*, *Transilvania*, *Albina*, *Convorbiri literare*, *Unirea*. In 1917 he was imprisoned under the accusation of illegal possession of weapons and collaboration with the enemy and was hold in the prison of Cluj for a year.

<sup>40</sup> Elie Dăianu, „Însemnări din închisoare și exil”, vol. I, 50.

<sup>41</sup> Dăianu, *Însemnări din închisoare și exil*, vol. II, 48.

giblets. The lucky goose, that remained in the farmyard after the soldiers' robberies were also transformed into special dishes for the prisoner.

## **CONCLUSION**

Looking back to this important event in the XX century's history, historiography saw, for a long period of time only bravery, glory and heroes. In this idyllic picture, the war was just a way to obtain the accomplishment of an ideal, the unifying of Romanians regions. What war really meant for the people who lived in those times can't be revealed by the historical documentation. That can be realized only if the historian passes beyond barriers imposed by positive history and searches data in areas unexploited yet. Memories, literature and diaries are subjective sources, but they reveal the image printed in the subconscious mind of the authors. Of course, the laws considering prohibitions, ration, taxes, found raisings and requisitions are a valuable source, but that category of sources can reveal only dry data and only in conjunction with subjective data could show us what war really meant.

For a soldier, war meant danger, death, bravery and disease, lack of hygiene, wounds, alienation and starvation. For civilians, it meant fear, breakup of the beloved, insecurity, instability, taxes, gaps and famine.

As we could see, the famine was just a problem among others, but we considered to be the most important because the lack of supply and the starvation put in danger any organism, it weakened it and finally, it drew it to death.

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**THE EUROZONE CRISIS: MORE THAN *MONEY*  
*TROUBLES.*  
A DIFFERENT APPROACH TO THE CYPRUS DEFAULT**

**Alina BUZĂIANU<sup>1</sup>**

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**ABSTRACT:**

*WE HAVE BEEN ACCUSTOMED, AT LEAST FOR THE LAST FEW YEARS, TO PORTRAY THE ECONOMIC CRISIS WITHIN THE EUROPEAN UNION MOSTLY AS “MONEY TROUBLES” (MONEY LAUNDERING, BANK INSOLVENCY, BAD INVESTMENTS, SOVEREIGN DEBT, ETC.). VERY RARELY WE CONSIDERED LOOKING FOR POTENTIAL CAUSES OF DEFAULT, ELSEWHERE, MEANING INCOMPLETE BUT DESPERATELY NEEDED POLITICAL INTEGRATION WITHIN THE EUROPEAN UNION, AMBIGUOUS POLITICAL DECISIONS AT EU LEVEL, INSUFFICIENTLY ADDRESSED CONFLICTING CULTURES, AND MAYBE PROMOTING ALL THE WRONG STANDARDS OF FINANCIAL GOVERNANCE OR THE ABSENCE OF THE RIGHT FINANCIAL INSTRUMENT TO MAKE THE PROMISE BELIEVABLE – THE PROMISE TO RESCUE THE LEGITIMACY OF EU. IN CYPRUS CASE, - THE SMALL MEDITERRANEAN COUNTRY FACES FORMIDABLE ECONOMIC AND FINANCIAL PROBLEMS -, A MORE PARTICULAR CASE, THIS PAPER TRIES TO EXPOSE OTHER ISSUES RESPONSIBLE FOR THE PRESENT ECONOMIC ENTRENCHMENT, SOME OF WHICH ARE NOT EXCLUSIVELY RELATED TO MEASURING MONEY MISMANAGEMENT OR INDIFFERENCE TO ACCOUNTABILITY. FURTHERMORE, HOW THE OUTCOME OF ALL THIS GREAT ENGAGEMENT TO SAVE THE APPEARANCES FOR THE ENTIRE EUROPEAN LANDSCAPE WILL TURN OUT IS YET TO BE DETERMINED.*

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**KEY WORDS:** CYPRUS; CRISIS; CULTURE; EUROPEAN UNION; RUSSIA.

The Cyprus economic crisis was with a few exceptions a sample of “*I saw it coming!*” situation, after all, the island’s economy was always thought to be a shaky deal and with a predisposition for disaster. With a population of a little over 1 million people, Cyprus is the eurozone’s third-smallest economy, with a gross domestic product of \$23,5

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billion in 2012, or only about 0,2 percent of the Eurozone economy. Its main industry is tourism and banking. The financial crisis this time had been expected because banks in Cyprus had a large amount of bonds issued by the Greek government. They suffered badly because of Greece's sovereign debt crisis and plummeted into a deep recession. On average, the total assets of banks in each EU member country are about 3.5 times the size of GDP. But the corresponding figure for Cypriot banks is about seven times the size of GDP. The latest European financial drama sets also a few sad records to be remembered: a damaging attempt to raid the small nation's insured deposits<sup>2</sup> - an approach contrary to past European settlements, which relied more on taxpayer funds, also a truly scary scenario of what could resemble a situation of a first Eurozone member declaring its own national bankruptcy and last but not least, the inability of European leaders to come up with "a better solution than that reached last week"<sup>3</sup> has become a regular episode from a "déjà-vu" series.

More or less, apart from the technical financial problems, the big picture sets the question of whether the process of *Europeanizing* Cyprus really came into shape. The current state of affairs shows that the process was not developed in a satisfactory manner for any of the parties involved. The European Union brought the conflict inside the union by admitting Cyprus (a non-European entity) into its institutions and now it has a responsibility to make sure the Cypriots, as European citizens are secure. It is the whole island that has joined the European Union in 2004, even though it is formally represented by the Republic of Cyprus, the government in control in the south. That means that Turkish

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<sup>2</sup> That was probably the first element of surprise. For the global stock markets that plummeted on announcement of the terms of the first attempted deal between the Cypriot authorities and its lenders on 15 March, the fact that small depositors had been targeted first was a surprising rewriting of the rules of capitalist prudence. The initial decision to *tax* the insured deposits was an incredible violation of the spirit, if not the letter, of a 2009 EU Directive, establishing that all bank deposits below €100,000 should carry an insurance guarantee. Furthermore, the new deal calls for a levy on uninsured deposits over €100,000 in the country's second biggest bank, Laiki, which will be restructured. The country's largest bank, Bank of Cyprus, will take over Laiki's prime assets, and deposits over €100,000 at Bank of Cyprus will be frozen for the time being and used to resolve Laiki's debts and increase the capital of Bank of Cyprus. Uri Dadush, „Cautious optimism from Cyprus”, *The National Interest*, April 2nd, 2013, accessed May 17th, 2013, <http://nationalinterest.org/commentary/cautious-optimism-cyprus-8295>

<sup>3</sup> There have been a lot of mixed feelings about the evolution and consequences of the Cyprus bailout. Surprise, shock, astonishment, panic over deposit guarantees, fear of bank runs in Cyprus and other countries subject to Troika mandates, and uncertainty about the uncertainties of wealth from now on both ensued and augmented the pain of finding an eligible solution. «Once again, leaders have demonstrated their inability to balance the interests of the currency union „haves” with those of the „have nots”». Sven Böll, Christian Reiermann, Michael Sauga, Christoph Schult, Anne Seith and Daniel Steinvorth, „Lessons from Cyprus: Euro Crisis Poses Grave Dangers to EU Unity”, *Spiegel Online*, March 25th, 2013, accessed May 3rd, 2013, <http://www.spiegel.de/international/germany/cyprus-bailout-highlights-deep-mistrust-in-europe-and-euro-zone-a-890745.html>

people living in the north are entitled to claim the benefits of membership, even though that may involve going through the Republic of Cyprus. The membership of Cyprus in the European Union allows Northerners to break out of the isolation, but it also recognizes them as Cypriots and as Europeans, too. Apart from that, we have to agree that EU has failed to enforce upon the small island, Europe's standards of financial governance. There where the European Union has been unsuccessful, the Russians have managed to grasp the "lost" opportunity. Therefore, Russian money became fuel for the catastrophe, but was not itself the cause. Bank insolvency and money laundering are not two faces of the same coin, implying that are not inextricably convergent or related. Reflecting a different perspective on the matter, the Cyprus crisis could possibly be referred to as a result of conflict between distinctive political cultures: European, Greek Cypriot and Russian.

## REFERENCES IN THE PAST

For a better understanding of the background of this crisis, one should have a close look to some facts historically related, starting with the fact that the Republic of Cyprus (Greek Cyprus) is a distinct political culture from mainland Greece. The Hellenic Republic, if we may say so, has roots both of Greek and Balkan origin, whereas The Republic of Cyprus, besides the Greek background has also Levantine influences. For a quarter of a century, Greece has been the "black sheep" of the European family, but it cannot be blamed for not seeking in a genuine and unselfish manner a European identity and vocation. The leaders of the Hellenic nation have been truly preoccupied with finding a solution and behaving as responsible Europeans, throughout the whole crisis situation. This most desired implication was ultimately due to the fact that the Greek politicians have accepted that their country's crisis was the consequence of its own fiscal profligacy.

Unlike their Greek fellows, the Greek Cypriots were a little too confident about their place within the European civilization and quite sure of what European partnership meant for them<sup>4</sup>. In embracing their European citizenship, the Cypriots forgot to exchange their Levantine business model and practices for European standards. Maintaining both practices was a better option for them, on the spot, but a much tricky one, on the long run.

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<sup>4</sup> *Until the very last moment, Greek Cypriots – from people in the streets to the presidential figure – expected and bet it on a full bailout from Brussels and Frankfurt as being rightfully theirs. No other Eurozone government approached the Troika (European Commission, European Central Bank, IMF) with such nonchalant self-confidence and indifference to accountability.* E. Wayne Merry, "The Cyprus-Crisis Culture Clash", *The National Interest*, April 8<sup>th</sup>, 2013, accessed May 14<sup>th</sup>, 2013, <http://nationalinterest.org/commentary/the-cyprus-crisis-culture-clash-8321>.

Miming the European way of doing business, while keeping and encouraging what the Germans call a “casino economy” has been the favorite game of manipulation played successfully by the small state, up till now.

But what really brought this catastrophic situation upon the island republic in the eastern Mediterranean, as economically significant as the German city-state of Bremen? Two events, before the critical year of 1974, were responsible for the transformation of Greek Cyprus from a chill out island into a fiscal paradise, a booming international financial hideaway. The first one refers to the expulsion of foreign communities from Egypt<sup>5</sup> by President Gamal Abdel Nasser and dates back in the year 1956, and the second has to do with the Lebanese civil wars. Both events have marked the end of an era in which Alexandria and Beirut were the dominators of the regional financial landscape. Which other candidate was more eligible to take the stand? Between Athens and Nicosia (along with Limassol and Larnaca), the last one was the winner. Although both were considered as provincial, Nicosia presented itself as the better offer with an attractive combination of British commercial law and Levantine enforcement.

In July 1974 a chain of events resulted in Turkey invading Cyprus under the pretext that it was a peace operation to bring back peace and stability to the island. The outcome of this invasion has been enormous and still impacts the island and its inhabitants today, just as it also impacts Turkey and the wider global powers, too. Thousands of Greek-Cypriots had been driven away from homes in the northern part of the island by the Turkish army, which remains in control of northern Cyprus to this day. The northern Cyprus self-determination is recognized only by Turkey.

The disruption caused by the 1974 division of the island into Greek and Turkish sectors reduced the Greek south to a haven for offshore business, “a kind of Dubai in miniature”. Cyprus provided a lot of special treatment: easy available financial services and also an ideal legal environment for shell companies, flag-of-convenience shipping,

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<sup>5</sup> Most Egyptian Jews were thought to have left the country after the Suez Crisis in 1956, when former President Gamal Abdel Nasser expelled Jews deemed disloyal. Earlier this year, “Yousef bin Gaon, the head of the Jewish community in Alexandria, condemned statements made by Essam al-Erian, vice president of the Freedom and Justice Party, in which he accused the regime of former President Gamal Abdel Nasser of expelling Egyptian Jews from Egypt. Bin Gaon claimed that Nasser only expelled some Jews who had other nationalities and who were proven to have not been loyal to Egypt. Erian sparked controversy at the end of last year, when he issued a call for the Egyptian Jews who live in Israel to return to Egypt”. „Head of Alex Jewish community: Nasser did not expel Egyptian Jews”, *Egypt Independent*, January 7th, 2013, accessed May 22nd, 2013, <http://www.egyptindependent.com/news/head-alex-jewish-community-nasser-did-not-expel-egyptian-jews>.

weapons and narcotics trafficking, and tolerance of Soviet bloc espionage. In the same sense, Cyprus was particularly not preoccupied with British and American activities conducted from the two British Sovereign Base Areas on the island<sup>6</sup>.

Becoming aware of this favorable situation, after the collapse of the Soviet Union, Russians started depositing their money in Cypriot banks. It is said that about one-third of the banks' deposits is owned by Russian companies and wealthy people. It is also suspected that the banks are used by Russians for money laundering and tax evasion. "It is unlikely that Cyprus, with a GDP of around US \$ 23 billion can manage to make such large investments in Russia unless those investments were financed through illicit assets from Russia. The recorded – direct investment – positions merely reflect the round-tripping of prior illicit deposits from Russia into Cyprus"<sup>7</sup>.

## **THE BANKING SYSTEM – HOW THINGS STAND**

There are no more doubts about how stupidly big the Cyprus' banking system was. Latest data shows that the Cypriot banking sector's assets revolve around 146.2 billion euros – or about 820 % of the GDP – making it one of the biggest risks to the island's economy<sup>8</sup>. To create an even greater sense of vulnerability, it has been reported also an extremely high level of private sector loans<sup>9</sup>. Filled with Russian money, the inflated Cypriot banking system absorbed huge quantities of Greek debt and when it was written down in early 2012, it turned into a catastrophic loss for the small island. And, on top of that, Germany already raised eye browses when scathing about Cyprus' role as a magnet for Russian offshore funds, which are labeled as having dubious provenance.

The Reuters Agency has come into possession of a list of documents<sup>10</sup> showing that a significant proportion of companies transferring money from the two agonizing banks of the Mediterranean island were Russians and East Europeans<sup>11</sup>.

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<sup>6</sup> E. Wayne Merry, "The Cyprus-Crisis Culture Clash", *The National Interest*, April 8th, 2013, accessed May 14th, 2013, <http://nationalinterest.org/commentary/the-cyprus-crisis-culture-clash-8321>.

<sup>7</sup> Dev Kar and Sarah Freitas, "Russia: Illicit Financial Flows and the Role of the Underground Economy" (report), *Global Financial Integrity & Ford Foundation*, February 2013.

<sup>8</sup> Other sources say in January 2013 „there were some €126.4 billion (\$162.6 billion) worth of assets on the books of Cypriot banks. That's nearly seven times the size of the the country's GDP as a whole". Matt Phillips, „Cyprus' absurdly large, dodgy banking system, in three simple charts", *Quartz*, March 25th, 2013, accessed May 15th, 2013, <http://qz.com/66794/cyprus-absurdly-large-dodgy-banking-system-in-three-simple-charts/>.

<sup>9</sup> Data shows this loans worth around 48.5 billion euros (270 % of the economy).

<sup>10</sup> „Prepared in April by private sector lenders Bank of Cyprus and Laiki Bank, and passed to lawmakers by the island's central bank, the documents list 5,323 transactions, most previously undisclosed. They detail transfers of 100,000 euros or more from Bank of Cyprus and Laiki Bank in the two weeks before Cyprus

But, surprisingly enough, the size of the Cypriot banking sector is not unique and it was not considered that much of a problem until last year, when the European Union set up tools to monitor such imbalances. As a matter of fact, when Cyprus was examined as to whether it met the criteria to join the European Union in 2003 or not, the European Commission reported “no problems” with the banking sector, simply because it was not a criterion for membership. “Neither did the European Central Bank mention that anything was wrong with Cypriot banks or their business model - based on funding from deposits, almost half of which are from non-residents - when it evaluated whether Cyprus was fit to join the euro zone in a 2007 report”<sup>12</sup>.

The first sign of things gone wrong became visible just last year, most precisely in May 2012, in a report prepared by the Commission – under the newly agreed procedure to detect macroeconomic imbalances – which indicated that the size and business model of the Cypriot banking sector might become a problem in the foreseeable future. Unfortunately, the indications in the report proved to be real and caused great distress to both Cyprus and the Eurozone.

The financial meltdown of Cyprus’ banking system appears to have been postponed thanks to a last-minute rescue deal struck on March 25 by the country and its international lenders – the European Union, the European Central Bank and the International Monetary Fund (more commonly known as the Troika). The new deal calls for a levy on uninsured

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closed its banks on March 16 as it desperately negotiated an international rescue”. Michael McIntyre, professor of law and a tax expert at Wayne State University in the United States confirms that „this list verifies the well-founded Cyprus' reputation as an offshore economy used as a conduit for people, particularly Russians, to hold large sums of money, often to avoid paying tax and without too much scrutiny”, in Stephen Grey and Michele Kambas and Douglas Busvine, “Insight: Bank documents portray Cyprus as Russia's favorite haven”, *Reuters*, May 15th, 2013, accessed May 17th, 2013, <http://www.reuters.com/article/2013/05/16/us-cyprus-outflows-insight-idUSBRE94E0BN20130516>.

<sup>11</sup> “Reuters analyzed 129 companies that each transferred 5 million euros or more over the two-week period, collectively accounting for 1.9 billion euros. Of those companies, 95 could be traced. Out of that group, 34 have links to Russia and five have links to Ukraine and two to Kazakhstan. The remainders comprise companies from Cyprus and other countries including tax havens such as the Cayman Islands, the British Virgin Islands and the Dutch Antilles. By value, more than half the transactions were made in dollars”. Stephen Grey and Michele Kambas and Douglas Busvine, “Insight: Bank documents portray Cyprus as Russia's favorite haven”, *Reuters*, May 15<sup>th</sup>, 2013, accessed May 17<sup>th</sup>, 2013, <http://www.reuters.com/article/2013/05/16/us-cyprus-outflows-insight-idUSBRE94E0BN20130516>.

<sup>12</sup> „In a report published almost a year ago, the first public mention of the threat that Cypriot banks might pose to the financial stability of the island, the European Commission said Cyprus ranked only fourth in the euro area. Luxembourg has a banking sector 24 times the size of its economy, Ireland eight times and tiny Malta 7.8 times bigger than its GDP. A senior EU official said that the European Commission told the Cypriot government in a telephone call already in November 2011 that it should reduce the size of the banking sector, but that advice was ignored”, in Jan Strupczewski, „Does size matter? Cypriot bank sector problem went overlooked”, *Reuters*, March 21st, 2013, accessed May 11th, 2013, <http://www.reuters.com/article/2013/03/21/us-eurozone-cyprus-banking-size-idUSBRE92K0YK20130321>

deposits over €100,000 in the country's second biggest bank, Laiki, which will be restructured. The country's largest bank, Bank of Cyprus, will take over Laiki's prime assets, and deposits over €100,000 at Bank of Cyprus will be frozen for the time being and used to resolve Laiki's debts and increase the capital of Bank of Cyprus.

## **THE RUSSIA-CYPRUS *FATAL* FINANCIAL ATTRACTION**

It doesn't take too much of an effort to clearly see why Cyprus financial system exerted such a big attraction to Russian more or less covert finances. The attraction goes way back to Soviet times, when it was said that Nicosia meant for its region (especially the Soviet one), what Vienna did for the Central Europe. The assets that made Cyprus so popular among Russians (particularly the Russian oligarchs) were mainly its proximity, the lifestyle and Orthodox Christian religious rituals both people shared. There were also the climate and the beaches. But, make no mistake - the financial boom in Cyprus was already in place and thriving before Russia even had its first oligarch.

The Russian financial activity in Cyprus could be referred to as two types of money laundering: one type was more open and observable and the other, not so overt. The more visible type of money laundering implicated the employment of offshore banking services in order to obtain the necessary financial aid which was not available back at home<sup>13</sup>. The second type truly involved money laundering by Russian oligarchs....and so many others (Ukrainians, Arabs, Israelis, etc.). Actually, the so-called "Russian capital" in Cyprus, was in fact "Russophone", meaning that the funds came from a various range of countries, such as Ukraine, Bulgaria, Georgia, Serbia, Armenia and others, all having a common denominator in being former members of the Soviet bloc. Nevertheless, in time, Russian capital became the largest component of foreign funds in Cyprus and the Laiki Bank managed a large share of the Russian money flow. The second-largest bank on the island was famous for the flexibility of its services and, particularly, for removing the assets of Slobodan Milosevic and his family from Serbia to Cyprus. But putting the blame entirely on Russian and foreign money invading the Cypriot banks will be a false statement to make. The blame should be shared equally among irresponsible investment decisions by major banks (Laiki being the leader), numerous failures of financial governance in Nicosia

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<sup>13</sup> One could initiate a whole debate on whether this type of activity should really be addressed as money laundering. The fact is that it depends on your definition. The respective financial services were very much legal in Cyprus, at the time, whereas Moscow officially sanctioned it.

and by European decision-making, the downgrading of Greek sovereign debt, so putting everything in one sentence: the general failure of Greek Cypriots bankers and authorities.

Once the crisis unfolded, from the development of negotiations procedures emerged two critical conflicts of political culture: European versus Cypriot (mainly Greek Cypriot) and European versus Russian. There were also two main reasons for which the Troika has initially delayed confronting the problem, even though the storm was unsurprisingly and rapidly approaching. One reason had to do with the general situation in the Eurozone, especially in Spain, which was everything but stable. The other one, it anticipated a change of government in Nicosia, meaning the election of the centrist Nicos Anastasiades gave the green light for seriously launching the Cypriot financial bailout.

It is a well-known and agreed fact that the European political culture is, at least in this story, of largely German influence and therefore, we need to think about money as inherently evil and consider debt as deeply immoral. So, Russian expectations that their interests on issues such as the Cyprus bailout will be “taken into account” by the German counter-part were very much overrated. Both the German political class and the media chose instead to portray Russia as the “scapegoat” for the Cyprus financial conundrum. But who could blame them for such an exaggeration? After all, Germany faces an election year that announces a lot of trouble and controversy for Chancellor Merkel’s party. Keeping it honest until the end, there were a few German voices from the media that acknowledged the failed attempts made by the European institutions in struggling for the right solution to deal with the agony of a Eurozone member. We should have heard more about the Cypriot banks’ fatal decision to take on big chunks of Greek sovereign debt, about the Troika’s imposed cut on Greek bonds back in 2011, which made the Cyprus crisis a cruel certainty. And nobody talks about why the separate Russian bank on the island remained solvent despite having processed large amounts of offshore funds also?

As I was stating in the beginning of this paper, the crucial mistakes were made firstly by accepting Cyprus as an EU member without resolving its division problem, and secondly by turning a blind eye to the fact that the island’s banking system – by then suffocated with illicit offshore money – did not even remotely meet the standards of European financial law. On top of everything, the European leaders learned hardly any lesson from this terrible chain of unfortunate decisions. Thus, no later than the year 2007, a totally unprepared, unreformed and unaware Cyprus was welcomed into the Eurozone.

Maybe these were the reasons for which the Troika felt like playing the old game of redemption. Giving the incredible mistakes made in the past, the European leadership felt the need to impose a certain “moral hazard” to the case, and along with it, the same actors, couldn’t resist the temptation of punishing Cyprus for its prodigal fraternization with Russia. The European and especially German portrayal of the crisis was made with the intention of presenting the “Cyprus problem” as a convenient lesson to be learned for those in danger of doing too much business with Russia.

## CONCLUSIONS

As Greek Cypriots go through a hard time accepting and enduring the current set of harsh rules imposed by the EU leaders, media leaks from Nicosia have indicated massive withdrawals from foreign accounts in the final days of Cypriot banks (especially Laiki Bank)<sup>14</sup>. Still, there were some exceptions that chose to share the Cypriot illusion that a European bailout was guaranteed and to whom the presumed European “solidarity” will be the cause for considerable damage. For those less fortunate the losses will be far more difficult to measure, while for the true oligarchs the lack of transparency will ease somehow the brunt of misfortune.

As things now stand, Cyprus’ political deciders has to face a great deal of economic distress and most likely a lot of public resentment due to increased deprivation caused by implementing Troika’s draconic measures. What greater opportunity for the Russian oligarchs to return? They could most probably benefit from local hostility towards European and/or German leadership (perceived as a new type of colonialism). What normally today seems like a crusade against Russian intrusion in European affairs, tomorrow, with a little patience, opportunism and a small sample of “solidarity”, Moscow could turn the tables to its advantage. If Cyprus’ nightmare would, one day, become reality, the Greek part of the island could grow more Russocentric and create serious implications for both Turkey and Europe. The European and Russian attitudes, both bear the stigma of their own delusions. The European club, heavily influenced by Germany is determined to tell the story of the Eurozone saga in moralistic terms. Trapped in a movie of

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<sup>14</sup> „As debts threatened to overwhelm Cyprus early this year, money began to flow out of the country in fluctuating amounts. In January 1.7 billion euros left the island and a further 900 million in February, according to Central Bank of Cyprus figures. The run accelerated in March as Cyprus found it had few friends among international institutions suffering bail-out fatigue. Many of the biggest transfers were by firms linked to Russia”. Stephen Grey and Michele Kambas and Douglas Busvine, “Insight: Bank documents portray Cyprus as Russia's favorite haven”, *Reuters*, May 15<sup>th</sup>, 2013, accessed May 17<sup>th</sup>, 2013, <http://www.reuters.com/article/2013/05/16/us-cyprus-outflows-insight-idUSBRE94E0BN20130516>.

its own, Russia permanently sees the internal affairs and policies of the European Union as some sort of conspiracies aimed to threaten its national security.

Cyprus, without the Russian money, could very well face another bank crisis. Moreover, the probability of a levy on bank deposits to be used again in the future as a means of solving a financial crisis creates already a strange vibe among all members of the Eurozone. The fear of a seemingly run on deposits happening in other countries sets the stage for one big controversy. The present crisis exposed the economic vulnerability coming from excessive dependence on the financial industry. The given situation gives birth to an unbearable need to create a joint European framework for better supervision of banks and for direct injection of capital into banks treading troubled waters.

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## THE MECHANISM OF REGIONAL – GLOBAL SECURITY

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**ABSTRACT:**

*THE INTERNATIONAL SECURITY ENVIRONMENT IS IN A STABLE STATE ALTHOUGH THIS DOES NOT PRECLUDE THE POSSIBILITY OF SPECTACULAR CHANGES IN THE BALANCE OF POWER AND INTEREST CENTRES. THUS, IT IS BECOMING OBVIOUS THE SHIFT OF FOCUS FROM THE TRANSATLANTIC SPACE TOWARDS THE PACIFIC ZONE. IN ORDER TO UNDERSTAND TODAY'S TRENDS IT IS NECESSARY TO PROCEED TO A DIACHRONISTIC INTERPRETATION, NAMELY TO START WITH THE INCIPIENT STRUCTURING FORMS OF THE INTERNATIONAL SYSTEM.*

*SECURITY IS BOTH A STATE OF THINGS AND A MECHANISM THIS FACT COMPLETING FLEXIBILITY IN CONCEPTS BUT MOSTLY IN THE STEPS TO TAKE TOWARDS IMPROVING THE REFERENCE BACKGROUND AND IN KEEPING CONTROL UPON CONFLICT CENTRES, RISKS OR THREATS. THE SHIFT OF THE WORLD GRAVITY CENTRE TOWARDS THE PACIFIC, AS WELL AS THE CHANGE FROM UNILATERALISM TO MULTI-POLARIZATION ALONG WITH THE CRISES IN THE DEVELOPMENT OF EURO ATLANTIC SPACE MAY BE UNDERSTOOD AS INVITATIONS TO A MECHANISM OF REGIONAL-GLOBAL SECURITY, AS IT IS DEFINED AND ACCEPTED BY THE INTERNATIONAL COMMUNITY.*

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**KEY WORDS:** *SECURITY ENVIRONMENT, INTERNATIONAL ORGANIZATIONS, SECURITY MECHANISM.*

The international security environment is undertaking swift changes. Some of these changes are linear and predictable, either flowing directly from an objective development of the security environment or representing the outcome of different strategies and programs. Others are surprisingly featured just like a seism or lacking a continuous strategy, all of them being accompanied by a significant amount of uncertainty in strength and length of time.

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<sup>1</sup> Goethe German Colegium, Bucharest.

## THE INCIPIENT STRUCTURING FORMS OF THE INTERNATIONAL SYSTEM

Intergovernmental organizations came into being from the necessity of managing the international peace and security and the need of building up peaceful cooperation relationships between nations. Subsequently, the international organizations have been playing a fundamental role in the relations among nations by exerting an overcoming influence upon the evolution of contemporary world<sup>2</sup>.

The theory of modifying the international system structure by setting up world organizations as an important peace strategy was born ever since the beginning of the 17<sup>th</sup> century. The role of such an international organization would be that of constantly maintaining the relations between its members and thus influencing their politics<sup>3</sup>.

An international organization sets up the frame and the necessary means of maintaining a natural continuous flow at all levels of the international cooperation and is in itself the most adequate means of balancing the member nation's position into this flow. The resolutions passed by these organizations should be the result of total compliance with the interests of the state members which, in their turn, should be willing to take action<sup>4</sup>.

It is difficult to evaluate to what extent the setting up of an international organization has influenced the conflicting behaviour within the international relationships, but it is certain that conflicts have not entirely been removed from the world. And yet something is being changed and that is the way people perceive conflicts. In the absence of an international organization conflicts would seem boundless because they separate the parties which try to annihilate each other whereas a conflict between members of an international organization - within which the parties cooperate and try to solve their dispute - seems to get important and efficient changes to decrease in violence<sup>5</sup>.

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<sup>2</sup> The possibility of a serious military confrontation of war is inherent in international relations. Theory of peace need not contest the basis realist conception of international politics as occurring in a state of anarchy. Kant did not, saying that nations, "like lawless savages, exist in a condition of ... war". Kant, Immanuel ([1795]1970) "Perpetual Peace: A Philosophical Sketch" in Hans Reiss (ed.) Kant's Political Writings, Cambridge; Cambridge University Press.

<sup>3</sup> Much of the literature is dedicated to the study of war rather than the study of peace. If one simply equates peace with the absence of war, than the study of peace is just the mirror image of the study of war. Boulding Kenneth (1979) *Stable Peace*, Austin: University of Texas Press.

<sup>4</sup> Ionel Cloșcă, *Reglementarea prin mijloace pașnice a diferendelor dintre state* [Peaceful Settlement of State Disputes], (Editura Politică, București, 1985), 97.

<sup>5</sup> There are three variants of security cooperation; the relation former enemies after post-war settlement, the work of the United Nations Security Council (notable its permanent members), a normative proposition to replace the dangers and uncertainty of balancing. Both the League of Nations and United Nations Charter have tried to incorporate elements of collective security, with limited success. Down George W. (ed.) *Collective Security Beyond the Cold War*, Ann Arbor, University of Michigan Press.

Abbé de Saint-Pierre (1658-1743) was the first to talk about the theory related to turning the context of interaction between nations into a confederation and in this respect the drafted project of an international organization within which cooperation should be founded on property as guaranteed by monarchs. The idea was that the union should have enhanced security while the nations involved could have developed another type of foreign politics, free of wars. Abbe's plan was very modern and its 12 articles could be modified with no dissentient voice of the members. When a special commission failed in mediating a situation, the Senate was to give a resolution by two-thirds majority, resolution which thus became mandatory. Whoever used armed forces before a resolution or didn't comply with it was to become subject of military intervention. The plan to set up an international organization clearly laid under interdiction the use of armed forces<sup>6</sup>.

Throughout mankind history, regardless the size and type of human societies, there was always the issue of ensuring safety and security of states, a preoccupation which is now known as "peace architecture".

This is an institutional aspiration which would enable the world to avoid conflicts and live in harmony. In the modern times – a Westphalia of the past four centuries – the national states have devised different ways of building up this architecture. Within the context the relation between "global" and "regional" perspectives in security was rather ignored<sup>7</sup>.

Across the Westphalia centuries one can distinguish three phases in the process of building up the "peace architecture": the cooperation based on national sovereignty (from the 17<sup>th</sup> century up to the 19<sup>th</sup> century); the first two successive experiments, gradually integrated (in the 20<sup>th</sup> century)<sup>8</sup>.

Before the 20<sup>th</sup> century the regional security represented the peak in the strategy of politics and diplomacy. Global security – bearing the meaning of a unitary whole for a nation's own safety and redemption – is a concept that had already appeared in the Kantian philosophy. Efforts in achieving peace on the continent were made in Europe and America by means of state policies, during the 19<sup>th</sup> century.

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<sup>6</sup> Down George W. (ed.) *Collective Security Beyond the Cold War*, Ann Arbor, University of Michigan Press.

<sup>7</sup> The concepts of states, sovereignty and territory are the central to the study and practice of international relations. For generations of scholars, the concept of the state has been the principal subject and unit of analysis in international politics. Morgenthau Hans J. (1948), *Politics Among Nations*, New York, Alfred A. Knopf; Waltz, Kenneth N. (1979) *Theory of International Politics*, Reading MA, Addison-Wesley.

<sup>8</sup> For this reason many concepts are doubtful: "regions' security" and "regional agencies mentioned in chapter VIII of the Charter". Abbot, Kenneth and Snidal, Duncan (1998) "Why States Act Through Formal International Organizations", *Journal of Conflict Resolution*, 42 (1): 3-32.

The evolving development or regional security architecture in Europe which has been leading the international community up to the present stage, can be related to the 17<sup>th</sup> approaches, whereas the progress in setting bounds and reducing conflicts between human societies has been slow and sinuous, viz. the Westphalian Peace which knew the passage from medieval empires and influencing spheres to the national state system. Despite provisions for “public peace” keeping in accordance with a “perpetual law” arbitrarily enforced, no security architecture established any operational mechanism to avoid conflicts<sup>9</sup>.

During the 18<sup>th</sup> century and the beginning of the 19<sup>th</sup> century, “legitimate wars” – caused by imperial ambitions – were carried on throughout the European continent until 1815 when, at the Congress in Vienna, combined forces succeeded in keeping peace and enforcing regional security by means of a balanced power system<sup>10</sup>. The great powers of Europe, subjects to a series of “temporary treaties of alliance”, were trying to keep order on the continent. However, this “European Concern” lasted for four decades and the second half of the 19<sup>th</sup> century was periodically shaken by wars between the great powers that culminated into the clash of a devastating world war.

On the American land the 19<sup>th</sup> century knew the first arrangements for a continental security. In 1823 the United States proclaimed its sphere of influence on the American Continent<sup>11</sup>, the Monroe Doctrine being considered by them a genuine mechanism for the regional security, in spite of other countries’ (including neighbours) reticence.

In the 19<sup>th</sup> century the Pan-Americanism became an effective movement for ensuring freedom of the Latin America from Europe. Towards the end of the century the movement turned into a continental security system which can be taken as the first genuine arrangement for a regional security in the two Americas. In 1890 the first pan-American Conference was held in the United States and aimed at “keeping peace on the American

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<sup>9</sup> Westphalia Treaty – a treaty for peace between the Roman Empire and the King of France, together with their allies – concluded on October 24<sup>th</sup> 1648, articles 120-125. A great deal of recent work has involved more detailed historical understanding of how the institutional structure of the classic European state system emerged and developed. Grew, Wilhelm Gerog (2000). *The Epoch of International Law*, Berlin.

<sup>10</sup> The constitutional principles of the Westphalian system of sovereign states are intergovernmental in that governments mutually acknowledge each other as government, thus laying the foundation of international society. Bull Hedley (1977), *An Anarchical Society. A study of Order in World Politics*, Basingstoke, Macmillan.

<sup>11</sup> The recent independence from the European colonialism gained by the Latino-American countries makes the United States consider that any attempt of European powers to extend the system to the American hemisphere, is a danger to the continental peace and safety. Fearon. James (1994a) “Signalling vs. the balance of Power and Interests”, *Journal of Conflict Resolution*, 38 (2): 236-69.

territory". In 1910 a pan-American Union was set-up during a conference with the goal to promote friendship and cooperation activities within the American space.

In the last period of the Westphalia era, the traditional policies in Africa, Asia and Pacific were subordinated to the European imperial powers.

In the 20<sup>th</sup> century, 200 years after Abbe's plan, The Nations Society and the United Nations Organization were set up following approximately the same directions as Abbe's model for an international organism<sup>12</sup>. Actually all these organizations are one theme with variations. Each of them makes proposals related to state confederations which, by integrating potential enemies within the same structure, become a real act of peace. Such an organization can change the international system, can release it from anarchy and set up a climate for communications, cooperation and transparency.

Although the idea of an organization that should bring its contribution to keeping peace in the world is a very old concept which has known different approaches in different stages of the history, it was only at the beginning of the 20<sup>th</sup> century when, after the First World War, the Nations Society was set up. "... the nature of new security risks and threats against the international community has long exceeded the frame of a global community as it was set after the Second World War. ... Regional organizations are more and more acknowledged as instrumental mechanisms in the new collective security system..."<sup>13</sup>

In 1919 there was the "first attempt to prevent war and keep peace, made by the League of Nations on the basis of four fundamental principles: non-aggression<sup>14</sup>, pacifist movement, collective security, low weapon level and self-determination. Non-aggression and pacifist movement are partial and are not absolute". The League's member states aim at observing each other's territorial integrity and political independence<sup>15</sup> and agree to protest against external aggressiveness.

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<sup>12</sup> Traditionally, international institutions regulated the interaction between states, be it in the field of security (for instance alliance, arm treaties, etc.) or in the economy (reduction of tariffs). Their aim is to reduce external and internal threats to the security of human beings and their environment. Scharpf, Fritz W. (1999) *Governing in Europe*, Oxford: Oxford University Press.

<sup>13</sup> Touval, Saadia (1992) "The Superpowers as Mediators", in Jacob Bercovitch and Jeffrey Z. Rubin (eds.), *Mediation in International Relations: Multiple Approaches to Conflict Management*. New York: St. Martin's Press. Pp. 232-48. S/2004/546. A Theme Debate of the Security Council, July 20<sup>th</sup>, 2004.

<sup>14</sup> The Covenant of the League of Nations (1919) bound its members to respect the territorial integrity of its members, while Charter of United Nations (1945) similarly asserted the principle of non-intervention in the affairs of member state. James, Alan (1992) "The Equality of States: Contemporary Manifestation of an Ancient Doctrine", *Review of International Studies*, 18 (4), 377-391.

<sup>15</sup> Balwin, David (1995) "Security Studies and the End of the Cold War", *War Politics*, 48 (1), 117-141.

Likewise, member states agree to solve a dispute by judicial means when this is possible and the diplomatic means fail<sup>16</sup>. By no means should member states declare war before three months from a final resolution or the publication of a report by the Council of Law; only after having followed all these steps can a state proceed to war operations. According to the above mentioned principles any war or threat of war affecting a member state is considered a problem for the whole League which can make “any decision which seems wise and efficient for the safe peace of nations”.

The principle of reducing the amount of weapons was the first global attempt in this respect and the League considered it a necessity for peace keeping. A national arsenal could be reduced to its lowest level so that national safety shouldn't be affected.

The principle of self determination was a novelty, too. At the beginning of the 20<sup>th</sup> century there still were many colonies and metropolitan territories which were considered as not being capable of governing themselves under the conditions of a modern world. Anyway, many colonies ceased to be governed by the defeated countries which had formally ruled them. The League delayed giving steady mandates to the victorious ones which thus would have had to take the “hot” responsibility of governing former colonies which needed guidance from “more advanced nations” that due to their resources, experience and geographical position could carry out this mission.

A tutelage mandated was to the League's benefit and anyway it would have been given in agreement with the principle of self-determination, up to the moment when the countries under trusteeship could have governed themselves.

Some of the League's main limitations were trebled by: a country's right to declare war allowed it to call under arms again; the right of universal veto when making consensual decision under a crisis situation; the voluntary characteristic of a military contribution which weakened the mechanism of collective security. Although the idea of setting up an organization which would contribute to keeping peace in the world is a very old one that knew different approaches in different historical periods, its real acknowledgement was at the beginning of the 20<sup>th</sup> century, after the Second World War when the Nations Society was set up.

On January 10<sup>th</sup>, 1920 the Nations Society Pact came into effect and thus the first international organization was created with the purpose of becoming an universal forum

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<sup>16</sup> Ibidem, article 13.

that would provide the necessary frame for developing peaceful relations between nations<sup>17</sup>.

The standing possibility of declaring war to solve disputes between states – that is not keeping it under total restraint in the field of international relations – was, unfortunately, one of the big shortcomings among other important ones that the Pact contained<sup>18</sup>. Under these conditions the Pact's provisions could not prevent the escalation of tension and the outbreak of a new conflagration at the end of the third decade. The Permanent Court of Justice was to cease its activity seventeen years after it had been settled (1939)<sup>19</sup>.

The Court provided a framework for solving certain categories of disputes in which the Great Powers were not involved; not all the Great Powers had participated in building up a system of international collective security. Such was the Nations League which had been created without the Soviet Union that stayed out of the organization for a long period of time until 1934 when it became a permanent member in the Council. Moreover, the absence of USA and Germany was an organizational flaw which inevitably led to the suspension of the League's activity<sup>20</sup>. This demonstrated the necessity of having a working international organization in order to settle disputes. Characterized by shortcomings, the status of the Nations Society – with regard to the operational system – lacked many aspects and its provisions were so general that the question of norms or principles arose. In our opinion it was a progress in encoding the international law into principles, but the lack of regulations regarding democratic security mechanisms was the main shortcoming of this organization, which played a role in setting insignificant disputes but could not prevent or stop major conflicts. Otherwise, the preamble of the Pact stipulated that the Nations

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<sup>17</sup> Although the Pact still stipulated war as a legal procedure in settling state disputes, peaceful settlement was a demanded priority. Thus, article 12 made provision for the situation of war outbreaking between member states and their obligation to go to arbitration, submit the issue for judicial settlement or to the Council's analysis. In accordance with article 14 the Permanent Court of Justice was created and any state could refer a dispute to it. Likewise the Court could endorse recommendations for any dispute submitted by the Assembly of Nations Society or the Council.

<sup>18</sup> This situation was remarkably described by Nicolae Titulescu: "The Pact made a war outbreak more difficult, but it did not rule out the legal war claimed by a nation's right; The Pact did not refer to a mandatory solution for international disputes or other solutions for all disputes without exception". See Nicolae Titulescu, "The Pact of Nations Society in Relation with Briand-Kellog Pact", as quoted by Ionel Cloșcă in his "*Peaceful Settlement of State Disputes*", (*Editura Politică, București*, 1985), 104.

<sup>19</sup> During this period of time The Court did not settle major disputes that threatened the world's peace but it had an important contribution to defining some institutions of international law and to adopting resolutions set as precedents. See George Elian, *Curtea Internațională de Justiție [The International Court of Justice]*, (*Editura Științifică, București*, 1970), 30.

<sup>20</sup> Powerful actor can always find a norm to support their consequentially based choice. Norms are often in conflict. International rules can be contradictory ... and there is no authority.

Society aimed at “developing cooperation among nations and ensuring their peace and security”<sup>21</sup>.

The Nations Society Pact<sup>22</sup> elaborated and adopted at the Peace Conference from Versailles (1919), was included in the peace treaties. The main causes of the Nations League’s failure were: lack of trust among the member states; lack of the principle of universality; lack of equality among the members; provisions related to war procedures instead of interdiction; small range of sanctions; ambiguity in formulating many of the Pact provisions; irrelevant activity and competency of the Council; lack of economical and social dimension in the relations of member states<sup>23</sup>.

Although at certain moments the Nations Society comprised a number of 61 states, it never achieved a universal characteristic.

Through its activity – formally carried out until April 1946, but actually ceased at the outbreak of WWII – the Nations Society did not demonstrated its ability of managing those situations for which it had been set up<sup>24</sup>.

When the Second World War broke out the final failure of the Society became obvious and decisive. Nevertheless, this end didn’t alter the idea that another intergovernmental organization could play a useful role on the international stage concerning nations’ peace and security<sup>25</sup>. Roosevelt suggested the idea of setting up a

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<sup>21</sup> L. le Fur and G. Chklaver, *Recueil de textes de droit international public*, Paris, 1928, p. 259.

<sup>22</sup> Regarding the elaboration of the Pact, the great powers of the time played the main role: Great Britain, France, Italy, Japan and the United States of America. The Nations Society comprised 32 originator member states – signatory to peace treaties – and any other state which expressed effectively the accord of observing the Pact’s provisions and which received 2/3 of the General Assembly votes. Fearon. James (1995) “Rationalist Explanations of War”, *International Organization*, 49 (3): 379-414.

<sup>23</sup> Indulgent and sometimes passive in adopting resolutions which often had a reduced effect, the Nations Society could not prevent or stop severe conflicts and crisis that broke out in the 4<sup>th</sup> decade of the past century. Such examples are the conflict between Japan and China in 1931 and 1937 and the violation of Versailles Peace Treaty by Germany and Italy. Kugler, Jacek and Lemke, Douglas (2000) “The Power Transition”, in Manus Midlarsky (ed.) *Handbook of War Studies*, 2<sup>nd</sup> edn. Ann Arbor: University of Michigan Press.

<sup>24</sup> At the end of the 19<sup>th</sup> and the beginning of the 20<sup>th</sup> century, there was an obsession with physical possession and control of territory, along with generally unchallenged assumptions about the benefits to be derived from that control. *The nineteenth-century scholar of geopolitics*. Friedrich Ratzel developed the concept of the organize theory of the state “which treated states as competitive territorial entities vying with one another for control over parts of the earth’s surface”. Murphy Alexander B. (2000) “Political Geography” in N.D. Smelser and P.B. Baltes (eds.) *International Encyclopedia of the Social and Behavioral Sciences*, Amsterdam: Pergamon.

<sup>25</sup> The Atlantic Charter was signed by England’s Prime Minister and by the USA’s President on August 14<sup>th</sup>, 1941. On January 1<sup>st</sup>, 1942 the United Nations Declaration acknowledge the Charter after Great Britain, the USA, the Soviet Union and other 23 states from all continents signed it. The principles declared in the document were related to the future peace and the necessity to set up a larger and permanent world security. In 1942 and 1943 – during the war – more and more governmental officials of the anti-Hitlerite Coalition, vehemently called to setting an international organization.

centralized organism made up of the great powers and regional representatives of small states<sup>26</sup>. The World War development and the perspective of its outcome brought about a new direction to the idea of intergovernmental organization.

It became more and more obvious the necessity of a general international organization which – based on the principles of equality, sovereignty and people's freedom – was to become an efficient factor in keeping peace and international security<sup>27</sup>. Thus, simultaneously with the coordination of military operations in course, there also started an activity of elaborating some proposals regarding the management of the post-conflict situation and the setting up of a new type of intergovernmental organization. After they had drawn up several documents, the governments of the USA, Great Britain and Soviet Union convoked the Dumbarton Oaks assembly<sup>28</sup>.

On April 25<sup>th</sup> 1945, in the presence of 50 founding members<sup>29</sup>, the “United Nations Conference for International Organization” started in the Opera Theatre Hall in San Francisco. That was a historical moment for the United Nations Organization. At the end of the Second World War all states were fully aware of the unfortunate consequences resulted from the lack of a coherent strategy of peace keeping, aware of past mistakes, weaknesses of the international system and the friability of the international order. Under these conditions it became clear that preventing armed conflicts and establishing peaceful means of settling up disputes was one of the world's first objectives. In this respect a quick position was gained by the world: according to the Charter of United Nations (1945) wars are declared illegal and considered the most serious international crime<sup>30</sup>.

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<sup>26</sup> President Roosevelt judged it necessary to keep peace and security by means of a central organization while economic and other different issues should be carried out by regional organizations.

<sup>27</sup> In Moskow Soviet Union, USA Great Britain and China – on October 26 h 1943 – agreed on a “Declaration of the four states concerning the world security”. The document stipulated “the necessity of settling up, as soon as possible, an international organization, based upon the principle of sovereign equality of all peace-loving countries and opened to membership of all the states either big or small, on the purpose of keeping the international peace and security”.

<sup>28</sup> The debates developed throughout two stages: from August 21<sup>st</sup> till September 28<sup>th</sup>, 1944 delegations from USA, Great Britain and Soviet Union carried out the works of the reunion while USA, GBand China continued from September 29<sup>th</sup> till October 9<sup>th</sup>. The debates were informal and aimed at prospecting the extent horizons of the new organization so intensely desired by the great powers. The final document was called “Proposals for settling a general international organization” – currently the document was also known as “Proposals from Dumbarton Oaks” and it represented the point of view of different experts (technicians and diplomats). The proposals status was that or recommendation for the participating governments. The involved great powers were to make proposals, shortly after the debates that would form the basis for a United Nations Conference.

<sup>29</sup> Which later were 51, after the admission of Poland.

<sup>30</sup> The United Nations Organization emerged from ruins of the Nations League, in 1945. The UN Charter's spirit came from the 19<sup>th</sup> century experience and the beginning of the 20<sup>th</sup> century through the experience of the League. The Charter was elaborated on the purpose of organizing a co-operation among the states

At the mid of the 20<sup>th</sup> century the global collective security was reinforced in the next experiment when it was believed that the Chart of United Nations would rectify the League's weakness. The Chart elaboration was based on the fundamental principles which made the "security architecture" of the international security be by half a century behind. The term of "peace" is used differently in the Chart of United Nations and does not have any clear explanation<sup>31</sup>.

In the 19<sup>th</sup> century and the beginning of the 20<sup>th</sup> century the "classical" international law system equated "peace" with the absence of war.

In the course of international relations history there have been a number of attempts in creating and enforcing a broad collective security system:

1. Westphalia treaties system (1648) which put an end to the 30 year religion wars (1618-1648);
2. Vienna Congress system (1815) which put an end to Napoleon's era;
3. The Pact of Nations Society (1919) which represented an attempt in organizing the international relationships after WWI;
4. The Chart of United Nations (1947), when – after WWII – the victorious states succeed in organizing the international relationships;
5. The Fall of Berlin Wall (1989) since – after the Cold War – the international relations have been focusing on the market economy values, the democratic system and the promotion of individual rights and liberties.

## **SECURITY IS BOTH A STATE OF THINGS AND A MECHANISM**

The state of the international security depends on the legitimacy of the states behaviour, on their will to use peaceful means, to cooperate and to solve by negotiation the disputed matters. The international code of states demeanour for ensuring a state of security is formulated in the Charter of the United Nations<sup>32</sup>.

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constituting the world's order system. In its turn the co-operation aimed at achieving progress, innovation in the field of international law, cultural cooperation, and women emancipation and, above all, a multilateral co-operation among the world's nations for preventing war and establishing peace through the methods of collective security.

<sup>31</sup> The United Nations founders – still under the strong impression of the WWII horrors – wanted the organization to be an instrument that should "deliver future generations from war scourge", as the Preamble to the Charter says. Consequently the United Nations' main mission is international security and peace keeping.

<sup>32</sup> Fearon. James (1994b) "Domestic Political Audiences and the Escalation of International Disputes", *American Political Science Review*, 88 (3): 577-92. See "Dan Canache", "The Brahimi Report and the Future

The security mechanism has several links. If, in a first stage the actions taken are for a peaceful settlement of the dispute (with different possibilities whenever the conflict has not surpassed the limits of a confrontation on force positions, that is it has not turned into a violent one), for the explosive stage (threats against peace and its violation and other acts of aggression), the Charter stipulates constraint measures, enforced by the Security Council.

The Charter stipulates as well, that the UNO member states shall accept principles and shall set up methods to guarantee that their armed forces would be used only for the common interest, and that they would suppress aggression. In this way, a world system for collective security coagulates and includes disarmament measures, too.

The security system conceived by the Charter, in opposition to the military alliances, is characterized by the fact that all countries, are guarantors of each other's security and they commit themselves solemnly to rejecting aggression, wherever it takes place.

An essential feature of the methods included into the Charter, in view of achieving security, is that their functioning is conditioned by the will of the member states and by their consensus.

The post cold-war evolutions in the field of running the world collective security mechanism often touch an extremely controversial issue: the intervention of the organization inside the states, even inside the UNO founding members, starting from the premise that they are "de-structured states" which could no longer extent any authority over the inside violence, for "humanitarian reasons", etc. This intervention is in serious contradiction with the article 2, paragraph 7 of the Charter, which mentions "matters that are essentially the internal competency of a state"<sup>33</sup>.

The use of peaceful means depends on the agreement of litigant states<sup>34</sup>.

The United Nations have asserted four goals: the international security and peace keeping, the self determination of the peoples, the settlement of the international matters and the harmonization of national actions towards achieving their common goals<sup>35</sup>. The achievement of the proposed goals is ruled by 7 principles which shaped the international

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of UN Peace Operations", in Paul Duță, Grațian Lupu (ed.) *"The Polyvalencies of Multinational Operations"*, (Sibiu, Alma Mater, 2006), 38-47.

<sup>33</sup> See, for different points of view, Michael Bailey, Robert Mahuire and J. O'Neil G. Pouliot, HAITI: *"Military Police Partnership for Public Security"*, National Defence University, National Institute for Strategic Studies, Washington, D.C., 1998.

<sup>34</sup> See in, Cătălin Mitrache, "The Diplomacy of Peace", in Paul Duță, Grațian Lupu (ed.), *"The Polyvalencies of Multinational Operations"*, (Sibiu, Alma Mater, 2006), 47-53.

<sup>35</sup> United Nations Charter, Article 1.

relationships in the era of the United Nations<sup>36</sup>. The meaning the United Nations gave to peace is yet much more extensive, creating a larger semantic area and formulating peace as a dynamic and global system, which guarantees the social justice, the observance and recognition of human rights and of neighbourliness within all the countries. Thus, the Charter does not only compel the member states to give up threatening or exerting acts of violence in order to impose certain political objectives, but also calls all of them to appease their conflicts by peaceful means and to develop cooperation at all levels<sup>37</sup>.

Unlike the League of the Nations, the progress scored by the United Nations system in the “architecture of the security” is threefold. First, the war has been completely abolished by the provisions of the Charter, a mechanism for observing it, at least in theory, being provided. Second: the right of the 5 great powers, members of the Council, to put a veto on the decisions of intervention in support of peace and international/security. Third, the military contribution of the member states for actions supporting peace and international security is compulsive and voluntary.

In the era of the United Nations, the collective security has not functioned as foreseen by the articles of the Charter, because of three reasons: the existence of the nuclear weapons which made that the multilateral dimensions of the collective security be asymmetrical; the ideological separation between the USA and the USSR polarized the international community and paralysed the Security Council for more than 40 years; to a certain extent, due to the normative progress within the international relationships, the interstate conflicts diminished but, as a consequence of the post-colonial aggravated tensions, the inner conflicts increased. To preserve peace a collective system of security has been set up in the UNO Charter, with the Security Council as its control body. Only the Security Council has the right, according to Chapter VII of the Charter, to pass resolutions for using force against the states that threaten the world peace<sup>38</sup>.

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<sup>36</sup> United Nations Charter, Article 2. These are: sovereign equality of member states, accomplishment in good faith of all obligations of the Charter; peaceful solving of international disputes; disuse of force against territorial integrity and political independence of the members; collective security; non-complicity with non-members and non-intervention in the members' jurisdiction.

<sup>37</sup> Peacekeeping became a very used term. A various range of civil and military operations are called peacekeeping operations. Fearon. James (1994b) “Domestic Political Audiences and the Escalation of International Disputes”, *American Political Science Review*, 88 (3): 577-92.

<sup>38</sup> Such force measures may include non-military sanctions – for example economic and armed embargo, or military interventions using land, air and naval forces. Kriesberg, Louis (1998) “The Phases of Destructive Conflicts”, in David Carment and Patrick James (eds.), *Peace in the Midst of war: Preventing and Managing International Ethnic Conflicts*. (Columbia: University of South Carolina Press). 33-60.

In this period, the global strategic stability is ensured efficiently, sometimes riskily by nuclear threat. The United Nations supports the global stability by adjusting the conflict appeasing techniques, in innovative and creative ways, making them practical and feasible from the political point of view.

By means of articles 33 – 50 of the Charter the main UNO organism, the Security Council is empowered to create a multinational military force made up of contingents of the army forces belonging to the member states<sup>39</sup>. The International Court of Justice decreed the fact that the military actions authorized by the Charter are not the only methods through which the Security Council can take action to keep peace. This happened for, in reality, the concept of “peacekeeping” was considered rather expansive.

While the Security Council holds as its main instruments the investigation, the mediation and the conciliation, the Charter can entitle it to overpass the borders of diplomacy and use a large range of armed means of coercion in order to preserve peace.

As an attempt to solve the controversies that may arise, the article 41 allows the Security Council to impose economic sanctions on a country, as well as other measures which do not entail military intervention. When these actions prove to be inadequate, the article 42 allows the Security Council to undertake any necessary action, using “land, air and navy forces” in order to re-establish and keep the international peace and security. These actions may include demonstrations, blockades and any other operations carried out by the land, navy or air forces of the United Nations members.

In the first two military actions, corresponding, to a certain extent, to the pattern of peace enforcement stipulated by the article 43 – namely the Korea War and the Gulf War – the Security Council didn’t set a common control over the military operations displayed on its behalf. Moreover, the imperative tone, which might have turned the Council’s resolutions from recommendations into lawful decisions, was carefully avoided. Therefore, the campaigns against Korea and the Persian Gulf were classified as actions required by the collective legal defence and not as the United Nations’ peace enforcement measures<sup>40</sup>.

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<sup>39</sup> This multinational force is at the disposal of the Security Council and takes action under its direct coordination to preserve or restore peace any time the Council decides that all attempts to appease a conflict peacefully have failed. In such cases the Security Council and its Military Committee may energize the Charter norms referring to peace keeping by military means at the same time. Article 2 (7) of the Charter regarding the jurisdiction of the states over their interval affairs stipulates that the events taking place within their territories and which normally should be considered purely domestic issues, may become, in the situation of violating international peace, the subject of actions in force of the Security Council.

<sup>40</sup> Yoram Dinstein, *War, Aggression and Self-defence*, (Press Syndicate of University of Cambridge, 1994), 23.

Due to the fact that article 51 of the Charter states that self-defence actions, either individual or collective, are legal procedures, they do not need the previous consent of the Security Council.

When the multinational missions were first organized, the former UNO Secretary General, Dag Hammarskjold, together with the Canadian minister for foreign affairs Lester Pearson drew up a plan which aimed at interposing the UNO neutral peacekeeping forces between the fighting forces after the cease fire or truce conclusion had been agreed<sup>41</sup>. It was expected that their presence would help at observing the truce and would bring forth a detensed atmosphere, favourable to negotiations. These peacekeeping forces have light weapons and are deployed to the conflict areas only with the consent of the host nation.

The first action of this type was UNEF, carried out in 1956, which interposed the UNO troops, between the Israeli and the Arab forces after a truce had been signed in the case of Suez War, between 1956 and 1957. This UNO mission gave rise to the first contradictions concerning the use of force on other occasions than those related to self defence. Later, during the peacekeeping operations in Congo, the contradictions between the political principles of the UNO missions and the military demands they had to face increased more and more<sup>42</sup>. Instead of being regarded as a new type of operation, ONUC was perceived as an error which didn't have to be repeated ever. The controversies aroused by the mandate trusted to this mission had as consequence the interdiction of using force during the UNO peacekeeping missions, for a long enough period of time.

New directions regarding the use of force during the peacekeeping operations were set on the occasion of organizing the UNEF II mission, after the conflict between Israel and Egypt in 1973. The purpose of this operation was to supervise the cease fire process and the withdrawal of the Israeli military forces from the Sinai heights<sup>43</sup>.

The new conceptual delimitation of the idea of legal defence was not followed yet by concrete measures meant to strengthen the right of the peacekeeping troops to use force.

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<sup>41</sup> Yoram Dinstein, see above, 16.

<sup>42</sup> The actual conditions of carrying out the UNOC mission made the self-defending military operations be similar to a standard military campaign. The mission mandate was extended so that the peace keeping forces could protect civilians and prevent flagrant human rights violation. UNOC was eventually authorized to use force in order to prevent a war outbreak and to expel the mercenaries who created disorder. See Simon Chesterman, *The Use of Force in UN Peace Operations*, 7.

<sup>43</sup> On this occasion the Secretary General of UNO - Kurt Waldheim - gave an extensive definition to self-defence. Thus, it also referred to those cases when the UNO forces had to thwart any attempt to impede its mission efforts in fulfilling the mandate given by the Security Council. See the Secretary General Report regarding the "*Implementation of UNO Security Council Resolution 340*" (1973).

Moreover, it was questioned within the Peacekeeping Operations General Principles, worked out in 1995. The extensive interpretation of the self-defence notion was criticized just because of the fact that it could have been understood as a right granted to UNO staff to open fire in a large variety of situations<sup>44</sup>.

## **PRO REGIONAL-GLOBAL SECURITY MECHANISM**

The time of solitary superpowers declined. One can speak about a multitude of visions over “the regional-global security mechanism”. The main concept within this mechanism is “regionalism”. That’s why, the first requirement is the concept of “regional security” for the international security and peace goals.

The concept of regional security is based upon three criteria: the members, the central zone and the mandate. The analysis of the regional security is the starting point for developing a “regional-global security mechanism” in the future. A delicate matter is the assignment of the regional representative as an element of the global mechanism of security.

According to the criteria of their purpose, three categories can be revealed: international, regional and sub-regional organizations. Two specifications are necessary: an official setting the international organization classification with a view to enforcing chapter VIII<sup>45</sup>.

In the specialty literature the regionalization of the security is approached from several points of views. For example, the regional security of the Middle East area is analysed from several perspectives: the “classical” one, associated with the USA security strategy during the Cold War; the “Arab” one, a corollary of “pan-Arabianism”; the “Islamic” one, starting from the ummah principle – foundation with ideological valences; the EU “Mediterranean” one, within the larger framework of its neighbour policy; the “Broad” one of the American strategists; the “Broad Mediterranean” one of the EU, in an incipient stage; the “Broad Middle East and North Africa” one (BMENA), proposed within a G 8 initiative for a partnership regardless the level of members.

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<sup>44</sup> Fisher, Ronald (1983) “Third party Consultation as a Method of Intergroup Conflict Resolution”, *Journal of Conflict Resolution*, 27 (2): 301-34. General Guidelines for Peacekeeping Operations, UN Doc UN/210/TC/GC95/(October 1995), <<http://www.un.org/Depts/dpko/training>>.

<sup>45</sup> “The time has come for the Security Council to proceed to a responsible and profitable dialogue in achieving a real partnership with worldwide structures and mechanisms that should contribute to security and peacekeeping.” Algeria, Security Council, July 20<sup>th</sup> 2004.

Regionalism, although an obsolete attitude of contemporary states not always oppose to globalization, due to its obvious advantage and superiority, as a promoter of the living standard improvement and of the higher western values is openly acknowledged here and there, by other civilizations<sup>46</sup>. The European Union has a global strategy concerning this area, in fact, these areas. This strategy lays the foundations of a subsequent EU action and, therefore, of the European Union complementary (but autonomous) contribution to the initiative “The Great Middle East” taken by the United States within G 8<sup>47</sup>.

Most countries from the area are compelled to face certain well-known problems. Most of these problems dwell on what was established by the United Nations Programme for Development. For this, social, political and economic reforms are necessary and they cannot be enforced from the outside, they must come from the inside and meet the needs and requirements of a mostly young population<sup>48</sup>, who must be provided with efficient and permanent education system and work places.

A typology could be:

- Global organizations – those having universal or almost universal members, from all the regions of the world.
- Trans-national organizations – with members from all, or several regions but who are limited by a selective criterion which excludes universality (political, religions, cultural).
- Extra-regional organizations – having an operational focus on a region but whose members may come from the outside of the region.
- Regional organizations – those having an operational focus on a region and whose members belong entirely to the region, without any external members.

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<sup>46</sup> The fact is admitted that opposition to regionalism – unlike globalism – mostly emerges on “the inter-civilization fault lines” and proves to be difficult to overcome because of strong cultural, ethnical and religions beliefs of some nations. This occurs particularly in the Middle East and South-East Asia, where some states need counselling to accept wider perspectives. “Nowadays there is a larger interest in increasing the role of agreements and regional organizations, in yielding and enhanced international consensus from the relationships between UNO and regional organizations”. See Paul Dănuț Duță, *Instituții de Securitate, Partea Generală [Security Institutions, General Chapter]*, (Editura TecnoMedia, Sibiu, 2006), 155.

<sup>47</sup> At the Reunion in Brussels (March 26<sup>th</sup>, 2004) the European Council agreed on the so called “Strategic partnership between EU, Mediteranian Region and Middle East”. This cooperation, in the spirit of a partnership, aims at creating a climate of peace, prospering and progress in the region and stands on the instruments of Barcelona Declaration.

<sup>48</sup> More than half of the population in the region is made up of young people, up to the age of 18.

➤ Sub-regional organizations – those having an operational focus on a sub-region of a “parental-region” and whose members belong entirely to the sub-region, without any external members.

➤ Extra-sub-regional organizations – having the operational focus on a sub-region, whose members may belong to the “parental region” but not farther.

By definition, the sub-regional agencies are closer to the national levels of jurisdiction, than to the regional agencies or other organizations. They meet/answer more directly the communities and political people’s effort to create cooperatist links.

The phenomenon of sub-regionalism emerges independently from the United Nations and even from the regional agencies<sup>49</sup>. They exist and operate within a certain constitutional gap in terms of peace and international security. While they have a role to play, beyond any doubt there is a certain way that must be covered before a clear constitutional link may be developed with the regional agencies, which, logically if not politically, are their originating agencies.

*Geographical area of intervention.* Some organizations have a clearly – defined area of action, others don’t. Some of them are clearly designed to have an overall goal in their area of responsibility; others have regional or sub-regional focussing of their responsibilities. Some organizations may have a central area that extends beyond its own members. This aspect is important to distinguish the organizations having a real “internal focussing” from those which may also have an “external focussing” a distinction entailing implications:

- Global – the central area of the organization covers the whole planet;
- Trans-national – the central area of implementation covers the members’ territory, from all regions throughout the world but limited by the selective criterion of the members;
- Extra-regional – the central area of implementation covers the territory of its extra-regional members;
- Regional – the central area of implementation covers the territory of its regional members or, by consensus, other territories of the non-members from the same region;

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<sup>49</sup> The UN Charter does not explicitly mention sub-regionalism which did not exist in 1945; it appeared in the ‘70s when it started to spread rapidly producing “concrete facts”. Regional agencies and the UN have been learning to live with the phenomenon ever since. Dixon, William (1994) “Democracy and Peaceful Settlement of International of International Conflict”, *American Political Science Review*, 88 (1): 14-32.

➤ Sub-regional – the central area of implementation covers the territory of its sub-regional members or, by consensus, other territories of the non-members from the same region;

➤ Extra-sub-regional – the central area of implementation covers the territory of its extra-sub-regional members.

Building up a global-regional mechanism which could be used in the field of peace and security depends upon the common understanding of the term “region” for the practical aims of Chapter VIII of the UN Charter. The next step is the “security regions”, defined according to the legal concept of “region”, identified by the General Assembly at the recommendation of the Security Council<sup>50</sup>. All general parameters defining the “security regions” should be taken into account: geography, culture and geo-strategy.

*Geographical regionalism.* The classical perception of regionalism, including the terms of security and traditional peace as well, is connected to the geographical demarcation. In 1940, Winston Churchill was supporting the idea of “separate councils” for Europe, Asia and America “under the same common roof of a global organization”, on the purpose of keeping peace in these regions. The Latin-American Block struggled for the “Latin-American Security System” in San-Francisco, taking into consideration only the United States. ASEAN came into being under the form of a regional agency, when the Founding Member States set up the collaboration frame, according to clear principles, for the South-East of Asia. When an outside state tried to join the Agency it was denied on the basis of geographical principles.

The main geographical regions of the world can be considered security regions: Africa, Asia, Europe, North America, South America and Australia<sup>51</sup>.

*Cultural regionalism.* Determined by the cultural factor, with a location of ethnic groups and their distinct features and of linguistically related groups as well.

The historical factors of the ancestral migration, together with the modern sociopolitical ones gave birth to a remarkable mosaic of about 3000 languages spoken all

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<sup>50</sup> It relates to an issue debated at the Regional Assembly (1950). The point referred to the regional status of Arabian League and its jurisdiction over some security zones clearly defined. This concept is in agreement with that of regional security complexes as presented by Buzan and Waever in “*Structures and Powers: International Security Structures*”, (CUP, Cambridge, 2003).

<sup>51</sup> Australia is the only continent on which there stretches only one nation state which together with New Zealand and the Pacific island-states from Oceania – form a region alternatively called the Pacific or the Oceania; the Pacific is a term frequently used in the political discourse.

over the world<sup>52</sup>. The relation between language, with its socio-cultural features, and security is obvious; the relation between regionalism and language, materialized in the fight for survival, is a historical constant as well.

The ethnic groups clashes is one of the most powerful causes of sub-regional and national instability, the aspect of minority rights being one of the most sensitive issues of politics and security<sup>53</sup>.

*Geostrategic politics.* Geostrategic reasons play a major role in defining security regions. Of course there are other reasons too.

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<sup>52</sup> There are three or four thousand languages all over the world still spoken today – probably a few thousand less than they were before the establishment of the present main languages. Anyway, it is important to consider these things in perspective. Statistics reveal a great truth: out of the several thousand languages of the world, less than 100 are spoken by more than 95% of the population. Among them, the Chinese people mean about 20% and, if we add the English, the Spanish and the Russian peoples, the number increases to 45%. The German, the Japanese, the Arab, the Bengal, the Portuguese, the French and the Italian peoples raise the number to 60%, while the next most important languages increase the number to 75% (Katzner, K. *The Languages of the World*, reference Publisher, London-New York: 1992, pp. VI-X).

<sup>53</sup> The issue has a rather academic significance. In 1985, when the Rarotonga Treaty Negotiations were concluded and a nuclear-free zone was set in the South Pacific, the delegates initially assumed that the Treaty would be translated in all the languages of the area, until it was admitted the fact that only throughout one of the states involved, more than 700 languages were spoken. In 2004, the enlarged European Union translated and interpreted in 20 languages. A balance point between the concern for minority rights and the logistic capacity must be found out somehow.

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## **A FROZEN CONFLICT WITHIN THE EUROATLANTIC AND EUROASIAN SPACE**

**Ion PANAIT<sup>1</sup>**

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### **ABSTRACT:**

*THE GEOPOLITICAL SIGNIFICANCE OF THE FROZEN CONFLICT IN TRANSNISTRIA IS ENORMOUS, PARTICULARLY FROM THE STANDPOINT OF THE BALANCE OF FORCES BETWEEN THE TRANSATLANTIC SPACE AND EURASIAN SPACE. THE SOLUTION TO THIS CONFLICT WILL HAVE EXTREMELY IMPORTANT CONSEQUENCES FOR THE EUROPEAN SECURITY ARCHITECTURE, AND EVEN MORE.*

*LEFT OUT FROM THE NEGOTIATION OF A CONFLICT WITHIN THE TERRITORY OF A REPUBLIC INHABITED BY A LARGE MAJORITY OF ROMANIAN NATIONALITY PEOPLE, ROMANIA CHARACTERIZED BY PRUDENCE AND RELUCTANCE TO VENTURESOME ACTIONS - CONTINUES TO ADOPT A POSITION OF WAIT AND SEE POLICY. SINCE THE ISSUE'S CENTER OF GRAVITY HAS BEEN SHIFTED TO THE DIPLOMATIC LEVEL – ALREADY FLOODED BY SIMILAR INITIATIVES – IT REQUIRES A VIABLE AND GENERALLY ACCEPTED SOLUTION. THIS WORK PRESENTS THE ROOTS, THE FIRST DIPLOMATIC APPROACHES AND THE MAIN INITIATIVES TO SOLVE THE FROZEN CONFLICT.*

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**KEY WORDS:** MOLDAVIA, TRANSNISTRIA, FROZEN CONFLICT, DIPLOMATIC, OSCE.

We approach the issues of the Republic of Moldavia and the “frozen conflict”<sup>2</sup> within this space by considering several actual geopolitical arguments, particularly the argument that the above mentioned conflict is located within a geostrategic space of maximum interest to Romania, namely, the Black Sea Extended Area, which is in the strategic proximity of our country.

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<sup>2</sup> The syntagm “frozen conflict” has not been officially and internationally accepted. It is a specialty term and this rises a number of semantic difficulties. In our opinion an ideal situation would be to have the conflicting parties conclude a truce as a premise to a resolution passed by The Security Council of the United Nations and thus bring the conflict to an end. Some authors suggest different expressions such as “postponed conflict”, “prolonged conflict” etc., newly invented syntagms, which actually describe the same issue as the expression “frozen conflict” with all its local particularities.

Another argument could have historical roots, since Romania has always had historically based interests in solving this “frozen conflict”, being well-known her more or less dissimulated desire of a unification which would recover the territory, unjustly lost at the “table of history”.

On the other hand, we take into consideration that the operative presence of some military elements in the conflict denotes an active involvement of the European and North-American diplomacy into the process of solving it<sup>3</sup>.

The dissolution of the Soviet Union placed the Republic of Moldavia on a defensive position at its borders. Thus, one by one, the former Soviet republics declared their independence and the respective territories, alongside with likely strategical advantages for Moscow, passed under the jurisdiction of the governments of the new independent states. In this context, the Kremlin thought of maintaining or just rebuilding its influence in these areas by several means<sup>4</sup>, most of them being beyond the international legislation and common laws.

One of the procedures applied by Moscow in order to achieve its goals was feeding local separatist conflicts.

For Kremlin, appeasing the conflicts meant to deploy forces in the respective territories and thus to launch connection bridgeheads which would allow influencing the area, not only from the military point of view, but also politically and economically.

Together with Abkhazia, South Ossetia, Nagorno-Karabakh and Kaliningrad Enclaves, Transnistria is such a case<sup>5</sup>.

These conflicts burst out during the Soviet Union dissolution or right after it, and were “frozen” in the same period of time: 1992-1994. One must notice that, due to these

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<sup>3</sup> The presence of Russian troops on the Transnistrean territory, the OSCE mission and the UE EUBAM mission.

<sup>4</sup> In his book *Vrag Naroda (The People’s Enemy)*, Rogozin states that he fought on the Transnistrean side in 1992 and he believes that the fascist Romanians and Moldavians are responsible for the war outbreak. See Dimitri Rogozin, *Vrag Naroda*, Moscow, 2008 Algorithm Publishing House. When, on March 21<sup>st</sup> the Russian Federation President appointed Dimitri Rogozin – a notorious diplomat – as his special representative in Transnistria, one can notice the Russian increasing interest in this area. Dimitri Rogozin is well-known as a tough negotiator, and a highly nationalist diplomat.

<sup>5</sup> All these “frozen conflicts” throughout the so called ex-soviet space-to which we may add Belarus Republic and, to a certain extent, the latent conflicts from the Eastern Ukraine (Crimea and Malorussia) – are but components of the same unique and coherent picture that needs a unique and coherent solution. In the past few years the so-called “frozen conflicts within the ex-soviet space – that is Moldavia (Transnistria), Georgia (the two separatist republics Abkhazia and South Ossetia), Armenia and Azerbaijan (Nagorno-Karabakh) - have known an increased attention from the international community.

processes, the countries affected by the so-called “frozen conflicts” are still at disadvantage because they have to make great efforts to recover their underdevelopment<sup>6</sup>.

Twenty years after the end of the hostilities between the Government from Chişinău and the separatist authorities on the left bank of the Dniester, a political solution which would respect Moldavia’s territorial integrity and independence is still unclear. At present, Chişinău and Tiraspol are involved in a process of negotiations which aim at defining the status of the Transnistria Region within a unified Moldavia. The present negotiations are held under a “5+2” formula and are mediated by Russia, Ukraine and the Organization for Security and Cooperation in Europe (OSCE); the USA and the European Union have the role of observers in the process. A concurrence of internal and international circumstances may favor the efforts for the reunification of the Republic of Moldavia. To turn these opportunities into account depends on the Moldavians ability to coordinate the internal efforts of solving the Transnistrean conflict with the international circumstances.

The Republic of Moldavia is interested in internal actions for solving this conflict and thus, to place itself into the larger context of the European Union and NATO enlargement, as well as into the context of their relationships with Russia and Ukraine. The EU and NATO extension is a favorable moment to reconsider the Western attitude, regarding the Transnistria matter. Since the Republic of Moldavia became NATO’s Eastern border in 2004 and the EU’s border in 2007 we think that the Transnistria issue has turned from the category of “Euro-Asian” post-soviet conflict, in which Moscow played a special role, into an “European” conflict, within which the EU becomes an essential part in the process of solving the conflict.<sup>7</sup>

According to the latest evolutions, the “frozen conflict” of Transnistria has started to defrost<sup>8</sup> and gives hopes for a solution in the near future.

On September 2<sup>nd</sup>, 1990 – at Tiraspol<sup>9</sup> – there was held “The Second Extraordinary Congress of the Delegates of the Soviets of different levels” representing some

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<sup>6</sup> These “frozen conflicts” have not been solved yet, little and insignificant progress having been made in this respect – Nevertheless, the countries involved have taken action lately in finding a way to solve the conflicts. Thus the Georgian and Moldavian governments called on international assistance.

<sup>7</sup> Without making clear statements, the most artful strategy observers have admitted that though future can hardly be foreseen, there are trends and directions that mark the way towards tomorrow. Professor Colin Gray from the University of Bristol also ruefully admitted that “we confidently can predict shading off in the war typology, a constant obscurity in war categories”. See Colin S. Gray, *Another Bloody Century: Future Warfare*, Weidenfelds Nicolson, London, 2006.

<sup>8</sup> <http://www.ziarul-faclia.ro/conflictul-%E2%80%99-Cinghetat%E2%80%99-D-din-transnistria-incepe-sa-se-dezghete/-accest-la-6-mai-2013>.

Transnistrean places. At this Congress a new republic was declared on the territory of the Republic of Moldavia, that is, the Dniester Moldavian Soviet Socialist Republic, within the Soviet Union<sup>10</sup>.

On August 27<sup>th</sup>, 1991, the Republic of Moldavia declared its independence as a state and successor of the Moldavian Soviet Socialist Republic (MSSR), which was created in 1940, after Bessarabia<sup>11</sup> had been annexed by the Soviet Union<sup>12</sup>. The key element of the “soviet - moldavianism” was the Romanian-phobia, instilled by the political leadership of Moscow by all the methods of a totalitarian state: deportations, physical annihilation of intellectuals, the artificially caused starvation in 1947, the so-called “brain-washing”, etc. The different historical background of these two component parts of the MSSR as well as the diverse ethnic structure of the population brought about diametrically opposed reactions to the political processes that followed after 1985.

In the context of the “Perestroika” policy, initiated and promoted by the former soviet president Mikhail Gorbachev in 1985, the approach of the national emancipation issue became a reality for the population of all the former soviet republics.

The national emancipation of the native population and the declaration of independence of the MSSR caused a hostile reaction in the industrial centers of the East Moldavia. The dominating state of spirit in this part of the country and the mistakes of the young democracy in the Republic of Moldavia were cunningly exploited by the Soviet Union leadership at first and subsequently – after 1991 – by its heir, The Russian Federation. The Republic of Moldavia’s situation worsened severely because of the former 14<sup>th</sup> Soviet Army (Russian Army later) of which the units had been deployed after 1945 throughout the Eastern territories of Moldavia<sup>13</sup>. During the military hostilities between the

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<sup>9</sup> Transnistria capital city.

<sup>10</sup> After 1989, against the background of the Cold War conclusion and the dissolution of the Soviet Union, a number of former soviet republics started to make their first steps towards independence. Kremlin’s response-policy was the so-called “tactics of enhancing separatism” throughout the “rebellious” republics. See Nathat Freier, *Strategic Competition & Resistance in the 21<sup>st</sup> Century: Irregular, Catastrophic, Traditional & Hybrid Challenges in Context*, (PA: Army War College, 2007), 96.

<sup>11</sup> The territory between the rivers Prut and Dniester is called Bessarabia.

<sup>12</sup> The territory of former Moldavia Soviet Socialist Republic (MSSR), stretching on a surface of 37.000 km<sup>2</sup>, comprised Bessarabia and a part of the former Autonomous Soviet Socialist Republic of Moldavia (ASSRM). To justify its territorial expansion and the setting – up of “Moldavian Soviet Socialist State”, Kremlin implemented a tough policy of denationalization and of creating “a new nation”, namely the “Moldavian” one.

<sup>13</sup> This bloody conflict started as a reaction to the pro-Romanian trends of the Chişinău, at the beginning of the ‘90s and it left about 1000 dead and 4,100 wounded behind. The 14<sup>th</sup> Russian Army played a decisive role in this confrontation, acting on the side of the Transnistrean separatists. A superposition of factors between the Constitutional power and the separatist regime, allowed the latter to take over control upon almost 12% of the territory of the Moldavian Republic and of about 700,000 inhabitants. During the

separatist forces and the Moldavian ones, Kremlin took the 14<sup>th</sup> Army under its jurisdiction and colors, involving it into the conflict<sup>14</sup>.

Peace negotiations were held through the mediation of special envoys of the Russian president at the time – Boris Yeltzin – and Moscow played the role of a mediator of the conflict, requesting the Republic of Moldavia to accept the special status of the separatist region as a preliminary condition to the 14<sup>th</sup> Army withdrawal.

The Russian diplomacy actions and behavior during the whole post-conflict period made obvious how far Kremlin was involved in keeping Tiraspol under control. It refers to an unstated control upon a member of the international community, without assuming costs or responsibilities implied by Russia's status of occupant, leader and administrator of a territory.

On November 17<sup>th</sup>, 1995, the Russian Federation Duma (the Parliament) proclaimed Transnistria as an “area of special interest to Kremlin”, Moscow's intervention in this area being justified by the need of protecting the rights of Russians and Russian speaking people throughout the world.

Having never been declared, the war keeps on going in the region without direct confrontations. The stages of a classical war have been surpassed and the dispute ranges among the so-called “frozen conflicts”, as acknowledged in this part of the world, along with the other separatist conflicts from Georgia (Abkhazia and South Ossetia) or from Azerbaijan (Nagorno-Karabakh). Encouraged by the Kosovo<sup>15</sup> model, these wars stirred up at about the same time. It has been years since the two conflict parties (Republic of Moldavia and Transnistria) have summoned and then cancelled different types of

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Transnistrean war, between March and July 1992, the separatists received financial, logistical, and military support from Moscow.

<sup>14</sup> Iulian Chifu, A bloody conflict, guided by Moscow. The Transnistrean War. See History Files, No. 2, 1999 pages 54-58. On April 1<sup>st</sup> 1992, an Order in Council was issued according to which the 14<sup>th</sup> Army, as a part of the South-West Group of Armies belonging to the former Soviet Union, was to subordinate directly to the Russian Defense Ministry. Actually, it should be mentioned here that after the dissolution of the Soviet Union, a serious situation that the former republics were to face was the presence of soviet armies on their territory. The 14<sup>th</sup> Army was relocated to certain positions in Transnistria (Râbnîța, Tiraspol and Tighina) right after the Republic of Moldavia had proclaimed its independence. This maneuver was done without notifying the authorities from Chișinău, while paramilitary structures had already been set up in Transnistria before 1989. According to the plan of dividing up Moldavia the 14<sup>th</sup> Army also coordinated the Cassack units and the special KGB forces which the Russia Federation had deployed in Transnistria on the purpose of defending the rights of Russian population spread on different territories of the newly created Community of Independent States (CIS).

<sup>15</sup> As a matter of fact the Transnistrean leaders stated on different occasions that they had been encouraged by Kosovo model.

negotiations, while the discussions have broken out around the disputed language, the transit and property rights issues.

The Republic of Moldavia, as an independent and worldwide recognized state, member of the UN does not have control over a region of its territory – that is the Eastern part – which declared itself “independent”, under the name of the Self proclaimed Republic of Transnistria (SRT), a country which has not been recognized by any state of the world<sup>16</sup> so far. The SRT is considered a “state de facto” and this type of régimes is approached as partial subject by the international law because “... their unique status entails certain vital responsibilities, primary, those regarding the needed actions to provide support and welfare to the population. This régime may conclude agreements which are considered of a lower level than that of treaties. Beside its right of providing welfare to the population a “state de facto” can be made responsible for infringing the international law”<sup>17</sup>.

A judicial analysis of the Transnistrean conflict proves that all the basic documents that have been signed since 1992 are contradictory to the provisions of the Republic of Moldavia’s Constitution and suggest making of Moldavia a confederate state. At the time when the SRT became a negotiations party, some premises were established in accordance with the development of the conflict. Thus it was considered, by common consent, that – regardless a previous judicial analysis – starting negotiations and mutual discussions would be of greater importance than avoiding contacts of any sort, a fact which might have enhanced new conflicts.

Starting 1992, the negotiations process between the parties has been guided on two directions: 1) defining the SRT status and 2) making a decision regarding the Russian military forces deployed on its territory<sup>18</sup>.

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<sup>16</sup> The self-proclaimed Republic of Transnistria (SRT) is a presidential republic, with a government and a parliament of its own, with military and police forces, a postal system and national currency together with a constitution, national colors and coat of arms as symbols of a state. The only recognition the SRT has received so far is that coming from other separatist regions.

<sup>17</sup> On 18th July, 2006, an international conference was held at Chişinău, where the American legal experts M. Meyer and C. Borgen presented their report: The defrosting of a Frozen Conflict: Judicial Aspects of the Separatist Crisis in the Republic of Moldavia.

<sup>18</sup> In the course of time the 14th Army became an integrant part of the separatist forces, mainly due to better conditions the latter enjoyed. Therefore, a separatist leader’s words – Igor Smirnov – seem justified when he stated: “The 14th Army will withdraw from Tiraspol lead by its commander and its fighting banner”. Although the status of Russian forces and their withdrawal from Tiraspol was signed, the Duma never ratified it, stating the reason of the autonomous republic’s rights. Ever since 1993 international pressure has been exerted on the Russian Federation to withdraw its troops but all the likely requests have not received an answer so far. Some analysts and officials admit that unless Russia withdraws its troops and equipment from Transnistria, there will be no change in the area. The United States approach the Russian withdrawal from the Republic of Moldavia as a separate matter from the Transnistrean issue but as an obligation of Moscow to

Actually, the Transnistrean conflict is extremely complex; the fact that the main industrial factories of the Republic of Moldavia are located on the SRT territory makes of it an economical conflict. Within this Eastern part of Moldavia there is an intense economical and trading activity, on which the Republic of Moldavia doesn't have any control. Some voices claim that SRT is the paradise of illicit business with drugs, money washing, arms, ammunition, etc.

At the same time the conflict has a political side, since the separation of this region from the Republic of Moldavia affects its territorial integrity, sovereignty and independence as an internationally recognized state while the SRT has not been recognized by the international community as an independent, sovereign, autonomous state entity. Agreeing to the separation of the SRT from the Republic of Moldavia would be a negative example of which the consequences may be disastrous for both the respective region and the International Community.

The military side of the conflict is rendered by the fact that forces, armament and ammunition belonging to the Russian Federation are deployed on the territory. According to the "Istanbul Agreement", in 1999, the Russian Federation should have long withdrawn its military capacities, technique and ammunition from the area. On the other hand, by the tacit agreement of Kremlin, the Tiraspol administration developed its own military and police forces. Last, but not least, the conflict is a political-military one, considering that there are foreign forces that maintain the status of "frozen conflict" and affect the status of the Republic of Moldavia as an independent, sovereign and unitary state, recognized by the whole International Community.

A number of states<sup>19</sup>, regional organizations<sup>20</sup>, and international ones<sup>21</sup> that have different interest in the area got themselves involved into finding a solution to the Transnistrean conflict. The deepest involvement came from OSCE, as an Organization for Security and Cooperation in Europe. On the whole, the OSCE efforts to find viable solutions failed in getting significant effects, mainly because of the consensus rule, that is the principle of unanimity. On the other hand the Russian Federation, as a member of OSCE takes advantage of the consensus rule each time it considers its interests might be

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comply with the agreement signed at Istanbul in 1999 (which stipulates that the Russian Federation should retreat its forces from Moldavia and Georgia).

<sup>19</sup> The Russian Federation, Ukraine and Romania.

<sup>20</sup> OSCE – The Organization of Security and Cooperation in Europe.

<sup>21</sup> European Union and UN, through the High Commissioner.

harmed. Initially established for a period of 3 years, the OSCE mission was extended, at the request of the Russian Federation<sup>22</sup> during the OSCE summit in Porto (Portugal), held in December 2002. We believe that the content of the final document agreed at the Porto summit is less consistent than the Istanbul agreement.

OSCE credibility was seriously damaged when its representatives blamed the separatists from Tiraspol for “not allowing” the authorities from Moscow to withdraw their forces from the Moldavian territory. This idea or “gaffe”, euphemistically speaking, belongs to David Schwartz, one of the OSCE representatives at Chişinău<sup>23</sup>. Another gaffe was made by the American William Hill, an OSCE representative at Chişinău, who stated that the Republic of Moldavia should be turned into a federation because of its multinational population<sup>24</sup>. The process of solving the conflict, under the patronage of OSCE, was carried out on several stages. Thus, the period 1992 (the year when military actions ended) – 2001 is characterized by an approaching policy between Moldavia and Moscow who concluded a “Friendship and Cooperation Treaty”. In spite of this agreement, the Republic of Moldavia did not succeed to in convincing Kremlin to withdraw its forces and armament from Transnistria.

The first negotiations started on July 21<sup>st</sup>, 1992, under the formula of “4” (the Russian Federation, Ukraine, Romania and the Republic of Moldavia). It was then when the parties signed the Convention regarding the Principles of a Peaceful Settlement of the armed conflict in the Dnistrean zone of the Republic of Moldavia”<sup>25</sup>. In 1993 Romania was left out from the negotiations. In order to implement the provisions of the document, an OSCE mission in Moldavia was requested by the president of this country from the

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<sup>22</sup> The OSCE representatives and diplomats performance at Chişinău or Viena was criticized by Moldavian and American politicians and analysts. One example is that from Porto, in 2002, when OSCE diplomats failed the matter in question and granted Moscow another year – till December 2003 – to withdraw all military troops and equipment from Moldavia, in spite of the well-known fact that in 1999 at Istanbul, Russia had committed itself to do so by the year 2002. The Russian Federation has never showed evidence of its intention to observe all these agreements and keep its promise.

<sup>23</sup> See the speech “OSCE dynamics within the frozen conflict in Moldavia” given by the chief – deputy of OSCE Mission in Moldavia, Neil Brennan, at the seminar “Frozen Conflicts in Europe - The Dimension of Democratic Security: case SRT”. OSCE contribution to the process of solving the Transnistrean conflict consisted in drawing up reports on the situation; in trying to stimulate the implementation of the Retreat Agreement and in playing its role within the Joint Control Committee which was set up and appointed by Moldavia, Russia and SRT to approach security issues in the demilitarized territories on both banks of Dniester. In the course of time OSCE’s role in the area declined while the influence of EU, NATO and USA increased.

<sup>24</sup> As a matter of fact the Republic of Moldavia’s population goes up to 4,300,000 inhabitants of which: 64.4% are Romanians, officially declared as Moldavians; 13.8% - Ukrainians; 12% - Russians; 3.5% - Gagauz; 2.6% – Bulgarians; 1.5% - Jewish; 2.2% other nationalities. The census had in 1999 showed that there were 679,000 inhabitants in SRT, while the census in 2004 showed only 555,347 inhabitants.

<sup>25</sup> Known as Elzin-Snegur Convention.

president of OSCE. As a consequence the international organization appointed a long term mission at Chişinău.

In April 1993 OSCE was included in the process of negotiations<sup>26</sup> as the Government from Chişinău had requested again. On October, 21<sup>st</sup> 1994, Chişinău and Moscow signed an “Agreement regarding the judicial status, the means and dead-lines for withdrawing the Russian military structures from the Republic of Moldavia’s territory<sup>27</sup>”.

After 1994 the negotiations concerning the Transnistrean conflict were carried out under the formula of “5” parties: The Republic of Moldavia, the Russian Federation, SRT, Ukraine and OSCE.

The authorities from Chişinău were suggested a large number of solutions regarding Transnistria’s status, either by the voice of William Hill, former chief of the OSCE mission, or by the Kremlin’s emissaries<sup>28</sup>, all those “solutions” approaching the concept of federalization. Between 1992 – 2003 the solution of “federalization” suggested by Kremlin was, at first, easily accepted by the western world.

On May, the 8<sup>th</sup>, 1997, the parties signed a “Memorandum regarding the principles for normalizing the relationships between the Republic of Moldavia and SRT”.

Article 11 of the Memorandum stipulated that “... the Republic of Moldavia and SRT are to build their relationship as a common state within the borders the Moldavian Soviet Socialist Republic had in January 1992”.

One should point out here that using the syntagm “common state” is ambiguous since Chişinău gave it the meaning of “an autonomy of SRT within the Republic of Moldavia”, like Gagauzia, while Tiraspol understood it as a confederation, which represented an intermediary step in getting its independence from the Republic of Moldavia<sup>29</sup>. In the context of these two diametrically opposed interpretations, the negotiations under the formula of “5” failed. The “Memorandum regarding the principles for normalizing the

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<sup>26</sup> Dan Dungacin, Dosarul transnistrean, analize și perspective, (The Transnistrean File, analysis and perspective). See [http://moldnit.com/pub/dan\\_dungaciu\\_dosarul\\_transnistrean\\_analize\\_si\\_perspective/4-1-0-1432-was](http://moldnit.com/pub/dan_dungaciu_dosarul_transnistrean_analize_si_perspective/4-1-0-1432-was) accessed on June 2013.

<sup>27</sup> The Russian promised to retreat the military units from the Republic of Moldavia within a period of 3 years “... having in view the technical aspects and the time necessary to dislocate troops”. Constantin Solomon, Conflictul transnistrean și procesul de negocieri în formatul „5+2” (The Transnistrean conflict and the negotiation process 5+2). See the article in *Moldoscopia. Probleme de analiză politică* No. 3 (XLII), 2008 – (Moldoscopia. Analysis of Political Issues). After they signed the Agreement the Russian Federation did not even proceed to internal actions in order to make the document come into effect.

<sup>28</sup> Particularly after Mircea Snegur, president of the Republic of Moldavia and Boris Eltsin, president of the Russian Federation had signed the “Agreement on ceasing fire on both banks of Dniester” (July 21<sup>st</sup> 1992).

<sup>29</sup> Ibidem.

relationships between the Republic of Moldavia and the Self proclaimed Republic of Transnistria”, a document also known under the name of “The Primakov Plan”<sup>30</sup>, was supported not only by Moscow and Tiraspol, but also by the Gagauz representatives<sup>31</sup>. It is to be noticed that, in this project, the Russian Federation had the status of a “guarantor” together Ukraine; the presidents of the two “guarantor” states, Boris Elțin and Leonid Kucima adopted, after the agreement was concluded, a “common declaration concerning the signing of the Memorandum regarding the principles for normalizing the relationships between the Republic of Moldavia and the SRT”.

Among others, in the project were stipulated: a common state, formed of two parties having equal status<sup>32</sup> namely, the Republic of Moldavia and the SRT; distribution of mandates through equality based agreements between the authorities from Chișinău and Tiraspol; negotiations with five participants (pentagonal format or “5”): the Russian Federation, Ukraine, OSCE, SRT and the Republic of Moldavia with the first three as “mediators” and “guarantors”, which in fact meant that Western Europe and Romania were left out from direct participation to negotiations and guarantees.

Essentially, according to the project, the SRT would have shared equal “part” with the Republic of Moldavia, thus having the possibility to control, both the internal affairs and the foreign affairs of Chișinău.

When OSCE proposed a project of federalization as a solution to the crisis, both Europe and the USA took regard with benevolence and hope to the issue, considering that, in a democratic society “federalization” is a concept with positive connotations, associated to democracy, human rights, etc.

On August 13<sup>th</sup>, 2000, the Russian political theorist Evgheni Primakov issues two documents, namely, a project of the “Agreement regarding the foundation of relationships between the Republic of Moldavia and the SRT” and “The Basic Principles of OSCE and of state and peace keeping forces mandate in the Transnistrean region of the Republic of Moldavia”. In our opinion, the effects of the two documents are not different from those of

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<sup>30</sup> The author of this agreement is Evgheni Primakov, a well-known politics theorist and the Prime Minister of the Russian Federation between 1998-1999.

<sup>31</sup> At the time the Russians and the separatists claimed that “... the Memorandum signed at Moscow in 1997 is the only realistic and operative document which allows an integral solution to all the issues regarding the internal structure of the Republic of Moldavia, within the limits of a common state and participation of Moldavia, SRT and Gagauz autonomy”. Dan Dungaciu, *Dosarul transnistrean, analize și perspective*, (...). See [http://moldnit.com/pub/dan\\_dungaciu\\_dosarul\\_transnistrean\\_analize\\_si\\_perspective/4-1-0-1432](http://moldnit.com/pub/dan_dungaciu_dosarul_transnistrean_analize_si_perspective/4-1-0-1432)-was accessed on June 2013.

<sup>32</sup> The Republic of Moldavia is a sovereign and independent state, internationally recognized.

the text of the project issued in 1997, meaning, on one hand, the legalization of the illegal presence of the Russian forces and armament on the Republic of Moldavia's territory and, on the other hand, the transformation of the Republic of Moldavia into an entity, internally and externally controlled by the SRT guided from Moscow.

In 2002, on the basis of the "Primakov Memorandum", the "Agreement between the Republic of Moldavia and the Self proclaimed Republic of Transnistria" was founded and it was signed by OSCE, the Russian Federation and Ukraine.

The content of the agreement was an updating of the "Primakov Memorandum" from 1997, moving around the principle of the two "parties" having equal rights, and around the penta-lateral formula of the negotiation process<sup>33</sup>. In this context, the civil society and the opposition parties reacted powerfully and rejected resolutely the project of federalization.

On November, 17<sup>th</sup>, 2003, through the mediation of Dimitri Kozak<sup>34</sup> the chief deputy of the Presidential Administration of the Russian Federation, Moscow proposed Chişinău a "Memorandum for solving the Transnistrean conflict<sup>35</sup>", a federal constitution project, by which the Republic of Moldavia would have become dependent on Tiraspol and implicitly on Moscow.

In fact, by this solution, known as the "Kozak Plan", the Russian Federation wanted to mask the failure of the "Primakov Plan". In December, 2003, on the occasion of the OSCE meeting at Maastricht, Kremlin required that the document be signed. This diplomatic approach left confused the presumptive partners, namely, the USA and OSCE, being interpreted as the will of the Russian Federation to have the exclusive control over an area about which theoretically it had previously agreed to discuss with other parties as well. As a consequence, the "Kozak Memorandum" was neither agreed nor signed by the participants at the meeting. Not even a final declaration was adopted because Vladimit Voronin rejected the "Kozak Memorandum"<sup>36</sup>. That meant the deadlines for the

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<sup>33</sup> The document was strongly criticized by mass-media at Chişinău, Washington and Bucureşti considering the "federalization" supported by OSCE, as a means by which Tiraspol could dominate and control the Republic of Moldavia. It is easy to understand that the powers rendered by such a project, backed up by the Russian forces in the area, could allow Smirnov's regime to oppose any time and obstruct any initiative of Chişinău which would have been interpreted as inconvenient by Tiraspol. Thus, the independence of the Republic of Moldavia would be a simple written statement.

<sup>34</sup> Dimitri Nikolaievici Kozak is a remarkable Russian politician who was minister of regional development, special representative of Kremlin in North Caucas and the European part of South Russia and now he is vice-prime-minister of the Russian Federation, appointed in 2008. He is one of Putin's favorite politicians.

<sup>35</sup> Also known as "Kozak Memorandum".

<sup>36</sup> If the memorandum had been signed, the Republic of Moldavia would have been eliminated "de facto" and the presence of Russian military forces would have become legal up until 2020. Moldavia rejected "Kozak

withdrawal of the Russian forces and technique from the Republic of Moldavia was still valid. Under these circumstances, the opposition leaders from Chişinău underlined both this, and the fact that the federalization project proved to be a failure. At the end of December, 2003, three projects of federalization were discussed in Chişinău: “The Kozak Memorandum”<sup>37</sup>, the document of the “mediators”<sup>38</sup> and a project of the Republic of Moldavia’s president<sup>39</sup>.

In January, 2004, Bulgaria took over the OSCE presidency and the “mediators”<sup>40</sup>. Conference from Sofia decided, at William Hill’s proposal, to merge the “mediators” document and “The Kozak Memorandum” within one single document<sup>41</sup>. A month later, the OSCE Bulgarian Presidency issued the document entitled “The OSCE, the Russian Federation and the Ukraine mediators’ proposals and recommendations concerning the settlement of Transnistrean issue” which, again suggested and recommended the Kremlin’s solution that is the federalization of the Republic of Moldavia. At the same time, the document left the military and the political aspect of the issue at the full discretion of the pentagonal group, dominated by the Russian Federation, and granted SRT to put a veto on the West involvement into the pacifying operations and military security of the situation in the area.

On March, the 9<sup>th</sup>, 2004, Chişinău suggested a project entitled “Declaration regarding the basic principles of the state order in the Republic of Moldavia”, a document which essentially resumed the thesis stipulated in the previous documents but in addition, its content was to be confirmed by a referendum, taking into consideration the majority of those reported to the polls . In the same month, the Moldavian minister of integration, Vasile Şova, asked the Transnistrean conflict “mediators” to fix the date for resuming the negotiations under the pentagonal form<sup>42</sup>. One month later, the minister Vasile Sova

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Memorandum” because of the following provisions: keeping the Russian forces stationed on the territory for 15 years; the Upper Chamber of the Parliament was to include equal number of members representing SRT, Gagauz enclave and the Republic of Moldavia, that is 9 members of each part. It is obvious that the Transnistrean and Gagauz members could block up the Parliament any time they wanted. Another article of the document stipulated that the representatives in the Upper Chamber could be replaced each time they would not fulfill the SRT and Gagauz requests.

<sup>37</sup> The Russian Federation.

<sup>38</sup> The Russian Federation and OSCE.

<sup>39</sup> Vladimir Voronin.

<sup>40</sup> The Russian Federation, Ukraine and OSCE.

<sup>41</sup> OSCE suggestion was accepted by Moscow and Kiev.

<sup>42</sup> The Russian Federation, Ukraine, OSCE, the Republic of Moldavia and the SRT. In the Moldavian minister’s opinion future negotiations should have been held on the basis of the following documents: “Kozak Memorandum”, the mediators’ recommendations and Chişinău proposals. There was no answer to the minister’s requirement.

applied to the Permanent Council of OSCE for resuming the pentagonal group negotiations, which had been suspended due to Chişinău refusal to sign the “Kozak Memorandum”.

In June, 2004, Stanislav Belkovski, the director of the Institute for National Strategy of the Russian Federation made the shocking-proposal that Russia should accept reunification of Basarabia and Romania in exchange for recognition of Transnistria’s independence<sup>43</sup>.

In 2005, Petro Poroshenko, the counselor on foreign policy matters of the Ukrainian president, Victor Iuscenko suggested a new plan for solving the Transnistrean conflict, known as “The Poroshenko Plan”, inspired from the 1997<sup>44</sup> “Primakov Plan”, which added the Ukrainian interests to the equation of the conflict. The “Poroshenko Plan” aimed at recognizing the legitimacy of the Supreme Soviet of Transnistria<sup>45</sup>.

At the same time, the plan suggested that the Republic of Moldavia and Transnistria should be granted an equal status as signatory parts, together with the Russian Federation, Ukraine and OSCE, which were to become guarantors for putting the plan into practice. By this plan Romania was excluded from the group which was to appease the conflict and function as a protective – condominium: the Russian Federation and Ukraine. On the other hand, the plan suggested the setting up of a so-called Conciliation Committee as a constitutional and legal umpire between Chişinău and Tiraspol in the period after the agreement, and it was to be composed of the representatives of the Russian Federation, Ukraine and OSCE. Essentially, the plan aimed at placing the reunited Republic of Moldavia under the protection of Moscow and Kiev, and it also stipulated Transnistria’s right to veto on matters concerning Chişinău’s foreign policy, without any reference to the withdrawal of the Russian forces and armament deployed on the left bank of Dniester.

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<sup>43</sup> Kremlin’s new plan seemed favourable to Romania but, in our opinion, it was a tricky one. If the plan had been accepted Romania would have encountered serious difficulties on its way to European integration. A sudden unification with Basarabia would have burden Romania with serious problems such as: territorial instability; poverty of the population in the area; a post-soviet type of administration touched by endemical corruption and inefficiency. Contextually speaking, it is important to underline the fact that an independent Transnistrean state with a military issue unsolved, would have placed NATO and EU right next to an enclave similar to the one from Kaliningrad but situated at the opposite end, that is at the Black Sea. One could say that “Belkovski Plan” was a “poisoned fruit” offered to Romania at a crucial moment for her European integration, that is just before closing the negotiations for adhering.

<sup>44</sup> The plan suggested by Kiev was a clear signal that Ukraine made the decision to promote an active foreign policy in the neighbourhood, to take over and turn Moscow’s ideas to its advantage.

<sup>45</sup> Proposed to be elected in October or November 2005. It was hoped that the leaders be pro-Ukrainian.

Concerning the distribution of competencies, “The Poroshenko Plan” stipulated only a reduced number of responsibilities for the central authorities which were to be negotiated afterwards. Under these circumstances and having in view that the negotiations between Chişinău and Tiraspol have a difficult start and an easy blocking up, the assignment of competencies could have been a long-lasting process and even a source of a conflict, in spite of the fact that the Republic of Moldavia accepted the principle of federalization<sup>46</sup>.

The “Poroshenko Plan” was rejected by the Parliament from Chişinău, concomitantly with welcoming Kiev’s involvement in identifying solutions for appeasing the Transnistrean conflict. So the members of the Moldavian Parliament justified that the plan proposed by Kiev had to be completed with certain provisions, especially those referring to Transnistria’s democratization and demilitarization, namely: the withdrawal of the Russian forces and arsenal by 2006, the involvement of an OSCE peace keeping force, the supervision of the Russian troops and armament withdrawal by OSCE observers and, last but not least, the stoppage of the illegal border traffic. At the same time, the observations made by Chişinău included the dissolution of the political police, freedom for media and political parties on the left bank of the Dniester, as well as the obligation of having Moldavian citizenship for all the candidates running for elections.

Several times, the Moldavian president<sup>47</sup> requested the European Union to play a more active role in solving the Transnistrean conflict and proposed a “Security and Stability Pact for the Republic of Moldavia”<sup>48</sup> guaranteed by the “mediators” of the negotiating process, to which the European Union, the USA and Romania should be added. The Moldavian experts suggested a new negotiation formula which should have modified the formula “2+3” into “3+3”, excluding the Transnistrean authorities and including the European Union, the USA and Romania<sup>49</sup>.

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<sup>46</sup> It should be underlined that according to the plan the gravity center of negotiations was moving from the chiefs of the two states towards the two parliaments, in Chişinău and respectively Tiraspol. As a consequence the separatist leader – Igor Smirnov – was no longer unconditionally recognized and Transnistria was seen as a group comprising different political forces. “Poroshenko Plan” does not mention any ways of modifying the status of Transnistria and insisted on legalizing the régime from Tiraspol by organizing elections under its control and lacking any democratic frames.

<sup>47</sup> Vladimir Voronin.

<sup>48</sup> In June 2004.

<sup>49</sup> On March 24<sup>th</sup> 2005, the newly elected Parliament made a statement by which they requested that European Union, USA and Romania be included in the negotiations formula. On July 22<sup>nd</sup> 2005, the Parliament passed a law which – for the first time since 1992 – provided principles for solving the Transnistrean conflict. The principles were inspired by the civilian society as they had been stated in 2004 and were based on the 3D: democratization, demilitarization, and decriminalization.

If at the beginning the aim of the negotiations between Chişinău and Tiraspol was to divide the power between the two entities, the Parliament from Chişinău moved the negotiations' center of gravity from the Community of Independent States towards the European space for security and democracy<sup>50</sup>. Transnistria was defined as a special autonomous entity, an inalienable part of the Republic of Moldavia, the localities on the left bank of the Dniester having the right to organize referendums by which to decide their affiliation to Transnistria, a method used for the Gagauz Autonomous Region, too.

The delimitation of competencies was to be settled by means of another law, referring clearly to the special legal status of Transnistria, in agreement with the Constitution of the Republic of Moldavia. This special status was to be negotiated after the formation of democratically chosen structures and after Moscow had withdrawn its troops and armament deployed on the left bank of the Dniester. At the same time, Transnistria was to get the right to develop and govern its own foreign economical and humanitarian relationships, this being the only remains of the old plans and process of negotiations that had been suggested. Chişinău does not conceive any longer Transnistria as a Russian speaking region, starting from the observation that most of the population is formed of "Moldavian language" speakers, followed by those who speak Ukrainian language and then, those who speak Russian<sup>51</sup>.

Although the essential role of the Transnistrean conflict was to be a means of influencing the Republic of Moldavia, it became an instrument for Kremlin to manage the zonal strategic balance, to influence Romania's foreign policy options and NATO's extension to the East, having effects even on the global relation between the USA and the Russian Federation.

The stake of the conflict is far more important than the local importance of the separation of a region from a state. In this context, we appreciate that, step by step this geopolitical conflict turned into a matter of organized crime, the criminal network in which heads of the Transnistrean authorities are involved, sometimes interfering even the

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<sup>50</sup> The law was accompanied by other endorsed documents with regard to the reformation of some institutions such as the State Security Service, the Audit Office etc. Actually these are the reform objectives requested by the European Union within the "Operative Plan EU - Moldavia".

<sup>51</sup> As a matter of fact the situation is not at the advantage for the Republic of Moldavia since Russia is the only officially recognized language on the left bank of the Dniester. The law does not relate to mediators, peace keeping forces and negotiation formulae.

international decision mechanism, thus making difficult the adoption of some anti-crisis solutions.

In our opinion, in the course of the conflict the negotiations between Chişinău and Tiraspol often lacked coherence and the periods of radicalism accompanied by inflexibility chaotically alternated with periods of tolerance for the most aggressive and humiliating actions from the part of Tiraspol Administration. It should be underlined here that Chişinău lacked behavior directions in its relationships with other parties involved in the process of solving the conflict, such as the Russian Federation and particularly Ukraine, which we consider a very important player on the scene. At the same time we believe that the only constant effort of Chişinău was that of bringing the conflict to the international attention and of involving institutions such as OSCE and EU into finding a solution.

And even so, the performance of these institutions lacked coherence and the outcome was poor. It is well-known that Russia, as a member of OSCE has the privilege of veto. Thus, all results related to Transnistrean File achieved by OSCE were overridden by the Russian veto, except for Moscow's<sup>52</sup> promise of retreating its forces within three years. Moscow has not respected this commitment so far, and since there are no means of controlling the implementation of this agreement we consider it an insubstantial one.

On the other hand we consider the law passed in 2005 as being the first clue to a coherent concept and approach of the Transnistrean conflict and we believe that it depends both on international players and Moldavian politicians to yield effective policy actions out of this new approach.

We also agree with those annalists who consider it is important that this conflict be not left in the hands of a small number of negotiators, specialized in backstairs maneuvers and ambiguous political trades. Such a wrong approach would lead to no result.

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<sup>52</sup> At OSCE summit in Istanbul, November 1999.

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## EU CYBERSPACE GOVERNANCE. WHICH WAY FORWARD?

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### ABSTRACT

THE PURPOSE OF THIS PAPER IS TO FORMULATE A CONVINCING AND REALIST EXPLANATION CONCERNING A POSSIBLE FEASIBLE MODEL FOR GLOBAL GOVERNANCE OF CYBERSPACE AS THERE IS A CONTINUOUS DISAGREEMENT REGARDING THE ESTABLISHMENT OF NEW INTERNATIONAL RULES TO GOVERN THE CYBERSPACE, BOTH WITHIN AND OUTSIDE OF THE EU. FIRST AND FOREMOST THIS PAPER AIMS TO REVEAL THAT GOVERNANCE OF CYBERSPACE IS CRITICAL FOR THE NATION STATES AS THE COMPUTER NETWORKS ARE NOW ABLE TO TRANSCEND MODERN CONCEPTIONS OF TIME AND SPACE TO CHANGE THE POWER RELATIONSHIPS BETWEEN NATION STATES AND INDIVIDUALS. I ARGUE THAT THE GOVERNANCE OF CYBERSPACE HAS CONSIDERABLE CONSEQUENCES FOR NATIONAL SECURITY ALSO. LAST BUT NOT THE LEAST, THIS PAPER DRAWS THE ATTENTION TO THE EFFORTS MADE BY THE EU TO SECURE THE CYBERSPACE AS THE TRADITIONAL FORMS OF GOVERNANCE LACK IN CONTROLLING THE BORDERLESS CHALLENGES ENCOMPASSED BY THE INFORMATION AND COMMUNICATIONS TECHNOLOGIES.

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**KEYWORDS:** CYBERSPACE, EUROPEAN UNION, CYBER GOVERNANCE, CYBER SECURITY

There is no academic consensus about what cyberspace really is. As Benjamin S. Buckland argues, the cyberspace *has many competing definitions*, mainly being defined as a broad network of huge ICT infrastructures<sup>2</sup> including Internet, telecommunications networks or SCADA computer systems in various industries. While a more formal agreement may never be reachable, both public and private actors around the world have shown a clear interest in defining the rules and best practices for behavior in cyberspace.

Therefore, for the purpose of this paper, I define the cyber governance as a method or system of government or management for the domain characterized *by the use of*

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<sup>2</sup> Look for more in Benjamin S. Buckland, Fred Schreier, and Theodor H. Winkler, *Democratic Governance Challenges of Cyber Security* (Geneva: DCAF Horizon, 2012).

*electronics and the electromagnetic spectrum to store, modify, and exchange data via networked systems and associated physical infrastructures*<sup>3</sup>.

However, the last decade is characterized by the amazing growth of ICT which fosters continuously the progress of the human kind. The explosion in interoperability and functionality of the global Internet has undoubtedly redefined the way we think about traditional forms of governance.

While many scholars share different views about what cyber governance is, many agree that *the computer-generated public domain (cyberspace) has no territorial boundaries, is controlled by no single authority, it enables millions of people to communicate around the world* and maybe encourages threats to national security and internal governance stability of states<sup>4</sup>. As a consequence of the continuous emergence of ICT, the original purpose of the WWW (scientific data exchange, global economy support, freedom of information and communications, etc) has changed dramatically in the past decade. Consequently I argue that a feasible and broadly agreed cyber governance model is a must for states around the world. The first reason of such model is given by the fact that there are numerous ideological divergences in both our understanding of the issues and challenges, as well as in the technical and governance capabilities required to confront the threats to nation states. The second one is given by the previous ACTA (Anti-Counterfeiting Trade Agreement, 2011) experience which has shown to the world that we still face many democratic concerns about control, oversight and transparency of cyberspace governance<sup>5</sup>.

Moreover, ACTA was considered an international overhasty agreement which was not modifying the substantive intellectual property rights law of the EU, and therefore does not imply any change to present EU laws. As a consequence, countries like Bulgaria, Czech Republic, Germany, Slovakia, and Slovenia are non-signatories or have indicated already to have stopped the process of its ratification. Moreover in February 2012, the European Commission asked the European Court of Justice to assess whether the ACTA agreement violates the EU's fundamental human rights and freedoms as there were great

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<sup>3</sup> "Air Force Cyber Command Strategic Vision (unclassified)", US Air Force, accessed May 19, 2013, <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA479060>.

<sup>4</sup> Brian D. Loader, *The Governance of Cyberspace: Politics, Technology and Global Restructuring* (London: Routledge, 1997), 12-30.

<sup>5</sup> Ronald Zittrain, John Deibert, Palfrey Rafal, and Jonathan Rohozinski, *Access Controlled: The Shaping of Power, Rights, and Rule in Cyberspace* (Cambridge: MIT Press), 326-327.

debates over it. After being rejected by the European Parliament in July 2012, the European Commission has withdrawn ACTA referral to the European Court of Justice<sup>6</sup>, and it became officially *fully dead within the EU*<sup>7</sup>.

Today, when faced with both traditional and non-traditional challenges within the cyberspace and thus to national security, states tend to respond by promoting approaches based mainly on public private cooperation at all cyber governance levels. Therefore, in order to assure a chained interoperability, states acknowledge that these challenges entail the building of democratic cyber governance mechanisms for public private cooperation. Questioning this approach, Alyson Bailes points out that *cooperative cyber-governance becomes trickier to apply in an environment increasingly shaped by non-traditional, non-state, multinational or transnational forces and actors*<sup>8</sup>.

Theoretically and technically, there are still unanswered questions yet. These questions are related to transparency, accountability, and costs of such cyber governance model as well as about ways it can contribute to improved security and risks mitigation. Currently we face many *gaps in our understanding of such complex governance networks* even though public and private actors are increasingly linked by versatile regulatory frameworks related to the electronic protection of critical infrastructure<sup>9</sup>.

Despite the fact that public private cooperation has broadly shaped the concept of cyber governance and it has increasingly been the response to information age challenges, I agree with Alyson Bailes as I doubt this “ad-hoc” cyber governance model is enough to replace the traditional approaches, and to ensure full democratic oversight over cyberspace. In particular I believe that the globalized nature of governance networks complicates the issue from the perspective of transparency and control. As a consequence, my supposition is confirmed by the fact that democratic governance concerns related to cyberspace have never been more pressing as they are nowadays.

A number of things are clear from the above discussion. First, I consider that John Perry Barlow went too far by proclaiming the cyberspace as a *new libertarian virtual*

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<sup>6</sup> “European Commission officially referred ACTA to the European Court of Justice”, European Commission, last modified December 2012, accessed May 21, 2013, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=799>.

<sup>7</sup> “European Commission withdraws ACTA referral”, *ACTA Blog*, December 20, 2012, <http://acta.ffii.org/?p=1702>.

<sup>8</sup> Look for more in Alyson Bailes “Private Sector, Public Security” in *Private Actors and Security Governance*, ed. Alan Bryden and Marina Caparini (Berlin: Lit Verlag).

<sup>9</sup> *Idem* 1.

*world*<sup>10</sup>. In my opinion, there is no doubt that cyberspace should be regulated by international laws as the online threats are emerging continuously. Combating these threats requires states *to look beyond the whole of government paradigm* and embrace, besides traditional approaches, effective and comprehensive public private cooperation mechanisms<sup>11</sup>. Second, within the EU and not only, the public private cooperation must involve, *not only the actors involved in so-called critical sectors, but also specialised internet security firms, software developers, hardware manufacturers, online payment providers, online content hosts, banks, financial sector actors, online commerce actors and private individuals* as Benjamin S. Buckland, Fred Schreier, and Theodor H. Winkler rightly point out.

### **EUROPEAN CROSS-BORDER STEPS TOWARD CYBER GOVERNANCE**

Despite the willingness of many states to start the dialogue on international regulations for cyberspace, there is a continued disagreement on the new rules that are required to govern this ‘new domain’<sup>12</sup>, as Louise Arimatsu observes.

In the past few years, despite former and current controversies, global powers have decided to approach the issues of cyber governance by strengthening cooperation at both bilateral and international level, mainly because cyberspace is depicted as a domain of economic opportunity as well as of heightened risk. While many states are willing to cooperate, some still share fundamentally different legal perspectives: for example US considers primary threats as being the criminal ones rather than political ones, while Russian Federation is supporting the idea of state censorship and repressive domestic policies as best cyber governance practices, and so on. Even though there is a substantial expansion of the cyberspace and ICT in last decade, international security organizations along with law enforcement ones and private sector reached the consensus for a few times, despite appearances.

Besides other international efforts (mainly under the auspices of the United Nations and its partner organizations), within Europe first steps were made only in 2001, when the Council of Europe (CoE) adopted the Convention of Cybercrime Treaty (CoE-CCT). The

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<sup>10</sup> “A Declaration of the Independence of Cyberspace”, John Perry Barlow, accessed May 21, 2013, <https://projects.eff.org/~barlow/Declaration-Final.html>.

<sup>11</sup> *Idem* 1.

<sup>12</sup> Louise Arimatsu “A Treaty for Governing Cyber-Weapons: Potential Benefits and Practical Limitations” (paper presented at the 4th International Conference on Cyber Conflict, Tallin, June 4-7, 2012).

CoE-CCT was the first international agreement to tackle the cybercrime threats by international cooperation. The CCT encompasses common criminal policies within CoE members and harmonization of national computer crime laws along with law enforcement procedures. By adopting the Additional Protocol to the Convention on Cybercrime in November 2002, the CoE stressed the need for addressing the criminalization of racist and xenophobic acts too, committed through computer systems by extending of the Convention's scopes<sup>13</sup>.

In December 2006, during the OSCE Ministerial Council Meeting, the Council passed the decision no. 7/06 - *Countering the Use of the Internet for Terrorist Purposes*, which called for states to expand international cooperation, take appropriate measures to protect critical infrastructures, increase monitoring of terrorist websites, and adopt the CoE Convention on Cybercrime<sup>14</sup>.

Following OSCE's/CoE's initiatives, during the 2002 Prague Summit hold in Czech Republic, NATO initiated the establishment of the NATO Cyber Defense Programme and NATO Computer Incident Response Capability - Technical Centre (NCIRC TC)<sup>15</sup>. Furthermore, acknowledging the need for long-term cooperation in the protection of allied information systems, in the past years NATO established the allied Cyber Defense Concept along with the Cyber Defense Management Authority, and the Cyber Defense Center of Excellence located in Estonia. For such purposes, NATO maintains an online catalog of information security and information assurance products which is publicly available in its unclassified form<sup>16</sup>.

In October 2005, under auspices of OECD, The Committee for Information, Computer, and Communications Policy (ICCP) during its forty-ninth meeting reported that *e-Government and the protection of national critical infrastructures appear to be two main drivers for developing a culture of security at the national level*. The report recommended *the adopting of a multidisciplinary and multi-stakeholder approach for establishing of a high-level governance structure which is necessary* for the implementation of national

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<sup>13</sup> Michael A. Vatis, "The Council of Europe Convention on Cybercrime" (paper presented at *Workshop on Detering Cyberattacks: Informing Strategies and Developing Options for U.S. Policy*, Washington, DC, 2012)

<sup>14</sup> "Decision No. 7/06 Countering the Use of the Internet For Terrorist Purposes", Organization for Security and Co-operation in Europe - Ministerial Council, accessed May 20, 2013, <http://www.osce.org/mc/23078>.

<sup>15</sup> "NATO Rapid Reaction Team to fight cyber attack", NATO Newsroom, accessed May 19, 2013, [http://www.nato.int/cps/en/natolive/news\\_85161.htm](http://www.nato.int/cps/en/natolive/news_85161.htm).

<sup>16</sup> "International Cyber Incidents – Legal Considerations", Eneken, Tikk et al., accessed May 19, 2013, <http://www.ccdcoe.org/publications/books/legalconsiderations.pdf>.

cyber policies. In November 2012, OECD presented the *Cybersecurity Policy Making at a Turning Point - Analysing a New Generation of National Cybersecurity Strategies* report which stressed the fact that cyber security along with cyber governance are becoming national policy priorities in supporting of *economic and social prosperity cyberspace-reliant societies against cyber threats*<sup>17</sup>.

Interpol, as a part of the international cyber governance mechanism, operates in Europe in case of cybercrimes that occur in more than one member country. The cybercrime division consists of the heads or experienced members of national computer crime units working in preventing and combating of cross-border threats and challenges to cyber security or cyber governance<sup>18</sup>.

Within the European Union, following the joint efforts of Member States, European Network and Information Security Agency (ENISA) was created in 2004 by the **Regulation (EC) No 460/2004 of the European Parliament and of the Council. The main objective of the agency is to improve network and information security in European Union thus EU cyber governance**, by awareness-raising, supporting of communication between members, and data collection or prevention. ENISA is responsible for recording of all security incidents and emerging risks within EU and has a key role in coordinating Member States Computer Emergence Response Teams (CERTs). Also it assists the Commission, the Member States, and the business community in meeting the network and information security requirements and standards<sup>19</sup>. Along with the creation of ENISA, the European Commission has recognized the European Telecommunications Standards Institute (ETSI) as an European Standards Organization. ETSI is a main international cyber governance organization which *produces globally-applicable standards for Information and Communications Technology (ICT), including fixed, mobile, radio, converged, broadcast and internet technologies*<sup>20</sup>.

In order to provide a forum for exchanging experiences and knowledge and to promote common standards and procedures for responding to security incidents, a Task

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<sup>17</sup> Look for more in Michael Portnoy and Seymour Goodman, *Global Initiatives to Secure the Cyberspace – An emerging landscape* (New York: Springer, 2009).

<sup>18</sup> “Fighting cybercrime worldwide requires law enforcement and private sector to work more closely together, says Interpol Chief”, Interpol – Media Release Centre, accessed May 18, 2013, <http://www.interpol.int/News-and-media/News-media-releases/2013/PR043>.

<sup>19</sup> “About Enisa – What does Enisa Do?”, European Network Information and Security Agency, accessed May 20, 2013, <http://www.enisa.europa.eu/about-enisa>.

<sup>20</sup> “About ETSI”. European Telecommunications Standards Institute, accessed May 22, 2013, <http://www.etsi.org/about>.

Force was established under the auspices of the Terena Technical Programme<sup>21</sup> to promote the collaboration between Computer Security Incident Response Teams (CSIRTs) in Europe. Informally known as TF-CSIRT, the Task Force provides a vehicle for CSIRTs in Europe to liaise with the European Commission and other policy making bodies.

Due to the fact that European Union is not yet positioning itself well enough to benefit from digital world developments, and therefore it *may be losing out in global competitiveness*, in December 2012 the European Commission adopted the Communication called “*The Digital Agenda for Europe - Driving European growth digitally*”(COM(2012) 784” which reveals the most important EU priorities on network and information security<sup>22</sup>. The document draws the attention on establishing a common minimum level of preparedness within the EU Member States and setting up cooperation mechanisms for mitigating and countering the threats and challenges within cyberspace. Following a feasibility study conducted by RAND Corporation – Europe, the European Commission decided to establish a European Cybercrime Centre (EC3) within Europol. The Centre is the main point in the EU’s fight against cybercrime, contributing to faster reactions in the event of online threats and challenges. EC3 supports Member States and the European Union’s institutions in building operational and analytical capacity for investigations and cooperation with international partners.

Starting 1 January 2013 EC3 commenced its activity under the auspices of Europol – the official European law enforcement agency, at the European Commission’s special request. The main duties of EC3 focus on strategy and prevention to make European citizens and businesses much safer<sup>23</sup>. The EC3, in cooperation with Member States, monitors, analyses, and processes large amounts of data from a variety of sources to understand, strengthen, and mitigate the cyber threats within the European Union by operating 24/7. The need for such organization relies on the fact that today not all Member States have reached a satisfactory level of know-how required to effectively fight against challenges to cyber security and governance.

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<sup>21</sup> “Terena Technical Programme Update”. Graf, Christoph, accessed May 22, 2013, <http://www.terena.org/about/ga/ga36/TechnicalProgramme.pdf>.

<sup>22</sup> “The Digital Agenda for Europe - Driving European growth digitally”, European Commission, accessed May 22, 2013, [http://ec.europa.eu/information\\_society/newsroom/cf/dae/document.cfm?doc\\_id=1381](http://ec.europa.eu/information_society/newsroom/cf/dae/document.cfm?doc_id=1381).

<sup>23</sup> “A Collective EU Response to Cyber Crime”. Europol, accessed May 18, 2013, <https://www.europol.europa.eu/ec3>.

## CONCLUSIONS

As like the security itself, the cyberspace is a very complex and important public asset. The governance of cyberspace, as a prerequisite of the information age, is still a relatively new topic, and there is no theoretical consensus about how it should look like. Harold Kwalwasser points out that the concept of cyber governance is a challenge to understand as no single actor dominates collective decision-making within cyberspace. The need for an adequate governance of cyberspace has shown that the traditional pillars of governance itself have changed radically in the last decade. As a consequence, the expansion of cyberspace *has not been accompanied by an adequate increase in security and governance*<sup>24</sup>. Joseph Nye argues that virtual communities freely expand across any offline territorial jurisdictions and develop their own patterns of governance while nation states become much less important to people's lives<sup>25</sup>.

I agree that the global cyber governance lacks in regulation mechanisms and that may foster extreme behavior from citizens (hacktivist group called "Anonymous" is a famous example). At the moment, *the triangular relationship between states, companies – which are heavily present in cyberspace – and citizens – who use it massively – raises the issue of world [cyber] governance striking a new balance in order to respect the rights and interests of every actor*<sup>26</sup>.

However, as Myriam Dunn Cavelty infers, like the governance of space and the oceans, the cyber governance requires globally accepted norms and regulation mechanisms. These are strongly required in order to mitigate and control the actual threats in cyberspace by creating *new and innovative ways to enhance protection of vital computer networks without inhibiting the public's ability to live and work with confidence on the internet*<sup>27</sup>.

As regarding the European Union, many scholars draw the attention to the lack of cyber governance confidence among its citizens. For example, as the EU Directive 2006/24/EC on data retention was adopted by the European Parliament and the Council in March 2006, the public opinion within Member States seriously questioned the *libertarian*

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<sup>24</sup> Look for more in Harold Kwalwasser, "Internet Governance" in *Cyberpower and National Security*, ed. Franklin D. Kramer, et al. (Washington, DC: National Defense University Press, 2009).

<sup>25</sup> Joseph Nye Jr., *Cyber Power* (Cambridge: Harvard Kennedy School, 2010), 12-25.

<sup>26</sup> Patrice Tromparent, "French Cyberdefence Policy" (paper presented at International Conference on Cyber Conflict, Tallin, June 4-7, 2012).

<sup>27</sup> Myriam Dunn Cavelty, "Unraveling the Stuxnet Effect: Of much Persistence and Little change in the Cyber Threats Debate", *Military and Strategic Affairs*, 3(2011):11.

*nature of cyberspace* and the respect for individual cyber freedoms within EU. In fact, the vast majority of public concerns arose due to the fact that *all member countries have to mandate the retention by telecom companies of the sender, recipient, and time of every Internet or other telecom communication*. Hence the above mentioned directive requires the collection and storage of all types of Internet Protocol identification data such as IP address, phone number, name or address of every online user, but the monitoring or storage of communications content itself it is not forbidden explicitly yet. As a consequence, starting April 2009, all Internet service providers within the European Union must strictly comply with all relevant national implementations of the directive<sup>28</sup>.

As the cyber challenges and threats evolve continuously, I strongly believe that a cooperative cyber governance model is a major development opportunity for both public and private actors involved in prevention, mitigation, and response to cyber threats. Therefore I agree with the idea of Buckland, Schreier, and Winkler as I believe that full cooperation is crucial not only among the actors involved in critical sectors, but also among specialized internet security firms, software developers, hardware manufacturers, online payment providers, online content hosts, banks, financial sector actors, online commerce actors and private individuals.

Nevertheless I argue that every nation state should control the behavior of its citizens in cyberspace to guarantee the safety of the others. The law and cyber order should be enforced and continuously updated for best cyber governance practices. On the other hand, I strongly believe that the scope of any national governing mean, policymaking, law enforcement along with control and monitoring must fully comply with international law. Therefore any censorship practices against human rights must be strictly avoided by any actor confronted with cyber governance challenges.

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<sup>28</sup> “Directive 2006/24/EC of the European Parliament and of The Council on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC “, European Commission – Official Journal of the European Union, accessed May 19, 2013, <http://eur-lex.europa.eu/>.

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## **THE FAILURE OF SECESSIONIST MOVEMENTS IN BOSNIA AND HERZEGOVINA AND CROATIA**

**Paul DUȚĂ<sup>1</sup>**

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**ABSTRACT:**

*THE CURRENTS OF POLITICAL AND LEGAL PHILOSOPHY OF HUMAN SECURITY ARE IN AN INCREASINGLY INTENSE DIALOGUE FOR A RETHINKING OF ISSUES ON THE ATTRIBUTES OF THE SOVEREIGNTY OF STATES, DIALOGUE REFLECTED ON THE PRINCIPLE OF COMMUNICATING VESSELS IN THE METAMORPHOSES OF THE INTERNATIONAL COMMUNITY. THE PARTICULARLY DELICATE ISSUES RELATED TO COMPLEX RELATIONS OF "VERTICAL INTEGRATION" WITHIN THE EU ARE KEPT FROZEN FOR NOW ON THE AGENDA OF THE EU BUT MORE LIKELY THAN THAT, THEY WILL BE THE FUTURE AGENDA OF THE EUROPEAN PARLIAMENT, AFTER THE EUROPEAN PARLIAMENT ELECTIONS IN 2014. THE SPECIAL LITERATURE IS ADVANCING A NUMBER OF SCENARIOS THAT CAN INDUCE A PALETTE OF PARADOXICAL SITUATIONS WITH ADVERSE INFLUENCE ON EUROPEAN ARCHITECTURE. A UNIFIED SOLUTION DERIVED FROM A PERSPECTIVE GOVERNED WITHOUT "EXCEPTIONS WHICH CANNOT TURN IN PRECEDENTS" IS PARTICULARLY ACUTE, AS THE UNANIMOUS OPINION IS THAT THE EUROPEAN TREATIES ARE DEFECTIVE AND THE SOLID AND HARMONIOUS VISION BUILT UPON THE PROTECTION OF NATIONAL MINORITIES IN THE FRAMEWORK OF THE EUROPEAN STATES IS BESET BY SEPARATIST MOVEMENTS IN EUROPE.*

*THE LAST FEW DECADES, AMID A GEOPOLITICAL GIANT REALIGNMENT, HAVE RECORDED A RATHER COMPLEX CONTRADICTORY PHENOMENON, THE DISSOLUTION OF STATE FEDERATIONS (USSR, SFRY, AND CZECHOSLOVAKIA) AND THE REUNIFICATION OF OTHER COUNTRIES (GERMANY) UNDER A FEDERATION. THE FUNDAMENTAL PARAMETERS OF ANALYSIS – HISTORICAL LANDMARKS, CONSTITUTIONAL FRAMEWORK, USE AND REFERENDUM LEGITIMACY, THE INTERNATIONAL COMMUNITY'S INVOLVEMENT, THE EXISTENCE OF ARMED VIOLENCE, THE RECOGNITION OF THE SECESSIONIST ENTITY STATUS FROM THE INTERNATIONAL POINT OF VIEW.*

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**KEY WORDS:** BOSNIA-HERZEGOVINA, CROATIA, SECESSION, THE INTERNATIONAL COMMUNITY

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## **THE FAILURE OF SECESSIONIST MOVEMENTS IN BOSNIA AND HERZEGOVINA**

In the 1990s, in Yugoslavia, elections were won by the Communist parties only in Serbia and Montenegro, while the other four republics of the Federation of nationalist parties come to power.<sup>2</sup> President Milosevic said that "If Yugoslavia breaks up, Serbia's borders should be redefined as a future Serb State must include all regions inhabited by Serbs."<sup>3</sup>

In 1991, according to the census, Bosnia and Herzegovina had 4.4 million inhabitants, of whom 43, 7% were Bosnians, 31% Serbs, 17.3% Croats and 7.6% other nationalities. The population is made up of various ethnic and religious groups: Bosnians are Muslims, Serbs are Orthodox Christians and Croats are Roman Catholics, the rest being made up of 17 groups of national minorities. Bosnia and Herzegovina has many natural resources (wood, ore deposits, and hydro-electric industrial potential), and by 1992 it develops industrial production with an average annual growth of about 1.5 percent. Per capita GNP was around \$ 2500 in 1991, and it was considered a medium-developed country.<sup>4</sup>

On March 2, 1992, when the results of the referendum (boycotted by many Bosnian Serbs) are announced and the desire to become an independent State is formally made public, Serbian paramilitary forces occupy positions around Sarajevo. Bosnia-Herzegovina is recognized as an independent Federal Democratic Republic internationally both by the European Community and the United Nations.<sup>5</sup>

On April 6, Serbian paramilitary forces opened fire on some demonstrators, after they had already bombed some cities in March, beginning not only the siege of Sarajevo but also the war.

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<sup>2</sup> The nationalists' victories are largely a reaction to the growing trend of Serbian power manifested during the previous decade. After the elections, Croatia and Slovenia leave the Yugoslav Federation and are recognized by European countries as independent States. View Paul Dănuț Duță, Teodor Frunzeti, Ion Panait, *Organizațiile internaționale și problema balcanică. Studiu de caz: Kosovo*, Political and National Defense Collection No. 34, Publishing House Media, (Sibiu: Tehno Media, 2009), 46 et seq.

<sup>3</sup> www.nato.int – NATO official site

<sup>4</sup> Agency of Statistics of Bosnia and Herzegovina. *About BiH*. Agency of Statistics of Bosnia and Herzegovina, 2012.

<sup>5</sup> See, the Security Council Resolution No.755 (1992) on 20 May 1992. See also, The Referendum on Independence in Bosnia-Herzegovina: February 29 – March 1, 1992, Commission on Security and Cooperation in Europe, 1992, 19.

From 1992 to 1995, Bosnia and Herzegovina is the theatre of a brutal war between Serbs, Croats and Bosnians, alliances and bilateral and multilateral arrangements either disregarded or ignored.

On April 5, 1992, Milosevic sent the Yugoslav national army forces in Eastern Bosnia. Herzegovina becomes an autonomous community, known as Herceg-Bosna, aimed at uniting, sooner or later, with Croatia. Suddenly, the situation became extremely tense, turning it into a deadly military conflict.<sup>6</sup> In response to the actions of the Serbs, Croat nationalists begin their "ethnic cleansing" a campaign also led by Bosnian Muslims. In response, NATO started aircraft patrolling to support the UN bans on flights and the 14,000 members of the UN protection force.<sup>7</sup> After the outbreak of war in Bosnia, the Croatian-Muslim Alliance starts to halt.<sup>8</sup>

In July 1992, NATO ships carry out monitoring operations in the Adriatic Sea in support of weapons and munitions embargo imposed by the United Nations to all the republics of former Yugoslavia<sup>9</sup> and of the sanctions against the Federal Republic of Yugoslavia.<sup>10</sup> On March 31, 1993, they authorize the imposition of compliance with air restriction zone over Bosnia and Herzegovina and extend a ban on all flights, except those authorized by UNPROFOR.<sup>11</sup> NATO planes belonging to the airborne detection and control system start monitoring actions in no-fly zone over Bosnia and Herzegovina<sup>12</sup>, as part of Operation Sky Monitor.<sup>13</sup> In August 1993, the North Atlantic Council decided to prepare without delay to pass tougher measures against perpetrators, including air strikes,

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<sup>6</sup> The pretext was offered by the mediation project presented in January by Vance and Owen, which gave three districts to the Croatian population. It was sufficient that the leaders in Herceg-Bosna to send Muslims to evade the Croat militias or to abandon the area entrusted to them. They encountered a refusal. View, Misha Glenny, op. cit., 32.

<sup>7</sup> See, *NATO Handbook*, Office of Information and Press, NATO-1110 Brussels, Belgium, 2001, p.110.

<sup>8</sup> There were rumors about a pending agreement between Milošević and Tudjman with the view of dividing Bosnia. View Misha Glenny, *The Fall of Yugoslavia*, (London:Penguin Books, 1996), 26-28

<sup>9</sup> See, The Security Council Resolution No.713 (1992).

<sup>10</sup> Serbia and Montenegro.

<sup>11</sup> See, The Security Council Resolution No.816 (1993).

<sup>12</sup> See, The Security Council Resolution No.816 (1993).

<sup>13</sup> On March 31, 1993, the prohibition of unauthorized flight was extended and authorized the Member States to take all necessary measures in the event of the violations of its provisions. On April 8 1993, the North Atlantic Council approved the air monitoring plans and notified the United Nations the agreement on the conduct of the operation. On 12 April 1993, the operation Sky Monitor ceased. "On 12 April 1993, the operation "Deny Flight" began and lasted over 1000 days, in order to prevent the warring parties from using the airspace as military action area. The completed missions within the operation: monitoring of air zone „No-Fly Zones ", providing support to the United Nations troops and striking targets that threatened the security of protected areas by the United Nations. See The Security Council Resolution No.781 (1992).

if they could not put an end to the isolation of Sarajevo and other areas and did not stop the disruption of humanitarian assistance in the region.<sup>14</sup>

In 1993, the war also breaks out between former allies. At this stage, all make use of ethnic cleansing: Muslims in Mostar are compelled to gather in the Eastern neighborhoods, systematically bombed by Croats, who, in the end, also destroy the old Turkish bridge of the city. The established tactics in order to create the Great Serbia<sup>15</sup> undergoes the first major break-up between the two Serb leaders, thus the general decay of Bosnia-Herzegovina becoming more complex.<sup>16</sup>

On 24 May 1994, following the military situation of the city of Sarajevo, which was considered very serious by the Secretary-General, the UNPROFOR Commander, warns the Bosnian Government and the Bosnian Serbs that they will go start air strikes against them.<sup>17</sup> The Protection Force of the United Nations<sup>18</sup>, restricted to the Republic of Bosnia and Herzegovina confronted, during 1995, with the lifting up of military activities to an unprecedented level of offensive conduct, respectively accompanied by large population exodus and the use of force against Bosnians Serbs both by UNPROFOR and by NATO.

On May 30 1995, the Secretary-General summarizes<sup>19</sup> the seriousness of the situation, requesting the option between a peace-keeping operation and a peace-

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<sup>14</sup> On August 2 1993, it was decided to take measures to strengthen the capabilities of the operation, including for the execution of air strikes against those who blocked the movement toward Sarajevo as well as to other locations and those which interfered with humanitarian assistance. On August 9, the North Atlantic Council approved the military planning for the execution of the air strikes. On August 9, the North Atlantic Council approved a series of "Operational Options for Air Strikes in Bosnia-Herzegovina." These options related to the process of identifying the targets and the requirements of NATO\UN on command and control for the air strikes. See, The Security Council Resolution No. 836 (1993).

<sup>15</sup> Moscow's support was more verbal than real, because of the deep crisis in which Russia had fallen, after the collapse of the Soviet Union. In Central Bosnia, the Croatian forces encircled the Muslims, destroyed their resistance and banished them from Croatia. In September, there was a fracture in the Muslim camp, between Abdic and Izetbegovic, his vice-president, who, after many hesitations, joined the Serbs, trying to gain control over his home region, Unska Krajina between Bihac and Cazin. Thus, a new military conflict opened between Muslims. Bosnia becomes a space in which the disagreement between ethnic groups is complicated even further by adding the disagreements within the ethnic community. See, Yossef Bodansky, (November 29, 1995). *Offensive in the Balkans: The Potential for a Wider War as a Result of Foreign Intervention in Bosnia-Herzegovina*. International Strategic Studies Association.

<sup>16</sup> Milošević, along with Greek Prime Minister Mitsotakis, goes from Pale to persuade Karadžić and his people to accept the Vance-Owen plan, but without any result. See, Yossef Bodansky, *cit. op.*

<sup>17</sup> On 25 and 26 May, the air strikes carried out by NATO against at least one ammunition depot near Pale, controlled by the Bosnian Serbs. They respond to the air strikes by encircling the weapons collection centers, taking 300 United Nations military as hostages and the shutting down electricity in Sarajevo. On May 27, the Bosnian Serbs surround a UN observation post on the Bridge of Vrbanja River in Sarajevo, which is relieved by UN forces in battle. During this fight 2 UN soldiers were killed and other 14 were wounded, with casualties on the Bosnians Serbs' side, too. See, Paul Dănuț Duță, Teodor Frunzeti, Ion Panait, *op. cit.*, 56 et seq.

<sup>18</sup> United Nations Protection Force – UNPROFOR.

<sup>19</sup> The UN forces military situation had become critical, thus being practically isolated and a target of the two warring parties, the isolation of the Sarajevo UNPROFOR personnel; severe restrictions on freedom of

enforcement operation, such as those in Somalia and Haiti.<sup>20</sup> As a result of signs of increasing risks and threats as to UNPROFOR personnel, highlighted by the Secretary-General, a group of UN Member States (France, the Netherlands and the United Kingdom)<sup>21</sup>, make available to the Organization units of rapid-reaction military force in order to strengthen the operation and reducing its vulnerability. The Security Council approved in June, the establishment of rapid reaction force.<sup>22</sup>

However, the Governments of Croatia and of Bosnia-Herzegovina disagree with this interpretation, arguing that the Status of Forces Agreement<sup>23</sup> is valid only for the deployed troops and not for rapid reaction force. The Security Council called the two Governments in order to immediately remove all obstacles that affected the free movement and some other amenities of the force.<sup>24</sup>

On July 6 and July 21, Bosnian Serbs launch attacks against the safety areas of Srebrenica and Zachariah, operations strongly condemned by the Security Council.<sup>25</sup>

In early august 1995, the Bosnian Government starts an attack, in cooperation with the Croatian army, against the "Autonomous Republic of Western Bosnia", led by Fikret

movement of the force; the increased risks of the activity of the staff, deployed around the safe areas; increasing threats against staff who were on guard over the weapons collection centers, when they air strikes were carried out. The existence and the functioning of UNPROFOR, as a peacekeeping force, impartial and based on the consensus of the warring parties are seriously compromised. See, S 444/1995.

<sup>20</sup> The mandate of a peacekeeping operation may refer to: conduct of good offices, making the link between the warring and negotiating parties; monitoring the cessation of the fire as long as the parties consent to it; maintaining a presence in the areas of security, after the negotiation of such a scheme for such areas, but without the use of force to deter attacks against them; the use of Sarajevo airport with the consent of the parties; facilitating the return to normal life in Sarajevo; escorting humanitarian convoys and supporting humanitarian activities; monitoring international borders with the consent of the parties; the use of force, including air strikes, only for self defense. See, the Act of the President of the Security Council No. 32/1995.

<sup>21</sup> See, *The Document of the Security Council No. 470/1995*.

<sup>22</sup> With the following characteristics: they are an integral part of UNPF/UNPROFOR. The proposed number of rapid reaction force was to be 15,000 military, the operation troops rising from 44.870 to 57.370 (2,500 were already deployed in the field, and 4,000 soldiers were on stand-by in France); their financing was made according to the rules and procedures for peacekeeping operations (in this case 414,3 million USD for 6 months); it operates in compliance with the UN rules of engagement; it is subject to UN command structures; their status is the same as those of UNPF/UNPROFOR. See, Security Council Resolution No. 998/1995.

<sup>23</sup> Status of Forces Agreement - SOFA

<sup>24</sup> The same time with the presentation of these proposals its missions were outlined: the development of emergency actions and the intervention for isolated and threatened UN units; providing support in the re-development of some elements of the operation; facilitating freedom of movement where necessary. See, the Document of the President of the Security Council No. 40/1995.

<sup>25</sup> Considering that the fire of flame throwers in a market in Sarajevo on August 28 -37 dead and 80 injured, was the responsibility of the Bosnians Serbs, that by this attack they had breached the safe area of Sarajevo, it was decided the execution of air strikes by NATO against the Bosnians Serbs in Eastern Bosnia--Herzegovina and artillery strikes against the Bosnians Serb troops near Sarajevo. See, Security Council Resolution No. 1004 (1995).

Abdic, the Muslim leader, attack followed by the exodus of more than 25,000 people and by numerous human rights violations.<sup>26</sup>

On 9 February 1994, in response to a request from the Secretary-General of the United Nations, the North Atlantic Council authorizes the Commander of the Allied Forces in southern Europe to launch air strikes, at the request of the United Nations, over the artillery positions and mortars in or around the city of Sarajevo, identified as sources of attacks against civilian targets in that city.<sup>27</sup> On February 28 1994, 4 fighter jets that had violated the no-fly zone over Bosnia and Herzegovina were shot down by NATO aircraft in the first military intervention by the Alliance in its history. At the request of the United Nations, NATO forces provide direct air support to protect the UN personnel in the town of Gorazde, declared as safe area.

On April 22, responding to the UN Secretary-General's request to support United Nations efforts to break the siege of Gorazde and protect other areas of security, the North Atlantic Council announces that if the Bosnian Serbs do not cease attacks immediately, air strikes will take place.<sup>28</sup> On November 23 1994, after the attacks with anti-air missiles launched from a location just south of the Otaka on two NATO planes, air strikes are carried out against air defense radars located in this area.<sup>29</sup> On 25 and 26 May 1995, as a result of infringement of the ban and of the bombing of the areas of security, NATO forces carried out air strikes against the ammunition depots from Pale, belonging to the Bosnian Serbs.<sup>30</sup>

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<sup>26</sup> The action is materialized through the conquest by the Bosnian Government of Ozren, while the Croatian Army captures the city Banja Luca, traditionally populated by Bosnian Serbs. It was estimated that in the first phase about 50,000 Bosnians Serbs, including refugees from the Krajina, were ousted, then some thousands following, because of the Croatian army's abuses. See, *The Humanitarian Operation in Bosnia, 1992-95: the Dilemmas of Negotiating Humanitarian access*. United Nations High Commission for Refugees, May 1999.

<sup>27</sup> In addition, the Board decided that all heavy weapons in the zone, with a radius of 20 km around the city of Sarajevo, should be withdrawn within a period of 10 days. At the end of this period, heavy weapons that were still held by any of the parties, found in the no-fly zone, except for those under UNPROFOR control, were to become the target of air attacks. See, [www.nato.int](http://www.nato.int).

<sup>28</sup> Bihac, Srebrenica, Tuzla and Zachariah. Until April 24, Bosnian Serb forces had retreated at 3 kilometers from the centre of Gorazde, allowing humanitarian aid convoys and medical teams to enter the city. The Council said that as of April 27, air strikes were to be launched against heavy weapons bases of Bosnian Serbs, which remained within the perimeter of an exclusion zone of 20 kilometers around Gorazde town centre. Air strikes were authorized in case other security zones established by the UN would have been attacked, from any distance, with heavy weapons. These areas could be declared, in their turn, ban areas, if NATO's and UN's military commanders would have considered that within a radius of 20 km around them, heavy weaponry was concentrated. See also, Security Council Resolution No. 836 (1993).

<sup>29</sup> in the North-Western part of Bosnia and Herzegovina.

<sup>30</sup> Approximately 370 members of the peacekeeping forces of the United Nations in Bosnia are taken hostage and used as human shields to potential targets, in an attempt of Bosnian Serbs to prevent the release of the new bombing. On 30 May 1995, the Foreign Ministers of NATO countries met at Noordwijk, in the Netherlands, and they condemn the escalation of violence in Bosnia and the acts of hostility of the Bosnian

On 11 July 1995, the United Nations requested NATO air support directly for the protection of the Blue Helmets threatened by Bosnian Serb forces that were advancing toward the Srebrenica, declared by the United Nations, security area. Under the supervision of the United Nations, the United Nations designated targets are attacked by NATO aviation. Despite air support provided by NATO, the security zone of Srebrenica falls into the hands of Bosnian Serb forces, which also occupy, shortly afterwards, the security zone at Zacheriah, located in the vicinity. The North Atlantic Council approved the drawing up of plans designed to discourage a military attack on the security zone of Gorazde, as well as the use of NATO aircraft, in the event that the safety zone had been threatened or attacked. The Council adopts similar decisions in order to discourage attacks on the security zone of Bihac, Sarajevo and Tuzla. NATO undertakes aviation air strikes against radar air defense forces of Serbs in Croatia, located near the airfield at Udbina and Knin in Croatia.<sup>31</sup>

The operation "Deliberate Force" is highly controversial; it has an essential role for the Federation of Bosnia and Herzegovina.<sup>32</sup> In addition, although it subsequently overshadowed by the operation "Allied Force" the much longer air campaign in Kosovo in 1999, operation "Deliberate Force" is the starting point of the post-cold war transformation of NATO.<sup>33</sup> The Bosnian war proved to be a very cold shower for the United Nations and for all the other international institutions that were involved in negotiations in order to end the conflict.<sup>34</sup>

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Serbs against UN personnel. Until June 18, the Bosnian Serbs released all UN soldiers who had been taken hostages. UN forces peacekeepers who had been isolated at the weapon collecting centres from the vicinity of Sarajevo are withdrawn. See, [www.nato.int](http://www.nato.int).

<sup>31</sup> The Deliberate Force. On 28 August 1995, the event that triggered the operation "Deliberate Force" is the mortar strike in a market in Sarajevo, killing 38 and wounding 84 civilians; the shot is considered to come from the Serbs. In the absence of General Janvier, who was gone at that time, the British General Rupert Smith called for the UN key in coordination with Admiral Smith, saying that the Bosnian Serbs had violated once more the Resolution of the UN Security Council and that, this time, NATO will respond by the use of force. See, Paul Dănuț Duță, Teodor Frunzeti, Ion Panait, *op.cit.*, 66 et seq.

<sup>32</sup> The operation "Deliberate Force" is launched once the last troops have left UNPROFOR Bosnian Serb territory. The bombings are interrupted for a short time, because of a cease-fire agreement negotiated by General Janvier on 1 September, but they start again in the early morning hours of September 5. Almost all the 16 Allies parties contribute in one way or another to this campaign, which involved 3515 sorties and the launching of 1026 bombs over 338 individual targets. NATO did not register any loss, though a French Mirage 200K was shot down on the first day of the campaign, and the crew was captured by the Bosnian Serbs. See Phillips, Douglas A., *Bosnia and Herzegovina* (Philadelphia: Chelsea House, 2004), 25.

<sup>33</sup> The operation "Deliberate Force", NATO's first air campaign, lasts two and a half weeks and disorganizes the Bosnian Serbs' communications and effectively puts an end to the debates 'out-of-area'. See, Phillips, Douglas A., *op.cit.*, 31.

<sup>34</sup> The Alliance joined the international efforts to slow the cessation of fighting in the former Yugoslavia. When violence erupted in 1991, the European Community and the United Nations Organization took the lead

NATO aviation starts a series of air strikes, supported by the UN rapid reaction Force, based in the mountains Igman, against Bosnian Serb military targets located within the territory of Bosnia. The air operations were triggered after the UN military commanders established that the mortar attack which hit on August 30, following the sustained artillery attacks by the Bosnian Serbs on the city of Sarajevo two days before, had been launched from Bosnian Serb area.<sup>35</sup> On September 20 1995, the commanders of NATO forces and the United Nations said that Bosnian Serbs had abided by the conditions imposed by the United Nations and thus suspended the air attacks.<sup>36</sup>

In 1994 and 1995, NATO used force against military targets of the Bosnian Serbs<sup>37</sup> and imposed the enforcement of UN embargo on weapons.<sup>38</sup>

The first incursions of NATO in Bosnia and Herzegovina failed to change the political reality on the ground.<sup>39</sup> Although most UNPROFOR soldiers totally did their duty and 167 people were recorded dead during the mission, UNPROFOR's inability to

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in trying to halt the conflict and restore peace and stability. During that time, the United States had just had a UN-mandated coalition in ousting Iraqi forces of Saddam Hussein from Kuwait and there was a great potential for optimism regarding the United Nations' potential to promote a "new world order". See, Phillips, Douglas A., *op.cit.*, 31.

<sup>35</sup> These operations were decided by mutual agreement between the Commander in Chief of Allied Forces in Southern Europe (CINCSOUTH) and the Peace Force Commander of the United Nations, under the authority conferred on them by the Resolution 836 of the UN Security Council, in accordance with the decisions taken by the North Atlantic Council on 25 July and 1 August 1995 and approved by the Secretary-General of the United Nations. The common objectives of the UN and NATO were to reduce the threats over the security zone in Sarajevo and to deter other attacks in the region or on any other security zones; to compel the Bosnian Serbs to withdraw their heavy weapons from the total ban area of Sarajevo; and to provide an absolute freedom of movement for the United Nations forces and personnel and non-governmental organizations and allow a total free use of Sarajevo airport. See Paul Dănuț Duță, Teodor Frunzeti, Ion Panait, *op.cit.*, 56 and seq.

<sup>36</sup> They stressed the idea that any attack on Sarajevo or any other safe areas, any non-compliance with the provisions on the status of Sarajevo, the ban or any disturbance of the freedom of movement or the functioning of Sarajevo airport would be reviewed, thus leading to a possible resumption of air attacks. View Paul Dănuț Duță, Teodor Frunzeti, Ion Panait, *op.cit.*, 56 and seq.

<sup>37</sup> On October 4 1995, after intercepting an aircraft of the Alliance by a Bosnian Serb anti-aircraft radar, NATO aircraft launched three rockets on two radar stations in different locations. On 9 October, in response to the request of the air support of the United Nations Peace Forces attacked for the second consecutive day by the Bosnian Serb artillery, the NATO air force attacked a command and control bunker of the Serbian army in Bosnia, near Tuzla. See, Paul Dănuț Duță, Teodor Frunzeti, Ion Panait, *op.cit.*, 92 and seq.

<sup>38</sup> While UNPROFOR was trying to fulfill the goals, NATO sought to adapt to the reality of the cold war. In 1991, at the Summit in Rome, the heads of state and of Governments of NATO member countries agreed on a new strategic concept, which allowed the Alliance to overcome the limits of collective defense and to undertake new missions in the field of security, including peace-keeping, conflict prevention and crisis management. See, Sabrina P. (2006), *The Three Yugoslavias: State-Building and Legitimation, 1918–2004*, (Indiana University Press, 2008), 383.

<sup>39</sup> Many have perceived the role of NATO in the Balkans as particularly difficult, given the high level of suffering to which the people in a region were subjected to, after all set even in the vicinity of NATO. Expressing quite often their resignation, either supporters or critics of NATO, stated that the Alliance would have to "leave the traditional area" if they do not want to „leave the game”. See, Sabrina p. (2006), *op. cit.*, 384.

influence the conduct of the conflict allowed the Bosnian Serbs to ridicule the UN mission.<sup>40</sup> NATO's inertia was partly a consequence of the composition of UNPROFOR.<sup>41</sup>

An essential policy changes introduced in early August 1995 was the redefining of the "dual-key" arrangement, agreed upon in 1993 to set up the use of force by NATO.<sup>42</sup>

Among the many involved in the operation "Deliberate Force", NATO Secretary general Willy Claes played a very influential role in the „backstage ". Although his personal political problems in Belgium clouded the legacy and obliged him to leave NATO in less than a year and a half since his job appointment, Claes has a great deal of credit for the success of the operation "Deliberate Force."<sup>43</sup> Claes ' relationship with General Joulwan also played an important role in ensuring the success of the air campaign.<sup>44</sup>

On August 5, at the request of UNPROFOR, NATO aircraft attacked a target inside the no-fly zone in Sarajevo. This action was ordered as a result of an agreement between NATO and UNPROFOR, after the Bosnian Serbs had captured guns from a weapons collecting center near Sarajevo. The North Atlantic Council approved the extension in

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<sup>40</sup> Both NATO Secretary general Willy Claes and his predecessor Manfred Wörner began to increasingly emphasize more and more the UN's inability to end the crisis and the need for NATO to take on a greater role. Despite this, the Allies themselves were unable to achieve political consensus for a more robust approach in 1994 and the first half of 1995 and continued debate over the most appropriate course of action. See, Sabrina P. (2006), *op. cit.*, 385

<sup>41</sup> Many allies, including Canada, France and the United Kingdom, had deployed peacekeepers in UNPROFOR and they were afraid that a more robust approach on the issue of the Bosnian Serbs would have repercussions on their own troops. At the same time, the United States, which did not have troops on the ground, were pushing for the implementation of a policy "raise and strike" – raising the arms embargo throughout the region, which affected in particular the Bosnian Muslims, and the carrying out of air strikes against Bosnian Serb targets. See, Sabrina P. (2006), *op. cit.*, 386.

<sup>42</sup> Under this arrangement, the military actions of NATO had to be approved both by the United Nations' officials and the NATO ones. Until August 1995, Yasushi Akashi, the Special Representative of the UN Secretary-General in the former Yugoslavia, held the UN Organization key. After Srebrenica, the key passed to the military commander of UNPROFOR, the French General Bernard Janvier. The NATO key was owned by Admiral Leighton W. Smith, Commander of Allied Forces in Southern Europe, at Naples. See, *NATO Handbook*, 107.

<sup>43</sup> In the short period when he was a NATO Secretary General, Claes proved a decided leader, prepared to lead the North Atlantic Council for long work hours until they reached a consensus, in particular with respect to the issues which led to the launch of Operation Deliberate Force. According to work "The Concluding of a war" (Random House, 1998) by Richard Holbrooke, Claes also actively supported the two Smiths when they used the keys, allowing the starting up of the air campaign without further debate among the allies. When General Janvier negotiated an agreement on a temporary cease-fire with Bosnian Serb military leaders, Claes did considerable diplomatic pressure over it, on other UN officials and on the North Atlantic Council in order to resume air strikes, arguing that NATO had to demonstrate greater determination to change attitudes in the field. See, Sabrina P. (2006), *op. cit.*, 388.

<sup>44</sup> Claes backed General Joulwan when he sought political support for the use of Tomahawk missiles against military positions occupied by the Bosnian Serbs in Banja Luka. The use of Tomahawk missiles in the early morning hours of September 10 generated some criticism, even among NATO ambassadors. See, Sabrina P. (2006), *op. cit.*, 388.

Croatia of air support operations in order to protect the UN forces deployed in this country.

<sup>45</sup>On November 21, NATO attacked the airfield aviation from Udbina, a Croatian territory under Serbian control, and on November 23 air strikes were carried out against air defense radars located south of Otaka.<sup>46</sup>

In June 1995, the Bosnian Serbs released all UN soldiers they had taken hostages. Peace-keeping UN forces, which had been isolated at the weapons collecting centers from the vicinity of Sarajevo, are withdrawn. A month later, despite air support provided by NATO, the security zone of Srebrenica falls into the hands of Bosnian Serb forces, which shortly afterwards also occupy the security zone at Zachariah, located in the vicinity.

At the end of 1995, the leaders of Croatia, Serbia and Bosnia, Slobodan Milosevic, the Bosnian leader Alija Izetbegovic and the Croatian Franjo Tudjman, start negotiations in Dayton, Ohio, by signing the General Provisions of the Dayton Peace Agreement,<sup>47</sup> thus ending the worst conflict in Europe since the end of World War II.<sup>48</sup> Then, the Treaty is solemnly ratified in Paris on 14 December 1995.

On 15 December 1995, the peace-enforcement operation Implementation Force (IFOR)<sup>49</sup> is set by the Security Council<sup>50</sup> to replace UNPROFOR, the transition from UNPROFOR to IFOR referring primarily to a transfer of responsibility.<sup>51</sup> The Peace Agreement allows the UN Security Council to suspend the sanctions<sup>52</sup> and to lift the

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<sup>45</sup> See, *The Resolution of the Security Council No.958 (1994)*.

<sup>46</sup> See, *NATO Handbook*, 114.

<sup>47</sup> See, *The Dayton Peace Accord*.

<sup>48</sup> It was agreed that Bosnia would remain a unitary State, built from two entities, the Federation of Bosnia and Herzegovina (Croatian-Muslim) and the Serbian Republic (Srpska), having a strong autonomy and a Constitution of its own, as well as the opportunity to establish privileged relations, first with Croatia and second with Serbia. The territorial division would have copied the decision taken in his time by the "Contact group". NATO would have supervised the application of the Treaty for a year, through its military presence, while new elections would be held for the establishment of a political and a collegial presidency, in which ethnic groups were offered guarantees quite similar to those in vogue at the time of Tito. The refugees would be able to return to their countries of origin. The EU and the World Bank would have guaranteed the funding for reconstruction. Serbia would have been freed by the U.N. sanctions and at the same time the whole Yugoslavian arms embargo on the purchase of arms, decreed at the beginning of the conflict.

<sup>49</sup> Implementation Force – IFOR.

<sup>50</sup> IFOR operation was launched on the basis of Chapter VII of the UN Charter, is characterized by the: command and control over all components- land, sea and air- those belonging to NATO Member States, and to non-NATO countries; it had authorization to adopt all measures to implement the peace agreement of 21 November 1995, and for compliance of their provisions; parts of the Peace Agreement could constitute possible issues of enforcing measures if it was necessary for the implementation of the agreement; it had the right to liberty of movement; it had the right to take all measures necessary for self- defense in case of an attack or the threat of an attack. See, *The Resolution of Security Council No. 1031 (1995)*.

<sup>51</sup> In the Secretary-general's opinion, at the same time with the launching of IFOR operation, UNPF operation had to be closed, including the General Staff in Zagreb. The operations under the aegis of the UN that were taking place in the former Yugoslavia had to become independent. See, the Document of the Security Council, annex to the Resolution No. 1031/1995.

<sup>52</sup> See, *Resolution of the Security Council No.1022 (1995)*.

weapon embargo if certain conditions are met.<sup>53</sup> NATO and EU sanctions could be applied in the event of not abiding the conditions laid down by the United Nations.<sup>54</sup> NATO put an end to its operation from tax measures (Prohibition of flights), the control over the airspace of Bosnia and Herzegovina being taken by the Implementation Force (IFOR).

On 20 December 1996, after the smooth running of elections in September 1996 elections in Bosnia, IFOR ended.<sup>55</sup> SFOR<sup>56</sup> replaced IFOR to oversee the carrying out of the military effects of the peace agreement.<sup>57</sup> SFOR is authorized to enforce the military provisions of the Peace Agreement as a legal successor to IFOR.<sup>58</sup> In 2004, SFOR gives EUFOR a stabilized federal state.

The Dayton Agreement establishes Bosnia and Herzegovina as a sovereign State consisting of two entities: the Federation of Bosnia and Herzegovina and the Republika Srpska (RS).<sup>59</sup>

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<sup>53</sup> See, Resolution of the Security Council No.1022 (1995).

<sup>54</sup> See, *NATO Handbook*, 116.

<sup>55</sup> A week after the election, on the occasion of an informal meeting held in Bergen, in Norway, the Defense ministers from NATO member countries were of the opinion that the Alliance had to reassess how they could continue to support the establishment of a stable climate of security, even after the expiry of the IFOR mandate in December 1996. See, *NATO Handbook*, 126.

<sup>56</sup> SFOR-Stabilization Force.

<sup>57</sup> In November and December 1996, a consolidation plan over a period of two years is set in Paris and elaborated in London, under the auspices of the Council of the Implementation/Development of Peace created because of the Peace Agreement. On the basis of this plan and the study of the Alliance on security options, the foreign Defense ministers from NATO countries decided that a reduced military presence is required in order to ensure the stability necessary for the consolidation of peace. The Ministers also agreed on the creation of the NATO SFOR, who succeeded IFOR on 20 December 1996, on the day of the expiry of its mandate. See, *NATO Handbook*, 128.

<sup>58</sup> Peace-enforcement operation, acting in accordance with the provisions of Chapter VII of the Charter of the United Nations. If at first it is necessary a robust presence throughout Bosnia-Herzegovina, once underway, NATO commanders are beginning to cooperate with civil authorities to develop a multi-ethnic State of law and security capabilities. See, Security Council Resolution No 1088 (1996) of 12 December 1996.

<sup>59</sup> The State of Bosnia-Herzegovina is divided between two entities: Republika Srpska, which lies on an area of over 49% of the territory of the State and forms a semicircular area to the North and East, and the Federation that covers 51 percent of the territory of the State. Each entity has its own Government and political structure, headed by a central Government. The central Government is composed of the Parliamentary Assembly, which is also divided in the Assembly of representatives, and House of the people, a presidential system consisting of 3 rotating Presidents (with one member of each nationality, Bosnian, Croatian and Serbian) and a ministerial Council with nine Ministers. The political structure is divided into three levels: basic level, with a bicameral Parliament (House of representatives and the House of the people), a President, two Vice Presidents and a Government led by a Prime Minister; the cantonal level, with each of the 10 cantons, having their own assembly with the power to enact laws and a cantonal Government; the municipal level, with each municipality, with its own City Council and their own administrative structures. On the other hand, Republika Srpska has no cantons, but only municipalities. At the level of a National Assembly, a Council of the people, a President, two Vice-Presidents, and a Government led by a Prime Minister. All municipalities have their own assemblies and administrative structures. See, Agency of Statistics of Bosnia and Herzegovina. *About BiH*. Agency of Statistics of Bosnia and Herzegovina, 2012.

There are 3 constitutional courts, one at State level and one in the Republic and Federation.

Sarajevo, the capital of Bosnia and Herzegovina, the administrative, cultural and educational centre, is located in the area known as Sarajevsko Polje (the Sarajevo Plain). Special attention is given to the Brcko County, whose situation has not been resolved by the Dayton Peace Agreement but was rather left for the international arbitration. The situation in Brcko was finally decided in 1999 when it was organized as a district under the sovereignty of the State of Bosnia and Herzegovina with a multi-ethnic and democratic government. Brcko was originally under the supervision of the International Supervisor.

Operation UNPROFOR was launched based on a faulty warrant, which has negatively affected their impartiality towards the warring parties; it secured the arising of this democratic federal republic.<sup>60</sup> The mandate of the operation could not be brought to fruition without the consent of the warring parties and, in addition, it has been gradually widened to include some elements of "peace enforcement", transforming the force into part of the conflict. The tasks related to safe areas required cooperation and negotiation on a daily basis against those parties that were to carry out air strikes. The situation was contradictory, being created by the antagonism between the imposition of sanctions by New York while the ground troops could perform tasks only on the basis of consent of the parties and of cooperating with them. The result of these abnormalities forced the Bosnians Serbs to withdraw their consent and refuse to cooperate. The Secretary General refused to accept the opinion that UNPROFOR was "a failure" because the original aim of the operation was to "protect the humanitarian activities", task which was successfully fulfilled.<sup>61</sup>

The operations carried out by NATO stopped the Serbs and the Croats' actions but also those of the Muslims who wanted to crumble the Federation of Bosnia-Herzegovina.

## **THE FAILURE OF ETHNIC SECESSIONISM IN CROATIA**

In 1991, during the population census of Croatia, over 580,000 citizens declared themselves Serbs that is 12.2%. The Serb minority opposed the elected Croatian

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<sup>60</sup> Although launched as a peacekeeping operation, though references of some of the resolutions of the Security Council to Chapter VII of the UN Charter, which deal with peace-enforcement operations, were quite numerous. It is to be noted the fact that the UNPROFOR operation was not launched after the "the end of the war" being wrongly conceived as " a peacekeeping mission"; in fact it fulfilled the Mission of "peace-building" and even "peace enforcement". See, Paul Dănuț Duță, Ion Pâlșoiu, Olimpiodor Antonescu, *Generațiilor intervențiilor instituțiilor internaționale de securitate*, Sibiu: Tehno Media, 2009, 167 and seq.

<sup>61</sup> See, Security Council Resolution No.1026 (1995).

President's policy, Franjo Tuđman. The head of the Serbian Democratic Party, Jovan Rašković, retreats the formation from the Croatian Parliament.

In June 1990, at Knin, under the Serbian Democratic Party the Association of municipalities of northern Dalmatia and Lika was proclaimed.

In July 1990, the Serbs from Croatia create the Serb National Council in order to coordinate the opposition regarding the independence of Croatia, arguing that if Croatia leaves the federation, the Serbs are to break from Croatia. Paramilitary structures are organized under the Presidency of Milan Martić.

In August 1990, the rebellion of Serbs in Croatia breaks out; the goal was the secession from Croatia, separating Croatia in two, respectively the Coast of Dalmatia from Croatia. In Krajina, a referendum was held on the sovereignty and autonomy of Serbs in Croatia. With 99.7 percent of the votes for, the Croatian Government was declared illegal and invalid; it established that the Serbs had no constitutional right of secession from the Croatian territory.

In December 1990, the creation of the Serbian region of Krajina-Republic of Serbian Krajina was declared; a referendum on unification with the Republic of Serbia was organized; the overwhelming majority voted for the entry into force of the Constitution of the newly created entity. The Krajina Parliament declared that "the Krajina territory is part of the territory of the Republic of Serbia"; other communities in eastern Croatia announced that they want to be part of Krajine and are to cease paying debts to the Government in Zagreb, thus implementing their own currency, postal services and own army.<sup>62</sup>

On May 19 1991, a referendum for the independence from Croatia is boycotted by the Serbs.

On June 25 1991, Croatia declared its independence. With the Declaration of independence, the Croatian Government established two autonomous regions for ethnic Serbs in the province of Krajina: Glina and Knin. The Croatian Government announcement is regarded by Serbs as too late and too little for as to their own views on autonomy. These autonomous regions have not operated or the autonomy provisions have been suspended.

The constitutional reason for secession for the Serbian minority is the fact that as the Croatian Constitution stipulates the Serbs are a minority with the same rights as the Hungarian, Italian and other minorities. The proclamation of secession is founded on the

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<sup>62</sup> See, Nina Caspersen, *The Thorny Issue of Ethnic Autonomy in Croatia: Serb Leaders and Proposals for Autonomy*, (London School of Economics and Political Science, 2003), 19 and seq.

idea that the new Constitution contradicts the 1974 Federal Constitution, because Croatia is still governed by the SFRY, ignoring the fact that three months before the Croatian Constitution the Constitution of the FRY had been adopted, and it was in total contradiction with the provisions of the Federal Constitution put forward in 1974.

In 1992, the Western Slavonia, Slavonia, Baranja and Western Sremul joined Krajina. In March 1992, the Serbian army from Krajina was formed. In May 1992, the Yugoslav National Army Forces withdrew from the territory of Croatia.

Since 1992, Croatia initiated a program of arming, which allows it to attack, in January 1993, the Serbian positions around Maslenica which ensured the security of the corridor to the sea via Novigrad. In September 1993, the Croats conquered southern area of Krajina.

In January 1993, President Tuđman and Milošević signed a ceasefire agreement in order to create the conditions for the implementation of the plan proposed by Cyrus Vance. According to this plan, four United Nations protected areas-UNPROFOR- were created. The agreement froze the front lines for the next three years, Croatia and Republic of Serbian Krajina being obliged to comply with. The secessionist province was not recognized internationally but was supported by the allies of Serbia.<sup>63</sup>

The implementation of the Vance Plan was strongly opposed by the President of Krajina, Milan Babić; the opposition was countered by Krajina Serb Republic Parliament. From a formal point of view the secessionist province disposed of: the army, the Parliament, the President, the Government and ministries and also of currency. Its economy is dependent upon and supported by Serbia, which generalizes the hyperinflation.

The forces of Peace of the United Nations,<sup>64</sup> headquartered in Zagreb, Croatia, are established by the restructuring of UNPROFOR.<sup>65</sup> Separate operations were launched for the three republics after the breakup of Yugoslavia: for the Republic of Croatia<sup>66</sup>; for the Republic of Bosnia and Herzegovina<sup>67</sup>; for the Former Yugoslav Republic of Macedonia.<sup>68</sup> These operations were under the overall command and control of the SRSG and the overall command of the military were the task of the Theatre Force Commander.<sup>69</sup>

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<sup>63</sup> See, Branka Magaš, *Croatia through history: the making of a European state*. (Saqi Books, 2007), 12.

<sup>64</sup> United Nations Peace Forces -UNPF.

<sup>65</sup> See, the Security Council Resolution No.981/1995, of March 31<sup>st</sup> 1995.

<sup>66</sup> UNCRO

<sup>67</sup> UNPROFOR

<sup>68</sup> UNPREDEP

<sup>69</sup> Theatre Force Commander. Each mission was, in turn, headed by a civilian chief and by a military commander for the military component.

A battle for the independence from Croatia of the ethnic Serbs started, under the leadership of President Milan Babić, strongly supported by the Government of Slobodan Milošević. This entity controlled de facto areas belonging to the Croatian territory that varied according to the results of military activities. Following the signing of an agreement on demilitarization and on the transformation of the area into a zone under the protection of the United Nations, the breakaway province was conquered by the Croatian forces. The space remained impregnable by the Croats fell under UNTAES administration.

The United Nations Mission to Croatia<sup>70</sup> has a mandate to: comply with the Cease-fire Agreement of 29 March 1994; implement the Economic Agreement of 2 December 1994; to implement the resolutions of the Security Council; to assist (tracking and reporting) the monitoring of the international border crossing with Bosnia and Herzegovina and with the Federal Republic of Yugoslavia to monitor military personnel and weapons; to ensure the deployment of international humanitarian assistance to Bosnia and Herzegovina, Croatia, and demilitarization of the Prevlaka peninsula, the check. In terms of the existence of powerful Croatian Serb enclaves in Croatia, it is decided that Croatia's territorial integrity and the safety and rights of all communities will be guaranteed.<sup>71</sup> UNPROFOR's mandate<sup>72</sup> has similar missions to UNCRO's mandate. The mandate of UNPREDEP<sup>73</sup> is preventive, monitoring and reporting courses of action on the border area, which could affect confidence and stability in the country and threaten its territory.

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<sup>70</sup> See, The Security Council Resolution *No.981/1995*, United Nations Confidence Restoration Operation in Croatia.

<sup>71</sup> " The United Nations Confidence Restoration Operation in Croatia " had some missions such as : monitoring the area between the forward lines of troops, from static posts, ground and helicopter patrols ; verification of the compliance with the storage of weapons in accordance with the provisions of the agreement of 29 March 1994; employment verification points and crossings laid down in the agreement of 29 March 1994; leadership liaison activities necessary to implement the agreement of 29 March 1994; facilitating and supporting the opening of transport networks, water and electricity; supporting the negotiations and the implementation of economic and humanitarian measures; providing assistance to individual and community needs (Serbian, Croatian and others); monitoring the human rights situation at the level of individuals and communities in order to prevent discrimination; facilitating the voluntary return of refugees, in line with international principles; supporting local measures to increase confidence. For the implementation of this plan, it is estimated that the operation required approximately 8750 people. See, Security Council Resolution No. 990/28 April 1995.

<sup>72</sup> The United Nations Confidence Restoration Operation in Croatia UNCRO- the Security Council Resolution No. 982/1995 establishes the deployment of staff and property in Bosnia and Herzegovina, except those required for UNCRO.

<sup>73</sup> See, Security Council Resolution No. 983/1995, the United Nations Preventive Deployment Force. On November 11, 1992, the Macedonian President calls for the deployment of UN military observers. See, Security Council Resolution No. 795/1992 authorizes the presence of UNPROFOR in the Republic of Macedonia, which, in March 1995, is composed of 1.096 military, 24 military observers and 24 civilian police officers.

In Croatia, the secession of a province under the name of Republic of Serbian Krajina<sup>74</sup>, a self-proclaimed country, unaccepted as such on the international level, and with the existence of four years could not be successful because of the Badinter Commission which guaranteed the territorial integrity of the secessionist republics.<sup>75</sup> Serbia did not accept the Badinter Commission's findings but subsequently signed Dayton Agreement.<sup>76</sup> The Secretary-General stressed the idea that his plan did not enjoy formal acceptance and full support of either the Croatian Government or the Serb local authorities, with the risk that the parties should refuse to cooperate. However, on the other hand, they call for the implementation of the plan, the alternative being the withdrawal of UN forces and also the restarting of the war. After the approval of the plan proposed by the Secretary-General, the Security Council required the consent of the warring parties and their cooperation for its implementation.<sup>77</sup>

On April 24, 1995, Croat Serbs blocked for 24 hours the Zagreb-Belgrade highway in Western Slovenia, calling to share the benefits of the exploitation of the highway. On May 1 1995, the Croatian army, in violation of the agreement of 29 March 1994, launched a military offensive in the West of Slovenia, controlled by the Croat Serbs. This action is characterized by the Croatian Government as a police action to restore the security of the highway. In the wake of the offensive, the Croatian Army captured a large group of Croatian Serb soldiers and the residents<sup>78</sup> who did not desert their homes. 10,000 Croats Serbs crossed the bridge over the Sava River in Bosnia and Herzegovina. At the same time

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<sup>74</sup> The Presidents of the secessionist province: Milan Babić (1991–1992); Mile Paspalj (1992); Goran Hadžić (1992–1994); Milan Martić (1994–1995). The Prime Ministers: Dušan Vještica (1991–1992); Risto Matković (1992); Zdravko Zečević (1992–1993); Đorđe Bjegović (1993–1994); Borislav Mikelić (1994–1995); Milan Babić (1995–1995).

<sup>75</sup> On 20 November 1991 Lord Carrington asked Badinter commission: "Does the Serbian population in Croatia and Bosnia and Herzegovina, as one of the constituent peoples of Yugoslavia, have the right to self-determination?" The commission concluded on 11 January 1992 that "that the Serbian population in Bosnia and Herzegovina and Croatia is entitled to all the rights concerned to minorities and ethnic groups [...]" and "that the Republics must afford the members of those minorities and ethnic groups all the human rights and fundamental freedoms recognized in international law, including, where appropriate, the right to choose their nationality". Vezi, Nina Caspersen, *The Thorny Issue of Ethnic Autonomy in Croatia: Serb Leaders and Proposals for Autonomy*, (London School of Economics and Political Science, 2003), 25.

<sup>76</sup> See, Sharon Fisher (2006). *Political change in post-Communist Slovakia and Croatia: from nationalist to Europeanist*. Palgrave MacMillan, 34.

<sup>77</sup> See, Security Council Resolution No.990/28 April 1995.

<sup>78</sup> There were numerous human rights violations on the part of the Croatian army against the Croatian Serb population: theft of personal property, vehicles, burning and tearing down abandoned homes, workplace bullying and harassment, confiscation of personal documents (driving licenses and vehicle registration books). Many of the Croats Serbs wanted to leave their homelands. See, Security Council Resolution No. 990/28 April 1995.

the Croatian Army deployed in tactical positions in the separation zone in Osijek, the Eastern sector.

The Security Council intervenes rather late<sup>79</sup>, with three requests: parties are to withdraw their troops from the zones of separation and refrain from any military action that may lead to the escalation of the situation; the Croatian Government is to respect the rights of the Serbian population, including the freedom of movement and access to international humanitarian organizations; full respect is to be given for the authority of UNCRO and to allow it to run. With all the demands of the Security Council, the Croatian army and Bosnian Croats attacked in the area of Mount Dinara, 20 km from Šibenik, in the southern sector, on 4 and 6 June 1995.

After the conquest of the Western sector, the Croatian army, through successive mobilizations, strengthens their presence in the North and in the South sector, in the Krajina region. On August 4 1995, the Croatian army launched an offensive in these sectors, capturing the town of Šibenik (August 5) and forcing the Serbian population to flee.

The Croatian Army offensive affects the positions as well as the UN personnel, 98 UN observation posts being destroyed and; 3 dead and 16 wounded out of "the peacekeepers" were recorded.<sup>80</sup> As a result of the insecurity, NATO air support was requested on August 4 1995. There was also a rise of isolated attacks against UNCRO soldiers, the stealing of vehicles and three staff officers got detained. The attitude of the Croatian army against UNCRO personnel becomes very aggressive. 16 observation stations are closed because of the pressure of the Croatian army, opening fire on UNCRO positions and enforcing severe restrictions upon the freedom of movement.

The mass exodus of the Serb population from Krajina, South sector (90% of the total population, that is 200,000 people) heads for the Federal Republic of Yugoslavia (150,000 people) and for Bania-Luke, in Bosnia and Herzegovina (15,000 people). Numerous human rights violations directed against the Serbian population are found out, including

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<sup>79</sup> See, Security Council Resolution No. 994/17 May 1995; this resolution is issued after 16 days since the onset of the Croatian Army's offensive. See, Document of the President of the Security Council No. 44/1995.

<sup>80</sup> The Croatian soldiers, directly or indirectly, have opened fire on UNCRO observation points, using "peacekeepers" as human shields, arresting and disarming them, taking their gear. View, Paul Dănuț Duță, Teodor Frunzeti, Ion Panait, *Organizațiile internaționale și problema balcanică. Studiu de caz: Kosovo*, Colecția Politică și Apărare Națională nr.34, (Publishing House Tehno Media, Sibiu, 2009), 41

the killing of civilians during and after the military operations, the destruction and the pillage of their homes, the harassment and torture of vulnerable persons.<sup>81</sup>

Following the conquest of the West, South and North sectors, the need for UNCRO infantry battalions which will be arranged in these sectors was eliminated. The Secretary-General recommended that the Security Council approve the withdrawal of troops, less than two battalions positioned in the Eastern sector.<sup>82</sup>

UNCRO's mandate ended on January 15 1996.

In 1995, the Erdut agreement under the authority of the United Nations was signed, Milan Milanović signing for the Serbs although Krajina had been restrained to a portion of Eastern Croatia, along the Danube River. In 1997, under this agreement, the Council of municipalities as a stage of peaceful reintegration shall be established in the region.

In 1996, the Security Council decided<sup>83</sup> to establish, for an initial period of 12 months, a peacekeeping operation, with military and civil components, called the Transitional Administration of the United Nations for Eastern Slovenia, Baranja and West Sirmium."<sup>84</sup> In addition, the Security Council decided that the initial deployment to number 5000 military, supported by the Member State to which they belong either directly or through an international regional organization. The support that the Security Council referred to: all necessary defense measures; all appropriate withdrawal measures; request for air support. The support of the deployed military was based on requests made by UNTAES and the abidance of procedures communicated to the United Nations.

Thus, the Eastern sector of the Republic of Croatia<sup>85</sup> becomes the target for further operations, triggered by the proposal of the Secretary-General<sup>86</sup> submitted to the Security Council. It was recommended that the operation should be carried out on the basis of the provisions of Chapter VII of the UN Charter in order to be able to carry out the necessary actions for the maintenance of peace and security and to be able to reject any attack from

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<sup>81</sup> Alarmed by the situation, the Security Council urged the Croatian Government to investigate human rights violations, according to the Act of the President of the Security Council No. 44/1995.

<sup>82</sup> See, the Document of the Security Council No. 730/1995.

<sup>83</sup> See, the Security Council Resolution No.1037/15 January 1996.

<sup>84</sup> United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium - UNTAES.

<sup>85</sup> Eastern Slovenia, Baranja and Western Sirmium.

<sup>86</sup> It was established that the demilitarization of the region should be carried out within 30 days of the date when it was made the military formation of the operation and the conditions were met so as to fulfill the missions. The military component of the operation had the following assignments: monitoring and facilitating the demilitarization of the region according to plan and the procedures that were to be established by UNTAES; monitoring the voluntary safe return of refugees to their homes, in cooperation with the United Nations High Commissioner for Refugees (UNHCR); maintaining peace and security in the region. See, Security Council Resolution No. 1037/15 January 1996.

any of the warring parties. The initial proposal was to have the force of a mechanized division, composed of two infantry brigades and reinforced with a strong reserve of armored and air support (9300 combatants and 2,000 military belonging to the logistics troops).

The concept of deterrence is the central pillar of UNTAES; "the mere presence of a force, as a similar" security zones "in Bosnia and Herzegovina, is necessary for success." The Secretary-General stressed his point of view that the deployment and control of a force should be entrusted to a coalition of the Member States rather than to the United Nations.<sup>87</sup> Regardless of the nature of the force, the operation had to be conducted on the basis of the provisions of Chapter VII of the Charter of the UN- peace-enforcement operation.

The installation of a transitional authority was expected to be assisted for a period of 12 months which could be extended for another 2 years, at the request of a party, for the peaceful reintegration of the Eastern sector in the constitutional and legal system of Croatia.

The administrative structure of the transition was proposed to include: "transition administrator", a UN official who had under command the UN force. He held executive power regarding the police, the civil administration, the restoration of public services, education and culture, the return of refugees, the human rights abidance , the organization and the development of elections; "the Transitional Council", consisting of representatives of the Croatian Government, of the local Serbs, of local Croats and of some other local minorities. The Council had an advisory role and make proposals to remedy the situation.

An important aspect stressed by the Security Council, referred to the cooperation between UNTAES and the International Criminal Tribunal for the former Yugoslavia in order to carry out its mandate and to comply with its orders.

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<sup>87</sup> The civilian component of the mission would be: establishing a temporary police force, including the development of a program of implementation and monitoring of the treatment of prisoners in the penitentiary system; taking over the tasks of civil administration; taking over the tasks of the public services; facilitating the return of refugees; organizing the elections, assisting in the development and validation of the results; assistance with the coordination of plans for the reconstruction and economic development of the region; monitoring compliance with the highest standards of human rights and fundamental freedoms, promoting an attitude of trust between residents, regardless of their ethnic origin; monitoring of de-mining activities within the region. See, Security Council Resolution No. 1036/1996.

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## ROMANIA AFTER '89

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**ABSTRACT:**

*1989 WAS THE MOST IMPORTANT IN THE HISTORY OF EUROPE SINCE THE SECOND WORLD WAR TO THE PRESENT. THE COUNTRIES OF CENTRAL AND EASTERN EUROPE REGAINED THEIR FREEDOM AFTER YEARS OF TOTALITARIANISM. POLAND, HUNGARY, EAST GERMANY, CZECHOSLOVAKIA, BULGARIA AND ROMANIA WERE FINALLY FREE TO DECIDE ON THEIR FUTURE. COUNTRY'S INDEPENDENCE FROM THE FORMER SOVIET BLOC WAS A CATALYST FOR DEVELOPMENT AND EUROPEAN RELATIONS IN THE YEARS THAT FOLLOWED, THE SOVIET UNION TRAINED.<sup>3</sup>*

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**KEY WORDS:** ROMANIA, URSS, COMMUNISM, 1989,

The sudden and unplanned collapse of Soviet totalitarian communism nations put in a difficult situation: citizens must bring to power through free and fair elections, leaders able to accomplish democracy and capitalism. At 23 years after, it is obvious difference between countries led by leaders who have the will and political science to lead the country towards the rule of law and economic prosperity, and those who have not had anything like this<sup>4</sup>.

The case of Romania in the world is not singular. In the 60s of the twentieth century when the phenomenon of Rust Belt decline in industrial production report, the totalitarian Communist regime established in 1965 and led by Gheorghe Gheorghiu-Dej and Ceausescu continued (March 1965 - December 1989) laid the foundation of

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<sup>3</sup> Marcau Flavius-Cristian, *Revolutia Romana din Decembrie 1989*, (Targu-Jiu: Academica Brancusi, 2011),

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<sup>4</sup> Adrian Gorun, *Dezvoltare Socială și Globalizare*, (Targu-Jiu: Academica Brâncuși, 2012), 105

industrialization. Most of the investment was concentrated in heavy industry manufacturing "with its pivot, mechanical engineering," making it a huge waste of resources for the development of the mining industry, steel, energy, chemical, building materials, food, etc. Efforts were of proportion with industrial and transport infrastructure development, trade support for the development of energy complexes, but also for agricultural mechanization and irrigation system realization. External loans burdensome quickly led to a new starvation of the population, the increasing number of shortages and deprivation. Constraints of all kinds have increased the degree of dissatisfaction and the spirit of revolt. In a favorable international situation, created especially by contributing U.S., the Vatican and the top leadership of the USSR, the regime collapsed in December 22, 1989<sup>5</sup>.

### **THE IMPLOSION OF THE SOCIALIST BLOC**

Collapse as the birth of communism as a form of political organization of society were political scientists view, historians and the public events that marked the history particularly of the twentieth century. The artisan one of the most significant revolutions of his time was Mikhail S. Gorbachiov. He destroyed the Communist Party of the Soviet Union, which was organized specifically to seize power and maintain it and actually control every aspect of Soviet life. Following his, Gorbachiov left the debris of an empire that had been assembled with great effort over the centuries. The causes of the collapse of communism can not be reduced to a single factor. For such a process to occur historical dimensions, I had a lot of reasons to interact and create a set of circumstances that made the change to be urgent and unavoidable.<sup>6</sup>

It is necessary to understand the meanings of the concept of "socialism". It has long been used in three different contexts, namely:

- Socialism was seen as an economic model related to collectivism and planning mechanism as an alternative to capitalism.
- Socialism was seen as an instrument of the labor movement as a form of "labourism" which represent the interests of the working class and provided a political program for the conquest of political and economic power.

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<sup>5</sup> Gorun, *Dezvoltare Socială și Globalizare*, 79

<sup>6</sup> Denis Fabian, *Prăbușirea comunismului în Europa de Est*, Cahul 2010, p. 4, se poate accesa de la [http://www.usch.md/Documents/Note%20de%20curs/Catedra%20de%20Istorie%20și%20Științe%20Sociale/ESECUL%20COMUNISMULUI\\_doc.pdf](http://www.usch.md/Documents/Note%20de%20curs/Catedra%20de%20Istorie%20și%20Științe%20Sociale/ESECUL%20COMUNISMULUI_doc.pdf), accessed at 22.05.2013

- As a political belief or ideology that provides a set of values and principles: community, cooperation, equality, meeting the needs, common property.<sup>7</sup>

The collapse of communism in Romania, disintegration of the socialist system - in fact, the scope of Soviet hegemony in Eastern Europe - and the Soviet Union opened the way to the Romanian nation toward democracy and market economy, namely political and economic structures considered as the most suitable basically to secure the freedom and prosperity of the people. In the Hegelian sense, Francis Fukuyama spoke of "end of history", ie reaching a human society that may arise at least today, as final.<sup>8</sup>

Market economy itself generates democracy, "day by day, hour by hour and the rate of mass"<sup>9</sup>. Democracy may be early, faltering, can even be simulated: the formal establishment of laws and mechanisms multiparty system, even the rule of law and legislation which they represent, and basically it don't guarantees correct operation.<sup>10</sup>

The events of 1989 in Eastern Europe seem to do justice to the socialist or social democratic vision of two fundamental reasons. Suppressing the Communist Party leadership and demanding free elections, these movements reintroduced the notion of multiparty politics and democracy that political parties have always defended. [...] These movements are equally approaching the social-democratic practice, with many illusions, however, and no doubt with many delays as far as economic as communist systems will not only be long and painful: re-market economy will bring completely different working conditions and often harsh and, at least in a first phase, a possible limitation of social protection, there finally every chance that she produce a dramatic increase unemployment in the middle of 1990, already amount to several hundred thousand people in Poland and GDR. Installation of the market economy in the Soviet Union will certainly be an even more painful, fact that the Soviet government is fully aware of, which explains his hesitation and postponements to engage openly in this way.<sup>11</sup>

Anul 1989 a adus schimbări majore în ceea ce privește studiul asupra regimului comunist în România. Spre deosebire de alte țări componente ale blocului sovietic, în

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<sup>7</sup> Fabian, *Prăbușirea comunismului în Europa de Est*

<sup>8</sup> Florin Constantiniu, *O istorie sinceră a poporului român*, (București: Univers encyclopedic Gold, 2010), 534

<sup>9</sup> Citându-l pe Vladimir Ilici Lenin-10 aprilie 1870- 21 ianuarie 1924. La 8 noiembrie 1917 Lenin a fost ales Președinte al Consiliului Comisarilor Poporului de către Congresul Sovietului Rus. În fața amenințării invaziei germane, Lenin a fost de părere că Rusia trebuie să semneze imediat un tratat de pace.

<sup>10</sup> Catherine Durandin si Zoe Petre, *România post 1989*, (Iași: Institutul European, 2010), 140

<sup>11</sup> Michel Dreyfus, *Europa socialiștilor*, (Iași.: Intitutul European, 2000), 310

România informația de dinainte de 1989 este lacunară și, de cele mai multe ori, răstălmăcită. Există, după 1989, mărturii ale actorilor de prim-plan ai politicii, publicate în memorii, însă subiectivismul inerent face dificilă reconstituirea istoriei.

After the 1989 revolution, the political condition of the culture has changed radically, but it still faces economic obstacles. In 1997, the "Forum of Culture status" have expressed different views on cultural developments in post-communist period. A point of view was that "there isn't a crisis of culture" in terms of creativity, but we are dealing with a crisis management culture. But culture can not be addressed only in the administrative, accounting, but also in terms of trends inner and spiritual guidance, the answers she gives to current challenges. The culture should be regarded as a fundamental element of national identity, especially in light of European integration, globalization.<sup>12</sup>

### **THE FALL OF COMMUNISM IN ROMANIA**

In Romania, communism was removed, unlike other countries of the former USSR, in a rather violent fight. There have been demonstrations were the culmination killing Ceausescu, Elena and Nicolae Ceausescu. Economic and development policy of Ceausescu (including grandiose construction projects and austerity regime designed to allow Romania to pay the entire foreign debt in 1989, Ceausescu able to pay the debt of about \$ 11 billion before the time limit that even the Romanian dictator expected it) was considered responsible for the extensive poverty in the country, in parallel with the increase in poverty, the secret police (Securitate) was ubiquitous, making Romania a police state.

Apart from that, Ceausescu was not a man read. In December, 1989, in the "Scânteia" appears on the front page of Ceausescu's speech transcribed all grammatical and pronunciation mistakes that he made in oral expression. It was a signal to all corners of the country, because the newspaper had a national spread. That number of newspaper and then disappeared from the public libraries.<sup>13</sup>

In the '90s, Romania had the image of a State in a difficult and somewhat interminable transition to democracy and market economy. As a result, it appears that in the first quarter of 1990, one of the battles between the government and the opposition has

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<sup>12</sup> Miala Gligor, *Considerații asupra identității culturale în România înainte și după 1989*, Humanistica, 2010, p. 197, se poate accesa la <http://www.humanistica.ro/anuare/2010/Continut/art13Gligor.pdf>, accessed at 22.05.2013

<sup>13</sup> Denis Fabian, *Prăbușirea comunismului în Europa de Est*, Cahul 2010, p. 54, se poate accesa de la [http://www.usch.md/Documents/Note%20de%20curs/Catedra%20de%20Istorie%20si%20Stiinte%20Sociale/ESECUL%20COMUNISMULUI\\_doc.pdf](http://www.usch.md/Documents/Note%20de%20curs/Catedra%20de%20Istorie%20si%20Stiinte%20Sociale/ESECUL%20COMUNISMULUI_doc.pdf), accessed at 22.05.2013

the objective of providing unique and television still strictly controlled by NSF.<sup>14</sup> The events that followed the Revolution of '89 were extremely important for the Romanian Television, since this institution was an actor in that time, a very important actor of the events that occurred in the early years of the Revolution.

## CONCLUSIONS

Between Romania before 1989 and the following is a line of discontinuity. Paradox relatively active behavior is that the state post-communist Romania came after a long period of communist dictatorship marked by political isolation of both the West and to the East. A strategic culture marked by folding over its national territory on the doctrine of "war of all the people", the values nationalist and often xenophobic and the distrust with involvement in activities with other countries. Or, quite suddenly, in a few years, Romania abandon the isolationist attitude and refractory and direct their efforts towards NATO and the EU. Therefore the subject is "intervention", the decision to intervene and its delivery.<sup>15</sup>

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<sup>14</sup> Petre, *România post 1989*, 136

<sup>15</sup> Șerban Filip Cioculescu, „*Implicarea României (postcomuniste) în securizarea și stabilizarea Europei de Sud-Est și a Orientului Mijlociu Extins*”, 2, [http://www.google.ro/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCwQFjAA&url=http%3A%2F%2Fwww.unibuc.ro%2Fstudies%2FDoctorate2008Noiembrie%2FCioculescu%2520Serban%2520-%2520Implicarea%2520Romaniei%2520%28postcomunicte%29%2520in%2520Securizarea%2520si%2520Stabilizarea%2520Europei%2520de%2520Sud-Est%2520si%2520a%2520Orientului%2520Mijlociu%2520Extins%2Frezumat%2520teza%2520doctorat%2520cioco.doc&ei=yjIUbimD4fiO-kgOAH&usg=AFQjCNGbH1VGow3-11ZZi\\_zwUfE5EpqkBg&sig2=m4QixMVltuFAPMiui11IXA&bvm=bv.48293060.d.Yms](http://www.google.ro/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCwQFjAA&url=http%3A%2F%2Fwww.unibuc.ro%2Fstudies%2FDoctorate2008Noiembrie%2FCioculescu%2520Serban%2520-%2520Implicarea%2520Romaniei%2520%28postcomunicte%29%2520in%2520Securizarea%2520si%2520Stabilizarea%2520Europei%2520de%2520Sud-Est%2520si%2520a%2520Orientului%2520Mijlociu%2520Extins%2Frezumat%2520teza%2520doctorat%2520cioco.doc&ei=yjIUbimD4fiO-kgOAH&usg=AFQjCNGbH1VGow3-11ZZi_zwUfE5EpqkBg&sig2=m4QixMVltuFAPMiui11IXA&bvm=bv.48293060.d.Yms)

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# FORMING AND PRESSING TECHNOLOGICAL LINES OF THE COMPOSITE PACKAGES FOR CHIPBOARDS PLATED WITH ALUMINUM FOIL (PAL-AI)

Daniela Mariana GALERU<sup>1</sup>

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## ABSTRACT:

*BASED ON EXISTING DOCUMENTATION IN THE LITERATURE, AND OF THE DOCUMENTATIONS SOME FORMING AND PRESSING LINES OF SOME TYPES OF STRATIFIED PRODUCTS, WERE CONCEIVED MORE TECHNOLOGICAL LINES THE CORRESPONDING THE REALIZATION OF COMPOSITE STRUCTURE OF THE CHIPBOARD PLATED WITH ALUMINUM FOIL.*

*IN THE CONTENT OF ARTICLE ARE SHOWN 4 TYPES OF FORMING AND PRESSING LINES OF THE PACKAGES OF LAMINAE ON WHICH CAN ACHIEVED IN CONTINUOUS FLOW THE COMPOSITE STRUCTURE OF THE PRODUCTS, AS WELL AS THE HOT PRESSING. IN THE CASE OF EACH LINE ARE GIVEN TECHNICAL DATES SPECIFIC TO EACH EQUIPMENT HOW AND THEIR FUNCTIONING MODE.*

*ARTICLE PART FROM CONTENTS A RESEARCH PAPERS, RESPECTIVELY DOCTORAL THESIS "THE TECHNOLOGY AND THE CHARACTERISTICS OF THE COMPOSITE CHIPBOARDS PLATED WITH ALUMINUM FOIL".*

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**KEY WORDS:** COMPOSITE STRUCTURE, THE PLATE PAL-AL, SINGLE DAYLIGHT PRESS, PLATENS

## INTRODUCTION

Chipboards plated with aluminum foil (PAL-AI) are composite products stratified, which consist from a support (PAL), plated on one or both sides with aluminum foil, glued with an adhesive by a hot-pressing process.

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These types of plates are part from category the ennobled plates, such as the melamine plates, PAL-Al being much superior due to characteristics aluminum foil.

Technology the plates of type PAL-Al has appeared and developed in the purpose of producing some superior semi-products with a wide use.

In this sense we mention: small interior furnishings aluminum and glass, commercial and medical furniture, equipping interior of the automobiles, ships, boats and even of airplanes.

### LINE EQUIPPED WITH SINGLE DAYLIGHT PRESS FOR PLATING THE CHIPBOARDS WITH ALUMINUM FOIL.

In the case of this line (Fig. 1) the powering with chipboards is made through putting the pallets with plates conditioned on a platform with hydraulic drive.

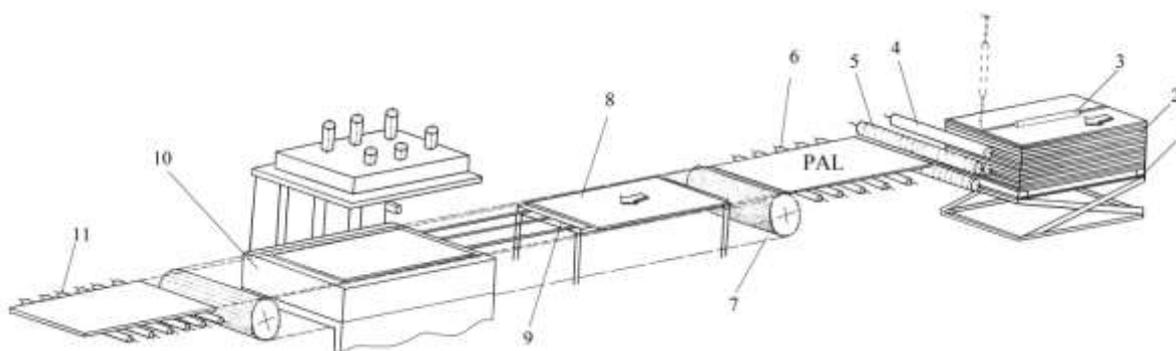


Fig. 1: Line equipped with single daylight press for plating the chipboards with aluminum foil: 1-vertical moving platform; 2-chipboard; 3-pusher device; 4-advance cylinders; 5-brushing cylinders; 6-roller conveyor; 7-chain conveyer; 8-composite package; 9-platform for the forming of the packages; 10- single daylight press; 11- roller conveyor.

After each introduction of a plate on the plating line, the platform is raised with a distance equal to the thickness of the plate <sup>2</sup>; Removal of the dust particles ensures a high roughness of the PAL-Al plates.

Pusher device consists of a pneumatic cylinder, which pushes the plates successively in the wood brushing machine.

The wood brushing machine, consists of two advance cylinders covered with rubber and two rotating cylindrical brushes made from perlon wires. The brush superior pressed elastic on the plate surface can be adjusted depending on the thickness. Further, the

<sup>2</sup> Istrate Virgiliu, *Utilajul și tehnologia fabricării plăcilor din aşchii și fibre de lemn*, Editura Didactică și Pedagogică, Bucureşti, 1967.

chipboards are taken over by roller conveyor and pushed towards the platform for the forming of the packages.

Roller conveyor which serves to the powering of the single daylight press, is composed of two chains, which are mounted at distances corresponding to the length the plates, a series of transversal bars which executes the displacement of the composite package on the forming platform in floor the press.

Single daylight press, with hydraulic drive of the superior platen, executes the hot pressing of the composite package to the temperature of 145 °C and the 12daN/cm<sup>2</sup> specific pressure.

At the end of the regime of pressing and opening the press, are commanded the evacuation of the plates by means of transversal bars that carried loading the press, these being pushed on roller conveyor, which serves to stacking of the plates on pallets, and bright finished sheets are placed on lift truck upright to transport them to the cabin cooling.

#### **LINE EQUIPPED WITH SINGLE DAYLIGHT PRESS POWERED WITH CONVEYOR TYPE TABLET, FOR PLATING THE CHIPBOARDS WITH ALUMINUM FOIL.**

In the case of this line (Fig. 2) the powering with chipboards is made by putting on the pallets with conditioned plates on a platform with hydraulic drive.

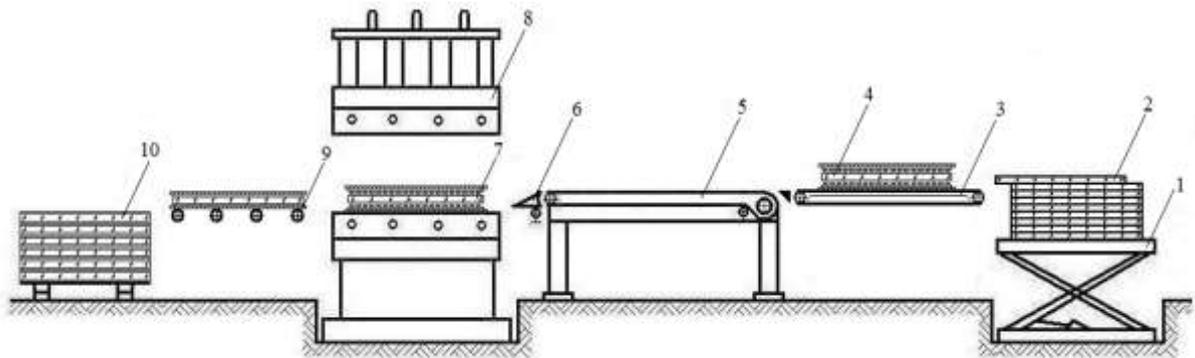


Fig. 2: Line equipped with single daylight press powered with conveyor type tablet, for plating the chipboards with aluminum foil: 1-vertical moving platform; 2-chipboard; 3-belt conveyor; 4-composite package; 5-conveyor type tablet; 6-transfer plate; 7-composite package; 8- single daylight press; 9- roller conveyor; 10- stacking pallet.

Forming of the composite packages for pressing is carried out manually onto the belt conveyor. Further, the conveyor type tablet is loaded with the composite package, by activating of the belt with a speed equal to that of the belt conveyor.

After the composite package was sitting on conveyor type tablet, it enters in the press opened, at the same time pushing with its forward edge, the PAL-Al plates with the bright finished sheets, towards part of the exhaust of the press, on the roller conveyor.

Single daylight press, with hydraulic drive of the superior platen, executes the hot pressing of the composite package to the temperature of 145 °C and the 12daN/cm<sup>2</sup> specific pressure.

Table 1 is shown the technical characteristics of the single daylight press<sup>3,4</sup>

Table

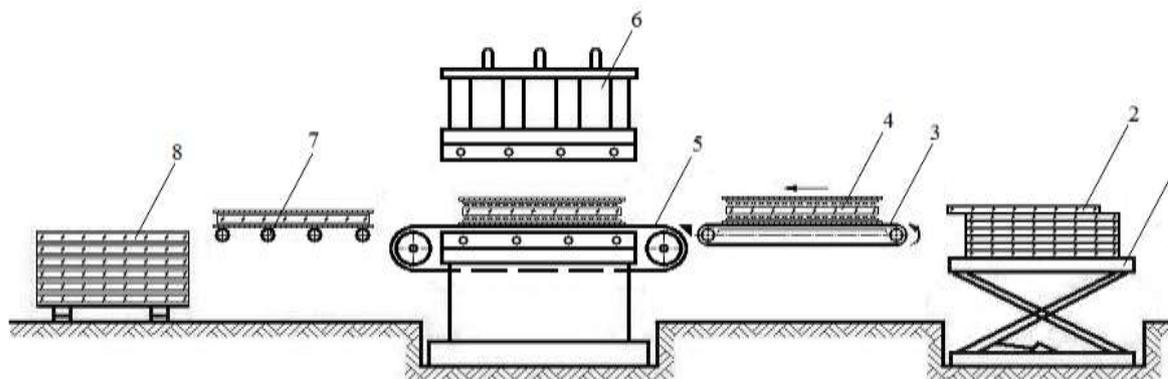
1  
The technical characteristics of the single daylight press

Characteristics	U/M	Value
Platens sizes	mm	2800x 1800
Movement speed of band conveyor to the withdrawal from the press	m/min	50
Movement speed of band to loading	m/min	14

After pressing, bright finished sheets are placed on lift truck upright, in order transport them to the cabin cooling and the PAL-Al plates are placed on stacking pallets, in order transport them to the line cutting to the format of the plates.

Plating the PAL-Al plates can execute also in multi daylight presses, where is ensures high productivity compared with single daylight presses.

**LINE EQUIPPED WITH SINGLE DAYLIGHT PRESS AND METALLIC BELT CONVEYOR CONTINUOUS, FOR PLATING THE CHIPBOARDS WITH ALUMINUM FOIL.** This type of line is shown in figure 3.



<sup>3</sup> Istrate Virgiliu, *Tehnologia produselor aglomerate din lemn*, Editura Didactică și Pedagogică, București, 1983.

<sup>4</sup> Istrate Virgiliu; *Utilajul și tehnologia fabricării plăcilor din aşchii și fibre de lemn*, Editura Didactică și Pedagogică, București, 1967.

Fig. 3: Line equipped with single daylight press and metallic belt conveyor continuous, for plating the chipboards with aluminum foil: 1-vertical moving platform; 2-chipboard; 3-belt conveyor; 4-composite package; 5-metallic belt conveyor; 6-single daylight press; 7-roller conveyor; 8-stacking pallet.

Forming of composite packages for pressing is carried out manually on the belt conveyor, which is made of plastic material and which is resistant to high temperatures.

Metal band is a belt conveyor that passes through the press with its upper branch, using as a base of settlement for composite package the surface of the upper platen.

After pressing, the PAL-Al plates with bright finished sheets are removed from the press, being pushed onto the roller conveyor and then stacked on pallets for stacking.

**LINE EQUIPPED WITH SINGLE DAYLIGHT PRESS AND PLATFORM OF SUPPLY FOR PLATING THE CHIPBOARDS WITH ALUMINUM FOIL.** This type of line is shown in figure 4.

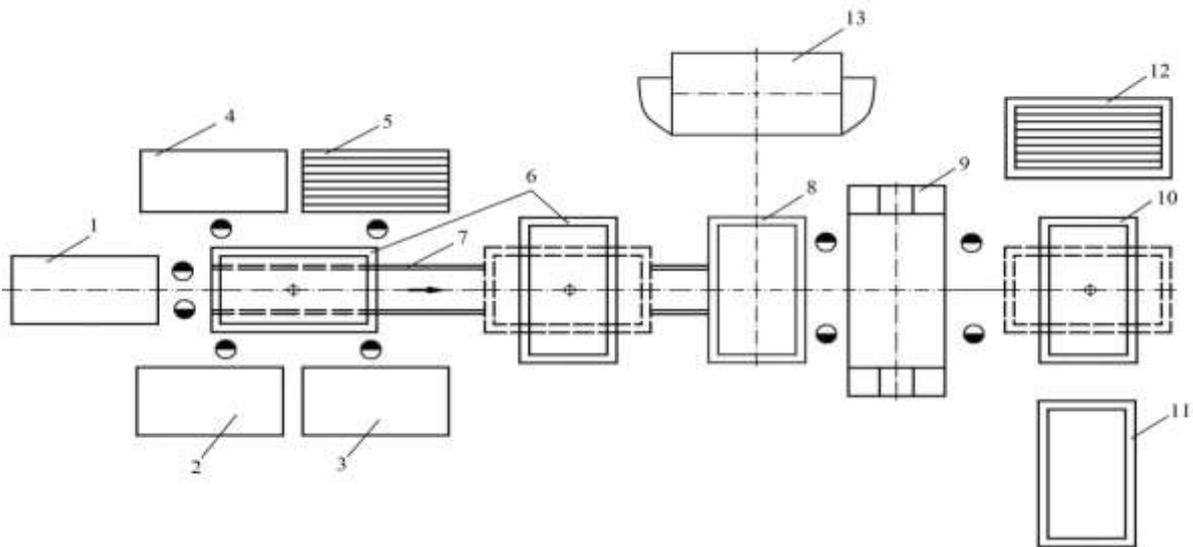


Fig. 4: Line equipped with single daylight press and platform of supply for plating the chipboards with aluminum foil: 1-chipboard; 2-barrier film; 3-adhesive film; 4-aluminum foil; 5-bright finished sheets; 6-platform of packages format for press; 7-rolling track; 8-supply platform (storage) of the packages; 9-single daylight press; 10-rotating platform for downloading the press; 11-pallet for stacking PAL-Al; 12-lift truck for the stacking of the bright finished sheets; 13-cabin for cooled bright finished sheets.

Forming of composite packages for pressing is carried out manually on platform of packages format. Figure 5 is shown putting the package between the platens of the press.

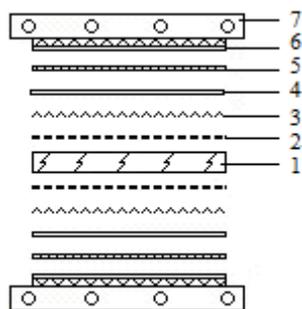


Fig. 5: Putting the package between the platens of the press: Chipboard plated on both sides with aluminum foil: 1-chipboard; 2-barrier film; 3-adhesive film; 4-aluminum foil; 5-bright finished sheets; 6-compensation cushions and protection plate; 7-platens.

After finishing the formation operations of composite packages, the platform mobile that moves on two rails is moved toward the press, and the packets with platform is rotating with  $90^0$ , so that the large size of the packets to be parallel with the large size of the platens the press<sup>5</sup>.

Platform of supply (storage) of the packages is mounted on the a hydraulic lift, which raises the package until at the level of platen, after which the composite package is manually put in the press. Further, is commanded the pressure of the regime of pressing. After pressing, PAL-Al plates with bright finished sheets are removed from the press, being stacked on the rotating platform of download.

After unloading the platform is rotating in a convenient position and start separating the bright finished sheets of PAL-Al plates as follows: After pressing, bright finished sheets are placed on lift truck upright, and the PAL-Al plates are placed on pallets of stacking for cooling.

After passing the cooling time (loading time of the press), the PAL-Al plates are transported to the line cutting to the format of the plates and bright finished sheets are transported to the cabin cooling.

Cooling the bright finished sheets, which after pressing have a high temperature is necessary for that during when takes place the formation of the package and powering the press not occur a premature polymerization of the adhesive film (due to the temperature of

<sup>5</sup> Istrate Virgiliu, *Utilajul și tehnologia de fabricație a produselor stratificate din lemn*, Editura Didactică și Pedagogică, București, 1966.

the plates), which would lead to gluings of poor quality. Cooling is made using a current of cold air blown of a fan.

After pressing, the PAL-Al plates will be conditioned. The conditioning has as purpose the cooling of the PAL-Al plates in the view the balancing internal tensions. Cooling PAL-Al plates occurs immediately after removal from the press.

The PAL-Al plates are stacked on pallets and stored in spaces with necessary equipments for conditioning of the air, ie for temperature adjustment of 20-22 °C and humidity of 60-65%.

After cooling, the PAL-Al plates will be cut to format with a circular saw equipped with hardmetal tips (to cutting with low roughness) <sup>6</sup>.

After cutting to format, the PAL-Al plates are stacked on pallets and protected with self adhesive foil <sup>7</sup>.

## CONCLUSION

Presentation the forming and pressing technological lines of the lamina packages for plates with composite structure, reveals using for pressing of the single daylight presses, having regard to the reduced time of the pressing cycle.

Between the types of lines conceived is that presented in figure 4, inspired after a line currently used in the manufacture of the plywood glued with adhesive film (phenol film).

This line was used for achieving semi-industrial of the experimental plates.

From the presentation of the forming and pressing lines, results that currently, the PAL-Al plates can produced and in Romania.

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<sup>6</sup> STAS 12284-1984, *Scule pentru prelucrarea lemnului. Pânze circulare cu plăcuțe din carburi metalice. Dimensiuni.*

<sup>7</sup> *Documentație tehnică*, SC Silva Carpat Prodimpex SA, Ghimbav, Brașov, 2012.

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6. \*\*\**Documentație tehnică*, SC Silva Carpat Prodimpex SA, Ghimbav, Brașov, 2012.

## FREE-FORM DEFORMATION METHOD IN THE EVALUATION OF THE DISPLACEMENT FIELD FOR ORTHOTROPIC MATERIALS

**Katalin HARANGUS<sup>1</sup>**

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### ABSTRACT:

*IN THIS PAPER A NON-DESTRUCTIVE INVESTIGATION METHOD IS PROPOSED TO DETERMINE THE MECHANICAL CHARACTERISTICS OF THE ORTHOTROPIC MATERIAL, IN THIS CASE THE MASSIVE WOOD. DURING THE RESEARCH, DIFFERENT TYPES OF SPECIMENS WERE ANALYZED IN THE FORM OF A DISC SHAPE WITH 80 [MM] DIAMETER. THE DISC WAS ROTATED SO THAT THE FIBERS ORIENTATION CLOSES IN 150 LINE ANGLES WITH THE VERTICAL AXE DIRECTION. THE IMAGE REGISTRATION TECHNIQUE WAS APPLIED AS INVESTIGATION METHOD, IN WHICH THE FREE-FORM ALGORITHM WAS APPLIED AS INTERPOLATION STRATEGY. THE SOFTWARE OFFERS THE POSSIBILITY TO DETERMINE PLANE STATE DEFORMATION WITHOUT THE SOLID MOVEMENTS.*

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**KEY WORDS:** FREE-FORM DEFORMATIONS, IMAGE REGISTRATION, DISPLACEMENT FIELD, SPECIFIC STRAINS, ORTHOTROPIC MATERIAL

### EINLEITUNG

Dieses Verfahren umfasst im Allgemeinen zwei Arten der Bildaufzeichnung: eine davon bezieht sich auf das Quellbild und wird durch  $S : \Omega_s \subset R^d \mapsto R$  bezeichnet, die andere bezieht sich auf das Zielbild und wird durch  $T : \Omega_T \subset R^d \mapsto R$ ,  $d = \{2,3\}$  bezeichnet. Das Zielbild wird einer Transformation unterworfen:  $F : \Omega_s \mapsto R^d$ .

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Ziel der Registrierung ist die Schätzung der optimalen Verwandlung. Dies ist meist durch ein Minimierungsproblem der Energie erreicht:

$$\arg \min_{\theta} M(T, S \circ F(\theta)) + R(F(\theta)). \quad (1)$$

Die Gleichung (1) umfasst zwei Ausdrücke. Der erste, genannt  $M$ , quantifiziert die Steuerung zwischen das Zielbild  $T$  und das Quellebild  $S$  unter dem Einfluß der Transformation  $F$ , parametrisiert von  $\theta$ . Die Schreibweise  $S \circ F$  wird alternativ durch  $S \circ u$  notiert. Damit wird angezeigt dass wenn man das Bild bewegt, diese wird sich auch verformen. Der zweite Ausdruck, genannt  $R$ , regelt die Verwandlung und die Ursachen der falschen Formulierung des Problems. Allgemeiner weise, in jeder  $x \in \Omega$  ( $\Omega$  stellt das Bildbereich dar) Position, wird die Verwandlung durch  $F(x) = x + u(x)$  gegeben, wo  $u$  die Verformungsfeld ist. Das Geschwindigkeitsfeld wird durch  $v$  bezeichnet.

Die Registrierung des Bildes ist ein Verfahren der in den letzten Jahrzehnten untersucht und im Detail erforscht wurde. Dieses Verfahren umfasst drei Hauptkomponenten<sup>2</sup>:

1. Verformungsmodellen,
2. objektive Funktionen, und
3. Optimierungsstrategien.

Die Wahl eines entsprechenden Verformungsmodells in dem Aufnahmeprozess ist deswegen sehr wichtig, weil dieser eine Kompromiss zwischen der Präsentation von der Bildern und Recheneffizienz bezieht. In derselbe Zeit, die Verformungsmodell spiegelt die Art der Umwandlung dar. Dieses Modell ist Akzeptabel und beschränkt weitgehend die Lösung. Die Parameter der die Schätzung durch die Optimierungsstrategie registriert, entspricht der Freiheitsgrad des Verformungsmodells. Die Zahl dieser Parameter ist sehr unterschiedlich, bzw. von Zehn (in Falle der globalen-linearen Transformationen) bis zu Millionen (wen die Verformungen als nicht-parametrisch betrachtet werden).

In die Klassifizierung der Verformungsmodellen, eine Hauptkategorie in der Transformation von geometrischen Formen sind die Modellen inspiriert entweder aus der Theorie der Interpolation oder aus der Theorie der Annäherung<sup>3</sup>. In der Theorie der Interpolation, die Bewegungen aus einer definierten Bereich aus dem Bild werden als bekannt betrachtet. Diese Bewegungen werden dann für das ganze Bild durch Interpolation

<sup>2</sup> Sotiras, A., Davatzikos, C., Paragios, N., "Deformable Medical Image Registration: A Survey", *RR-7919, INRIA* (2012): 6.

<sup>3</sup> Holden, M., "A review of geometric transformations for nonrigid body registration", *Medical Imaging IEEE Transactions* 27 (2008): 111-128.

ermittelt. In die Theorie der Annäherung wird es angenommen, dass es bei der Schätzung der Verschiebung ein Fehler unterliegt. Dadurch wird diese Verwandlung die bekannten Bewegungen leichter schätzen als wenn man die genauen Werte dieser berücksichtigen würde. Der Erfolg dieser Modelle liegt daran, dass diese ausreichend entwickelt sind um die Änderungen, dass in der Bildregistrierung mit niedrigen Freiheitsgradeaus auftreten, zu beschreiben. Dadurch wird der Abzug der Parameter erleichtert.

Eine der wichtigsten Strategien der Interpolation sind die „free-form“ Verformungen.

## DIGITALE BILDANALYSE

Ziel der Untersuchung war es, ein Programm der Bildverarbeitung zu erstellen für die Bestimmung des Verformungsfeldes der orthotropen Materialien. In diesem Fall geht es um Massivholz in der Form einer Scheibe. Die Strategie der Bildverarbeitung basiert sich auf die „free-form“ Verformungsmodellen.

Die „free-form“ Verformungen (Free-Form Deformation - FFD) ist eine wichtige Transformationsmethode des geometrischen Formen. Diese Methode wurde umfassend untersucht für die Durchführung der Animation und geometrische Modellierung auf dem Computer. Der ursprüngliche Ansatz<sup>4</sup>, bzw. die Nachfolgende, beinhaltet die Einbindung eines Gegenstandsmodells im einen Volumen dessen Form durch die Bewegung der Steuerpunkte geendet werden kann.

Wir können sagen, dass die „free-form“ Verformungen zu den am häufigsten verwendeten Arten der Transformationsmodellen in die Bildverarbeitung gehören. Ein rechteckiges Raster  $G = K \times L$  wird auf ein Bild mit einer Größe von  $M \times N$ ,  $K \ll M, L \ll N$  überlappt. Dieses Bild ist unter dem Einfluss der Kontrollpunkte entstanden. Die Verformung ist das Ergebnis von der Zusammenfassung der Tensor-Produkte des univariate Splinekurven.

2D-Verformung sind wie folgt definiert

$$u(x) = \sum_{k=1}^K \sum_{l=1}^L B_k(\mu) B_l(\nu) d_{kl}, \quad (2)$$

wobei  $d$  die Bewegung ist,  $k = \lfloor x / \delta_x \rfloor$ ,  $l = \lfloor y / \delta_y \rfloor$ ,  $\mu = x / \delta_x - \lfloor x / \delta_x \rfloor$  und  $\nu = y / \delta_y - \lfloor y / \delta_y \rfloor$ .  $B_l$  die Grundfunktion der  $l$  Ordnung des B-Spline-Kurven, wobei

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<sup>4</sup> Sederberg, T.W., Parry, S.R., "Free-form deformation of solid geometric models" *ACM Siggraph Computer Graphics*, 20 (1986): 151-160.

$\delta_x = M/(K-1)$  und  $\delta_y = N/(L-1)$  die Abstand der Kontrollpunkte. Der Vorteil des Transformationsmodells liegt in seine Einfachheit, Ebenheit, in seiner Effizienz bzw. Kapazität die lokale Verformung zu beschreiben mit nur wenigen Freiheitsgraden.

FFD wurde zuerst in die computerunterstützte Grafik<sup>5</sup> verbreitet, aber mit der Zeit, hat sich eine breite Anwendung in der medizinischen Bildgebung gewonnen, besonders wenn diese mit dem kubischen B-Spline-Kurven<sup>6</sup> gekoppelt wurden.

In den folgenden Zeilen werden die Phasen der Bildverarbeitung vorgelegt durch den das Verformungsfeld bestimmt wird.

In die erste Phase wird die durchschnittliche Pixelintensität des analysierten Objekts stabilisiert, damit werden die Bilder verschärft.

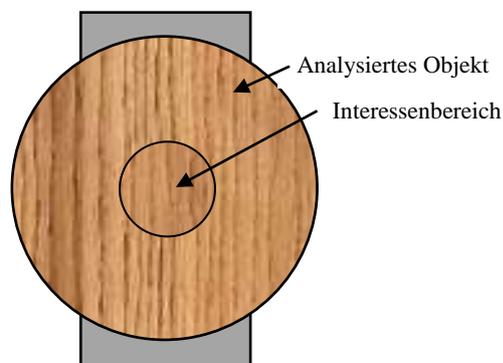


Abb. 1 Testbereich

In die zweite Phase wird ein einheitliches Netz der Anfangsbildes definiert  $f_0$ , mit 40x40 Netzwerkpunkte, in solche weise, dass die Mitte der Netzwerks mit die Mitte der erforschter Objekts übereinstimmt (Abb. 1.). Der Abstand zwischen zwei Punkten der Netzwerks soll 20 Pixel sein, dass entspricht 0,635 mm. In die nächsten Bilder  $f_i$  werden die besten Positionen entsprechend jedem Punkt aus dem Netzwerk approximiert. Dieses Approximationsalgorithmus kann nicht ganzzahligen Koordinaten produzieren. Um die Pixelintensität in die nicht ganzzahligen Koordinaten zu erzeugen wird das bilineare Interpolationsverfahren verwendet. Aufgrund dieses Algorithmus wird eine Annäherung auf zwei hierarchischen Ebenen durchgeführt. Erstens wird die Verformung mit einer Genauigkeit von 0,5 Pixeln bestimmt. Zweitens, durch die verfeinerte Auflösung, wird

<sup>5</sup> Hsu, W., Hughes, J., Kaufman, H., "Direct manipulation of free-form deformations", *ACM Siggraph Computer Graphics*, 2 (1992): 177-184.

<sup>6</sup> Rueckert, D., Aljabar, P., Heckemann, R.A., Hajnal, J.V., Hammers, A., "Diffeomorphic registration using B-splines", *Medical Image Computing and Computer-Assisted Intervention, MICCAI'06*. 2 (2006): 702-9.

eine Genauigkeit von 0,02 Pixeln erreicht. Als Folge, die Verformung in jeder Punkt des Netzwerks wird in Einheiten von 0,635  $\mu\text{m}$  bestimmt. Für jedes verformtes Bild aus jedem Netzwerkpunkt wird die geschätzte Verformung gespeichert.

Die geschätzte Verformung im Falle einer Pixel  $(x, y)$  aus dem verformten Bild, wird durch die folgende Formel gegeben:

$$\arg \min_{(dx, dy)} \sum_{p=-s}^s \sum_{q=-s}^s (F_0(x+p, y+q) - F_i(x+p+dx, y+q+dy))^2, \quad (3)$$

mit  $|dx| < w$  und  $|dy| < w$ ,

wo,  $F_0$  und  $F_i$  sind die vergrößerte Versionen der primären Bilder  $f_0$  bzw.  $f_i$ ;  $w$  ist die maximale Verformung, groß genug um alle aktuellen Verformungen abzudecken;  $s$  ist der untersuchte Bereich rund um einen Pixel  $(x, y)$  während der Suche nach der besten Übereinstimmung.

In der letzten Phase, um die Verformungen aufgrund der erhöhten Druckkräfte zu studieren, wird die Rekonstruktion der Bahn der Gitterpunkte vorgenommen. Die Verformungen werden angesichts des Mittelpunkts des Netzwerks (Bezugspunkts) berechnet, der während der Analyse als dasselbe betrachtet wird.

## MATERIALIEN UND METHODEN

Für Mustermaterialien wurden identische Proben aus verschiedenen Holzarten hergestellt. Diese Muster wurden parallel zu den Holzfasern geschnitten, in Form von Scheiben mit einem Durchmesser von 80 mm und einer Dicke von 10 mm. Die Musteroberflächen wurden zuerst mit weißer Farbe vollflächig lackiert, dann nochmal mit schwarzer Farbe bespritzt. Durch dieses Bespritzen werden schwarze Farbflächen von unterschiedlichen Größen und Form erhalten mit einer Zufallsverteilung. Dank des weissen Hintergrunds, ergibt sich eine Oberfläche mit einem sehr guten Kontrast wodurch eine spätere, einfache Identifizierung der schwarzen Punkte möglich wird.

Um eine möglichst genaue Bestimmung der mechanischen Eigenschaften von orthotropen Materialien aus Holz zu erreichen wurde ein Prüfstand entworfen und gebaut. Dieser

Prüfstand dient ausschließlich für die Überwachung der Verformungen der Musterobjekte unter Druckbelastung<sup>7</sup>.

Der Verformung des Holzes unter verschiedene Druckkräfte wird mit Hilfe der Bildverarbeitungsverfahren untersucht. Das erforschte Objekt wird mit verschiedenen Druckkräfte zwischen 0 und 500 Newton belastet. Mit Hilfe eines Fotoapparats wird in jede Phase jeweils ein Bilde erfasst beginnen mit dem Anfangszustand (ohne Belastung) und weiterhin während der verschiedenen Belastungsgrößen.

Für die Bestimmung des Verformungsfeldes wurden mit  $u, v$  den Komponenten der Verschiebungsvektor eines Punkts nach den beiden Achsen  $x, y$  notiert. Weil die Bewegungen der Punkte unterschiedlich sind, die Projektionen der Bewegungen werden gemäß die Punktkoordinaten sein.

$$u = u(x, y); v = v(x, y). \quad (4)$$

Wenn auf die  $x$  Achse die Entfernung zwischen zwei Punkte  $dx$  ist, nachdem die Verformung, wegen die ungleichmäßige Bewegung  $u$ , die Entfernung zwischen die zwei Punkte entlang der  $x$  Achse ändert sich. Die neue Entfernung wird folgend geschrieben

$$\Delta dx = u + \frac{\partial u}{\partial x} \cdot dx - u = \frac{\partial u}{\partial x} \cdot dx. \quad (5)$$

Wenn diese Gleichung mit die ursprünglich Länge der  $dx$  Entfernung geteilt wird, dadurch wird die spezifische Dehnung in der Richtung der Achse definiert

$$\varepsilon_x = \frac{\partial u}{\partial x}. \quad (6.a)$$

Dem Bewegung  $v$ , orientiert längs der  $y$  Koordinatenachse, entspricht eine spezifische Verlängerung

$$\varepsilon_y = \frac{\partial v}{\partial y}, \quad (6.b)$$

und die spezifische Winkelverformung in der  $xy$  Ebene ergibt die

$$\gamma_{xy} = \frac{\partial v}{\partial x} + \frac{\partial u}{\partial y}. \quad (6.c)$$

Diese Gleichungen (6) sind die Gleichungen des geometrischen Aussehens wodurch die spezifischen Verformungen entsprechend der Bewegungen gegeben sind

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<sup>7</sup> Harangus, Katalin, "The image processing method in orthotropic material evaluation", *Research and Science Today*, 2(4), (2012): 143-154.

$$\varepsilon_{1,2} = \frac{\varepsilon_x + \varepsilon_y}{2} \pm \frac{1}{2} \sqrt{\varepsilon_x^2 + \varepsilon_y^2 - 2\varepsilon_x \varepsilon_y + \gamma_{xy}^2}, \quad (7)$$

Der  $\theta$  Winkel ist die Richtung der spezifischen Verformungen gegenüber den elastischen Hauptrichtungen

$$\theta = \frac{1}{2} \operatorname{arctg} \frac{\gamma_{xy}}{\varepsilon_x - \varepsilon_y} \quad (8)$$

## ERGEBNISSE

Das verwendete Material auf dem die Ergebnisse der Verfahren dargestellt werden, ist ein Kiefernholz. Auf die Oberfläche der Holzusters wurde eine Interessensbereich markiert (Abb. 1.) mit einem Durchmesser von 25 mm. Beginnend mit der Ausgangszustand (ohne Belastung), das Druckbelastung wurde schrittweise erhöht, mit jeweils 50 Newton, biss an das Wert von 500 Newton.

An jedes Belastungsniveau (nachdem das Interessensbereich eingescannt wurde) wurden die Ergebnisse ausgewertet. Anhand dieser Informationen, entsprechend der zwei Koordinatenachsen, wurden die Bewegungen der Punkte erhalten (mit einer Pixel-Genauigkeit der gleich mit der vorgegebene horizontale und vertikale Durchlaufschritt des Einscannens ist) (Tabelle 1.).

Tabelle 1. Daten der Kiefernholzscheibe (Durchmesser 8 mm, Dicke 1 mm)

Kraft [N]	$\varepsilon_{1,0^\circ}$ [ $\mu\text{m}/\text{mm}$ ]	$\varepsilon_{2,0^\circ}$ [ $\mu\text{m}/\text{mm}$ ]	$\varepsilon_{1,15^\circ}$ [ $\mu\text{m}/\text{mm}$ ]	$\varepsilon_{2,15^\circ}$ [ $\mu\text{m}/\text{mm}$ ]	...	$\varepsilon_{1,90^\circ}$ [ $\mu\text{m}/\text{mm}$ ]	$\varepsilon_{2,90^\circ}$ [ $\mu\text{m}/\text{mm}$ ]
0	0	0	0	0		0	0
50	9.2047	-58.5047	-5.7026	-62.2974		-16.5771	8.1771
100	21.2736	-138.4736	3.4335	-152.8335		-13.5608	-82.9392
150	30.5302	-216.4302	22.5131	-253.8131		-39.3838	19.4838
200	37.3128	-303.9128	26.2712	-346.6712		-44.6199	21.7199
250	42.3007	-394.8007	32.8839	-615.0839		-46.1047	19.4047
300	49.3273	-487.3273	44.2852	-730.8852		-43.3911	11.8911
350	57.0612	-591.4612	61.9103	-852.6103		-37.0819	0.0819
400	63.2390	-690.4390	78.3685	-985.0685		-26.5264	-14.0736
450	69.7928	-806.4928	92.1429	-1115.6429		-15.2272	-30.3728
500	76.6593	-925.4593	107.7645	-1243.2645		2.0556	-46.6556

Anhand dieser Werte bietet unser Programm die Möglichkeit der Bestimmung der Verformungen in die beiden Richtungen der afferenten spezifischen Verformungen. Alle

Verformungen werden entweder in der Form einer Karte oder in der Form einiger Grafiken verfügbar.

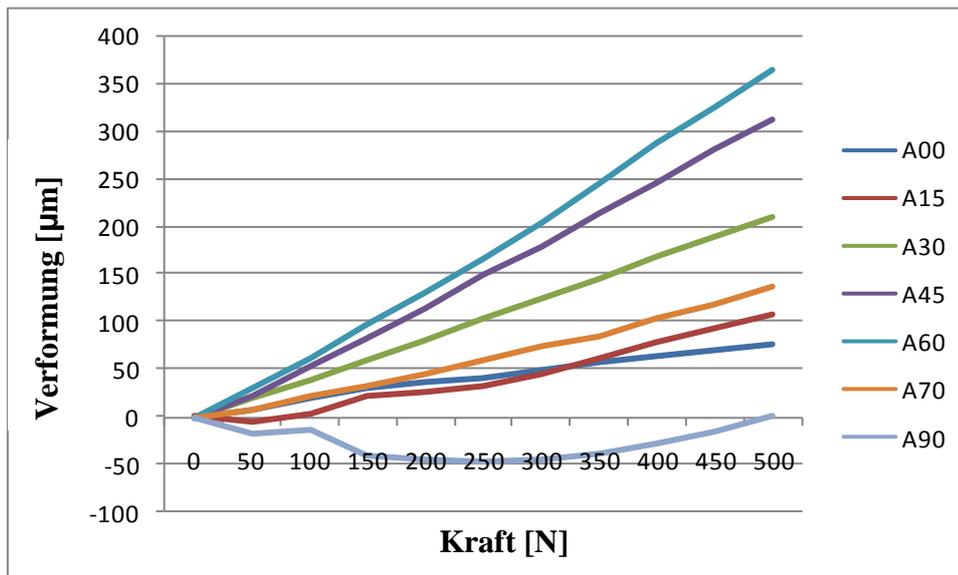


Abb. 2 – Die Verformungen an unterschiedliche Kraftbelastungen

Die Bezeichnungen von A00...A90 beziehen sich auf die Faserorientierung gegenüber die vertikale Achse (die y Achse). Wenn man diese Grafik analysiert, werden wesentliche Veränderung zwischen die spezifischen Verformungen und die Änderungen der Faserorientierung erscheinen.

### SCHLUSSFOLGERUNGEN

Das Bildverarbeitungsverfahren ist ein zerstörungsfreies Verfahren welches in der Analyse orthotropen Material angewendet werden kann, in unserem Fall, für die Analyse des massiven Holzes. Mit Hilfe eines Programmes entwickelt basierend auf die „free-form“ Verformungsmuster, wird es möglich die Bestimmung der Verformungsfeldes in eine Interessenzone oder können Informationen über die gesamte Oberfläche der Musterprobe erhalten werden. Ein weiterer Vorteil des Verfahrens liegt in der Möglichkeit verschiedene Punkte zu markieren und deren Daten hinsichtlich der Verformung zu erhalten.

Aufgrund der digitalen Bildanalyse dieser Systems, dieses Software kann nicht nur das Verschiebungsfeld Studieren, sondern auch die entsprechende, spezifische Verformungsfelder. Diese Daten können der Forscher entweder als Bilder wie auch als

Diagramme zur Verfügung gestellt, bzw. im EDV-Format durch die Übertragung dieser Daten in eine Excel-Datei.

Das Programm bietet eine Echtzeit-Erfassung (mit einer Abtastrate von ca. ein Bild/20 Sekunden) der Messdaten. In Zukunft können diese Daten eine wichtige Datenbank der Fachleute sein. Die entwickelte Methodik wird in die Zukunft die Durchführung von kostengünstigen und Untersuchungen mit hoher Feinheit erlauben.

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## CONSIDERATIONS ON THE EVOLUTION OF MUSHROOMS HARVESTING SYSTEMS\*

Horia-Gheorghe SCHIAU<sup>1</sup>

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### ABSTRACT:

*IN ORDER TO IMPROVE THE ECONOMIC AND ENERGY WORKS IN INTENSIVE FARMING SYSTEMS OF MUSHROOMS, TO COPE WITH THE ASIAN COMPETITORS, THE MECHANIZATION OF ALL OPERATIONS RELATED TO THE TECHNOLOGICAL FLOW OF THE CULTIVATION OF MUSHROOMS. OF ALL THE PHASES OF TECHNOLOGICAL FLOW, HARVESTING IS THE MOST EXPENSIVE AND LEAST DEVELOPED.*

*THIS PAPER AIMS TO PRESENT A BRIEF HISTORY OF THE EVOLUTION OF THE COLLECTION SYSTEMS AND TO HIGHLIGHT THE ADVANTAGES AND DISADVANTAGES OF MECHANIZED HARVEST OF MUSHROOMS.*

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**KEY WORDS:** AGARICUS MUSHROOM, MUSHROOM PICKERS, SELECTIVE HARVESTING, HARVESTING ROBOTS, PRODUCTION COSTS.

### ECONOMIC CONSIDERATIONS

Mechanical harvesting of mushrooms has emerged as a must to reducing costs of mushroom farms. Because manual harvesting costs represent more than half of the total costs of production, have initiated and conducted experimental research with different systems designed to replace at least partially manual harvesting.

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In order to obtain a high-quality harvests, the mushrooms harvesting should be carried out as soon as they have reached full maturity. In this phase, the hymenial veil is stretched and intact, the size of mushroom being maximum, depending on the variety grown. Selective assembly of mature mushroom is usually done manually, using a simple technique which consists of separation through a twisting combined with a slight pressing with the right hand and with the other hand to fix of the bouquet to avoid dislodging it from the layer of culture. If in a bunch there are more mushrooms, harvesting is done by stages, detaching carefully mature mushrooms without being disturbed the rest of the bouquet.

For preservation and industrialization, mushroom harvesting is done in phase of cufflinks with a diameter of 1-2 cm.

Mushroom industry requires intensive labour force and it is difficult for EU countries and for the United States of America to compete with Asian competitors due to the significant difference in labour costs. To stay competitive in the production of mushrooms, the efforts were channeled to mechanized production. At present, from the technological stages, only the harvesting process is not fully mechanized. All producers used manual harvesting of mushrooms. The current level of the average salary for a selector (harvester) in the USA is 6.50\$ per hour (Aviv 2004). Considering that a selector can efficiently harvest about 30 pounds of medium-size mushrooms per hour (Lou Summerfield, 2004), the harvesting cost is approximately 0.22\$ per kilogram, or about 20% of the wholesale price. The differences in labour costs from different European countries are immense. Netherlands is in the top 5, while the Czech Republic, Poland, Hungary, Lithuania and Romania are at the bottom of the scale. In countries with low labour costs is an average of 2,00 € per hour, compared with an average of 16 € per hour in the Netherlands. In the Netherlands, for harvesting capacity of 32 kg/hour/man, harvesting costs amounted to 50 cents per kilogram, while in Eastern Europe the costs are 10 cents per kilogram for harvesting capacity of 20 kg/hour. This massive difference represents a very large competition for the fresh produce market in the Netherlands and in the countries around them. A study conducted in 1997 indicated that labour costs account for about 46% of the production costs of mushrooms for the fresh produce market in the EU (Farrar J., 1999)

## BRIEF REVIEW OF THE EVOLUTION OF HARVESTING SYSTEMS

In a first phase has adopted the harvesting mechanical non-selective method of mushrooms, the method consists in translating a particular knife on top of the compost cover layer to a height adjustable from it. The knife cut his foot mushrooms after which, the hats are pushed on a conveyor belt to the collection. Among the equipment designed to harvest mushrooms, is a machine proposed by Sverker Persson, P.E. in 1970, it forms a mecanico-pneumatic combination. He has devised a mushroom harvesting machine, shown in Figure 1, which is inside a tubular chassis with open end with a sharp blade, which act almost to the ground, cutting the stems of the mushrooms. The machine has provided by such devices targeting, using jets of air adjacent to the base of mushroom while cutting, and an absorbing device, mounted on the chassis for the transfer of the collection area cut without significant deterioration of it. At the same time is carry out a cross-section displacement system on the shelves.

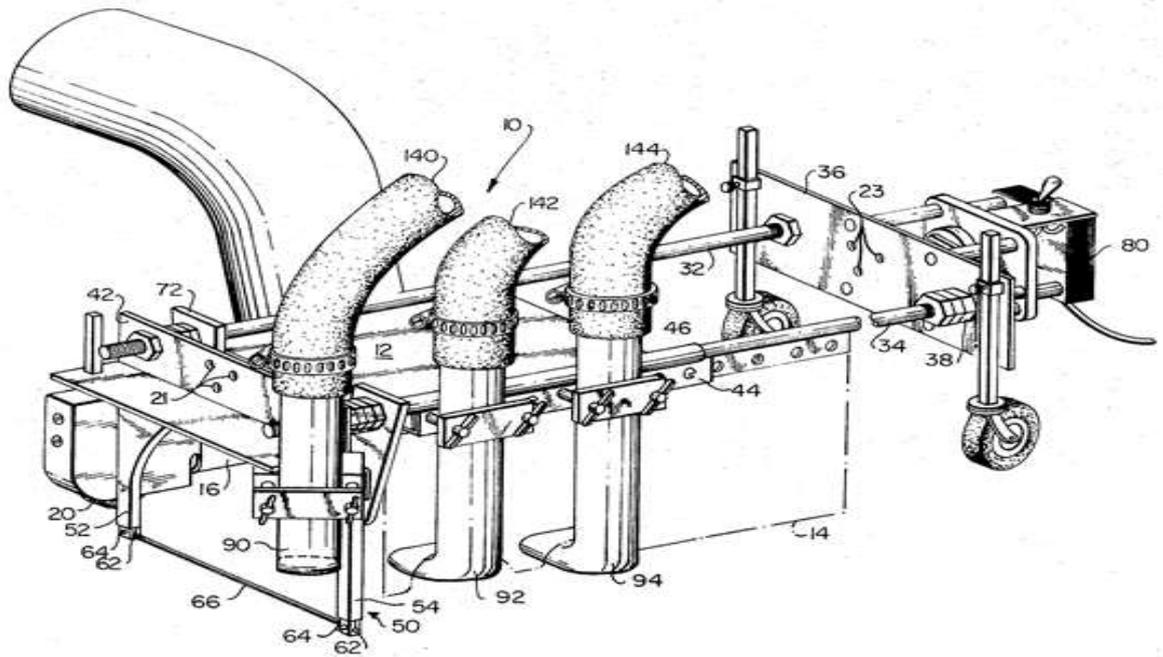
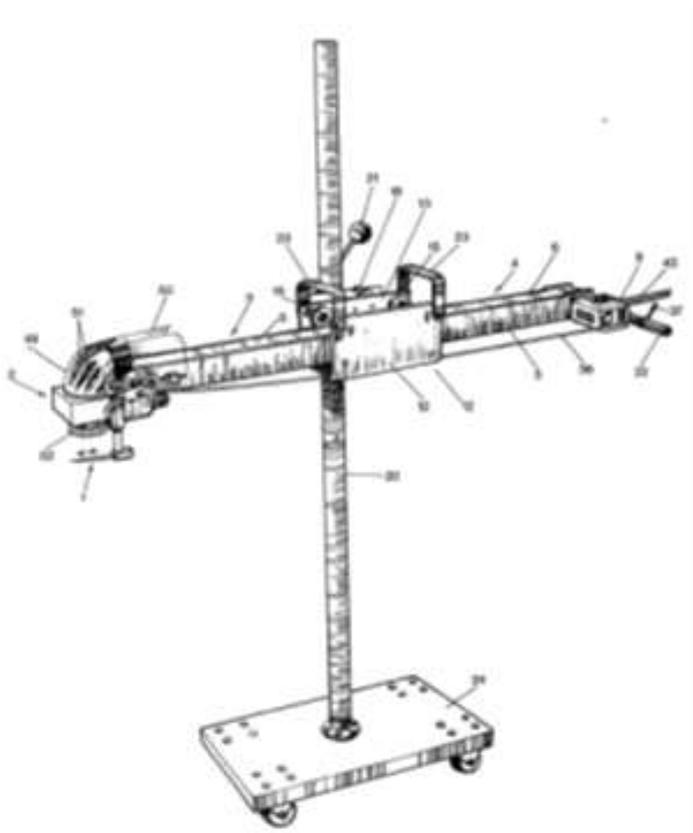


Fig. 1. Sectioned perspective mushroom harvesting machine Persson<sup>2</sup>  
<http://worldwide.espacenet.com>

2 MUSHROOM HARVESTER; Inventor: Sverker P.E. Persson, University Park, Pa.; Assignee: Research Corporation, New York, N.Y., United States Patent 3,635,005 Jan. 18, 1972

In 1982, the inventor MacCanna ,offers a combined mechanical and pneumatic system for selective harvesting of mushrooms, shown in Figure 2, similar to the one devised by P.E. Sverker Persson. The device is equipped with cutting devices, (a knife blade), which it travels on the surface of the shelf mushrooms to carve the feet mushrooms, combined with a lifting device of hats (2), for extracting mushrooms cut in and transfer them to the bands collection (3). The lifting mechanism (2) includes an air engine consists of a cylindrical chamber with a hole cut above the cutting devices (1) and an outlet connection with the collection devices (3).

The compressed air is directed into the housing through an annular orifice which is profiling to direct the air flow towards the exit. An area of low pressure is created adjacent to the inlet chamber, aspirating ambience air in the housing. Cutted mushrooms are absorbed into the housing, driven by the airflow passing through the housing, and delivered to the collection device (3), (6). In an ideal variant , the knife (1) and the lifting mechanism (2) are mounted on the end of a long frame of the conveyor belt (4), that can be moved horizontally and vertically on a support column (20), so print them maximum maneuverability.



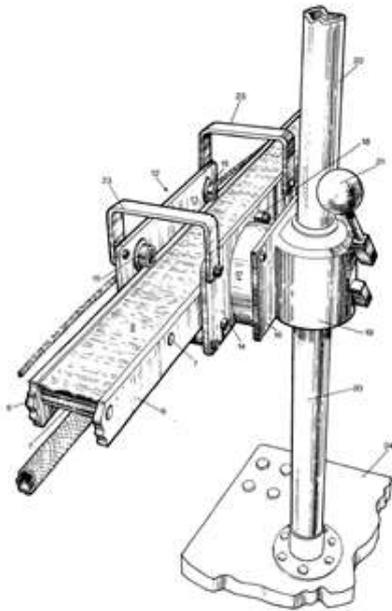
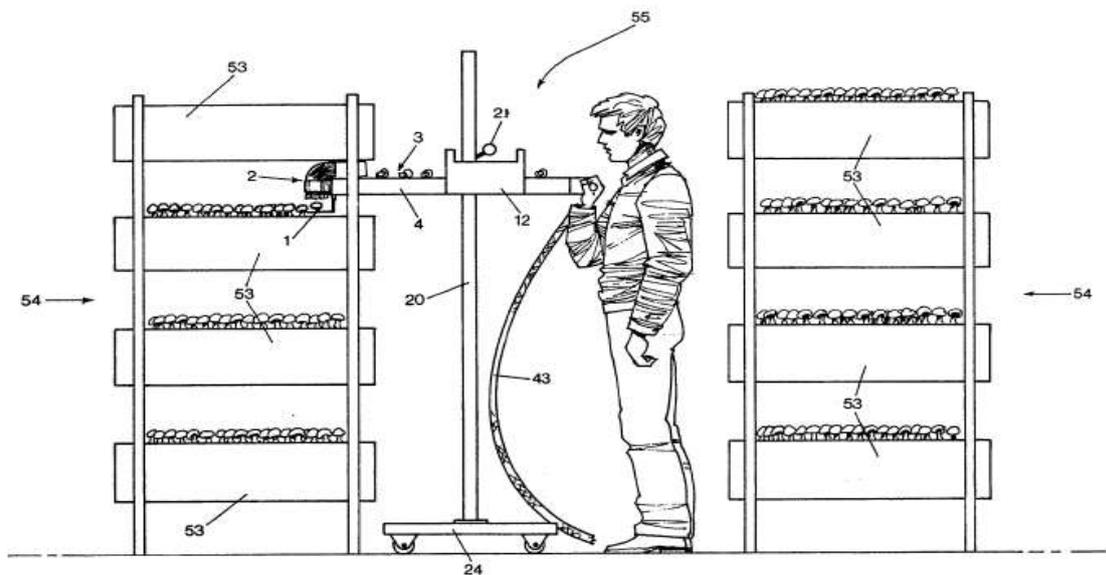


Fig. 2. Overall views of the MacCanna collector<sup>3</sup>

<http://brevets-patents.ic.gc.ca>

This device involves the presence of a human operator, who must conduct the appliance during the operation of harvesting, as shown in Figure 4.



<sup>3</sup> European Patent Application, 83304230.2/21.07.1983, Applicant: Garran Entreprise Limited, 36-39\* Fenian Street, Dublin 2 (IE); Inventor: MacCanna, Cathal, 72 St. Columbia's Rise, Swords County Dublin (IE)

Fig. 4. The operating mode of the device MacCanna (<http://brevets-patents.ic.gc.ca>)

In 1990, the Dutch inventor Van den Top , proposes a non-harvesting machine based on the principle of cutting the legs with an oscillating knife, with adjustable height. The machine has a drive device of mushrooms, made from rabator with brushes, incorporating mushrooms from the culture, they push them on the oscillating knife cutting area and ascend on the conveyor belt. The distance between rabator brushes is chosen to wrap aged mushrooms, keeping them upright to get up to their release on the conveyor belt with the tape. The equipment presented in figures 5 and 6, is equipped with a drive motor of rabator, oscillating knife and belt conveyors. The horizontal movement of the machine is ensured either by a separate engine type winch, giving rise to a traction cable, or through an external fixed shelf winch that pulls the machine using an external cable.

If this type of harvest must follow strictly the cultivation technology, aiming to the development and growth of mushrooms to be more homogeneous. The machine harvested all the mushrooms on the layer of culture, and their sorting will be done with another machine. In the ideal cases, minimum 70-75% is intended for the market of mushrooms "fresh" and only 25-30% for processing. If you want the full processing of mushrooms, the harvesting can be done from the cufflinks to maturity phase.



In both cases, after the harvest it takes a further operation of the remaining stems and coverage with peat of affected areas. In 2005, the same inventor, Van den Top presents a modernised harvested mushrooms machine , derived from the previous patent, with major improvements to the system of swing (9), of the system of adjustment of working height (5) and with a revolutionary retrieval system of mushrooms (90). The operating speed is increased significantly reaching 1800 kg/h, the percentage of damaged mushrooms significantly reduced (3-5%) and thanks to retractable collection system, it can be used in the most intensive farming systems. Currently this is the most used machine in modern mushrooms farms in Europe.

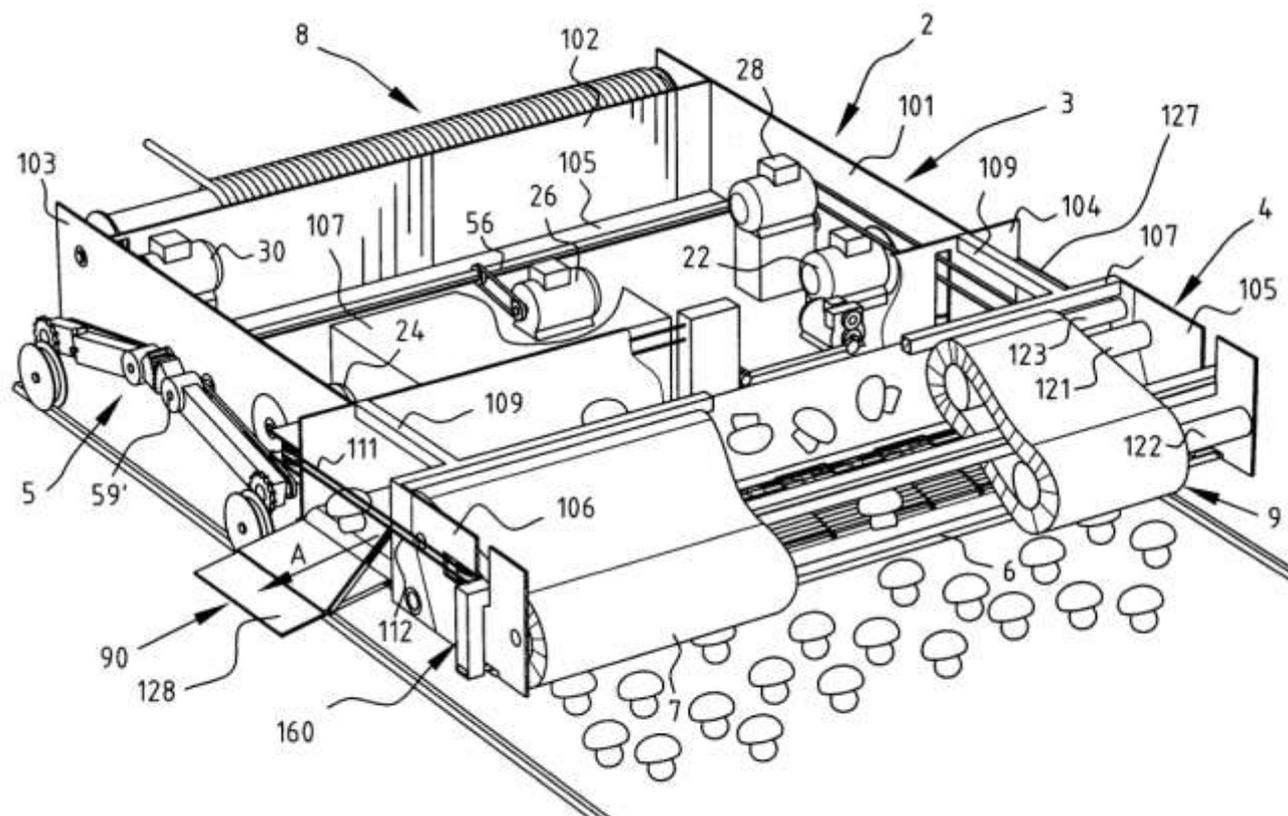


Figure 7. Sectioned perspective of the harvesting machine Van den Top<sup>5</sup> (2005)

(<https://data.epo.org/publication-server>).

<sup>5</sup> European Patent Application, 05075466.2/25.02.2005; Applicant/Inventor: Van den Top, Hendrik, Bellstraat 19, NL-3771 AH Barneveld (NL)

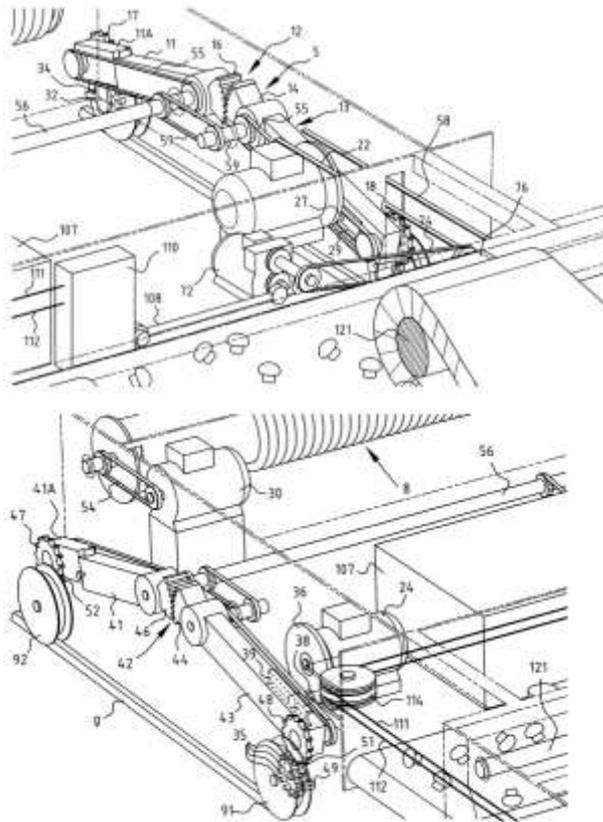


Figure 8. Detail of sectioned perspective of the harvesting machine Van den Top (2005) (<https://data.epo.org/publication-server>)

Based on this patent, the company VAN DEN TOP MACHINEBOUW BV of the Netherlands, has developed a performing machine called harvesting machine BQ 1045, shown in Figure 9. This machine, combined with a system of shelves in "zig-zag", also patented by the same firm, reaching a rate of harvest of up to 2000 kg/HR.



Figure 9. Mushroom harvesting machine Van den Top BQ 1046  
(<http://eng.topmachinebouw.nl/harvestingmachinebq.html>)

In 1993 the European Union has provided funding from the Silsoe Research Institute United Kingdom to develop an automatic system of mushroom harvesting. A group of bio-engineers has developed a robotic harvesting system, able to automatically locate, develop, select, collect, trimming hedges, carry, and to carry out the transfer of mushrooms in boxes. Since 1995 the performance tests for this robot pilot project of harvesting were conducted at two different locations: the Research Institute for horticulture, Wellesbourne, United Kingdom and on a growing mushrooms farm in Netherlands. . In the two locations was performed a total of 2975 harvesting tests and in 2427 cases have met the conditions of the harvest (a rate of efficiency of 80%). During the agricultural trade studies, 75.7% of the harvest was carried out with this robot. The percentage of damaged mushrooms robotic harvested, was significantly lower than those collected manually. The overall success of the agricultural studies, clearly demonstrates that the technology of robotic picker is now possible (Reed, 2001).



Fig. 10. The robotic picker  
<http://www2.warwick.ac.uk>

After taking over the London laboratories University of Warwick, researchers from the engineering section of the horticultural production, Warwick HRI, Warwick Manufacturing Group, are working on a series of robotics and automation products, that will substantially reduce the costs of the farmers, including upgrading the robotic arm of harvested mushrooms.

The robot, shown in Figure 10, uses a camera that scans the area of cultivation and selects only the mushrooms according to the size of the set. The mushrooms are then taken over by a suction cup on a robotic arm. While picking up speed is currently just over half of that of a man, the robot can be set to operate 24 hours a day. Researchers also hope to increase the speed of picking the nearest to that of a human worker.

## **CONCLUSION**

Mechanization and automation of work of harvesting in the modern mushrooms farms are the main solutions to reduce expenditure from this branch of agriculture. Of course that should be a relevant financial analysis, for each country, taking into account the hourly rates charged and the level of investment. Robotic systems will enable the improvement of working conditions for gatherers and will eliminate most of the currently security problems existing in the present (Ex: working at height, allergies, handling of the heavy buckets ). Since the robots can work 24 hours a day, it will increase the flexibility of delay, especially in the peak period of the first waves and will eliminate or significantly reduce the overtime work.

The quality of mushrooms harvested using machines is superior to those harvested manually due to damage during handling.

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## THE IDENTIFICATION AND EVALUATION OF SOME TOXIC COMPOUNDS IN DRINKING WATER

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### ABSTRACT:

*THIS PAPER AIMS TO PRESENT METHODS FOR THE IDENTIFICATION OF SOME TOXIC COMPOUNDS (PESTICIDES AND NITRATES) FROM THE DRINKING WATER AND THEIR IMPACT UPON THE CONSUMER'S STATE OF HEALTH. THE POLLUTION OF THE ENVIRONMENT AND THE EXCESSIVE FERTILIZATION LED TO THE PRESENCE OF HIGH LEVELS OF SOME POLLUTANTS LIKE PESTICIDES AND NITRATES IN THE DRINKING WATER AS A RAW MATERIAL IN THE FOOD INDUSTRY. IN THE ACTUAL GLOBAL CONTEXT, THIS SUBJECT IS VERY IMPORTANT AND SHOULD BE AN OVERRIDING PRIORITY IN ENSURING THE CONCEPT OF FOOD SAFETY.*

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**KEY WORDS:** DRINKING WATER, NITRATES, PESTICIDES, TOXIC.

### INTRODUCTION

The drinking water is the water designated for human consumption. Drinking water can be represented by any type of water in natural state or after some special treatments, deriving from the public distribution chain, from water tanks, that is distributed in bottles or other recipients<sup>7</sup>.

Also, drinking water is represented by all types of water used as a main source in food industry, for the fabrication, the processing, preservation or commercialization of products or substances designated for public consumption<sup>7</sup>.

The problem of environmental pollution is becoming more and more serious nowadays<sup>2</sup>.

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<sup>2</sup> Ciurea, A. V., Edu, F. V., *Probleme de nocivitate în alimentele uzuale*, Galaxia Gutenberg, Târgu Lăpuş, 2011.

<sup>7</sup> The Romanian Parliament, *Legea 458/2002 privind calitatea apei potabile*.

The substances from agriculture that are potentially noxious (pesticides and nitrates) arrive in the water as a raw material and in food, in quantities that are above the admitted levels, that are levels that would not normally produce adverse effects upon the consumer's state of health<sup>1</sup>.

The human organism has the capacity of adapting to the action of some toxic substances that are in small doses and that do not trigger cumulative effects<sup>1</sup>.

The great majority of toxic substances have cumulative effects and this can lead to negative effects in time. The action of these compounds can lead to cancer, mutations, genetic effects and specific toxic effects<sup>1</sup>.

In the last few years, the pollution of the surface and underground waters with pesticides constituted an important problem, especially in agricultural areas<sup>1</sup>.

In some cases, the contamination of the waters persists for decades after the use of the specified compounds is stopped<sup>1</sup>.

Many food samples are analyzed annually, for the determination of the correlation with the general allowances established for agricultural products. The residues of pesticides were identified in half of these samples<sup>1</sup>.

Nitrates appear naturally in the water, because they are part of the nitrogen cycle<sup>1</sup>.

Nitrates are not cancerous as such, but they are transformed inside the human body in nitrites. Nitrites react with tertiary amines, resulting in the apparition of nitrous-amines that are cancerous compounds<sup>1</sup>.

Nitrates are found in food in large amounts, especially because of the excessive fertilization. In some areas, drinking water contains large amounts of nitrates<sup>1</sup>.

The relation between agriculture, alimentation and health is becoming more and more evident, because the diseases of the modern civilization are put upon an off-balanced diet and as a reason of excessive use of chemical substances<sup>1</sup>.

## **OBJECTIVES**

The general objective of this paper is consumer information<sup>2</sup>.

The specific objectives of this paper constituted in the presentation of some control methods for toxic substances like pesticides and nitrates from the drinking water, the analysis of some important studies made by specialized institutions in this field, the

correlation of this information with reference tables like *The codex of the phytosanitary products*<sup>2</sup>.

All of this data was collected with the aim of obtaining as much information in the problem of the presence of some potentially noxious compounds in the drinking water as a raw material in food industry<sup>2</sup>.

## **MATERIALS AND METHODS**

This study aims to present some data from the specialized literature regarding the implications of the presence of some noxious compounds in the drinking water and in water as a raw material for the fabrication of food<sup>2</sup>.

The experimental part has the role of correlating the scientific information about noxious compounds with some methods for their monitoring and control in the drinking water<sup>2</sup>.

The research had as specific objectives the following:

1. The analysis of the gas-chromatographic method for the identification of organochlorine pesticides from the drinking water;
2. The spectra-photometric analysis of the nitrates from some samples of drinking water;
3. Statistical graphics elaborated by specialized institutions, like The Institute for Public Health in Bucharest;
4. Official information: studies conducted by specialized organisms in the area of consumer information, like *The study of some quality parameters of the mineral waters from the Romanian market*;
5. Reference tables and data: *The codex of the phytosanitary products*<sup>2</sup>.

## **RESULTS AND DISCUSSION**

Gas-chromatography is a method by which the specific components of a mixture in gaseous state are separated, when the samples are passed through a liquid or solid stationary phase. This method is used for the identification of about 60 % of the organic compounds<sup>3</sup>.

The protocol of work for the gas-chromatographic method consists of: extraction and separation, the concentration of the extract, chromatography in gaseous state, purification and separation and the determination of the witness sample<sup>5</sup>.

The chromatograms for the identification of organochlorine pesticides (fig. 1, fig. 2, fig. 3) in a number of 20 samples were studied. These results of the study offer a very good model for understanding the details of the gas-chromatographic method of analysis.<sup>3</sup>

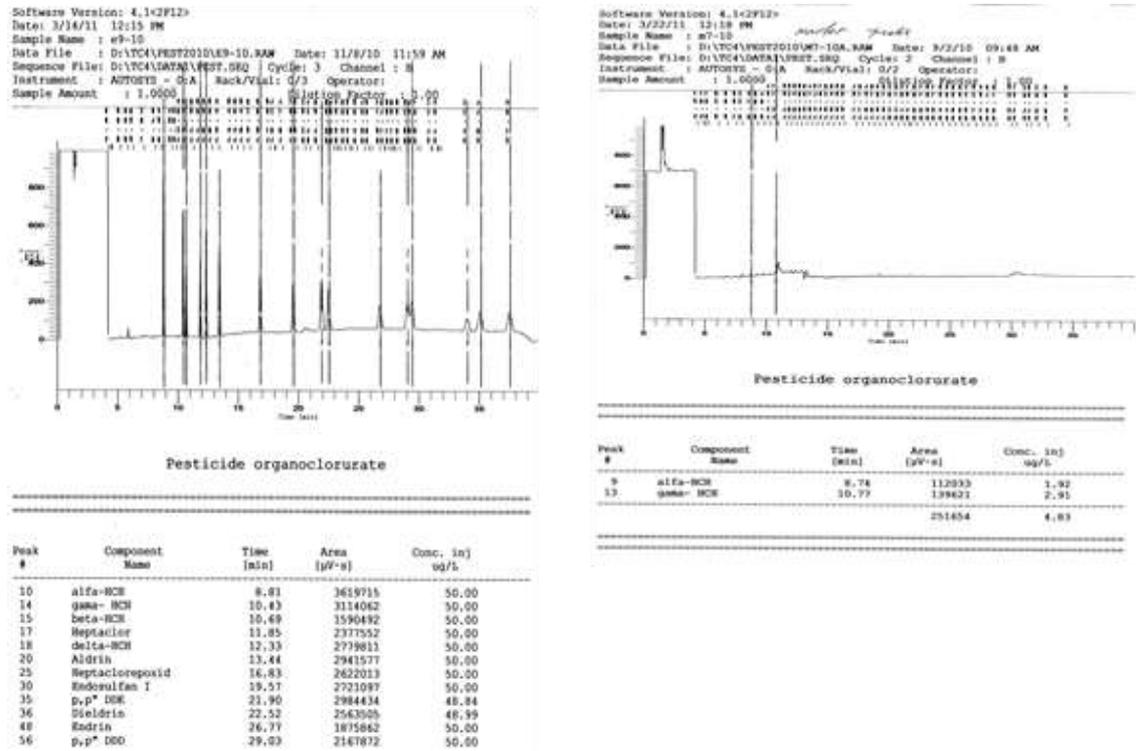


Fig. 2. The reference of reactive chromatogram

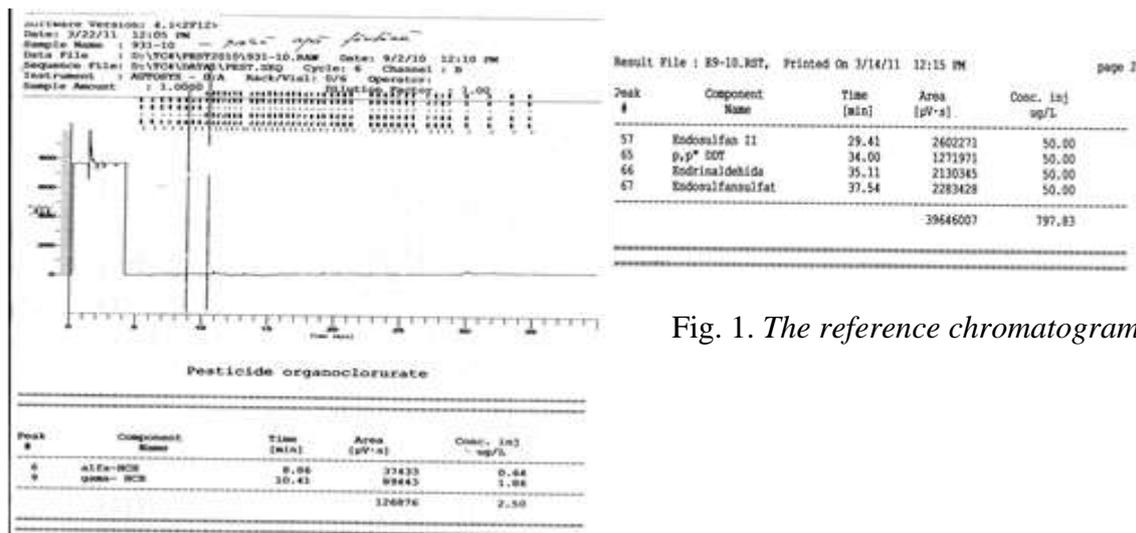


Fig. 1. The reference chromatogram

<sup>3</sup>. Edu F. V., *Studii privind prezența unor substanțe nocive în apa potabilă*, Transilvania University of Brasov, Brasov, Romania, 2011.  
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Fig. 3. The chromatogram of a fountain water sample

The analyses conducted showed that organochlorine pesticides are present in very small amounts in the drinking water.

*The codex of the phytosanitary products* is a document that has a very high scientific value, because it inventories the commercial products used in agriculture for the prophylactic treatment of crops, and also their active compounds<sup>6,4</sup>.

The paper contains two main chapters: the index of phytosanitary products and the index of active compounds<sup>6</sup>.

From this paper, the complexity of the chemical substances used for the prophylactic treatment of the plants can be seen<sup>2</sup>.

This can have negative connotations upon the consumer's state of health, because the residues of these specific compounds may be found in different proportions in the agricultural and food product<sup>2</sup>.

Table 5 An extract from The codex of the phytosanitary products

<b>Commercial product</b>	<b>Producer</b>	<b>Licence</b>
Acedin Super 40	Alchimex Romania	1973/ 2001
Betanal Expert	Bayer Germany	2069/ 2001
Carbiguard 500 SC	Gharda Chemical Ltd. India	1894/ 1999
Roundup	Monsanto US	480/ 1996
Superwax	Stockton Chemical US	2167/ 2002

Each year, in Romania, hundreds of children suffer or even die because water from uncontrolled sources, as for example some fountains from rural areas is introduced in their alimentation<sup>8</sup>.

<sup>6</sup> The Ministry of Agriculture from Romania, *Codexul produselor de uz fitosanitar omologate pentru a fi utilizate în România*, 2004.

The Institute of Public Health from Romania performed for the first time in 1988, a national study regarding the nitrate content of fountain water from different areas. The results indicated as areas with a risk of nitrate contamination the South and North – East parts of Romania<sup>8</sup>.

Nitrates ( $\text{NO}_3$ ) appear naturally in water, being part of the nitrogen cycle. Also, nitrates may derive from the unintentional introduction in the water of large quantities of chemical fertilizers that contain nitrogen or as a cause of the infiltration of some residual waters that are rich in organic substances, as a consequence of ammonia ( $\text{NH}_3$ ) oxidation. Nitrates are completely and rapidly absorbed in the intestine. The most serious disease caused by the pollution of the water with nitrates is the apparition of met-hemoglobinemy, also known as the *blue baby syndrome*<sup>8</sup>.

In drinking water, the maximum admitted concentrations of nitrates were established in correlation with their capacity of inducing met-hemoglobinemy. The apparition of met-hemoglobin was determined only in the situation of the consumption of water with high amounts of nitrates, the maximum limit established by the WHO (World's Health Organization) being of 50 mg/l<sup>8</sup>.

Nitrates as such are not cancerous, but the fact that they may be transformed inside the human organism, resulting in the formation of nitrosamines, that are potentially cancerous substances is admitted<sup>1</sup>.

Nitrates may also produce hypertension, malfunctions of the circulatory system, even congenital modifications or spontaneous abortions. For example, the nitrates in the drinking water were associated with the risk of gastric cancer in Columbia or England and the exposure at fertilizers that contain nitrates was correlated with the mortality caused by gastric cancer in Chile<sup>8</sup>.

There were 5 (five) samples of drinking water that were subjected to analysis regarding the nitrate content:

- Bottled water (sample 1);
- Bottled water (sample 2);
- Hydrophore water (sample 3);
- Spring water (sample 4);
- Tap water (sample 5)<sup>2</sup>.

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<sup>8</sup>Hypocrite Magazine, *Ediție Specială Sănătate Publică*, 2011.

The method used for the analysis was the spectra-photometry of absorbance (Tab. 6).

Table 6 – *The nitrate content of different water samples*

No.	Sample	Result (mg/l)
1.	Bottled water	4,01
2.	Bottled water	29,36
3.	Hydrophore water	0,75
4.	Spring water	5,81
5.	Tap water	5,51

According to the Romanian law number 458 from 2002 on drinking water, the maximum admitted limit for nitrates is 50 mg/l. Having taken this fact into account, all of the samples complied with the law<sup>2</sup>.

In the case of sample 2, the identified concentration may be a potential health risk for the consumer, even though it is situated above the maximum admitted level<sup>2</sup>.

For sample 3, we can see a very small concentration of nitrates. The sample was taken from the phreatic water, where there is very small pollution with nitrogen<sup>2</sup>.

Samples 1, 4 and 5 indicated an average level of 5 mg/l. This value doesn't set any potential problems for the consumer's state of health<sup>2</sup>.

Some results of research in the area of water quality, like The study of some quality parameters of the mineral waters from the Romanian market revealed the fact that at the chapter of Toxicity, the great part of the tested water samples from the market, complied with the standard<sup>4</sup>.

## CONCLUSIONS

The studies and analyses in this paper show that the pollution of the environment is a serious problem nowadays. This has a direct influence upon the consumer's state of health.

The strong relation between environment, food and health is clearly established, but in the context of environmental pollution, this is an acute problem.

Drinking water as a raw material in food industry is very important for the obtaining of some safe food products. Primarily, drinking water should be strictly controlled, mainly regarding the presence and quantification of some toxic or undesirable compounds, as in the aspect of its properties or some parameters that confer the optimal chemical composition.

The national reserves of water are a problem of national security, that's why public institutions advised in the field of food control should develop their strategies and methods for the insurance of both the safety and the quality of drinking water.

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## TOWARDS A UNIQUE EUROPEAN ELECTORAL SYSTEM?

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### **ABSTRACT:**

THIS RESEARCH AIMS MAINLY AT IDENTIFYING THE MOST APPROPRIATE ELECTORAL SYSTEM CONCERNING THE COMMON EUROPEAN ELECTIONS. IT MAKES A THOROUGH ANALYSIS OF EACH MEMBER STATE'S ELECTORAL SYSTEM IN ORDER TO SEE THE EXTENT TO WHICH THE "EUROPEAN" SYSTEM DIFFERS FROM THE "NATIONAL" ONES. FURTHERMORE, IT QUESTIONS AND ANALYSES THE EXTENT TO WHICH MEMBER STATES WOULD AGREE ON A COMMON ELECTORAL SYSTEM.

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**KEY WORDS:** ELECTORAL SYSTEM, EUROPEAN UNION, PROPORTIONAL REPRESENTATION, DEMOCRACY

### **INTRODUCTION**

The electoral system could be defined as the translation of the general election votes into the seats that the parties and the candidates obtain in elections. The key variables in this process are both the electoral formulas (for example, majority or proportional representation system, the mathematical formula that is used for the calculation of the seat assignment) and the constituency size (it doesn't refer to the number of voters that live therein, but to the number of MPs that are elected per constituency). It is important to underline the fact that even if the article doesn't tackle with the administrative aspects of elections (such as the distribution of the voting sections, candidate nomination, voters' registration, designing the persons in charge with the organization of the elections), they are important issues that could undermine the possible advantages of having decided for

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one election system over another if they are not dealt with properly. The elaboration of the electoral system affects other electoral legislation areas: the decision for an electoral system over another has a great influence on the way constituency limits are established, on the way the voters are registered, on the way ballots are designed, on ballot count and on many other aspects concerning the electoral process.

## **ELECTORAL SYSTEMS – A FRAMEWORK FOR ANALYSIS**

Political institutions set the rules of the game for the practice of democracy and it is often said that the electoral system is the easiest political institution to be manipulated since, while making the translation of votes into legislature seats, the electoral system can definitely determine who is the elected one and which party will take over the power.<sup>2</sup> Even with exactly the same number of votes for the parties, an electoral system may lead to a coalition government, while other may lead to one- party majority government. Beside these primary effects, there are further consequences. On the one hand, it influences the party system type that establishes especially the number and the approximate representation of parties in Parliament. On the other hand, it affects the internal cohesion and discipline of parties: some electoral systems may encourage factions within the parties when two groups within the same party are in continuous fight, while other electoral systems may encourage the parties to solve their problems and act in unison. The electoral systems may also influence both the way campaigns are organized and political elites' behaviour, thus determining the parties' political climate; they may encourage or delay the set up of party alliances; they may also determine a large representation of the parties or, on the contrary, a slim representation based on the ethnic group or on the degrees of kin. Furthermore, if an electoral system is not considered to be "fair" and it doesn't cast on the opposition the feeling that it may win the next elections, then the electoral system may persuade the losing party to develop its activity outside the system by means of undemocratic and even violent tactics. Eventually, the choice for an electoral system over another will determine the simplicity or the complexity of the ballot itself. It is usually a very important issue that turns out to be essential in the case of the societies that are confronted with a large number of inexperienced or illiterate voters<sup>3</sup>.

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<sup>2</sup> Giovanni Sartori, "Political Development and Political Engineering," *Public Policy* 17 (1968): 261–298.

<sup>3</sup> Rein Taagepera and Matthew Shugart, *Seats and Votes. The Effects and Determinants of Electoral Systems*, (New Haven : Yale University Press, 1989): 243.

Nevertheless, it is important to emphasize the fact that a certain electoral system will count with a distinct development depending on the characteristics of the country where it is implemented. Even if there are common experiences in different regions of the world, the effects of a certain electoral system depend to a great extent on the socio-political context<sup>4</sup>. Factors such as religion, ethnic group, ideology, race, language or social class have a great influence on the consequences of the electoral system; another important factor is the form of government: established democracy, democratic transition or new democracy, the nature of the party system (established, embryonic or not formed), the number of “serious” parties, the geographical distribution of one party’s supporters (whether they are all in the same area or dispersed in various areas).

Under this context, the elaboration of a shared European electoral system is a real challenge for all the Member States of the European Union. The article aims at analysing the extent to which the Member States would agree upon counting with a common electoral system.

## THE ELECTIONS FOR THE EUROPEAN PARLIAMENT

The Members of the European Parliament are elected every 5 years. The number of MEPs doesn’t reflect all the gained votes: smaller states are represented by an over-proportional number of MEPs meanwhile bigger states, especially Germany, count with an under-proportional number of MEPs. This rule has slightly changed after the 2004 EU enlargement on May 1<sup>st</sup>. After the rearrangement of mandate number, Germany no longer had to give up part of its mandates to the MEPs coming from the new Member States as compared to other countries.

The Members of the European Parliament do not sit in national delegations but are grouped in transnational political groups according to their political affinities. Each takes care of its own internal organisation by appointing a chair (or two co-chairs in the case of some groups), a bureau and a secretariat. The places assigned to Members in the Chamber are decided by political affiliation, from left to right, by agreement with the group chairmen. 20 Members are needed to form a **political group**, and at least one-fifth of the Member States must be represented within the group. Members may not belong to more than one **political group**. Some Members do not belong to any **political group** and are

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<sup>4</sup> Arend Lijphart and Bernard Grofman, *Choosing an Electoral System: Issues and Alternatives*, (New York: Praeger, 1984): 132.

known as non-attached Members. Before every vote in plenary the **political groups** scrutinise the reports drawn up by the parliamentary committees and table amendments to them.

Each Member State decides upon the way elections are organized implementing the same democratic rules: the right to vote at 18 years, equal opportunities between women and men and secret ballot.

**THE EUROPEAN ELECTIONS HAVE TO COMPLY WITH A SERIES OF COMMON RULES:**

1. A proportional representation electoral system based on the party- list proportional representation or on the single transferable vote (STV)<sup>5</sup>.
2. The state territory can be subdivided into constituencies only if this doesn't affect the proportional feature of the elections. It's advisable for states that count with more than 20 million inhabitants to do the subdivision.
3. The electoral threshold should not be more than 5%.

The table<sup>6</sup> hereafter makes a classification of the electoral systems used by EU Member States in European elections aiming at pointing out the degree of acceptance for a shared electoral system:

<b>MEMBER STATE</b>	<b>E.E.S.<sup>7</sup></b>	<b>D.E.S</b>	<b><i>Difference percentage</i></b>	<b>D.A.S.E.S</b>
<b>Austria</b>	Closed list and optional preferential voting (OPV)	Closed list and OPV.	<b>10%</b>	<b>Medium</b>

<sup>5</sup> Eric Moon, "Single Non-Transferable Vote Methods in Taiwan in 1996. Effects of an Electoral System," *Asian Survey*, 37 (1997): 652-668.

<sup>6</sup> Adrian Sorescu, *25+2 Modele electorale.Sisteme electorale*, (București: Asociația Pro Democrația, 2006).

<sup>7</sup> Sources: "The European Elections: EU Legislation, National Provisions and Civic Participation," European Parliament, accessed May 16, 2010. [http://www.europarl.europa.eu/eplive/expert/multimedia/20090303MLT50670/media\\_20090303MLT50670.pdf](http://www.europarl.europa.eu/eplive/expert/multimedia/20090303MLT50670/media_20090303MLT50670.pdf).

"European Elections Database," Norwegian Social Science Data Services, accessed May 16, 2010. [http://www.nsd.uib.no/european\\_election\\_database/index.html](http://www.nsd.uib.no/european_election_database/index.html).

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<b>Belgium</b>	Closed list and OPV.	Closed list and OPV.	<b>10%</b>	<b>Medium</b>
<b>Czech Republic</b>	Closed list and OPV.	Closed list and OPV.	<b>10%</b>	<b>Medium</b>
<b>Cyprus</b>	Closed list and OPV.	Closed list and OPV.	<b>10%</b>	<b>Medium</b>
<b>Denmark</b>	Closed list and OPV.	Closed list and OPV.	<b>10%</b>	<b>Medium</b>
<b>Estonia</b>	Blocked list	Open list and compulsory preferential voting.	<b>70%</b>	<b>High</b>
<b>Finland</b>	Closed list and OPV.	Open list and compulsory preferential voting.	<b>50%</b>	<b>High</b>
<b>France</b>	Blocked list	<b>Majority</b>	<b>100%</b>	<b>High</b>
<b>Germany</b>	Blocked list	Mixed	<b>90%</b>	<b>High</b>
<b>Greece</b>	Closed list and OPV.	Open list and compulsory preferential voting.	<b>50%</b>	<b>High</b>
<b>Ireland</b>	<b>S.T.V.</b>	<b>S.T.V.</b>	<b>0</b>	<b>Low</b>
<b>Italy</b>	Blocked list	Blocked list	<b>10%</b>	<b>High</b>
<b>Latvia</b>	Closed list and OPV.	Closed list and OPV	<b>10%</b>	<b>Medium</b>
<b>Lithuania</b>	Closed list and OPV.	<b>Mixed</b>	<b>70%</b>	<b>Medium</b>
<b>Luxembourg</b>	<b>Multiple voting</b>	<b>Multiple voting</b>	<b>0</b>	<b>Medium</b>
<b>Malta</b>	<b>S.T.V.</b>	<b>S.T.V.</b>	<b>0</b>	<b>Low</b>
<b>Netherlands</b>	Closed list and OPV.	Closed list and OPV.	<b>10%</b>	<b>Medium</b>

<b>Poland</b>	Blocked list	Open list and compulsory preferential voting.	<b>70%</b>	<b>High</b>
<b>Portugal</b>	Blocked list	Blocked list	<b>10%</b>	<b>High</b>
<b>UK</b>	Blocked list	<b>Majority</b>	<b>100%</b>	<b>High</b>
<b>Slovakia</b>	Blocked list	Closed list and OPV.	<b>70%</b>	<b>High</b>
<b>Slovenia</b>	Closed list and OPV.	Open list and compulsory preferential voting.	<b>50%</b>	<b>Medium</b>
<b>Spain</b>	Blocked list	Blocked list	<b>10%</b>	<b>High</b>
<b>Sweden</b>	Closed list and OPV.	Closed list and OPV.	<b>10%</b>	<b>Medium</b>
<b>Hungary</b>	Blocked list	<b>Mixed</b>	<b>90%</b>	<b>High</b>
<b>Bulgaria</b>	Closed list and OPV.	Blocked list	<b>70%</b>	<b>Medium</b>
<b>Romania</b>	Blocked list	<b>Mixed</b>	<b>90%</b>	<b>High</b>

*Legend:*

**E.E.S.** - European Electoral System

**D.E.S.** - Domestic Electoral System

**D.A.S.E.S.** - Degree of Acceptance for a Shared Electoral System

This table synthesizes the results of this research and projects a future approach to the shared European electoral system. This classification is based on the following premises:

1. EU Member States' tendency is to use more simplified electoral systems for the European elections than the ones they use for the national elections.
2. The future shared electoral system is based on the most used systems nowadays.

3. The difference between the national election systems and the European ones is calculated based on the nature, essence and special features of the electoral systems.
4. The degree of acceptance for a shared European electoral system is established based on the first three columns in the table.

According to these hypotheses and based on the extent to which the national election system differs from the European one, the research identifies the following categories:

**a. States that maintain the same national system without making any changes.** The states that match this category are the following: Ireland, Luxembourg and Malta as they use atypical electoral systems both in the case of the national and the European elections. Luxembourg uses the multiple voting and both Ireland and Malta use the single transferable vote.

**b. States that use a slightly changed electoral system in the case of the European elections (10%)** as compared to the national electoral system. The differences consist in the constituency size. It is the case of states such as Austria, Belgium, Cyprus, Denmark, Italy, Latvia, Netherlands, Portugal, Spain and Sweden.

**c. States that use a 50% changed electoral system in the case of the European elections** as compared to the national elections. The main difference between the two systems consists in the use of the compulsory preferential voting in the case of the national elections as compared to the use of the optional preferential voting in the case of the European elections (Finland, Greece and Slovenia).

**d. States that use a 70% changed electoral system in the case of the European elections** as compared to the national elections. These states change the optional or the compulsory preferential voting in the national elections for the blocked list for the European elections. There is one exception to this case (Bulgaria) where the phenomenon occurs the other way around. The countries matching this profile are: Estonia, Lithuania, Poland, Slovakia and Bulgaria as the exception.

**e. States that use a 90% changed electoral system in the case of the European elections** as compared to the national elections. These states change the mixed system they

use in the national elections for the blocked list in the European elections: Germany, Hungary and Romania.

**f. States that use a 100% changed electoral system in the case of the European elections** as compared to the national elections. These states pass from a majority electoral system to a proportional representation electoral system: France and UK.

As far as the **degree of acceptance for a shared European electoral system** is concerned, the research identifies three categories of states:

**a. States with a low degree of acceptance for a shared European electoral system.** The states matching this category are the ones that apply the traditional features of the national electoral systems to the European elections. These states would not accept easily a shared electoral system as presently they use electoral systems characterised by traditional features which are different from the systems used by the majority of the EU Member States.

A shared European electoral system refers to a system which is agreed upon by the majority of the Member States and which is presently characterised whether by closed list and optional preferential voting or by blocked list. The states in this category traditionally use the system with single transferable vote.

**b. States with a medium degree of acceptance for a shared European electoral system.** The states in this category give up some features of their national electoral systems in the case of the European elections. However, the used electoral system is not always in compliance with the one which is presently accepted by the majority of the states.

**c. States with a high degree of acceptance for a shared European electoral system.** This is the case of the states that make most concessions in the decision for an electoral system over another in the European elections. Generally, the states matching this category are the ones that make radical changes at the level of their national electoral system passing from a majority system to proportional representation system. It can be also the case of the states which decide to use the electoral system used by the majority of the states even if at national level they have a different electoral system.

In order to point out better the variable related to the “*degree of acceptance for a shared European electoral system*”, it is important to consider the following two possibilities:

**1. The future electoral system will be a proportional representation one with a blocked list ballot.**

In this case, the states using a proportional representation system with closed list ballot will come to a difficult point as the blocked list does not allow the possibility for the voter to express his/her preference or preferences.

The states characterised by a low degree of acceptance for a shared European electoral system will be confronted with the same difficulties as the next type of electoral system.

**2. The future electoral system will be a proportional representation one with closed list ballot and optional preferential voting.**

Presently, this seems to be the most appropriate electoral system to be adopted at the level of the whole European Union. It is used by 13 states and other 11 states use the blocked list ballot which the system practically integrates. The voters may vote the whole list without expressing their preferences.

Furthermore, this system will trigger the least discomfort to the states using other electoral systems as it slightly resembles each one of them by allowing the expression of some preferences.

## **CONCLUSIONS**

The electoral systems are the key to democracy and the ballot is their essential component. Under the given European political context, it is more than important to count with a research on the European electoral systems. The debates over the shared European electoral system are of major interest nowadays.

Arend Lijphart considers that “the gap between the majority electoral systems and the proportional representation ones is huge also due to the fact that the changes within each type of system are common, but few democracies pass from the PR method to plurality or majority methods or the other way around”<sup>8</sup>. As many of the EU Member States use the majority election systems in national elections, the goal related to the introduction of a shared electoral system based on proportional representation seems to be far too difficult to achieve.

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<sup>8</sup> Arend Lijphart, *Modele ale democrației. Forme de guvernare și funcționare în treizeci și șase de țări*. (Iași : Polirom, 2000), 141.

Consequently, there are conservative states as far as the electoral systems are concerned such as Ireland, Malta or Luxembourg. These states might give rise to problems when the shared European electoral system is introduced. However, the most important step in the adoption of a shared electoral system is being made by the big EU Member States (France, Germany and UK) that have changed the national electoral system radically as they have wished to make the European electoral system uniform.

The conclusion this research draws refers to the fact that proportional representation electoral system with closed list and optional preferential voting could turn into the electoral system to be adopted by the European Union. It is used by 13 states and other 11 states use the blocked list ballot which the system practically integrates. Consequently, this could be the appropriate system for 24 out of 27 states. This statement is based on the idea that by means of the optional preferential voting system, the voter has the possibility to vote only for the whole list without indicating his/her preferences. Therefore, this system may work the same way a blocked list system works. Nevertheless, the other way around is not possible.

The introduction of a shared electoral system is a first step towards genuine “political union”, a first step towards the decrease of the democratic deficit within the European Union and towards the stability of the European party system.

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## **PUBLIC POLICIES EXPLAINED**

**Aurelia-Camelia MARIN<sup>1</sup>**

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### **ABSTRACT:**

*EACH OF US NEED EDUCATION, HEALTH, SOCIAL, TRANSPORT, ROADS. WHETHER OR MEDICAL EDUCATIONAL NEEDS EACH OF US ARE DIFFERENT, IT IS IMPORTANT THAT WE AS INDIVIDUALS CAN BENEFIT FROM BASIC TOOLS DEVELOPMENT AND SURVIVAL.*

*FOR EXAMPLE, CITIZENS OF EACH COUNTRY, EVEN THE LESS DEMANDING, THEY WANT THEIR GOVERNMENT TO TAKE MOST SMARTER DECISIONS. IN A DEMOCRACY, GOVERNANCE AND INTELLIGENT PUBLIC CONTROLLED NOT ONLY HAVE TO MAKE DECISIONS, BUT MUST BE TAKEN WITHIN A CERTAIN FRAMEWORK.*

*IN FACT, WHAT WE'RE ASKING US FROM OUR GOVERNMENTS IS THAT THEY PRODUCE POLICIES. IN OUR COUNTRY, THE IDEA THAT GOVERNMENT INSTITUTIONS HAVE AS MAIN ACTIVITY TRAINING AND POLICY IMPLEMENTATION HARDER ENTERED THE COMMON CONSCIOUSNESS. WE OFTEN HEAR TALK OF EUROPEAN INTEGRATION POLICY, SECTORIAL POLICIES (SUCH AS RESTRUCTURING OF THE ECONOMIC SPHERE OR EDUCATIONAL REFORM), WHICH WE TAKE FOR GRANTED.*

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**KEY WORDS:** PUBLIC POLICY, EDUCATION, ECONOMIC DEVELOPMENT REGION, ECONOMIC PHENOMENON.

### **1. INTRODUCTION**

If you say about a country that has no public policy is like to say that the country has no government. As such, good governance means effective public policies. It is very important that the close cooperation between the public and the public policy issue. In this paper I intend to highlight the concept of public policy in itself, really wish every person interested in this field, whether knowing or not understanding the concept itself and the information to be turned on.

Research methods consist of systematic analysis, comparative and comprehensive approach to the topic investigated, according to the aims and objectives. This study is

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based on various types of databases, and using various methods in an attempt to provide an explanation of the problems that is, from the point of view, this convincing. In this paper methods were used, such as classification, synthesis, static and dynamic comparative analysis, methods of induction and deduction, rev. Example, favorite character is the qualitative research. Use the information I have reviewed, which is frequently used as a method in quantitative research, their main advantage being that are easy to interpret and understand<sup>2</sup>.

## 2. THE CONCEPT OF PUBLIC POLICY

Public policy is the sum of government activities conducted directly or through agents, through the influence of those activities have on the lives of citizens<sup>3</sup>.

Dye's conception, public policies are what governments decide to do or not to do<sup>4</sup>.

The design of Andrew rose, public policies are collective actions aimed satisfy citizens' preferences, whether governmental type of government or otherwise.

A "wide" definition states that a policy is the relationship between a government and its environment.

William Jenkins defines as "a set of interrelated decisions taken by a political actor or group of actors concerning the selection policy goals and the means to achieve these goals in a specific situation, it would be that those political actors can, in principle, to decide them".

He believes public policy making as a process, recognizing that public policy is a set of interdependent decisions, most policies assuming a series of decisions.

The Romanian language is more difficult to use the term "public policy". When we hear the word "politics", we go immediately think of political parties and politicians, parliament, government, think of election campaigns, political statements, etc. Policy concept is essential to understand how to governing, for example, the impact of government on citizens' welfare is associated with the term social policy.

If the Romanian language is just a word in this sense, there are two words in the English language "policy" and "politics". It speaks of "political science" and the "science

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<sup>2</sup> Bryman Alan, Social Research Methods, Oxford University Press, 2001, 222-225.

<sup>3</sup> Peters Guy, Institutional Theory in Political Science: 2nd Edition, Ashford Colour Press, 1999.

<sup>4</sup> Dye Thomas, Understanding Public Policy, Pearson, Florida State University, 2013, p.2.

policy", which translates as Romanian language, namely "political science", but their meaning is very different.

The term "political science" covers the following issues:

- public institutions;
- political behavior;
- Comparative Politics;
- international relations;
- political theory;
- public policy and administration;
- political economy;
- political methodology.

Political science in the sense of "political sciences" means disciplines studying the methods used in the formulation and implementation of public policies and their results.

Policies is a subfield of study political science, but also has an interdisciplinary character as policy analysis and other related fields, such as economics, administrative sciences, management, decision theory, etc..

### **3. WAYS OF DEFINING PUBLIC POLICIES**

For example, public policies are difficult to define the term is used in several ways:

1) Policies that labels of fields. In fact describe areas of activity and involvement policies government: economic policy, social policy or foreign policy of a government.

2) Policies as an expression of general purpose or desired state of affairs;

In a document of a political party, or that of the government, the term "political" is used to indicate the general purpose (or purpose) of government activities in general or in a particular area, it is also used to describes the state of affairs to be achieved with the completion goal. If we study the national strategy of economic development of Romania's medium adopted by the Romanian government in March 2000, with the consensus of all political parties representative, we see that this is the sense in which it used the term "policy" there.

3) Policies that proposals;

The term is used to describe specific actions that political organizations (interest groups, political parties, the government itself) want to see made. For ex. Hall has a policy of supporting the schools.

4) Government policy decisions. As ex. Government policy for Bancorex FNI or Sidex.

5) Policies that official authorization. Since it says that the government has a policy on an issue, there is already laws voted in parliament or government decisions that allow or support such activities

6)Policies that prog frames. It is sometimes said that we have a policy of government organizations when it is or apply a particular program. A program involves a package of measures including legislation, organization and resources. The programs are the means by which the government is trying to reach some more general purposes. For ex. Or retraining programs for student scholarships layoffs.

7)Policies that product. In this case we can talk about what the government achieved compared to what it promised. In the case of health, for example, more money, a larger number of trained staff or increasing the number of beds are necessary, but not sufficient, to improve health services, but they are nothing but the desired product: increasing status population health (there are ways and means to get it).

8)Policies that result. This concerns result. For example, through the evaluation of policies is observed if the stated purpose is and get a nut.

9) Policies that theories or models. All policies involve certain assumptions about what government can do and what the consequences of his actions. These assumptions are not explained frequently, however policies involves a theory (or model) the cause-effect relationship between phenomena and processes involved, or significant correlations between them. One of the tasks is to detect policy analyst theories or models that are involved in policy and examine them in terms of internal consistency and validity of its assumptions.

10) Policies that process. Policies involves a process that extends over a long period of time. A policy arises as expressing the whole movement of change in a particular field. We say mining sector policy, or policy education reform, etc..

Doing a summary of the above, we give the following definitions:

- A policy is a network of networks reinforce decisions about the choice of objectives, the means and the resources allocated to achieve them in specific situations.

- Policy making process is the formulation and implementation of public policies.

The meanings of the term public policy we find common elements:

- policy tends to be more than a formal decision, it is a group decision;
- a policy is adopted by the politico-administrative institutions and relies on government guarantees;

- public policy mobilizes resources to generate certain society;

- This activity follows a more general purpose or a goal or specific, generally is geared towards satisfying certain interests and pays certain values.

In the process of public policy, governments are subject to internal or external pressures related to lack of resources or domestic or international resistance to certain options, which limits their choice.

Enter a benchmark in public policy analysis, in that he believes that the process of public policy is the behavior of public authorities to decide on specific goals.

French literature:

- content - public activity takes the form of content. To generate the results are mobilizing resources analyst examined as a matter of research for action.

- program - a policy is not restricted to a punctual act considered in isolation (which is the Minister in a particular day in a particular folder).

- normative guidance - public activity is not the result of random answers, but the expression of the aims and preferences that the decision maker can only accept and will be responsible.

- a coercive factor - public work comes from nature that is invested authoritarian government actor.

- a social resort - a policy defined by citizens whose situations, interests, behaviors are affected by these provisions and provisions.

A policy is a set of measures taken by a legal authority and responsibility to improve the living conditions of citizens or designing incentives for economic growth. This is defined by four elements:

- set of actions must target the same industry or the same territory.

- actions taken related to each other.
- public policy should be designed according to the target objectives and deliverables. It must have specific goals, waypoints and expressing Effective steps taken.
- public policy must be accountable, it must be the result of political will.

#### **4. PUBLIC GOODS VERSUS PRIVATE GOODS**

If a company operates market laws, then we will have an efficient distribution of goods. There are times when this is true, but not always. Because there are situations where the market fails to allocate certain goods efficiently: they tend to be produced in smaller quantities and their prices tend to rise. Why does this happen? The simplest answer is to distinguish between two types of goods: public respectively private, the public have characteristics that make their allocation by market mechanism may not be effective.

Private goods are the most common: a cake or a shirt or apartment etc. They have two characteristics:

1) Rivalry: What I use can not be consumed by anyone. Eat cake that can be eaten by someone else, and my apartment is that where I live (with my family), and can not simultaneously be inhabited by someone else.

2) Exclusivity: is it possible for someone to have control over that property. If I bought a cake, I'm the one who determines who eat it, and if anyone's still my property in the apartment, this happens because I allowed it.

But, more or less, of other goods lack these features. A national television program can be pursued by me without so my neighbor be prevented pursue if he wishes. So, I beneficiate of public order and national defense without thereby reduce the benefits of others in this regard.

On the other hand, when a good can hardly be brought to someone's property, he has no exclusive property. One could, of course, try to become the owner of all fish in the Black Sea, but it would be downright impossible to succeed. (But a television program can be encoded - and then he will have the property to be excluded.)

If we have two characteristics that can have a good or not, there are four possibilities. as shown in the table below, which are private property are of three types: a) joint, b) cleared, c) the public. Through public sector State may allocate such goods.

<i>Exclusive / Rivalry</i>	<i>Rivalry</i>	<i>Nerivalitate</i>
<i>Exclusiveness</i>	PRIVATE PROPERTY you can prevent other to use them; if you use them, else you can use. Ex.: A house, a cake	PROPERTY CLEARANCE you can prevent other to use them; if you use them, someone else can also use them. Ex.: A highway or a bridge toll
<i>Non-exclusive basis</i>	Commons you can not prevent another to use them; if you use them, else they can use. Ex.: A public beach, grazing land, fisheries	PUBLIC GOODS you can not prevent another to use them; if you use them, someone else can also use them. Ex.: Radio, TV, national defense, education, access to information

The problem of allocating private property is not a particular case of the so-called *collective action* problems<sup>5</sup>. When a good is allocated by the joint action of the members of a group, each member of the benefit if that good is produced. Take the example of global warming. If all countries agree on carbon reduction programs, the threat of global warming is - at least - lower. But on the other hand, each group member knows that if he does not act to produce that good, but everyone else does so, then it increases its benefits: for all other members of the group action still allows to produce the good, to which he has no access to have cost production.

## CONCLUSION

If most countries take measures to reduce gas issues, though some may not do so in order to develop the economy. Similarly, if all drivers would reduce pollution from their car, then in general would be less polluted air. But if all would do so without me, I would get fresh air without having had my share of cost. (I act as a "blatist": the benefits of a good without paying for it - while everyone else pays.) In the case of public goods, this situation makes that good to produce a smaller quantity than required . If the commons, the emphasis is on protection. That this is so is obvious once you think about the way it looks

<sup>5</sup> Olson Marc, *The Logic of Collective Action: Public Goods and the Theory of Groups*, Harvard University Press, 1965.

in our public spaces: full of garbage, with public toilets miserable, or in dormitories, a continuous decay. It's what was called the "tragedy of the commons" <sup>6</sup>.

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<sup>6</sup> Hardin Garrett, The tragedy of the commons, Science, 1968

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## THE ORIGINS OF THE AMERICAN MODEL OF CONSTITUTIONAL REVIEW

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### ABSTRACT:

*I DECIDED TO APPROACH THE ORIGINS OF THE AMERICAN MODEL OF CONSTITUTIONAL REVIEW AS IT IS A MATTER OF INTENSE AND UNINTERRUPTED DISPUTE FOR PROFESSIONALS, AS WELL AS ONE OF THE MOST CONTROVERSIAL TOPICS STUDIED BY CONSTITUTIONAL LAW OR POLITICAL SCIENCE.*

*THE ANALYSIS OF THIS CONCEPT IS DIFFICULT BOTH BECAUSE OF THE NEED OF SEPARATION FROM OTHER RELATED CONCEPTS, BUT ALSO BECAUSE OF THE PARADOXES THEY INVOLVE. I BELIEVE THAT THE THEME IS EXCITING BECAUSE OF ITS IMPORTANCE AND EXPANSION, BUT ALSO ACTUAL, REQUIRING LABORIOUS RESEARCH AND DOCUMENTATION FOR COLLATING AND ASSEMBLING THE INFORMATION AND KNOWLEDGE NECESSARY FOR ITS DEVELOPMENT.*

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**KEY WORDS:** FUNDAMENTAL LAW, CONSTITUTIONAL REVIEW, CONSTITUTIONAL JUSTICE, MODEL, PROCEDURE

### INTRODUCTION

The idea of constitutional review of the legislation originates in the United Kingdom where, in 1690, Sir Edward Coke – in his capacity as Chief – justice of a English superior court, pronounced in the so – called Bonham Business, the first judicial decision<sup>2</sup> of a court which stated the ability of the instance to control the acts of the parliament, considering that “when there is an act of the parliament which is against justice or common reason, or it is not executable, in this case the Common Law will be applicable and the act will be declared void.”<sup>3</sup> Sir Edward Coke’s ideas have found application in the United Kingdom only for a short period of time; not the same thing happened in North America,

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<sup>2</sup> Luis Favoreu, *et. al.*, *Droit constitutionnel*, 9<sup>e</sup> édition, (Paris: Dalloz, 2001), 191

<sup>3</sup> Jean Beaute, *Sir Edward Coke, 1552 – 1634: Ses ses idées politiques et constitutionnelles*, (Paris: P.U.F., 1975), 75

where its tenets have been fully exploited. Colonial courts did not apply the laws adopted by their legislative assemblies, where those rules came into conflict with the United Kingdom written charters or, later, with the constitutions adopted by the respective states in the XVIII<sup>th</sup> century; this is how the review of constitutionality raised.

The lack of a written constitution, because of the customary tradition of the state, generated the incompleteness of the assertion of constitutional reasoning, but the affirmation of the principle of a right which is superior to the laws adopted by the parliament and of the principle of the jurisdiction of the court to make verifications of conformity of laws with the supreme law were similar positions with those which the American instance will have in a similar case later (we will further see that the British judge's decision will be invoked by the ideologists of the American Revolution). In an early phase, the constitutional review was introduced to the American continent by the British, still being exercised by a body of the King's Council, Judicial Committee of the Privy Council, who was responsible for checking the conformity of the colony laws with those coming United Kingdom. By this decision, the British imposed a normative practice of hierarchy control in the state, which will be based on constitutional review, required later by the Supreme Court of the United States of America.

In the United States of America, the constitutional review was not (and still it is not) expressly governed by the Constitution; James Madison (1751 - 1836), the 4<sup>th</sup> President of the United States (between 1809 and 1817), co – author with John Jay (1745 - 1829) and Alexander Hamilton (1755 - 1804) of the documents known as The Federalist Papers<sup>4</sup>, and one of the founders of the American state, suggested that the right to veto the unconstitutional laws to be given to the legal power; the proposal was rejected by the Constitutional Convention of the United States of America, by multiple reasons: first of all, the text of the Constitution had to be vague, so the lack of detail to satisfy all parties involved in drafting it, the federalists and anti – federalists, the opponents of slavery or the followers, the adherents of the Anglo – Saxon legal model or of the Anglo – German like. Thus, because of contextual reasons related to the need to ratify the Constitution, some aspects have been sacrificed, as happened in the case of constitutional review. Contrary to the expectations, this very slim character of the Constitution was the main reason that facilitated the imposition of the constitutional review, the absence of express provisions

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<sup>4</sup> Represented by an assemble of 85 articles written by Alexander Hamilton, James Madison and John Jay, resulting from their rich political experience.

regarding the competences of reviewing, combined with the jurisprudential tradition of progressing of the American law allowed the United States to enforce the constitutional control. I support this because, despite the lack of an express constitutional text, constitutional review was ordered by the Supreme Court of the United States of America.

The first argument in favor of the constitutional review did not belong to the Supreme Court, but of Alexander Hamilton, in *The Federalist Papers*; Hamilton argues in his articles the character of fundamental law of the constitution, and then the obligation of the judge to determine its meaning and therefore to apply it above any contrary law, given the superiority of the peoples will over the will of the parliament. Thus, Hamilton argues that “A Constitution is, in fact, and so the judges must consider it, a fundamental law. Consequently, they constitute the task of determining the meaning of any act originated from the legislative body. In case of irreconcilable conflict between the two acts, it is clear that the Constitution has to prevail over all laws in the same way that the intention of people should prevail over its representants.”<sup>5</sup> A first observation would be that the sovereignty of Parliament, a long claimed and typical principle for the United Kingdom, but also by the European continent as a whole, is negated by Alexander Hamilton, being substituted by the sovereignty of the people. Thus occurs at a conceptual level, a shift in the principle of the separation of powers, the father of the United States Constitution recalling in his paper that any act of superiority of judges in relation to the organs of the state it is not acceptable. “The only required thing is that peoples power to be superior to both of them, and that where the will of the legislature declared in law is in opposition to the will of the people, declared in the Constitution, judges must obey rather last than the first.”<sup>6</sup>

Regarded in this way, asserting the existence of a normative hierarchy was based on the hierarchy of the peoples will, desires which represents the base of the laws; considering the social and historical conditions of the young American state, it seemed more likely for it to establish democratic freedom and to affirm the principle of superiority of the peoples will over the will of the state. But the situation was different in Europe, where the lawmaker institutions had as a main goal the protection against the monarch abuse, the protection of rights and freedom – rather than aim to legislate; this function of

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<sup>5</sup> Dan Claudiu Dănișor, *Modele de justiție constituțională: de la divergență la o relativă convergență*, *Revista de Științe Juridice* 3-4 (33): 2005, 110

<sup>6</sup> Dănișor, *Modele de justiție constituțională: de la divergență la o relativă convergență*, 110

protection of the people against the anti – popular monarch measures does not allow the collective mind to consider possible that the legislature itself can act precisely against those who elected him to represent their interests. Speaking about an early ruling principle of the hierarchy of normative acts, Alexander Hamilton considered that “any act contrary to the constitution is not valid; to deny this is to declare that the inferior is more important than the principal, the servant is above his masters and the representatives of the people are superior to the people themselves”.<sup>7</sup>

The attempts of establishing the constitutional review in the American space were likely to create a precedent in this area, dating back to the second half of the XVIII<sup>th</sup> century. Thus, a 1772 decision of judge George Wythe stated that “If - deplorable case, a legislature would be tempted to overthrow the limitations that are imposed by the people, I myself in my chair, serving the public justice in this country, I will speak to the legislative power and I will show the Constitution and say: <<Here is the limit of your authority, you can go far, but not further.>>”<sup>8</sup> A few years later, in a separate case – *Holmes v. Walton*<sup>9</sup> (also known as The Precedent in New Jersey), the Supreme Court of the U.S. State of New Jersey refused to recognize the validity of an act of the legislature, arguing that it is contrary to the Constitution of New Jersey (referring to the trial by jury). Given the existence of these legal precedents of constitutional review, it is very important the opinion<sup>10</sup> of the Italian jurist Mauro Cappelletti (1927 - 2004), which considers that it took more than a century of history of law that, in 1803, judge James Marshall, President of the Supreme Court, by its decision, to proclaim the principle that a law is incompatible with the U.S. Constitution is void. Supreme Court of the United States of America, stated above, was given in the case *Marbury v. Madison*<sup>11</sup>, considered to be the one that marked the emergence of the American model of constitutional justice, ranking among the most important theoretical foundations of the constitutional review and the concept of constitutional supremacy of the Constitution, the reason given by judge John Marshall being relatively the same as those supported by Alexander Hamilton when he proposed the

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<sup>7</sup> Dănișor, *Modele de justiție constituțională: de la divergență la o relativă convergență*, 110

<sup>8</sup> Ferdinand F. Stone, *Institutions Fondamentales du droit des Etats – Unis*, (Paris: f.e., 1965), 47 apud Dănișor, *Modele de justiție constituțională: de la divergență la o relativă convergență*, 110

<sup>9</sup> Details about the case I obtained from the website: <http://www.jstor.org/stable/1833432>, accessed March 17, 2013

<sup>10</sup> Mauro Cappelletti, *Cours constitutionnelle europeens et droits fondamentaux, sous la direction de L. Favoreu*, (Marseille: Economica, 1982), 37

<sup>11</sup> Details about the case I obtained from the website:

<http://www.ourdocuments.gov/doc.php?flash=true&doc=19>, accessed March 17, 2013

introduction of the constitutional review in the Constitution of the United States of America; judge John Marshall analyzed at the right of the courts to control the constitutionality of laws in a decision that is required under the authority of precedent, but that does not prevent the intervention of the executive to bring it to achievement, and thus to know a negative answer.

However, given that the parents of the Constitution of the United States, but also anyone who drafted a constitution have developed them as being the supreme and fundamental law of the nation, the will of the sovereign people, concluding that the second assertion is wrong, any act of the legislature declared unconstitutional being ineffective.

In *Marbury v. Madison* case, the arguments of the Supreme Court of Justice of the United States of America for a constitutional review were mainly related to the assertion of the necessity of a judicial interpretation of legal norms, the affirmation of the normative character of the Constitution (as opposed to a possible political character of it) and also asserting a normative hierarchy (identified in the opera of the Austrian jurist Hans Kelsen), in which the Constitution is located at the top of the hierarchy; also, it was stated the requirement of the seized judge to settle any conflict of norms by prioritizing the Constitution, laws contrary to it being considered null and void. By this manner, the judge is granted with the right to apply constitutional provisions, and where a law that has to apply in a case contrary to these provisions, not to apply, but in this way his decision will not affect the existence of the contrary law, it still remains in force. Creating further legal effects and regulating social relations. Regarded in this manner, from this perspective, the decision of the judge is of little importance; The rule of binding precedent that makes the law declared inconsistent with the Constitution should not be applied to any other court, since it is declared as such by the Supreme Court of the United States of America; in this way, law is virtually abrogated, because it cannot be applied by any court. This is the main reason why the American system could not be adapted in Europe; in the absence of the judicial precedent, the European solution was to entrust control of courts, its decisions having erga omnes applicability. Analyzing the above, we can identify the main features of the American model of constitutional justice:

- a. The existence of a diffuse control, by all ordinary courts under the authority of the Supreme Court;

- b. An actual inspection, conducted by law enforcement in connection with a particular case, pending before a court;
- c. The control is performed *a posteriori*, by way of exception;
- d. Decision after the control has relative authority of *res judicata*.

The first defining feature of the American model of constitutional justice is that, regardless of its position in the judicial hierarchy, control is effected by ordinary judges, the option to award this type of competence belonging to the founders of the American system; judge John Marshall raised the question “Where to seek protection against a breach of the Constitution, unless to the power of the judicial authority?”.<sup>12</sup> Georges Bourdeau said in this regard that “by his duty, the judge has to be impartial by nature. However, a fair solution is guaranteed by the judicial proceedings, the debates, and the requirement of reasoning sentence”.<sup>13</sup> Another reason behind the adoption of such a practice was that it could create a relative balance of the role of the three powers in the state; once assigned this task to control the judiciary, it receives a considerable force. In the American system, the first seized judge has jurisdiction to pronounce on any type of problems: civil, administrative, constitutional etc the role of the Supreme Court being the one to provide a final interpretation, authorized and uniform of the fundamental law. Supreme Court of the United States of America has the capacity to reform all the decisions from the United States territory. However, the Supreme Court of Justice may reform on appeal all decisions of the Federal States Supreme Courts, and all judgments of specialized Federal Courts. Except this role, the institution may also be seized directly, via a *writ of certiorari*, this means allowing those who lost at the lower court level to require reformulation of the judgment after previously exposed why it considers necessary. Enjoying the right to sort the applications and to choose only those that are considered important, the Supreme Court of the United States of America judges such appeals rarely<sup>14</sup>, today holding less than 2% of the cases, 40% of them being of constitutional manner.<sup>15</sup> Causes that may lead the Court to grant the benefits of a *writ of certiorari* are: issues discussed are important in connection with the federal law and the Court has not previously ruled on them, or in a case of conflicting interpretations of federal laws made by the lower

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<sup>12</sup> *Marbury v. Madison*, <http://www.ourdocuments.gov/doc.php?flash=true&doc=19>, accessed on March 20, 2013

<sup>13</sup> Georges Burdeau, *Droit constitutionnel et institutions politiques*, (Paris: L.G.D.J., 1966), p. 97

<sup>14</sup> Allan R. Brewer – Carias, *La justice constitutionnelle et le pouvoir judiciaire*, in *Études de droit public comparée*, (Bruxelles: Bruylant, 2001), p. 976 – 977

<sup>15</sup> Favoreu, *Droit constitutionnel*, 195

Courts; or if a decision of the lower court is at odds with previously rendered by the Supreme Court so the Court may proceed to review and depending on other grounds, or, of course, to refuse despite the existence of one to several reasons shown above.<sup>16</sup>

As stated above, the constitutionality control under the American model is a concrete one, meaning that is performed after the producing of the legal dispute caused by the appliance of the law. So, the law can be analyzed in terms of its conformity with the constitution, if but it did not rise to a legal dispute. In the exercise of the constitutional control, the general principle is that the Supreme Court does not rule on any disputes (where disputes may occur), or in abstract disputes. Thus, the demand for review of constitutionality to be declared admissible the claimant has to be able to justify that he has an interest to make the claim and also it has to be proven the importance of the issue for the American society (the produced prejudice or its effects have to be certain) and the actuality of the dispute. In this manner, the constitutionality of the law can be judged only if the decision is absolutely necessary for solving a concrete case.<sup>17</sup> The effects of this characteristic of the control are visible in the fact that the Supreme Court refused to judge political affairs, to give advisory opinions to other state powers regarding the correct way to interpret the Constitution or the synchronization between law and the Constitution.

The absence of an *a priori* control in the American model of constitutional justice determines its applicability only to the laws promulgated and published; the control can be *a posteriori* but to take place before the actual implementation of the law, so that this characteristic is related, but not identified with the concrete character. In the United States of America, citizens cannot ask the judgment of constitutionality of a law in the interest of the whole society, the Supreme Court of Justice expressly stating that it is not sufficient that a law to be invalid, but that person complaining (so that part of the trial) had to suffer, or be about to suffer a direct injury as a result of law enforcement, and not only that it consists in an alleged victim, jointly with the whole community.<sup>18</sup> There is a possibility to encounter in practice a degree of abstraction of control, especially if declaratory judgment, that leads the judge to rule on the rights of the parties and, if the situation requires so, about

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<sup>16</sup> Allan R. Brewer – Carias, *La justice constitutionnelle et le pouvoir judiciaire*, 977 – 978

<sup>17</sup> Details about I obtained from the *Burton v. United States of America* case, from the website <http://supreme.justia.com/cases/federal/us/202/344/>, accessed March 321, 2013; citat după Allan R. Brewer – Carias, *La justice constitutionnelle et le pouvoir judiciair*, . 987

<sup>18</sup> An good example is the *Frothinaham v. Mellon* case, <http://www.lectlaw.com/files/case29.htm>, accessed on March 22, 2013

the constitutionality or unconstitutionality of a possible law on which those rights depends; still, the control remains always *a posteriori*, despite not having the same degree of concreteness (as in trial procedure objection of unconstitutionality). The most used type of control in the American model of constitutional justice is done via the unconstitutionality exception; this exception can be raised by any of the parties to a specific dispute pending before a court, the procedure being intended as a defense of rights of the parties in the process, not as an act against the law. Thus, considering the legal text that would be applicable in this case to be contrary to the fundamental law, one party can ask the judge not to apply – it in that case, it does not mean that the law is disabled, only that the law will not be applicable in that case, but the superior law in hierarchy, the fundamental law. In the American system of constitutional review, the unconstitutionality of a law cannot be claimed from the office, so the court cannot invoke the unconstitutionality of the law; it is necessary that one side of a process to raise the plea of unconstitutionality.<sup>19</sup>

The claimed law in the trial is considered constitutional by the Court (i.e. the law is presumed to be constitutional), the appellant's duty being to prove why the law is unconstitutional. A presumed validity of any law approved by the legislative body is just a manifestation of respect for wisdom, integrity and patriotism of the legislative body.<sup>20</sup> The procedure of judging the unconstitutionality is the common legal procedure; so there are no special procedural rules for any special rules. The jury responsible for ruling on the unconstitutionality review pronounces itself regarding the exception rule applicable in this case, not regarding the cancellation of the contrary law. Even if the constitutional control decides that the law is unconstitutional, and the law is declared null and void, the solution refers only to the settlement of the case, not to any abstract conflict of laws. That's the reason why if there is a possibility of solving a case that do not necessarily appeal to the constitutional character of a law, the Supreme Court of Justice of the United States of America should avoid judging the constitutionality claim, which has an exceptional nature, as shown in the case *Ashwander v. Tennessee Valley Authority*<sup>21</sup>, 1936: "The Supreme Court of the United States of America will not rule in that case when there another law or legal basis allows solving the case". Thus, if a case can be judged on the basis of the two approaches: that of constitutional status and that of the interpretation of the law or common

<sup>19</sup> Dănișor, *Modele de justiție constituțională: de la divergență la o relativă convergență*, 114

<sup>20</sup> Allan R. Brewer – Carias, *La justice constitutionnelle et le pouvoir judiciaire*, 994

<sup>21</sup> Details about the case I obtained from the website

[http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0297\\_0288\\_ZS.html](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0297_0288_ZS.html), accessed on March 23, 2013

law, the Supreme Court will decide only regarding the last one.” On this basis, we can conclude that in the American model of constitutional justice we are dealing with *a posteriori* control, usually conducted via the *plea of unconstitutionality*, objection raised by one of the parties to a legal dispute brought before the court. If there is no other way to solve the case, the decision will be that of non – application of the law, but regarding strictly on the parties of the process and strictly to the case.

As above, the decisions’ regarding a constitutional review pronounced in the American system of control enjoys the *rex judicata* authority, i.e. they produce effects *in casus* and *inter partes*. Unlike decisions made by a specialized court, these have a distinct value in relation to others, because it cannot bring any benefits or disadvantages to any other person or other rules than those involves in that case. The decision does not affect the existence of the law or its applicability in other causes, other than those who determined the decision of unconstitutionality. The relative effect (relative to a single decision) of the decisions taken in a case about the constitutionality of a state law is doubled by the *stare decisis* doctrine or by the rule of precedent, which is absent in the European system. In this manner, the precedent is created by the fact that a decision may have authority in similar cases. In the Anglo – Saxon doctrine, if in a domain there is a legal matter, that decision has a *res judicata* value.<sup>22</sup> The precedent has in this case a value of interpretative source of law, being *erga omnes* applicable.<sup>23</sup> However, if the law does not exist or is insufficient, the authority of the decision is general, being applicable *erga omnes*. In this case, the judge has no duty to apply the rule of law, but to develop the rule of law<sup>24</sup>, as a consequence of the previous rule, which assumes that once the decision is binding on lower courts in rank, or the same, with the one wich issued it. The decision of a judge must be in accordance with the totality of the past decisions.<sup>25</sup>

Considering the doctrine in the constitutional control matter, the decision of unconstitutionality imposes to all the courts when it is adopted by the Supreme Court of Justice. The law becomes inapplicable, since any request made under it shall be declared admissible by the court. Regarding the administrative acts, since they are controlled by the

<sup>22</sup> Dănișor, *Modele de justiție constituțională: de la divergență la o relativă convergență*, 116

<sup>23</sup> Henry Brun și Guy Tremblay, *Droit constitutionnel*, (Quebec: Cowanville, 1990), p. 24

<sup>24</sup> René David, Camille Jauffret-Spinosi, *Les grands systèmes de droits contemporains*, (Paris: Dalloz, 1992), p. 306

<sup>25</sup> John Anthony Jolowicz, *Droit anglais*, (Paris: Dalloz, 1992), p. 42

ordinary courts, it will get a inapplicability decision of the unconstitutional law. Somehow, the *inter partes* effect is somehow misleading in the American constitutional system.<sup>26</sup>

## CONCLUSION

The American model of constitutionality control spread firstly because of the historical and geographical reasons from North America to Latin America. After that, the model has been adopted by the Australian continent, in Japan and in some european countries, among them being also Romania. This process of diffusion has been the subject of adaptation to the realities states, sometimes the essential features if it being modified and altered, thus leading to some other mixed systems. As shown, not all states not in all states does the legally precedent exists, so that European states needed centralize the control to a single instance.

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<sup>26</sup> Dănișor, *Modele de justiție constituțională: de la divergență la o relativă convergență*, 117

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## EDUCATION AND ECONOMICAL GROWTH - RELATIONS OF CAUSALITY

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### **ABSTRACT:**

*IN THIS PAPER WE INTEND TO ANALYZE THE CAUSALITY BETWEEN EDUCATION AND ECONOMIC GROWTH. IN ROMANIA, AND ALSO, IN OTHER STATES IT EXISTS A POSITIVE RELATIONSHIP BETWEEN INVESTMENT AND GROWTH IN EDUCATION. THE EDUCATION CONTRIBUTES TO REVENUE GROWTH TO AN INDIVIDUAL AND IT IS STRONGLY CORRELATED WITH THE REDUCTION OF POVERTY, ILLITERACY AND INCOME INEQUALITY. TO PERFORM THIS ANALYSIS WE USED STATISTICAL DATA AVAILABLE TO THE NATIONAL INSTITUTE OF STATISTICS OF ROMANIA AND ON OTHER SITES IN THE FIELD. SO, WE OFFERED AN INSIGHT INTO ROMANIAN EDUCATION EVOLUTION AND ON THE EDUCATION BUDGET. IN THIS CONTEXT IT SHOULD BE NOTED THAT ROMANIAN EDUCATION IS SITUATED ON TRACK DEVELOPMENT, INVOLVED AND OVERCOME RECESSION AND ALSO IT IS A MAJOR FACTOR IN THE ECONOMIC GROWTH OF A COUNTRY IN THE DEVELOPING WORLD.*

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**KEY-WORDS:** EDUCATION, GROWTH, HUMAN DEVELOPMENT INDEX, DEVELOPMENT

### **INTRODUCTION**

Each man faces with various problems which affect his existence directly. During lifetime he is trying to obtain food for himself and his family. He is concerned about his personal life or the life of community of which it is part. He is able to bear the consequences of an economic crisis or to take part to the benefits of general prosperity. All these concerns are dependent by the general development of the economy and society.

Today, we are associating economic growth with “a synthetic expression of chances for a better life and therefore represents a major objective of macroeconomic

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policy.”<sup>3</sup> Along time, many researchers have shown interest to identify the causes and reasons for the economic growth of a country. There were few answers directed to education, because through education is transmitted and received knowledge, the education helps ones to form public opinion, and is a supportive factor to labor and helps to maintain a broad social consensus.

The educational system has increasingly placed more in public services, whose dynamics is resulting from a compromised state public (when we say public we refer to parents, children, educators, etc.), and with other sectors of society . After the moment in which during centuries the educational system has been dependent on the Church (in Europe and in other regions), education is then monopolized by the state, standing at the crossroads of some important interests and it can't be isolate by evidence mutations arising in employment, services and finance fields.

Education is considered to be a system, which in its turn is composed of interrelated subsystems and other components, but looked at the macro level in the complexity of its relations with the environment of existence it becomes a substitute.

In the report made by UNESCO, under the direction of Edgar Faure was specified the fact that there are three phenomena that characterize the tendency to generalize the relationship education- economical growth: the first phenomenon is the fact that, on a global scale, education tends to precede economic development - education precedes, the second implies that education consciously prepares people for future society – education provides, and the third point refers to the contradictions of the products of the education system (the supply of skills) and societal needs (demand qualifications): the society refuses a larger or smaller number of items of learning.<sup>4</sup>

## **HOW EDUCATION CONTRIBUTES TO THE ECONOMICAL GROWTH?**

“Global research (. . .) has established unequivocally that education increases individual incomes; that it is positively correlated with macroeconomic growth; that it is strongly correlated with reductions of poverty, illiteracy and income inequality; and that it has strong complementary effects on the achievement of (. . .) lower infant and child mortality, better nutrition, and the construction of democratic societies. The expansion of educational opportunity (...) is in most societies, far easier to implement than the

<sup>3</sup> Coralia Angelescu et al., *Economics - Seventh Edition* ( Bucharest: Economic, 2005), 217.

<sup>4</sup> Apud Nicolae Constantinescu, *Romania's economic history - Volume II* ( Bucharest: Economic, 2000), 327.

redistribution of other assets, such as land or capital. In short, education is one of the most powerful instruments known for reducing poverty and inequality and for laying the basis for sustained economic growth, sound governance, and effective institutions.”<sup>5</sup>

In 1973, G. Psacharopoulos requires a new way of analyzing the relationship between education and economic development. This method is based on cost - benefit analysis and serves to show off how paying special attention on education we witness to a sustainable growth. In one of his studies<sup>6</sup>, Psacharopoulos explains why in the less developed countries the rates of rentability in education are higher than in developed countries and how the rates of rentability for general education are higher than the rates of rentability for technical and scientific education.

A. Inkeles<sup>7</sup> suggests the idea that "modern society" can not exist without adequate personal attitude which is, in an overwhelmingly proportion, the result of education.

In Romania, as in other states, there is a positive relationship between investment in education and economical growth. So, as more attention is on education and as many investments in education are more pronounced, the chances to witness economical growth are higher. So a person with a higher education who graduated from university, records for the entire period of life, a higher income than a person who just graduated high school studies. It should also be noted that this does not stop here and propagates itself in the form of so-called snowball.

What does this snowball mean? The answer is obvious, that in most cases, a person who, throughout life, doesn't graduated a college and doesn't has a higher education register a lower income / restricted, which means that the chances that his followers to be able to complete a college education is minimal (this situation occurs especially in rural areas where there is no secondary education establishments and rental expenses, maintenance, transport and so on are too high for parents to cope).

The fact that education contributes to human development and economic growth has been noticed many centuries ago when Chinese teacher Huari-Tzu said:”If your projects are for one year, resembles wheat. If those are for 10 years, plant a tree. If there

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<sup>5</sup> Apud Emily Hannum and Claudia Buchmann , *The Consequences of Global Educational Expansion. Social Science Perspectives* (New York:American Academy of Arts & Sciences, 2003), 1.

<sup>6</sup> G. Psacharopoulos, *Returns to Education: An International Comparison* (San Francisco: Jossey-Bass, 1973).

<sup>7</sup> A. Inkeles, D. B. Holsinger, *Education and Individual Modernity in Developing Countries* (Leiden: Brill, 1974 ).

are for 100 years, instruct people. Seeding wheat once, you will harvest once. Planting a tree, you will harvest 10 times. Instructing people, you reap 100 times. " <sup>8</sup>

## EDUCATION THROUGH STATISTICAL INDICATORS

In the following analysis we will focus on the education system in terms of its relationship with socio-economical system. As such, we present several indicators, which, in our view, emphasize the limits of Romanian educational development.

In Romania education system had encountered and encountering many difficulties, and this is due to the lack of an economical system, but also a political one adequately able to identify those moments and causes that lead to non-functionality of the Romanian education and failure of certain objectives.

The first indicator is the evolution of the number of educational institutions. According to the data collected by the National Institute of Statistics of Romania (Table no. 1.), in the last 11 years the number of schools dropped sharply, reaching as today to have 70% fewer than the educational institutions in the academical year / 2002-2003.

**Table no. 1 Number of educational institutions in the period 2002-2013**

School / academic year	Number of educational institutions
2002-2003	23679
2003-2004	18012
2004-2005	14396
2005-2006	11865
2006-2007	8484
2007-2008	8230
2008-2009	8221
2009-2010	8244
2010-2011	7588
2011-2012	7204
2012-2013	7069

*Source: National Institute of Statistics of Romania, Statistical Compendium, 2008, 2009, 2010, 2011, 2012, pp.36-37*

<sup>8</sup> Apud Steliana Perț, *Romania's economic history – N.N. Constantinescu Acad. Coordinator, Volume 2* (Bucharest: Economic, 2000), 327.

Also, it can be seen that in the period 2007-2010 the number of educational institutions has remained constant, following that in the scholar / university year 2010-2011 to have a downward trend. It is true that this situation has been reached due to several economical, political reasons, but we consider that the decrease of population in Romania has greatly influenced this situation.

In the following, we present the evolution of the number of graduates by levels of education (primary education, secondary education, vocational training and apprenticeship, post-secondary and foremen, higher education) during 2000-2012.

**Table no. 2 Number of graduates by level of education in the period 2002-2012 (thousand)**

School / academic year	secondary education	High school	Vocational education and apprenticeship	Post-secondary education and foremen	university
2002-2003	307,5	173,7	83,3	25,33	103,4
2003-2004	296,7	172,3	77,7	22,6	110,5
2004-2005	265,2	177,6	152,9	18,5	108,5
2005-2006	231,8	185,3	150,2	15,9	112,2
2006-2007	219,5	187,6	133,8	12,7	125,8
2007-2008	207,8	218,2	113,1	13	232,9
2008-2009	204	202,1	100,9	17,6	214,8
2009-2010	199	204,9	89,8	19,2	191,3
2010-2011	229,6	202,2	43,7	21,3	186,9
2011-2012	184,6	187,5	4,6	23,4	136,7

*Source: National Institute of Statistics of Romania, Statistical Compendium, 2008, 2009, 2010, 2011, 2012, pp.36-37*

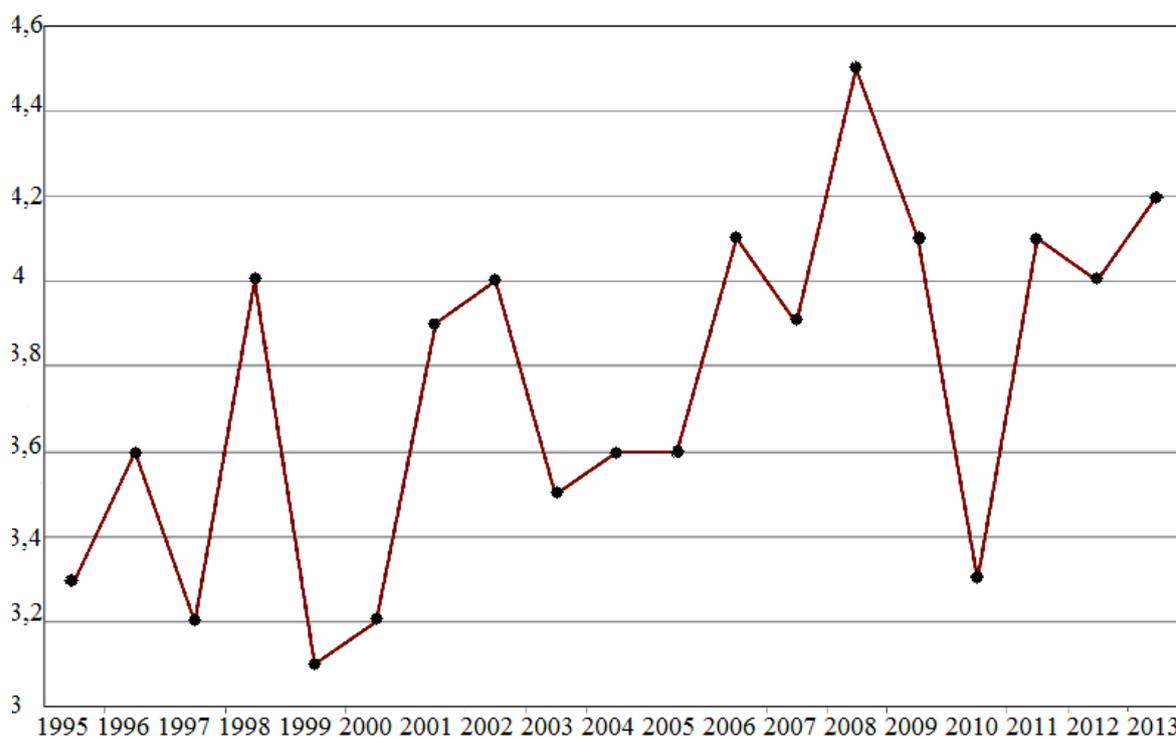
Correlated with the decline of schools, the number of graduates of vocational education decreases continuously, reaching the 2011-2012 school year to 4,600 graduates.

2007-2010 is a period of rising higher education, where the number of graduates exceeds 200,000, but in 2012 we are witnessing a sharp decline from 136 700 graduates.

At the end of the 2011-2012 school year, the highest number of graduates is in secondary education where we recorded over 184,000 graduates.

We appealed to these statistics to highlight the magnitude of the effort that was made by our country regarding the educational system, in a time where things are different in developed countries. It is true that Romania is a country that tends for developing and that is hard to start, but this things should be analyzed very good because of these it depends the economical growth and development and therefore our future as a people.

The third indicator, which is the most significant for educational system, refers to the education budget. To be more specific, we analyze the percentage of GDP in Romania distributed on education system.



**Figura nr. 19 - - Budget for Education in P.I.B. (%) from 1995 to 2013**

According to the data, we can see that in the analyzed period, the lowest percentage of GDP allocated for education is recorded in 1999 with a rate of 3.1%. The budget allocated for education varies from year to year. Thus, in 2008, the year in which it accrues

<sup>9</sup>The statistical data with which we made Figure 1 - Budget for Education of GDP (%) from 1995 to 2013, are available on [www.eurostat.com](http://www.eurostat.com)

the highest percentage of GDP allocated to education throughout the entire period analyzed, we have a 4.5%, two years later only 3.3% of GDP is allocated.

All those oscillations are the result of an imbalance, which over long periods will have serious consequences. It is also true that the percentage allocated to education depends by the evolution of Romania's Gross Domestic Product, but education should not be marginalized because, as we have seen, it contributes to the development of a state and the growth of the state.

In this regard, experts believe that the positive effects of education appear most clearly in the long term, which is indubitable. Thus, Krueger and Lindahl demonstrates that increasing the duration of studies have insignificant effects on short-term to G.D.P but has significant effects on long-term (10-20 years).<sup>10</sup>

Human Development Index (HDI) is another indicator that characterizes the literacy, education and the standard of living in a society. Many researchers had taken into account, in elaboration of sociological studies, human development index. Adrian Gorun writes that “It is very known that the sizes of human development are expressed by the *human development index* (H.D.I.) that has values between zero and 1000. As a synthetic indicator of the human development, the human development index is calculated depending on the following indicators: longevity, education level (evaluated as a weighted arithmetic average between the literacy degree and the degree of encompassing in different forms of education) and Income per inhabitant.”<sup>11</sup>

## **EDUCATION – A COMPETITIVE FACTOR IN THE ECONOMICAL GROWTH**

The economical growth may be accomplished only if we are taking into account the global social context, and the creation to a solid market for low qualifications which is a solution for underdevelopment, unemployment and poverty, and a first step towards a knowledge-based economy.<sup>12</sup>

An important part in the economic development of a country is played by competitiveness. Steliana Pert and many other researchers believe that education

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<sup>10</sup> Apud Emily Hannum and Claudia Buchmann, *The Consequenc of Global Educational Expansion. Social Science Perspectives*, (New York: American Academy of Arts & Sciences, 2003).

<sup>11</sup> Adrian Gorun, *Social development and globalization. Human development and current global problems(case study)*, (Targu Jiu: Academica Brancusi, Nr.2/2011 ), 10. Accessed May 15, 2013, [http://www.utgjiu.ro/revista/lit/pdf/2011-02/1\\_ADRIAN\\_GORUN.pdf](http://www.utgjiu.ro/revista/lit/pdf/2011-02/1_ADRIAN_GORUN.pdf)

<sup>12</sup> David Ashton, *High skills: the concept and its application to South Africa* ( Journal of Education and Work, Volume 18, Number 1 / March 2005), 19-32, Accessed May 17, 2013, doi:10.1080/1363908052000332294

transforms itself into a factor of competitiveness, and this is true because at the level of Global Competitiveness Index, education plays an important role.

**Table no. 3 Sources of competitiveness according to the Global Competitiveness Index**

Primary factors: Institutions Infrastructure Macroeconomic stability Health and primary education	Key components of increasing the competitiveness of any economy
Factors that enhance efficiency Higher education and professional training Goods market efficiency Labor market efficiency Degree of sophistication to the financial market Extent of absorption of the new technology Market dimension	Source of increasing economical efficiency
Factors based on innovation and sophistication Degree of sophistication in business Innovation	Pillars of economies based on innovation

*Source: Global Competitiveness Report 2008-2009, World Economic Forum, Switzerland, 2008*

## CONCLUSION

From our study it can be seen that education is the key element in the economical growth of a country, even if we were and we are in economic crisis, education has always manifested as a major factor for development and economical growth.

We conclude by outlining some important aspects: while over time education has encountered many difficulties which led, of course, the slow development of the Romanian

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economy, we can say that all these barriers / impediments led the Romanian education on the trajectory of development, involvement and exceeding contradictions and crisis of development.

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## STUDENT'S PERCEPTIONS ABOUT STUDENTS' REPRESENTATION IN UNIVERSITY GOVERNANCE. IMPLICATIONS FOR PRACTICE

Alina CIOBANU<sup>1</sup>  
Ana-Maria HOJBOTĂ<sup>2</sup>

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### ABSTRACT:

*THE 2001 PRAGUE COMMUNIQUÉ EMPHASIZES THE NEED FOR STUDENTS TO PARTICIPATE AND INFLUENCE THE ORGANIZATION AND EDUCATIONAL CONTENTS IN UNIVERSITIES AND THE FACT THAT "STUDENTS ARE FULL MEMBERS OF THE ACADEMIC COMMUNITY". ALTHOUGH AT LEAST FORMALLY, THE ASPECTS REGARDING STUDENT REPRESENTATION AND PARTICIPATION HAVE BEEN REGULATED, SOME STUDIES SUGGEST THEIR ABSENCE FROM THE UNIVERSITY EXPERIENCE (PERSSON, 1998; KAMPERIN, 2004; MENON, 2005). CONSEQUENTLY, EVEN IF THE FORMAL RIGHT OF REPRESENTATION IS ENSURED, ITS EFFECTIVE IMPLEMENTATION IS "FAR FROM SATISFACTORY" (BERGAN, 2003). THE PRESENT STUDY EXPLORES THE PERCEPTIONS OF STUDENTS REGARDING THEIR PARTICIPATION IN THE DECISION PROCESSES IN THEIR ACADEMIC INSTITUTIONS. THE FOCAL POINTS ANALYZED REGARD: THE DEGREE OF VISIBILITY AND INVOLVEMENT OF STUDENT REPRESENTATIVES AND THEIR ROLE IN THE UNIVERSITY, THE RELATIONSHIP BETWEEN REPRESENTATIVES AND STUDENTS, IDENTIFYING THE MAJOR IMPROVEMENT DIRECTIONS IN THE REPRESENTATIVE-STUDENTS CONSULTATION PROCESS. RESULTS INDICATE THE POOR DEFINITION OF THE GOALS AND THE LACK OF TRANSPARENCY TOWARDS THE STUDENTS IN THE DECISION PROCESSES IN THE UNIVERSITY, THE MAIN OBSTACLES IN MAINTAINING PARTICIPATORY DEMOCRACY. THE STUDENTS SIGNAL THE NEED FOR A MORE VISIBLE AND INTENSE ACTIVITY OF THE REPRESENTATIVES, THROUGH A BETTER PROMOTION OF THEIR OWN ACTIVITY AND A MORE DIRECT AND OPEN COMMUNICATION WITH BOTH STUDENTS AND THE MANAGEMENT.*

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**KEY WORDS:** STUDENT PARTICIPATION, STUDENT REPRESENTATIVE, HIGHER EDUCATION

### INTRODUCTION

According to the conclusions of a study concerning students' participation practices and policies in governing structures of universities, that was conducted in 2003 by the European Council, the issue of student participation and representation are strongly

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supported by a legal framework. In most of the countries included in the study, student representatives have full prerogatives in the leading structures and have the right to vote. The author of the report emphasizes an observed phenomenon: while mobilizing students towards a certain cause is possible, achieving a prolonged interest for that cause and for the university and its governance is much more difficult (Bergan, 2003, apud Little, Locke, Scesa, & Williams, 2009). The respondents (students, representatives of the higher education institutions and ministries) showed a positive attitude towards the growing influence of students in their host institution. The areas in which student representation is most efficient are those concerned with social, environmental problems pertaining to the institution and also those regarding educational contents. However, in some countries, there is still the Senior Management board takes all the decisions and student governance does not lead to any concrete results. Simultaneously, there is a widespread belief that student representation is assumed by a limited group of elites that rarely make contact directly with the students. (Little, Locke, Scesa, & Williams, 2009). Therefore, there is a need to focus on disseminating the information regarding student rights and the results of the debates and decisions that are relevant for them. Nowadays, we can assert that the formal dimensions of student representation mechanisms have been mostly formalized to a large extent, but we lack the studies to confirm the situation. Even if the formal right to representation is granted, its actual use by the students is far from acceptable (Bergan, 2003). At the same time, a survey of the students' perception of their own influence in the higher education leading structures could offer some suggestions that could explain why their level of participation is still modest or inconsistent.

## **PROBLEM STATEMENT**

Students are partners of the Higher Education institutions and members of the university community with rights and obligations affirmed by art. 118 in the Law no. 1/2011, with all later amendments. According to this law, students are represented in the consultative, decisional and executive structures within the universities. The student representatives in the Faculty Councils and University Senates are elected by direct, secret and universal election of all the students in the faculty, respectively the university (ANOSR, 2012). The main representational functions of the students in Universities are the following: a) group/ class representative, b) year representative, c) student representatives

in Faculty Councils (counselor student), d) students represented in University Senate (senator students); delegates/ members in the faculty/ university committees.

A study regarding the satisfaction of students from Alexandru Ioan Cuza University of Iasi, published in 2012 (*Self-Evaluation Institutional Report*), indicates that one of the weakest areas regarding the quality of services, measured by student reports is that of student representation, from the point of view of visibility, motivations and performance of student leaders or the student representatives in Faculty Councils and University Senate. At the same time, in the summer 2012, there have been wide student movements and protests directed towards taking stronger stands and winning a more respected position in relation to the leading structures in the higher education institutions.

The National Alliance of Student Organisations in Romania (ANOSR), whose goal consists of militating towards a participatory and equitable Higher Education, conducted a series of studies and published some documents that suggest that the educational system is lacking equity politics, a fact that directly affects the quality of the educational act. (ANOSR, 2011; ANOSR , 2012).

## **PURPOSE OF STUDY**

The purpose of the present study is to explore the perceptions of students regarding their participation in the decision making processes in their academic institutions. The phenomena under analysis regard the following issues: the visibility and degree of involvement of students' representatives, perceptions regarding the importance and their actual role in the decision making processes at the Faculty and University levels. Also, the open-ended questions tried to diagnose the main symptoms of the deficiencies in the relationship between representatives and students, and, at the same time, were designed to draw from the respondents various possible improvement directions in the representative-students consultation process.

## **METHODS**

Sixty nine students (14 male and 55 female) from "Alexandru Ioan Cuza" University in Iasi have accepted to voluntarily participate in the study, by answering an online questionnaire, send via e-mail, designed to extract their perceptions regarding the degree of involvement in the decision-making processes in the university.

The questions regarded the following areas: *visibility and performance of student representatives, the role of the representatives, suggestions regarding the optimization of the consultation process, strengths and weaknesses identified in the relationship between students and representatives.*

## FINDINGS

### *Visibility and performance of student representatives*

An inclusive culture, one that engages students, teachers, and the administrative staff in a significant dialogue, directly linked to a flowing decision making and revision process, has to diffuse in the entire institution, even more, in the entire field of higher education (Kennedy, 1997; Shor, 1996). Without an active participation in such a process and in creating educational experiences, needed for struggling against ignorance and apathy, they cannot become true members of a „community of learning” (Wolff, 1969). Almost half of the interrogated students declare that they do not even know who their representatives are and more than 50% declare that they didn’t participate in their election. A much smaller proportion declares that they are not consulted regarding the way their rights are respected. At the same time, over 90% of the students who responded to our survey indicate that they never requested the help of the representatives for solving or addressing problems.

*Table 1. Frequency of responses regarding the representatives visibility among students*

Items	Frequency		Percent	
	Yes	No	Yes	No
Do you know the representative students in the decisional and executive structures in your faculty and university?	37	32	54%	46%
Are you periodically consulted by the student representatives concerning the problems that you face as a student (for instance, when the regulations are not respected)?	22	47	32%	68%
Were you invited to participate in consultation meetings (sessions, gatherings) that regard problems specific to the students?	43	26	62%	38%
Have you ever experienced any problem for which you sought for the help of the student representative?	2	67	3%	97%

### ***The role of the representatives***

The study participants' views are diverging when it comes to estimating the importance of representatives in the decisions taken by the management, and their accomplishments are regarded in general as rather "satisfactory" (table 2).

Table 2. . Frequency of responses regarding the representatives role

<b>How important do you think the role of the representatives is in influencing the decisions of the institution managerial staff (establishing strategies and decision making)?</b>	<b>Frequency</b>	<b>Percent</b>
Not at all (purely formal)	<b>12</b>	<b>17%</b>
Slightly important	<b>25</b>	<b>36%</b>
Important (real)	<b>26</b>	<b>38%</b>
Very important (crucial)	<b>6</b>	<b>9%</b>

At Alexandru Ioan Cuza University, according to the Regulations for the student representatives' election in the leading structures at the University, (2007): students members of the faculty councils have the responsibility to be informed regarding all the represented students' didactic and social activities and to actively participate in their resolution through formal and informal methods. Concurrently, the student representatives in Faculty Councils and Senate can initiate proposals for normative acts for the optimization of their colleagues' activities.

### ***Students' suggestions regarding the optimization of the representatives-students consultation process***

From the enumerated directions of improvement of the consultation practice of the students by their representatives, the following are most frequently invoked: *regular meetings to debate and solve problems, programming the activity and work strategies with the students, self-promotion and encouraging a participatory culture in campuses*. There is a request for mechanisms to ensure the corresponding consultation within the student community and between the students and university management. As Okello (1998) previously noted, if students and academic staff are equally involved in decisions important for the university activity, the first is more likely to identify themselves with the results of such an institutionalized participation process, leading to the reduction of

administrative student-staff problems. This by itself leads to a clearer focus on the quality, nature and programming of representatives in leadership positions and policy-making organisms. When decisions arise in consultation processes and more than one person is employed in the definition of the problem, considering the alternative actions, in determining the possible implications of proposed solutions and structuring responses (Sherman, 1993).

At the same time, to improve their activity, student representatives need to develop specific abilities and competencies. Regarding the competencies that the student representative needs to develop, participants in the study consider it is necessary that they receive training for developing soft skills (communication skills, leadership, negotiation, team-work and conflict resolution) and administrative knowledge.

The communication between representatives and students is one of the main directions that need improvement. Among the enumerated solutions, we mention the following: monthly general meetings with the students, creating an online portal, regular informative meetings in which the representatives inform and report their activity through official; organizing informal activities; surveys to identify concrete problems the students are facing (table 3).

***Strengths and weaknesses in the relation between representatives and students.***

Students were asked to mention at least three positive and three negative aspects identified in their personal or collective experience regarding the activity of the representatives. The most frequent answers regarded: commitment/ engagement (frequency=7), openness/ availability (frequency=12), communication abilities, persuasion and negotiation (frequency=15) as positive aspects and inadequate sharing of information (frequency=10). Reduced/ inefficient communication (frequency=13) *and lack of engagement/ interest* (frequency=12) were identified as the main negative aspects. Most of the respondents, however, did not communicate (frequency=27) or collaborate (frequency=23) with their representatives.

**STUDY LIMITATIONS**

Although the online questionnaire was distributed to a larger number of students, the response rate was extremely low. This fact, by itself, can indicate a lack of motivation among students regarding the issues raised in the survey. Another possible explanation for

the reduced response rate could reside in the nature of the scale, containing a large number of open-ended questions. This fact can demand a higher degree of focus and motivation to invest the effort and time needed for complete.

Future studies will be conducted on this topic of motivations and engagement in the problem of student representation in management structures of universities, with more refined instruments and more refined strategies to ensure a satisfactory response rate.

Table 3. Frequency of responses regarding the optimization of the representatives-students consultation process

<b>General category</b>	<b>Specific measures</b>	<b>Frequency</b>
<b>Face to face communication</b>	Regular meetings (e.g. Monthly) between the students and their representatives for debating the existing problems; adequate publicizing of the meetings	<b>24</b>
	Announcing the organization of information meetings regarding Student statute at the highly frequented courses	<b>7</b>
	Organizing annual conferences	<b>1</b>
	Surveys	<b>4</b>
	Panel meetings, debates, focus groups, consultation	<b>6</b>
	Frequent meetings with the representatives or group leaders	<b>1</b>
<b>Visibility and self-promotion</b>	Promotion of the activity at the beginning of the school year and presenting the representation strategy directly to the students	<b>7</b>
	Online self-promotion (blogs, Facebook page) and active engagement in student discussion forums	<b>8</b>
	Public display of the contact data pertaining to the representatives	<b>2</b>
<b>Physical communication media</b>	Setting up a mailbox where students could transmit their problems in writing	<b>2</b>
	Placing attractive posters	<b>2</b>
<b>Organizing meetings and non-formal activities</b>	Informal meetings, outdoor activities, trips	<b>5</b>
<b>Engaging the students</b>	Encouraging participation and presenting the advantages of student participation in the decision making process	<b>10</b>

## **CONCLUSION**

The present study tried to explore the perceptions of the students regarding the activity of their representatives in the leadership structures of the university. Results indicate a need for improving representatives' activity especially regarding their visibility and maintaining their ruling roles.

At the same time, the results show the fact that although the student statute is established through official documents, in practice, their role is not reaching satisfactory level. Moreover, this role is not perceived by the students as a truly important one.

Furthermore, this study, surpass the level of observation, towards the diagnosis of the situation of the representatives and offers a series of suggestions concerning several ways of optimizing the consultation process between the students and their spokespersons (implicitly, between students and the university): from the expansion of direct and virtual communication channels to raising awareness regarding the need to develop specific abilities (leadership, teamwork, public speaking). These identified directions could function as reference frames for the University management in finding and channelling the adequate resources towards developing a culture of active participation in which students should develop the sense of belonging to a „learning community”.

### **Acknowledgements.**

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## A BRIEF ANALYSIS OF THE PUBLISHED BOOKS AND SCIENTIFIC ARTICLES ON FINSLER TOPIC

Elena POPOVICI<sup>1</sup>

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**ABSTRACT:**

THE PRESENT ANALYSIS AIMS TO REVEAL THE DEVELOPMENT AND THE CURRENT STATUS OF THE PUBLICATION OF BOOKS AND ARTICLES ON FINSLER GEOMETRY TOPIC, IN REAL OR COMPLEX CASE. USING STATISTICAL METHODS, BOTH METHOD OF UNIVARIATE ANALYSIS AND DESCRIPTIVE METHOD OF MULTICRITERIAL ANALYSIS, IT COULD BE ESTABLISHED THE EVOLUTION OF THE PUBLICATION OF SCIENTIFIC BOOKS AND ARTICLES ON FINSLER SUBJECT IN THE PAST YEARS AND IT COULD BE PROVIDED A FORECAST FOR THE NEXT TWO YEARS. ALSO, AN ANALYSIS OF THE INTERNATIONAL SPECIALIZED JOURNALS WAS DONE, CONSIDERING THE NUMBER OF ARTICLES PUBLISHED ON FINSLER GEOMETRY THEME OR THE SUBJECTS APPROACHED BY DIFFERENT RESEARCHERS AND RECEIVED FOR PUBLICATION.

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**KEY WORDS:** FINSLER GEOMETRY, STATISTICS, EVOLUTION, UNIVARIATE ANALYSIS, MULTICRITERIAL ANALYSIS

### INTRODUCTION

The basics of the Finsler geometry were made since 1918 by Paul Finsler in his doctoral thesis "On curves and surfaces in general spaces" ("*Über Kurven und Flächen in allgemeinen Räumen*"), but, partly because of the thought expressed in the foreword of his thesis, namely that a Finsler space is only a generalization of a Riemannian space, on the other part due to the geometrical principles undeveloped enough, Finsler geometry began to be studied by geometers only after 1970.

In the present, the study of Finsler spaces is of interest because it helps in solving theoretical problems existing in various fields, which might include several chapters of physics as mechanics, relativity, electromagnetism and signal processing theory, and the theory of biosystems, neuroimaging or neurology.

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In the present study will be analyzed the evolution of publishing of books and scientific articles on Finsler topic, in internationally recognized journals in ScienceDirect<sup>2</sup> database, between 2002-2012, trying at the same time to realize a forecast of publishing articles on the subject for the next two years, 2013-2014. Also, based on this information will be an analysis of existing specialized international journal in this database by the number of articles published on Finsler topic and the most common subjects and keywords approached in the published articles.

This statistical study is expected to reveal an increasing number of articles on Finsler theme published in recent years in more and more international journals, with diverse subjects and varied applications.

## RESEARCH METHOD

The first step of this study involves setting the variables, collecting and recording data, followed by choosing the method of interpreting these data. For this purpose was consulted ScienceDirect website<sup>1</sup>, where were extracted in a first stage the number of books and articles published in international journals on Finsler topic, during 2002-2012. These data were used to analyze the evolution of published articles and books on Finsler, achieving also an adjustment and a forecast of publication of materials on Finsler for years 2013-2014, using regression method and analysis of linear and parabolic trend<sup>3</sup>.

The second stage of data collection and recording was done in order to analyze specialty magazines internationally recognized, in terms of the number of articles published on Finsler theme and the subjects approached, specific to this topic. Thus, accessing the ScienceDirect database<sup>1</sup> again, were registered the professional journals that published articles on Finsler and the number of articles published by each in the years 2010, 2011, 2012. Using descriptive technique Boxplot will first analyze the situation of publication in journals in 2012, followed by a comparative analysis in terms of the number of articles published by each of the main journals of interest during the years 2010, 2011, 2012. Through an advanced search in the same database, it could be recorded the number of articles published by major magazines on Finsler during 2012 on certain topics, thus enabling a descriptive study of individuals, in this case magazines, then, using the principal component factor analysis (PCA), a multivariate analysis and a classification of journals is

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<sup>2</sup> <http://www.sciencedirect.com>

<sup>3</sup> Liliana Duguleană, *Statistică în cercetare*, Braşov: Transilvania University of Braşov, Doctoral School, 2012, Part I and Part II

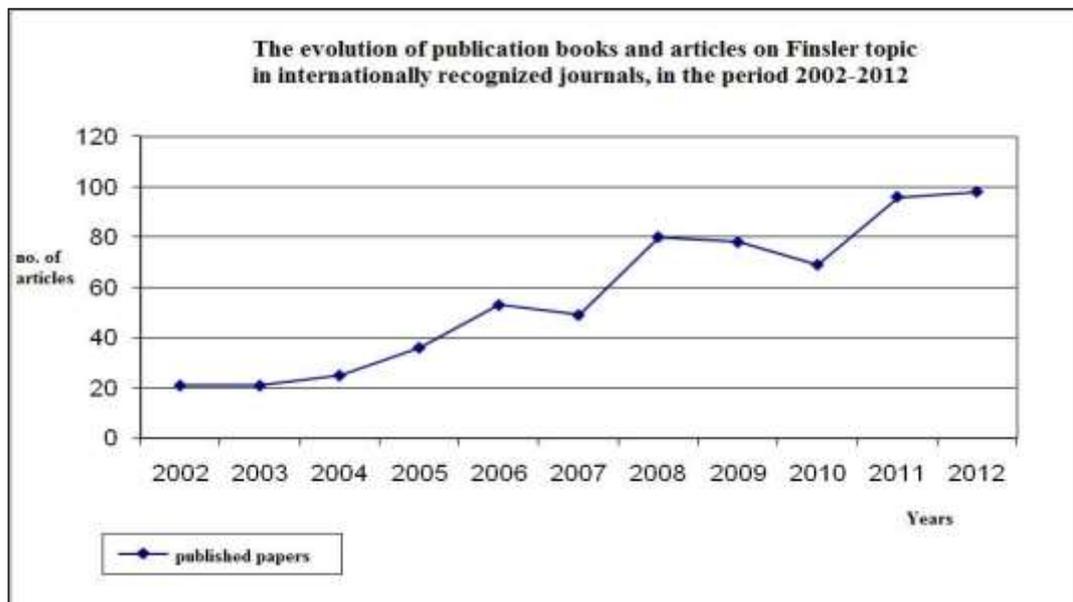
performed<sup>4</sup>. In order to analyze the data collected and recorded in the first stage were used tools of Excel and SPSS software packages.

## results

In this section will be presented and explained tables and graphs realized with the data collected and recorded in advance, required for the analysis presented above.

### Analyses of trends of writing articles and books on Finsler geometry

In the graph in Fig.no.1 is observed the upward trend in publication of articles in internationally recognized magazines, from 21 items in 2002 to about 100 articles in 2012, according to ScienceDirect.



**Fig.no.1 - Evolution of publication of books and articles on Finsler geometry, in the period 2002-2012**

The situation is positive and reflects the interest of researchers from differential geometry for the geometry of Finsler spaces and their applications.

Next (Fig. no. 2) presents an adjustment and a forecast of publication of books and scientific articles in professional journals on Finsler topic for 2013-2014, based on data obtained for the period 2002-2012, according to ScienceDirect.

<sup>4</sup> <http://www.scribd.com/doc/52127887/Proiect-Analiza-Datelor>

Theoretical round values calculated with the linear model  $\hat{y}_i = 57 + 8t_i$  shows that each year there is an average annual increase of publication of books or articles by 8 publications, forecasting 108 materials published in 2013, respectively 116 materials in 2014.

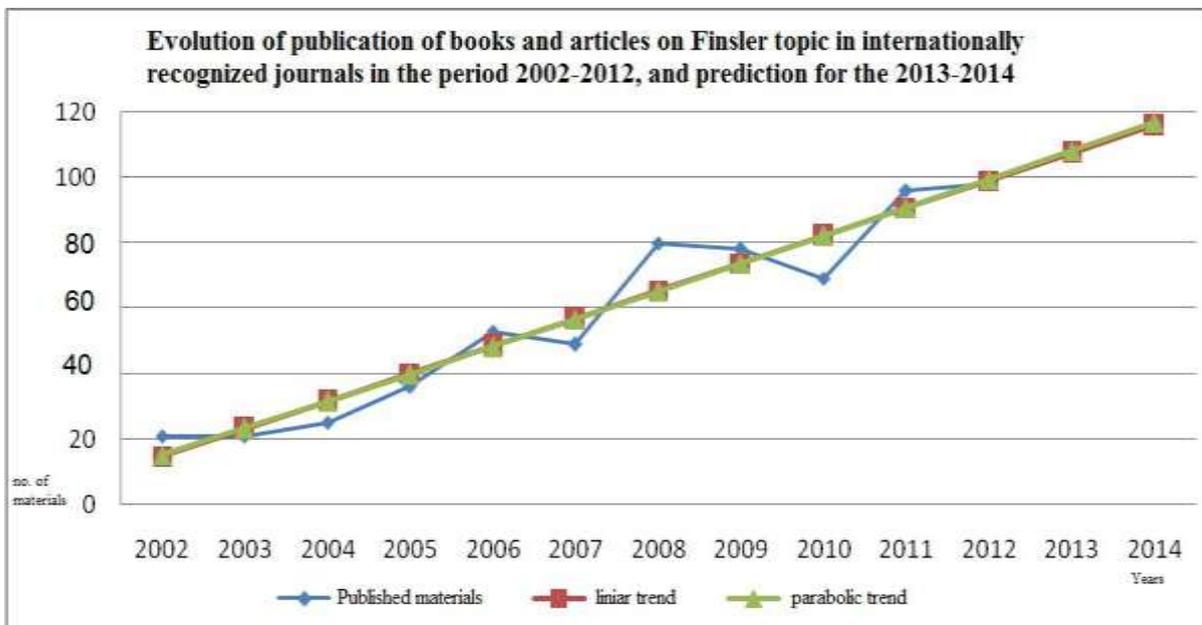


Fig. no. 2 – Evolution of publication of materials on Finsler topic in the period 2002-2012 and prediction for 2013-2014

The parabolic model describes approximately the same optimistic trend of the development of publication (108 of published materials in 2013, 117 in 2014 respectively), relative to the parabolic model:  $\hat{y}_i = 56,65 + 8,44t_i + 0,03t_i^2$ , since according to application of the Regression tool of the Data Analysis package, Excel obtains the following values:

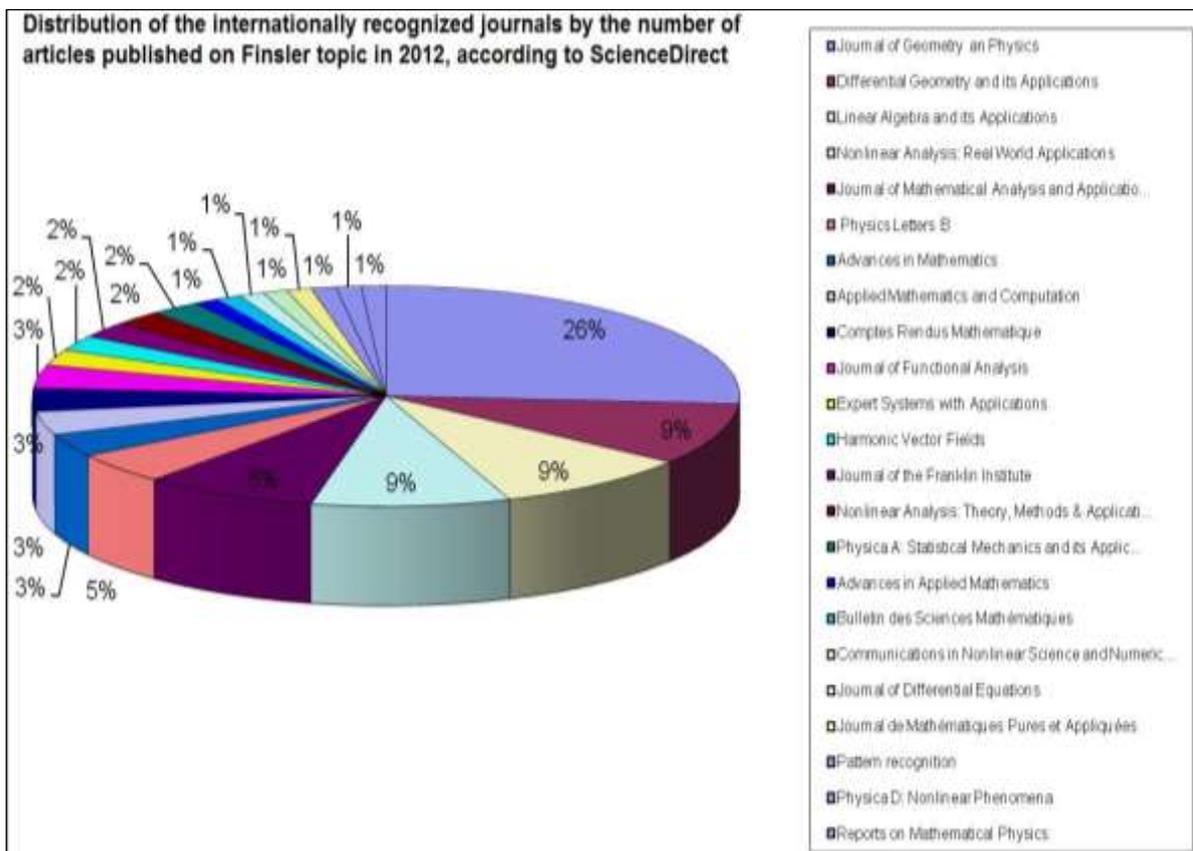
**Table no. 1 - The parameters of the regression equation, corresponding to parabolic trend**

	<i>Coefficients</i>
Intercept	56,65268065
X Variable 1	8,436363636
X Variable 2	0,025641026

The almost zero value of the parameter of the square element from the parabolic regression equation and the values of others parameters close to the parameters of the linear regression equation indicate the overlap of the two trends. However, by calculating the sum of the squares of the residues in both models is noted that the parabolic model adjusts better the trend of the values observed, its value being approximately 50 percentile less than in the linear case.

**The univariate analysis of the internationally recognized magazines, by the number of he published articles**

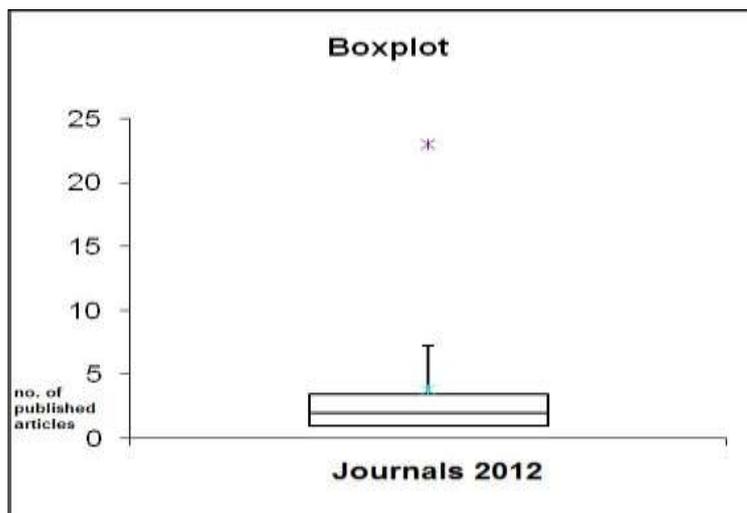
In this subsection, will be analyzed the internationally recognized magazines (about 40, according to the data) depending on the number of the published articles on Finsler theme during 2010, 2011 and 2012. First will be analyzed journals that published professional articles on the above theme in 2012, followed by a comparative analysis to the number of articles published by a magazine in the three years.



**Fig. no. 3 - Distribution of journals by the number of articles published on Finsler in 2012**

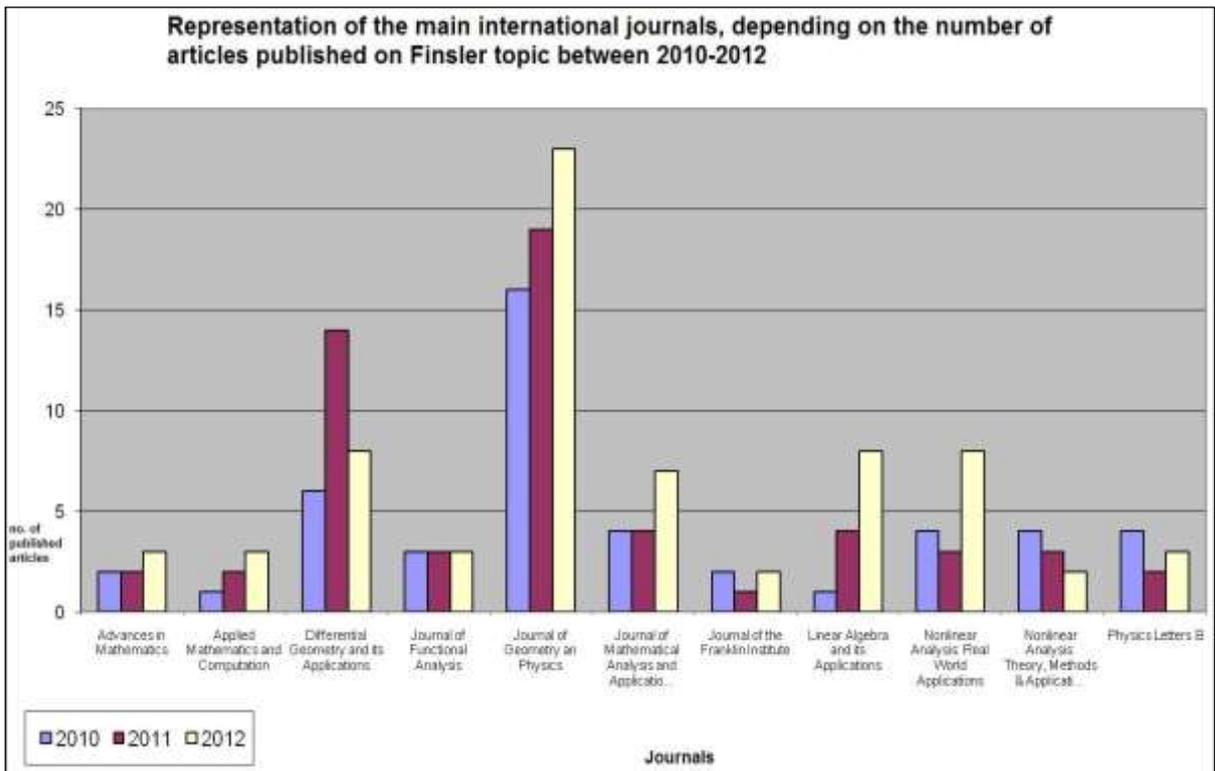
Looking at the number of the published articles on Finsler topic in 2012, is firstly performed an analysis of the structure of specialty magazines and thus it is obtained the circular graph (Fig. no. 3), which shows that the majority of the articles on Finsler topic, 26%, were published in the "*Journal of Geometry and Physics*".

Further, using the descriptive data analysis technique Boxplot to analyze the distribution of the number of articles on Finsler topic published in a journal in 2012, we get Fig. no. 5. It is observed the aberrant point represented by "*Journal of Geometry and Physics*" with 23 articles published in 2012, which is exceeding the limit of 7,25.



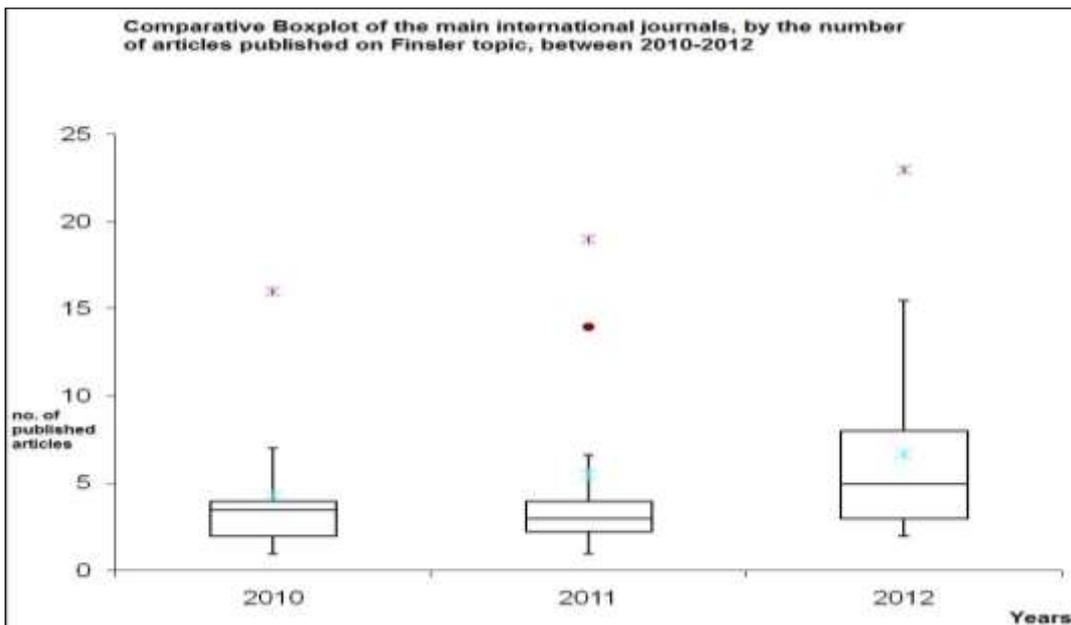
**Fig. no. 4 - Boxplot for the distribution of the number of articles on Finsler geometry published in a journal in 2012**

The outdoor bar is marked on the y-axis at the maximum value of eight articles published by the journals "*Differential Geometry and Its Applications*", "*Linear Algebra and Its Applications*", "*Nonlinear Analysis: Real World Applications*", and the minimum coincides with quartile 1, i.e. one article published. The average is approximately of 4 items, and is shown at the top of the box, which is greater than the median of 2.



**Fig. no. 5 - Evolution of the main BDI / ISI journals by the number of articles published on Finsler topic**

If it is considered for each year the Boxplot graph of distribution of the number of articles on Finsler topic published in major journals, according to Fig. no. 5, and compares them, as in the Fig. no. 6, is observed that every year there is at least one aberrant point, represented by the journal, "*Journal of Geometry and Physics*", with even a second aberrant point in 2011, represented by "*Differential Geometry and Its Applications*".



**Fig. no. 6 - Adjacent Boxplots for the number of Finsler articles published in a journal**

For most magazines is observed an increasing trend of publishing articles on the Finsler topic the last three years. In each year, the average number of articles has an upward trend from 4 to about 7 articles, as well as the median increases from 3 to 5 items. However, the average remains higher than the median.

**The multivariate analysis of internationally recognized magazines according to the topics approached on Finsler theme**

In this subsection will be analyzed the main journals which published articles on Finsler topic, depending on subjects dealt on this topic and the number of articles written for each subject, according to the Table no. 2.

**Table no. 2 - Correlation journal - number of articles written on the subject (ScienceDirect)**

Subjects Journal	Finsler metric	Finsle r space	comple x Finsler	Finsler manifol d	special metric s
Advances in Mathematics	1	1	0	0	1
Applied Mathematics and Computation	1	0	0	1	1
Comptes Rendus Mathematique	1	1	0	1	1
Differential Geometry and its	2	2	1	1	2
Journal of Functional Analysis	0	1	0	1	1
Journal of Geometry an Physics	5	3	2	2	3
Journal of Mathematical Analysis and	0	4	1	2	1
Linear Algebra and its Applications	1	1	0	1	2
Nonlinear Analysis: Real World	3	1	1	1	2
Physics Letters B	1	1	0	1	3

First will be a descriptive study of individuals, in this case the considered journals, by the preponderance of publishing articles with a particular subject, and so, resulting the star graphs from Fig. no. 7. Every journal will be represented by a pentagon, each angle of it representing a subject and the distance from the angle to the origin is proportional to the deviation variable values towards minimum. For example we can see that the journal "*Advances in Mathematics*" has not published articles Finsler theme on the subject Finsler manifold and complex Finsler spaces, while magazines "*Differential Geometry and Its Applications*", "*Journal of Geometry and Physics*" and "*Nonlinear Analysis : real World Applications*" published articles on Finsler topic from all the investigated subjects.

In the following, will make a principal components analyze for the journals considered in Table no. 2. For this will use the SPSS software package. Within this shall be considered as observed indicators the above subjects used for the search, i.e.: Finsler metric (metr.f), Finsler space (sp.fin), complex Finsler space (f.compl), Finsler manifold (variet. f), special metrics (metr.sp).

Applying principal component analysis (PCA) based on the correlation chart (Fig. no. 8) two main components are being established, by grouping the five original variables. Thus, the first component gathers effects of the next characteristics: Finsler spaces, Finsler

manifolds and, in a weaker measure, complex Finsler space. This first component could define "the geometry of Finsler spaces". The second component includes only the feature of Finsler metric and special metrics, and could define "metrics on Finsler spaces".

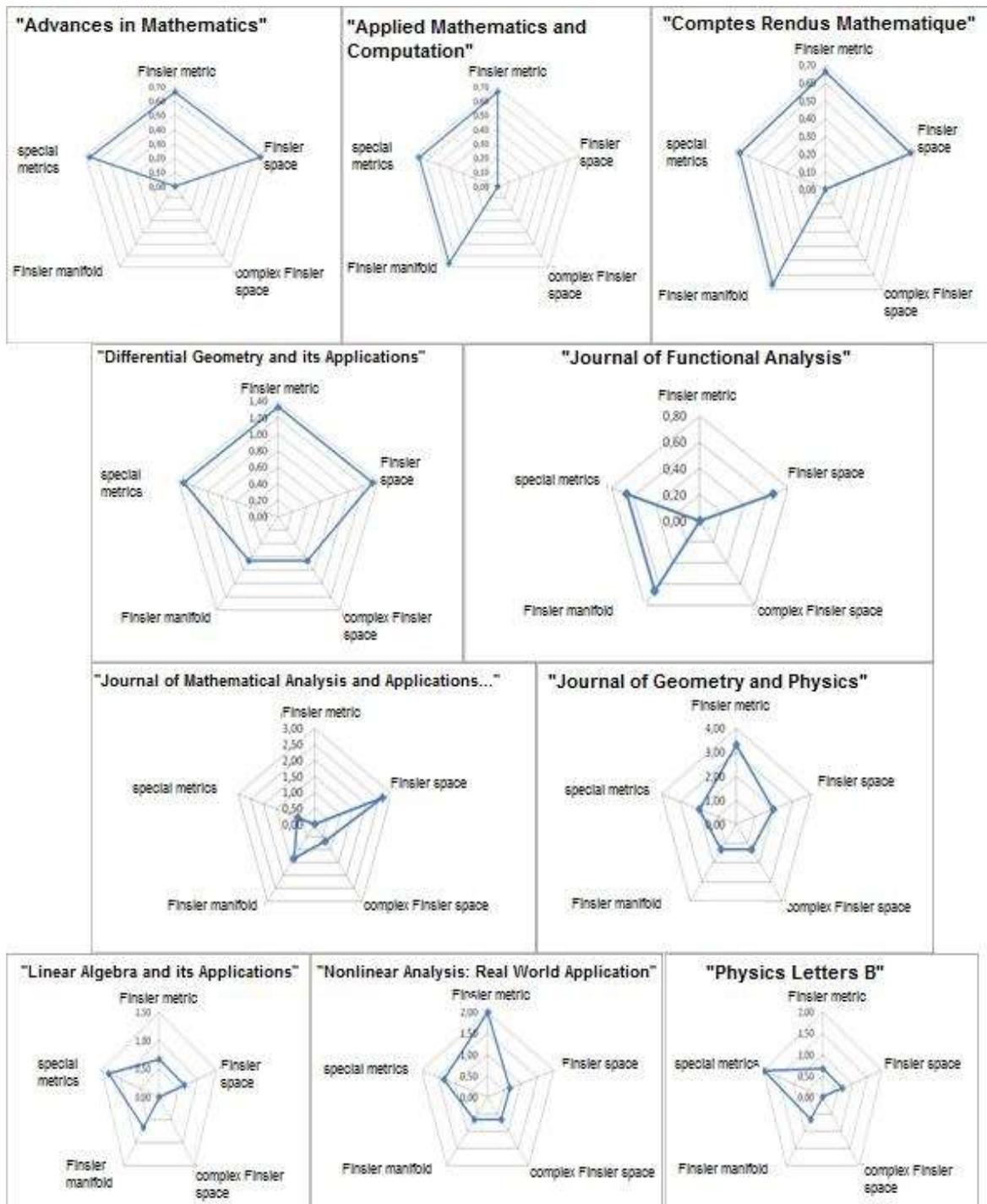


Fig. no. 7 – The star graphics for the considered journals

The interpretation of the individuals graph (Fig. no. 9) leads to a picture of the position of the analyzed journals according to the two components identified in the analyzed variables. Depending on the position of magazines, there are two major journals:

"*Journal of Mathematical Analysis and Applications*", "*Journal of Geometry and Physics*", clearly separated from the rest of the magazines, which form a distinct group, as shown in the chart. An individual will be more representative of a component as the angle between the individual and its projection is smaller. Compared to component 2, "*Journal of Mathematical Analysis and Applications*" stands at over 2 deviations and towards component 1, "*Journal of Geometry and Physics*" is over 2 deviations, the group of the other magazines focusing on a medium level of the two components.

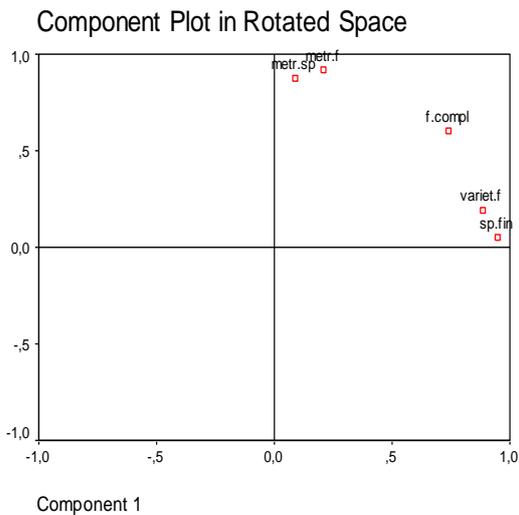


Fig. no. 8 - The graph of correlations

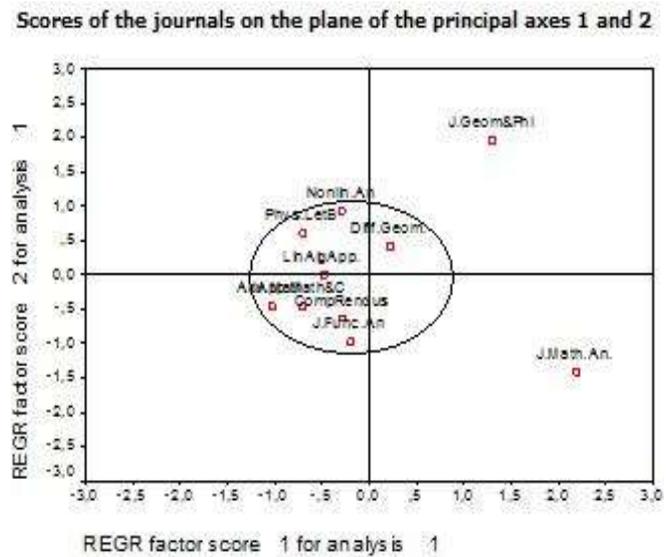


Fig. no. 9 - The graph of individuals

Thus, "*Journal of Mathematical Analysis and Applications*" is the best magazine for publishing articles with topics about metrics on Finsler space, and "*Journal of Geometry and Physics*" is the best magazine for publishing articles about geometry of Finsler space.

**CONCLUSION**

The statistical analyzes performed above show that the publication of articles on the Finsler topic has an upward trend; the forecast for the years 2013-2014 is still upward, revealing the growing interest in the study of geometry of Finsler spaces and their applications.

Most specialty journals publish an average of 7 articles on Finsler geometry per year according to data from 2012. There are exceptions, such as "*Journal of Geometry and Physics*" which publishes about 20 articles on the Finsler topic per year.

The published articles approach various topics about Finsler spaces, however, using the PCA analysis stands out "*Journal of Mathematical Analysis and Applications*" as the best magazine for publishing articles that treats matters of metrics of Finsler spaces and "*Journal of geometry and Physics*" as the best magazine for publishing articles that deal with topics on geometry of Finsler space.

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## PLATO BETWEEN ORALITY AND WRITING

Marius Marin NICOARĂ<sup>1</sup>

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### ABSTRACT

*UNDERSTANDING PLATO'S THINKING MAY BE ACHIEVED ONLY BY STANDING IN THE CONTEXT OF HIS LANGUAGE. THE LANGUAGE OF PLATO'S PHILOSOPHY IS UNDER THE FUNDAMENTAL DISTINCTION MADE BY PLATO HIMSELF BETWEEN ORALITY AND WRITING. OUR TEXT ASKS QUESTIONS AND SEEKS ANSWERS ON THIS DISTINCTION. WHY DID PLATO CHOSE THE DIALOGUE AS A FORM OF HIS WRITINGS? WHAT IS THE RELATIONSHIP BETWEEN ORALITY AND WRITING ON THE ONE SIDE AND COGNITIVE AND ONTOLOGICAL AWARENESS ON THE OTHER SIDE? WHAT IS THE COMMUNICABILITY OF EACH OF THE TWO? THE CHOICE FOR DIALOGUE IS INTENTIONAL. THE ESSENCE OF LANGUAGE IS THE DIALOGUE WITHOUT WHICH WE MAY NOT CONCEIVE ANY KIND OF LANGUAGE OR COMMUNICATION, AND OF COURSE NO KIND OF UNDERSTANDING. THIS MEANS THAT FOR PLATO THE DIALOGUE IS PRIOR TO THE SAYING, AS ORALITY IS PRIOR TO WRITING. SYNTHESIS IS PRIOR TO ANALYSIS AS IDEAS (THEY ARE EXPRESSED BY AND ARE IMPRINTED BY WORD / SPEECH) ARE PRIOR TO THINGS. IF WE HAD TO CHOOSE ONE WORD THAT DESCRIBES THE BEST THE PHILOSOPHY OF PLATO, IN TERMS OF ITS SETTING, WE CHOOSE "IN BETWEEN".*

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**KEYWORDS:** PLATO, LANGUAGE, ORALITY, WRITING, THEORY OF IDEAS, BETWEEN

### INTRODUCTION

The subject of our discourse is the distinction that Plato makes between orality and writing. We will ask some questions and seek answers to clarify this distinction. The questions are entirely ours. The answers are partly ours - on the one hand, since they involve our own interpretation and on the other hand, since we take the arguments and answers from the writings of Plato.

We know that there are interpreters of Plato's philosophy supporting the existence of an unwritten / esoteric doctrine and others who reject this hypothesis. We will not enter into this dispute. We believe that Plato's philosophy is expressed in and by dialogues. We may not say that they would not express the true thinking of Plato. We may say that his

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writings do not include all his thoughts (as the philosopher does not put in writing his most valuable thoughts)<sup>2</sup>, but not that he would have thought to mislead us. Even if Plato does not fully expose his thoughts, we believe that the much disputed esoteric doctrine is not only outside his written texts, but it is also present (implicitly, not explicitly) within the dialogues. A possible esoteric Platonic philosophy may not be different from that expressed by and imprinted in the dialogues. His unexpressed thoughts add and / or explain, but do not deny the content of the dialogues. We will approach the writings of Plato as a whole, while we accept that it is possible that he does not reveal everything. We believe that when Plato conceals something, he does it just with the intention of adapting the knowledge / message to the cognitive and ontological awareness of the interlocutor (since not everyone may understand anything, anywhere, anytime). All the more so, philosophical speech may be misunderstood, "*The philosophical discourse always remains exposed to the risk of misunderstanding*"<sup>3</sup>. Plato warns us of the danger that the great truths may come within the reach of any novice and be misunderstood.

Finally, the research on Plato's thinking may not exclude his writings; however, we may speculate about the possible unwritten / esoteric teaching, but until we have "documentary evidence" about it, the basis of any interpretation of his philosophy shall be his dialogues.

What we want is to get a proper understanding of the philosophical content of Plato's writings. What is the message of the dialogues?

Why the dialogue?

Why did Plato chose the dialogue as a form of his writings? We believe that Plato intentionally chose the dialogue as a form of his writings. We may not separate the form from the philosophical content of the dialogue. The dialogue is more than just a monologue, and contrary to the first impression, it is even prior to the monologue. The monologue is actually a dialogue with oneself (when one speaks to oneself and for oneself) or it is a speech for another. We believe that the desire to make us be aware of the unity between speech and thought is one of the reasons why Plato prefers writing dialogues. In the *Sophist* he says, "*Are not thought and speech the same...*"<sup>4</sup>. We understand here that if there is no dialogue, there is no thinking, no meeting, no communication and hence no

<sup>2</sup> Platon, *Opere, IV*, "Științifică și Enciclopedică" (Publishing House, Bucharest, 1983), *Phaidros*, 278d,e

<sup>3</sup> Szlezak, Thomas A, *Cum să îl citim pe Platon*, (Grinta Publishing House, Cluj-Napoca, 2008), 170

<sup>4</sup> Platon, *Opere, VI*, Științifică și Enciclopedică Publishing House, Bucharest, 1989, *Sofistul* 263e-264a

language (logos). The logos, be it mono-, dia-, or multi-logue is from the very beginning a unity between one and many. The logos is a "link", it is the word, speech, discourse, thought, reason, etc. Of the thoughts previously expressed, our option for the language as a principle of understanding may be determined. In this respect, we agree with Gadamer "Then, I found myself in front of a fact which would take me to a fundamental problem of hermeneutics: the dependence of understanding on language"<sup>5</sup>. We believe that another reason why Plato wrote dialogues is to emphasize the need for the presence of logos in understanding (provided that the speech, reason, dialogue may be interpreted as synonyms).

We may also notice the preference for dialogue in his criticism of the writing<sup>6</sup>. Thomas A. Szlezak considers that this criticism of Plato on writing is the starting point for the research on Plato's philosophy – „ *In my opinion, the criticism of the written form represents the true line to begin with and to be followed by anyone who wants to be concerned with the study of Plato. Unfortunately, many do not see this and think that they have their own compass. I do not need my own instrument as Plato has already given us one...*”<sup>7</sup>

In this regard, the dialogue as a form of expression and written print leads us to the speech. Plato's intention is to lead us to dialectic, to be aware of its value as a thought exercise and experience. The dialogue experience also offers us the expertise of the dialectic. The anamnesis (analogue of the cave leaving), the return to verticality, the road up may be achieved by experimenting the meeting of the opposites (dialectic) of Heraclitus (we emphasize their meeting, not the separation - that characterizes the way down). The dialectic facilitates our understanding of the unity of opposites and the preparation for the contemplation of the Good.

For Plato, (following the teaching of Parmenides “*as thinking is the same as being*”<sup>8</sup>) the language is an *analogon* of reality<sup>9</sup>. Along the history of philosophy, we may also find the idea of the unity of being and language to other authors. For example, we may

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<sup>5</sup> Gadamer H.G, *Griechische Philosophie*, vol 7, text translated by Noveanu, Alina, *Platon Triumful Întrebării*, (Grinta Publishing House, Cluj- Napoca, 2008), 122

<sup>6</sup> Platon, *Opere, IV*, (Editura Științifică și Enciclopedică, București, 1983), *Phaidros*, 278d,e și Platon, *Scrisorile. Dialoguri suspecte. Dialoguri apocrife*, (Editura IRI, București 1996): *Scrisoarea VII*

<sup>7</sup> Interview with Thomas A. Szlezak, in the magazine *Slagmark*, nr 45, 2006, 123-147, text translated by Noveanu, Alina, *Platon Triumful Întrebării*, (Grinta Publishing House, Cluj- Napoca, 2008), 51

<sup>8</sup> *Presocraticii. Fragmente Eleaților*. Bilingual edition, (Teora Publishing House, Bucharest, 1998), 121

<sup>9</sup> Platon, *Opere, VI, Theaitetos 222b-224*, (Științifică și Enciclopedică Publishing House, Bucharest, 1989)

say that for Hegel there is a unity of being and thought in his concept of absolute idea<sup>10</sup>. Also, we find that Humboldt places the language within the essence of the being "*languages have grown up in inseparable association with man's inmost nature.*"<sup>11</sup> Also for Humboldt, the language definition is placed at the genre level: „ *Its true definition can therefore only be a genetic one. For it is the ever-repeated mental labor of making the articulated sound capable of expressing thought*"<sup>12</sup> and the same idea expressed from another perspective: „*Nothing can be excluded from it, since it embraces everything*"<sup>13</sup>. Thus, we may notice that Plato's vision has not remained singular.

Besides, the great importance that Plato gives to the logos may also be pointed out of the fact that he gave us the first philosophy treaty on language, “... *all the major problems of the language theory are contained in Plato's Kratylos, rightly considered the first philosophy treaty on language that we have*”<sup>14</sup>. The essence of language is the dialogue without which we may not imagine any kind of language or communication, and of course no kind of understanding. This means that for Plato, the dialogue the prior to the statement, as well as the speech is prior to writing. Synthesis is prior to analysis as ideas (they are expressed and printed by word / speech) are prior to things. Anamnesis (recollection / recall) is possible only because the mnemo (memory) has already taken "place". This "place" is place-d in the so-called world of ideas.

The orality and writing related to the cognitive and ontological awareness

We are separated from Plato's philosophy through history and by language. We are separated by the social-political, economic, cultural contexts, specific for classical Greece. We may become aware of "all" that divides us, we may strive to understand Plato and his writings in the specific context, and yet, we will not be able to "close" him in a standard, unique and final meaning. By this, we attempt to show that the meeting in writing is a tele-meeting (a remote meeting), an indirect meeting, unlike verbal encounter that offers an opportunity of an immediate, direct meeting.

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<sup>10</sup> Hegel, G. W. F, *Prelegeri de istorie a filosofiei*, (Publishing House of the Academy of the P.R.R., Bucharest, 1964), 265-271

<sup>11</sup> Humboldt, Wilhelm von, *Despre diversitatea structurală a limbilor și influența ei asupra dezvoltării spirituale a umanității*, ( Humanitas Publishing House, Bucharest, 2008), 76

<sup>12</sup> Wilhelm von, *Despre diversitatea structurală a limbilor și influența ei asupra dezvoltării spirituale a umanității*, 82

<sup>13</sup> Wilhelm von, *Despre diversitatea structurală a limbilor și influența ei asupra dezvoltării spirituale a umanității*, 78

<sup>14</sup> Wald, Lucia, *Pagini de Teorie și Istorie a Lingvisticii*, (All Publishing House, Bucharest, 1998), 59

The meeting only offers the opportunity, as the body / biological proximity does not necessarily imply cognitive and ontological proximity. According to Plato, people are not at the same level of knowledge and being<sup>15</sup>, the *anamnesis*<sup>16</sup> meaning not only a cognitive way (a transformation) but also an ontological way (transformation). This means that genuine speech, namely the one that may deliver a full message, happens only in the case of the meetings of people who are / or are able to be at the same cognitive and ontological levels. Therefrom, we conclude that although we speak the same language, yet "do not speak the same language". In modern language, this might be translated by the fact that we have different meanings of the words that we use and we think. The semantic content of the words of a language is much richer than we think, and accessing the most appropriate meaning in a given context makes us prefer the speech, as in the speech the possible update of the questions and responses is mutual. By mutual, we understand that our interlocutor is present (as speaker) not only in potency (as a writer).

Most often, Plato is interpreted as a dualist, insofar that he splits (or "separates") the world of ideas from the world of contingency. In our opinion, the word separation may cause confusion as we understand (because of the objectification filter) two objects in different locations and possibly in opposition. Such an applied understanding of Plato is wrong. "The two worlds" are not only separated, but also united "*However, we have to notice that for Plato, the two worlds do not appear only as being separated; they are separated but at the same time in unity*"<sup>17</sup>. Plato's philosophy is realistic and idealistic at the same time as his reality given by ideas. As ideas are prior to things and their possibility, we may not speak of a clear separation between ideas and things. Things may not exist without ideas and the relationship between them is a vertical one (while the reality of things is minimal, the reality of ideas is maximum, culminating with the idea of the Good). The difference between ideas and things is one of degree / level. For Plato, the unity of reality is necessary and prior to any multiplicity<sup>18</sup>. Thus the contingency world is the posterior expression of the world of ideas and not its opposite (the opposition is a concept applicable only to contingency, being the result of objectification). The two worlds are not distinct and opposite objects, but the extremes of the same reality; in this case, we

<sup>15</sup> Platon, *Opere, V, Republica*, (Științifică și Enciclopedică Publishing House, Bucharest, 1986), 508,509, 511, 516, 517

<sup>16</sup> Platon, *Opere, II, Menon*, (Științifică și Enciclopedică Publishing House, Bucharest, 1976) and Platon, *Opere, IV, Phaidon*, (Științifică și Enciclopedică Publishing House, Bucharest, 1983)

<sup>17</sup> Muscă, Vasile, *Introducere în filosofia lui Platon*, (Dacia Publishing House, Cluj-Napoca, 1994), 73,

<sup>18</sup> Baumgarten, Alexander, *Pricipiul Cerului, subcapitolul Primatul unului asupra multiplului*, (Humanitas Publishing House, Bucharest, 2008), 27-31,

may talk of opposition only if we maintain our attention to the fact that this field is not object oriented, there are just parts of the same being (on) with ontological differences (for the intensity of being) and therefore reality.

Plato's ideas have intentions and extensions of various degrees / levels of universality / generality / understanding / comprehension / coverage, not meaning their topographical location. They are neither beyond (outside), nor here (inside). Any confusion of ideas with phenomenality or contingency leads to misunderstandings. Contingency is horizontal while ideas are vertical, structured on the four levels exposed in the *Republic*<sup>19</sup>.

Understanding Plato's thinking involves awareness of the presence of this vertical dimension<sup>20</sup>. The truth, reality and good are thought of as having a vertical dimension. *Anamnesis* involves an interior movement (vertical) of reminding<sup>21</sup>. The prefix "ana" expresses and imprints a vertical and up direction. Plato's criticism of writing involves the criticism of vertical movement downwards, the way the river of forgetfulness flows (*Lethe*). Plato draws attention on the presence of various levels of knowledge and being and upward and downward movement. Writing is harmful as far as it keeps people at lower levels of being and knowledge. Writing encourages and develops *hypomneza*<sup>22</sup> unlike the speech that accesses and enhances *anamnesis*, inner self (verticality). Writing is a support for a horizontal inside-outside duality, and therefore has a tendency to objectification (and thus we become dependent of objects). For the speech, we depend on dialogue, relationships. The speech indicates verticality, here, there is a duality in unity; vertical up - down is the only reality / being, while interior-exterior duality (horizontal) is further to objectification. In reading - writing we may forget that "behind" the text there is an author, we may have the illusion of self-sufficiency. The speech "forces us" to be aware of the presence of otherness, the need for dialogue<sup>23</sup>. So, we may notice that a genuine dialogue occurs only in a vertical movement, by adapting the cognitive and ontological plans. For Plato, communication, intersubjectivity is genuine only by means of verticality, by the presence / action / participation of the vertical, otherwise it is just sophistic, it does not give

<sup>19</sup> Platon, *Opere, V, Republica*, (Științifică și Enciclopedică Publishing House, Bucharest, 1986), 508,509, 511, 516, 517

<sup>20</sup> Nicoară, Marius Marin, *Adevărul la Toma d'Aquino în contextul viziunii ierarhice asupra lumii și subiectivității, în Studii Tomiste II*, Zeta Books, Bucharest, 2010, 155-183

<sup>21</sup> Platon, *Opere, VI, Theaitetos*, (Științifică și Enciclopedică Publishing House, Bucharest, 1989), 143

<sup>22</sup> An excellent analysis about the difference between *anamnesis* and *hypomnesis* and involves each of these two Greek terms may be found in Cornea, Andrei, *Scriere și oralitate în cultura antică*, (Humanitas Publishing House, București, 2006)

<sup>23</sup> Gadamer H.G, *Adevăr și Metodă*, (Teora Publishing House, 2001), 720

any knowledge or reality. The source of all reality and all knowledge is *To Agaton = the Good*, and the anamnesis is both a cognitive movement (undertaking) and an ontological movement (undertaking). We may conclude that the connection between people (the logos) is not / does not occur on the horizontal line, but on the vertical one, otherwise, the two abstract otherness / two completely separate subjects may not and shall not ever meet. This, as far as we postulate / assume that there could exist the mass of absolutely separate entities. Although not stated explicitly (in writing), as Aristotle, we believe that Plato was also aware that the human being is social from the beginning, so he is not alone (solipsism problem does not arise), but *one and multiple*. Man is man only as people (one and many), in and through people. One is multiple from the beginning.

#### Orality and writing in communicability

If we read Plato through Wittgenstein's eyes<sup>24</sup> we may discover the applicability of the difference between to show and to tell on his philosophy<sup>25</sup>. Following this application, we find that the speech may show, in the speech, we may get additional answers to our questions / lack of comprehension on what it was said. In the speech, the feedback is possible. In writing, the feedback is not possible. We may not resort to Plato to explain his words, phrases, sentences. Anticipating perhaps the difficulties of our understanding, he developed his writings in the form of dialogues (an oral writing).

Any understanding takes place in a language, in a logos; and any "log" occurs only in dialogue. Any connection involves at least two entities. Any relationship is simultaneous with the two related entities. In our relationship with the writing, we neither enjoy the author's answers to our uncertainties, nor his confirmation on those we think we have understood.

The logos is prior to any understanding, because we may perceive only things that are already connected to us, the perception of things is subsequent to their connection with us. Something existing completely outside, with no relation to us, may not be seen / discovered. The same way, communication may be achieved only when we already have something in common (the same language, same meaning) otherwise, communication is impossible. Communication and community are prior to any separation as synthesis is prior to analysis. The unity is assumed in any multiple. So, without logos there is no reality or things.

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<sup>24</sup> Wittgenstein, Ludwig, *Tractatus logico-philosophicus*, Humanitas Publishing House, Bucharest, 2001

<sup>25</sup> Nicoară, Marius Marin, *An Analytical View on Writing and Orality in Plato's Philosophy*, The Scientific Journal of Humanistic Studies, 2012, <http://www.ebscohost.com>

Communication is possible when we have a community of meanings. The meanings of words / phrases of Plato are also possible, provided that we will never get a single convention, universally valid on his philosophy. We do not even think that it would be possible. *The one who imagines that he could or should have the last word is not a good hermeneut*<sup>26</sup>. Any transmission (except for the speech) is a translation and no translation may ever extract / exhaust / give completely the original. The speech delivers by showing, not just telling. According to Plato, transcendence is known / experienced only in dialogue, namely, the speech. In the absence of the author, our verifiability of his words will never be complete. So, our interpretations may be very divergent, and the controversies are natural.

We have seen that for Plato, people are not on the same level of knowledge and being<sup>27</sup>. We may see what it is shown to us if / when we are in the same cognitive and ontological space. The words are actual (in the act / now). The fact that the meaning / meanings of something said may be accessed or not, shows that we are not in the same *now* (act). Our potencies and actions are different. At the same time, the transformation in knowledge necessarily implies a corresponding transformation of the being<sup>28</sup>.

Human communication through articulated language implies a common sense ("objective") of the words we use in the language. The objective meaning is given to a community, by a subjective agreement. That which may be communicable and intersubjectively verifiable / testable is objective. We know that there are scientific sentences that are verifiable by the common man only after a period of training. Also, communicability of objective scientific sentences depends on education, understanding of the meanings used in these sentences. Without having the conceptual device of science we may not test scientific sentences. Even in the ordinary case when we want to get along with persons who speak another language, first it is first necessary to appropriate the meanings of the words / sentences in that language. We begin to understand each other only when we talk with a meaning in agreement. This means, when we give the words / phrases the same meaning as our interlocutor.

## CONCLUSIONS

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<sup>26</sup> Gadamer H.G, *Adevăr și Metodă*, (Teora Publishing House, 2001), 701

<sup>27</sup> Nota 5 și Platon, *Opere, V, Republica*, (Științifică și Enciclopedică Publishing House, Bucharest, 1986), 519

<sup>28</sup> Platon, *Opere, V, Republica, Cartea VII 514a-521b*, (Științifică și Enciclopedică Publishing House, Bucharest, 1986)

The word that may describe the best the philosophy of Plato, in terms of its setting is the word "*between*". If we start the study of Plato's philosophy with the criticism of writing as suggested by Thomas A. Szlezak, we may find that it is situated *between* orality and writing. The preference for dialogue provides another *between*. The dialogue is a link (a logos) between two entities.

In Greek, *dia* (of dia-log) also has the meaning *through*, this meaning indicating another *between*. The *through* used in many contexts also shows the principle, which is a "*something*" with the ability to go *through*, to be between / among, to be present *among* all the elements of this principle. The type is the general present through, between, among. The principle and the origin are potentially present in all points afterwards. Plato's concept of participation signifies *between* ideas and things. If it is *between*, it is also *through*, and therefore the interpretation of the reality duplication by Plato is wrong, as the ideas being among things, obviously they are also in things. Surely, this idea will be expressed clearly and explicitly only by Aristotle (in rem). In contrast, Plato considers that ideas are prior to things (ante rem). Plato also has the variant of logos post things, meaning that of the language controllable and manipulable by the man, the world of sophists world and thus, the world of true-false opposition (post rem). Logos as such is a *between*. The modern meaning of the term dialogue implies a horizontal relationship between two objectified inner selves. In Plato's meeting, *between/ amongst* necessarily implies the presence of verticality. If we look into the study of Plato, we may immediately notice a lot of *between*: between being and non-being, between one and many, between state and movement, between transcendence and contingency, between true and false, between the world of ideas and the world of objects, etc. All *between* of Plato show vertical directions. Plato's duality is vertical and necessarily entails unity, unlike modern duality, which is horizontal and does not necessarily imply unity. The preference for dialogue, dialectic, orality/speech, anamnesis indicates his preference for the *upwards*.

As a natural result, as we would say, of the thoughts expressed here, we may say that the dialogue and logos are principles by which we may understand the meanings of Plato's philosophy. Simultaneously to this entry, our understanding will depend on the ability to adapt and transform the being properly to Plato's being, so that we may live and so communicate in his orality.

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## MESSIAH, THE SEED OF ABRAHAM: PROMISE AND FULLFILMENT

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### ABSTRACT:

*MESSIAH IS THE MOST IMPORTANT SUBJECT OF THE OLD TESTAMENT. THE PROMISES OF THE MESSIAH'S ANCESTORS WERE VERY MANY AND, IN THE SAME TIME, VERY PROFOUND. ABRAHAM IS THE FIRST MAN WHEREOF GOD PROMISED TO BLESS THROUGH HIS SEED. THE TERM "SEED OF ABRAHAM" CAN BE PHYSICALLY UNDERSTOOD, HIGHLIGHTING A CERTAIN PERSON OR A GROUP OF PEOPLE, OR IT CAN BE SPIRITUALLY PERCEIVED, DESCRIBING MESSIAH. THIS ARTICLE INTENDS TO DESCRIBE BOTH SENSES OF THE TERM "SEED OF ABRAHAM", PROVING THAT THE MOST IMPORTANT ROLE OF ALL PROMISES TO ABRAHAM WAS TO SHOW MESSIAH WHO WILL BE THE INITIATOR AND THE PROTECTOR OF HIS CHURCH.*

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**KEYWORDS:** MESSIANIC PROPHECIES, THE SEED OF ABRAHAM, MESSIAH IN THE OLD TESTAMENT.

### INTRODUCTION

From the moment of Sem's blessing (Gen. 9:26-27<sup>2</sup>), the previous messianic prophecy, of chronologically, till the release of the first promise recorded from Abraham's life, have passed almost 365 years. In this period, were born many generations of people and the event at the Tower of Babel (Gen.11), determinate a dispersion of civilization without any previous. Briggs accentuates that from all the Semitic tribes left on Euphrates, tribes whose religion degenerated very fast, God chose a single couple, Abraham and his wife, Sara.<sup>3</sup> For the first time in Old Testament, God is promising to Abram<sup>4</sup> that he will

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<sup>2</sup> Genesa – the first book from *The Bible*.

<sup>3</sup> Charles Augustus Briggs, *Messianic Prophecy: The Prediction of the Fulfilment of Redemption Through the Messiah*, (Edinburgh: T&T Clark, 1886), 83-84.

bless him since from when he is located in Mesopotamia, before he will move his location to Haran (Acts 7:2).

Concerning the importance of Abraham, is unanimously accepted that this is one of the most prominent character<sup>5</sup> from the whole Bible, in many cases being called even “father of those who believe” (Matt. 3:9; Rom. 4:12,16; Gal. 3:7), and in Gen. 17:5 due to his belief, “father of many nations”.

Due to the limited space of this paper and the vastness of this topic, it is obvious that we do not claim to address all issues related to him (and even all promises given to him), but what we want in the article is to describe from the perspective of those promises referred to his “seed”, more exactly to remark in what way all that it was promised to his descendants has fulfilled, respectively are to be fulfilled.

## 1. THE PROMISE

Emphasizing the promise of blessing for Abraham began in Gen. 12. This man stands out among all (both Terah - his father and Nahor - his brother) by not remain capped at Haran. Gen. 11:31 points us that Terah, Abram's father took initiative to start with his big family (with Abram and his wife Sarai and Lot, his nephew) from Ur of the Chaldeans in order to reach to Canaan. However, instead of stopping only in Canaan, the Bible emphasizes that they only went up to Haran and sat there, so that in years to come Terah would die there (Gen. 11:31c). Abram, unlike Terah, his father, doesn't content only with the Haran. His desire was to reach from where he started: Canaan. And this dream would be impossible to come true if God would not be revealed in a unique way to convince that he has to go. This revelation of God to Abram is described in Gen. 12 and it involves quitting his own family, relatives and his father's house and starting at the location that would be revealed by God. Abram when came out from Haran was seventy-five (Gen. 12:4) and has this force because God called him in a special way and made him promises, specially:

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<sup>4</sup> In this article for Abraham I will use both his names (Abram and Abraham).

<sup>5</sup> Importance of Abraham in the Bible can be highlighted even by frequency of his names, namely name of ~r"b.a; (WTT namely “Abram” appears 67 times and the name of ~h'r"b.a; (WTT, “Abraham”) 260 times, and in total 327 times in 291 distinct verses, and at this are added those contexts, where does not appear his name but it is obviously him, apud *BibleWorks*<sup>8</sup>. The importance of Abraham in Bible it's revealed by the fact that Kingdom of Heaven it's described as “Abraham's bosom” (Luca 16:22; 13:28).

“I will make you into a great nation, and I will bless you; I will make your name great, and you will be a blessing. I will bless those who bless you, and whoever curses you I will curse; and all peoples on earth will be blessed through you.”(Gen. 12:2-3 – NIV)

וְאֶעֱשֶׂךָ לְגוֹי גָדוֹל וְאֶבְרַכְךָ וְאֶגְדָּלְךָ שְׁמֶךָ וְהָיָה בְרַכָּה  
וְאֶבְרַכְךָ מִבְּרַכְיֶיךָ וּמִקְלָלֶיךָ אֲדָר וְנִבְרַכְוּ בְךָ כָּל מְשֻׁפָּחַת הָאָדָמָה

(Gen. 12:2-3 – WTT)

These two verses outlines 7 promises distinct addressed by Lord to Abraham, namely: (1) Lord will make from him a “great nation” (לגוי גדול – WTT); (2) Lord will bless him; (3) He will make a “great name” (אגדלה שמך – WTT); (4) Abraham and his seed will be bless by others; (5) Lord will bless those who will bless Him too; (6)Who will curse Him will be cursed; (7) By Abraham and his seed Lord will bless all nations of the world. At this 7 prophets add the 8th from Gen. 12:7, said while Abraham went from Sichem to Palestine, in which Lord promises that country of Canaan will be given to him and his *seed* (זרעך - WTT).<sup>6</sup>

The promise made to Abraham about “his seed” was reaffirmed at least 5 times, namely:

- (1) Gen. 13:14-16 – after the breakup between Abraham and Lot, God promises, much as *seed* will inherit the entire nearby country (verse 14), as he’s *seed* will be “the dust of the earth”(v.16);
- (2) Gen. 15:5 – after the defeat of the emperors Amraphel, Arioch, Chedorlaomer and Tidal (14:1), God shows himself to Abraham who updates the promise made in Gen. 12:7, assuring him that the *seed* will be “the stars of the heaven”- KJV (impossible to count- Gen. 22:17);
- (3) Gen. 15:18-21 – God, after has disclosed to Abraham that Jewish people will be enslaved for a time of 400 years, made a covenant with Abraham and told him „To your descendants I give this land, from the river of Egypt to the great river, the Euphrates” (Gen. 15:18 - NIV);
- (4) Gen. 17:6-8 – the age of 99 years (a year before the birth of Isaac), God is showing again to Abraham. In this situation God promises that the

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<sup>6</sup>Walter C. Kaiser, [\*The Messiah in the Old Testament\*](#), (Michigan Grand Rapids: Zondervan, 1995), 46.

covenant<sup>7</sup> that you did with him will be valid and for your seed, being a covenant forever with the sign circumcision. Also, after changing his wife's name from Sarai to Sarah, promises Abraham's that son, which will born of Sarai is son of promise and that the seed his will enter everlasting covenant with He (Gen. 17:19,21) ;

- (5) Gen. 22:17,18 – On mount memory God reconfirmed his promise saying: „through your offspring all nations on earth will be blessed” (Gen 22:18 - NIV).

At these six<sup>8</sup> contexts, we add the promises from the life of Isaac (Gen. 26: 4.23-24) and then from the life of Jacob (Gen. 28: 4, 14-15; 35: 9-12), who reconfirm the promises given to Abraham.<sup>9</sup>

Returning to the eight promises of Genesis 12, we point out that all this are reaffirmed in the book of Genesis.<sup>10</sup> From the 8 promises three describe destiny “seed of Abraham”, namely:

- (1) “He will make you into a great nation” (Gen. 12:2 - NIV);
- (2) “All peoples on earth will be blessed through he” (Gen. 12:3 - NIV);
- (3) “To your offspring I will give this land.” (Gen. 12:7 - NIV).

First promise is accentuated by comparing Abraham's seed with:

- ✓ „the dust of the earth” (KJV) or *הָאָרֶץ* – WTT: Gen. 13:16<sup>11</sup>
- ✓ „the sand on the seashore” (NIV) or *פְּחֹל הַיָּם* – WTT: Gen. 22:17b<sup>12</sup>;
- ✓ „the stars of the heaven” (KJV) or *כּוֹכְבֵי הַשָּׁמַיִם* – WTT: Gen. 15:5; 22:4,17<sup>13</sup>.

<sup>7</sup>This covenant is remembered in the Bible several times, namely: Ex. 2:24; Lev. 26:42; 2Imp. 13:23; 1Cr. 16:16; Ps. 105:9; Fapte 3:25; 7:8.

<sup>8</sup> (1) Gen. 12:2-3; (2) Gen.13:14-16; (3) Gen. 15:5; (4) Gen. 15:18-21; (5) Gen. 17:6-8; (6) Gen. 22:17,18.

<sup>9</sup> Kaiser, *The Messiah in OT*, 46.

<sup>10</sup>The second promise („I will bless you”: Gen. 12:2 - NIV) is reaffirmed in Gen. 22:17a and partially fulfilled in Gen. 24:1,35; third promise („I will make your name great”: Gen. 12:2 - NIV) is reaffirmed in Gen. 17:5; fifth promise („I will bless those who bless you”: Gen 12:3–NIV), and sixth (“whoever curses you I will curse”:Gen. 12:3–NIV) are confirmed by events that took place in Egypt (Gen. 12:5) and in Gherar (Gen. 20:3,18). These last two promises are reiterated in the blessing pronounced by Isaac of Jacob (Gen. 27: 29), and the fifth promise was renewed in his life Jacob (Gen. 32: 28), and in the life of Joseph (Gen. 41: 5).

<sup>11</sup>Appears in the time of Jacob (Gen. 28:14) and in the time of Balaam: „Who can count the *dust* of Jacob or number the fourth part of Israel?” (Num. 23:10- NIV)

<sup>12</sup>Appears in: Gen. 32:12; Is. 48:19; Jer. 33:22; Hosea 1:10;

<sup>13</sup>Appears in: Gen. 26:4; Ex.32:13.

In plus, God says clearly to Abraham that „will greatly increase your numbers” (Gen. 17:2,6; 22:17; 26:24 – NIV), that he will be the father of many nations (Gen. 17:4 - NIV) and kings will come from he (Gen. 17:6 – NIV – this promise is reaffirmed in Gen. 27:29a, because when Isaac blessed Jacob, he said: „May nations serve you and peoples bow down to you. Be lord over your brothers, and may the sons of your mother bow down to you.” (Gen. 27:29 - NIV) Also, this promise receives spiritual dimensions because in the forever covenant God made with Abraham there is promise that „to be your God and the God of your descendants after you.” (Gen. 17:7 - NIV).

The promise (2) is reaffirmed in Gen. 22:18, where it clearly says that blessing of Abraham is also for the seed of Abraham.

The third promise is reaffirmed in: Gen. 13:15,17; 15:18-21; 17:8; 22:17; 24:7; 26:3,4.

So it can be seen very clearly from Gen. 17:7 all promises made to Abraham are not confined to him as an individual, but they shall have regard to the people who will come from Abraham, using this expression “the seed of Abraham”. This last expression appears in Bible at least 21 occurrences.

The term „seed” (in Hebrew: [r;ɜ< (*zera*’ – WTT)) appears in *The Bible* (DCV) 235 times<sup>14</sup>, of which 66 occurrences relate to the seed as followers<sup>15</sup> of man<sup>16</sup>. Petercă<sup>17</sup> claims that there are a few lines of interpretation regarding this term:

(1) Seed refers to posterity will never male gender<sup>18</sup> (Gen. 21:13; 15:3,4);

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<sup>14</sup> *BibleWorks 8.0*. In Hebrew Bible the term [r;ɜ< appears 231 times or 232, if consider the Aramaic term from Deut. 2:43. Only in Genesis this term appears 59 times, apud T. Desmond Alexander, „Messianic Ideology in the book of Genesis” in *The Lord's Anointed Jesus*, ed. Hass Richard, Eerdmans, Grand Rapids, Michigan, 1995, 22.

<sup>15</sup> „The seed of Abraham” appears 34 times and „the seed of David” appears 13 times.

<sup>16</sup> In Bible the term seed It is used with the meaning of animal seed or seed of plants (approx. 45 times); as a symbol of the Word of God (17 times) and that male seed (semen –7 times).

<sup>17</sup> Vladimir Petercă, *Mesianismul în Biblie*, (Iasi: Polirom, 2003), 44.

<sup>18</sup> The term “seed” in most contexts describes a child of male. See the reaction of the first mother (Eva) both from the birth Cain, when she said: „With the help of the LORD I have brought forth *a man*” (Gen 4:1 - NIV), and from the birth Set, when she said: „For God, hath appointed me another *seed* instead of Abel, whom Cain slew.” (Gen 4:25 - KJV). In addition, in the Hebrew culture by seed is understood in generally posterity of gender male, in fact noticeable in most genealogies from the Old Testament and even from the New Testament. These describe just the people of male who were born in the course of time, even if during this period of thousands of years were born quite a lot girls/women: Gen. 4:17-22 (the seed of Cain); 5:1-32 (genealogy from Adam to Sem); 10:1-32 (genealogy of Noe); 11:10-32 (genealogy of Sem); 25:13-15 (the sons of Ismael); 35:22-26 (the sons of Jacob, only boys, although it has had and on Dina); 36:9-43 (genealogy of Esau); 46:8-27 (the children of Israel).

- (2) Survivors in the direction of spiritual posterity („he shall see *his* seed” Is. 53:10 – KJV);
- (3) Iahve promises salvation Abraham’s descendants (Gen. 12:7) and David’s descendants (2Sam. 7:12-15);
- (4) After exile, the term of seed shall be oriented to the concept of remnant (Is.10:22; 28:5 - NIV);
- (5) During the period of the second Temple, the significance of seed term was linked to the Jesus Christ (Gal. 3:19).

Therefore, the time limit for seed (*zera*) can have two meanings: a mass caterer of people or an individual. The expression “the seed of Abraham” as emphasizes Apostle Paul in Gal. 3:16, refer at a specific individual, because in all prophetic passages is singular (“seed”), not to plural (“seeds”). Thus, even if in a general way this term covers many people, the term “seed” follows a itinerary genealogical. “The seed of Abraham” it only shows on Isaac (not on her sons Keturah or Ishmael), and then just Jacob (not on Esau, even though they were twins), and then to the house of Judah (even if Judah was the fourth son of the 12)<sup>19</sup>. So, it is noted manner in which prophecies relating to seed Abraham's indicate specifically to a single individual (from each generation) which will fulfill the prophetic plan, following clearly to complete in a single person, namely: Messiah.

## 2. FULFILLMENT

Fulfillment of the three promises selected for analysis can be observed in at least two different points of view, namely: the literary fulfillment and spiritual one.

### 2.1. LITERARY FULFILLMENT

If we are referring to physical fulfillment, you need to notice that the time limit of the seed of Abraham’s has its fulfillment in the first row in the person of Isaac.

Sarah for the first time when appears in Bible is described that barren (Gen. 11:30 – “she had no children” (NIV). The paradox is that in the next chapter almost everything he promises towards God is linked directly to her son.

Due to the time periods which have been carried out at the time of issue of the first promises regarding a son and its anticipation of many other contexts (condition of aging of

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<sup>19</sup>Ruben loses the right of blessing because sinned with Bilha (Gen. 49:3-4), apud Franz [Delitzsch](#), *Messianic Prophecies: Lectures*, translate from Samuel Ives Curtiss, (Edinburgh: T&T Clark, 1880), 33; and Kaiser, *The Messiah in OT*, 49.

Sarah), Abraham was tempted to levy that God considers Ishmael as the heir (Gen. 17:18), but God certifies that his “seed” will be his son, who will be born from his wife, Sarah (not a slave). And to entrust the fulfillment of His promises, He even tells him the name that will wear his son, namely: Isaac, which he says about: “will establish my covenant with him for an everlasting covenant, and with his seed after him.” (Gen. 17:19 - KJV). After twenty-five years from the first promise made to Abraham (relating to seed, “at the set time of” (Gen. 21:2 KJV)) God gives Sarah, as He promised, their first son, Isaac (Gen. 21:2-3).

God continues to fulfill promises made Abraham's in several passages from VT had confirmed that people who has come out of Abraham became numerous „as the stars of the heaven” (Deut. 1:10; Heb. 11:12)<sup>20</sup>, „the dust of the earth” (2Cr. 1:9) and „as the sand that is upon the sea shore in multitude” (Jos. 11:4 - KJV; 1Kings 4:20,29)<sup>21</sup>.

God keeps His promises and gives Abraham the Land of Canaan. After forty years of travelling, God shows Moses the promise land before he passes away reminding him that „This is the land which I sware unto Abraham, unto Isaac, and unto Jacob”, saying, “I will give it unto thy seed” (Deut. 34:4 – KJV). Also, in very much cases is told that God fulfilled this “the LORD sware unto thy fathers, Abraham...” (Deut. 9:5 - KJV) (“he sware by himself” (Heb. 6:13 - KJV)) namely that He will give him the Promise Land (Ex. 6:8; 32:13; 33:1; Num. 32:11; Deut. 1:8; 6:10-11; 9:5; 29:13; 34:4; 30:20; 2Chr. 20:7; Micah 7:20; Luk. 1:73).

In the end, the entrance of the Jewish people in the promised country is done by Joshua and Caleb (only two of all the people who have started in Egypt - Num. 32:11), in addition, the new generation of people.

The promise for the kings that will come from the seed of Abraham, is reconfirmed for seed of Jacob (Gen. 35:11), and then, to the Jewish people who were in the middle of bondage rampant, when, Lord reminds them the power of His promise made to Abraham and certified its fulfillment affirming that: “Thus saith the LORD; If my covenant be not with day and night, and if I have not appointed the ordinances of heaven and earth; Then will I cast away the *seed of Jacob*, and David my servant, so that I will not take any of his *seed* to be rulers over the *seed of Abraham, Isaac, and Jacob*: for I will cause their captivity to return, and have mercy on them.” (Jer 33:25, 26 – KJV)

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<sup>20</sup>This expression appears in: Deut. 10:22; 28:62; 1Chr. 27:23.

<sup>21</sup>This expression appears in: 2Sam. 17:11; Ev. 11:12.

Slowly, the promise concerning the seed of Abraham is reaching its final purpose and obvious more important than the blessing of Abraham and his successors about the promised land and the ultimate goal of the prophecy from Gen. 12 was the embodiment of Him, the Messiah, as Abraham's seed.

## 2.2. SPIRITUAL FULFILLMENT

After thousands of years from the moment of the prophecy, the first results started to be seen as a practical fulfillment of its power.

When Mary visited Elizabeth (her cousin) she was pregnant (with Jesus) and she describes God as the One who "He has helped his servant Israel, remembering to be merciful to Abraham and his descendants forever, even as he said to our fathers." (Luk 1:54-55 - NIV)

In John 8:39, the Lord Jesus sustains that Abraham's sons (the seed of Abraham) are not only the physical descendants, but those who prove a character as Abraham's ("You would do the things Abraham did." (NIV). So, the signification of the term „the seed of Abraham" is not limited only to the physical part but it also highlights the idea of a spiritual following. Furthermore, apostle Paul writes to the Romans, and emphasizes another aspect of this term confirming that the sons of Abraham are the ones who truly believe, and they're not only circumcised, because Abraham believed before to be circumcised and that faith was considered holy. So, Abraham is in fact the father of all believers even if they are circumcised or not. (Rom. 4:9-11; Gal. 3:6-10). The Epistle of Romans proves to us that through the seed of Abraham, we can't understand only the physical sons, but mostly promise's children, because Abraham, even though he had lots of children, but God said "In Isaac shall thy *seed* be called." (Rom. 9:7 - KJV)

The plan of blessing other people on earth is not ending at the material of psychological parentage from Abraham, it means that God did not limit Himself at a material blessing through Abraham, but His plan was that His embodiment to become the „the seed of Abraham" (Gal. 3:16) because afterwards to save all the Jews and in final all other people, despite their nationalities. For that matter of fact, Paul, the Apostle, after the healing of the man crippled from birth at "the temple gate called Beautiful" (Act 3:2 - NIV), he was preaching repentance (Act 3:19-20) to all gathered and he remembers them that they „are the children of the prophets, and of the covenant which God made with our

fathers, saying to Abraham,” And in thy seed shall all the kindreds of the earth be blessed.” (Act 3:25 - KJV<sup>22</sup>).

So, Jesus was from the seed of Abraham „the seed of Abraham” (the son of Abraham that physical descending – Matt. 1:1,2; Luk 3:34; Gal. 3:16,19), and “he helps Abraham’s descendants” (Heb 2:16 - NIV) – that spiritual descending, I mean all those who would believe in Him (Gal. 3:29; Heb. 2:16) – In order for you to be able to give them from the status of sons of God, and at the same time his brothers (Heb. 2: 11-13).

## **CONCLUSION**

So, this promise assumes a waiting in two dimensions: the first, which clearly refer to the Jewish people whose existence will be in forever and the second wait, spiritual one which charged the term of “the seed of Abraham” as the Church of Christ, namely all those who want to believe in Messiah (which was Jewish - descendant of Abraham's), which will be made Abraham's deeds and finally they will inherit life. (Gal. 3:29).

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<sup>22</sup> *The Bible*, KJV, accessed June 18, 2013, <http://www.bibleserver.com>.

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## THE RETURN OF THE PARISH “HOLY ARCHANGELS MICHAEL, GABRIEL AND RAFAEL” FROM PARIS UNDER THE JURISDICTION OF THE “MOTHER-CHURCH” – A DISCOURSE ANALYSIS

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### ABSTRACT

*THE FALL OF THE COMMUNIST REGIME IN ROMANIA OFFERED THE ROMANIAN ORTHODOX CHURCH THE POSSIBILITY TO (RE)ORGANIZE ITS INFRASTRUCTURE ABROAD. DURING THIS COMPLEX PROCESS, ONE OF THE CHURCH'S MAIN PREOCCUPATIONS WAS TO DETERMINE THE ECCLESIASTICAL UNITIES WHICH AFTER 1945 DECIDED TO SEPARATE THEMSELVES FROM THE ROMANIAN PATRIARCATE TO RETURN UNDER ITS JURISDICTION. ON MAI 10, 2009, THE ROMANIAN ORTHODOX CHURCH IN PARIS, SEEN AS THE SYMBOL OF THE ANTI-COMMUNIST ROMANIAN EXILE, DECIDES TO RE-ENTER UNDER THE CANONICAL AUTORITY OF THE MOTHER-CHURCH. THE PAPER USES DISCOURSE ANALYSIS IN ORDER TO ILLUSTRATE THE SIGNIFICANCE OF THIS EVENT FOR THE WHOLE PROCESS OF (RE)ORGANISATION STARTED AFTER 1990. BASED ON THE DISCOURSES OF THE FIVE MAIN ACTORS OF THE MAI 10, 2009 DECISION, THE STUDY SHOWS HOW THIS EVENT IS LESS A FORM OF PHYSICAL, INFRASTRUCTURAL (RE)ORGANIZATION BUT RATHER AN OPPORTUNITY FOR THE RELIGIOUS INSTITUTION TO RECAST ITS OWN IMAGE, TO VALIDATE ITS OWN ACTIONS AND TO GAIN IN TERMS OF LEGITIMITY.*

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**KEYWORDS :** ROMANIAN ORTHODOX CHURCH, NATION, EXILE, MOTHER-CHURCH

### INTRODUCTION

Après la chute du régime communiste en Roumanie, l'Église Orthodoxe Roumaine a démarré un processus de (ré)organisation de son infrastructure à l'étranger. Commencée un peu timide pendant les années 1990 avec des appels adressés aux communautés se trouvant en Occident, qui pendant le régime communiste ont refusé son autorité canonique,

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de revenir sous son juridiction afin de refaire « l'unité du corps ecclésial »<sup>2</sup>, complété particulièrement après 2000 par un processus soutenu de « construction » des nouvelles structures dans les pays d'émigration des Roumains (l'Italie, l'Espagne, partiellement la France), l'organisation de l'Église Orthodoxe Roumaine à l'étranger comprend aujourd'hui trois Métropoles<sup>3</sup>, cinq structures organisées comme Archevêché, Évêché ou Vicariat<sup>4</sup> et quelques Représentations<sup>5</sup>.

Le processus de récupération des structures ecclésiales qui se sont séparées du Patriarcat de Bucarest a représenté une préoccupation constante (et représente encore<sup>6</sup>) de l'Église Orthodoxe Roumaine pendant la période de transition postcommuniste. La littérature approchant la situation de la paroisse « Saints Archanges » de Paris (ou « l'Église de rue Jean de Beauvais ») est assez réduite du point de vue quantitatif. Un seul travail s'occupe de son évolution après 1990<sup>7</sup>, pendant que la plupart entre eux sont dédiés à la reconstitution du point de vue historique des événements plutôt avec des implications politiques qui touchent la vie de la paroisse avant 1989<sup>8</sup>.

Cette étude se propose d'analyser la manière dont plusieurs discours présentent l'événement le plus important du processus mentionné ci-dessus : le retour de la paroisse « Saints Archanges Michel, Gabriel et Rafael » de Paris (ou « l'Église de rue Jean de

<sup>2</sup> “Ședințele extraordinare ale Sfântului Sinod. Ședința din 3-4 ianuarie 1990,” *Biserica Ortodoxă Română* 108 (1990), 6-7. “Lucrările Sfântului Sinod al Bisericii Ortodoxe Române. Sesiunea de lucru 3-4 aprilie 1990,” *Biserica Ortodoxă Română* 108 (1990), 16.

<sup>3</sup> la Métropole de Bessarabie, ayant dans sa composition une Archevêché (de Chișinău) et trois Évêchés (l'Évêché de Bălți, l'Évêché de la Bessarabie de Sud et l'Évêché de Dubăsari et de toute la Transnistrie), la Métropole Orthodoxe d'Europe Occidentale et Méridionale, ayant dans sa composition l'Archevêché d'Europe Occidentale, l'Évêché d'Italie et l'Évêché d'Espagne et de Portugal, la Métropole d'Allemagne, d'Europe Centrale et du Nord, ayant dans sa composition l'Archevêché d'Allemagne, d'Autriche et de Luxembourg et l'Évêché d'Europe du Nord.

<sup>4</sup> l'Archevêché des deux Amériques, l'Évêché de Dacia Felix, l'Évêché de Hongrie, l'Évêché d'Australie et de Nouvelle Zélande, le Vicariat Orthodoxe Ukrainien.

<sup>5</sup> des Représentations dans les Terres Saints, auprès des institutions européennes, à Sofie et à Tokyo, des communautés en Turquie, en Afrique du Sud, en Cypre, en Syrie et des établissements à Mont Athos.

<sup>6</sup> La structure d'Amérique du Nord (avec le siège à Detroit), comprenant la majorité des paroisses orthodoxes roumaines se trouvant sur le continent américain, continue même aujourd'hui de refuser la juridiction de l'Église Orthodoxe Roumaine. Cette structure est part de l'Église Orthodoxe d'Amérique (Orthodox Church of America).

<sup>7</sup> Aurel Sergiu Marinescu, *O contribuție la istoria exilului românesc. Vol.4 Biserica Ortodoxă Română în străinătate, în exil, în diaspora*, (București: Vremea, 2004).

<sup>8</sup> Ovidiu Bozgan, “Biserica Ortodoxă Română din Paris în primii ani postbelici,” in *Studii de Istoria Bisericii*, accessed November 23, 2011,

<http://ebooks.unibuc.ro/istorie/religie/biserica%20ortodoxa%20romana%20din%20paris.htm>. Sorin Petru, « Mitropolitul român Visarion Puiu », accessed March 23, 2012,

[http://www.ortodoxia.de/html/mitropolitul\\_roman\\_visarion\\_puiu.html](http://www.ortodoxia.de/html/mitropolitul_roman_visarion_puiu.html). Dumitru Stavarache, *Mitropolitul Visarion Puiu. Documente din pribegie (1944-1963)* (Pașcani: Moldopress, 2002). Dudu Velicu, *Biserica Ortodoxă în perioada sovietizării României. Însemnări zilnice. I. 1945-1947* (Bucarest, 2004).

Beauvais ») sous la juridiction du Patriarcat Roumain le 10 mai 2009. La question à laquelle on se propose de donner une réponse est comment cet épisode a aidé le processus de (ré)organisation de l'Église à l'étranger après 1990. On a sélectionné pour l'analyse cinq « discours », représentant chacun les acteurs impliqués, sur certains aspects, dans le retour de la paroisse sous la juridiction de l'« Église-mère » : le Métropolitain de Moldavie et de Bucovine et depuis 2007 le Patriarche Daniel<sup>9</sup>, le Métropolitain Joseph (Métropole Orthodoxe Roumaine d'Europe Occidentale et Méridionale), l'Évêque Nathaniel (l'Évêché Orthodoxe Roumain d'Amérique, hors de la juridiction du Patriarcat Roumain), le prêtre Constantin Târziu (actuellement recteur de la paroisse), et Titus Bărbulescu, le président et puis membre de l'Association pour la Pratique du Culte Orthodoxe Roumain<sup>10</sup>.

### QUELQUES REPERES HISTORIQUES

L'installation du régime communiste en Roumanie a eu des conséquences significatives pour l'organisation des communautés orthodoxes roumaines de l'étranger. Les relations du Patriarcat de Bucarest avec le régime ont déterminé certaines structures ecclésiales organisées hors les frontières du pays de refuser l'autorité canonique de « l'Église-mère ». Deux des plus connus exemples sont l'Évêché Orthodoxe Roumain d'Amérique du Nord (ayant le siège à « Vatra Românească », Detroit) et la communauté de la paroisse « Saints Archanges Michel, Gabriel et Rafael » de Paris, qui deviendra depuis 1949 avec la création de l'Association de l'Évêché Orthodoxe Roumain d'Europe Occidentale par le Métropolitain Visarion Puiu, le siège de ce structure-là<sup>11</sup>.

L'initiative d'« organiser » du point de vue religieux les Roumains se trouvant dans la capitale française a appartenu à l'archimandrite Iosafat Snagoveanu et a eu comme base l'émigration politique qui a suivi à la révolution de 1848<sup>12</sup>. L'organisation est devenue plus cohérente après l'achat par le roi Charles Ier en 1882 d'un immeuble, « la chapelle des

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<sup>9</sup> On n'a pas identifié aucune prise de position publique du Patriarche Teoctist à l'égard de la paroisse Saints Archanges de Paris.

<sup>10</sup> En France, les Églises sont organisées du point de vue juridique comme des associations culturelles. L'Association pour la Pratique du Culte Orthodoxe Roumain a été créée pour représenter légalement la paroisse « Saints Archanges ».

<sup>11</sup> La structure ecclésiale créée par Visarion Puiu a une courte existence, en 1958, après les malentendus entre les orthodoxes Roumains de l'Europe Occidentale et leur Métropolitain concernant plusieurs questions d'ordre canoniques et juridictionnelles sur le fond des désagréments politiques la structure est supprimée. Voir à cet égard, Petru, « Mitropolitul român ». Voir également Stavarache, *Mitropolitul Visarion*, 112-113, 121, 136, 210, 211, 269.

<sup>12</sup> Bozgan, « Biserica Ortodoxă ». Sur l'activité politique de Iosafat Snagoveanu voir aussi, Marinescu, *O contribuție*, 132.

Dominicains » de 9 bis rue Jean de Beauvais, qui devient « l'Église roumaine de Paris »<sup>13</sup>. Après l'arrivée au pouvoir des communistes en Roumanie la communauté de rue Jean de Beauvais est devenue, comme bien remarque Ovidiu Bozgan, « l'objet de la compétition politique des diverses tendances »<sup>14</sup>. En 1948, la paroisse décide de sortir de la juridiction du Patriarcat Roumain<sup>15</sup>. Pendant la période suivante, en plusieurs étapes, l'État communiste, parfois avec l'aide du Patriarcat Roumain a utilisé des diverses stratégies pour obtenir le contrôle sur l'immeuble et implicitement sur la communauté : le retour des prêtres qui se sont opposé au régime, l'effort finalement sans résultats d'imposer des prêtres disposés à collaborer avec le régime, des interventions (de nouveau sans résultat) faites auprès des autorités françaises d'évacuer l'église et de la remettre à la possession « des autorités légales roumaines de Paris », des actions en justice<sup>16</sup>.

Après la rupture avec le Patriarcat de Bucarest et une période de confusions, la première juridiction que la communauté a identifiée a été celle du Synode de l'Église Russe Hors Frontières, structure qui ne se trouvait pas en communion avec les autres Églises Orthodoxes. En décembre 1998, le Synode de l'Église Orthodoxe Russe Hors Frontières a décidé à « libérer la communauté orthodoxe roumaine de son autorité canonique », et celle-ci a appelé l'Évêché Orthodoxe Roumaine d'Amérique (part de l'Église Orthodoxe d'Amérique, hors de la juridiction du Patriarcat Roumain) pour trouver une solution pour le problème de la juridiction canonique<sup>17</sup>. Pendant ces années, la rupture avec le Patriarcat Roumain a été doublée par des dissensions à l'intérieur de la

<sup>13</sup> "Istoric", accessed 20.03.2011, <http://egliseroumaine.com/noi-dvs/istorie/istoria.htm>.

<sup>14</sup> L'auteur énumère quelques uns comme les sympathisants du parti communiste français qui soutenaient les autorités roumaines, les opposants du régime communiste de Roumanie devenus des collaborateurs, les sympathisants du roi Charles II, la majorité des Roumains qui soutenaient le roi Michel et un groupe de légionnaires, Bozgan, "Biserica Ortodoxă". Sur l'existence des divers groupes se disputant le contrôle sur l'Église de rue Jean de Beauvais parle aussi Marinescu, *O contribuție*, 152-169.

<sup>15</sup> "Istoric".

<sup>16</sup> Bozgan, "Biserica Ortodoxă". Voir un exposé étendu sur ce sujet chez Marinescu, *O contribuție*, 8-128, 136-148, 215-248. Pour les années 1945-1947 voir aussi Velicu, *Biserica Ortodoxă*, 50, 73, 128, 133. Même après 1990 les représentants de l'État roumain n'ont pas resté neutres à l'égard de la permanence de la rupture entre la paroisse de rue Jean de Beauvais et le Patriarcat Roumain. Aurel Sergiu Marinescu mentionne une visite faite en novembre 1994 par le président Ion Iliescu à l'église Saints Archanges de Paris avec l'intention plus au moins déclarée d'arbitrer le dialogue et la réconciliation entre les deux parties, Marinescu, *O contribuție*, 257-260.

<sup>17</sup> "Scrisoarea IPS Nathaniel – 10 mai 2009," *Apostolia* 15 (2009), accessed 24.06.2011 [http://www.apostolia.eu/articol\\_426/scrisoarea-ips-nathaniel---10-mai-2009-sf--ap--simon-zilotul-cuv--isichie.html](http://www.apostolia.eu/articol_426/scrisoarea-ips-nathaniel---10-mai-2009-sf--ap--simon-zilotul-cuv--isichie.html).

communauté<sup>18</sup>. Le 10 mai 2009 « l'Assemblée Générale Extraordinaire a approuvé le retour de la paroisse sous l'autorité de l'Église-mère »<sup>19</sup>.

## LES DISCOURS

Le rapprochement entre le Patriarcat de Bucarest et les structures se trouvant hors de sa juridiction, y compris la paroisse « Saints Archanges » de Paris, a connu plusieurs pas, faits plutôt par l'Église de Roumanie : des actes de « réparation de la mémoire » comme l'annulation en septembre 1990 de la décision prise par le Synode en février 1950 d'éliminer Visarion Puiu, le symbole de « l'Église libre », du clergé<sup>20</sup>, et l'effort d'éclaircir son image et de le transformer dans un « martyr de l'Église et de la nation »<sup>21</sup>, le retrait des fonctions des Évêques installés pendant la période communiste, Adrian Hrițcu (l'Archevêché Orthodoxe Roumaine d'Europe Occidentale) et Victorin Ursache (l'Archevêché Orthodoxe Roumaine Missionnaire d'Amérique, le siège à Chicago)<sup>22</sup> et l'installation des nouveaux hiérarques, la promotion d'un discours mettant l'accent sur l'autonomie et la liberté des communautés de Roumains de l'étranger de s'organiser, et la pratique de la concélébration avec les occasions anniversaires ou des installations des hiérarques pour les structures se trouvant sous la juridiction du Patriarcat Roumain<sup>23</sup>.

En ce qui concerne la paroisse « Saints Archanges » de Paris, le processus de rapprochement a culminé avec un acte « pénitentiel », le message du Patriarche Daniel, en novembre 2007, adressé à la communauté, texte où il « demandait pardon au nom propre et au nom de ses prédécesseurs pour les erreurs du passé et pour tout ce qui avait pu être fait

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<sup>18</sup> Selon Aurel Sergiu Marinescu, parfois les dissensions ont connu des formes violentes visant plutôt la propriété sur le local de l'Église, les fonds et le contrôle des deux Associations s'occupant de la gestion des biens de la paroisse, Marinescu, *O contribuție*, 263-285, 290-292. Que les choses ont trouvé des solutions seulement à l'aide des instances juridiques françaises le montre les rapports publiés dans le *Buletin* de la paroisse. Voir « Ultimele noutăți », *Buletin* 9 (2002), 9. Voir également « Și din nou despre domnul Culică », *Buletin* 10 (2003), 17. « Cronica Juridică », *Buletin* 9 (2002), 7-8. Voir aussi « Cronica Juridică », *Buletin* 10 (2003), 15-16.

<sup>19</sup> Emanuel Tăvală, « Biserica exilului românesc în lumina Cincizecimii », *Ziarul Lumina*, June 12, 2011, accessed June 10, 2012, <http://www.ziarullumina.ro/articole;1836;0;58299;0;Biserica-exilului-romanesc-in-lumina-Cincizecimii.html>.

<sup>20</sup> « Biserica Ortodoxă Română și exercitarea autorității sale canonice asupra diasporei ortodoxe române din anul 1948 și până astăzi », *Biserica Ortodoxă Română* 110 (1992), 142.

<sup>21</sup> Mihail Daniliuc, « Mitropolitul Visarion Puiu și « Guvernul Român de la Viena », *Ziarul Lumina*, March 1, 2010, accessed June 2, 2013, <http://ziarullumina.ro/documentar/mitropolitul-visarion-puiu-si-guvernul-roman-de-la-viena>.

<sup>22</sup> « Temei nr.6164/1991 », *Biserica Ortodoxă Română* 109 (1991), 245. « Temei nr. 5174/2000 », *Biserica Ortodoxă Română* 118 (2000), 502.

<sup>23</sup> Très significative est sanctification de l'Évêque Marc en 2005 pour la Métropole Orthodoxe Roumaine d'Europe Occidentale et Méridionale, événement qui s'est passé dans l'église de rue Jean de Beauvais et auquel ont participé l'Évêque Nathaniel, le Métropolitte Daniel de Moldavie et Bucovine et le Métropolitte Joseph, voir Constantin Târziu, « Cuvânt la sfințirea întru Episcop a Prea Cuviosului Părinte Marc », *Buletin* 18 (2005), 5. Voir aussi, « La chirotonie du nouvel Évêque vicaire, Paris, 7 mai 2005 », *Feuillet Saint Jean Cassien* 213 (2005), 2.

de regrettable ou aurait du être fait sans l'avoir été »<sup>24</sup>. Le moment avait été assez bien choisi, l'Église Saints Archanges « fêtant plusieurs moments historiques » : 154 ans depuis la sanctification de la première chapelle orthodoxe roumaine à Paris, le 125<sup>ème</sup> anniversaire de l'acquisition de l'Église de rue Jean de Beauvais par le Roi Charles Ier, et 115 ans depuis sa sanctification.

Le message du Patriarche commence par l'évocation des moments importants de l'histoire de l'église et de la communauté, en soulignant particulièrement la contribution des « braves chrétiens de l'église de Jean de Beauvais qui se sont réunis autour du Christ et du métropolite Visarion Puiu pour organiser une des plus connues actions de résistance anti-communiste »<sup>25</sup>. Vers la fin du message, après avoir demandé pardon, le Patriarche offre son pardon « aux ceux qui ne comprenant pas suffisamment la situation difficile dans laquelle ont servi les hiérarques de l'Église Orthodoxe Roumaine, les ont sévèrement jugés »<sup>26</sup>. Ce message du Patriarche Daniel ouvre en fait la voie pour la déclaration du Métropolite Joseph qui a le caractère d'un vrai appel à la réconciliation. Particulièrement vers la fin de son message, le Métropolite souligne d'une part le fait que « les blessures non guéries » du passé ont encore des conséquences sur le présent, et d'autre part que la communion dont l'anniversaire est un exemple, donne la chance pour « plus d'ouverture et de connaissance réciproque, pour plus de rapprochement en humilité et de concélébration, pour ce que nous, tous souhaitons : glorifier Dieu avec 'une seule bouche et un seul cœur', être comme les frères, avec 'un seul cœur et une seule âme' »<sup>27</sup>.

Le Message du Patriarche Daniel de mai 2009, à l'occasion de la finalisation des discussions entre les représentants des associations qui géraient la vie de la paroisse de rue Jean de Beauvais (Association pour la Pratique du Culte Orthodoxe Roumain et Association de l'Évêché Orthodoxe Roumaine) et le Métropolite Joseph est assez utile pour illustrer la signification que l'Église « Saints Archanges » ait pour le processus de (ré)organisation de l'Église Orthodoxe Roumaine hors les frontières de la Roumanie après 1990. Bien qu'assez bref, le Message du Patriarche Daniel est dominé par des termes comme « nation », « histoire/historique », « unité »<sup>28</sup>. Ainsi, l'importance du « retour » de

<sup>24</sup> Jean Boboc, "L'Église Orthodoxe Roumaine de Paris, Les Saints Archanges, fête son 125<sup>ème</sup> anniversaire," *Buletin* 24-25 (2007), 8.

<sup>25</sup> "Scrisoarea Prea Fericitului Daniel, Patriarhul Bisericii Ortodoxe Române", *Buletin* 24-25 (2007), 9.

<sup>26</sup> "Scrisoarea", 10.

<sup>27</sup> Métropolite Joseph, "Biserica 'Sfinții Arhangheli' din Paris, la ceas aniversar," *Buletin* 24-25 (2007), 11.

<sup>28</sup> "Mesajul Preafericitului Părinte Daniel cu prilejul Adunării Association pour la Pratique du Culte Orthodoxe Roumain și Association Evêché Orthodoxe Roumaine din 10 mai 2009," *Apostolia* 15 (2009),

la paroisse sous la juridiction du Patriarcat de Bucarest ne vise seulement la reconstruction de l'unité ecclésiale de l'institution religieuse qui reste le focus de l'activité de l'Église seulement au premier niveau du discours. Le retour de la paroisse « Saints Archanges » a aussi une grande signification pour l'effort de l'institution religieuse de construire son capital de légitimité dans la relation avec ses propres fidèles et avec la société.

L'Église Orthodoxe Roumaine de rue Jean de Beauvais, ou « la communauté roumaine qui a joué un rôle si important dans l'histoire du peuple roumain pendant le XXème siècle » représente l'espace symbolique que personne ne peut ignorer dans l'histoire récente des communautés roumaines de l'étranger. « Le Sion de la croyance de notre sainte nation orthodoxe roumaine », « la cathédrale de la salvation des exilés », « le Nouvel Jérusalem », « cette morceau de terre roumain »<sup>29</sup>, « le cœur du rayonnement roumain en France et en Europe Occidentale »<sup>30</sup>, « l'Église de l'exil roumain »<sup>31</sup>, l'espace combine dans le degré le plus haut possible des significations historiques et spirituels également, car il s'agit de l'exemple le plus récent de la manière dont l'Église ou mieux la communauté ecclésiale a offert aux Roumains la possibilité d'être spirituellement et politiquement ensemble et de lutter (concrètement) contre l'ennemi commun : dans ce cas, le communisme. À part de l'unité que le Patriarcat cherche, lorsqu'il s'agit du cas de la paroisse « Saints Archanges », c'est particulièrement cette image de l'Église qu'il se propose à assumer et exploiter pour reconstruire sa légitimité, c'est récupérer un symbole et l'utiliser comme ressource dans la validation de ses activités comme acteur social hors les frontières du pays.

Dans une déclaration de juin 2009, le Métropolite Joseph exprimait ses remerciements aux acteurs qui dans une certaine mesure ont eu une contribution à la reconstruction et à la transformation des relations entre la communauté de rue Jean de Beauvais et le Patriarcat de Bucarest. Ce qui est intéressant dans la déclaration du Métropolite n'est quand même le contenu, mais particulièrement la manière dont l'auteur du texte se rapporte aux faits et aux acteurs impliqués. L'attitude de la Métropole, celle d'un médiateur-impliqué est caractéristique pour toute la période analysée mais ce texte est peut-être le plus illustratif à cet égard. Ainsi, le Métropolite Joseph, bien que représentant

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accessed June 24, 2011, [http://www.apostolia.eu/articol\\_427/mesajul-preafericitului-parinte-daniel-cu-prilejul-adunarii-apcor-si-aeor-din-10-mai-2009.html](http://www.apostolia.eu/articol_427/mesajul-preafericitului-parinte-daniel-cu-prilejul-adunarii-apcor-si-aeor-din-10-mai-2009.html).

<sup>29</sup> Târziu, "Cuvânt," 4.

<sup>30</sup> Joseph, Marc, "Lettre," 4.

<sup>31</sup> "Hram la Catedrala română din Paris," accessed Mai 23, 2012

<http://voceadiasporei.mitropolia.eu/2010/11/5-hram-la-catedrala-ortodoxa-romana-din-paris-7-11-2010/>.

du Patriarcat de Bucarest parle de la paroisse « Saints Archanges » (ou de la communauté orthodoxe de Paris incluant aussi la paroisse) comme de « notre communauté » en remerciant au Patriarche Daniel pour « l'amour, la patience et l'attention qu'il nous a donné pendant ces dernières deux années »<sup>32</sup> ; le texte nuance et même supprime le « nous » quand il exprime ses remerciements aux associations représentant la paroisse et au recteur de celle-ci. Ainsi, c'est assez difficile à positionner la Métropole comme acteur dans ce processus : elle représente d'une certaine manière le Patriarcat, elle facilite les rapports de celui-ci avec la paroisse, et, finalement, elle représente la paroisse par rapport avec le Patriarcat. La position de la Métropole est la plus complexe et parfois la plus confuse dans cette équation et la situation est visible dans le texte analysé, le Métropolitain réussissant assumer les deux perspectives de l'intérieur (celle du Patriarcat et celle de la paroisse) et de l'extérieur (celle du médiateur) dans le même texte.

La position de l'Évêque Nathaniel (l'Évêché Orthodoxe Roumaine d'Amérique, hors de la juridiction du Patriarcat Roumain) est peut-être le mieux synthétisée dans son Lettre pastorale de 10 mai 2009<sup>33</sup>. Le texte de l'Évêque Nathaniel essaie d'une part expliquer l'attitude et les décisions prises pendant les années par les représentants de l'Évêché Orthodoxe Roumaine d'Amérique en relation avec le Patriarcat de Roumanie, et d'autre part à argumenter pourquoi les communautés des deux rives de l'Atlantique ont des difficultés à former une seule structure ecclésiale. Plutôt cette dernière question sert à expliquer la position que l'Évêché Orthodoxe d'Amérique ait eu après 1990 par rapport à la question du « retour » de la paroisse « Saints Archanges » de Paris sous la juridiction de l'Église Orthodoxe Roumaine. Bien qu'il évoque le rapprochement et l'existence des liens entre les communautés orthodoxes roumaines d'Amérique et celles d'Europe, l'Évêque Nathaniel mentionne « la distance créée par l'Océan Atlantique, les conditions politiques », « les intérêts divergents » comme arguments contre la création d'une seule structure ecclésiale pour les Roumains orthodoxes des deux continents. Même après avoir accepté d'offrir la protection canonique pour la communauté orthodoxe roumaine de rue Jean de Beauvais, les représentants de l'Évêché Orthodoxe Roumaine d'Amérique du Nord insistent sur le caractère « provisoire » ou « temporaire » de la situation : « depuis ces

<sup>32</sup> Métropolitain Joseph, « Cuvântul Mitropolitului (iunie 2009), » *Apostolia* 15 (2009), accessed June 24, 2011, [http://www.apostolia.eu/articol\\_428/cuvantul-mitropolitului-%28iunie-2009%29.html](http://www.apostolia.eu/articol_428/cuvantul-mitropolitului-%28iunie-2009%29.html).

<sup>33</sup> « Scrisoarea IPS Nathaniel – 10 mai 2009, » *Apostolia* 15 (2009), accessed June 24, 2011, [http://www.apostolia.eu/articol\\_426/scrisoarea-ips-nathaniel---10-mai-2009-sf--ap--simon-zilotul-cuv--isichie.html](http://www.apostolia.eu/articol_426/scrisoarea-ips-nathaniel---10-mai-2009-sf--ap--simon-zilotul-cuv--isichie.html).

années-là jusqu'au présent nous avons rappelé le fait que notre protection canonique est temporaire (...) nous vous avons rappelé plusieurs fois la nécessité de trouver une solution canonique permanente »<sup>34</sup>.

Cette insistance sur le caractère provisoire de la protection canonique de l'Évêché Orthodoxe d'Amérique sur la paroisse « Saints Archanges » est la clé de voute pour comprendre l'attitude assez ouverte de l'Évêque Nathaniel et même ses encouragements pour la construction des relations de plus en plus étroites entre la paroisse et le représentant du Patriarcat Roumain<sup>35</sup>, l'Archevêque et puis le Métropolitain Joseph. C'est plutôt le rapprochement entre Joseph et Nathaniel qui a permis au premier de passer d'une manière assez facile sur la position de médiateur. Le retour de la communauté sous la juridiction du Patriarcat Roumain n'avait pas été une surprise, mais plutôt quelque-chose construit en temps<sup>36</sup>.

Une des positions les plus vocales de la paroisse jusque 2005 est celle de Titus Bărbulescu, président à cette époque-là de l'Association pour la Pratique du Culte Orthodoxe Roumain. Dans un texte paru en 2003<sup>37</sup> dans la publication de la paroisse Titus Bărbulescu insiste particulièrement sur l'image de l'église « Saints Archanges » comme une église toujours menacée et toujours en lutte avec quelque-chose ou avec quelqu'un. C'est l'image typique de la forteresse assiégée que l'auteur prolonge pour toute

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<sup>34</sup> Matei Cazacu mentionne le fait que « les Statuts de l'Évêché Orthodoxe Roumaine d'Amérique interdisaient à cette structure ecclésiale d'avoir dans sa juridiction des paroisses et des Évêchés en Europe », Matei Cazacu, "Despre canonicitatea Bisericii Române din Paris (Jean de Beauvais)", accessed February 22, 2012, <http://ortodox.net/article.php?story=20050216062329169>. Le prêtre Gheorghe Calciu Dumitreasa, élu par l'Assemblée Générale Extraordinaire de l'Association Éparchie Orthodoxe Roumaine, en janvier 2004 comme vicaire de l'Évêché Orthodoxe Roumaine d'Amérique pour la paroisse de rue Jean de Beauvais, insiste lui-aussi sur le caractère « temporaire » de sa fonction et sur le besoin pour la paroisse « d'avoir un Archevêque, ici à Paris », "Compte-rendu de l'Assemblée Générale Extraordinaire de l'Association Éparchie Orthodoxe Roumaine du 25 janvier 2004," *Buletin* 15 (2004), 11-12.

<sup>35</sup> Dans un entretien avec Bogdan Vlaicu pour une émission radio en mai 2009, le prêtre Jean Boboc de la paroisse des Saints Archanges souligne le rôle important que l'Évêque Nathaniel a eu pendant le processus de rapprochement entre la paroisse et la Métropole Roumaine, « Il faut rendre hommage à Monseigneur Nathaniel pour le rôle admirable qu'il a eu et qu'il a joué. (...) Monseigneur Nathaniel a toujours été clair que c'est qu'une situation provisoire et il nous demandait toujours de réfléchir à la solution qui serait la plus acceptable (...). Monseigneur Nathaniel avait été un pasteur excellent et il a su nouer des relations avec Monseigneur Joseph, ainsi qu'avec le Patriarcat de Bucarest », « Église Roumaine », Émission « Église Orthodoxe Aujourd'hui », 17.05.2009, accessed October 20, 2012, <http://www.orthodoxie.com/page/5/?s=eglise+roumaine&x=0&y=0>.

<sup>36</sup> À cet égard, dès 2007, le prêtre Iulian Nistea mentionnait dans un entretien le fait que [la protection canonique de l'Évêque Nathaniel] est une situation transitoire jusqu'à ce qu'on trouve une solution : probablement ça sera le retour au cadre du Patriarcat Roumain », Cristina Hermeziu, "Preotul Iulian Nistea din Paris care a creat 15 site-uri de ortodoxie română: 'Am trecut prin martorii lui Iehova, baptism, prin toate," *Suplimentul de Cultură* 145 (2007), accessed June 3, 2012, <http://www.suplimentuldecultura.ro/index/continutArticolNrIdent/Interviu/2306>.

<sup>37</sup> Titus Bărbulescu, "Gânduri la început de an," *Buletin* 10 (2003), 2-6.

l'orthodoxie roumaine<sup>38</sup>. Pour souligner l'importance et la signification de la paroisse de rue Jean de Beauvais pour l'orthodoxie et pour la roumanité, l'auteur du texte compare sa lutte contre le communisme avec la lutte de l'Église Gréco-Catholique pour la survie. L'attitude à l'égard du Patriarcat de Bucarest est, en 2003, au moins dans le discours de Titus Bărbulescu, une réticente, même agressive. Ainsi, l'Église de Roumanie est décrite comme « la Haute Hiérarchie Synoïdale », le texte connaissant des changements vers la fin quand l'expression « Église-mère » devient de plus en plus fréquente, mais concluant quand même que le retour sous la juridiction du Patriarcat n'est (encore) une solution<sup>39</sup>.

Un évident changement d'attitude de la part de la paroisse à l'égard de la Métropole Orthodoxe Roumaine d'Europe Occidentale et Méridionale est visible particulièrement en commençant dès 2005. Le 7 mai 2005 la paroisse accepte la sanctification dans l'église de rue Jean de Beauvais de l'Évêque Marc pour la Métropole Orthodoxe Roumaine d'Europe Occidentale et Méridionale. Le discours du prêtre supérieur, Constantin Târziu, à cette occasion montre la disponibilité pour le rapprochement : assez fréquentes sont les références à l'idée de paix, de pardon et de réconciliation<sup>40</sup>. Après le retour de la paroisse sous la juridiction du Patriarcat de Bucarest le prêtre Constantin Târziu parle de 10 mai 2009 comme de « notre retour au sein de l'Église-mère », ou de « notre retour à la maison », dans une Église « que nous n'avons jamais oublié et qui ne nous a jamais oublié », sous la juridiction d'un Métropolitain, Joseph « digne héritier du Métropolitain Visarion Puiu et de l'Évêque Teofil Ionescu », « pour montrer à tous ceux qui ont cherché de porter sous domination étrangère la cathédrale épiscopale roumaine de Paris que nous avons accompli la volonté de nos ancêtres »<sup>41</sup>.

<sup>38</sup> « Qu'est-ce que nous avons défendu ? », « Qu'est-ce que nous menace dans la continuation de ce travail comme église libre », « nous continuons à défendre », « nous nous avons défendu et nous continuerons nous défendre avec notre orthodoxie », « des faux amis, des ennemis », « Dans le monde libre, à Paris, notre église a du beaucoup lutter – en liberté, c'est vrai – avec ses ennemis de Roumanie ».

<sup>39</sup> Titus Bărbulescu maintient la même position en 2005 : « nous, l'Église Orthodoxe Roumaine de Paris (l'Éparchie et la Paroisse) sommes – et je crois est mieux de rester ! – une église épiscopale autonome. De cette manière – c'est-à-dire de l'étranger – on peut servir et soutenir mieux l'Église-mère – qui a lutté et lutte encore avec ses ennemis à la maison », Titus Bărbulescu, « Trăiască Regele ! », *Buletin* 18 (2005), 8.

<sup>40</sup> « notre réconciliation avec Dieu, avec nos semblables, avec nous-mêmes », « ni l'exil n'a pas pu nous séparer de nos semblables, de nos parents et de nos frères esclavés », « Pardonnez-les Dieu, car ils ne savent pas ce qu'ils font ! », « la paix qui se nourrit de l'amour », « la paix de Jésus », « la paix est descendu », Târziu, « Cuvânt », 4-5.

<sup>41</sup> Constantin Târziu, « Bucuria sfințeniei, Bucuria secerișului, Bucuria libertății sufletești, Bucuria Împărăției, Bucuria luminii », *Apostolia* 15 (2009), accessed June 24, 2011, [http://www.apostolia.eu/articol\\_425/bucurie.html](http://www.apostolia.eu/articol_425/bucurie.html). Le prêtre Jean Boboc insiste lui-aussi sur cette question pendant un entretien avec Bogdan Vlaicu: « Mais très vite, la solution roumaine était de toute évidence la seule acceptable dans la mesure où n'était pas pensable qu'une église qui a été résistante et nationale soit

Cette insistance sur le fait que la décision de la communauté de rue Jean de Beauvais de revenir à l'Église de Roumanie était non seulement la bonne solution mais aussi la seule légitime et que la structure représentée par le Métropolitain Joseph est la continuatrice de celle créée par Visarion Puiu, au-delà de leur relation de complémentarité (l'une soutient l'autre), est l'exemple le plus clair du pouvoir du discours de construire la légitimité. La reconnaissance de la continuité entre la structure créée par Visarion Puiu et celle créée par le Patriarcat Roumain en 2001 est en fait ce qui a motivé l'attitude du Patriarcat à l'égard de la paroisse « Saints Archanges » pendant les derniers 19 ans. La préoccupation du Patriarcat de Bucarest pour la reconnaissance de la continuité représente une constante de la manière dont le discours de l'institution religieuse présente l'histoire récente de la diaspora orthodoxe roumaine dans l'Europe Occidentale<sup>42</sup>. La liaison entre les deux constructions, dont la première représentant l'une des dernières images de l'orthodoxie roumaine « digne » devant l'effort du régime communiste de Roumanie de s'imposer le contrôle, était nécessaire pour valider et renforcer la légitimité de la nouvelle Métropole. Ce « grand jour historique » a comme signification « la guérison de la blessure de la séparation de l'Église de l'exil roumain de son Église-mère, la Patriarchie Orthodoxe Roumaine », ce retour a contribué selon les paroles du prêtre à « la fortification de la communauté orthodoxe roumaine qui est maintenant la plus grande communauté orthodoxe de France »<sup>43</sup>. Plus que la « fortification » en termes numériques, qui n'est quand même pas du tout négligeable, la contribution du retour de la communauté sous la juridiction du Patriarcat de Bucarest regarde premièrement une fortification en termes symboliques et légitimateurs. Ce que la Métropole a récupéré n'est seulement une structure ecclésiale, mais aussi ou, peut-être premièrement, la légitimité y dérivant.

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sous une autre obédience que celle du Patriarcat de Roumanie. C'est un non-sens », « Église Roumaine », Émission « Église Orthodoxe Aujourd'hui », 17.05.2009, accessed October 20, 2012, <http://www.orthodoxie.com/page/5/?s=eglise+roumaine&x=0&y=0>. Les idées sont reprises une année plus tard dans un entretien pour l'émission radio « Vocea diasporei române », « Hram ».

<sup>42</sup> Dès son création, la nouvelle Métropole est présentée dans le discours de l'institution religieuse comme « la continuatrice de l'historique Évêché Orthodoxe Roumain de France, organisée il y a plus de 50 ans », Mircea Alexă Uță, «Ridicarea Arhiepiscopiei Ortodoxe Române pentru Europa Occidentală și Meridională la rangul de Mitropolie», *Biserica Ortodoxă Română* 119 (2001), 138. La même attitude se remarque à l'égard de la structure réorganisée en Amérique, qui selon l'historique présenté par les représentants du Patriarcat Roumain, est bien sûr en continuité avec celle de l'Évêque Policarp Morușca, Costel Stoica, «Vizita Prea Fericitului Părinte Patriarh Teoctist în Canada. 11-16 iulie 2002», *Biserica Ortodoxă Română* 120 (2002), 15-18.

<sup>43</sup> «Hram».

## CONCLUSIONS

Comprenant plusieurs étapes le processus de (ré)organisation de l'infrastructure de l'Église Orthodoxe Roumaine à l'étranger après 1990 a met un accent considérable sur l'effort de refaire les liaisons avec les unités ecclésiales roumaines se trouvant hors les frontières du pays qui après 1945 ont choisi de sortir de son autorité canonique.

Les discours, avec la seule exception du président de l'Association pour la Pratique du Culte Orthodoxe Roumain, et celui-ci seulement avant 2005, présentent le retour de la paroisse de rue Jean de Beauvais comme la seule solution envisageable, comme une évolution naturelle des rapports (ré)construits en temps avec le Patriarcat de Bucarest.

Comme le montrent les discours analysés ci-dessus, le retour de la paroisse « Saints Archanges Michel, Gabriel et Rafael » de Paris en communion avec « l'Église-mère » a été plus qu'un moment ayant des significations sur le plan de l'autorité canonique, mais principalement venait de corriger l'image de l'Église comme corps fissuré et d'aider l'institution religieuse reconstruire en fait pas une infrastructure physique, qui reste quand même le prétexte, mais les rapports avec ses propres fidèles, de regagner un plus de légitimité et en même temps la validation de ses évolutions postcommunistes.

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## CHURCHES FOUNDED BY THE HOLY SOVEREIGNS CONSTANTINE AND HELEN

Nicușor TUCĂ<sup>1</sup>

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### ABSTRACT:

*THE FIRST CHRISTIAN EMPEROR OF THE ROMAN – AND LATER ON BYZANTINE – EMPIRE, CONSTANTINE THE GREAT – DOES THE GREATEST FAVOR TO THE CHRISTIAN CHURCH, AS HE MAKES CHRISTIANITY LEGAL AND FREE, AFTER A LONG TIME OF PERSECUTIONS THAT LED TO REAL MASACRES. HISTORIANS UNANIMOUSLY ADMIT THAT, DURING CONSTANTINE’S REIGN, THE ROMAN WORLD BECOMES RICH IN CHRISTIAN CHURCHES, AND INSIDE THE GROWING CHRISTIAN COMMUNITY, AN INTENSE THEOLOGICAL ACTIVITY IS DEVELOPED, BEING ENCOURAGED AND SUPPORTED BY EMPEROR CONSTANTINE. IN THIS ACTION, HE ALSO BENEFITS OF THE INITIATIVE AND SUPPORT OF HIS MOTHER, SAINT EMPRESS HELEN, WHO SUPPORTS AND SUPERVISES THE CONSTRUCTION OF SOME SPLENDID AND MAGNIFICENT CHURCHES IN THE MOST IMPORTANT CITIES OF THE ROMAN EMPIRE. FOR THESE REASONS, THE CHRISTIAN POSTERITY HONORS BOTH OF THESE HOLY SOVEREIGNS AND CONSIDERS THEM “EQUAL TO THE APOSTLES OF JESUS CHRIST”. CONSTANTINE HIMSELF WAS BURIED IN THE CHURCH OF THE HOLY APOSTLES OF CONSTANTINOPLE, A CHURCH THAT HAD BEEN FOUNDED BY HIMSELF.*

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**KEY WORDS:** CONSTANTINE THE GREAT, HELEN, CHURCH, FOUNDATION, FREEDOM, CHRISTIANITY

### INTRODUCTION

This year we celebrate 1700 years from the official proclamation of the well-known “Edict of Milan” (*Edictum Mediolanense*) of 313 A.D., which brought to an end the persecutions against Christians stopped, and through which the Christian religion won freedom throughout the Roman Empire. Due to its great importance, both for history and for the consequences we have felt in Europe so far, the Holy Synod of the Romanian Orthodox Church has decided that this jubilee event and the Holy Emperor Constantine and Empress Helen should be honoured and paid homage at the same time.

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The reign of Constantine the Great (between 306 and 337 A.D.) is of extreme importance for the historical evolution of Europe and of the whole world, as it will turn the pagan Roman Empire into a Christian one<sup>2</sup>. The Holy Sovereigns Constantine and Helen have a major importance for the history of Christianity, both because they stopped all persecutions and allowed religious freedom for Christians, and due to the reforms, support and actions taken by Constantine the Great for the development of Christ's Church.

After some major events occurred in Emperor Constantine's life, he starts being aware of the fact that both the revelation he had had<sup>3</sup>, and the victory he won against emperor Maxentius in the battle of Pons Milvius (Vulture Bridge), on October 27, 312 A.D.<sup>4</sup>, were due to divine intervention. Jesus Christ Himself appeared to Constantine in his dream, holding the Cross, after Constantine had seen the Cross in the sky, at midday, and "demanded Constantine to represent a cross in the image of the sign shown to him on the sky, so as to be protected by it in his fights against his enemies."<sup>5</sup>

This is where Constantine had the well-known vision, retold by historian Eusebius of Caesarea in his *Vita Constantini (Constantine's Life)*, also retold by the Christian apologist Lactantius in *De mortibus persecutorum*<sup>6</sup> (On the Death of the Persecutors). The event retold in the two works is the argument explaining the conversion to Christianity of Constantine the Great, a conversion similar to that of Saul of Tarsus on his way to Damascus. From that moment on, a radical transformation takes place in Constantine's life, as the emperor understands the providential historical moment and the Holy Secret of the Cross. He had an intuition that the pagan world would not be able to survive, but would have to make room for the new one – the only world able to save humanity from darkness, superstition and ignorance. "At that time, Christianity and the Church were concentrating all energies of that world, and were becoming the only realities called to imprint the seal of their spirit on history. The most outstanding leaders of the pagan society were deserting it, increasing the Christians' number."<sup>7</sup>

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<sup>2</sup> **A. Alföldi**, *The Conversion of Constantine and the Pagan Rome*, trans. H. Mattingly (Oxford, 1948), 14-15.

<sup>3</sup> **Eusebiu de Cezareea**, *Viața lui Constantin și alte scrieri*, trans. Radu Alexandrescu, în colecția "Părinți și Scriitori Bisericești", serie nouă, volumul 8 (București: Basilica, 2012), 102-03.

<sup>4</sup> **Prof. Ioan Bocioagă**, *Personalitatea lui Constantin cel Mare și politica lui socială* (Galați: Moldova S.A.R. pentru Industria Artelor Grafice, 1935), 12.

<sup>5</sup> **Eusebiu**, *Viața lui Constantin și alte scrieri*, 103.

<sup>6</sup> **Lactanțiu**, *Despre moartea persecutorilor* (Timișoara: Amarcord, 2000).

<sup>7</sup> Dan Zamfirescu, *Ortodoxie și romano-catolicism în specificul existenței lor istorice* (București: Roza Vânturilor, 2013), 43.

By the Edict of Milan, promulgated in March 313 A.D., along with Licinius, Emperor Constantine not only designates Christianity a *religio licita* (permitted religion) – establishing a relation of equality between it and the pagan religions recognized by the Roman State; he also “orders actions meant to give back to the Christian communities their possessions previously confiscated by the Roman State”<sup>8</sup>; thus, he becomes the real protector of the Christians, whom he supports in all the situations. In this action, he also benefits of the initiative and support of his mother, Saint Empress Helen, who sponsors and supervises the construction of some magnificent and grand churches in the most important towns of the Roman Empire.

After 313 A.D., the Christians - now acting legally - enthusiastically continued the Apostles’ work of preaching the new religion. However, now they needed more than the occasional prayer houses, they needed large enough public worship places with a permanent destination. The public Christian religion started to organize itself increasingly better and to manifest itself by means of an increasingly pompous ceremony, meant to attract and impress the masses. The Christian rite was taking place indoors and sometimes required much larger, actually quite grand spaces - in the biggest and the most important towns. But it was very hard to quickly move from catacombs to Tabor Mountain, namely to grand churches.

In that regard, it is Constantine the Great who has the merit of founding holy buildings in almost all the centres and regions of his huge empire. Historians unanimously admit that “during the times of Constantine the Great, the Roman world gets full of churches, and an intense theological activity develops amidst the increasing Christian community”<sup>9</sup>, which activity is encouraged and supported by the emperor himself. He pays a particular attention to the former prayer houses of the Christians, which had been confiscated during their persecutions. Not only does the emperor return those buildings to the Church, but he also arranges and decorates them and he turns old pagan temples into Christian worship places. To that respect, he also issues a law by which “he orders that the walls of the prayer houses should be higher than the surroundings, and God’s churches be larger (than anything around them), both in length and width”<sup>10</sup>. In accomplishing that mission, the emperor himself gets directly involved, by allocating subventions and

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<sup>8</sup> Bocioagă, *Personalitatea lui Constantin cel Mare și politica lui socială*, 42.

<sup>9</sup> Paul Lemerle, *Istoria Bizanțului*, trans. Nicolae Șerban-Tanașoca (București: Universitas, 1998), 24.

<sup>10</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 147.

investing huge fortunes for building and decorating the holy worship places, so that anybody should be able to notice how “the emperor had plentifully endowed God’s Churches, enlarging and making the prayer houses more imposing, on his own expense.”<sup>11</sup> By official letters, he orders the bishops and province governors “to do their best to accomplish the works in sanctuaries, namely: they should either rebuild the existing walls, or make them higher; where necessary, they should build new walls”<sup>12</sup>.

In 314 A.D., bishop Paulinus had a grand church built - in Tyre town, Phoenicia - which he “decorated with beautiful thrones, in honour of the hierarchs of the Church...”<sup>13</sup>. Also, at Heliopolis, Phoenicia, Emperor Constantine “laid the foundation of a great church to be used as a prayer house, on the place of a pagan temple – which had been built to the honour of goddess Aphrodite, where pagan orgies and feasts had been organized before”<sup>14</sup>.

In most cases, the pagan temples given to the Church by Constantine’s order were not fit for the new stage of the Christian religion rite, which had started to distinguish itself by its ceremony, artistic brilliance and beauty and – for these reasons - the Christians demolished the former temples and, using the old building materials, they erected new worship places, which were larger and more comfortable than the former temples, in harmony with the spirit of the new religion revealed to Constantine. By comparison with the pagan temples, “the inner decoration of the Christian churches benefited of the greatest attention”<sup>15</sup> – mainly due to the fact that “most of the artists throughout the empire worked only for the glorification of the new faith”<sup>16</sup>. During those times of freedom, we witness a spectacular development of the Christian art, characterized by a new programme of image patterns. If, during the first three centuries, the church painting used to have a markedly symbolical and allegorical character – as different researchers concluded, by analyzing the religious scenes of the catacombs – beginning with Constantine’s age, the Christian painting starts showing images taken from the history of Christianity<sup>17</sup>.

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<sup>11</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 110.

<sup>12</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 148.

<sup>13</sup> Eusebiu de Cezareea, *Istoria bisericească*, trans. Pr. Prof. T. Bodogae, în colecția “Părinți și Scriitori Bisericești”, volumul 13 (București: Editura Institutului Biblic și de Misiune al Bisericii Ortodoxe Române, 1987), 373.

<sup>14</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 164, 199-200.

<sup>15</sup> Dr. P. Constantinescu – Iași, *Arta și creștinismul* (Chișinău, 1926), 16.

<sup>16</sup> Egon Sendler, *Icoana, imaginea nevăzutului, elemente de teologie, estetică și tehnică*, trans. Ioana Caragiu, Florin Caragiu și monahia Ilie Doinița (București: Sofia, 2005), 19.

<sup>17</sup> Dr. Badea Cireșeanu, *Tezaurul liturgic al Sfintei Biserici Creștine Ortodoxe de Răsărit*, tomul II (București, 1910), 200.

The first basilica-type Christian worship place, founded by Constantine, is the basilica of Lateran (today, Saint John Lateran) begun in 313 A.D.<sup>18</sup>, – one year after 312 A.D., when Constantine had given the local imperial palace to the bishop of Rome, to be used as an Episcopal residence. Unfortunately, there are scarcely any architectonic remains of the former Constantine basilica, on whose bases we could imaginary reconstitute the original plan of the building. Historians assert that the basilica used to have a transept and a grand baptistery, and was adorned with mosaics of “beautiful compositions covering the free areas of the walls in general, and particularly the apse curves.”<sup>19</sup>

The other Christian basilicas and constructions are some *Martyria*, built over the tombs of the Saints Peter and Paul - the Apostles, and of other Christian martyrs, or *mausoleums*, which belonged to different members of the imperial family<sup>20</sup>.

Saint Peter’s Basilica of Rome, whose construction started about ten years later than the basilica of Lateran, took up to the middle of the fourth century to complete, and it is chronologically considered the first *martyrium*-basilica, in the true meaning of the word. It used to be a large basilica, having a transept, five naves, an apse to the west and an atrium with four porticoes to the east, where the entrance used to be<sup>21</sup>.

The *martyrium*-basilicas built over the tombs of Saints Laurentius and Agnes, during Constantine’s reign, were smaller in size, having three naves.<sup>22</sup> Also, by emperor Constantine’s support and initiative, in Rome the following worship places were built: Basilica of St. Paul, the Apostle (over his tomb), today called San Paolo fuori demura, located in via Ostiense - which burnt during the fire of 1823 and was rebuilt later, according to the old plans; Basilica Apostolorum of the San Sebastiano catacomb, in via Appia, which hosted temporarily – during the third century – the holy relics of Saints Peter and Paul, the Apostles; and Basilica of Marcellinus and Peter, the martyrs, on via Labicana<sup>23</sup>.

On May 11, 330 A.D., on the banks of the Bosphorus strait, Emperor Constantine inaugurates his new capital city – that is Constantinopolis<sup>24</sup> or ΝέαΡομη (which means the

<sup>18</sup> Ion Barnea, Octavian Iliescu, *Constantin cel Mare* (București: Științifică și Enciclopedică, 1982), 79.

<sup>19</sup> Constantinescu – Iași, *Arta și creștinismul*, 17.

<sup>20</sup> Cireșeanu, *Tezaurul liturgic al Sfintei Biserici Creștine Ortodoxe de Răsărit*, 102.

<sup>21</sup> André Grabar, *Martyrium. Recherches sur le culte des reliques et l’art chrétien antique*, I-er volume, “Architecture” (Paris, 1946), 293-305.

<sup>22</sup> Grabar, *Martyrium. Recherches sur le culte des reliques et l’art chrétien antique*, 305-08.

<sup>23</sup> P. Testini, *Archeologia cristiana* (Roma, 1958), 216-18.

<sup>24</sup> Charles Diehl, *Istoria Imperiului bizantin*, trans. Carmen Roșulescu (Craiova: Scorilo, 1999), 21.

New Rome) – which he endowed with gorgeous palaces and numerous public buildings. The urban scenery was also completed by a few famous churches, by whose construction Emperor Constantine meant to put his city under the protection of his God. Being dominated by the divine spirit of wisdom, Constantine decided to clean the city bearing his name of all the idolatry forms, so that inside its temples there should be no more statues of the so-called idols to be worshipped, and no other form of superstition. Three of the churches built in his imperial residence are more representative: the basilica built in honour of the Divine Wisdom (Saint Sophia), which later became an Episcopal palace church; the basilica built in honour of the Divine Peace (Saint Irene), on the old acropolis of the city, and the basilica built in honour of the Holy Apostles. The Saint Sophia Church had - on the outside - the shape of an elongated rectangle and, on the inside – the cross shape given by the rows of columns dividing its inner area. Being built of beams and rafters, the church was divided into five naves and had a library and a very large baptistery, so that it provided the possibility of hosting the synod meetings. This Church will become a model for the worship places of the next period. On the location of this church – which burnt during the uprising of Nika, 532 A.D., Justinian later built the monumental cathedral - Saint Sophia, unique in grandeur and artistic beauty, a real masterpiece of the byzantine architectonic style<sup>25</sup>.

The Holy Apostles Church remains, par excellence, the most magnificent of all churches, built in the centre of the capital city.

“After Constantine had this church built ineffably, he covered it from basement to roof by all coloured-stones, catching your sight; he divided its upper part into narrow strips and entirely gilded it”<sup>26</sup>. Inside this famous church Constantine sheltered the holy relics of the Twelve Apostles, laid in twelve sarcophagi, and he ordered his body to be laid in the middle of those, in a sarcophagus got ready for him, and placed in the central part of the mausoleum, for him to be guarded by six Apostles on one side, and the other six Apostles on the other side, as he considered himself to be the thirteenth apostle of Jesus Christ. It was for the first time that an intra-muros mausoleum (within the walls of the citadel) was built, against the prescriptions of the Roman laws of that time, which stipulated that tombs should be placed outside the city. This time, the mausoleum of Constantine and of other emperors who were to be buried inside this worship place, beside the Holy Apostles, were

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<sup>25</sup> Brezeanu Stelian, *O istorie a Imperiului bizantin* (București: Albatros, 1981), 11.

<sup>26</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 240-41.

going to be an example to follow for the whole Christian world and, last but not least, for the Romanian rulers, who would later on imitate the example of the great Emperor Constantine.

The Saint Irene Church was originally a dome-basilica, incipiently prefiguring the later byzantine style. Emperor Justinian reconstructs it in 532 A.D., and gives it a more imposing shape, by adding two extra domes<sup>27</sup>.

Historian Eusebius also tells us that in the new capital city of his empire, Emperor Constantine founded “great churches built in honour of the Christian martyrs”<sup>28</sup>, which can only be those mentioned by a great Romanian historian, namely: the St. Martyrs Serge and Bacchus Church, St. George Church, St. Archangel Michael Church, St. Agatonicus, St. Procopius, St. Acatius, St. Philemon and St. Eudoxius Churches, as well as those founded by his mother – Empress Helen, who founded the churches built in honour of St. Theodor, Ss. Carpus and Papyrus.<sup>29</sup>

After Rome and Constantinople, Constantine’s attention switched to the Holy Places of Palestine, and in its provinces he founded new Christian churches, much more slender and brighter than the old ones. “During the early fourth century, when the victory of Christianity allowed that the places - which had been sanctified by its origins - should be freely researched, as a French historian retells, Jerusalem and its surroundings abounded in churches. They built basilicas all over the place: on the location of the Holy Sepulchre, discovered by Saint Helen; on Olivet Mountain, sanctified by the Ascension of the Lord; on the place mentioned by the holy tradition as the Cenacle place; in the house of Saint Anne or over the tomb of Virgin Mary; and the Christian emperors of the centuries to come – that is empress Eudoxia, who lived in the fifth century, and emperor Justinian, who lived in the sixth century – continued that holy work in Jerusalem”<sup>30</sup>.

The emperor’s special concern naturally focuses on the place of the Passion, burial and Resurrection of Jesus Christ, and Constantine decides to enrich the place with grand worship places, meant to impress the Christian posterity by size, grace and value, and to immortalize over the centuries the memory and honour of the major events in the history of mankind’s salvation. To make this ideal come true, the emperor asks for the support of the high officials and province governors and, mainly the support of the bishop of Jerusalem –

<sup>27</sup> Pr. Prof. Petre Vintilescu, “Arhitectura religioasă bizantină”, *Biserica Ortodoxă Română*, 5-6 (1966): 592.

<sup>28</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 192.

<sup>29</sup> Nicolae Iorga, *Istoria vieții bizantine* (București: Enciclopedică, 1974), 76.

<sup>30</sup> Charles Diehl, *Călătorii istorice și de artă*, trans. Ion Herdan (București: Sport - Turism, 1984), 215.

Macarius – to whom, in 326 A.D., he sends a letter through his mother, asking him to support empress Helen in her great action of restoring the churches destroyed by pagans and of cleaning the holy places - which had been desecrated by idol altars and pagan sacrifice rituals<sup>31</sup>. The main goal of the emperor was to build a grand church over the glorified sepulchre of the Lord, and that was a mission which he entrusted to his faithful mother, who was 80 years old at the time.

Once arrived at the holy places, Saint Helen enthusiastically looked for the Holy Cross - which our Saviour had been crucified on – by digging on the Golgotha (Skull) Hill, where the tomb of the Lord had been, and where Emperor Hadrian (117-138 A.D.) had had a pagan temple built, in honour of goddess Aphrodite, in 119 A.D.<sup>32</sup>. “After seeing the place where Jesus Christ had suffered the Passions for the salvation of the whole mankind, she demanded that they should immediately demolish that unholy pagan temple and carry away all the debris. After discovering the Tomb - which had been hidden from sight before, three crosses came out, covered in soil, somewhere near the Tomb - everybody was perfectly sure that one of the crosses was the one on which Jesus Christ, our Lord had suffered the Passions and died, and the other two were those on which the two convicts had been crucified, at the same time. But they were not sure which was the cross that had been touched by the body of the Lord, and on which of the crosses drops of His Holy Blood had fallen. Then, the very wise and truly divine bishop of Jerusalem - Macarius, made a smart decision: After much and intense prayer to God, they had each of the three crosses touched by a honoured wealthy woman, who had been ill for a long time, and so they found out the power of the saving Cross, since as this cross touched the woman’s body, it cured the severe disease that the woman had suffered from, and made her healthy again”. Saint Helen shared the saving cross in two parts. She sent a part of it to Constantinople, for her son Constantine to keep in his imperial residence, “and made a silver case for the other part and she gave it to the bishop of Jerusalem, ordering him to keep it for the future generations, so that it should remind them of mankind’s salvation”<sup>33</sup>.

On the place of the Crucifixion and Resurrection, Emperor Constantine builds a grand complex of holy buildings - called the New Jerusalem by Eusebius - namely that

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<sup>31</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 184-86.

<sup>32</sup> Ierom. Ieraclie, *Mărgăritare sau evangheliile sărbătorilor și explicarea lor populară* (Chișinău, 1935), 140.

<sup>33</sup> Teodoret, Episcopul Cirului, *Istoria bisericească*, trans. Pr. Prof. Vasile Sibiescu, în colecția “Părinți și Scriitori Bisericești”, volumul 44 (București: Editura Institutului Biblic și de Misiune al Bisericii Ortodoxe Române, 1995), 62-63.

which had been prophesied by the prophets<sup>34</sup>. The grandest edifice of that complex is the Church of the Holy Sepulchre, called *Martyrium* – since it had been founded on the place of the crucifixion and burial of our Saviour<sup>35</sup>, for which reason it was also called the Great Martyrium. Its inauguration - in 335 A.D. - was witnessed by Emperor Constantine, and its sanctification occurred on September 13; on September 14, bishop Macarius showed the Holy Cross Wood to the crowd - who had come for the celebration - by lifting it up so that anybody could see it; that event is reminded by the Church by celebrating the Feast of the Glorious Cross.<sup>36</sup>

This basilica was also named the “Resurrection Church”, as Emperor Constantine had had it built “as great evidence of the Resurrection for our salvation”, and “he took care that the church should be extremely beautiful in all aspects, of an expense and glory worthy of an emperor.”<sup>37</sup> The basilica had five naves and was made of polished stone, covered by a lead roof and the inner walls were colour marble-plated, and to the east – where the entrance used to be – it had an atrium with four porticoes. To the west, the basilica also had an atrium, making the connection with the apse which closed the vault with the tomb of our Saviour. The apse constituted the most important part of the architectural complex, as it was fit with a circular belt inside, formed of twelve columns (according to the number of the Holy Apostles), having their heads embellished by big silver vessels<sup>38</sup>. Of that architectural Constantine-type complex - which existed up to the eleventh century, almost in its original form - only few columns and a fragment of the apse wall remain to this day.<sup>39</sup>

By the enthusiasm and efforts of Empress Helen, at the same time they also had two holy and great worship places built, namely the Church of Nativity of Bethlehem, lying on the place where the cave of our Saviour’s birth used to be, and the Ascension Church on Mount Olivet, from where our Saviour ascended to the skies and where – according to the holy tradition – there was a grotto where the Divine Master initiated his disciples, by revealing His teachings to them. Three other Oriental basilicas are attributed to Emperor Constantine: basilica of Abraham’s oak in the valley of Mamre, where the

<sup>34</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 186.

<sup>35</sup> Sfântul Chiril al Ierusalimului, *Cateheza a XIV-a*, în volumul “Cateheze”, trans. Pr. Prof. Dumitru Fecioru (București: Editura Institutului Biblic și de Misiune al Bisericii Ortodoxe Române, 2003), 225.

<sup>36</sup> Petru Lebedew, *Liturgica sau explicarea serviciului divin*, trans. Nicolae Filip (București, 1899), 311.

<sup>37</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 188.

<sup>38</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 188.

<sup>39</sup> Grabar, *Martyrium. Recherches sur le culte des reliques et l’art chrétien antique*, 256-58, 264, 282.

Holy Trinity had appeared to patriarch Abraham as three travellers (Genesis 18:1-16); the basilica of Nicomedia, built on the place where an old basilica had lain but it had been destroyed during the persecution of Emperor Diocletian (285 - 305); and the basilica of Antioch, unique for its beauty, “of an unusual size and guarded by heavy walls from all sides, amidst which the church itself arose – octagonal in shape – absolutely grand, surrounded all around by rooms – on two floors, of which some were on the ground floor, and others on top of the first.”<sup>40</sup> Due to the wealth of the architectural scenery, this last basilica of the Orient metropolis was named Domus Aurea (Golden House – *lat.*) and they say that it was the model for the building of the famous San Vitale of Ravenna, as well as of other churches of the same style<sup>41</sup>. Being an Episcopal church, it also had a baptistery, the same as the Resurrection Church of Jerusalem.

The Christian hagiographers assert that Empress Helen also had some other eighteen churches built, embellishing them with all ornaments and giving them other material assets. Those churches were built on places where the most important acts and miracles recorded in the Bible History and in the Holy Christian Tradition had taken place, such as: the tomb in the garden of Gethsemane - where the immaculate body of Virgin Mary had been buried; the tomb of Lazarus in Bethany - on the bank of the Jordan river, close to the place where Jesus Christ, our Saviour had been baptized; on the shore of the Sea of Galilee (Lake Tiberias), where Jesus had made the miracle of the multiplication of the bread, and the miraculous fishing; the place where the house of Mary Magdalene had been, and the place of the house in which Peter's mother-in-law had lived; the top of Mount Tabor, where the Transfiguration of Jesus took place; in Nazareth town, where archangel Gabriel had given the wonderful news to Virgin Mary - that she was to give birth to our Lord Jesus (the Lady Day); in Cana of Galilee, on the place where our Saviour had turned water into wine; on the peak of Mount Zion; in the grassland where the angel of the Lord had announced the shepherds of the birth of Messiah – who had been prophesied by the prophets; in the former courts of bishop Caiapha; near the Siloam bath, where the man born blind had been healed; in the valley of prophet Jeremiah<sup>42</sup> etc. All those worship places were endowed with precious gifts and valuable religious objects.

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<sup>40</sup> Eusebiu, *Viața lui Constantin și alte scrieri*, 142, 145, 214.

<sup>41</sup> Grabar, *Martyrium. Recherches sur le culte des reliques et l'art chrétien antique*, 214-27.

<sup>42</sup> *Învățăturile lui Neagoe Basarab către fiul său Teodosie*, trans. Academician Gheorghe Mihăilă (București: Roza Vânturilor, 2010), 76-77.

According to the architectural model of the basilicas from Palestine, emperor Constantine built a double Christian basilica at Trier (Augusta Treverorum), the former capital city of the western regions of the Roman Empire.<sup>43</sup> Also “in Dobrogea, Romania, the Christian fortresses and churches built by Constantine the Great are very many and beautiful, in all boroughs and towns, even in very many Roman villages of Dobrogea.”<sup>44</sup>

## CONCLUSION

Emperor Constantine fully deserves the name of *Great*, since his decisions changed the future of civilization, which led to a deeply Christian world. His first great decision was to declare Christianity a legal religion in the Roman Empire, and the second was to move the imperial capital city from (the pagan) Rome to Constantinople, which he further turned into the greatest Christian city, by enriching it with numerous churches. Anyway, he had Christian worship places built not just in Constantinople but also in Rome, the Holy Land and many other towns and villages throughout the Roman Empire.

As he felt he was God’s representative on the Earth, emperor Constantine acted as an instrument of the Divine Providence and entirely obeyed God’s will, by impressing the spirit of the Christian faith and morals on all the organizational structures of the empire’s social and political life. For his merits and services to Christianity, the Church has honoured him exceptionally, and has considered him a saint, along with his mother, Empress Helen, calling them “equal to Jesus Christ’s Apostles”, and considering Constantine as wise as king Solomon and as good as king David.

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<sup>43</sup> Ion Barnea, Octavian Iliescu, *Constantin cel Mare*, 82.

<sup>44</sup> Vasile Pârvan, *Începuturile vieții române la gurile Dunării* (București: Cartea românească, 2000), 162.

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## THE TRANSPARENCY IN THE ACTIVITY OF THE INSTITUTIONS OF THE EUROPEAN UNION

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### ABSTRACT.

*THE PRESENT STUDY HAS AS PURPOSE THE PROBLEM OF THE TRANSPARENCY AT THE LEVEL OF THE EUROPEAN UNION, UNDER ITS TWO ASPECTS: THE WAY IN WHICH THE UNION INSTITUTIONS ADOPT LEGAL ACTS AND THE ACCESS OF THE PUBLIC TO THE DOCUMENTS OF THE INSTITUTIONS AND BODIES OF THE UNION. BECAUSE THE TRANSPARENCY IS AN IMPORTANT PRINCIPLE IN ANY DEMOCRATIC SYSTEM, THE UNION, WHICH CONSIDERED ITSELF FROM THE BEGINNING A DEMOCRATIC SYSTEM, COULD NOT LONGER SHIRK ITSELF FROM THIS REQUIREMENT. THAT'S WHY THE TREATY OF AMSTERDAM INTENDED TO COVER THE SO-CALLED "DEMOCRATIC DEFICIT" AND INTRODUCED TWO PROVISIONS RELATED, ONE TO THE OBLIGATION OF THE COUNCIL TO DELIBERATE PUBLICLY WHEN ADOPTING LEGISLATIVE ACTS (THE PARLIAMENT DOING SO ANYWAY) AND OTHER TO THE OBLIGATION OF THE COUNCIL, THE COMMISSION AND THE PARLIAMENT TO GIVE ACCESS TO THE PUBLIC (THAT IS TO ANY NATURAL PERSON RESIDING IN THE UNION, RESPECTIVELY TO ANY LEGAL PERSON HAVING ITS SEAT IN THE UNION) TO THEIR DOCUMENTS (WITH SOME EXCEPTIONS). IF CONCERNING THE FIRST ASPECT THERE IS NO UNION JURISPRUDENCE, FOR THE SECOND ASPECT WE DEALT BOTH WITH THE LEGAL NORMS AND WITH THE JURISPRUDENCE. WE SHOWED THAT, CONTRARY TO WHAT HAPPENED WITH OTHER PRINCIPLES OF THE UNION, WHICH HAS BEEN CONSECRATED BY HE UNION JURISDICTIONS AS GENERAL PRINCIPLES OF LAW, THAT IS NON-WRITTEN, IN THE ABSENCE O LEGAL PROVISIONS, THE TRANSPARENCY HAS BEEN RECOGNIZED BY THE JURISDICTIONS NEITHER AS A GENERAL PRINCIPLE OF LAW, NOR AS A FUNDAMENTAL RIGHT, THE BASIS OF THE JUDICIAL DECISIONS BEING ONLY THE PROVISIONS OF THE TREATIES AND OF THE SECONDARY NORMS.*

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**KEY WORDS:** TRANSPARENCY, DEMOCRATIC DEFICIT, PUBLIC DELIBERATION, ACCESS TO DOCUMENTS

### INTRODUCTION

De nos jours, la transparence, "principe d'ombre et de lumière", tend à devenir principe de gouvernement dans la démocratie contemporaine; elle représente tant une

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contrainte pour le pouvoir qu'un instrument à son service<sup>2</sup>. La présente étude se propose d'aborder le problème de la transparence au niveau de l'Union tant sous l'aspect des réglementations existantes que sous celui de la jurisprudence, en montrant son évolution dès le début jusqu'à l'heure actuelle. De même, puisque la notion de transparence couvre deux aspects - la façon dont se déroule l'activité des institutions ayant le pouvoir décisionnel d'adopter des actes normatifs pour les tiers - et l'accès du public à leurs documents et la fourniture de renseignements<sup>3</sup>, l'étude abordera ce problème sous les deux aspects séparément. La problématique de la transparence reste toujours d'actualité, si l'Union veut, ainsi que la Charte des droits fondamentaux l'affirme, avoir une administration non seulement efficace mais aussi ouverte envers ses citoyens. L'étude montrera également si la réglementation existante, telle qu'interprétée par les juges de l'Union, est satisfaisante vis-à-vis des attentes des citoyens.

## **1. LA TRANSPARENCE DANS LE PROCESSUS DECISIONNEL**

Puisqu'il n'y a pas de jurisprudence concernant cet aspect, nous étudierons seulement les réglementations existantes.

Avant le Traité d'Amsterdam l'activité des institutions, moins le Parlement, était opaque pour le public, très peu visible, bien que les traités fondateurs obligent les institutions à motiver leurs décisions; de même, le processus décisionnel était très peu démocratique (pour ne pas dire non-démocratique) parce que n'impliquant le Parlement qu'à titre consultatif, que le Conseil représente les Etats membres et non les citoyens, bien que les gouvernements soient supposés être responsables devant leurs parlements, c'est-à-dire devant les représentants des citoyens, et que la Commission est composée de technocrates indépendants, bien qu'ils répondent devant le Parlement et qu'ils soient nommés avec la participation des gouvernements nationaux. C'est pour cela que les Communautés et, plus tard, l'Union ont été jugées comme souffrant d'un déficit démocratique, selon l'expression consacrée, et ayant besoin de transparence<sup>4</sup>. Même si le Parlement a depuis toujours délibéré en public, parce que cela est le trait spécifique de toute assemblée, il ne faut pas oublier que cette institution n'a eu au début que des pouvoirs consultatifs et qu'il a acquis lentement, dans le temps, des pouvoirs de décision

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<sup>2</sup> Rustane Mehdi, *Institutions européennes* (Paris : Hachette, 2007), 64

<sup>3</sup> In the same sense see Paul Craig and Grainne de Burca, *EU law : text, cases and materials* (Oxford: Oxford University Press, 2003), 392

<sup>4</sup> Ibidem; in an opposed sense see Mehdi, *Institutions*, 67 (the author affirms that the thesis of the democratic deficit is limited and reductionist, having in view the indirect legitimacy of the Council and of the Commission)

vis-à-vis des tiers, plus précisément législatifs, mais conjointement avec le Conseil (sauf dans le cas où il s'agit de régler le statut de ses propres membres, celui du Médiateur et les pouvoirs de sa commission d'enquête, quand il décide seul ou, dans le dernier cas, ensemble avec le Conseil et la Commission). Le Conseil, longtemps le seul, ultérieurement le principal organe législatif et organe de décision en général, et la Commission, principal organe exécutif, n'étaient pas obligés d'ouvrir leur activité au public.

Le Traité d'Amsterdam vient remédier à ce déficit, puisqu'il stipule à l'article 39 (qui modifie l'article 151 du Traité instituant la Communauté Européenne, redevenu après renumérotation l'article 207) que le Conseil agissant en sa qualité de législateur doit rendre publics le résultat et les explications des votes, ainsi que les déclarations inscrites au procès-verbal à cette occasion; mais il laisse au Conseil le soin d'établir dans son règlement intérieur les cas dans lesquels il agit en qualité de législateur. Conformément aux règles de la théorie générale du droit, les actes législatifs au sens large sont ceux qui, étant adoptés par l'organe désigné comme législatif par la Constitution, réglementent des rapports sociaux ou autres aspects sur la base de cette dernière (dans le cas de l'Union sur la base des traités, car ce sont eux qui jouent le rôle des Constitutions); au sens strict, les actes législatifs sont seulement ceux qui réglementent des rapports sociaux; il s'ensuit, donc, que la décision arrêtant le budget, les décisions de conclusion des accords internationaux de l'Union et les décisions régissant l'organisation et le fonctionnement de divers organes et agences de l'Union échappent à cette catégorie, bien qu'ils puissent intéresser le public. C'est d'ailleurs ce qu'a retenu le règlement intérieur du Conseil. Toutefois, le Traité de Lisbonne considère comme étant législatif aussi ce type d'actes, du moment que l'article 289 paragraphe 3 du Traité sur le fonctionnement de l'Union Européenne, tel qu'introduit par le Traité de Lisbonne, dit que les actes adoptés par procédure législative constituent des actes législatifs, tandis qu'aux paragraphes 1 et 2 il définit la procédure législative ordinaire, par laquelle le Conseil et le Parlement adoptent conjointement, sur la base des traités, des règlements, des directives et des décisions, et les procédures législatives spéciales, par lesquelles soit le Conseil, avec la participation du Parlement, soit le Parlement, avec la participation du Conseil, adopte seul des règlements, des directives et des décisions. De là il s'ensuit que l'exclusion par le règlement intérieur du Conseil des décisions mentionnées plus haut n'est plus conforme au traité.

Bien sûr, l'obligation pour le Conseil de légiférer d'une manière transparente est maintenue et même renforcée par le Traité de Lisbonne; ainsi, l'article 16 paragraphe 8 du Traité sur l'Union Européenne tel que modifié par le Traité de Lisbonne et l'article 15 paragraphe 2 du même traité prévoient que le Conseil (de même que le Parlement, d'ailleurs) siège en public quand il délibère et vote sur des projets d'actes législatifs. A notre avis une telle obligation est exagérée et n'est pas nécessaire: elle ne tient pas compte de la nature gouvernementale de la composition du Conseil et, de ce fait, du manque de dotations nécessaires à la présence du public; pour celui-ci, la publicité assurée par les médias par des transmissions directes, comme sous l'empire du Traité d'Amsterdam, aurait été suffisante.

En revanche, aucune disposition dans les anciens ou dans les présents traités ne fait obligation à la Commission de délibérer en public lorsqu'elle adopte des actes juridiques (plus précisément normatifs) ou au moins de rendre publiques ses séances. Cela est normal pour un organe exécutif, aucun organe national de ce type ne déroulant ses activités en public ou, du moins, n'étant pas obligé par la Constitution de le faire.

A plus forte raison une telle obligation n'existe et ne peut pas exister pour la Banque Centrale Européenne, organe exécutif de spécialité.

## 2. L'accès aux documents des institutions

Sous le deuxième aspect, il faut mentionner qu'il ne s'agit pas de l'accès à son dossier personnel ou aux documents qui, tout en concernant d'autres personnes, concernent aussi le requérant, dans le cadre d'une procédure administrative ou juridictionnelle, cas où on a affaire au droit de la défense et non à la transparence.

### 2.1. La réglementation

Bien avant les traités le droit d'accès aux documents a été prévu dans le Code de conduite adopté en commun par le Conseil et la Commission en 1993<sup>5</sup>, par les règlements intérieurs des deux institutions et par des décisions internes qui le mettaient en application (la Décision du Conseil 93/731 et la Décision de la Commission 94/90). Cependant, cela ne représentait pas une solution satisfaisante, parce que les institutions pouvaient modifier à leur guise leurs règlements intérieurs ou leurs décisions internes dans le sens de la suppression ou de la restriction du droit d'accès, ainsi qu'elles avaient été libres de

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<sup>5</sup> Codex that the Court of Justice has considered as deprived of legal effects (see the decision given by the Court the 30<sup>th</sup> of April 1996 in the case "The Netherlands/Council" 58/94)

l'introduire ou non, du moment qu'elles n'en étaient pas obligées par une disposition des traités; en outre, le Code de Conduite n'était pas applicable à d'autres institutions ou aux organes. D'ailleurs, le Médiateur européen (l'équivalent de l'Avocat du Peuple de Roumanie ou de l'Ombudsman d'autres pays), ayant fait des investigations sur la réalité du droit d'accès, avait conclu dans le même sens, affirmant que l'absence de règle généralement applicable constitue un cas de mauvaise administration<sup>6</sup>. Il est à mentionner aussi le Règlement 354/1983 du Conseil concernant l'ouverture au public des archives historiques de la C.E.E. et de la C.E.E.A., visant les documents qui présentent un intérêt historique; celui-ci a été modifié par le Règlement 1700/2003. Le Traité d'Amsterdam est le premier acte de droit primaire qui introduit, par l'article 39 mentionné plus haut et par l'article 45 (introduisant l'article 191 A dans le Traité instituant la Communauté Européenne, redevenu après renumérotation l'article 255), le droit d'accès aux documents, bien que limité aux institutions avec pouvoir décisionnel: le Conseil, le Parlement et la Commission. Ses dispositions ont été mises en application par le Règlement 1049/2001 du Parlement et du Conseil pour les documents de moins de 30 ans et par le Règlement 1700/2003 du Parlement et du Conseil (modifiant le Règlement 354/1983 du Conseil) pour les documents se trouvant dans les archives historiques des Communautés, à l'issue d'une période de 30 ans. Ultérieurement, le Traité de Lisbonne, par l'article 15 paragraphe 3 du Traité sur le fonctionnement de l'Union Européenne, élargit la sphère de ce droit à toutes les institutions, aux organes et aux organismes de l'Union, avec la précision que les trois juridictions<sup>7</sup> et les deux banques (Banque Centrale Européenne et Banque Européenne d'Investissement) y sont soumises uniquement en ce qui concerne leurs activités administratives; ce paragraphe doit être corroboré avec le paragraphe 1 du même article, qui consacre le principe de l'ouverture des institutions envers la société civile - comme partie de la bonne gouvernance -, et avec l'article 298 paragraphe 1, qui attribue aux institutions, aux organes et aux organismes le même caractère d'ouverture de leur administration.

Le droit d'accès aux documents est consacré aussi par la Charte des droits fondamentaux de l'Union Européenne, document datant de 2000 – à l'origine sans force juridique -, adapté en 2007 et ayant acquis, par le Traité de Lisbonne, la force juridique du

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<sup>6</sup> Craig and de Burca, *EU Law*, 395

<sup>7</sup> The jurisdictions of the Union are now the Court of Justice, the General Court (formerly called the Court of First Instance, founded in 1988) and the Civil Service Tribunal (founded in 2004)

droit primaire, c'est-à-dire des traités de l'Union eux-mêmes. Ainsi, l'article 42 du chapitre V dénommé "Citoyenneté"<sup>8</sup> parle du droit d'accès de toute personne physique ou morale résidant ou ayant son siège dans un Etat membre aux documents des institutions, organes et organismes de l'Union, indépendamment de leur support; ce droit s'exerce, évidemment, dans les conditions et limites prévues par les actes de droit dérivé (en l'occurrence le Règlement 1049/2001).

Etant donné que la Décision 93/731 du Conseil et la Décision 94/90 de la Commission sont à peu près identiques au Règlement 1049/2001, tant sur le fond que sur la procédure à suivre, nous n'étudierons plus ces deux actes, d'autant plus qu'il ne sont plus en vigueur et qu'il présentent uniquement un intérêt historique. De même, faute de place, nous n'aborderons ni les Règlements 354/83 et 1700/2003 mentionnés, n'ayant pas donné lieu à jurisprudence.

Le Règlement 1049/2001 mentionné vise les documents du Conseil, du Parlement et de la Commission, ainsi que des agences et organismes créés par les institutions mentionnées<sup>9</sup>, et le droit d'accès de toute personne physique domiciliant dans un Etat membre, respectivement de toute personne morale ayant son siège dans un Etat membre, des Etats membres et non-membres, des autres institutions et organes communautaires, des organes internationaux. Il n'est donc pas limité aux citoyens de l'Union et, même plus, il permet aux institutions mentionnées d'accorder l'accès aussi aux personnes n'ayant pas le domicile, respectivement le siège, dans un Etat membre. Les documents visés peuvent être sur n'importe quel support, pourvu qu'ils soient émis ou détenus par les institutions mentionnées. Les exceptions au droit d'accès sont à peu près les mêmes que dans les décisions du Conseil et de la Commission mettant en œuvre le Code de conduite de 1993, à savoir: celles qui protègent l'intérêt public (où entrent la sécurité publique, la défense et les affaires militaires, les relations internationales, la politique financière, monétaire ou économique de la Communauté ou d'un Etat membre); celles qui protègent l'intérêt privé et l'intégrité de l'individu; celles qui protègent les intérêts commerciaux (y compris la propriété intellectuelle) d'une personne physique ou morale déterminée; celles qui protègent les procédures juridictionnelles et les avis juridiques; celles qui protègent les objectifs des activités d'inspection, d'enquête ou d'audit; celles qui protègent le processus

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<sup>8</sup> Although, as we shall see, this right, as many others present in the same chapter, doesn't belong only to the citizens of the Union but to any natural person residing in the Union, respectively to any legal person having its seat in the Union

<sup>9</sup> See the common declaration of 2001 (Mehdi, *Institutions*, 65)

décisionnel de l'institution, soit que celui-ci n'est pas encore achevé, soit que la décision a été déjà prise mais le document demandé contient des avis destinés à l'utilisation interne dans le cadre des délibérations et des consultations préliminaires. A noter que dans ces quatre derniers cas l'accès ne peut pas être refusé si un intérêt public supérieur l'impose. Cela supposera, aussi bien de la part de l'institution concernée que de la part de la juridiction éventuellement saisie, la balance des intérêts en présence l'institution ou la juridiction donnant priorité à celui qui, en concret, est plus important. A notre avis, les trois dernières catégories d'exceptions auraient dû être incluses dans l'intérêt public, comme antérieurement. Si le document demandé émane d'un tiers et s'il n'est pas clair qu'une des exceptions mentionnées est d'application, l'institution doit consulter le tiers à ce sujet. Si le document émane d'un Etat membre, celui-ci doit donner son accord à la divulgation du document. Inversement, si un Etat membre est en possession d'un document émanant d'une institution communautaire et s'il n'est pas clair qu'une des exceptions est d'application, l'Etat consulte l'institution concernée ou soumet à celle-ci la demande d'accès. Les exceptions ne s'appliquent pas indéfiniment mais seulement pour la période durant laquelle la protection se justifie eu égard au contenu du document et tout au plus pour 30 ans; par exception, quand sont en jeu des intérêts commerciaux ou la vie privée ou quand il s'agit de documents sensibles<sup>10</sup>, la protection peut s'appliquer, si nécessaire, au-delà de cette période.

Du point de vue procédural, l'institution doit répondre aux demandes d'accès dans un délai de 15 jours ouvrables (qui peut être prorogé s'il s'agit de documents volumineux ou de plusieurs documents); un refus de sa part, ainsi que l'absence de réponse dans ce délai, donne au demandeur le droit de soumettre à l'institution une demande confirmative. Celle-ci doit être traitée dans le même délai que la demande initiale (délai qui peut être prorogé dans les mêmes conditions); le refus ou l'absence de réponse donne au demandeur le droit de s'adresser aux juridictions de l'Union dans les conditions prévues par les traités ou au Médiateur de l'Union; l'institution est tenue elle-même d'indiquer au demandeur dans sa réponse négative ces voies de recours.

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<sup>10</sup> The sensitive documents are those classified "secret", "top secret" or "confidential" according to the internal rules of the institution concerned protecting the fundamental interests of the Union or of its Member States in one of the fields abovementioned, particularly the public security, the defence and the military affairs

## 2.1. La jurisprudence

La jurisprudence communautaire antérieure au Code de conduite de 1993 a reconnu l'obligation des institutions de fournir des renseignements nécessaires aux justiciables comme partie du principe de bonne administration, mais elle a précisé pourtant qu'il ne s'agit pas d'une obligation envers chaque personne, dans chaque cas individuel, mais d'une obligation générale (remplie, par exemple, par la publication des renseignements)<sup>11</sup>. Quant à l'accès aux documents des institutions, la jurisprudence antérieure au Code de conduite de 1993, très réduite quantitativement d'ailleurs, ne vise que des documents qui sont susceptibles d'intéresser personnellement le requérant – et c'est pourquoi elle invoque le droit de la défense et non la transparence comme règle de bonne gouvernance – et se base sur des actes normatifs des institutions (émis dans des matières particulières)<sup>12</sup>, ce qui signifie qu'il ne s'agit pas d'un principe général du droit<sup>13</sup>, contrairement à d'autres principes qui ont été consacrés par la jurisprudence de l'Union en l'absence de réglementation<sup>14</sup>, mais d'un principe dégagé du droit positif<sup>15</sup>. Après 1993, quand on peut déjà parler de la transparence, le problème se pose de la même façon puisqu'il y a en la matière des règles de droit positif<sup>16</sup>. La jurisprudence n'en a pas moins contribué au développement de la pratique de la transparence par l'interprétation large qu'elle a donnée à cette notion et par la stricte interprétation des exceptions prévues dans les actes normatifs<sup>17</sup>.

<sup>11</sup> See the decision given by the Court the 15<sup>th</sup> of March 1984 in the case "Tradax Graanhandel BV/Commission" 14/82 (although on the merits the Court has rejected the action in annulment), published on the site [http://curia.europa.eu/jcms/jcms/Jo2\\_6999/](http://curia.europa.eu/jcms/jcms/Jo2_6999/)

<sup>12</sup> See the decision given by the Court the 28<sup>th</sup> of November 1991 in the case "B.E.U.C./Commission" 170/89; the decision given by the Court the 7<sup>th</sup> of October 1987 in the case "Strack/Commission" 140/1986

<sup>13</sup> That is non-written

<sup>14</sup> See Lazăr Carmen, "Principiile generale ale dreptului Uniunii Europene - mijloc de protecție a drepturilor omului", in the volume *Instituții juridice contemporane în contextul integrării în UE* (București: Universul Juridic, 2012), 101-112

<sup>15</sup> Craig and de Burca, *EU Law*, 395

<sup>16</sup> see the decision given by the General Court the 19<sup>th</sup> of October 1995 in the case "John Carvel and Guardian Newspapers Ltd/Council" 194/94; the decision given by the Court of Justice the 30<sup>th</sup> of April 1996 in the case "The Netherlands/Council" 58/94 cit.; the decision given by the Court of Justice on appeal the 6<sup>th</sup> of December 2001 in the case "Council/Hautala" 353/99 (where the Court says that it is erroneously that the General Court has recognized the existence of a right of information)

<sup>17</sup> Craig and de Burca, *EU Law*, 393-394; Xavier Groussot, *General principles of Community Law* (Groningen : Europa Law Publishing, 2006), p.263; the decision given by the Court of Justice on appeal the 11<sup>th</sup> of January 2000 in the case "The Netherlands and Van der Wal/Commission" 174 and 189/98; the decision given by the Court of First Instance the 19<sup>th</sup> of July 1999 in the case "Rothmans International BV/Commission" 188/97 (where it was about documents of committees which, although instituted by the Council and composed of representatives of the Member States, assist the Commission in the exercise of its executive functions; since this, the General Court assimilated the documents in discussion to the documents of the Commission itself, rejecting the argument of this last that it is not the author of those documents); the decision of the Court of First Instance given the 7<sup>th</sup> of December 1999 in the case "Interporc Im- & Export

Il est à mentionner d'autre part que l'article 255 du Traité instituant la Communauté Européenne, tel qu'introduit par le Traité d'Amsterdam, n'a pas été considéré comme ayant un effet direct, ce qui signifie qu'il ne peut pas être invoqué devant les juridictions communautaires en l'absence d'actes législatifs d'application (à ce moment le Règlement 1049/2001 n'existait pas encore)<sup>18</sup>.

Si un document communautaire se trouve dans un dossier pendant devant une juridiction nationale, le principe d'autonomie procédurale nationale<sup>19</sup> n'inclut pas aussi le droit d'accès à ce document, ce qui veut dire que l'Etat ne peut pas refuser l'accès; font exception les documents rédigés par l'institution communautaire émettrice uniquement et justement à l'intention de la juridiction en cause et cela seulement si le litige est encore en cours<sup>20</sup>.

Non seulement les exceptions doivent être strictement interprétées, ainsi que nous l'avons vu, mais aussi, en concret, elles doivent être proportionnelles avec le droit ou l'intérêt protégé; il s'ensuit qu'un accès partiel à un document peut s'imposer, le droit d'accès – comme d'ailleurs ses exceptions - ne visant pas les documents en tant que supports (comme soutenaient les institutions, ainsi que certains gouvernements, dans les litiges soumis aux juridictions communautaires) mais les informations contenues dans eux<sup>21</sup>. De plus, il n'est pas suffisant qu'un document soit couvert par l'une des exceptions prévues, il faut démontrer ou expliquer concrètement que la divulgation du document porterait atteinte à l'intérêt protégé par l'exception invoquée<sup>22</sup>.

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GmbH/Commission" 92/98 (where the jurisdiction has stated that the exception having as purpose the protection of the judicial procedures is not applicable but to the documents drawn up precisely for a particular judicial procedure and not to the documents which, although drawn up within an administrative procedure, have been contested before a jurisdiction and so have been arrived before it)

<sup>18</sup> See the decision of the Court of First Instance the 11<sup>th</sup> of December 2001 in the case "David Petrie and others/Commission"

<sup>19</sup> Which supposes that, in the absence of a Union procedural rule, it is the national law which establishes the competence and the procedure applicable to the litigations in which Union rights are invoked, with the obligation to respect the direct effect, the useful effect and the uniformity of application of the Union law ; also, the national rules of procedure must be equivalent for the rights resulting from the national law and for those resulting from the Union law and not make impossible or excessively difficult the exercise of these last

<sup>20</sup> See the decision of the Court of Justice given in the case "The Netherlands and Van der Wal/Commission" 174 and 189/98 (contrary to the decision of the General Court, which had stated that the principle of national procedural autonomy covers also the access to the documents found before the national jurisdictions); Groussot, *General principles*, 264

<sup>21</sup> See the decision given by the Court of First Instance the 19<sup>th</sup> of July 1999 in the case "Hautala/Council" 14/98 and the decision of the Court of Justice in the case "Council/Hautala" 353/99; the decision give by the Court of First Instance the 7<sup>th</sup> of February 2002 in the case "Aldo Kuijer/Council" 211/00; Groussot, *General principles*, 264-267

<sup>22</sup> See the decision given by the General Court the 7<sup>th</sup> of July .2010 in the case "Agrofert Holding/Commission" 111/07 and the decision of the Court of Justice given on appeal the 28<sup>th</sup> of June 2012 in

La faculté accordée par le Règlement 1049/2001 à un Etat de s'opposer à la divulgation par une institution de l'Union d'un document émanant de lui n'est pas discrétionnaire, inconditionnelle, mais doit reposer sur une des exceptions mentionnées auparavant, même si le juge ne va pas vérifier l'existence en fait de cette exception<sup>23</sup>. Nous ne sommes pas d'accord avec une telle interprétation, bien qu'elle soit de nature à servir la transparence (ce avec quoi nous ne pouvons qu'être d'accord); ainsi, la faculté des Etats de s'opposer à l'accès aux documents figure séparément dans l'art. 5 du Règlement, sans aucune tangence avec les exceptions des paragraphes 1-3; si le législateur avait voulu soumettre la faculté des Etats à ces exceptions, il l'aurait précisé.

Si un document est couvert par une des exceptions prévues dans le Règlement 1049/2001, moins l'exception relative à l'intérêt public et à l'intérêt privé et l'intégrité de l'individu, l'accès doit être accordé s'il y a un intérêt public supérieur, ainsi que le Règlement le prévoit<sup>24</sup>; par contre, l'accès doit ou peut, selon le cas, être refusé si un document couvert par un exception a été accessible auparavant et actuellement il ne l'est plus<sup>25</sup>. Nous ne sommes pas d'accord avec cette dernière interprétation; le fait que le document a été accessible à un moment donné signifie que soit il ne s'agissait d'aucun intérêt protégé par les exceptions prévues par le Règlement 1049, soit qu'il y avait un intérêt public supérieur qui prévale (là où le Règlement le permet). Dans ce sens il n'est pas nécessaire une disposition expresse du Règlement, comme le prétend la juridiction.

L'exception relative à la protection des procédures juridictionnelles est applicable même si les procédures ne se déroulent pas devant les juridictions de l'Union, même si l'institution à laquelle l'accès est demandé n'est pas partie aux procédures juridictionnelles

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the case "Commission/Agrofert Holding" 477/10; the decision of the General Court given the 9<sup>th</sup> of June 2010 in the case "Editions Odile Jacob/Commission" 237/05 and the decision given by the Court of Justice on appeal the 28<sup>th</sup> of June 2012 in the case "Commission/Editions Odile Jacob" 404/2010 (the Court of Justice has added though that the judge may use general presumptions, applicable to all the documents of the same category or of the same nature, presumptions which are justified, for example, by the existence of a norm having a different purpose from the Regulation 1049/2001 but instituting restrictions to the disclosure of the documents of the institutions)

<sup>23</sup> See the decision given by the Court of Justice on appeal the 18<sup>th</sup> of December 2007 in the case "Sweden/Commission" 64/05; the decision given by the Court of Justice on appeal the 21<sup>th</sup> of June 2012 in the case "IFAW Internationaler Tierschutz-Fonds/Commission" 135/11

<sup>24</sup> See the decision given by the General Court the 29<sup>th</sup> of November 2012 in the case "Thesing and Bloomberg Finance/E.C.B." 509/10

<sup>25</sup> See the decision given by the General Court the 28<sup>th</sup> of March 2012 in the case "Egan and Hackett/Parlement" 190/10

en cause et même s'il s'agit des juridictions d'une organisation internationale à laquelle l'Union n'est pas partie<sup>26</sup>.

## CONCLUSION

Du point de vue de la législation la solution actuelle nous semble satisfaisante, en conciliant le droit d'accès avec d'autres droits ou intérêts également importants; cela même si les recours en la matière sont très nombreux, ainsi que nous l'avons vu. En fait, ce n'est pas forcément la réglementation qui est implicitement critiquée par l'intermédiaire des recours, mais l'interprétation qui lui est donnée par les institutions concernées. Il revient donc à la jurisprudence de bien circonscrire les exceptions et de veiller à ce que les institutions ne fassent pas un mauvais usage du pouvoir d'accepter ou de refuser une demande d'accès.

Il ressort de la jurisprudence qu'antérieurement au Code de conduite de 1993 le droit d'accès n'a pas été considéré comme un principe général du droit communautaire et qu'antérieurement au Traité de Lisbonne, même en présence de la Charte des droits fondamentaux de l'Union de 2000, il n'a pas été considéré non plus comme un droit fondamental<sup>27</sup>.

Ainsi que le Règlement 1049/2001 le montre dans son préambule, la transparence permet une meilleure participation des citoyens au processus décisionnel et garantit la légitimité, l'efficacité et la responsabilité de l'administration à l'égard des citoyens.

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<sup>26</sup> See the decision given by the General Court the 3<sup>rd</sup> of October 2012 in the case "Jurasinovici/Council" 63/10 (in this case it was about of the International Criminal Court for the former Yougoslavia)

<sup>27</sup> Groussot, *General principles*, 267 (the author was though of the opinion that, in the presence of the Charter of 2000, there were strong chances that the jurisprudence changes)

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